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Recorder, Salt Lake County, UT
MILLER HARRISON LLC
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**FOURTH AMENDED AND RESTATED
DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS
FOR
THE POINTE AT LITTLE COTTONWOOD
AND
THE RIDGE AT LITTLE COTTONWOOD**

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This FOURTH AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE POINTE AT LITTLE COTTONWOOD AND THE RIDGE AT LITTLE COTTONWOOD ("Declaration") is adopted by The Ridges/Pointe Homeowner's Association, ("Association") and is effective as of the date it is recorded in the office of the Salt Lake County Recorder.

RECITALS

- A. *The Pointe at Little Cottonwood Phase 1* plat was recorded on December 11, 2001 in the Salt Lake County Recorder's Office as Entry No. 8087503, in Book 2001P, at Page 366.
- B. *The Pointe at Little Cottonwood Phase 2* plat was recorded on July 10, 2002 in the Salt Lake County Recorder's Office as Entry No. 8287695, in Book 2002P, at Page 176.
- C. *The Ridge at Little Cottonwood Subdivision Phase 1* plat was recorded on December 11, 2001 in the Salt Lake County Recorder's Office as Entry No. 8087504, in Book 2001P, at Page 367.
- D. *The Ridge at Little Cottonwood Subdivision Phase 2* plat was recorded on January 6, 2003 in the Salt Lake County Recorder's Office as Entry No. 8483181, in Book 2003P, at Page 3.
- E. *The Ridge at Little Cottonwood Subdivision Phase 3* plat was recorded on August 11, 2003 in the Salt Lake County Recorder's Office as Entry No. 8768434, in Book 2003P, at Page 239.
- F. The original *Declaration of Protective Covenants, Conditions and Restrictions for The Pointe at Little Cottonwood P.U.D., and The Ridge at Little Cottonwood Subdivision* was recorded in the Salt Lake County Recorder's Office on December 11, 2001 as Entry No. 8087505 in Book 8539 and beginning at Page 5771 (the "Enabling Declaration").
- G. The [First] *Amended Declaration of Protective Covenants, Conditions and Restrictions for The Pointe at Little Cottonwood P.U.D. and The Ridge at Little Cottonwood Subdivision* was recorded in the Salt Lake County Recorder's Office on July 10, 2002 as Entry No. 8287696 in Book 8618 and beginning at Page 4435.
- H. The [Second] *Amended Declaration of Protective Covenants, Conditions and Restrictions for The Pointe at Little Cottonwood P.U.D. and The Ridge at Little Cottonwood Subdivision* was recorded in the Salt Lake County Recorder's Office on January 6, 2003 as Entry No. 8483182 in Book 8716 and beginning at Page 5348.
- I. The [Third] *Amended Declaration of Protective Covenants, Conditions and Restrictions for The Pointe at Little Cottonwood P.U.D. and The Ridge at Little Cottonwood Subdivision* was recorded in the Salt Lake County Recorder's Office on August 11, 2003 as Entry No. 8768435 in Book 8860 and beginning at Page 2153.
- J. This *Fourth Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Pointe at Little Cottonwood and The Ridge at Little Cottonwood* is adopted to: (1) clarify and define the rights of the Association and the Owners, in and to the Project, (2) conform to changes to the Utah Community Association Act and other Utah law, (3) provide for a general plan for managing the Project, and (4) in furtherance

of the effort to efficiently and economically provide a quality living environment and protect and enhance the value of the Project.

- K. This Declaration, which (along with and subject to any future amendments) shall be the sole declaration for the Project and shall completely replace and supersede in all respects the Enabling Declaration and all subsequent declarations and amendments thereto, (whether recorded or not, properly adopted or not, or referenced in this Declaration or not), prior to the date of the recording of this Declaration.
- L. This Declaration affects the real property situated in Salt Lake County, Utah, described with particularity on Exhibit A, which exhibit is attached hereto and incorporated in this Declaration by reference (the "Project") and shall be binding on all parties having or acquiring any right, title, or interest to the Project or any part thereof.
- M. The Bylaws of the Association attached hereto as Exhibit B supersede and replace any previous bylaws of the Association and any amendments thereto.
- N. Pursuant the amendment requirements contained in Article III, Sections 33(a) and 33(b) of the Third Amended Declaration, the undersigned hereby certifies that this Amendment was approved by at least sixty-seven percent (67%) of the Owners of the Association and eligible mortgagees holding at least fifty-one percent (51%) of the undivided ownership interest in the Common Areas.

NOW, THEREFORE, pursuant to the Recitals set forth above and incorporated herein and subject to the covenants set forth below, the Association hereby adopts this Declaration. This Declaration, together with the Plat, Bylaws, and Rules adopted by the Association, shall define and govern the rights of the Owners and the Association related to the Project.

ARTICLE I. DEFINITIONS

1.1. **Act** shall mean the Utah Community Association Act, codified beginning at Section 57-8a-101, Utah Code Annotated, as the same may be amended from time to time.

1.2. **Architectural Control Committee** or **ACC** shall mean and refer to the Board or, if so appointed by the Board, a committee having architectural control powers as further described in Article X.

1.3. **Articles** shall mean the Articles of Incorporation for the Association, as amended and restated from time to time.

1.4. **Areas of Common Responsibility** shall mean all of the Barrier Walls within the project whether located on Common Area or within a private Lot including, but not limited to the Barrier Walls on the North side hill, the West side hill, and those Barrier Walls dividing and retaining the landscaping of two or more Lots.

1.5. **Assessments** shall mean any charge imposed or levied by the Association against Owners including but not limited to Annual Assessments corresponding with the Common Expenses as well as Special Assessments, Water Service Assessments, Individual Assessments, late fees, and fines, all as provided in this Declaration.

1.6. **Association** shall mean and refer to The Ridges/Pointe Homeowner's Association, a Utah non-profit corporation. Failure of the Association to maintain its corporate

status will not result in the dissolution of the Association. The Association may renew or reinstate its corporate status without Owner approval.

1.7. **Barrier Walls** shall mean all of the rock retaining walls located within the Project that may be located in the Common Area or on a private Lot that provide structural retention of soil to prevent settling or erosion.

1.8. **Board** or **Board of Directors** shall mean and refer to the Board of Directors of the Association as duly elected in accordance with the terms and conditions of the Articles of Incorporation and Bylaws of the Association. The Board is the governing body of the Association. Board of Directors is synonymous with the term "Management Committee" as used in the Enabling Declaration and its prior amendments.

1.9. **Board Member** shall mean a duly qualified and elected or appointed individual member of the Board of Directors of the Association.

1.10. **Bylaws** shall mean and refer to the Bylaws of the Association as the same may be amended from time to time.

1.11. **Common Areas** shall mean all roadway improvements within the Project owned and maintained by the Association; all land, and the improvements situated thereon, within the Project that are designated as open space or Common Areas on the Plat or other recorded instrument and other real property which the Association now or hereafter owns in fee for the benefit of Owners for as long as the Association is the owner of the fee, which may include without obligation or limitation: maintenance buildings, Association signs or monuments, walkways, trails, landscaped areas, street signage, sidewalks, parking areas, park facilities, entry feature, irrigation systems, private driveways, and other similar improvements; and any real property or improvements within the Project that the Association has the obligation to maintain, repair, or replace for the common benefit of the Owners, as the Board shall determine in its sole and exclusive discretion, including utility and service lines, systems and similar improvements, whether public or private-company owned, intended to serve more than one Lot, whether located on a Lot or within the Common Area.

1.12. **Common Expenses** shall mean all sums lawfully assessed against Owners including expenses of administration, maintenance, management, operation, repair and replacement of the Common Areas which are maintained by the Association; expenses agreed upon as common expenses by the Association or its Board of Directors; expenses authorized by the Governing Documents or the Act as common expenses; and any other expenses necessary for the common benefit of the Owners.

1.13. **Declaration** shall mean and refer to this *Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Pointe at Little Cottonwood and The Ridge at Little Cottonwood*, as may be amended from time to time.

1.14. **Design Guidelines** shall mean the requirements governing the location, color, materials, and architectural design of Residences, structures, landscaping and improvements within the Project.

1.15. **Governing Documents** shall mean and refer to the Declaration, Articles of Incorporation, Bylaws, Plat, and any Design Guidelines and Rules adopted by the Board.

1.16. **Lot** shall mean and refer to each of the individual Lots within the Project, as shown on the Plat, with the exception of the Common Areas. Each Lot includes all structures on or within the boundary of the Lot.

1.17. **Manager** shall mean a person, persons, or entity, if any, selected by the Board to manage the affairs of the Association and Project.

1.18. **Member** shall mean and refer to a Lot Owner.

1.19. **Mortgage** shall mean any and refer to a mortgage, deed of trust, or trust deed or the act of encumbering any Lot or any property by a mortgage, trust deed, or deed of trust.

1.20. **Mortgagee** shall mean and refer to any person or entity named as a mortgagee of a mortgage or beneficiary under or holder of a deed of trust.

1.21. **Occupant** shall mean and refer to any Person, other than an Owner, living or staying in a Residence. This includes, but is not limited to, all lessees, tenants, and the family members, agents, and representatives living, or staying in a Residence.

1.22. **Owner or Lot Owner** shall mean and refer to the record owner, whether one or more Persons, of a fee simple title to any Lot which is a part of the Project, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation.

1.23. **Parcel** shall mean and refer to the real property legally described in Exhibit A.

1.24. **Person** shall mean and refer to a natural individual, corporation, business entity, estate, partnership, trustee, association, joint venture, government, governmental subdivision, or agency or other legal entity capable of holding title to real property.

1.25. **Plat** shall mean and refer to all of the official subdivision plats of The Pointe at Little Cottonwood Planned Unit Development (including amendments if any) and all official subdivision plats of The Ridge at Little Cottonwood Subdivision (including amendments if any), filed and recorded in the official records of the Salt Lake County Recorder's Office.

1.26. **Project** shall mean and refer to both The Pointe at Little Cottonwood Planned Unit Development and The Ridge at Little Cottonwood Subdivision project and shall include the Parcel, together with the buildings, improvements, and permanent fixtures located thereon, and all easements and rights appurtenant thereto.

1.27. **Residence** shall mean and refer to a detached structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on the Lot which are used in connection with such Residence. The Residence shall include, without limitation, the attached garage, any mechanical equipment located outside said Residence but designed to serve only that Residence, and all utility lines or installations serving only the Residence

1.28. **Restrictions** shall mean the covenants, conditions, assessments, easements, liens, and restrictions set forth in this Declaration.

1.29. **Rules** shall mean and refer to the rules, resolutions, regulations, policies, architectural guidelines, etc. adopted by the Board.

ARTICLE II. PROJECT DESCRIPTION

2.1. **Submission.** The Parcel described with particularly on Exhibit A attached hereto and incorporated herein by this reference is hereby submitted to the Act. The Project and all of the Lots shall be held, conveyed, transferred, sold, mortgaged, encumbered, occupied, used, and improved subject to the Restrictions, which Restrictions shall constitute covenants and

conditions running with the land and shall be binding upon and inure to the benefit of the Association and each Owner, including their respective heirs, successors, and assigns.

2.2. **Name.** The Project, as submitted to the provisions of this Declaration, shall be known as Ridges/Pointe. The Project is not a cooperative.

2.3. **Description of Improvements.** The improvements contained in the Project will be located upon the Parcel. The major improvements contained in the Project include 122 Lots with single family residences and appurtenant structures. All roadways shall be public and maintained by Sandy City unless otherwise designated on the Plat. All improvements have been and shall continue to be constructed in a style and of materials architecturally compatible with the other improvements on the Project. The Lots, their locations, and approximate dimensions are indicated on the respective Plats.

2.4. **Common Areas.** The Common Areas of the Project shall be as identified on the Plats and as defined in Article 1, Section 1.10 above.

2.5. **Registered Agent.** The Registered Agent of the Association shall be as provided in the entity filings with the Utah State Department of Commerce, Division of Corporations and Commercial Code. The Board may change the Registered Agent without Owner vote or approval.

ARTICLE III. MEMBERSHIP AND VOTING RIGHTS

3.1. **Membership.** Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to the Lot in which the Owner has the necessary interest, and shall not be separated from the Lot to which it appertains. Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the transfer of ownership of the Lot, and then only to the new Owner. Any attempt to make a prohibited transfer is void. In the event the Owner of any Lot should fail or refuse to transfer the membership registered in his name to the purchaser of his Lot, the Association shall have the right to record the transfer upon its books and thereupon the old membership outstanding in the name of the seller shall be null and void.

3.2. **Voting Rights.** Except as otherwise disallowed in this Declaration or the Bylaws, Owners shall be entitled to one (1) vote per Lot owned.

3.3. **Multiple Ownership Interests.** In the event there is more than one Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves. A vote cast by any of such Owners, whether in person or by proxy or by written ballot, shall be conclusively presumed to be the vote attributable to the Lot concerned unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made or if there are conflicting votes from the same Lot, the vote involved shall not be counted for any purpose other than to determine whether a quorum exists.

3.4. **Record of Ownership.** The title company representing each Owner shall promptly file the conveyance document (or in the case of contract buyer, a copy of the sales contract) for his Lot with a Board Member or the Association's Manager who shall maintain a record of ownership of the Lots.

3.5. **Proxies.** An Owner may give his proxy, either specific or general, to another Owner, a third person, or to a contract purchaser or his Lot to vote on all matters coming

before the Association for vote provided the same is in writing, signed by the Owner, and is presented to those Association officers conducting such vote or as may be further provided in the Bylaws.

ARTICLE IV. PROPERTY RIGHTS IN COMMON AREAS

4.1. **Easement of Enjoyment.** Each Member shall have a right and easement of use and enjoyment in and to the Common Areas. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom. Any Member may delegate the right and easement of use and enjoyment described herein to any family member, tenant, lessee, or contract purchaser who resides on such Member's Lot.

4.2. **Title to Common Areas.** The Association shall hold the title to the various Common Areas within the Project.

4.3. **Limitation on Easement.** A Member's right and easement for the use and enjoyment of the Common Areas shall be subject to the following:

1) The right of the Association to impose reasonable limitations on the number of guests per Member who at any given time are permitted to use the Common Areas;

2) The right of Salt Lake County and any other governmental or quasi-governmental body having jurisdiction over the Project to access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Project for purposes of providing police and fire protection, transporting school children, and providing any other governmental or municipal service;

3) The right of the Association to suspend voting rights and right to use the Common Areas by an Owner for any period during which any Assessments against his Lot remain unpaid, and for a period not to exceed sixty (60) days for any infraction of the Rule;

4) The right of the Association to dedicate or transfer all or any part of the Common Areas, and any sewer, water and storm drain lines to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association. Any such dedication or transfer must, however, be assented to by sixty-seven percent (67%) of all of the Lot Owners.

