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By BALL JANIK LLP - SALT LAKE CITY

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AMENDED & RESTATED DECLARATION
FOR
ELK RUN AT PINEBROOK PHASE 2-A AND PHASE 2-B
(INCLUDING BYLAWS)
A PLANNED UNIT DEVELOPMENT

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THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ELK RUN AT PINEBROOK II, A PLANNED UNIT DEVELOPMENT (hereafter "Declaration") is made on the date evidenced below by Elk Run at Pinebrook II Homeowners Association (hereafter "Association").

RECITALS

A. This Declaration and Bylaws attached hereto supersede and replace all prior declarations, bylaws, and amendments or supplements thereto, recorded against the subdivision or unrecorded, including the Declaration for Elk Run at Pinebrook II recorded October 31, 1988, as Entry No. 299426, records of Summit County Recorder, Utah, and all amendments and supplements thereto, including that Declaration of Annexation for Elk Run at Pinebrook II, a Planned Unit Development, Phase 2B, recorded August 25, 1989, as Entry No. 312152 (the "Original Declaration");

B. The property subject to this Declaration is the Elk Run at Pinebrook Phase 2-A planned unit development and the Elk Run at Pinebrook Phase 2-B planned unit development in Summit County, Utah. Exhibit A of this Declaration further defines the property subject to this Declaration. All Lots therein are part of the Association and each Owner of Lot is a member thereof. The Association is created as a planned development and contains certain Common Area and easements for the benefit of the Owners of Lots therein. The Community is not a cooperative or a condominium project.

C. The Association desires to continue to provide for the preservation and enhancement of the property values and improvements of the Property and to ensure a uniform plan and scheme of development.

D. Pursuant to Utah Code § 57-8a-104 and Section 19 of the Original Declaration, the undersigned hereby certify that all of the voting requirements to amend the Declaration have been satisfied, that 67% of the voting interests of the Association have affirmatively approved the adoption of this document and that no change from the Original Declaration affecting lot boundaries or Members' voting rights has been made in this Declaration, and that 67% of mortgagees of Units in the Project have given their approval or their consent has been presumed according to law.

NOW, THEREFORE, the Association declares that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions restrictions, easements, charges and liens hereinafter set forth:

ARTICLE I - DEFINITIONS

The following words when used in this Declaration (unless the context otherwise requires) shall have the following meanings:

1.1 “*Act*” shall mean the Utah Community Association Act, Utah Code, Title 57, Chapter 8a, as the same shall be amended from time to time.

1.2 “*Assessment*” means any charge imposed or levied by the Association on or against an Owner or Lot pursuant to the terms of the Governing Documents or applicable law, including (1) annual/regular assessments; (2) special assessments; and (3) individual assessments as set forth below.

1.3 “*Association*” means and refers to the Elk Run at Pinebrook II Homeowners Association, or any successor incorporated or unincorporated association of the Lot Owners acting under this Declaration.

1.4 “*Board of Directors*” or “*Board*” shall mean and refer to the Board of Directors of the Association.

1.5 “*Bylaws*” means the Bylaws of the Association (attached hereto as **Exhibit B**) as they may be amended from time to time.

1.6 “*Common Area*” means, refers to, and includes: (a) The real property and interests therein, excluding all Lots as defined herein, which comprise the Project; (b) All common areas and facilities designated as such elsewhere herein or on the Plat, except as otherwise stated herein; (c) All installations for and all equipment connected with the furnishing of the Project’s utility services and existing for common use, such as electricity, gas, water and sewer, except as otherwise provided herein; (d) In general, all apparatus, installations and facilities included within the Project and existing for common use; (e) The Project’s roads (except public roads when the context requires for maintenance purposes) and parking areas, excluding all Lots; (f) All other parts of the project normally in common use or necessary or convenient to its use, existence, maintenance, safety or management; (g) All common areas as defined in the Act, whether or not enumerated herein.

1.7 “*Common Expenses*” means and refers to all sums which are required by the Association to effect the purposes of the Association and to perform or exercise its functions, duties, or rights under the Act and the Governing Documents.

1.8 “*Community*” or “*Development*” means all of the land described in attached **Exhibit A**.

1.9 “*Community Wide Standard*” means the standard of conduct, maintenance, or other activity generally prevailing in the community, as set forth in this Declaration, the Bylaws and as defined or determined by the Board from time to time.

1.10 “*Fines*” shall mean and refer to fines levied against a Lot Owner for violations of the Governing Documents of the Association. Fines shall be enforced and collected consistent with the Act and may be collected as an unpaid assessment.

1.11 “*Governing Documents*” shall mean and refer to a written instrument by which the Association may exercise powers or manage, maintain, or otherwise affect the property under the jurisdiction of the Association, including Articles of Incorporation, Bylaws, Plat, this Declaration, rules, and architectural or design guidelines.

1.12 “Improvements” means every structure or improvement of any kind, including but not limited to landscaping, sprinkler pipes, Living Units, decks, porches, awnings, fences, garages, carports, driveways, storage compartments or other products of construction efforts on or in respect to the Property (but does not include any exterior antenna or satellite dish, authorized in accordance with the Declaration).

1.13 “Include,” “includes,” or “including” means that the items listed are not an exclusive list, unless the word "only" or similar language is used to expressly indicate that the list is an exclusive list.

1.14 “Lot” means any residential lot or parcel of land upon which a Living Unit is constructed and is designated “Private Area” upon the Plat, and which exists for private use and ownership, including any Improvements thereon.

1.15 “Manager” or “Managing Agent” shall mean and refer to the person or entity retained by the Association to manage the Property according to the direction of the Board.

1.16 “Owner” means the record owner of fee simple title to any Lot, as shown in the records of the County Recorder, but does not include a tenant, contract purchaser, or holder of a leasehold interest or person holding only a security interest in a Lot.

1.17 “Plat” or “Map” or “Record of Survey Map” (these terms may be used interchangeably herein) means the official subdivision plat maps for Elk Run at Pinebrook Phase 2-A and Elk Run at Pinebrook Phase 2-B recorded in the office of the County Recorder on October 31, 1988 as Entry No. 299425 and on August 25, 1989, as Entry No. 312151, respectively, as the same may be amended or substituted from time to time.

1.18 “Property” or “Project” means all of the real property and interests within the boundaries of the project described in the Plat, including all Lots, Common Area, easements, and open space.

1.19 “Rules and Regulations” means and refers to those rules and regulations adopted by the Board from time to time that are deemed necessary or prudent by the Board for the enjoyment of the Property and the Community.

1.20 “Unit” or “Living Unit” or “Residence” shall mean a single-family residential dwelling unit constructed upon a Lot.

ARTICLE II - PROPERTY DESCRIPTION, RIGHTS AND EASEMENTS

2.1 Property Subject the Declaration and Bylaws. The real property which is, and shall be, transferred, held, sold, conveyed, used, occupied and improved subject to the Act and to this Declaration, the Governing Documents, and all agreements, decisions and determinations made by the Board or Association is described on **Exhibit A** attached hereto, which Declaration and covenants, conditions and restrictions therein shall run with the land and shall be binding upon each and every party which shall at any time have any right, title or interest in or to the Property or any part thereof, their heirs, successors and assigns, and to any other person who may in any manner use the Property or any part thereof submitted to the provisions of this Declaration, and

shall inure to the benefit of each Owner thereof. To the extent that the Governing Documents are or become inconsistent with the provisions of any future amendments to the Act, the Act, as amended, shall control.

2.2 Description and Legal Status of Lots. Except as stated below, the Plat shows the Lots and building designations, their locations, dimensions from which its areas may be determined, and, together with the Definitions above, the Common Areas. All Lots are residential Lots. All Lots shall be capable of being independently owned, encumbered, and conveyed.

2.3 Form of Lot Conveyance - Legal Description of Lot. Each conveyance or installment contract for the sale of a Lot and every other instrument affecting title to a Lot may describe that Lot by the number shown on the Record of Survey Map with appropriate reference to said Map and to this Declaration, as each shall appear on the records of the County Recorder, state of Utah, and in substantially the following form: Lot ____, Building _____ shown on the Record of Survey Map for Elk Run at Pinebrook Phase 2-A or Phase 2-B subdivision, appearing in the records of the Summit County Recorder as Entry No. ____ Map No. ____, and as identified in the Declaration of Covenants, Conditions and Restrictions appearing as Entry No. ____ in Book _____ at Pages _____ of the official records of the Summit County Recorder, as may be amended, and the Plat. This conveyance is subject to the provisions of the aforementioned Declaration, including any amendments thereto.

2.4 Use and Occupancy. Except as otherwise expressly provided in this Declaration or the Bylaws, the Owner(s) of a Lot shall be entitled to the exclusive use and benefits of ownership of such Lot. Each Lot, however, shall be bound by, and the Owner shall comply with, the restrictions contained below and all other provisions of the Governing Documents of the Association for the mutual benefit of the Owners.

2.5 Easements Reserved. In addition to the easements shown on the Plat or provided for under this Declaration, the Bylaws or law, the following easements are hereby reserved for the benefit of the Owners and the Association:

(a) Right of Entry. The Association and any person authorized by the Association may at any reasonable time, and from time to time at reasonable intervals, enter upon any Lot for the purpose of performing maintenance referred to herein and determining whether or not the Lot is in compliance with the Governing Documents or whether the use of the Lot is causing damage or harm to the Common Areas. Requests for entry shall be made in advance and at a time convenient to the Owner, except in the case of an emergency, when such right shall be immediate. No such entry shall be deemed to constitute a trespass or otherwise create any right of action in the Owner of such Lot.

(b) Utility Easements. The Association and any public or private utility provider shall have an easement through all Lots and the Common Areas for the installation, maintenance and development of utilities and drainage facilities, as may be necessary as determined by the Board. The Board may grant or create from time to time, on behalf of the Association and on such terms as it deems advisable, utility and similar easements and rights-of-way over, under, across, and through the Common Area. Within any easement, no structure, planting or other material shall

be placed or permitted to remain which may reasonably interfere with or damage utilities or drainage facilities. The easement area within each Lot and all improvements therein shall be maintained continuously by the person or entity responsible for maintenance of such Lot in accordance with the terms herein, except for those improvements for which a public authority or utility provider is responsible. Each Lot Owner shall have an easement in common with all Owners to use all pipes, wires, ducts, cables, conduits, public utility lines and other common facilities located in any of the other Lots and serving his or her Lot.

(c) Common Areas. All Owners are hereby granted a non-exclusive right and easement of enjoyment to the Common Areas.

(d) Driveways. Each Owner shall have a right of way and easement over and across all portions of a driveway that provides ingress and egress to his or her Lot, regardless of whether the driveway is on another Lot or Common Area.

2.6 No Encroachment. No Lot shall encroach upon an adjoining Lot without the express written consent of the Board. If, however, an encroachment occurs due to the settlement or shifting of a structure or building or any other reason whatsoever beyond the control of the Board or any Owner, there shall forthwith arise, without the necessity of any further or additional act or instrument, a good and valid easement for the maintenance of such encroachment, for the benefit of the Owner, its heirs, personal representatives and assigns, to provide for the encroachment and non-disturbance of the structure. Such easement shall remain in full force and effect so long as the encroachment shall continue.

