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Jeffery Smith
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**SECOND AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
PHEASANT MEADOW
AT SLEEPY RIDGE
A PLANNED UNIT DEVELOPMENT
IN
OREM CITY, UTAH COUNTY, UTAH**

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This Second Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Pheasant Meadow at Sleepy Ridge, A Planned Unit Development ("Declaration") is promulgated by the Pheasant Meadow at Sleepy Ridge Homeowners' Association, Inc. ("Association") and becomes effective when recorded with the Utah County Recorder's Office.

RECITALS

- A. Defined Terms. Capitalized terms in this Declaration are defined in Article I or in other sections of this Declaration;
- B. WHEREAS, This Declaration affects the real property located in Orem City, Utah County, Utah, described with particularity on Exhibit A, attached hereto and incorporated here by reference ("the Property");
- C. WHEREAS, On November 20, 2007, the Declaration of Condominium for Pheasant Meadow Townhomes at Sleepy Ridge Condominium Phase I, Containing 72 Units was recorded in the office of the Utah County Recorder as Entry Number 163934:2007 ("Original Declaration");
- D. WHEREAS, Pursuant to the Original Declaration, on June 29, 2007 the Association incorporated the Pheasant Meadow at Sleepy Ridge Homeowners' Association and filed accompanying Articles of Incorporation ("Articles of Incorporation");
- E. WHEREAS, the following plat maps for the Property have been recorded in the office of the Utah County Recorder (collectively, "Plat" or "Map"):
 - (a) On November 5, 2007, the Pheasant Meadow at Sleepy Ridge Phase 1 Amended plat map was recorded as Entry Number 157539:2007;
 - (b) On February 8, 2012, the Pheasant Meadow at Sleepy Ridge Phase 2A plat map was recorded as Entry Number 9958:2012;
 - (c) On June 12, 2012, the Pheasant Meadow at Sleepy Ridge Phase 2B plat map was recorded as Entry Number 48325:2012;
 - (d) On April 17, 2013, the Pheasant Meadow at Sleepy Ridge Phase 3A plat map was recorded as Entry Number 37326:2013;
 - (e) On October 9, 2013, the Pheasant Meadow at Sleepy Ridge Phase 3B plat map was recorded as Entry Number 95364:2013;

- F. WHEREAS, On February 2, 2012, the Amended and Restated Declaration of Condominium for Pheasant Meadow Townhomes at Sleepy Ridge Condominium, Containing 150 Units was recorded in the office of the Utah County Recorder as Entry Number 8422:2012 ("First Amended Declaration");
- G. WHEREAS, The Association, through the Owners, desires to update the First Amended Declaration and any Amendments thereto in order to:
- (a) adopt recent changes in applicable state law;
 - (b) to eliminate ambiguity, and erroneous references to the project as a "Condominium" project;
 - (c) to submit the Project to the provisions of the Utah Community Association Act, as originally intended by Declarant;
 - (d) to clarify the rights of the Association and Owners;
 - (e) to eliminate provisions related to Declarant rights which have now expired;
 - (f) to provide for a general plan for managing the Project and Property;
 - (g) and in furtherance of the Association's efforts to efficiently and economically provide a quality living environment and protect and enhance the value of the Lots and the Project.
- H. THEREFORE, The Association hereby declares that the Property shall be held, transferred, conveyed, and occupied subject to the following covenants, conditions, and restrictions, which shall run with the Property and shall be binding upon all parties having or acquiring any right, title, or interest in such Property or any part thereof and shall inure to the benefit of each Owner thereof;
- I. THEREFORE, as certified below, this Declaration and the attached Bylaws were consented to by the Owners of not less than 67% of the Lots, and is intended to and shall supersede and replace the Original Declaration and any amendment(s) thereto made prior to the execution of this Declaration;
- J. The Association and Property are also subject to the Utah Community Association Act beginning at U.C.A. §57-8a-101, as the same may be amended from time to time.
- K. The Association is not a cooperative.