4.4. **Delegation of Use.** Any Owner may delegate his right of use and enjoyment to the Common Areas to family members, tenants, or contract purchasers who reside in the Project. The rights and privileges of such delegee or assignee shall be subject to suspension in the same manner and to the same degree as those of an Owner, as described in above Section.

4.5. **Association Easement.** The Association, its Board, employees, agents, and contractors shall have non-exclusive easements to use the Common Areas to perform their duties as assigned by the Governing Documents.

4.6. **Easement for Utility Services.** The Project is subject to a blanket easement over, across, above, and under it for ingress, egress, installation, maintenance, repair, and replacement of roads and utilities. Utilities include, without limitation, water, sewer, gas, telephone, electricity, data, video, and cable.

4.7. **Easements for Encroachments.** If any portion of a Common Area structure or improvement encroaches upon any Lot, or if any structure or improvement of a Lot encroaches

upon any other Lot or the Common Area as a result of the manner in which the improvements were initially approved and constructed or due to settling, shifting, alteration, replacement, repair, or restoration by the Association, a valid easement for encroachment, and maintenance of such encroachment, shall exist for the life of the improvement or structure.

4.8. **Compliance with Restrictions and Rules.** Each Owner and Occupant shall comply with the Restrictions imposed by this Declaration. Further, each Owner, Occupant and guest shall fully and faithfully comply with the Association's Rules and restrictions.

ARTICLE V. BUDGET AND ASSESSMENTS

5.1. **Annual Budget.** The Board shall prepare and adopt an annual budget for the Association. The annual budget shall provide, without limitation, for the maintenance of the Common Areas and Areas of Common Responsibility and for the administration, management, and operation of the Association. The Board may revise the budget from time to time as the Board deems appropriate. If the Board fails to adopt an annual budget, the last adopted budget shall continue in effect until a new annual budget is adopted. The budget shall be made available to the Owners within thirty (30) days after adoption. Owners may disapprove a budget according to the provisions of the Act.

The budget shall track and estimate the following expenses in separate sub-categories within the total budget in order to allocate these expenses as set forth in Section 5.4 below.

1) The Pointe Expenses

- (a) Landscaping expenses for the care and maintenance of the Lots within The Pointe at Little Cottonwood Phases 1 and 2.
- (b) The costs of snow removal incurred by the Association for the clearing of the sidewalks and driveways in front of the Lots within The Pointe at Little Cottonwood Phases 1 and 2. (Notwithstanding the foregoing, the costs for snow removal on the Shared Private Driveways as depicted on the Plat shall be shared by all Owners within the Project)
- (c) All other actual and estimated expenses incurred or to be incurred by the Association that solely benefit the Lots within The Pointe at Little Cottonwood Phases 1 and 2.

2) The Ridge Expenses

- (a) The actual and estimated expenses incurred or to be incurred by the Association (if any) solely for the benefit of the Lots within The Ridge at Little Cottonwood Subdivision phases 1, 2, and 3.

5.2. **Covenant to Pay Assessments.** Each Owner of a Lot by the acceptance of a deed therefore, whether or not it be so expressed in the deed, hereby covenants and agrees with each other and with the Association to pay to the Association all Assessments, including without limitation, all Annual, Special, and Individual Assessments described below, and other fees, charges, levies, and fines as may be provided in the Governing Documents.

5.3. **Purpose of Assessments.** Assessments levied by the Association shall be used for the purpose of promoting the health, safety, and welfare of residents of the Project, including but not limited to the appearance and aesthetics of the Project. The use made by the Association of funds obtained from Assessments may include, but is not limited to: payment of

the cost of taxes and insurance on the Common Areas; maintenance, repair, and improvement of the Common Areas and any other areas of common responsibility such as the Barrier Walls; establishing and funding a reserve to cover major repair or replacement of improvements within the Common Areas; and any expenses necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under the Governing Documents.

5.4. **Annual Assessments.** Annual Assessments shall be made on a calendar year basis. The Board shall give written notice of each Annual Assessment not less than thirty (30) days prior to the beginning of the next calendar year. Each Annual Assessment shall be due and payable in monthly installments on dates established by the Board. At least fifteen (15) days prior to the effective date of any change in the amount of the Annual Assessment, the Association shall give each Owner written notice of the amount. The Annual Assessments for the Association shall be calculated as follows:

1) **Regular Assessment.** The regular assessment shall be paid by all Lots within the Project that are subject to assessment. The regular assessment shall be computed by subtracting the Pointe Lot Expenses and Ridge Lot Expenses from the total expenses of the Association and then allocating this figure equally to all Lots in the Project.

Notwithstanding anything to the contrary, the following Common Expenses shall be allocated equally between all Lot Owners:

(a) Snow removal on all Common Areas within the Project, including, but not limited to: sidewalks running parallel to 9800 South St., all common area parking spaces, and the two 20' Wide Private Drives as depicted on The Pointe at Little Cottonwood Phase 1 plat.

(b) Landscaping maintenance and replacement on: all Open Space areas, the Northwest Common Area, the Common Area parallel to 9800 South St., the water feature and island at the entrance area, and the Areas of Common Responsibility including the Rock Barrier Walls on the West side hill and North side hill.

(c) The maintenance, repair, and replacement of the Common Area private driveways within the Project, including the Common Area parking spaces and 20' Private Shared Driveways as depicted on the Plat.

2) **Pointe Lot Assessment.** The Pointe Lot Assessment shall be paid by all Lots within phases 1 and 2 of The Pointe at Little Cottonwood planned unit development in addition to the Regular Assessment. The amount of the Pointe Lot Assessment shall be determined by equally allocating the budgeted Pointe Expenses described in Section 5.1(1) to all Lots within The Pointe at Little Cottonwood planned unit development.

3) **Ridge Lot Assessment.** The Ridge Lot Assessment shall be paid by all Lots within phases 1, 2, and 3 of The Ridge at Little Cottonwood Subdivision in addition to the Regular Assessment. The amount of the Ridge Lot Assessment shall be determined by equally allocating the budgeted Ridge Expenses described in Section 5.1(2) to all Lots within The Ridge at Little Cottonwood Subdivision.

5.6. **Special Assessments.** The Board may levy a Special Assessment payable over such a period as the Board may determine for the purpose of defraying, in whole or in part any expense or expenses not reasonably capable of being fully paid with funds generated by Annual Assessments; the cost of any construction, reconstruction, or unexpected repair or replacement of the Common Areas; or for any other expense incurred or to be incurred as

provided in this Declaration. Special Assessments over one-thousand dollars per Lot (\$1,000) in a calendar year must be approved and assented to by a majority of the Members present in person or by proxy at a meeting duly called for such purpose. Notice in writing of the amount of any Special Assessments and the time for their payment shall be given as soon as is reasonably possible to the Owners. Payment shall be due on the dates and in the manner determined by the Board and provided in the notice.

5.7. **Individual Assessments.** In addition to Annual and Special Assessments authorized above, the Board may levy Individual Assessments against a Lot and its Owner for: (a) administrative costs and expenses incurred by the Board in enforcing the Governing Documents against the Owner or his/her Occupants; (b) costs associated with the maintenance, repair, or replacement of Common Areas caused by the neglect or actions of an Owner or his/her Occupants; (c) any other charge, fine, fee, expense, or cost designated as an Individual Assessment in the Governing Documents or by the Board, including, without limitation, action taken to bring a Lot and its Owner into compliance with the Governing Documents; (d) nonpayment of a Reinvestment Fee; (e) costs of providing services to the Lot upon request of the Owner; and (f) attorney fees, court or collection costs, fines, and other charges relating thereto as provided in this Declaration. The aggregate amount of any such Individual Assessments shall be determined by the cost of such improvements, repairs, maintenance, or enforcement action, including all overhead and administrative costs and attorney fees, and shall be allocated among the affected Lots according to the cause of damage, maintenance or repair work, or enforcement action, as the case may be. Individual Assessments may be levied in advance of the performance of the work. If a special benefit arises from any improvement which is part of the general maintenance obligations of the Association, it shall not give rise to an Individual Assessment against the Lot(s) benefited, unless such work was necessitated by the Lot Owner's or his/her Occupants' negligence.

5.8. **Allocation of Assessments.** Except for Individual Assessments, Annual and Special Assessments shall be fixed at a uniform rate for all Pointe Lots and Ridge Lots respectively, unless otherwise provided in the Governing Documents. Individual Assessments shall be allocated separately to each Lot based on the costs incurred by the Association.

5.9. **Application of Excess Assessments.** In the event the amount budgeted to meet expenses for a particular fiscal year proves to be excessive in light of the actual expenses, the Board in its discretion may apply the excess to reserves, credit the excess against future Assessments, or pay the excess to the Owners, as the Board deems appropriate. The decision of the Board shall be binding and conclusive. In addition, the Association shall not be obligated to reduce the amount of Assessments in succeeding years if an excess exists for a prior year.

5.10. **No Offsets.** All Assessments shall be payable in the amount specified by the Assessment and no offsets against such amount or withholding of any amount shall be permitted for any reason, including, without limitation, a claim that the Association owes the Owner money, or that the Association is not properly exercising its duties and powers as provided in this Declaration.

5.11. **Certificate Regarding Payment.** Upon the request of an Owner, prospective purchaser, mortgagee, or encumbrancer of a Lot, the Association shall issue a certificate stating whether or not all Assessments respecting such Lot are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who in good faith rely thereon. The Association may charge the requesting Owner, prospective purchaser,

mortgagee, or encumbrancer of a Lot a reasonable fee of up to twenty-five dollars (\$25) or an amount greater if so provided in the Act.

5.12. **Personal Obligation and Lien.** All Assessments, together with any interest, late fees, collection costs, and attorney fees if collection efforts become necessary shall be, constitute, and remain: (a) a charge and continuing lien upon the Lot with respect to which such Assessment is made; and (b) the personal obligation of the person who is the Owner of such Lot at the time the Assessment falls due. No Owner may exempt himself or his Lot from liability for payment of Assessments by waiver of his rights concerning the Common Areas or by abandonment of his Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all such unpaid Assessments, late payment fees, interest, and costs of collection, including reasonable attorney fees, which shall be a charge on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore.

5.13. **Billing and Collection Procedures.** The Board shall have the right to adopt Rules setting forth procedures for billing and collection of Assessments, provided that such procedures are not inconsistent with the provisions hereof. The failure of the Association to send an invoice to an Owner shall not relieve any Owner of liability for any Assessment or charge under this Declaration, but the Assessment lien therefore shall not be foreclosed or otherwise enforced until the Owner has been given not less than thirty (30) days written notice prior to such foreclosure or enforcement, at the address of the Owner on the records of the Association, of the Assessment or installment and of the amount owing. Such notice may be given at any time prior to or after delinquency of such payment. A copy of such notice may also be provided to the Occupant(s) of the Owner if the Owner is not a resident at the Project.

5.14. **Due Date and Delinquency.** Assessments shall be paid in a timely manner. Payments are due in advance on the first day of the month or the first day of such other period established for the payment of Assessments. Payments are delinquent if received more than ten (10) days from the date that they became due. Whenever an Assessment is delinquent, the Board may at its option invoke any one or more options or all of the sanctions granted in this Article or the Act.

5.15. **Collection Charge.** If the Association does not otherwise adopt or establish billing and collection procedures in the Rules, the following shall apply. Delinquent accounts shall be charged a twenty-five dollar (\$25) late fee each month until the Owner's account (including all collection charges, costs, and attorney fees) is paid in full. Interest may accrue on all unpaid balances at the rate of eighteen percent (18%) per annum. Collection charges, interest, and late fees shall constitute part of the Assessment lien provided above until paid.

5.16. **Collection Action at Law.** The Association may exercise any or all of the following remedies to collect delinquent Assessments:

- 1) The Association may suspend such Owner's voting rights.
- 2) The Association shall have a lien against each Lot for any Assessment levied against the Lot and any fines or other charges imposed under this Declaration or the Bylaws against the Owner of the Lot from the date on which the Assessment, fine, or charge is due. This lien shall arise and be perfected as of the date of the recording of this Declaration. At any time, any Assessment or installment thereof is delinquent, the Association, by and through its Board or any Manager, may file a notice of lien in the deed records of Salt Lake County, Utah against the Lot with respect to which the delinquency

pertains. Once filed, such lien shall accumulate all future Assessments or installments, interest, late fees, penalties, fines, attorney fees, and other appropriate costs properly chargeable to an Owner by the Association, until such amounts are fully paid. Said lien may be foreclosed at any time as allowed by law. The lien of the Association shall be superior to all other liens and encumbrances except: a lien or encumbrance recorded before the original Declaration was recorded; a first or second security interest on the Lot secured by a mortgage or trust deed that is recorded before the Association's notice of lien; or a lien for real estate taxes or other governmental assessments against the Lot. The Association through its duly authorized agents, may bid on the Lot at any foreclosure sale, and may acquire and hold, lease, mortgage, and convey the Lot.

3) The Association may bring an action to recover a money judgment for unpaid Assessments, fines, and charges under this Declaration against the Lot Owner without foreclosing or waiving the lien described above. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

4) If a delinquent Owner is leasing his Lot or any portion thereof, the Board may, at its option, so long as such default shall continue, demand and receive from any tenant of the Owner the rent due or becoming due and the payment of such rent to the Board shall discharge such tenant for rent due, and shall discharge the Owner for such Assessments to the extent of the amount so paid.

5) The Association may terminate utilities paid out of the Common Expense and the right to use the Common Areas. This right includes the ability to discontinue culinary water service.

6) Payments shall be credited first to collection costs (including attorney fees), then to interest and late fees, then to the oldest assessments, then the most recent assessments.

7) The Association shall have any other remedy available to it whether provided in the Governing Documents, the Act, or other law or in equity.

5.17. **Power of Sale.** The Association shall have all rights of foreclosure granted by the Act, both judicially and non-judicially. Pursuant to Utah Code §§ 57-1-20 & 57-8a-302, an Owner's acceptance of an interest in a Lot constitutes a simultaneous conveyance of the Lot in trust, with power of sale, to the Association's attorney of record, as trustee, for the benefit of the Association, for the purpose of securing payment of Assessments under the terms of this Declaration. The Association may appoint a qualified successor trustee by executing and recording a substitution of trustee form.

5.18. **Reserve Account.** The Board shall establish a reserve account to fund long-term maintenance and replacement of Common Areas. The Board shall follow any statutory requirement to conduct a reserve analysis and utilize such reserve analysis in making decisions regarding the funding of a Reserve Account. The Board shall not be personally liable for failure to fund the reserve unless willful or intentional misconduct is proven in a court of law.