ARTICLE III - RESTRICTIONS ON USE

3.1 Residential Use.

3.1.1 No Commercial Use. Lots shall be used for residential purposes in accordance with, and subject to, the Governing Documents. No trade, craft, business, profession, commercial, or similar activities shall be conducted on any Lot or in any other portion of the Community if the same causes pedestrian or vehicular traffic which in the Board's determination is in excess of a normal level for residential occupancy; creates a sight or noise nuisance as determined by the Board; is not merely incidental to the use thereof as a dwelling; or has external visible, audible or other indications of use of the dwelling as anything but as a dwelling, all as determined solely and conclusively by the Board. Owners engaging in any business activities from their Lots hereby agree to indemnify, defend, and hold harmless the Association and its officers, directors, employees, agents, and other Owners from all claims which may arise from such business activities.

3.1.2 Single Family Use. An Owner shall not permit his or her Lot and Unit to be occupied or used other than as a private residence for a single family, without the express approval of the Association. "Single Family" is defined as: A. One or more persons related by blood, marriage, adoption, or legal guardianship, including foster children, living together as a single housekeeping unit in a dwelling unit; or B. A group of not more than four (4) persons not related by blood, marriage, adoption, or legal guardianship living together as a single

housekeeping unit in a dwelling unit; or C. Two (2) unrelated persons and their children living together as a single housekeeping unit in a dwelling unit.

3.2 *Lease Restrictions.*

All leases shall be in writing and be subject to the Governing Documents and any failure by the lessee to comply with the terms of such documents shall be a default under the Lease. No Owner shall rent less than the entire Unit, and no Owner shall rent such Owner's Unit for an initial term of less than 12 months.

3.3 *Animals.*

3.3.1. The Board of Directors shall have the express authority and right to promulgate rules, beyond those stated herein, restricting the keeping of pets.

3.3.2. No animals, livestock, or poultry of any kind may be raised, bred, kept or permitted within any Lot, except dogs, cats, or other household pets provided that they are not kept, bred, or maintained for any commercial purpose or in any unreasonable numbers. The Owner of any dog must keep such dog on a leash when outside of the Lot or keep it confined within the Lot.

3.3.3. Those animals which are permitted shall not cause any noise or disturbance that would be deemed a nuisance to other Owners or residents within the Community. Any inconvenience, damage or unpleasantness caused by such pets shall be the responsibility of the respective owners thereof and owners shall be responsible for removal of wastes of their animals from the Common Areas.

3.3.4. If a dog, cat, or other household pet is kept in the Unit, the Association shall have the right to charge a recurring fee for any Unit having a dog, cat, or other household pet.

3.3.5. An owner may be required to remove a pet upon receipt of a written notice from the Board given pursuant to a resolution relating to rules and regulations governing pets within the Community and enforcement of such rules and regulations and provisions of this subsection. The Board may apply for appropriate judicial relief in the event that Owners violate this Article.

3.4 *Offensive Activities.*

No noxious, offensive or unsightly conditions, including, but not limited to, the placement or storage of inoperable vehicles, car parts and appliances, or activities shall be permitted on any Lot or other portion of the Common Areas, nor shall anything be done in or placed upon any Common Area which interferes with or jeopardizes the enjoyment of other Lots or which is a source of annoyance to residents.

3.5 *Unlawful Activities.*

No unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

3.6 *Rubbish and Trash.*

No part of the Property may be used or maintained as a dumping ground for rubbish, trash,

garbage, or any other waste. No garbage, trash, or other waste may be kept or maintained on any part of the Property except in a sanitary container as specified by the Association or within a trash enclosure screened from public view. All such waste and garbage must be promptly and periodically removed.

3.7 Window Coverings.

Appropriate window coverings must be installed on windows at all times. The color of such window coverings shall be in harmony with surroundings and the exterior of the structure. Appropriateness and harmony shall be determined by the Board and a window covering shall be promptly removed by an Owner upon the determination by the Board that it is not appropriate or in harmony with surroundings. No window may be covered by paint, aluminum foil, newspapers, bed sheets, cardboard, blankets, or other similar items.

3.8 Vehicles in Disrepair.

3.8.1. No Owner shall permit any vehicle which is in an extreme state of disrepair to be abandoned or to remain parked upon any part of the Property unless such vehicle is within a garage. A vehicle shall be deemed in an extreme state of disrepair when the Board reasonably determines that its presence offends the occupants of the other Lots.

3.8.2. If an Owner fails to remove a vehicle deemed to be in an extreme state of disrepair within seventy-two (72) hours after the date and time on which written notice is securely placed on such vehicle or delivered to the responsible Owner by the Board, the Board may have such vehicle removed from the Property (i.e., towed) and assess the Owner the expense of such removal and any storage necessitated thereby.

3.9 Parking of Automobiles and Other Vehicles.

Parking of boats; trailers; oversized or commercial vehicles (vehicles more than 8 1/2' wide (including mirrors) or 19 1/2' long, any vehicle that has more than two axles, or vehicles weighing more than 6,500 pounds); vehicles displaying commercial advertising, logos, or business names exceeding three square feet per side or containing visible commercial materials, cargo, tools or equipment on the exterior of the vehicle; truck campers; motor homes; RVs; and like vehicles and equipment shall only be allowed, until prohibited or otherwise restricted by rule of the Association, for up to two periods of 24 hours in any given seven day period. Such a 24 hour period shall begin upon the first instance of parking of the vehicle and shall expire 24 hours later regardless of whether the vehicle is parked continuously for 24 hours. The Board may adopt and amend rules to be more or less restrictive than the provisions herein, and to otherwise regulate and govern the parking of vehicles in the Property, including the Lots. An Owner may be assessed the expense of removing any vehicle or equipment parked in violation of any rule or of this subsection and the cost of any storage thereof.

3.10 Clothes Lines and Materials.

No clothes lines, clothing racks, or other apparatus on which clothes, rags, or similar items are exposed for the purpose of drying or airing shall be located on the Property except within a Unit, unless in an area screened from public view. No garments, rugs, rags, laundry, or other clothing or materials shall be allowed to hang from the windows or from any of the facades or any other part of a Unit unless in an area screened from public view.

3.11 Signs.

Unless written approval is first obtained from the Board, no sign, advertisement, poster, flag or banner of any kind may be displayed to the public view on or from any Unit or Lot or the Common Area, except as allowed by law and except that for the following no approval of the Board shall be necessary: (1) Not more than one “for sale” or “for rent” sign, not exceeding 24 inches in height and 24 inches long, may be temporarily placed on a Lot; (2) Political signs may be temporarily placed on a Lot unless and until prohibited or otherwise limited by the Board by rule; and (3) the flag of any sovereign nation may be displayed from a Lot.

3.12 Antenna and Dish Policy.

Satellite dishes and antennas not regulated by the FCC are prohibited. Satellite antennas, such as Direct Broadcast Satellite (“DBS”) antennas/dishes one meter in diameter or less, and designed to receive direct broadcast satellite service, including direct-to-home satellite service, or receive or transmit fixed wireless signals via satellite, may be installed; provided the dish and any wires are installed so as to not be visible from the streets. If locating the dish so that it is not visible from the streets precludes reception of an acceptable quality signal, the dish shall be installed with the least visibility from the streets possible. An Owner must submit written notification to the Association within three (3) business days before installing any antenna or dish that is allowed pursuant to this section. If requested by the Association, the Owner must establish a mutually convenient time to meet with a representative of the Association to review and discuss the antenna/dish. Location of an FCC approved dish may not be restricted by the Association so as to cause unreasonable delay in installation; unreasonably increase the cost of the equipment or its installation, maintenance, or use; or preclude reception of an acceptable quality signal. No dish may encroach upon the Common Area or the property of another Owner.

The Owner is responsible for all damage caused by or connected with the dish, including damage resulting from water entering a building due to the installation or existence of such antenna/dish. By installing a dish, the Owner agrees to hold the Association harmless and indemnify the Association in the event that someone is injured by the dish or in the installation or maintenance of the dish. The Owner shall keep the dish in good repair so that it does not violate any portion of this Declaration. In the event of a violation of this Section, the Association may bring an action for declaratory and/or injunctive relief and the Owner is subject to a \$50.00 fine to the Association for each violation. If the violation is not corrected within a reasonable length of time as determined by the Board, additional fines of \$10.00 per day will be imposed for each day that the violation continues. The Association shall be entitled to recover its reasonable attorney's fees, costs and expenses incurred in the enforcement of this Section. If any provision of this Section is ruled invalid, the remainder of these rules shall remain in full force and effect. If the FCC modifies its rules, the modified rules shall be incorporated into this Section as if fully set forth herein. The terms “dish” and “antenna” are to be used interchangeably in the interpretation of the above policy.

3.13 Noise Disturbance.

Residents shall exercise extreme care to minimize noise and to use musical instruments, radios, televisions, amplifiers, or any other device so as to not disturb other residents. Noise disturbances shall subject the Owner of the Lot from which the noise originates to a fine, as

levied by the Board in its sole discretion. The quiet hours required by county ordinance shall be adhered to by all users of the Property.

3.14 Increase in Insurance Cost.

Nothing shall be done or kept within any Lot or on the Common Areas which will increase the cost of insurance to the Association or to other Owners. No Owner shall permit anything to be done or kept within his or her Lot or Common Areas which will result in cancellation of insurance on any Lot.

3.15 Association Rules and Regulations.

In addition to the restrictions and requirements above, the Board from time to time may, by resolution, adopt, modify, or revoke such rules and regulations governing the conduct of persons and the operation and use of the Lots and Common Areas as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Property. Reasonable fines may be levied and collected as an assessment for violations of said rules and regulations and for violations of any restrictions contained in this Declaration. A schedule of fines may be adopted by the Board specifying the amounts of such fines, and any other provisions or procedures related to the levying of such fines.

ARTICLE IV - ARCHITECTURAL REQUIREMENTS

4.1 Modifications. No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to, or change or alteration thereto, of any sort, whether structural, landscaping, cosmetic or otherwise, be made, and nor shall any interior structural modifications (e.g., moving or removing any wall, rerouting, replacing or adding any wiring, pipes, conduit, vents, etc.) be made by an Owner until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same, together with copies of applicable building permits, shall have been submitted to and approved in writing by the Board as to aesthetics and to harmony of external design and location in relation to surrounding structures and topography and to the Project generally, and as to other considerations consistent with the purposes of the Association. Such approval shall be solely at the discretion of the Board as it deems appropriate from time to time. The Board will have the sole discretion to make final, conclusive and binding determinations on matters of aesthetic judgment and such determinations will not be subject to review so long as made in good faith and in accordance with the procedures herein. Any such request shall be deemed to have been denied if the relevant Owner, including any subsequent Owner, cannot produce the written approval granted by the Board upon request, and any changes or alterations made by an Owner, or prior Owner, shall be removed and the property restored to its original condition at the request of the Board. In the event the Board fails to approve or disapprove a request by an Owner, the request will be deemed to have been denied.

The Board shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of any plan or design from the standpoint of structural safety or conformance with building or other codes. Neither the Board nor any member thereof shall be liable to the Association or any person whatsoever for any loss, damage or injury arising out of, or in any way connected with the performance of the Board's duties hereunder.