I. DEFINITIONS

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

1.2. **Additional Land** shall mean and refer to any part of a parcel of land which may be added to the Project in accordance with the provisions outlined in this Declaration.

1.3. **Articles** means the articles of incorporation of the Association, as the same may be amended from time to time.

1.4. **Assessments** shall mean any charge imposed or levied by the Association against Owners including, but not limited to, annual assessments corresponding with the Common Expenses as well as special assessments, individual assessments, late fees, interest, and fines, all as provided in this Declaration.

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

1.6. **Association** shall mean and refer to the Pheasant Meadow at Sleepy Ridge Homeowners' Association, Inc., a Utah non-profit corporation, and its successors and assigns. The Association was formerly known as Pheasant Meadow Townhomes at Sleepy Ridge Condominium Association, Inc.

1.7. **Association Documents** means this Declaration, the Articles of Incorporation, the Bylaws, Plat, and any Rules and Regulations adopted by the Board.

1.8. **Board** or **Board of Directors** shall mean and refer to the Board of Directors of the Association as duly elected in accordance with the terms and conditions of the Articles of Incorporation and Bylaws of the Association.

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

1.10. **Common Areas** shall mean and refer to that part of the Property that is not included with the Lots or Limited Common Areas which is owned by the Association for the common use and enjoyment of the Owners. Common Areas are described on the Plat, including, but not limited to, the streets and sidewalks, together with all improvements thereon and all easements appurtenant thereto including but not limited to

private utility lines, landscape easements and personal property owned by the Association when the context so requires.

1.11. **Common Expenses** shall mean (a) all sums lawfully assessed against Owners; (b) expenses of administration, maintenance, management, operation, repair, and replacement of the Common Areas which are maintained by the Association; (c) expenses allocated by the Association among the Owners; (d) expenses agreed upon as common expenses by the Association or its Board of Directors; (e) expenses declared common expenses by the Declaration; and (f) other miscellaneous charges incurred by the Association or the Board pursuant to the Act, this Declaration, the Bylaws, or the Rules.

1.12. **Declaration** shall mean and refer to this Second Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Pheasant Meadow at Sleepy Ridge, A Planned Unit Development, as the same may be amended or supplemented from time to time.

1.13. **Development** or **Project** shall at any point in time mean, refer to, and consist of the Pheasant Meadow at Sleepy Ridge subdivision then in existence.

1.14. **Director** shall mean and refer to an individual member of the Board of Directors.

1.15. **Limited Common Areas** shall mean and refer to those areas reserved for the use and benefit of a designated Lot or Lots to the exclusion of other Owners. Limited Common Areas include but are not limited to the driveways that serve a Lot and other areas as ay be designated on the Plat.

1.16. **Living Unit** shall mean and refer to a structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on or with respect to the Lot concerned which are used in connection with such residence.

1.17. **Lot** shall mean and refer to each of the 148 individual lots within the Project that are subject to the Declaration, as shown on the Plat, with the exception of the Common Areas and Limited Common Areas.

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

1.19. **Member** shall mean and refer to an Owner.

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

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

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

1.23. **Owner** shall mean and refer to the record owner, whether one or more Persons, of a fee simple title to any Lot, but excluding those having an interest merely as security for the performance of an obligation. If a Lot is subject to an executory purchase contract, the contract purchaser shall be considered the Owner unless the seller and buyer agree otherwise and inform the Board in writing of such alternative arrangement.

1.24. **Party Wall** shall mean and refer to a wall that forms part of a Living Unit and is located on or adjacent to a boundary line between two or more adjoining Lots owned by more than one (1) Owner and is used or is intended to be used by the Owners of the benefitted Living Units, which wall may be separated by a sound board between two or more Living Units.

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

1.26. **Plat** shall mean and refer to the official subdivision plats of the Association filed and recorded in the official records of the Utah County Recorder's Office and any amendments recorded thereto.