5.19. **Reimbursement of Tax Collection by County Authorized.** It is recognized that under the Declaration that the Association will own the Common Areas, which may obligate it to pay property taxes or other fees to Salt Lake County. Each Owner shall be required to reimburse the Association for its pro rata share of such taxes paid. Notwithstanding anything to the contrary contained in the Declaration, Salt Lake County shall be authorized to

collect such pro rata share of taxes directly from each Owner by inclusion of said share with the tax levied on each Lot.

5.20. **Reinvestment Fee.** A Reinvestment Fee is established in accordance with Utah Code § 57-1-46 and the following terms and conditions:

1) Upon the occurrence of any sale, transfer, or conveyance of any Lot as reflected in the office of the County recorder, regardless of whether it is pursuant to the a sale of the Lot or not (as applicable, a "Transfer"), the party receiving title to the Lot (the "Transferee") shall pay to the Association a Reinvestment Fee. The Board may set the Reinvestment Fee amount by Rule. Unless the Board adopts a Rule otherwise, the Reinvestment Fee shall be five hundred dollars (\$500). In no event shall the Reinvestment Fee exceed 0.5% of the value of the Lot, or the maximum rate permitted by law.

2) Notwithstanding anything to the contrary contained in this Section, the Association shall not levy or collect a Reinvestment Fee for any of the Transfers described below:

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

b) Any Transfer to the Association or its successors.

c) Any Transfer, whether outright or in trust, that is for the benefit of the transferor or the transferor's relatives, but only if the consideration for the Transfer is no greater than 10 percent of the value of the Lot transferred.

d) Any Transfer or change of interest by reason of death, whether provided for in a will, trust, or decree of distribution, except for a sale of the Lot by the estate of an Owner.

e) Any Transfer made solely for the purpose of confirming, correcting, modifying, supplementing a Transfer previously recorded, or removing clouds on titles.

f) Any lease of a Lot or portion thereof for a period of less than thirty (30) years.

g) Any Transfer to secure a debt or other obligation or to release property which is security for a debt or other obligation.

h) Any Transfer in connection with (a) the foreclosure of a deed of trust or mortgage, or (b) a deed given in lieu of foreclosure.

i) An involuntary transfer.

j) 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.

3) The Reinvestment Fee shall be due and payable by the Transferee to the Association at the time of the Transfer giving rise to the payment of such Reinvestment Fee and shall be treated as an Individual Assessment for collection purposes.

5.21. **Account Payoff Information.** The Association may charge a fee for providing account payoff information in connection with the closing of an Owner's financing, refinancing,

or sale of a Lot as provided for in Utah Code 57-8a-106. The Board may set forth the amount of the fee in the Rules, but such fee shall not exceed the maximum amount allowed pursuant to Utah law.

5.22. **Association Responsibility after Foreclosure.** If the Association takes title to a Lot pursuant to a foreclosure (judicial or non-judicial), it shall not be bound by any of the provisions related to the Lot that are otherwise applicable to any other Owner, including but not limited to obligations to pay assessments, taxes, or insurance, or to maintain the Lot. By taking a security interest in any Lot governed by this Declaration, Lenders cannot make any claim against the Association for nonpayment of taxes, Assessments, or other costs and fees associated with any Lot if the Association takes title to a Lot related to a failure to pay Assessments.

5.22. **Homestead Waiver.** Pursuant to Utah Code § 57-8a-301, and to the extent any liens are created pursuant to this Declaration, whether such liens are now in existence or are created at any time in the future, each Owner waives the benefit of any homestead or exemption laws of the State of Utah now in effect, or in effect from time to time hereafter.

ARTICLE VI. DUTIES AND POWERS OF THE ASSOCIATION

6.1. **Organization of Association.** The Association shall serve as the governing body for all Owners. The Association shall make provisions for the maintenance, repair, replacement, administration, and operation of the Common Area and Common Expenses, and other matters as provided in the Act, this Declaration, and the Bylaws. The Association shall have all rights and powers granted to it under the Act and in this Declaration, the Articles, and the Bylaws. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Owners in accordance with this Declaration, the Articles, and the Bylaws. Except as specifically authorized in this Declaration, the Articles, or the Bylaws, no Owner or group of Owners shall have authority to take any action on behalf of the Owners, the Association, or the Board.

6.2. **Legal Organization.** The Association may be incorporated as a nonprofit corporation. In the event the nonprofit corporate status expires or is invalidated in any manner, the Board, in its sole discretion, may renew and/or reincorporate the Association. Any such expiration or invalidation shall not relieve any Owner from paying Assessments and abiding by all Restrictions contained in this Declaration.

6.3. **General Powers and Obligations.** The Association shall have, exercise, and perform the following powers, duties, and obligations:

- 1) The powers, duties, and obligations granted to the Association by this Declaration, its Bylaws, and the Articles of Incorporation;
- 2) The powers and obligations of a nonprofit corporation pursuant to the general nonprofit corporation laws of the State of Utah;
- 3) The powers, duties, and obligations of a homeowners association pursuant to the Utah Community Association Act, or any successor thereto;
- 4) The powers, duties, and obligations not reserved specifically to Lot Owners; and

5) Any additional or different powers, duties, and obligations necessary or desirable for the purpose of carrying out the functions of the Association pursuant to this Declaration or otherwise promoting the general benefit of the Owners within the Project.

The powers and obligations of the Association may from time to time be amended, repealed, enlarged, or restricted by changes in this Declaration made in accordance with the provisions herein, accompanied by any necessary changes in the Articles of Incorporation or Bylaws of the Association made in accordance with such instruments and with the nonprofit corporation laws of the State of Utah.

6.4. **Specific Powers and Duties.** The powers and duties of the Association shall include, without limitation, the following:

1) **Maintenance and Services.** The Association shall provide maintenance and services for the Project as provided in Article VII and other provisions of this Declaration.

2) **Insurance.** The Association shall obtain and maintain in force policies of insurance as provided in this Declaration, the Act, or the Bylaws of the Association. The Association shall have no obligation to obtain or maintain any insurance covering the personal and real property of any Owner(s), and each Owner shall be responsible for obtaining and maintaining such personal and real property insurance.

3) **Rulemaking.** The Association, through its Board, shall make, establish, promulgate, amend, and repeal Rules governing the conduct of persons and the operation and use of the Project as it may deem necessary or appropriate in order to assure a clean, aesthetically pleasing, peaceful, and orderly use and enjoyment of the Project. Pursuant to Utah Code § 57-8a-218(15), the requirements of Utah Code § 57-8a-218(1) through (13), except subsection (1)(b)(ii), are hereby modified to not apply to the Association.

4) **Assessments.** The Association shall adopt budgets and impose and collect Assessments as provided in Article V of this Declaration.

5) **Enforcement.** The Association shall perform such acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce the provisions of the Governing Documents of the Association.

6) **Title to Common Areas.** The Association shall hold title to all Common Areas conveyed to it by its developer and pay all real property taxes and assessments levied upon any portion of the Common Areas, unless paid by the Owners, provided that the Association shall have the right to contest or compromise any such taxes or assessments.

7) **Employment of Agents, Advisers, and Contractors.** The Association may employ the services of any person or corporation as managers, hire employees to manage, conduct, and perform the business, obligations, and duties of the Association, employ professional counsel and obtain advice from such persons or firms or corporations such as, but not limited to, community association managers, landscape architects, accountants, recreational experts, architects, planners, lawyers, reserve study specialists, or what is convenient for the management, maintenance, and operation of the Project. Any agreement with a Manager shall not exceed a term of two (2) years, renewable by agreement of the parties for a successive two (2) year term, and shall be terminable by the Association upon no more than sixty (60) days' advanced notice. The Board has no authority to enter into a management agreement or contract inconsistent with the terms of the Governing Documents or that provides for a termination fee or requirement for

termination for cause.

8) **Litigation.** The Board may instigate litigation to enforce the provisions of this Declaration or any other Common Law or statutory right which the Association is granted. Other than litigation required for the collection of past due Assessments, the Association shall not commence any litigation without prior approval of a majority of the Members, if the litigation is expected to exceed the cost of fifteen thousand dollars (\$15,000) either in attorney fee expenses or in costs (including any expert reports).

6.5. **Liability.** A member of the Board or an officer of the Association shall not be liable to the Association or any Member thereof for any damage, loss, or prejudice suffered or claimed on account of any action or failure to act in the performance of his or her duties, except for intentional or willful bad acts or acts of recklessness. If a Board Member or any officer of the Association is made a party to any proceeding because the individual is or was a director or officer of the Association, the Association shall indemnify such individual against liability and expenses incurred to the maximum extent permitted by law, except where the Board Member or officer is found by a court of law to have acted willfully, recklessly or intentionally in performing wrongful or bad acts.

6.6. **Board of Directors.** The governing body of the Association shall be the Board of Directors. Except where a matter or vote is specifically reserved to the Owners, the Board shall act in all instances on behalf of the Association. The Board shall be composed of five (5) Persons. Board Members must be at least 18 years old and must be an Owner or the spouse of an Owner of a Lot in the Project. If an Owner is a corporation, partnership, limited liability company, or trust, an officer, partner, member, manger, agent, trustee, or beneficiary of such Owner may be a Board Member. At all times the Board shall be composed of: two (2) members from Owners of Lots within The Pointe at Little Cottonwood phases 1 & 2; two (2) members from Owners of Lots within The Ridge at Little Cottonwood Subdivision phases 1, 2, & 3; and one (1) at large member from any Lot within the Project. Board Members shall be elected pursuant to the provisions set forth in the Bylaws which may set forth additional requirements for serving on the Board. Without limiting the generality of the foregoing, the Board may appoint one or more "Committees", and such Committees (which may consist of one or more members, as determined by the Board) shall have such authority and duties as may be determined from time to time by the Board relating to the budgeting, operation, financial management and administration of the Project. While any Committee established by the Board shall report to the Board regularly regarding its activities, the Board may by express directive relinquish and transfer all authority and responsibility with respect to such prior delegated duties.

6.7. **Registration with the State.** In compliance with Utah Code § 57-8a-105, the Association shall be registered with the Utah Department of Commerce and shall update its registration to keep any required information current as required by law.

ARTICLE VII. MAINTENANCE

7.1. **Association Maintenance.** The Association shall maintain, repair, and replace all Common Areas together with all improvements thereon and all easements appurtenant to the Common Area including, but not limited to landscaping on Common Area and open space land. The Association shall maintain, replace, and repair the shared private driveways and Common Area parking spaces in the Project including the performance of all snow removal,

but the Association shall have no responsibility to maintain or repair the public streets within the Project. The Association shall perform the snow removal on the Common Area sidewalks within the Project. The Association shall have the common responsibility for the maintenance, repair, and replacement of the common parking areas, the Barrier Walls and streetscape along 9800 South, the pathway and Common Area in the Northwest corner of the Project, the hillsides along Highland Drive, the hillsides along the ridgelines on the northern borders of the Project, and all Barrier Walls within the Project, whether or not the Barrier Walls are located on Common Areas or within private Lots.

The Association shall provide landscaping and snow removal services for the Lots within The Pointe at Little Cottonwood Phases 1 and 2. The costs of these services shall be assessed as a Pointe Lot Assessment pursuant to Section 5.4(2). However, the Association shall only provide maintenance services and shall have no responsibility for the costs of replacement or repair of the facilities or landscape elements therein.

The Common Areas and all facilities and structures thereon shall be maintained by the Association in a safe condition and in a good and workmanlike manner such as to carry out the purpose for which such areas are intended. The Board in its sole discretion shall determine the maintenance standard of the Common Areas. The Association shall have no obligation to perform any exterior maintenance and/or repair of any part of a Lot or landscaping installed by an Owner without the Association's express agreement to maintain such landscaping.

7.2. **Services.** The Association may provide or contract for such services as the Board of Directors may reasonably deem to be of benefit to the Project, including, without limitation, landscaping, snow removal, garbage/trash removal services, and shared utilities (if any) for all Lots.

7.3. **Lot Maintenance.** Each Owner shall have the obligation to provide exterior and interior maintenance of their Lot and Residence, including but not limited to repair, replacement, and care of all Residence components, driveways, and utility lines that solely service the Lot or Residence. Owners shall be responsible to maintain, repair, and replace any fences located within or on the boundaries of their Lot. When such fences serve, benefit, or otherwise mark a boundary of two or more Lots, the responsibility and cost to maintain, repair, and replace the shared portion of such fences shall be borne equally by the Lot Owners bounded thereby. Each Lot Owner shall remove all ice and snow from the walkways and driveways within their Lot unless the Association elects to perform this action and assess the benefitted Lot Owners for the costs incurred. Owners shall be required to maintain the exteriors of their Residences and all landscaping within their Lot according to Association standards as those standards may be identified in this Declaration, the Rules, or the Design Guidelines.

7.4. **Owner Maintenance Neglect.** The Association shall have the power and authority without liability to any Owner for trespass, damage, or otherwise, to enter upon any Lot for the purpose of maintaining and repairing such Lot or any improvement thereon (including a Residence); but only if the Owner fails to maintain and repair such Lot or improvement, or for the purpose of removing any improvement constructed, reconstructed, refinished, altered or maintained upon such Lot in violation of this Declaration or any Rules of the Association. Except as necessary to prevent personal injury or property damage in an emergency, the Association shall first provide reasonable notice and an opportunity to cure before exercising the power granted herein. All costs incurred by the Association in remedying

Owner maintenance neglect shall be an Individual Assessment against the Owner's Lot as provided in Article V.

The Association shall also have the power and authority from time to time in its own name, on its own behalf, or in the name and behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoy any breach or threatened breach of this Declaration or any Rules promulgated by the Board, or to enforce by mandatory injunction or otherwise all the provisions of this Declaration and such Rules.

7.5. **Common Area Maintenance Caused by Owner Negligence.** If the need for maintenance or repair of Common Areas as specified herein is caused through the willful or negligent acts of an Owner, or through the willful or negligent acts of the family, guests, tenants, or invitees of an Owner, the Board may cause such repairs to be made by the Association and the cost of such maintenance or repair work shall be added to and become an Individual Assessment (as set forth above) to which such Lot is subject.

ARTICLE VIII. INSURANCE

NOTICE: The Association's insurance policy does not cover the Residences, nor Owner or Occupants' personal property and contents of their Residence, nor the personal liability of Owners or their Occupants.

8.1. **Insurance.** The Board shall obtain insurance as required in this Declaration, the Act, or other applicable laws. The Association may obtain insurance that provides more or additional coverage than the insurance required in this Declaration. Different policies may be obtained from different insurance carriers and standalone policies may be purchased instead of, or in addition to, embedded, included coverage, or endorsements to other policies. Insurance premiums shall be a Common Expense.

8.2. **Property Insurance.** The Association shall maintain a blanket policy of property insurance covering the Common Area, all areas of common responsibility, and all buildings, fixtures, and equipment thereon that are the obligation of the Association to maintain. The Association may maintain broader coverage if afforded by the insurance contract.