The Association may charge a fee for the actual cost of reviewing and approving plans for the construction or improvement of a Lot, including any costs charged to the Association by any other party, but the Association shall not charge a fee for reviewing and approving plans that exceeds such costs.

4.2 Design Guidelines. Design and construction of the Lots and Units, (including interior structural modifications) shall be consistent with and shall comply with the procedures and criteria set forth in this Declaration and such other building and design criteria which the Board is hereby empowered to adopt (referred to as “*Design Guidelines*”) to expand, clarify, and otherwise provide for the harmony and compatibility of the Improvements constructed within the Project and to otherwise fulfill the purposes of the Association under this Declaration. Design Guidelines shall also be deemed to include the requirement that the quality of all materials to be used in any construction or Improvements within the Project be equal or superior to that utilized for original construction. All builders and Owners shall comply with and are bound by the design restrictions herein and the Design Guidelines, if and when such are adopted. The Board shall have the authority to establish a security deposit or bond requirement as may be required by the Association and any portion of that amount that shall be non-refundable as an impact fee. There shall be no fee for review and approval of Lot plans by the Association other than for actual costs incurred by the Association.

ARTICLE V - MAINTENANCE OBLIGATIONS

5.1 Owner’s Responsibility.

5.1.1. Lots. Except to the extent that the Association is responsible for such maintenance under Section 5.2, maintenance of the Lots and the Living Units shall be the responsibility of the Owners thereof, who shall maintain such Lots and Living Units in good condition and repair. Each Owner at his or her sole expense shall maintain and repair the interior of the Living Units, including floors and each and every structural element beneath the Unit, exterior windows, window frames, and exterior doors/door frames. In addition to decorating and keeping the interior of his or her Unit in good repair and in a clean and sanitary condition, he or she shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heaters, heating equipment, air conditioners, lighting fixtures, refrigerators, dishwasher, disposal equipment, ranges, toilets, or other appliances or fixtures that may be in, or connected with, his or her Lot, including fences. Any fixture, pipe, improvement, structure, conduit, or other utility device or apparatus that services only one Lot shall be the responsibility of that Lot’s Owner to maintain, repair, and replace. Each Unit and Lot shall be maintained so as to not detract from the appearance of the Community and so as to not adversely affect the value or use of any other Unit or Lot.

5.1.2. It shall be the Owner’s responsibility to, maintain, repair and replace garage doors, garage door framing, and the above-garage deck of any Unit or any components thereof, including but not limited to, the decking, the roof, underlying decking, deck boards, decking posts, and EPDM roofing membrane or other roofing membrane located under the deck.

5.1.3. As part of the Owners responsibility to maintain and clean the Owner's Unit and for the safety of all Owners and the Property, Unit Owners are hereby required to have their fireplaces, wood burning stoves (if any), including exhaust/venting piping, and dryer vents, inspected and cleaned every two years. This is required, not only to increase efficiency, but more importantly to prevent the potential of fire hazard. Wood burning stoves and fireplaces can develop a buildup of creosote, which can accumulate and can suddenly ignite and start a fire. Additionally, accumulated dryer lint is extremely combustible and is a common cause of house fires. Therefore, Unit Owners are required to contract a qualified company to clean and inspect each Unit's dryer vents, fireplaces, woodstoves, and appurtenant components every two years. Owners shall provide a copy of a certificate, receipt, work order, invoice or other form evidencing that the required cleaning and inspection has occurred from a qualified company, when requested by the Association.

5.1.4. Fences, Fenced Areas. In any case where a fence is installed, the Owner whose Lot directly enjoys the benefit of the fence or fenced enclosure shall be responsible for any and all maintenance and repair of the fence and landscaping and improvements within the area enclosed by such fence, except sprinkler lines, heads, valves and associated fixtures and accessories, which shall be maintained by the Association (and which shall be kept accessible at all times by the Owner). If a fence, or any portion thereof, sits on the boundary between two Lots, the Owner of each Lot adjoining such fence shall be an "Owner" of the fence for purposes of this section and the cost of repair and maintenance of such fence shall be shared by the Owners in proportion to their ownership thereof. The Association shall have no responsibility to maintain or repair any portion of any fence on a Lot or on the boundary of any Lot.

5.2 Maintenance by Association. The Association:

- Shall maintain the Common Areas of the Property, unless otherwise stated in this Declaration, and shall be responsible for cleaning and general maintenance and repair of all driveways and parking areas except garages directly appurtenant to the individual Units,
- Shall be responsible for and shall provide maintenance, repair and replacement upon the following on each Unit: roofs; cement steps; gutters and downspouts installed originally by the builder or as replaced by the Association (but specifically excluding any gutters and downspouts installed by an Owner); exterior surfaces of buildings, including paint but excluding glass surfaces, door frames, and window frames. The Association shall not be responsible for stair rails, wood steps and decks.
- Shall be responsible for and shall maintain and provide landscaping upon the Common Areas and upon the open real property located within each Lot (any real property located within a Lot that is fully enclosed by fencing or otherwise is not considered open real property and the Association is not responsible to provide maintenance or landscaping within such enclosed areas, except to the sprinklers therein, including sprinkler lines, heads, valves, and associated fixtures and accessories). The Association shall have the irrevocable right to have access to each Lot as may be necessary to carry out its

maintenance responsibilities as reasonably required and as otherwise permitted in this Declaration.

Any damage to the exterior of a Unit in excess of normal wear and tear not otherwise attributable to the actions of the Association shall be repaired by the Association but shall be paid for by the Unit Owner directly. The cost of such exterior maintenance shall be added to and become part of the assessment applicable to the Unit. Additionally, and in an effort to prevent unnecessary damage to the exterior of Units, each Unit Owner is required to timely remove snow from the above-garage deck, as may be defined more fully by the Board in the rules and regulations of the Association, and may be subject to a fine for failure to comply with such rules and regulations and the Association may, after notice, clear the snow and charge all costs back to the Owner as an assessment.

To the extent not clarified herein and not inconsistent with the provisions of this Declaration, the Association may, by duly adopted Board resolution, identify and assign those areas of maintenance and responsibility that are either (1) Owner responsibilities; or (2) Association responsibilities. Such determinations shall be set forth in a Board resolution distributed to all Owners and shall be binding against all Owners.

The Association shall not be liable for injury or damage to any person or property caused by the elements, or resulting from electricity, water, rain, dust or sand which may leak or flow from outside or from any parts of any building, including from any pipes, drains, conduits, appliances, or equipment, or from any other place, unless caused by the negligent or intentional act of the Association.

The Association may assume an Owner's maintenance responsibility as to a Lot the Owner is responsible for maintaining if, in the opinion of the Board, the Owner is unwilling or unable to adequately provide such maintenance. Before assuming such maintenance responsibility, the Board shall provide notice to the Owner of its intention to do so, and if such Owner has not commenced and diligently pursued remedial action with fifteen (15) days after mailing of such written notice, then the Association may proceed to maintain the Lot. The expenses of such maintenance incurred by the Association shall be reimbursed to the Association by the Owner. Such expenses shall automatically and immediately be an Assessment against such Owner.

5.3 Party Walls.

5.3.1. General Rules of Law Apply. Each wall or fence built as a part of the original construction of any Lot or Living Unit and placed substantially on a dividing line between any two Living Units or Lots shall constitute a Party Wall. In the event the Owner, or its tenant, guest or invitee, causes damage to the party wall, then the general rules of law regarding party walls and liability for damage due to negligence or willful acts or omissions shall apply thereto. The Owner of each Lot adjoining a Party Wall shall be an "Owner" of the wall for purposes of this Article.

5.3.2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a Party Wall shall be shared by the Owners in proportion to their ownership thereto.

5.3.3. Destruction by Fire or Other Casualty. If a Party Wall is destroyed or damaged by fire or other casualty, any Owner thereof may restore it, and the other Owners thereof shall contribute to the cost of restoration thereof in proportion to such ownership without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

5.3.4. Arbitration. In the event any dispute arises concerning a Party Fence or a Party Wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all of the arbitrators.

5.3.5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

ARTICLE VI - ASSESSMENTS

6.1 *Covenant for Assessments.* Each Owner, by acceptance of a deed hereafter conveying any Lot to it, whether or not so expressed in the deed or other conveyance, shall be deemed to have covenanted and agreed to pay the Association the following types of assessments, as provided for and defined below: Annual Assessments, Special Assessments, and Individual Assessments.

The Board shall determine whether installments of Annual Assessments are levied and collected on a monthly, quarterly, semi-annual, annual or other basis. Any member may prepay one or more installments of any Assessment levied by the Association, without premium or penalty. No member may exempt itself from liability for Assessments by abandonment of any Lot owned by such member.

Each Lot Owner shall pay an equal share of the Annual Assessments and Special Assessments.

6.2 *Annual Budget and Assessment.*

6.2.1. Adoption of Budget. The Board shall prepare, or cause the preparation of, an annual budget for the Association, which shall provide, without limitation, for the maintenance of the Common Areas and for the administration, management and operation of the Association. If the Board fails to adopt an annual budget, the last adopted budget shall continue in effect.

6.2.2. Determination of Annual Assessment.

(a) The Board of the Association shall fix the amount of the annual assessment ("Annual Assessment") against each Lot for each assessment period at least thirty (30) days in advance of the beginning of the period. Written notice of the Annual Assessments

shall be sent to all members of the Association at least thirty (30) days in advance of the beginning of any assessment period, or thirty (30) days in advance of any increase in the Annual Assessment that is to take effect during any assessment period.

(b) The omission by the Board, before the expiration of any assessment period, to fix the amount of the Annual Assessment for that or the next period, shall not be deemed a waiver or modification in any respect of the provisions of this article or a release of any member from the obligation to pay the Annual Assessment, or any installment thereof, for that or any subsequent assessment period. In the event of such omission, the Annual Assessment fixed for the preceding period shall continue until a new assessment is fixed.

(c) Equitable Changes. If the Annual Assessments levied at any time are, or will become, inadequate to meet the expenses incurred by the Association for any reason, including nonpayment of any Owner's Assessments on a current basis, the Board may determine the approximate amount of the inadequacy and adopt a resolution which establishes a supplemental budget and establishes the equitable change in the amount of the Annual Assessment. Owners shall be given at least twenty (20) days' written notice of any changes in the amount of an Assessment.

6.3 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of fulfilling the purposes of the Association and carrying out this Declaration, and including, but not limited to: (a) The improvement and maintenance, operation, care, and services related to the Common Areas; (b) The payment of insurance premiums; (c) The costs of utilities and other services which may be provided by the Association for the Community; (d) The cost of labor, equipment, insurance, materials, management, legal and administrative fees incurred or expended in performing the duties under this Declaration or the Bylaws; (e) The cost of funding all reserves established by the Association, including a general operating excess and a reserve for replacements as provided below; and (f) Any other items properly chargeable as a Common Expense of the Association.