1.27. **Property** shall mean and refer to all of the real property, which is covered by the Plat.

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

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

II. PROPERTY DESCRIPTION

2.1. **Submission.** The Property, which is and shall be held, transferred, sold, conveyed, and occupied subject to the provisions of this Declaration, consists of the real property situated in Utah County, State of Utah described as follows:

SEE THE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "A" AND INCORPORATED HEREIN BY REFERENCE.

2.2. **Name.** The Project, as submitted to the provisions of this Declaration, shall be known as Pheasant Meadow at Sleepy Ridge.

2.3. **Description of Lots.** The Project consists of 148 Lots. Each of the Lots includes a Living Unit and other improvements provided on the Plat. All improvements have been and shall continue to be constructed and maintained in a style and of materials architecturally compatible with the other improvements at the Project. The Lots, their locations, and approximate dimensions are indicated on the Plat.

2.4. **Description of the Living Units.** The Living Unit includes both "interior elements" and "exterior elements".

(a) For purposes of this Declaration, the "interior elements" shall include, without limitation, all pipes, wires, conduits, lines, or systems (which for brevity are herein and hereafter referred to as utilities), whether public or private-company owned, located from the connecting point to the exterior of the Living Unit where such utilities enter the Living Unit and continuing into the interior portion of such Living Unit, interior spaces (including the interior of garages), flooring, doors, and partitions, Party Walls, plaster, gypsum, drywall, wallpaper, paint, ceilings, all other materials constituting part of the interior surfaces of the Living Units, and other interior fixtures, mechanical devices, electrical, plumbing, and heating, ventilating, and air conditioning systems, and similar interior improvements as may be further determined by the Board in its sole and exclusive discretion.

(b) For purposes of this Declaration, the "exterior elements" shall include, without limitation, all utilities, whether public or private-company owned, located outside the boundaries of the Living Unit serving solely the Living Unit, and which end at the connecting point to the exterior of the Living Unit where such utilities enter the Living Unit and are stubbed to provide utility service to the Living Unit but do not include any interior portion of such utilities located within a Living Unit which constitute interior elements as further defined in Section 2.4(a) above, roofs and rooftops, exterior walls and their surfaces, gutters, downspouts, windows, doors (including garage doors), shutters, doorsteps, foundations, stoops, railings, and other similar exterior improvements and building components as may be further determined by the Board in its sole and exclusive discretion.

2.5. **Description of Common Areas.** The Common Areas of the Project shall be and are the roads, grass and lawn areas, specifically designated guest and visitor parking areas, if any, perimeter fencing, and any and all other Common Areas designated as such on the Plat, and any other future interests in Common Areas pursuant to the terms of this Declaration.

2.6. **Description of Limited Common Areas.** The Limited Common Areas of the Project shall be the driveways, decks, and patios, and any other areas designed as Limited Common Areas by the Plat.

III. MEMBERSHIP AND VOTING RIGHTS

3.1. **Membership.** Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to the Lot in which the Owner has the necessary interest, and shall not be separated from the Lot to which it appertains.

3.2. **Voting Rights.** There is one (1) possible vote for each Lot. A vote may be exercised by the Owner of the Lot, except as may be limited herein or by the Bylaws.

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

3.4. **Record of Ownership.** Within 10 days following the purchase of a Lot or becoming a contract buyer, such Owner shall notify the Association of the transaction and, if not done already, deposit a reinvestment fee with the Association as further described in Section 5.12. Any Owner who mortgages his Lot or any interest therein by a mortgagee which has priority over the lien of any assessment provided herein shall also notify the Association of the name and address of the Mortgagee, which information may be maintained in the records of the Association. Any costs incurred by the Association in obtaining the above information not furnished by such Owner shall be paid to the Association as an "Individual Assessment" as provided in Section 5.5 herein.