1) The blanket policy shall exclude land and other items not normally and reasonably covered by such policies. The blanket policy shall be an "all in" or "all inclusive" insurance as those terms are used in the insurance industry and shall include insurance for any fixture, improvement, or betterment installed in Common Areas or otherwise permanently part of or affixed to Common Areas.

2) At a minimum, the blanket policy shall afford protection against loss or damage by: (1) fire, windstorm, hail, riot, aircraft, vehicles, vandalism, smoke, and theft; and (2) all perils normally covered by "special form" property coverage.

3) The blanket policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all property covered by such policy at the time the insurance is purchased and at each renewal date. The actual replacement cost of the property shall be determined by using methods generally accepted in the insurance industry.

4) The blanket policy shall include either of the following endorsements to assure full insurable value replacement cost coverage: (1) a Guaranteed Replacement Cost Endorsement under which the insurer agrees to replace the insurable property regardless

of the cost; and (2) a Replacement Cost Endorsement under which the insurer agrees to pay up to one hundred percent (100%) of the Project's insurable replacement cost but not more. If the policy includes a coinsurance clause, it must include an Agreed Amount Endorsement which must waive or eliminate the requirement for coinsurance.

5) The Association shall keep an amount equal to the Association's property insurance policy deductible or \$10,000, whichever is less, in an operations savings account. This requirement shall not apply to any earthquake or flood insurance deductible.

6) If a loss occurs that is covered by a property insurance policy in the name of an association and another property insurance policy in the name of a lot owner, then the Association's policy provides primary coverage and the Lot Owner is responsible for the Association's policy deductible.

7) If, in the exercise of its business judgment, the Board determines that a claim is likely not to exceed the Association's property insurance policy deductible: (a) the Owner's policy is considered the policy for primary coverage to the amount of the Association's policy deductible; (b) an Owner who does not have a policy to cover the Association's property insurance policy deductible is responsible for the loss to the amount of the Association's policy deductible; and (c) the Association need not tender the claim to the Association's insurer.

8) The Association shall provide notice to each Owner of the Owner's obligation for the Association's policy deductible and of any change in the amount of the deductible.

9) The Association shall have no obligation to obtain or maintain any insurance covering Owners' personal and real property, and each Owner shall be responsible for obtaining and maintaining such personal and real property insurance.

8.3. Comprehensive General Liability (CGL) Insurance. The Association shall obtain 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 (\$1,000,000.00) covering all claims for death of or injury to any one person or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which would preclude the insurer from denying the claim of an Owner because of the negligence acts of the Association or another Owner.

8.4. Director's and Officer's Insurance. The Association shall obtain Directors' and Officers' liability insurance protecting the Board of Directors, the officers, and the Association against claims of wrongful acts, mismanagement, failure to maintain adequate reserves, failure to maintain books and records, failure to enforce the Governing Documents, and breach of contract (if available). This policy shall: (1) include coverage for volunteers and employees, (2) include coverage for monetary and non-monetary claims, (3) provide for the coverage of claims made under any fair housing act or similar statute or that are based on any form of discrimination or civil rights claims, and (4) provide coverage for defamation. In the discretion of the Board, the policy may also include coverage for any manager and any employees of the manager and may provide that such coverage is secondary to any other policy that covers the Manager or any employees of the Manager.

8.5. Insurance Coverage for Theft and Embezzlement of Association Funds. The Association shall obtain insurance covering the theft or embezzlement of funds that shall:

(1) provide coverage for an amount of not less than the sum of three (3) months' regular assessments in addition to the prior calendar year's highest monthly balance on all operating and reserve funds, and (2) provide coverage for theft or embezzlement of funds by: (a) Officers and Board Members of the Association, (b) employees and volunteers of the Association, (c) any manager of the Association, (c) officers, directors, and employees of any manager of the Association, and (d) coverage for acts.

8.6. **Worker's Compensation Insurance.** The Board shall purchase and maintain in effect workers' compensation insurance for all employees of the Association to the extent that such insurance is required by law and as the Board deems appropriate.

8.7. **Certificates.** Any insurer that has issued an insurance policy to the Association shall issue a certificate of insurance to the Association, and upon written request, to any Owner or Mortgagee.

8.8. **Named Insured.** The named insured under any policy of insurance shall be the Association. Each Owner shall also be an insured under all property and CGL insurance policies.

8.9. **Right to Negotiate All Claims & Losses & Receive Proceeds.** Insurance proceeds for a loss under the Association's property insurance policy are payable to an Insurance Trustee if one is designated, or to the Association, and shall not be payable to a holder of a security interest. An Insurance Trustee, if any is appointed, or the Association shall hold any insurance proceeds in trust for the Association, Owners, and lien holders. Insurance proceeds shall be disbursed first for the repair or restoration of the damaged property, if the property is to be repaired and restored as provided for in this Declaration. After any repair or restoration is complete and if the damaged property has been completely repaired or restored, any remaining proceeds shall be paid to the Association. If the property is not to be repaired or restored, then any remaining proceeds after such action as is necessary related to the property has been paid for, shall be distributed to the Owners and lien holders, as their interests remain with regard to the Lots. Each Owner hereby appoints the Association, or any Insurance Trustee, as attorney-in-fact for negotiating all losses related thereto, including the collection, receipt of, and appropriate disposition of all insurance proceeds; the execution of releases of liability; and the execution of all documents and the performance of all other acts necessary to administer such insurance and any claim. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors, or assigns of the Owner.

8.10. **Insurance Trustee.** In the discretion of the Board or upon written request executed by Owners holding at least 50% of the entire voting interest of the Association, the Board shall hire and appoint an insurance trustee ("Insurance Trustee"), with whom the Association shall enter an insurance trust agreement, for the purpose of exercising such rights under this paragraph as the Owners or Board (as the case may be) shall require.

8.11. **Owner Act Cannot Void Coverage Under Any Policy.** Unless an Owner is acting within the scope of the Owner's authority on behalf of the Association and under direct authorization of the Association, an Owner's act or omission may not void an insurance policy or be a condition to recovery under a policy.

8.12. **Waiver of Subrogation against Owners and Association.** All property and CGL policies must contain a waiver of subrogation by the insurer as to any claims against the Association and the Owners and their respective agents and employees.

8.13. **Applicable Law**. This Declaration is specifically subjecting the Association to the insurance requirements and provisions in Part 4 of the Act, and any amendments thereto and thereafter enacted by law. It is the intent of this provision that any future changes to the insurance law applicable to community associations shall apply to this Association.

ARTICLE IX. USE RESTRICTIONS

9.1. **Use of Common Areas**. The Common Areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to Lots.

9.2. **Use of Lots**. All Lots are intended to be improved with a single-family Residence and are restricted to such use unless approved by the Board to the contrary. No gainful occupation, business, trade, or other nonresidential use shall be conducted on any Lot without the prior written consent of the Board and applicable governmental entities. However, the Board shall not approve commercial activities otherwise prohibited by this Section unless the Board determines that: only normal residential activities would be observable outside of the Residence; the business activity does not involve persons coming on to the project who do not reside in the Project; the business activity does not involve the solicitation of Occupants or Owners; the business will not result in the increase of the cost of the Association's insurance; and that the activities would not be in violation of applicable local ordinances.

9.3. **Offensive or Unlawful Activities**. No noxious or offensive activities shall be carried on upon any Lot, or Common Area, nor shall anything be done or placed on any Lot or Common Area which interferes with or jeopardizes the quiet enjoyment of other Lots or the Common Areas, or which is a source of annoyance to residents. No unlawful use shall be made of a Lot or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. No use shall be made of any Lot which would result in an increase in the cost of the Association's insurance or which would cause the improvements within the Project or any part thereof to be uninsurable against loss by fire or other perils included in insurance contracts, or cause such insurance to be canceled or suspected, or cause any company issuing such insurance to refuse renewal thereof.

9.4. **Recreational Vehicles**. Boats, trailers, ATVs, motorhomes, large trucks, commercial vehicles, or the like belonging to Owners or other residents of the Project shall be parked within the Owners' enclosed garages or behind a fence approved by the Board if kept within the Project. Such recreational vehicles may be temporarily parked in Owners' driveways or on the streets within the Project to accommodate temporary loading and unloading, but in no event shall recreational vehicles be parked in a driveway or street for more than a period of seventy-two (72) continuous hours or more than six (6) cumulative days per month. No motor vehicle of any kind shall be repaired, constructed, or reconstructed upon any Lot, public street, private lane, or other Common Areas, except for emergency repairs to vehicles. The Board is authorized to adopt Rules that vary or expand upon the restrictions set forth in this Section.

9.5. **Pets**. The Board may adopt Rules and restrictions related to pets including, but not limited to, requirements for registration, the use of leashes, waste clean-up, and noise and barking limitations. All pets must abide by all pet Rules adopted by the Board and at no time shall a pet create a nuisance as determined in the sole discretion of the Board. Owners are fully responsible for any property damage or personal injury to others caused by their animals. If no pet Rules are adopted, the following shall apply. i) up to two (2) domestic pets per

Residence are allowed; ii) no domestic animals may be commercially raised or bred in, on, or about the Project; and iii) no livestock, or poultry of any kind shall be kept in, on, or about the Project.

9.6. **Machinery and Equipment.** No machinery or equipment of any kind shall be placed, used, operated, or maintained on or adjacent to any Lot except such machinery or equipment as is usual and customary in connection with the use, maintenance, or construction of a Residence or appurtenant structures without Board approval. This provision shall not apply to any equipment owned or operated by the Association or any contractor or employees hired by the Association to perform maintenance services.

9.7. **Nuisances.** No resident shall create, maintain or permit a nuisance in, on or about the Project. For purposes of this Section a "nuisance" includes any behavior which annoys, disturbs or interferes with other residents and interferes with their right to the quiet and peaceful enjoyment of their property. A nuisance includes, but is not limited to, the following:

- 1) The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot or the Common Areas;
- 2) The storage of any item, property or thing that will cause any Lot or the Common Area to appear to be in an unclean or untidy condition or that will be noxious to the senses;
- 3) The accumulation of rubbish, unsightly debris, garbage, equipment, or other things or materials that constitute an eyesore as reasonably determined by the Board;
- 4) The storage of any substance, thing or material upon any Lot or in the Common Areas that will emit any foul, unpleasant or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;
- 5) Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents, their guests or invites, particularly if the police or sheriff must be called to restore order;
- 6) Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature that diminishes or destroys the enjoyment of the Association by other residents, their guests or invitees;
- 7) Too much noise or traffic in, on or about any Lot or the Common Area, especially after 10:00 p.m. and before 7:00 a.m., or excessive use of outside speakers or amplifiers;
- 8) Allowing a pet to be unleashed while outside an Owner's Lot;
- 9) Continuous barking, meowing, or other animal noises;
- 10) Allowing a pet to urinate or defecate in the Common Areas or another Lot; or failing to clean up immediately any feces deposited by a pet in the Common Area or another Owner's Lot or Limited Common Area.

9.8. **Signs.** The Association may regulate and restrict signs and holiday decorations in the Project to the extent permitted by law through the adoption of Rules. Unless otherwise designated in the Rules, lawn signs are prohibited, except one "For Sale" or "For Rent" signs that may be placed in the front yard of a Lot, or as directed by the Board. All other signs may

only be erected or maintained in the Project, whether in a window or otherwise, with the prior written approval of the Board. For Sale or For Rent signs may not exceed a surface area of five (5) square feet per side. Signs shall not be placed in the Common Areas without the prior written approval of the Board. Notwithstanding the foregoing, Occupants may display one reasonably sized American flag on the exterior of a Residence consistent with the Freedom to Display the American Flag Act of 2005, the Utah Display of Flag Act, and Utah Code § 57-8a-219. Flags, if displayed, must be displayed in accordance with United States Code Title 4, Chapter 1.

9.9. **Trash Collection**. All garbage and trash shall be placed and kept in covered containers of a type and style which shall be approved by the Board. Such containers shall be maintained as not to be visible from the street view except to make them available for collection and then only for the shortest time necessary to effect such collection (not to exceed 24 hours prior to, or 24 hours after scheduled collection day). The Association may adopt additional Rules for the storage and concealment of trash containers.

9.10. **Parking**. Parking is prohibited on the shared 20' Wide Private Drives off of Bluffside Circle and on all sidewalks, curbs, and park strips within the Project. At no time shall any vehicle be parked in a manner that would block an entrance to a Residence or in front of a garage or walkway or at any other location within the Project, which would impair vehicular or pedestrian access, or snow removal. The Board may adopt additional Rules relating to the parking of vehicles within the Project, including, without limitation: the size and dimensions of the vehicles parked within the Project; the admission and temporary parking of vehicles within the Project; the right to remove or cause to be removed any vehicles that are improperly parked; the assessment of towing charges for the removal of vehicles improperly parked; and the assessment of fines to Owners and Occupants who violate, or whose invitees violate, such Rules.

9.11. **Unightly Items and Storage**. No observable outdoor storage of any kind shall be permitted on front yards, porches, etc., which may be seen from the roads within the Project or another Lot except for patio furniture and portable barbecue grills in good condition. Said patio furniture shall conform with standards set by the Architectural Control Committee. Junk, unlicensed cars, or other unsightly items shall not be maintained or stored on any Lot.

9.12. **Window Coverings**. Every Owner shall be obligated to ensure that window coverings are installed within their Residence within one month of purchasing or taking possession. Furthermore, the ACC is authorized to adopt and implement reasonable Rules pertaining to the type, color, material, etc. of window coverings.

9.13. **Leasing and Non-Owner Occupancy**. Notwithstanding anything to the contrary in the Declaration or Bylaws, all leasing and Non-Owner Occupancy of a Lot or Residence shall be governed by this Section and any Rules and procedures adopted as allowed in this Section.

1) **Definitions**. For the purpose of this Section:

(a) "Non-Owner Occupied" means:

(i) For a Lot owned in whole or in part by a natural individual or individuals, the Residence is occupied by someone, but no individual Owner occupies the Residence as the individual Owner's primary residence; or

(ii) For a Lot owned entirely by one or more entities or trusts, the Residence is not occupied by any individual who (A) has voting rights under the entity's organizing documents; and (b) has twenty-five percent (25%) or greater share of the ownership, control, and rights to profits and losses of the entity.

(b) "Family Member" means:

(i) The spouse, parent, sibling, or child of an Owner; or

(ii) In the case of a Lot owned by a trust or other entity created for estate planning purposes, a Person occupying the Residence if the trust or other estate planning entity that owns the Lot was created for the estate of (i) a current Occupant of the Residence, or (ii) the spouse, parent, child, or sibling of the current Occupant of the Residence.