6.4 Special Assessments. In addition to the Annual Assessments authorized in this article, the Association may levy a special assessment from time to time ("Special Assessment") for the purpose of defraying, in whole or in part, the costs incurred or to be incurred by the Association which cannot be paid for through other types of Assessments. The Board may authorize a Special Assessment for any lawful purpose provided, however, that any Special Assessment levied within 12 months of a prior Special Assessment, and any Special Assessment greater than \$500 per Member may only be levied if it is first voted upon by the Members and: (1) the votes cast favoring the action exceed the votes cast opposing the action, and (2) a quorum of 30% of the Members cast a vote.

6.5 Individual Assessments. Any expenses which are not common expenses and which benefit or are attributable to fewer than all of the Lots may be assessed exclusively against the Lots affected or benefitted ("Individual Assessments"). Individual Assessments shall include, but are not limited to: (1) Assessments levied against any Lot to reimburse the Association for costs incurred in bringing the Lot or its Owner into compliance with, or to otherwise defend or uphold, or carry out, the provisions of the Governing Documents, and for fines or other charges,

including attorney fees, imposed pursuant to this Declaration for violation of the Governing Documents; (2) Expenses, other than common expenses, relating to the cost of maintenance, repair replacement and reserves of the Lots to the extent incurred by the Association.

6.6 Reserve Funds.

6.6.1. The Association shall establish and maintain a reserve fund for repairs and replacement of the Common Areas, for any emergency, unforeseen, unusual, or unanticipated expenditures, and for any other purpose determined from time to time by the Board by the allocation and payment to such reserve fund of an amount to be designated from time to time by the Board in its sole discretion and best business judgment or of an amount and in the manner as may be required by law. The fund shall be conclusively deemed to be a Common Expense of the Association and may be deposited with any banking institution, the accounts of which are insured by an agency of the United States of America or may, in the discretion of the Board, be invested in obligations of, or fully guaranteed as to principal by, the United States of America.

6.6.2. The Association may establish such other reserves for such other purposes as the Board may from time to time consider to be necessary or appropriate.

6.6.3. The Board's reasonable determination with respect to the amount of the reserve fund contribution shall be conclusively deemed appropriate absent intentional misconduct or gross mismanagement of Association funds. Except in such instances, individual Board members shall not be held liable for any potential or alleged under funding of the reserve account.

6.7 Fee Due on Transfer of Unit. Each time legal title to a Lot passes from one person to another, within thirty (30) days after the effective date of such title transaction, the new Lot Owner shall pay to the Association, in addition to any other required amounts, a reinvestment fee, in the amount of \$250, or such other amount determined by the Board from time to time.

6.8 Nonpayment of Assessments. The Annual Assessments shall be due and payable on a quarterly basis on the first (1st) calendar day of each quarter, unless otherwise provided by the Board, and shall be delinquent if not paid before 30 days from the due date or within such other period established by the Board from time to time. The due date of any Special Assessment or other Assessment shall be fixed in the resolution or document authorizing or levying the Assessment.

6.8.1. Interest. Delinquent payments shall bear interest from the 30th day of the due date, or such other date established by the Board (the "date of delinquency"), at the rate of .75% per month, or such other rate established by the Board.

6.8.2. Late Charge. Each delinquent payment shall be subject to a late charge of twenty-five dollars (\$25.00), or such other amount as determined by the Board from time to time.

6.8.3. Acceleration. If the delinquent installments of any Assessment, including an Annual Assessment, and any charges thereon are not paid in full, the Board, or its authorized agent, may declare all of the unpaid balance of the Assessment to be immediately due and

payable upon not less than ten (10) days' written notice to the Owner, and may enforce the collection of the full Assessment and all charges thereon in any manner authorized by law and this Declaration. If, however, the Assessment is accelerated and an Owner subsequently files bankruptcy or the Board otherwise decides acceleration is not in its best interest, the Board, at its option and in its sole discretion, may elect to decelerate the obligation.

6.8.4. Rent Payments by Tenant to Association. If the Owner of a Lot who is leasing the Lot fails to pay an assessment for more than 60 days after the assessment is due, the Board may demand that the tenant pay to the Association all future lease payments due to the Owner, beginning with the next monthly other periodic payment, until all amount dues to the Association are paid. Such demand to the tenant shall be made in accordance with the law and the written procedures of the Association. The Board, or its agent, shall give the Owner written notice of its intent to demand full payment from the tenant and such notice shall be made in accordance with the law and the written procedures of the Association.

6.8.5. Termination of Common Services and Facility Use. If an Owner fails or refuses to pay an assessment when due, the Board may, after giving notice and an opportunity to be heard in accordance with the law and the written procedures of the Association, terminate an Owner's right: (1) to receive any service paid as a common expense, including but not limited to utility services; and (2) of access and use of recreational facilities. If a hearing is requested, utility services or right of access and use of the recreational facilities may not be terminated until after the hearing has been conducted and a final decision has been rendered by the Board. In the event that the Association incurs costs to terminate any such utility service, the defaulting Owner shall be responsible for all such costs. Upon payment of the assessment due, including any interest, late charge, and costs of collection, the Board shall immediately take action to reinstate the terminated utility services to the Lot.

6.8.6. Other Remedies. All membership rights, including the right of a Member to vote shall be automatically suspended during any period of delinquency, unless otherwise determined by the Board. A Board member shall become immediately ineligible to serve on the Board and automatically dismissed from such position if delinquent more than 60 days in the payment of any Assessment. The Association shall have each and every remedy for collection of assessments provided in the Utah Community Association Act, Utah Code Title 57, Chapter 8a, as amended from time to time, and the provisions of the Act shall be deemed to be fully set forth herein when required by such Act in order to exercise any such remedy.

6.9 Lien. All Assessments imposed shall be a charge and continuing lien upon each of the Lots against which the assessment is made in accordance with the terms and provisions of this Article and shall be construed as a real covenant running with the land. If an assessment is payable in installments, the lien is for the amount of each installment as such becomes due and this provision shall be deemed a notice of assessment. In a voluntary conveyance, the grantee of a Lot shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his share of the unpaid assessments up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee. The Association and each Owner of a Lot hereby conveys and warrants pursuant to U.C.A. § 57-1-20 and 57-8a-302 to the attorney of the Association, with power of sale, each Lot and all

improvements to each Lot for the purpose of securing payment of assessments under the terms of the Declaration.

6.10 *Enforcement of Lien.* The Association may enforce the lien for any Assessment, including Annual, Special, Individual or otherwise, pursuant to the provisions of this Declaration. The lien is imposed upon the Lot against which the Assessment is made. The lien is established and may be enforced for damages, interest, costs of collection, late charges permitted by law, and attorneys' fees provided for in this Declaration (whether or not a legal proceeding is initiated) or by law or awarded by a court for breach of any provisions of the Governing Documents. The lien maybe foreclosed judicially or non-judicially consistent with the laws of the state of Utah for the non-judicial foreclosure of Deeds of Trusts. The Association, through duly authorized agents, shall have the power to bid on the Lot at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Upon completion of the foreclosure sale, an action may be brought by the Association or the purchaser at the sale in order to secure occupancy of the defaulting Owner's Lot, and the defaulting Owner shall be required to pay the reasonable rental value of such Lot during any period of continued occupancy by the defaulting Owner or any persons claiming under the defaulting Owner. The Association shall be entitled to the appointment of a receiver to collect the rental income or the reasonable rental value without regard to the value of the security.

6.11 *Appointment of Trustee.* The Association and each Owner hereby appoints the attorney of the Association who has been retained by the Association at the time a foreclosure is initiated as trustee for the purpose of exercising the power of sale in connection with non-judicial foreclosures as provided in Title 57, Chapter 1, Utah Code and made applicable hereto by Title 57, Chapter 8a, Utah Code Ann., as may be amended from time to time.

6.12 *Subordination of Lien to Mortgages.* The lien of the Assessments provided for in this article shall be subordinate to the lien of any first mortgagees or deeds of trust now or hereafter placed upon the Lot subject to assessment, except as follows: the sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. Such sale or transfer shall not relieve the Lot from liability for any Assessments thereafter becoming due, or from the lien of any future assessment.

6.13 *Personal Obligation and Costs of Collection.* Assessments imposed under this Declaration, together with interest at a rate to be established by resolution of the Board, not to exceed the maximum permitted by law, and costs and reasonable attorneys' fees incurred or expended by the Association in the collection thereof (whether or not a lawsuit is initiated), shall also be the personal obligation of the Owner holding title to any Lot at the time when the assessment became due.

6.14 *Duty to Pay Independent.* No reduction or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to

comply with any law, ordinance, order or directive of any municipal or other governmental authority, the obligation to pay Assessments being a separate and independent covenant on the part of the each Owner.

6.15 Statement of Unpaid Assessment & Payoff Information. The Association shall, upon demand at any time, furnish to any Owner liable for assessment a certificate in writing signed by an officer of the Association setting forth whether Assessments has been paid. The certificate shall be conclusive evidence of payment of any assessment therein stated as having been paid. A reasonable charge up the maximum amount allowed by law may be levied in advance by the Association for each certificate so delivered.

The Association may charge a fee for providing Association payoff information needed in connection with the financing, refinancing, or closing of a Lot Owner's sale of the Owner's Lot up the maximum amount allowed by law.

ARTICLE VII – THE ASSOCIATION

7.1 Organization.

(a) The Association has been organized as a nonprofit corporation under the nonprofit corporation laws of the state of Utah (Utah Code Annotated Titled 16 Chapter 6a, as may be amended from time to time).

(b) In the event the Association is at any time administratively dissolved by the Division of Corporations and Commercial Code, the Board may re-incorporate the Association without a vote of the Owners.

(c) The affairs of the Association shall be governed by a Board as provided herein and in the Bylaws.

7.2 Membership. Each Owner during the entire period of Owner's ownership of one or more Lots within the Community shall be a member of the Association. The membership shall commence, exist and continue simply by virtue of ownership, shall expire automatically upon termination of ownership and need not be confirmed or evidenced by any certificate or acceptance of membership.

7.3 Voting Rights. The method of voting shall be as provided in the Bylaws. Each Owner shall have one (1) vote in matters of the Association for each Lot owned.

7.4 Powers, Duties and Obligations. The Association shall have such powers and duties as may be granted to it or imposed by this Declaration, the Articles of Incorporation, the Bylaws and any applicable statute, as such statute may be amended to expand the scope of association powers, including without limitation:

7.4.1. Duties of the Association. Without limiting any other duties which may be imposed upon the Association by its Articles of Incorporation or this Declaration; the Association shall have the obligation and duty to do and perform each and every one of the following for the benefit of the Owners and the maintenance and improvement of the Property:

(a) To the extent not assessed to or paid by the Owners directly, the Association shall pay all real property taxes and assessments levied upon any portion of the Property, provided that the Association shall have the right to contest or compromise any such taxes or assessments.

(b) The Association may employ a responsible corporation, partnership, firm, person or other entity as the Managing Agent to manage and control the Community, subject at all times to direction by the Board, with such administrative functions and powers as shall be delegated to the Managing Agent by the Board.

7.4.2. Powers and Authority of the Association. The Association shall have all the powers set forth in its Articles of Incorporation and any Bylaws, together with its general powers as a corporation, and the power to do any and all things which may be authorized, required or permitted to be done by the Association under and by virtue of this Declaration, including the power to levy and collect assessments and fines as provided in this Declaration. Without in any way limiting the generality of the foregoing, the Association shall have the following powers:

(a) The Association shall have the power and authority at any time and from time to time and without liability to any Owner for trespass, damage or otherwise, to enter into any Lot for the purpose of maintaining and repairing such Lot or any improvement thereon if for any reason 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.