IV. PROPERTY RIGHTS IN COMMON AREAS

4.1. **Easement of Enjoyment.** Each Member shall have a right and easement of use and enjoyment in and to the Common Areas. Such right and easement shall be

appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom.

4.2. **Title to Common Areas.** Title to the Common Areas shall remain in the name of the Association.

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

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

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

(c) The right of the Association to sell, convey, dedicate, or transfer all or any part of the Common Areas, and any sewer, water, and storm drain lines to any public agency, authority, or third-party for such purposes and subject to such conditions as may be agreed to by the Association. Any such sale, conveyance, dedication, or transfer must, however, be approved by at least a majority of the Lots.

4.4. **Easements in Favor of the Association.** The Lots are hereby made subject to the following easements in favor of the Association and its Directors, officers, agents, employees, and independent contractors:

(a) For inspection during reasonable hours of the Lots in order to verify the performance by Owners of all items of maintenance and repair for which they are responsible.

(b) For inspection, maintenance, repair, and replacement of portions of the Common Areas accessible only from such Lot(s).

(c) For correction of emergency conditions on one or more Lots or on portions of the Common Areas accessible only from such Lot(s).

(d) For the purpose of enabling the Association, the Board, or any other committees appointed by the Board to exercise and discharge during reasonable

hours their respective rights, powers, and duties under the Association Documents.

(e) For inspection during reasonable hours of the Lots in order to verify that the Owners and Occupants are complying with the provisions of the Association Documents.

(f) For inspection, maintenance, repair, and replacement of the landscaped areas, fences, and driveways, that may be located on a Lot which the Association is obligated to repair, replace, and maintain pursuant to the provisions of this Declaration and the other Association Documents.

4.5. **Delegation of Use.** Any Owner may delegate his right of use and enjoyment to the Common Areas to family members, tenants, or contract purchasers who reside on the Property.

V. ASSESSMENTS

5.1. **Covenant to Pay Assessments.** Each Owner hereby covenants and agrees with each other and with the Association to pay the Association all Assessments, including, by illustration and not limitation, all Annual, Special, or Individual Assessments described below, and other fees, charges, interest, and fines provided in the Association Documents.

5.2. **Purpose of Assessments.** Assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, and welfare of the Owners; the management, maintenance, care, preservation, and protection of the Project; enhancing the quality of life in and the value of the Project; payment of taxes, insurance, and other financial obligations of the Association; maintenance, repair, and improvement of the Common Areas; establishing and funding a reserve to cover major repair or replacement of the Common Areas; and any expenses necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes provided in the Association Documents.

5.3. **Annual Assessments.** The total annual Assessment against all Lots shall be established by the Board and based upon advanced estimates of cash requirements for Common Expenses. Annual Assessments shall be made on a calendar year basis. The Board shall give written notice of each Annual Assessment not less than thirty (30) days nor more than sixty (60) days prior to the beginning of the next calendar year. Each Annual Assessment shall be due and payable in monthly installments on the first day of each and every month and no separate notices of such monthly installment shall be required. At least fifteen (15) days prior to the effective date of any change in the amount of the Annual Assessment, the Association shall give each Owner written notice of the amount.

5.4. **Special Assessments.** In addition to the Annual Assessments, the Board may levy in any calendar year a Special Assessment up to one thousand dollars (\$1,000), payable over such a period as the Board may determine for the purpose of defraying, in whole or in part any expense or expenses not reasonably capable of being fully paid with funds generated by Annual Assessments; the cost of any construction, reconstruction, or unexpected repair or replacement of the Common Areas; or for any other expense incurred or to be incurred as provided in this Declaration. Special Assessments over one thousand dollars (\$1,000) in a calendar year may be levied if approved by a majority of the Members present in person or by proxy at a meeting duly called for such purpose. Notice in writing of the amount of any Special Assessments and the time for their payment shall be given as soon as is reasonably possible to the Owners. Payment shall be due on the dates and in the manner provided in the notice.