2) **Maximum Number of Non-Owner Occupied Lots.** The number of Lots permitted to be Non-Owner Occupied shall not exceed ten percent (10%) of the total Lots within the Association. The ten percent (10%) Lot maximum shall be calculated by including those exempted Lots under subsection 4) below. The Board may adopt reasonable rules and reporting procedures to track the number of Non-Owner Occupied Lots to ensure consistent administration and enforcement of the leasing restrictions in this Section.

3) **Requirements for Leasing and Non-Owner Occupancy.** The Owners of all Leased or Non-Owner Occupied Residences must comply with the following provisions:

(a) Any lease or agreement for otherwise allowable Non-Owner Occupancy must be in writing, must be for an initial term of at least six (6) months, and shall provide as a term of the agreement that the Occupant shall comply with the Declaration, the Bylaws, and the Rules, and that any failure to comply shall be a default under the lease or agreement. If a lease or agreement (whether in writing or not) does not include these provisions, they shall nonetheless be deemed to be part of the lease or agreement and binding on the Owner and the Occupant.

(b) A Non-Owner Occupant may not occupy any Lot for transient, short-term, hotel, resort, vacation, Airbnb, or seasonal use (whether for pay or not).

(c) No Owner may lease less than the entire Lot or Residence (i.e. no subletting of rooms).

(d) Except as a guest of an Owner, daily and weekly occupancy by Non-Owner Occupants is prohibited (whether for pay or not).

(e) The Board is authorized to adopt further rules related to Non-Owner Occupied Lots and the Occupants of those Lots. Such rules may include, but are not limited to: requiring copies of lease or other agreements to be delivered to the Association, requiring contact information for adult Occupants, vehicle information, Occupant phone numbers, or any other reasonable administrative provisions it deems appropriate to enforce the requirements of this Section.

4) **Exemptions.** The following Lots may be Non-Owner Occupied and are not subject to the Non-Owner Occupied cap set forth in subsection (2) above:

(a) A Lot owned by a person in the military for the period of the Owner's deployment.

(b) A Lot occupied by a Family Member.

(c) A Lot whose Owner is relocated by the Owner's employer or a religious organization for a period of no less than two (2) years.

(d) A Lot owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for: (1) the estate of a current Occupant of the Lot; or (2) a Family Member of the current Occupant of the Lot.

(e) Lots being rented before the time this Declaration is recorded with the County Recorder shall be grandfathered and allowed to continue renting until: (i) the Lot Owner (or an officer, director, trustee or beneficiary of the entity that owns the Lot) occupies the Lot; or (ii) the ownership of the Lot changes, as evidenced by the records at the County Recorder.

5) **Joint and Several Liability of Owner and Non-Owner Occupants.** The Owner of a Lot shall be responsible for the Non-Owner Occupant's or any guest's compliance with the Declaration, Bylaws and Association rules and the Owner and Occupant shall be jointly and severally liable for any fines for violations thereof.

6) **Remedies for Violation.** If an Owner fails to comply with this Section or rents or leases a Lot in violation of this Section, the Board may:

(a) Assess fines against the Owner and Owner's Lot pursuant to a schedule of fines adopted by the Board.

(b) Regardless of whether any fines have been imposed, proceed with any other available legal remedies, including, without limitation, the right to initiate an action and obtain a forcible entry and unlawful detainer order from the court, or similar action, with the purpose of removing the offending Non-Owner Occupant. The Association, the Board, and the Manager shall not have any liability for any action taken pursuant to this subsection and the Owner shall indemnify and pay the defense costs of the Association, the Board, and the Manager arising from any claim related to any action taken in good faith by any of them pursuant to this subsection.

(c) Pursuant to rules adopted under this Section, if the Board determines that a Non-Owner Occupant has violated a provision of the Declaration, the Bylaws, or rules and regulations, the Board may require an Owner to terminate a rental or lease agreement with that Non-Owner Occupant.

7) **Costs and Attorney Fees.** Fines, charges, and expenses incurred in enforcing the Declaration, the Bylaws, and rules and regulations with respect to a Non-Owner Occupant, and for any costs incurred by the Association in connection with any action under this Section, including reasonable attorney fees (regardless of whether a lawsuit or other action is commenced), shall be treated as Individual Assessments against the Owner and Lot which may be collected and foreclosed on by the Association.

9.14. **Landscaping.** Trees, lawns, shrubs or other plantings provided by the Owner of each respective Lot shall be properly nurtured and maintained or replaced at the Owner's expense in conformance with the standards set forth in the Association's Rules and Design Guidelines. All property located at or near driveways, entrances, exits, walkways, paths and street intersections or corners shall be landscaped so as to remove any obstructions and to permit safe sight. No fence, wall, hedge, shrub, bush, tree or monument, real or artificial, shall be planted or placed by any Owner or resident in, on or about any Lot in violation of this provision. The Board may provide further landscaping requirements in the Rules or Design

Guidelines. The Board may alter or remove any objects planted or placed in violation hereof and assess the Owner for the costs incurred as an individual assessment.

9.15. **Garage Sales.** Owners are prohibited from performing “garage sales” or “yard sales” on their Lot without Association approval. The Board shall have the authority to designate reasonable dates and times for conducting garage sales. For the purposes of this section, garage sales shall include any sale of personal property (excluding automobiles) through the display of the personal property on the Owner’s Lot, outside of the Owner’s Residence.

9.16. **Smoking.** Smoking shall be prohibited in the Common Areas of the Project. It shall be a nuisance and prohibited under Section 9.7 to permit or cause any tobacco smoke to drift or otherwise enter into the Common Areas or any Lot. The Board may adopt additional Rules to address Smoking within the Project.

9.17. **Variances.** The Board may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this Article if the Board determines in its discretion (by unanimous vote): (1) either that the restriction would create an unreasonable hardship or burden on an Owner or Occupant, or that a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete and unreasonable to enforce; and (2) that the activity permitted under the variance will not have any financial affect or any other substantial adverse effect on the other Owners or Occupants of the Project and is consistent with the high quality of life intended for residents of the Project. Any such variance shall be unenforceable and without any effect whatsoever unless reduced to writing and signed by every member of the then-existing Board. No variance may be granted that is inconsistent with the Act.

ARTICLE X. ARCHITECTURAL CONTROLS

10.1. **Architectural Control Committee.** The Board may appoint an Architectural Control Committee, the function of which shall be to insure that all improvements and landscaping within the Project harmonize with existing surroundings and structures (herein the “ACC”). The ACC need not be composed of Owners. If such a committee is not appointed, the Board shall perform the duties required of the ACC. The ACC’s responsibilities include but are not limited to reviewing and approving all exterior improvements within the Project and to ensure that Lot Owners maintain their Lot appearance and conditions in accordance with the terms of the Governing Documents.

10.2. **Architectural Controls.** To maintain a degree of protection to the investment which Owners have made, exterior alterations of structures, fences, or landscaping shall be limited to those approved by the ACC. In the event of any reconstruction of an improvement or Residence due to a casualty, the design, quality, and appearance of the reconstructed home shall be substantially the same as the structure initially built, unless otherwise approved by the ACC. No landscaping, grading, excavation, building, fence, wall, Residence, or other structure, or alteration of any kind, shall be commenced, erected, maintained, improved, altered, or made until the plans and specifications, have been approved in writing by the ACC. All subsequent additions to or changes or alterations in any building, fence, wall, or other structure, including exterior color scheme, and all changes in the grade within the Project, shall be subject to the prior written approval of the ACC. Once approved by the ACC, no changes or deviations in or from the plans and specifications shall be made without the prior written approval of the ACC. Subsequent to

receiving approval of the ACC and prior to the commencement of construction, each Owner will be responsible for obtaining a building permit from the city when required. Plans and specifications submitted to the ACC shall give complete descriptions and color samples of materials to be used. The ACC will base its approval of plans, specifications, landscaping plans, and other alterations upon compliance with the Design Guidelines, and any other guidelines adopted by the Association.

Interior alterations that do not affect the exterior appearance of a Lot or Residence shall not be required to be approved by the ACC. The Board or the ACC may adopt additional Rules that exempt minor alterations or certain types of décor from being subject to this section and ACC approval.

10.3. **Building Restrictions.**

1) Secondary Structures. No temporary or secondary living structure shall be erected, altered, placed, or permitted to remain on any lot in addition to the single-family dwelling. Structures without living facilities may be erected upon approval of the Board

2) Minimum Dwelling Size. No Residence shall be permitted on any Lot wherein the ground floor area of the main structure, exclusive of one story open porches and garages, is less than the following:

The Pointe	1,000 square feet for single story homes 1,250 square feet for two story homes
The Ridge:	1,400 square feet for single story homes 1,750 square feet for two story homes

No split-entry homes shall be allowed. For purposes of this Declaration, multi-level homes shall be considered as single story homes. All Residences shall include a private enclosed garage for not less than two vehicles.

3) Building Location. All building locations must conform to the requirements of Sandy City ordinances and regulations, specifically including but not limited to, building projections such as bay windows, fireplaces, decks, covered patios and balconies.

4) Roofing and Exterior Materials. All exterior materials utilized on Residences and other structures shall consist of stone, brick, wood, acrylic stucco or other materials as approved by the ACC. Aluminum, steel and vinyl materials may not be used as siding on Residences, but may be used for soffit and fascia. The roofing material for all Residences or other structures built on any Lot shall be either cedar shingles, tile or architectural grade asphalt shingles. The Board may alter the required materials in this section in the Design Guidelines or grant variances to this section at its sole discretion.

5) Pools, Spas, Fountains, Game courts. Pools, spas, fountains and gamecourts require approval by the Board and shall be located to avoid impacting adjacent properties with light or sound. Pool heaters and pumps must be screened from view and sound insulated from neighboring houses.

6) Metal Awnings. Exterior metal awnings, metal “lean-to’s” or metal patio covers shall not be permitted on any Lot.

7) Energy Conservation Equipment. Solar energy collector panels and attendant hardware or other energy conservation equipment must be approved by the Board or ACC prior to being constructed or installed on any Lot or Residence in the Project. If the Board

or the ACC elects to allow energy conservation equipment in the Project, then the Board may adopt rules and regulations for the installation of solar panels or other energy conservation equipment in the Design Guidelines. Any such rules must require that the installation be an integral and harmonious part of the architectural design of the Lot or Residence. Solar panels or other equipment shall not be installed so as to be visible from any Lot or street in the Project without prior approval from the ACC as a variance. The ACC or the Board shall have the sole discretion to determine compliance with the Design Guidelines.

10.4. **Design Guidelines**. In addition to the restrictions set forth in Section 10.3 above, the Board may adopt Design Guidelines for the purpose of maintaining a consistent character and quality of appearance of the improvements within the Project.

1) The Design Guidelines may designate the design, style, model, and manufacturer of any materials to be used for an exterior improvement or alteration that is acceptable to the Board and ACC. The Design Guidelines may also designate landscaping requirements. Such designations shall be for the purpose of achieving uniformity of appearance and preservation of property values.

2) Amendments to the Design Guidelines shall apply prospectively only. They shall not require modifications to or removal of any structures previously approved once the approved construction or modification has begun. However, any new work on such structures must comply with the Design Guidelines as amended.

10.5. **Variances**. The ACC may authorize variances from compliance with any of the architectural provisions of this Declaration or Design Guidelines when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration may require. Such variances must be in writing and must be signed by all of the members of the ACC (or Board if acting as the ACC). If a variance is granted, no violation of the Governing Documents shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of a variance shall not operate to waive any Restrictions of the Governing Documents, other than those specifically identified in the variance, nor shall it affect an Owner's obligation to comply with all governmental laws and regulations.

10.6. **Liability for Damages**. The ACC shall not be held liable for damages because of any action, inaction, approval, or disapproval by it made pursuant to this Article.

ARTICLE XI. ENFORCEMENT

11.1 **Enforcement of Governing Documents**. The Association or any Owner shall have the right to enforce, by proceedings at law or in equity, each provision of this Declaration, including the right to prevent any violation of such, and the right to recover damages and other sums for such violation(s). The Association or any Owner shall also have the right to enforce by proceedings at law or in equity the provisions of the Bylaws and the Rules and any respective amendments thereto. The prevailing party in any action for the enforcement of any provisions of the Governing Documents (including but not limited to litigation and the appeal thereof) shall be entitled to collect court costs and reasonable attorney fees. Occupants, guests, and invitees shall be liable for any fine assessed as a result of their action in violation of the provisions of the Governing Documents.

ARTICLE XII. RIGHTS OF FIRST MORTGAGEE

12.1. **Title in Mortgagee.** Any first Mortgagee who obtains title to a Lot pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage will not be liable for such Lot's Assessments or charges which accrue prior to the acquisition of title of such Lot by the Mortgagee. However, such first Mortgagee shall be responsible for Assessments levied while it holds title to the Lot.

12.2. **Notice of Default by Lot Owner.** In the event an Owner neglects for a period of sixty (60) days or more to cure any failure on his part to perform his obligations under this Declaration or other Governing Documents, the Association, upon written request from the Mortgagee, shall give written notice of such fact to the Mortgagee covering such Owner's Lot.

12.3. **No Priority.** No provision herein is intended, nor shall it be construed, to give any Lot Owner, or any other party, priority over any rights of the first Mortgagee of a Lot pursuant to its Mortgage in the case of a distribution to such Lot Owner of insurance proceeds or condemnation awards for losses to or a taking of Common Areas.

ARTICLE XIII. RIGHT OF ENTRY

13.1 **Right to Enter Lots.** The Association acting through the Board or its duly authorized agent shall have the right at all times upon reasonable notice of at least 48 hours to enter upon any Lot or Residence, without trespass, and regardless of whether or not the Lot Owner or Occupant thereof is present at the time, to abate any infractions, to fulfill its responsibilities, to exercise its rights, to make repairs or correct any violation of any of the Declaration or Rules, and in connection therewith shall have the further right to assess all costs incurred against the Owner, such Assessment to be secured by a lien provided in Article V. Notice shall not be necessary in case of an emergency originating in or threatening such Residence or any other part of the Project, including the sound or sight of running water, the smell or sight of smoke, abnormal or excessive noises, and foul smell. Owners shall also maintain up-to-date emergency contact information records with the Association, including any local representative an Owner may have. Owners shall be responsible for any costs incurred by the Association as a result of entering a Lot under this Section and shall indemnify and hold harmless the Association for all damages related to such entry, except for such damages resulting from recklessness or bad faith.

ARTICLE XIV. AMENDMENTS

14.1 **Amendments.** All amendments to this Declaration or Plat shall be proposed by either a majority of Board Members or by Owners holding at least forty percent (40%) of the voting interests of the Association. The proposed amendment must be reduced to writing and must be included in the notice of any meeting at which action is to be taken thereon. Except as otherwise provided herein, this Declaration may only be amended upon the affirmative vote of at least sixty-seven percent (67%) of the voting interests of the Association. No meeting shall be required for an amendment if the required vote for approval is obtained by written consent or ballot. Any amendment(s) shall be effective upon recordation in the office of the Salt Lake County Recorder. In such instrument the Board shall certify that the vote required by this Section for amendment has occurred. If a Lot is owned by more than one Owner, the vote of any one Owner shall be sufficient to constitute approval for that Lot under this Section. If a Lot

is owned by an entity or trust, the vote of any one officer, trustee, or agent of the entity shall be sufficient to constitute approval for that Lot under this Section. No acknowledgment of any signature used for voting shall be required.