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 and regulations promulgated by the Board, or to enforce by mandatory injunction or otherwise all of the provisions of this Declaration and such rules and regulations.

(b) In fulfilling any of its duties under this Declaration, including its duties for the maintenance, repair, operation or administration of the Community or in exercising any of its rights to construct, maintain and repair the Common Areas, the Association shall have the power and authority (i) to pay and discharge any and all liens placed upon any Lot on account of any work done or performed by the Association in the fulfillment of any of its obligations and duties of maintenance, repair, operation or administration and (ii) to obtain, contract and pay for, or to otherwise provide for: 1. Such utility services, including (without limitation) water, sewer, trash removal, snow removal, electrical, telephone and gas services, as the Board may from time to time deem desirable; 2. The services of architects, engineers, attorneys and certified public

accountants and such other professional or nonprofessional services as the Board may deem desirable.

(c) The Board may delegate by resolution or contract to the Managing Agent any of its powers under this Declaration; provided, however, that the Board cannot delegate to such Managing Agent the power to execute any contract binding on the Association for a sum in excess of Five Thousand Dollars (\$5,000.00).

(d) Telecommunications/Fiber Optic/Related Contracts. The Board shall have the power, in its own discretion and subject to federal law, to enter into, accept an assignment of, or otherwise cause the Association to comply with contracts with Telecommunication Service providers and Telecommunication Facilities owners (both, a "Telecommunication Provider"), pursuant to which the Telecommunication Provider serves as the exclusive provider of Telecommunication Services and/or Telecommunication Facilities to each Lot in the Properties, provided, however, that prior to entering into any such contract for new services which the Association does not currently pay for or provide to the Owners, a vote of the Owners shall be held and the assent of a majority of those Owners that cast a vote shall be required.

ARTICLE VIII - COMPLIANCE AND ENFORCEMENT

8.1 Compliance. Each Owner, tenant or occupant of a Lot shall comply with the provisions of this Declaration, the Bylaws and the rules and regulations adopted pursuant thereto and any applicable statute. Failure to comply therewith shall be grounds for levying of a fine and an action or suit maintainable by the Association or an aggrieved Owner.

8.2 Remedies. Violation of any provisions of the Governing Documents, or of any decision of the Association made pursuant to such documents, shall give the Board the right, but not the obligation, in addition to any other rights set forth in this Declaration or the Bylaws, or under law, to do any or all of the following after giving notice:

8.2.1. Subject to the provisions of this Declaration, to enter the Lot as to which such violation exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition that may exist contrary to the intent and meaning of such provisions, and the Board shall not thereby be deemed guilty of any manner of trespass, provided that judicial proceedings shall be instituted before any items of construction may be altered or demolished;

8.2.2. To enjoin, abate, or remedy such thing or condition by appropriate legal proceeding;

8.2.3. To levy fines, and a violation of any specific and express rule, regulation, covenant, restriction, or term of any Governing Document of the Association (a "violation"), and any subsequent occurrence of such violation, shall be subject to a fine in the amount determined by the Board from time to time. A subsequent occurrence of the same violation occurring within 6 months of a prior occurrence is and shall be deemed the same violation for all purposes,

including the purpose of notice, and each such subsequent occurrence shall be subject to an immediate fine without further warning or notice;

8.2.4. To suspend the right to receive, access or use any services or facilities provided by or through the Association until the violation is corrected;

8.2.5. To suspend the voting rights of an Owner, but not for longer than 60 days except in the case of a continuous violation;

8.2.6. Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration, the Bylaws and any rules or regulations adopted pursuant thereto. The Association shall be entitled to an award of its attorney fees and costs in any action taken for the purpose of enforcing or otherwise implementing the terms of the Governing Documents, or for any action taken pursuant to the Governing Documents, if it prevails in such action, regardless of who instituted the action; or

8.2.7. To record, in the records of the County Recorder, against a Lot as to which a violation exists relating to the land or improvements on the land and the noncompliance of such land or improvements with the Governing Documents, a notice of noncompliance setting forth the thing, condition or violation that exists and thereby providing notice to prospective purchasers and all others of the violation and of the requirement that the violation be remedied by the Owner or future Owner of the Lot.

8.3 Action by Owners. Subject to any limitation imposed under the Governing Documents or Utah law, an aggrieved Owner may bring an action against such other Owner or the Association to recover damages or to enjoin, abate, or remedy such thing or condition by appropriate legal proceedings.

8.4 Injunctive Relief. Nothing in this section shall prevent an Owner, the Association, or other interested party from resorting to a court of competent jurisdiction in those instances where injunctive relief may be appropriate.

8.5 Purchase Subject to Violations. Buyers shall take ownership of Lots subject to any violations of the Governing Documents which may exist concerning the Lot, whether or not such violations were disclosed by the seller of the Lot and whether or not the Association knew of the violations at the time of sale. Such buyers shall be liable for correcting such violations upon demand by the Association

ARTICLE IX - INSURANCE

9.1 Types of Insurance Maintained by the Association. The Association shall obtain the following types of insurance:

(a) **Liability.** A public general liability insurance policy covering the Association, its officers, Board members and managing agents, having at least a One Million Dollar (\$1,000,000.00) limit per total claims that arise from the same occurrence or in an amount not

less than the minimum amount required by applicable law, ordinance or regulation. Coverage under this policy shall include, without limitation, all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the common areas;

(b) Property. Blanket property insurance or guaranteed replacement cost insurance with not less than 100% of the full replacement cost for the physical structure of all attached dwellings and Common Areas, insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage perils, and including coverage for any fixture, improvement, or betterment installed at any time to an attached dwelling, including a floor covering, cabinet, light fixture, electrical fixture, heating or plumbing fixture, paint, wall covering, window, and any other item permanently part of or affixed to an attached dwelling;

(c) Fidelity Insurance or Bond. The Association shall obtain and maintain adequate fidelity coverage to protect against dishonest acts by its officers, members of the Board, employees, and all others who are responsible for handling funds of the Association, including any property manager. Such fidelity coverage shall: (i) name the Association as an obligee; (ii) not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or managing agent, as the case may be, at any given time, and shall in no event be in an amount less than three months assessments on all Lots plus reserves; (iii) contain an appropriate endorsement(s) to the policy to cover any persons who serve without compensation if the policy would not otherwise cover volunteers, and to cover the Association's management agent, if the Association has delegated some or all of the responsibility for the handling of funds to a management agent; (iv) provide that coverage may not be canceled or substantially modified (including cancellation for nonpayment of premiums) without at least ten (10) days prior written notice to the Association or any insurance trustee.

(d) Directors and Officers (D&O) Insurance. The Association shall purchase and maintain insurance on behalf of any person who was or is a Board member or officer of the Association, and any other person the Association is required by law or contract to indemnify, against any liability asserted against him or her or incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the Association would have the power to indemnify him or her against such liability under the laws of the state of Utah, as the same may hereafter be amended or modified.

(e) Other Insurance. The Association shall obtain such other insurance if and to the extent required by law or as the Board deems necessary from time to time, such as workers' compensation insurance.

9.2 Acceptable Insurance Providers. The Association shall use generally acceptable insurance carriers.

9.3 *Lot Owner Insurance Responsibility.*

9.3.1. Master Policy Deductible. For covered losses to Lots, the Association's policy is primary but the Lot Owner is responsible for the Association's policy deductible (which shall be an automatic Assessment against such Owner 30 days after substantial completion of the repairs to, as applicable, the Lot or a dwelling on the Lot) as follows:

(a) If a loss occurs that is covered by the Association's policy and by a Lot Owner's policy, the Association's policy provides primary insurance coverage and the Lot Owner's policy applies to that portion of the loss attributable to the policy deductible of the Association.

(b) If a Lot suffers damage as part of a covered loss, the Lot Owner is responsible for an amount calculated by applying the percentage of total damage resulting in a covered loss that is attributable to Lot damage for that Lot to the amount of the deductible under the Association's policy. The amount of the deductible under the Association's policy shall be determined by the Board from time to time. The Association shall provide notice to the Lot Owners of any change in the amount of the deductible.

9.3.2. Contents of Lot/Unit. The Association's policy does not cover the contents of a Lot or Unit or a Lot Owner's personal property. Each Lot Owner is strongly encouraged to obtain insurance coverage for contents of their Lot or Unit, as well as for coverage in the event the Owner has to pay the Association policy deductible as provided above

9.3.3. Loss Due to Fault of Another. This Declaration does not prevent a person suffering a loss as a result of damage to property from asserting a claim, either directly or through subrogation, for the loss against a person at fault for the loss, except that, notwithstanding the foregoing, an insurer under a property insurance policy or liability insurance policy obtained by the Association waives the insurer's right to subrogation under the policy against: (a) any person residing with the unit owner, if the unit owner resides in the unit, and (b) the unit owner.

9.3.4. Acceptable Contractors. No work on any part of the Property, including Lots and Units, shall be performed for repair or replacement due to a covered loss except by a licensed contractor carrying adequate liability and workers compensation insurance, whether such person is hired by an Owner or the Association.

9.4 *Power of Attorney*

9.4.1. Notwithstanding any of the foregoing provisions and requirements relating to Association property or liability insurance, there may be named as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any insurance trust agreement (the "Insurance Trustee") who shall have exclusive authority to negotiate losses under any policy providing property or liability insurance and to perform such other functions as are necessary to accomplish this purpose. By purchasing a Lot, all Owners appoint the Association or any Insurance Trustee designated by the Association as attorney-in-fact for the purpose of purchasing and maintaining the insurance

specified in this section, including: (1) the collection and appropriate disposition of the proceeds thereof; (2) the negotiation of losses and execution of releases of liability; (3) the execution of all documents; and (4) the performance of all other acts necessary to accomplish such purpose.

9.4.2. By purchasing a Lot, all Owners appoint the Association or any trustee designated by the Association as attorney-in-fact for the purpose of representing the Owners in condemnation proceedings or negotiations, settlements, and agreements with the condemning authority for acquisition of the Common Areas, or part thereof, by the condemning authority.

ARTICLE X - AMENDMENT AND DURATION

10.1 Amendments.

10.1.1. How Proposed. Amendments to the Declaration shall be presented to the Membership for approval by the President after either a majority of the Board requests it or upon receiving a written request signed by Owners holding thirty percent (30%) or more of the voting rights of the Association. The proposed amendment must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon or attached to any request for approval or consent to the amendment.

10.1.2. Approval Required. This Declaration, as well as the Plat, may be amended, and any provision, covenant, condition or restriction whatsoever may thereby be added, modified or deleted, if such amendment is approved by Owners holding at least sixty percent (60%) of the voting rights of the Association.

10.1.3. Execution and Recordation. An amendment shall not be effective until the amendment is certified by the president of the Association as being adopted in accordance with this Declaration is acknowledged and is recorded in the appropriate County Recorder's Office.

10.2 Termination of Servitude Regime. The provisions, covenants, conditions and restrictions contained in this Declaration, as amended in whole or in part from time to time as provided above, shall continue and remain in full force and effect until there is recorded an instrument directing the permanent termination of this Declaration after the vote and approval of seventy-five percent (75%) of all of the Owners of the Lots. Any such termination shall become effective only if a certificate of the president and secretary of the Association, certifying that termination as of a specified termination date has been approved in the manner required herein, is duly acknowledged and recorded in the County Recorder's Office not less than six (6) months prior to the intended termination date.

ARTICLE XI - MISCELLANEOUS PROVISIONS

11.1 Priority of Governing Documents. In the event of any conflict between or among this Declaration and any other Governing Document, the document in the highest priority beginning with the first document listed hereinafter shall prevail (as to any such conflict) over any later listed document: this Declaration, the Articles of Incorporation, Bylaws, Rules and Regulations.

11.2 Interpretation. All questions of interpretation or construction of any of the covenants or restrictions in this Declaration shall be resolved by the Board, and its decision shall be final, binding and conclusive on all parties affected for all purposes. Words and phrases used in the Governing Documents are to be construed according to the context and the ordinary usage of the language; but technical words and phrases, and such others as have acquired a peculiar and appropriate meaning in law, or are defined herein, are to be construed according to such peculiar and appropriate meaning or definition. Local zoning or other ordinances or statutes may define certain words or phrases which are used herein and such definitions, unless otherwise required by law, are not authoritative or binding unless the Board specifically determines, as to a particular word or phrase, that such definition applies, and such determination shall be final and conclusive as to all parties affected for all purposes. The covenants, restriction and terms of this Declaration are to be interpreted broadly to give effect to the Association's role as the governing body of the Community and to grant all the powers necessary for management of the common property, administration of the servitude regime, carrying out other functions set forth herein, and furthering the purposes of the Association. The enumeration of specific items, acts, rights, or powers in this instrument does not limit or restrict and is not to be construed or interpreted as limiting or restricting, the general powers granted to the Association or Board except where powers are expressly restricted.

11.3 Recovery of Costs and Attorney Fees. The Association shall be entitled to recover its costs and attorney's fees incurred for enforcement of this Declaration regardless of whether any lawsuit or other action is commenced. Such costs and attorney's fees shall automatically be and constitute an assessment against the Owner and the Lot. Additionally, the prevailing party shall be entitled to its attorney fees and costs in any dispute concerning any Governing Document, including an action dealing with the declaration of rights and obligations thereunder with or without a defaulting party, whether such costs and expenses are incurred with or without suit; before or after judgment; in any appeal; in any bankruptcy or receivership proceeding; or in connection with any alternative dispute resolution proceeding.

11.4 Joint Owners. In any case in which two or more persons share the ownership of any Lot, regardless of the form of ownership, the responsibility of such persons to comply with this Declaration shall be a joint and several responsibility and the act or consent of any one or more of such persons shall constitute the act or consent of the entire ownership interest; provided, however, that in the event such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Board, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter in accordance with the Bylaws.

11.5 Lessees and Other Invitees. No damage to, or waste of the Common Areas or any part thereof shall be committed by any Owner or any Unit occupant, guest, invitee, lessee of any Owner, and each Owner shall indemnify and hold the Board and the other Owners harmless against all loss resulting from any such damage or waste caused by any such person. Lessees, invitees, guests, Unit occupants, contractors, family members and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of the Governing Documents restricting or regulating the Owner's use, improvement or enjoyment of such Owner's Lot and other areas within the Property. The Owner shall be responsible for

obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner.

11.6 Waiver, Precedent and Estoppel. No restriction, condition, obligation or provision contained in this Declaration or rules and regulations adopted pursuant hereto shall be deemed to have been abrogated or waived by the Association, the Board or any Owner by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur and any failure to enforce the same shall not be deemed to constitute precedent or estoppel impairing the right of the Association, Board or Owner as to any similar matter.

11.7 Premises Liability. From the time that the Common Area, or any portion thereof, is opened and put into use for the enjoyment of Owners, the Association shall be and remain wholly free and clear of any and all liability to, or claims by, all Owners, and all persons and entities, of whatever kind or character, whether sounding in contract or tort, deriving from the occurrence of any injury or damage to any person or property on, or in respect of the use and operation of, the Common Area or any of its improvements, fixtures, and facilities, and an Owner shall defend, indemnify and hold harmless the Association against such claim, loss or liability asserted by such Owner or his or her guest, invitee, licensee, tenant, or visitor. In this respect, it shall be the affirmative duty and responsibility of each Owner and user of the common area facilities to continuously inspect the same for any defects or perils or other unsafe conditions or circumstances, prior to and during such use or enjoyment thereof; and all users of, and visitors to, the common area and its improvements and facilities shall use, enjoy, and visit, the same at their own risk and peril.

11.8 Invalidity; Number; Captions. The invalidity of any part of this Declaration shall not impair or affect in any manner the validity, enforceability, or effect of the balance of this Declaration. As used herein, 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 used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Declaration.

11.9 Notice of Sale, Mortgage, Rental, or Lease. Immediately upon the sale, mortgage, rental, or lease of any Lot, the Owner shall promptly inform the secretary or manager of the name and address of said grantee, vendee, mortgagee, lessee, or tenant. The Board may for all purposes act and rely on the information concerning Owners and Lot ownership which is thus acquired by it and the address of each Owner shall be deemed for all purposes to be the address of the Lot owned by such Owner unless the Board is otherwise advised in writing.

[signature page follows]

IN WITNESS WHEREOF, the Association has executed this Declaration this 29th day of June, 2015.

**ELK RUN AT PINEBROOK II
HOMEOWNERS ASSOCIATION**
a Utah nonprofit corporation

Dorothy McCloud, Pres.
By:
Its President

STATE OF UTAH)
County of Salt Lake) ss:

On the 29th day of June, 2015, personally appeared before me Dorothy McCloud, who being by me duly sworn did that say that they are the President of the Association and that said instrument was signed and sealed in behalf of said Association by authority of its Board of Directors; and acknowledged said instrument to be their voluntary act and deed.

Jennifer Marie Seals
Notary Public for Utah



EXHIBIT A

(LEGAL DESCRIPTION)

Lots 401 – 404 and 501 - 504, ELK RUN AT PINEBROOK PHASE 2-A, according to the official plat thereof recorded with the office of the Summit County Recorder, state of Utah, and

Lots 601 – 604 and 701 - 704, ELK RUN AT PINEBROOK PHASE 2-B, according to the official plat thereof recorded with the office of the Summit County Recorder, state of Utah

Parcel No.'s ELK-2A-401
ELK-2A-402
ELK-2A-403
ELK-2A-404
ELK-2A-501
ELK-2A-502
ELK-2A-503
ELK-2A-504
ELK-2B-601
ELK-2B-602
ELK-2B-603
ELK-2B-604
ELK-2B-701
ELK-2B-702
ELK-2B-703
ELK-2B-704

EXHIBIT B
BYLAWS
OF
ELK RUN AT PINEBROOK II HOMEOWNERS ASSOCIATION

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ARTICLE 1 - DEFINITIONS

The definitions contained in or adopted by the Declaration shall be applicable to these Bylaws.

ARTICLE 2 - MEETINGS OF ASSOCIATION

- 2.1 Place of Meeting. The Association shall hold meetings at such suitable place as may be designated by the Board from time to time.
- 2.2 Annual Meetings. Each regular annual meeting of the members shall be held each year on the day and at a time and place within the State of Utah selected by the Board.
- 2.3 Special Meetings. The Association, by and through the Board, shall notice, hold and conduct a special meeting of its members (1) on call of the President or two or a majority of the

Board, or (2) if the Association receives one or more written demands for the meeting that state the purpose or purposes for which the meeting is to be held, and are signed and dated by members in good standing holding at least 25% of the voting rights of the Association. When a special meeting is demanded by the members, the Board shall set the time and date for the meeting so that the meeting occurs within 65 days of receipt of the demand and if notice of the meeting is not given by the Board within 30 days after the date the written demand is delivered to an Association officer, a person signing the demand may set the time and place of the meeting and give notice pursuant to the requirements herein. Business transacted at a special meeting shall be confined to the purposes stated in the notice of the meeting.

2.4 Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, in a fair and reasonable manner, including by delivering a copy of such notice to each member entitled to vote thereat, in accordance with the notice requirements specified in these Bylaws, and sufficiently in advance of the meeting to provide fair and reasonable notice of the meeting, as determined by the Board. Notice shall always be deemed fair and reasonable if given 30 days before the meeting, but shorter notice may also be fair and reasonable when all the circumstances are considered. The notice shall specify the place, day and hour of the meeting, and must include a description of any matter that must be approved by the members and, in the case of a special meeting, the purpose of the meeting.

2.5 Voting. Each Lot shall be allocated one vote.

2.6 Proxies and Absentee Ballots. A vote may be cast in person, by proxy or by absentee ballot. A proxy given by an Owner to any person who represents the Owner at meetings of the Association shall be in writing, dated and signed by such Owner and shall be filed with the secretary in accordance with procedures adopted by resolution of the Board. No proxy shall be valid after the meeting for which it was solicited, unless otherwise expressly stated in the proxy; however, no proxy may be valid for more than eleven (11) months after the date of execution. No proxy shall be valid if it purports to be revocable without notice. An Owner may not revoke a proxy given except by actual notice of revocation to the person presiding over a meeting of the Association, or to the Board if a vote is being conducted by written ballot in lieu of a meeting. Every proxy shall automatically cease upon sale of the Lot.

2.7 Fiduciaries; Joint Owners. An executor, administrator, guardian, or trustee may vote in person or by proxy, at any meeting of the Association with respect to any Lot owned or held in such capacity, whether or not the same shall have been transferred to his or her name; provided, that the person shall satisfy the secretary that he or she is the executor, administrator, guardian, or trustee holding the Lot in such capacity. Whenever any Lot is owned by two or more persons jointly, according to the records of the Association, the vote of the Lot may be exercised by any one of the Owners then present, in the absence of protest by a co-owner. In the event of a protest, no one co-owner shall be entitled to vote without the approval of all co-owners. In the event of disagreement among the co-owners, the vote of the Lot shall be disregarded completely in determining the proportion of votes given with respect to the matter.

2.8 Quorum of Owners.

2.8.1 At any regular annual meeting of the Association, the Members that are represented for any purpose at the annual meeting shall constitute a quorum, except for matters requiring a higher quorum as provided in the Declaration or these Bylaws. For any other meeting of the Association or action taken without a meeting, and except as otherwise provided in the Declaration or these Bylaws, Members holding one-third (1/3) of the voting rights, represented in person, by proxy, or by written ballot, shall constitute a quorum.

2.8.2 The subsequent ratification of an Owner of the action taken at a meeting shall constitute the presence of the person for the purpose of determining a quorum. When a quorum is once present to organize a meeting it cannot be broken by the subsequent withdrawal of an Owner or Owners.

2.8.3 If any meeting or vote of Members cannot be organized because of a lack of quorum, the Members who are present may adjourn the meeting to a time at least 48 hours from the time of the meeting at which a quorum was not present and Members holding twenty percent (20%) of the voting rights, represented in person, by proxy, or by written ballot, shall constitute a quorum at such adjourned meeting or vote.