ARTICLE XV. MISCELLANEOUS

15.1. **Notices.** Any notice required or permitted to be given to any Owner or Member according to the provisions of this Declaration shall be deemed to have been properly furnished if personally delivered, emailed, or if mailed, postage prepaid, to the Person who appears as an Owner, at the latest email or mailing address for such Person appearing in the records of the Association at the time notice is sent. If no email or mailing address has been provided, the physical address of the Lot owned by said Owner shall be used for notice purposes. Owners may opt out of notice via email at any time.

15.2. **Consent in Lieu of Voting.** In any case in which this Declaration requires authorization or approval of a transaction the assent or affirmative vote of a stated percentage of the votes present or represented at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Members entitled to cast the required percentage of membership votes. The Association may use any method allowed under Utah law and the Utah Revised Nonprofit Corporation Act. 15.3.

15.3. **Dissolution.** The Association may be dissolved by the affirmative assent in writing from 90% of the Lot Owners. Upon dissolution of the Association, all of its agency or authority to be used for purposes similar to those provided for in the Articles of Incorporation or this Declaration. In the event such dedication or transfer is not made or is not accepted, the Association's assets shall be transferred to a nonprofit corporation, trust, or other entity to be used for such similar purposes, and each Owner shall continue to be obligated to make assessment payments for the maintenance and upkeep of the Common Areas, common access roadways, curbs, gutters, and sidewalks on a pro rata basis which conforms substantially with the assessments procedure, terms and conditions set forth in Article V.

15.4. **Interpretation and Severability.** The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is constructed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any party thereof, and any gender shall include the other gender. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

15.5. **Covenants to Run with Land.** This Declaration and all provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of the Association and all parties who hereafter acquire any interest in a Lot or in the Common Areas shall be subject to the terms of this Declaration and the provisions of any Rules, agreements, instruments, and determinations contemplated by this Declaration; and failure to comply with any of the foregoing shall be grounds for an action by the Association or an aggrieved Owner for the recovery of damages, or for injunctive relief, or both. By acquiring any interest in a Lot or in the Common Areas, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

15.6. **Reasonable Accommodations.** Notwithstanding anything to the contrary in this Declaration, the Association, upon receipt of a written opinion from its counsel that such action

is required, may make or permit reasonable accommodations or modifications to the Project that are otherwise prohibited by the Governing Documents, as required under Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act) as amended, to accommodate a Person with a disability (as defined by Federal law at the time the accommodation is requested). Reasonable accommodations or modifications may include modifications to a Lot, Common Area facilities and buildings, or deviations from provisions of the Governing Documents. Any modification or accommodation made under this section shall not act as a waiver of the provisions of the Governing Documents with regard to anyone else.

15.7. **No Waiver.** Failure by the Association or by any Owner to enforce any Restriction or provision herein contained, or contained in the Bylaws or the Rules, in any certain instance or on any particular occasion shall not be deemed a waiver of such right of enforcement as to any such future breach of the same or any other Restriction or provision.

15.8. **Condemnation.** If a portion of the Common Area is taken by eminent domain, or sold under threat thereof, and is not comprised of and does not include any Lot, the Board shall cause the award to be utilized for repairing or restoring that area in the Project adjacent to the taking, and the portion of the award not used for restoration shall be added to the general funds of the Association. If a Lot is taken by eminent domain, or sold under threat thereof, leaving the Owner with a remnant that may not be practically or lawfully used for any purpose permitted by this Declaration, then that Lot's interest in the Common Areas shall be reallocated to the remaining Lots in proportion to their respective interests immediately before the taking.

15.9. **Security.** The Association shall in no way be considered an insurer or guarantor of security within or relating to the Project, including any Common Area in which the Association may have an obligation to maintain, and the Association shall not be held liable for any loss or damage by reason of any failure to provide adequate security or any ineffectiveness of security measures undertaken. Owner(s) agree by purchasing a Lot in this Association that the Association and Board are not insurers of the safety or well-being of Owners or Occupants or of their personal property, and that each Owner or Occupant assumes all risks for loss or damage to persons, the Lots, the Common Areas, and to the contents of improvements located thereon to the extent not insured by the Association. EACH OWNER AND OCCUPANT UNDERSTANDS AND ACKNOWLEDGES THAT THE ASSOCIATION, AND BOARD HAVE NOT MADE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, AND THAT EACH OWNER OR OCCUPANT HAS NOT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO THE SECURITY OF THE PROJECT.

15.10. **Effective Date.** The Declaration and any amendment hereof shall take effect upon its filing in the office of the Salt Lake County Recorder.

[Certification on Next Page]

CERTIFICATION

IN WITNESS WHEREOF, the Board of Directors has executed this Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Pointe at Little Cottonwood and The Ridge at Little Cottonwood as of the day and year written below.

DATED as of the 6 day of December, 2018.

Ridges/Pointe Homeowners Association
a Utah Nonprofit Corporation

By: *[Signature]*

Its: *President*

State of Utah)
) ss.
County of _____)

On the 6th day of Dec 2018, personally appeared before me *Gary West* who by me being duly sworn, did say that she/he is an authorized representative of Ridges/Pointe Homeowners Association, and that the foregoing instrument is signed on behalf of said corporation and executed with all necessary authority.

Notary Public *[Signature]*



EXHIBIT A
LEGAL DESCRIPTION

All of The Pointe at Little Cottonwood Phase 1, according to the official plat thereof, on file in the office of the Salt Lake County Recorder.

More particularly described as:

A part of the Northeast quarter of Section 9, Township 3 South, Range 1 East, Salt Lake Base and Meridian, U.S. Survey:

Beginning at a point which is 2143.36 feet South 0°08'12" West and 524.14 feet North 89°51'48" West from Northeast corner of said Section 9; and running thence South 0°54'09" East 100.00 feet; thence North 88°49'48" East 85.19 feet; thence South 51°51'34" East 123.07 feet; thence South 20°45'43" East 123.89 feet; thence South 0°28'23" West 195.77 feet to the North right of way line of 9800 South Street; thence North 89°49'14" West 487.34 feet along said North right of way line to the East right of way line of Highland Drive; thence North 0°00'30" West 453.17 feet along said East right of way line; thence North 89°59'30" East 23.31 feet, thence East 106.22 feet; thence Northwesterly along the arc of a 1295.50 foot radius curve to the left a distance of 29.09 feet (Central Angle equals 1°17'12" and Long Chord bears North 0°15'20" West 29.09 feet); thence North 89°06'04" East 37.00 feet; thence North 89°06'15" East 95.17 feet to the point of beginning.

Contains 4.535 acres

Lots 1 through 23

Parcel Numbers:

28092780140000	28092770090000	28092770040000	28092780030000	
28092780130000	28092770080000	28092770030000	28092780040000	28092780080000
28092780120000	28092770070000	28092770020000	28092780050000	28092780090000
28092780110000	28092770060000	28092770010000	28092780060000	28092780100000
28092770100000	28092770050000	28092780020000	28092780070000	28092780150000

All of The Pointe at Little Cottonwood Phase 2, according to the official plat thereof, on file in the office of the Salt Lake County Recorder.

More particularly described as:

BEGINNING AT THE NORTHEAST CORNER OF LOT 15, THE AMENDED PLAT OF THE POINTE AT LITTLE COTTONWOOD PHASE 1 P.U.D. (AN UNRECORDED SUBDIVISION), SAID POINT BEING SOUTH 00°07'19" WEST ALONG THE SECTION LINE 2143.64 FEET AND NORTH 89°52'42" WEST 525.10 FEET FROM THE NORTHEAST CORNER OF SECTION 9, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE WESTERLY ALONG THE NORTH LINE OF SAID THE AMENDED PLAT OF THE POINTE AT LITTLE COTTONWOOD PHASE 1 P.U.D., THE FOLLOWING (5) COURSES: SOUTH 89°06'15" WEST 95.17 FEET AND SOUTH 89°06'04" WEST 37.00 FEET TO A POINT ON A 1295.50 FOOT RADIUS CURVE TO THE RIGHT (CENTER BEARS SOUTH 89°06'04" WEST) AND SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 01°17'12", A DISTANCE OF 29.09 FEET AND WEST 106.22 FEET AND SOUTH 89°59'30" WEST 22.89 FEET TO THE EAST LINE OF HIGHLAND DRIVE AS CONVEYED IN QUIT CLAIM DEED RECORDED AS ENTRY #7945365, IN BOOK 8478, ON PAGES 1913-1914, OF OFFICIAL RECORDS; THENCE NORTH 00°00'30" WEST ALONG SAID EAST LINE 229.20 FEET TO THE POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG THE ARC OF A 790.33 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 38°08'08", A DISTANCE OF 539.83 FEET; THENCE NORTH 39°07'38" EAST ALONG SAID EAST LINE 240.99 FEET; THENCE SOUTH 48°45'34" EAST 319.64 FEET; THENCE SOUTH 35°20'16" WEST ALONG THE WEST LINE AND LINE EXTENDED OF THE AMENDED PLAT OF THE RIDGE AT LITTLE COTTONWOOD SUBDIVISION PHASE 1 P.U.D (AN UNRECORDED SUBDIVISION) 314.53; THENCE SOUTH 37°48'10" WEST ALONG SAID WEST LINE 212.89 FEET; THENCE SOUTH 00°54'09" EAST ALONG SAID WEST LINE 248.35 FEET TO THE POINT OF BEGINNING.

Contains 6.083 acres

Lots 24 through 47

Parcel Numbers:

				28092780320000
28092790060000	28092770180000	28092770130000	28092790090000	28092780330000
28092770220000	28092770170000	28092770120000	28092790100000	28092780340000
28092770210000	28092770160000	28092770110000	28092780290000	28092780350000
28092770200000	28092770150000	28092790070000	28092780300000	28092780360000
28092770190000	28092770140000	28092790080000	28092780310000	28092790060000

All of The Ridge at Little Cottonwood Phase 1, according to the official plat thereof, on file in the office of the Salt Lake County Recorder.

More particularly described as:

A part of the Northeast quarter of Section 9 and the Northwest quarter of Section 10, Township 3 South, Range 1 East, Salt Lake Base and Meridian, U.S. Survey:

Beginning at a point which is 1840.72 feet South 0°08'12" West along the Section line and 36.42 feet South 89°51'48" East from the Northeast corner of said Section 9; running thence South 34°51'57" West 169.17 feet; thence Southeasterly along the arc of a 1975.00 foot radius curve to the left a distance of 21.34 feet (Central Angle equals 0°37'09" and Long Chord bears South 57°07'53" East 21.34 feet); thence South 32°33'33" West 50.00 feet; thence; South 33°07'11" West 101.40 feet; thence South 56°52'49" East 71.68 feet; thence South 60°38'53" East 199.01 feet; thence South 43°38'37" West 124.10 feet; thence South 41°07'35" West 50.00 feet; thence Northwesterly along the arc of a 1097.81 foot radius curve to the left a distance of 28.21 feet (Central Angle equals 1°28'20" and Long Chord bears North 49°36'35" West 28.21 feet); thence Southwesterly along the arc of a 21.00 foot radius curve to the left a distance of 33.88 feet (Central Angle equals 92°26'54" and Long Chord bears South 83°25'48" West 30.33 feet); thence South 37°12'21" West 24.60 feet; thence Southwesterly along the arc of a 125.00 foot radius curve to the left a distance of 80.78 feet (Central Angle equals 37°01'34" and Long Chord bears South 18°41'33" West 79.38 feet); thence South 51°45'29" East 154.44 feet; thence South 0°00'10" West 70.89 feet to the right of way line of 9800 South Street; thence along said right of way line the following 2 (two) courses: North 89°59'50" West 21.56 feet and North 89°49'14" West 297.09 feet; thence North 0°28'23" East 195.77 feet; thence North 20°45'43" West 123.89 feet; thence North 51°51'34" West 123.07 feet; thence South 88°49'48" West 85.19 feet; thence North 0°54'09" West 348.35 feet; thence North 37°48'10" East 212.89 feet; thence North 35°20'16" East 254.01 feet; thence South 41°41'57" East 162.17 feet; thence South 25°07'00" East 104.76 feet; thence South 51°48'44" East 172.29 feet to the point of beginning

Contains 9.017 acres

Lots 1 through 26

Parcel Numbers:

28092810010000	28092780220000	28092780160000	28092800030000	28092800070000
28092780270000	28092780210000	28092790010000	28092800020000	28092800080000
28092780260000	28092780200000	28092790020000	28092800010000	28092780280000
28092780250000	28092780190000	28092790030000	28092800040000	
28092780240000	28092780180000	28092790040000	28092800050000	
28092780230000	28092780170000	28092790050000	28092800060000	

All of The Ridge at Little Cottonwood Phase 2, according to the official plat thereof, on file in the office of the Salt Lake County Recorder.