2.9 Binding Vote. Action on a matter other than the election of directors is approved and shall be binding upon all owners for all purposes if a quorum exists and the votes cast favoring the action exceed the votes cast opposing the action, unless a greater number of affirmative votes is required by law or the Governing Documents.

2.10 Order of Business. The order of business at annual meetings of the Association shall be according to the order established by the President, and by way of example, may include the following: (a) Calling of the roll and certifying of proxies; (b) Proof of notice of meeting or waiver of notice; (c) Reading of minutes of the preceding meeting; (d) Reports of officers; (e) Reports of committees, if any; (f) Election of Board members; (g) Unfinished business; (h) New business; and (i) Adjournment.

2.11 Meeting Procedure. Rules of order may be adopted by resolution of the Board, otherwise, the President shall conduct meetings according to the procedure he or she deems fit. A decision of the Association may not be challenged on the basis that appropriate rules of order were not used.

2.12 Action by Written Ballot in Lieu of a Meeting. Any action that may be taken at any annual, regular, or special meeting of Members may be taken without a meeting if the Association causes to be delivered a written ballot to every Member entitled to vote on the matter not less than fifteen (15) days prior to the date on which the ballots must be received by the Association in order to be counted. A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at

a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written ballot shall indicate the number of responses needed to meet the quorum requirements; state the percentage of approvals necessary to approve each matter other than election of directors; specify the time by which a ballot must be received by the Association in order to be counted; and be accompanied by written information sufficient to permit each person casting such ballot to reach an informed decision on the matter. In the event the action is for election of Board members, there shall be space on the ballot to write in nominations. Action taken under this section has the same effect as action taken at a meeting of Members and may be described as such in any document. The Board may elect to conduct a vote pursuant to this section by a secrecy procedure whereby a written ballot is accompanied by: (1) a secrecy envelope; (2) a return identification envelope to be signed by the owner; and (3) instructions for marking and returning the ballot. Written ballots that are returned in secrecy envelopes may not be examined or counted before the deadline for returning ballots has passed.

2.13 Action without Notice and a Meeting. Any action required to be taken or which may be taken at a meeting of Members may be taken without a meeting and without prior notice if one or more consents in writing, setting forth the action so taken, are signed by Members having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all Members entitled to vote on the action were present and voted. All such writings must be received by the Association within a sixty day period. Any such writing may be received by the Association by electronically transmitted facsimile or other form of communication providing the Association with a complete copy thereof, including a copy of the signature thereto. Action taken pursuant to this section shall be effective when the last writing necessary to effect the action is received by the Association, unless the writings describing and consenting to the action set forth a different effective date.

ARTICLE 3 – BOARD OF DIRECTORS – SELECTION, TERM OF OFFICE

3.1 Number and Term.

3.1.1 The affairs of the Association shall be governed by a Board of Directors composed of at least three (3) and not more than five (5) Board members, as determined by the Board.

3.1.2 Members of the Board shall serve for a term of two (2) years. The terms shall be staggered so all Board members are never elected in the same year.

3.2 Vacancies. Vacancies on the Board, caused by any reason other than the removal of a Board member by a vote of the Association, shall be filled for the balance of the term by vote of a majority of the remaining Board members even though they may constitute less than a quorum. Each person so elected shall be a Board member until a successor is elected upon expiration of the term for which the person was elected by the other Board members to serve.

3.3 Compensation. No Board member shall receive compensation for any service he or she may render to the Association as a Board member. However, any Board member may be reimbursed for actual expenses incurred in the performance of his or her duties.

3.4 Removal of Board members.

3.4.1 At any annual or special meeting, any one or more of the Board members, other than interim Board members, may be removed, with or without cause, by a majority of the total voting interests of all Members of the Association. A successor may be elected at that meeting to fill the vacancy thus created. The notice of the meeting must state that the removal is to be considered and any Board member whose removal has been proposed by the owners may be given an opportunity to be heard at the meeting.

3.4.2 The Board may declare the office of a member of the Board to be vacant in the event such member is absent from three consecutive regular meetings of the Board, or from more than 25% of the regular meetings held in any 12 month period, or, within 24 hours of a request to take Board action without a meeting, more than twice in any 6 month period fails to respond in writing by (1) voting for the action, (2) voting against the action and waiving the right to demand that action not be taken without a meeting, or (3) abstaining from voting and waiving the right to demand that action not be taken without a meeting. The vacancy shall be filled as provided in Section 3.2 above.

ARTICLE 4 - NOMINATION AND ELECTION OF BOARD MEMBERS

4.1 Nomination.

4.1.1 Method of Nomination. Nomination for election to the Board shall be made in the manner determined by the Board, which may include a Nominating Committee and/or nominations from the floor at a meeting. If one is established, the Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies. All nominations shall be in writing.

4.1.1 Nominating Committee. The Nominating Committee, if any, shall consist of a chairman, who shall be a member of the Board; and one or more members of the Association.

4.2 Election. At the election, the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. All ballots for Board elections shall be written ballots. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE 5 - MEETINGS OF THE BOARD OF DIRECTORS

5.1 Organizational Meeting.

5.1.1 Location, Date and Time. The first meeting of a newly-elected Board shall be held within fourteen (14) days of election at such place, date and time as shall be fixed by the Board members at the meeting at which the Board members were elected and no notice shall be necessary to owners or to the newly elected Board members in order to legally hold the meeting providing a majority of the elected Board members are present.

5.1.2 Procedure and Business. Until the election of new officers, the meeting shall be chaired by the outgoing president, or in the absence of such person, the outgoing secretary,

regardless of whether the outgoing president or secretary is a member of the newly constituted Board. At the organizational meeting, the Board shall elect officers in accordance with Section 7.2 below and may conduct any other Association business.

5.2 Regular Meetings. Regular meetings of the Board shall be held at such place and hour as may be fixed from time to time by the Board, and if so fixed, no notice thereof need be given. Should the meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday, or at another date and time agreed upon by the Board with notice to all members of the Board.

5.3 Special Meetings. Special meetings of the Board shall be held when called by the president of the Association, or by any two (2) Board members, after not less than three (3) days' notice to each Board member by mail, electronic mail, telephone, or facsimile, unless waived pursuant to 5.8 below. The notice must state the time, place, and purpose of the meeting.

5.4 Meeting Procedure. Formal rules of order shall only apply to any Board or Association meeting inasmuch as one or more rules of order are adopted by the Board by resolution. Meetings of the Board shall be conducted by the President. In any event, a decision of the Board may not be challenged because appropriate rules of order were not used. A decision of the Board is deemed valid without regard to any procedural errors related to rules of order unless the error appears on the face of a written instrument memorializing the decision.

5.5 Open Meetings; Executive Sessions.

5.5.1 Open Meetings. Except as provided in subsection 5.5.2, all meetings of the Board shall be open to Lot Owners. However, no Owner shall have a right to separate notice of or participation in a Board meeting unless the Owner is also a member of the Board. The president or Board shall have the authority to exclude an Owner who disrupts the proceedings at a Board meeting.

5.5.2 Executive Sessions. In the discretion of the Board, the following matters may be considered in executive session:

- (a) Consultation with legal counsel concerning the rights and duties of the Association regarding existing or potential litigation or criminal matters;
- (b) Personnel matters, including salary negotiations and employee discipline;
- (c) The negotiation of contracts with third parties;
- (d) Collection of unpaid assessments; and
- (e) Other matters of a sensitive, private, or privileged nature at the discretion of the Board.

5.5.3 Executive Session Procedure. Except in the case of an emergency, the Board shall vote in an open meeting whether to meet in executive session. If the Board votes to meet in executive session, the president or other presiding officer shall state the general nature of the action to be considered and, as precisely as possible, when and under what circumstances the

deliberations can be disclosed to owners. The statement, motion or decision to meet in executive session must be included in the minutes of the meeting.

5.6 Meetings by Telephonic Communication. In the event of an emergency, or by decision of the Board, meetings of the Board may be conducted by telephonic communication or by the use of a means of communication that allows all members of the Board participating to hear each other simultaneously or otherwise to be able to communicate during the meeting. The requirement in Section 5.5.1 that Board meetings be open to Owners shall not apply to such meetings.

5.7 Action Taken Without a Meeting.

5.7.1 The Board shall have the right to take any action in the absence of a meeting which they could take at a meeting or that is required to be taken at a meeting in the Governing Documents if each and every member of the Board does one of the following in writing: (1) votes for the action, (2) votes against the action and waives the right to demand that action not be taken without a meeting, or (3) abstains from voting and waives the right to demand that action not be taken without a meeting.

5.7.2 An action taken pursuant to this section may not be effective unless the Association receives writings satisfying subsection 5.7.1 and: (i) describing the action taken and (ii) signed by all directors. A writing may be received, signed and transmitted electronically pursuant to Section 11.2 below and an email originating from a known sender's account shall constitute and fulfill the requirement of a signed writing from such sender.

5.7.3 Action is taken under this section only if the affirmative vote for the action equals or exceeds the minimum number of votes that would be necessary to take the action at a meeting at which all of the directors then in office were present and voted.

5.7.4 Any action so taken shall have the same effect as though taken at a meeting of the Board members.

5.8 Waiver of Notice. Any Board member may, at any time, waive notice of any meeting of the Board in writing, and the waiver shall be deemed equivalent to the giving of the notice. Attendance by a Board member at any meeting of the Board shall constitute a waiver of notice by the Board member, except where the Board member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. If all Board members are present at any meeting of the Board, no notice to Board members shall be required and any business may be transacted at the meeting.

5.9 Quorum and Acts. At all meetings of the Board a majority of the existing Board members shall constitute a quorum for the transaction of business and the acts of the majority of the Board members present shall be the acts of the Board. If, at any meeting of the Board, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted without further notice.

For purposes of determining a quorum with respect to a particular proposal, and for purposes of

casting a vote for or against a particular proposal, a Board member may be considered to be present at a meeting and to vote if the Board member has granted a signed written proxy: (i) to another Board member, or other person, who is present at the meeting; and (ii) authorizing the other Board member or person to cast the vote that is directed to be cast by the written proxy with respect to the particular proposal that is described with reasonable specificity in the proxy (a directed proxy).

ARTICLE 6 - POWERS, RIGHTS, AND DUTIES OF THE BOARD

6.1 General Powers and Duties. The Board shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law, the Declaration or by these Bylaws directed to be exercised and done by the Owners.

6.2 Specific Powers. In addition to powers granted by the Declaration, these Bylaws or by resolutions of the Association, the Utah Revised Nonprofit Corporation Act or other applicable law, the Board shall have the power to: (a) declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board; (b) in the Board's discretion, appoint such committees as deemed appropriate in carrying out its purpose.

6.3 Best Interest of Association and Reliance on Information. A Board member or officer shall discharge the Board member or officer's duties (a) in good faith, (b) with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and (c) in a manner the Board member or officer reasonably believes to be in the best interests of the Association. The Board members shall, at all times, keep themselves reasonably informed and take such steps and necessary actions as a reasonable, prudent person would do to serve the best interest of the Association.

In discharging duties, a Board member or officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by: (a) one or more officers or employees of the Association whom the Board member or officer reasonably believes to be reliable and competent in the matters presented, (b) legal counsel, a public accountant, or another person as to matters the Board member or officer reasonably believes are within the person's professional or expert competence, or (c) in the case of a Board member, a sub-committee of the Association or Board of which the Board member is not a member if the Board member reasonably believes the sub-committee merits confidence.

ARTICLE 7 - OFFICERS AND THEIR DUTIES

7.1 Designation and Qualification.

(a) Designation. The principal officers of the Association shall be a president, a vice-president, a secretary and a treasurer. The Board may designate the office of assistant treasurer and assistant secretary and the Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

(b) Qualifications. The president and vice-president shall be a member of the Board,

but the other officers need not be Board members or Owners. Any Board member may be an officer of the Association.

(c) Multiple Offices. A person may simultaneously hold more than one office.

(d) Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

7.2 Election and Vacancies. The officers of the Association may be elected by the Board at the organizational meeting of each new Board or any Board meeting thereafter to serve until their respective successors are elected at the next organizational meeting. If any office becomes vacant by reason of death, resignation, removal, disqualification or any other cause, the Board shall elect a successor to fill the unexpired term.

7.3 Resignation. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. The resignation shall take effect on the date of receipt of the notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of the resignation shall not be necessary to make it effective.

7.4 Removal of Officers. Officers shall hold office at the pleasure of the Board. Upon an affirmative vote of a majority of the members of the Board any officer may be removed, either with or without cause.

7.5 Compensation of Officers. No officer who is a member of the Board may receive any compensation from the Association for acting as an officer, unless the compensation is authorized by a vote of the Owners. The Board may fix any compensation to be paid to any officers who are not also Board members.

7.6 Duties of Officers. Officers shall have such duties prescribed with respect to the office by the Declaration, Bylaws, and by the Board, to the extent not inconsistent with these Bylaws or the Declaration. The Board may delegate any powers or duties of officers to other persons or agents as the Board deems necessary or appropriate from time to time. Any principal officer may prepare, execute, certify, and record amendments to the Declaration on behalf of the Association in accordance with the amendment provisions of the Declaration. The general duties of the officers are as follows:

(a) President. The president shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Association and of the Board. The president shall have all of the general powers and duties which are usually vested in the office of president of an association. The president shall have the authority to sign all leases, mortgages, deeds and other written instruments, including amendments to the Governing Documents.

(b) Vice-President. The vice-president shall act in the place and stead of the president in the event of the president's absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board. The Vice-President shall likewise have the authority to sign all leases, mortgages, deeds and other written instruments.

(c) Secretary. The secretary shall prepare and maintain the minutes of all meetings of the Board and the minutes of all meetings of the Association, have charge of such books, papers and records as the Board may direct, shall have the responsibility for preparation and maintenance other records and information required to be kept by the Association under the Act and under Section 16-6a-1601 of the Utah Revised Nonprofit Corporation Act; and for authenticating records of the nonprofit corporation, and in general, shall perform all of the duties incident to the office of secretary,

(d) Treasurer. The treasurer shall have responsibility for the Association's funds and securities not otherwise held by a managing agent, and shall be responsible for causing full and accurate accounts of all receipts and disbursements to be kept in books belonging to the Association. The treasurer shall be responsible for causing the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may, from time to time, be designated by the Board and disbursing funds as directed by resolution of the Board.

ARTICLE 8 - INDEMNIFICATION OF OFFICERS AND BOARD MEMBERS

Each officer and Board member of the Association, in consideration of his or her services, shall be indemnified by the Association to the extent permitted by the Utah Revised Nonprofit Corporation Act (regardless of the Association's corporate status or lack thereof) against expenses and liabilities reasonably incurred by him or her in connection with the defense of any actual or threatened action, suit or proceeding, civil or criminal, to which he or she may be a party by reason of being or having been a Board member or officer of the Association. The foregoing right to indemnification shall not be exclusive of any other rights to which the Board member or officer or person may be entitled by law or agreement or vote of the members or otherwise.

ARTICLE 9 - RECORDS AND AUDITS

The Association shall maintain within the state of Utah, all documents, information and other records of the Association in accordance with the Declaration, these Bylaws and the Utah Revised Nonprofit Corporation Act.

9.1 General Records.

(a) The Board and managing agent or manager, if any, shall keep records of the actions of the Board and managing agent or manager; minutes of the meetings of the Board; and minutes of the meeting of the Association.

(b) The Board shall maintain a Book of Resolutions containing the rules, regulations, and policies adopted by the Association and Board.

(c) The Board shall maintain a list of Owners. The list of Owners may specify whether the Owner is an Owner in good standing or a suspended Owner.

(d) The Association shall retain within this state, all records of the Association for not less than the period specified in applicable law.

9.2 Assessment Roll. The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Lot. The account shall designate the Lot number, the name and address of the Owner or Owners, the amount of each Assessment against the Owners, the dates and amounts in which the Assessment comes due, the amounts paid upon the account, and the balance due on the Assessments.

9.3 Financial Reports and Audits.

(a) Upon written request by an Owner or mortgagee of a Lot, an annual report of the receipts and expenditures of the Association and a balance sheet showing assets and liabilities shall be rendered by the Board to the person(s) making the request within ninety (90) days after the end of each fiscal year.

(b) From time to time, the Board, at the expense of the Association, may obtain an audit by a certified public accountant or other financial review of the books and records pertaining to the Association and furnish copies thereof to the Owners and mortgagees of Lots.

9.4 Inspection of Records by Owners.

(a) Except as otherwise provided in Section 9.5 below, all records of the Association shall be reasonably available for examination by an Owner and any mortgagee of a Lot pursuant to rules adopted by resolution of the Board or if no such resolution has been adopted, pursuant to the Utah Revised Nonprofit Corporation Act.

(b) The Board shall maintain a copy, suitable for the purposes of duplication, of the following: (1) The Declaration, Bylaws and any amendments in effect or supplements thereto, and rules and regulations of the Association; (2) The most recent financial statement prepared pursuant to Section 9.3 above; and (3) The current operating budget of the Association.

(c) The Association, within five (5) business days after receipt of a written request by an owner, shall furnish the requested information required to be maintained under Subsection (b) of this section, subject to a reasonable fee for furnishing copies of any documents, information or records described in this section. The fee may include reasonable personnel costs incurred to furnish the information.

(d) The Board, by resolution, may adopt reasonable rules governing the frequency, time, location, notice and manner of examination and duplication of Association records and the imposition of a reasonable fee for furnishing copies of any documents, information or records described in this section. The fee may include reasonable personnel costs incurred to furnish the information.

9.5 Records Not Subject to Inspection. Records kept by or on behalf of the Association may be withheld from examination and duplication to the extent the records concern:

(a) Personnel matters relating to a specific identified person or a person's medical

records.

(b) Contracts, leases and other business transactions that are currently under negotiation to purchase or provide goods or services.

(c) Communications with legal counsel that relate to matters specified in this section, and any other communications with legal counsel that are protected by any privilege, including the attorney client privilege.

(d) Disclosure of information in violation of law.

(e) Documents, correspondence or management or Board reports compiled for or on behalf of the Association or the Board by its agents or committees for consideration by the Board in executive session held in accordance with these Bylaws.

(f) Documents, correspondence or other matters considered by the Board in executive session held in accordance with these Bylaws and the minutes of any executive session.

(g) Files of individual Owners, other than those of a requesting Owner or requesting mortgagee of an individual Owner, including any individual Owner's file kept by or on behalf of the Association. Records, including the assessment roll, may be redacted by the Board so that specific individuals are not identifiable as being delinquent in payment of assessments and such information is specifically deemed confidential and private and not subject to any inspection requirements of the law or the Governing Documents. Any list or compilation of phone numbers or email addresses of Owners kept by the Association is not subject to viewing, inspection or copying by any Owner and is specifically deemed confidential and private and not subject to any inspection requirements of the law or the Governing Documents.

ARTICLE 10 - AMENDMENTS

Approval of a majority of the voting rights of the Members is required for approval of any amendment to these Bylaws, except that the approval of members representing at least 60% of the total voting rights of the Association shall be required for any material change to the Bylaws pertaining to voting rights. An amendment shall not be effective until certified by the president of the Association as being adopted in accordance with these Bylaws, acknowledged, and recorded with the County Recorder's Office. No action to challenge the validity of an adopted amendment may be brought more than two (2) years after the amendment is recorded.

ARTICLE 11 - MISCELLANEOUS

11.1 Notices.

11.1.1 Association. All notices to the Association or the Board shall be sent care of the managing agent or, if there is no managing agent, to the principal office of the Association or to such other address as the Board may hereafter designate from time to time.

11.1.2 Owners.

(a) Notice by Electronic Means. In any circumstance where notice is required

to be given to the Members, the Association may provide notice by electronic means, including text message, email, or an Association website, if the Board deems the notice to be fair and reasonable. A Member may require the Association, by written demand, to provide notice to the Member by mail. The Board is authorized to promulgate rules and procedures facilitating the implementation of this section as it deems fit from time to time, including requiring members to furnish the Association with a current email address.

(b) Except as otherwise provided in the Declaration, these Bylaws or law, all notices to any Owner shall be sent to such address as may have been designated by him or her, from time to time, in writing to the Board, or if no address has been designated, then to the Owner's Lot.

(c) If a Lot is jointly owned, notice shall be sent to a single address, of which the secretary has been notified in writing by such parties. If no address has been given to the secretary in writing, then mailing to the Lot shall be sufficient.

11.2 Affairs, Electronic Means. Any transaction or action involving the business or affairs of the Association, including but not limited to voting and providing notice or records, may be conducted by electronic means. The Association may accept a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation as the act of the member if the Board does so in good faith and has no reason to believe it is not the act of the member. A writing may be delivered in an electronic medium or by electronic transmission, and may be signed by photographic, electronic, or other means. An electronic record or electronic signature is attributable to a person if it was the act of the person. An electronic signature may consist of a mark, symbol, character, letter, or number or any combination thereof attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record and the same shall be considered the signature of such person. A writing includes any document, record, vote, ballot, proxy, or instrument required or permitted to be transmitted by a Member or by the Association.

11.3 Waiver, Precedent and Estoppel. No restriction, condition, obligation, or provision contained in these Bylaws or rules and regulations adopted pursuant hereto shall be deemed to have been abrogated or waived by the Association by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur and any failure to enforce the same shall not be deemed to constitute precedent or estoppel impairing the right of the Association as to any similar matter.

11.4 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 herein, 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 used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of these Bylaws.

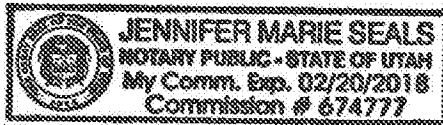
11.5 Fiscal Year. The fiscal year of the Association shall be the calendar year.

11.6 Conflicts. In the case of any conflict between the Articles of Incorporation and these

Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

IN WITNESS WHEREOF, the Association has caused these Bylaws to be executed by its duly authorized officers on this 21st day of June, 2015.

(Sign): Dorothy Meinhold, President
(Print Name): Dorothy Meinhold, President



State of Utah, County of Salt Lake
Subscribed and sworn to before me
this 21st day of June, 2015.
Jennifer Marie Seals
Notary Public