More particularly described as:

BEGINNING AT A POINT ON THE MOST SOUTHEASTERLY LINE OF LOT 18, THE AMENDED PLAT OF THE RIDGE AT LITTLE COTTONWOOD SUBDIVISION, PHASE 1, AS CURRENTLY IN REVIEW WITH SANDY CITY, SAID POINT ALSO BEING SOUTH 00°07'19" WEST ALONG THE SECTION LINE 1840.66 FEET AND SOUTH 89°51'48" EAST 35.86 FEET FROM THE NORTHEAST CORNER OF SECTION 9, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE SOUTH 51°48'44" EAST 0.11 FEET; THENCE SOUTH 57°43'26" EAST 33.29 FEET; THENCE SOUTH 60°15'26" EAST 197.92 FEET; THENCE SOUTH 65°03'51" EAST 359.46 FEET; THENCE SOUTH 26°14'28" WEST 162.71 FEET; THENCE SOUTH 62°27'01" EAST 24.94 FEET; THENCE SOUTH 27°32'59" WEST 136.74 FEET; THENCE SOUTH 85.30 FEET; THENCE SOUTH 89°59'50" EAST 13.81 FEET; THENCE SOUTH 157.88 FEET TO THE NORTH LINE OF 9800 SOUTH STREET; THENCE SOUTH 89°57'47" WEST ALONG SAID NORTH LINE 443.88 FEET TO THE EAST LINE EXTENSION OF LOT 1 OF SAID THE AMENDED PLAT OF THE RIDGE AT LITTLE COTTONWOOD SUBDIVISION, PHASE 1; THENCE NORTHERLY ALONG SAID EAST LINE OF SAID THE AMENDED PLAT OF THE RIDGE AT LITTLE COTTONWOOD SUBDIVISION, PHASE 1, THE FOLLOWING (14) COURSES: NORTH 00°00'10" EAST 72.08 FEET AND NORTH 51°45'29" WEST 154.44 FEET TO A POINT ON A 125.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT (CENTER BEARS SOUTH 89°49'13" EAST) AND NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 37°01'34", A DISTANCE OF 80.78 FEET TO THE POINT OF TANGENCY AND NORTH 37°12'21" EAST 24.60 FEET TO THE POINT OF CURVATURE AND NORTHEASTERLY ALONG THE ARC OF A 21.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 92°26'54", A DISTANCE OF 33.88 FEET TO THE POINT OF COMPOUND CURVATURE OF A 1097.81 FOOT RADIUS CURVE TO THE RIGHT AND SOUTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 01°28'20", A DISTANCE OF 28.21 FEET, AND NORTH 41°07'35" EAST 50.00 FEET AND NORTH 43°38'37" EAST 124.10 FEET AND NORTH 60°38'53" WEST 139.01 FEET AND NORTH 56°52'49" WEST 71.68 FEET AND NORTH 33°07'11" EAST 101.40 FEET AND NORTH 32°33'33" EAST 50.00 FEET TO A POINT ON A 1975.00 FOOT NON-TANGENT RADIUS CURVE TO THE RIGHT (CENTER BEARS NORTH 32°33'33" EAST) AND NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 09°37'09", A DISTANCE OF 21.34 FEET AND NORTH 34°51'57" EAST 169.77 FEET TO THE POINT OF BEGINNING. , J

Contains 7.988 acres

Lots 201 through 226

Parcel Numbers:

28101540070000	28101540010000	28101530110000	28101530010000	28101510620000
28101540060000	28092810020000	28101530060000	28092800090000	28101510630000
28101540050000	28101530070000	28101530050000	28101510580000	28101510640000
28101540040000	28101530080000	28101530040000	28101510590000	
28101540030000	28101530090000	28101530030000	28101510600000	
28101540020000	28101530100000	28101530020000	28101510610000	

All of The Ridge at Little Cottonwood Phase 3, according to the official plat thereof, on file in the office of the Salt Lake County Recorder.

More particularly described as:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 226, OF THE RIDGE AT LITTLE COTTONWOOD SUBDIVISION, PHASE 2, AS CURRENTLY IN REVIEW WITH SANDY CITY, SAID POINT ALSO BEING SOUTH 00°07'19" WEST ALONG THE SECTION LINE 2107.14 FEET; AND SOUTH 89°52'43" EAST 562.46 FEET FROM THE NORTHEAST CORNER OF SECTION 9, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE SOUTH 65°03'48" EAST 64.93 FEET; THENCE NORTH 89°56'08" EAST 307.97 FEET; THENCE NORTH 78°49'40" EAST 76.43 FEET; THENCE NORTH 89°56'08" EAST 149.50 FEET; THENCE NORTH 81°05'06" EAST 99.38 FEET; THENCE NORTH 89°56'08" EAST TO THE EAST LINE OF RAINTREE VILLAGE NO. 3 SUBDIVISION, AS RECORDED WITH THE OFFICE OF THE SALT LAKE COUNTY RECORDERS OFFICE, 77.20 FEET; THENCE SOUTH 00°06'37" WEST ALONG SAID EAST LINE OF RAINTREE VILLAGE NO. 3 SUBDIVISION 524.77 FEET TO THE NORTH LINE OF 9800 SOUTH STREET; THENCE SOUTH 89°57'47" WEST ALONG THE NORTH LINE OF SAID 9800 SOUTH STREET 864.96 FEET TO THE EAST LINE OF SAID RIDGE AT LITTLE COTTONWOOD PHASE 2; THENCE ALONG THE EAST LINE OF SAID SUBDIVISION THE FOLLOWING (6) SIX, COURSES; NORTH 157.88 FEET AND NORTH 89°59'50" WEST 13.81 FEET AND NORTH 85.30 FEET AND NORTH 27°32'59" EAST 136.73 FEET AND NORTH 62°27'01" WEST 24.94 FEET AND NORTH 26°14'28" EAST 162.71 FEET TO THE POINT OF BEGINNING.



Contains 7.988 acres
Parcel Numbers:

Lots 301 through 324

28101540080000	28101510690000	28101510740000	28101510850000	28101510800000
28101530120000	28101510700000	28101510750000	28101510840000	28101510790000
28101510660000	28101510710000	28101510760000	28101510830000	28101510770000
28101510670000	28101510720000	28101510870000	28101510820000	28101510780000
28101510680000	28101510730000	28101510860000	28101510810000	28101510880000

EXHIBIT B

**BYLAWS
OF
THE RIDGES/POINTE HOMEOWNERS ASSOCIATION**

These BYLAWS OF THE RIDGES/POINTE HOMEOWNERS ASSOCIATION are effective upon recording in the Salt Lake County Recorder's Office pursuant to the Utah Community Association Act and the Utah Revised Nonprofit Corporation Act (referred collectively herein as the "Acts").

RECITALS

A. The Association is organized for any and all lawful purposes for which a nonprofit corporation may be organized under the Utah Revised Nonprofit Corporation Act, as amended, subject to the terms and conditions contained in the Declaration and Articles of Incorporation.

B. These Bylaws are adopted in order to complement the Declaration, to further define the rights of the Association and the Owners, to provide for the ability to effectively govern and operate the Association and the Project known as The Pointe at Little Cottonwood and The Ridge at Little Cottonwood and, to further the Association's efforts to safely, efficiently, and economically provide a quality living environment.

**ARTICLE I
DEFINITIONS**

1.1 Except as otherwise provided herein or as may be required by the context, all capitalized terms used herein shall have the same meaning and effect as used and defined in the Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Pointe at Little Cottonwood and The Ridge at Little Cottonwood.

**ARTICLE II
APPLICATION**

2.1 All present and future Owners, Mortgagees, Occupants, and their invitees and guests, and any other persons who may use the facilities of the Project in any manner are subject to these Bylaws, the Declaration, and Rules. The mere acquisition or rental of any of the Residences or the mere act of occupancy or use of any said Residences or the Common Areas will signify that these Bylaws, the Declaration, and the Rules are accepted, ratified, and will be complied with by said persons.

**ARTICLE III
OWNERS**

3.1 **Annual Meetings.** The Annual Meeting of the Owners shall be held each year on a day and time established by the Board. The purposes of the Annual Meeting may include the election of Board Members, the distribution of financial reports and budget, a review of any revisions to the Rules, distributing the most recent reserve study, and to transact such other business as may come before the meeting. If the election of Board Members cannot be held

during the Annual Meeting, or at any adjournment thereof, the Board shall cause the election to be held either at a Special Meeting of the Owners to be convened as soon thereafter as may be convenient or at the next Annual Meeting. The Board may from time to time by resolution change the month, date, and time for the Annual Meeting.

3.2 **Special Meetings**. Special Meetings of the Owners may be called by a majority of the Board or upon the written request of Owners holding not less than twenty-five percent (25%) of the voting interests of the Association. Any written request for a Special Meeting presented by the Owners shall be delivered to the President and shall include the original signature of each Owner affirmatively supporting such request along with a complete statement of the purpose of the meeting on each page containing signatures. The President shall then call, provide notice of, and conduct a Special Meeting within 45 days of receipt of the Owner request.

3.3 **Place of Meetings**. The Board may designate any place in Salt Lake County that is reasonably convenient for the Owners as the place of meeting for any Annual or Special Meeting. If no designation is made, or if a Special meeting is otherwise called, the place of the meeting shall be held at the office of the Association or its Manager.

3.4 **Notice of Meetings**. The Board shall cause written or printed notice of the date, time, and place (and in the case of a Special Meeting, the purpose or purposes) for all Owner meetings. Such written or printed notice shall be delivered to each Owner of record entitled to vote at such meeting not more than sixty (60) nor less than ten (10) days prior to the meeting. Such notice may be sent via email, text, hand-delivery, or regular mail. If sent by email or text, such notice shall be deemed delivered and effective on the date transmitted to the Owner's email address or telephone number registered with the Association. If mailed, such notice shall be deemed to be delivered and effective on the date deposited in the U.S. mail if addressed to the Owner's address registered with the Association. Each Owner shall register with the Association such Owner's current email address, phone number, and mailing address for purposes of notice hereunder. Such registered email, phone number, and mailing address may be changed from time to time by notice in writing to the Association. If no address is registered with the Association, an Owner's Residence shall be deemed to be the Owner's registered address and notice to the Residence address may be made by first-class mail or by posting the meeting notice on the front door. An Owner may opt out of receiving notices from the Association via email or text by giving written notice to the Board stating that the Owner will not accept notices by way of email or text.

3.5 **Qualified Voters**. An Owner shall be deemed to be in "good standing" and "entitled to vote" at any meeting of the Association if he or she has fully paid his or her Assessment account (together with interest or other fees) at least 48 hours prior to the commencement of the meeting.

3.6 **Record Date for Notice Purposes**. The Board may designate a record date, which shall not be more than sixty (60) nor less than ten (10) days prior to the meeting, for the purpose of determining Owners entitled to notice of any meeting of the Owners. If no record date is designated, the last date on which a notice of the meeting is mailed or delivered shall be deemed to be the record date for determining Owners entitled to notice. The persons or entities appearing in the records of the Association on such record date as the Owner(s) of record of Lots in the Project shall be deemed to be the Owners of record entitled to notice of the Owner meeting.

3.7 **Quorum.** Those Owners present in person or by proxy at any duly called meeting of the Association called and noticed in compliance with all of the provisions of this Article III for calling and holding a meeting, shall constitute a quorum for the transaction of business. The vote of the Owners representing a majority of the voting interest of the Owners in attendance in person or by proxy, shall decide any vote or question brought before the meeting. Notwithstanding the foregoing, if the Act, the Articles of Incorporation, the Declaration (as amended), or these Bylaws require a fixed percentage of Owner interests to approve any specific action (*e.g.* amending the Bylaws which requires a 67% owner vote), that percentage or authorization shall be required to approve such action.

3.8 **Proxies.** Owners shall be entitled to vote in person or by proxy at each meeting provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been signed by the Owner or by the Owner's attorney. A proxy may be written on paper or received via email, facsimile, text, or any other electronic or physical means. A signature as required herein shall mean any indication that the document is from and consented to by the person who is purported to have sent it. If a Lot is jointly owned, the instrument authorizing a proxy to act may be executed by any one (1) Owner of such Lot or the Owner's attorney when duly authorized in writing. A proxy given to a Person who represents an Owner at Association meetings shall be in writing, dated, and signed by such Owner. Such instrument authorizing a proxy to act shall set forth the specific matters or issues upon which the proxy is authorized to act, and may allow the proxy to vote on any issue arising at any particular meeting or meetings. Proxies shall be filed with the Secretary (or with such other officer or person who may be acting as secretary of the meeting) before the meeting is called to order. The Secretary shall record all proxies in the meeting minutes.

3.9 **Votes.** With respect to each matter submitted to an Owner vote, each Owner entitled to vote at the meeting shall have the right to cast, in person or by proxy, the number of votes appertaining to the Lot of such Owner, as shown in the Declaration. The affirmative vote of a majority of the votes entitled to be cast by the Owners present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by Owners, unless a greater proportion is required by the Articles of Incorporation, these Bylaws, or the Declaration. When a Lot is jointly owned, any Owner may exercise the vote for such Lot on behalf of all Co-Owners of the Lot. In the event of two (2) conflicting votes by Co-Owners of a Lot, no vote shall be counted for that Lot. In no event shall fractional or cumulative votes be exercised with respect to any Lot.

3.10 **Waiver of Irregularities.** All inaccuracies and irregularities in calls or notices of meetings and in the manner of voting, in the form of proxies and the method of ascertaining Owners present, and in the decision and votes of the Board or of the Owners shall be deemed waived if no objection is made either at the meeting or within thirty (30) days of the date of the meeting, or within 30 days of notice of any decision by the Board. The presence of an Owner in person at any meeting of the Owners shall be deemed a waiver on any notice requirements.

3.11 **Action Taken Without a Meeting.** Owners have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of Owners in accordance with the requirements of Utah Code § 16-6a-707 or § 16-6a-709 and any other applicable section of the Acts. Any action so approved shall have the same effect as though taken at an Owner meeting. Ballots or written consents may be obtained via any electronic or physical means including but not limited to email, facsimile, text, or paper document.

3.12 **Minutes of Meetings**. The Secretary or Manager shall take minutes of all meetings of the Owners. The minutes shall include, at a minimum, (1) the identification of the Persons present in person and by proxy, (2) the meeting date, (3) the identification of any issue that is voted on or decided in the meeting, (4) the number of votes cast for and against any issue decided upon, and (5) the exact wording of any resolution passed at the meeting. The failure to take appropriate minutes or otherwise comply with this section does not invalidate any action taken at a meeting. Draft meeting minutes for each annual meeting of the Owners shall be made available to all Owners within thirty (30) days of the annual meeting.

ARTICLE IV BOARD OF DIRECTORS

4.1 **Powers**. The Project and the affairs and business of the Association shall be managed by the Board of Directors. The Board may exercise business judgment and all of the powers of the Association, whether derived from the Declaration, these Bylaws, the Articles, or the Acts except such powers that the Declaration, these Bylaws, the Articles, and the Acts vest solely in the Owners.

4.2 **Number and Qualifications**. The property, business, and affairs of the Association shall be governed and managed by a Board of Directors composed of five (5) Persons. Board Members must be at least 18 years old and must be an Owner or the spouse of an Owner of a Lot in the Project. If an Owner is a corporation, partnership, limited liability company, or trust, an officer, partner, member, manger, agent, trustee, or beneficiary of such Owner may be a Board Member. At all times the Board shall be composed of: two (2) members from Owners of Lots within The Pointe at Little Cottonwood phases 1 & 2; two (2) members from Owners of Lots within The Ridge at Little Cottonwood Subdivision phases 1, 2, & 3; and one (1) at large member from any Lot within the Project.

4.3 **Election**. The election of Board Members shall be made by a vote of the Owners through secret ballot. At such election, the Owners or their proxies may cast, with respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

4.4 **Term of Office**. At each Annual Meeting, the Owners shall elect the number of Board Members whose terms are to expire for a term of two (2) years. The terms shall be staggered and overlap so that elections for Board Member positions are held each year. Board Members may serve consecutive terms if elected.

4.5 **Regular Meetings**. The Board shall hold meetings at least quarterly or more often at the discretion of the Board.

4.6 **Special Meetings**. Special meetings of the Board may be called by the President or a majority of Board Members on at least two (2) business days' prior notice to each Board Member.

4.7 **Meeting Notice**. Notice may be given to Board Members and Owners personally, by email, or by telephone, including text message. Notice shall be provided to Owners in the same manner as provided to Board Members. By unanimous consent of the Board, meetings may be held without call or notice to Board Members, but notice shall always be provided to those Owners who have requested notice of Board meetings.

4.8 **Quorum and Manner of Action.** A majority of then authorized Board Members shall constitute a quorum for the transaction of business at any Board meeting. The act of a majority of the Board Members present at any meeting at which a quorum is present and for which proper notice was provided shall be the act of the Board. The Board Members shall act only as the Board of Directors, and individual Board Members shall have no powers as such.

4.9 **Owner Attendance.** Any Owner may request notice of Board meetings by requesting such notice from the Manager and providing a valid email address at which the Owner will receive notice. Such request must be given at least forty-eight (48) hours prior to the next Board Meeting. Owners who have requested notice of Board meetings shall be given notice along with the Board Members and shall be provided any call-in number or other means of attendance by electronic communication that is provided to Board Members. If Owners attend a Board meeting, the Board may select a specific period of time during the meeting and limit Owner comments to such time period. The Board in its sole discretion may set a reasonable length of time that each Owner may speak.

4.10 **Open Meetings.** Except as provided below in (a) through (f), Board meetings shall be open to Owners. The Board may hold a closed executive session during a meeting of the Board if the purpose of the closed executive session is to:

- (a) Consult with an attorney to obtain legal advice and discuss legal matters;
- (b) Discuss existing or potential litigation, mediation, arbitration, or an administrative proceeding;
- (c) Discuss a labor or personnel matter;
- (d) Discuss a matter relating to contract negotiations, including review of a bid or proposal;
- (e) Discuss a matter involving a Person, if the Board determines that public knowledge of the matter would violate the Person's privacy or cause embarrassment; or
- (f) Discuss a delinquent assessment or fine.

4.11 **Board Meetings Generally.** The Board may designate any place in Salt Lake County as the place of meeting for any regular or special Board meeting. The Board may allow attendance and participation at any Board meeting by telephone or any other electronic means that allows for Board Members or Owners to communicate orally in real time. If a Board meeting is held by telephone, the Association shall provide the call-in information such that Owners may call-in to access the meeting.

4.12 **Board Action.** Notwithstanding noncompliance with any provision within this Article, Board action is binding and valid unless set aside by a court of law. A person challenging the validity of a Board action for failure to comply with this Article may not bring the challenge more than sixty (60) days after the Board has approved the minutes recording the Board action.

4.13 **Compensation.** No Board Member shall receive compensation for any services that such member may render to the Association as a Board Member; provided, however, that a Board Member may be reimbursed for expenses incurred in performance of such duties as a Board Member to the extent such expenses are approved by a majority of the other Board Members. Nothing herein contained shall be construed to preclude any Board Member from

serving the Project in any other capacity and receiving compensation therefore, so long as approved in advance by a majority of disinterested Board Members.

4.14 **Resignation and Removal.** Board Members may resign at any time by delivering a written resignation to either the President or the Secretary. Unless otherwise specified therein, such resignation shall take effect upon delivery. A Board Member may be removed at any time, with or without cause, at a Special Meeting of the Owners duly called for such purpose upon the affirmative vote of more than fifty percent (50%) of the entire voting interests of the Association. Any appointment or election of a new Board Member must result in compliance with the required composition of Board Members as set forth in Section 4.2.

4.15 **Vacancies.** If vacancies shall occur in the Board for any reason (including death, resignation, or disqualification) except removal by the Owners, the Board Members then in office shall continue to act, and such vacancies shall be filled by a majority vote of the Board Members then in office, though less than a quorum. Any vacancy in the Board occurring by reason of removal of a Board Member by the Owners may be filled by election of the Owners at the meeting at which such Board Member is removed. Any Board Member elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of his predecessor. Except by reason of death, resignation, disqualification, or removal, Board Members shall continue to serve until their successors are elected.

4.16 **Action Without a Meeting.** Board Members have the right to take any action in the absence of a meeting which they could take at a meeting subject to the requirements of Utah Code §16-6a-813 and any other applicable sections of the Acts. Any action so approved shall have the same effect as though taken at a meeting of the Board.

4.17 **Waiver of Notice.** Before or at any meeting of the Board, any Board Member or Owner may waive notice of such meeting and such waiver shall be deemed the equivalent of proper notice. Attendance by a Board Member or Owner at any meeting thereof shall be a waiver of notice by that Board Member or Owner of the time, place, and purpose thereof.

4.18 **Adjournment.** The Board may adjourn any meeting from day to day for such other time as may be prudent or necessary, provided that no meeting may be adjourned for longer than thirty (30) days.

4.19 **Meeting.** A Board meeting does not include a gathering of Board Members at which the Board does not conduct and vote on Association business.

ARTICLE V OFFICERS

5.1 **Officers.** The officers of the Association shall be a President, Vice President, Secretary, Treasurer, and such other officers as may be appointed by the Board.

5.2 **Election, Tenure, and Qualifications.** Officers shall be elected by the Board at the first Board meeting following each Annual Meeting of the Owners. Each such officer shall hold such office until the next ensuing meeting of the Board following the Annual Meeting of the Owners and until a successor has been elected and qualified, or until such officer's death, or until resignation, disqualification, or removal in the manner provided in these Bylaws, whichever first occurs. Any person may hold any two (2) or more of such offices, except that the President may not also be the Secretary. No person holding two (2) or more offices shall act in or execute any instrument in the capacity of more than one (1) office.

5.3 **Subordinate Officers.** The Board may appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.

5.4 **Resignation and Removal.** An officer may resign at any time by delivering a written resignation to any member of the Board or to any managing agent of the Association. Unless otherwise specified therein, such resignation shall take effect upon delivery. An officer may be removed and replaced upon the affirmative vote of a super-majority of the Board Members at any time, with or without cause.

5.5 **Vacancies and Newly Created Offices.** If a vacancy shall occur in any office by reason of death, resignation, removal, disqualification or any other cause, or if a new office shall be created, such vacancies or newly created offices may be filled by majority vote of the Board at any regular or special Board meeting. The Board shall ensure that any appointment made will result in compliance with the required composition of Board Members as set forth in Section 4.2 above.

5.6 **President.** The President shall be the chief executive of the Association. The President shall preside at meetings of the Board of Directors and at meetings of the Owners. At the meetings, the President shall have all authority typically granted to the person presiding over the meeting including but not limited to: (1) the right to control the order of the meeting, (2) the right to arrange for the removal of any disruptive Owner or person, (3) the right to impose and enforce reasonable rules and procedures related to the meeting such as those found in "Robert's Rules of Order" or "The Modern Rules of Order." The President shall sign on behalf of the Association all conveyances, mortgages, documents, and contracts, and shall do and perform all other acts and things as required by the Board.

5.7 **Vice President.** The Vice President shall perform all duties of the President when the President is absent or unable or refuses to act at any meeting of the Board or Owners. The Vice President shall perform such other duties as required by the Board.

5.8 **Secretary.** The Secretary shall keep the minutes of the Association and shall maintain such books and records as these Bylaws, the Declaration, Rules, or any resolution the Board may require such person to keep. The Secretary shall also act in the place of the Vice President in the event of the President's and Vice President's absence or inability or refusal to act. The Board may delegate the responsibilities of the Secretary to the Manager.

5.9 **Treasurer.** The Treasurer shall be responsible to maintain the financial accounting of the Association, subject to the action of the Board, and when requested by the President, shall report the state of the finances of the Association at each meeting of the Owners and at any meeting of the Board. The Treasurer is responsible for the implementation of procedures to minimize the risk of embezzlement or improper use of Association funds and financial accounts. The Treasurer shall perform such other duties as required by the Board. The Board may delegate the responsibilities of the Treasurer to the Manager.

5.10 **Compensation.** No officer shall receive compensation for any services rendered to the Association as an officer, provided, however, that an officer may be reimbursed for expenses incurred in performance of such duties as an officer to the extent such expenses are approved by the Board.

ARTICLE VI COMMITTEES

6.1 **Designation of Committees.** The Board may designate committees as it may

deem appropriate in carrying out its duties, responsibilities, functions, and powers. No member of such committee shall receive compensation for services rendered to the Association as a member of the committee; provided, however, that the committee member may be reimbursed for expenses incurred in performance of such duties as a committee member to the extent that such expenses are approved by the Board. A committee shall not have any powers, duties, or responsibilities beyond those specifically assigned by the Board in a written resolution. The Board may terminate a committee at any time.

6.2 **Proceeding of Committees.** A committee may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such committee may from time to time determine. Committees shall keep records of its proceedings and shall regularly report such records to the Board.

6.3 **Quorum and Manner of Acting.** At each committee meeting, the presence of members constituting at least a majority of the authorized membership of such committee shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee. The members of any committee designated by the Board hereunder shall act only as a committee, and the individual members thereof shall have no powers as such. A committee may exercise the authority granted by the Board.

6.4 **Resignation and Removal.** A committee member may resign at any time by delivering a written resignation to the President, the Board, or the presiding officer of such committee. Unless otherwise specified therein, such resignation shall take effect upon delivery. The Board may at any time, with or without cause, remove any committee member.

6.5 **Vacancies.** If a vacancy shall occur in any committee due to disqualification, death, resignation, removal, or otherwise, the remaining members shall, until the filling of such vacancy by the Board, the then total authorized membership of the committee may continue to act. Such vacancy may be filled at any meeting of the Board.

ARTICLE VII INDEMNIFICATION

7.1 **Indemnification.** In addition to the indemnification provisions and requirements set forth in the Declaration, no Board Member, officer, or committee member shall be personally liable for any obligations of the Association or for any duties or obligations arising out of any acts or conduct said Board Member, officer, or committee member performed for or on behalf of the Association. The Association shall and does hereby indemnify and hold harmless each person who shall serve at any time as a Board Member, officer, or committee member of the Association, as well as such person's heirs and administrators, from and against any and all claims, judgments and liabilities to which such persons shall become subject, by reason of that person having heretofore or hereafter been a Board Member, officer, or committee member of the Association or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him as such Board Member, officer, or committee member and shall reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability; provided that no such person shall be indemnified against or be reimbursed for or be defended against any expense or liability incurred in connection with any claim or action arising out of such person's willful or intentional misconduct. The rights accruing to any person under the foregoing provisions of this Section shall not exclude any other right to which such person may lawfully

be entitled, nor shall anything herein contained restrict the right of the Association to indemnify or reimburse such person in any proper case, even though not specifically provided for herein or otherwise permitted. The Association, its Board Members, officers, committee members, employees, and agents shall be fully protected in taking any action or making any payment or in refusing so to do in reliance upon the advice of counsel.

7.2 **Other Indemnification.** The indemnification provided herein shall not be deemed exclusive of any other right to indemnification to which any person seeking indemnification may be under the Acts or under any agreement, vote of disinterested Board Members or otherwise, both as to action taken in any official capacity and as to action taken in any other capacity while holding such office. It is the intent hereof that all Board Members, officers, and committee members be and hereby are indemnified to the fullest extent permitted by the laws of the State of Utah and these Bylaws. The indemnification herein provided shall continue as to any person who has ceased to be a Board Member, officer, committee member, or employee and shall inure to the benefit of the heirs, executors and administrators of any such person.

7.3 **Insurance.** The Board, in its discretion, may direct that the Association purchase and maintain Directors and Officers insurance on behalf of any person who is or was a Board Member, officer, committee member, or employee of the Association or is or was serving at the request of the Association as a Board Member, officer, committee member, employee, or agent of another association, corporation, partnership, joint venture, trust or other enterprise against any liability asserted against, and incurred by, such person in any such capacity or arising out of such person's status as such, whether or not the Association would have the power to indemnify such person against liability under the provisions of this Article.

7.4 **Settlement by Association.** The right of any person to be indemnified shall be subject always to the right of the Association through the Board, in lieu of such indemnity, to settle any such claim, action, suit or proceeding at the expense of the Association by the payment of the amount of such settlement and the costs and expenses incurred in connection therewith.

ARTICLE VIII RULES AND REGULATIONS

8.1 **Rules.** The Board shall have the authority to adopt and establish by resolution such Association Rules as it may deem necessary for the maintenance, operation, management, and control of the Project. The Board may from time to time, by resolution, alter, amend, and repeal such Rules and use their best efforts to see that they are strictly observed by all Owners and residents. Owners are responsible to ensure that their lessees, invitees, and guests strictly observe the Rules then in effect as well as the covenants and restrictions of the Declaration and shall be jointly and severally liable for their violations and resulting fines. Copies of all Rules adopted by the Board shall be sent to all Owners at least ten (10) days prior to the effective date thereof.

ARTICLE IX AMENDMENTS

9.1 **Amendments.** The Bylaws may be amended, altered, or repealed and new Bylaws may be adopted upon the affirmative vote of at least sixty-seven percent (67%) of the voting interest of the Association. Any amendment(s) shall be effective upon recordation in the office of the Salt Lake County Recorder. In such instrument the President shall execute the

amendment and certify that the vote required by this Section has occurred. If a Lot is owned by more than one Owner, the vote of any one Owner shall be sufficient to constitute approval for that Lot under this Section. If a Lot is owned by an entity or trust, the vote of any one officer, trustee, or agent of the entity shall be sufficient to constitute approval for that Lot under this Section. No acknowledgment of any Owner or Board Member signature shall be required.

**ARTICLE X
MISCELLANEOUS PROVISIONS**

10.1 **Waiver.** No restriction, condition, obligation, or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

10.2 **Invalidity; Number; Captions.** The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws. As used in these Bylaws, the singular shall include the plural, and the plural the singular. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions are intended solely for convenience of reference and shall in no way limit any of the provisions of these Bylaws.

10.3 **Conflicts.** These Bylaws are intended to comply with the Declaration. In case of any irreconcilable conflict, the Declaration shall control over these Bylaws.

IN WITNESS WHEREOF, the Board of Directors has executed these Bylaws of the Ridges/Pointe Homeowners Association as of the day and year written below.

DATED as of the 6 day of December, 2018.

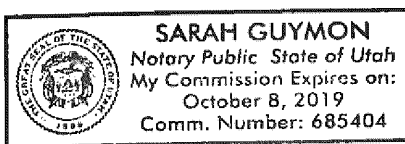
Ridges/Pointe Homeowners Association
a Utah Nonprofit Corporation

By: [Signature]

Its: President

State of Utah)
County of Salt Lake) ss.

On the 6th day of Dec, 2018, personally appeared before me Gary West who by me being duly sworn, did say that she/he is an authorized representative of Ridges/Pointe Homeowners Association, Inc., and that the foregoing instrument is signed and executed by authority of the consent of its members.



Notary Public [Signature]