5.5. **Individual Assessments.** In addition to Annual and Special Assessments authorized pursuant to Sections 5.3 and 5.4 above, the Board may levy at any time Individual Assessments: (a) on each Lot specifically benefited by any improvements to adjacent roads, sidewalks, planting areas, or other portions of the Common Areas made on the written request of the Owner of the Lot to be charged; (b) on each Lot the Owner or Occupant of which shall cause any damage to the Common Areas necessitating repairs; and (c) on each Lot as to which the Association incurs any expense in enforcing the terms of the Association Documents, including, but not limited to, costs incurred to bring a Lot and/or its Living Unit into compliance with the Association Documents. The aggregate amount of any such Individual Assessments shall be determined by the cost of such improvements, repairs, maintenance, or enforcement action, including all overhead and administrative costs and attorney's fees, and shall be allocated among the affected Lots according to the special benefit or cause of damage or maintenance or repair work or enforcement action, as the case may be. Individual Assessments may be levied in advance of the performance of the work. If a special benefit arises from any improvement which is part of the general maintenance obligations of the Association, it shall not give rise to an Individual Assessment against the Lot(s) benefited, unless such work was necessitated by the Owner's or Occupants' negligent or reckless actions.

5.6. **Uniform Rate of Assessment.** Except for Individual Assessments provided in Section 5.5 herein, Annual and Special Assessments shall be levied equally among the Lots, each Lot being responsible for a 1/24th share.

5.7. **Personal Obligation and Lien.** All Assessments, together with any interest, late fees, collection costs, and attorneys' fees if collection efforts become necessary, regardless of whether a lawsuit is ultimately filed, shall be, constitute, and remain: (a) a charge and continuing lien upon the Lot with respect to which such Assessment is made; and (b) the personal obligation of the Owner of such Lot at the time the Assessment falls due. No Owner may exempt himself or his Lot from liability for payment of Assessments by waiver of his rights concerning the Common Areas or by

abandonment of his Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all such unpaid Assessments, late payment fees, interest, and costs of collection, including reasonable attorneys' fees, which shall be a charge on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore.

5.8. **Certificate Regarding Payment.** Upon the request of any Owner, prospective purchaser, mortgagee, or encumbrancer of a Lot, the Association shall issue a certificate stating whether or not all Assessments respecting such Lot are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who in good faith rely thereon. The Association may charge the requesting Owner, prospective purchaser, mortgagee, or encumbrancer of a Lot a reasonable fee of up to twenty-five dollars (\$25) or an amount greater if not prohibited by the Act.

5.9. **Default in Payment of Assessment; Enforcement of Lien.** Assessments not paid within ten (10) days after the date such Assessment was first due shall be deemed delinquent and subject to interest at the rate of eighteen-percent (18%) per annum dating back to the due date. In addition to the interest charge, a late fee may be imposed by the Board in (i) the amount of twenty-five dollars (\$25) per month until all assessments are paid in full, or (ii) such other amount established by resolution of the Board. If an Assessment or other charge levied under this Declaration becomes delinquent, the Association may exercise any or all of the following remedies:

(a) The Association may suspend such Owners voting rights.

(b) The Association shall have a lien against each Lot for any unpaid Assessment and any fines or other charges imposed against the Owner of the Lot from the date on which the Assessment, fine, or charge is due. At any time, an Assessment (of any type provided for by this Declaration or the Bylaws) or installment thereof is delinquent, the Association may file a notice of lien against the Lot with respect to which the delinquency pertains. Once filed, such lien shall accumulate all future Assessments or installments, interest, late fees, penalties, fines, attorneys' fees, and other appropriate costs properly chargeable to an Owner by the Association, until such amounts are fully paid. Said lien may be foreclosed at any time as allowed by law. The lien of the Association shall be superior to all other liens and encumbrances except a lien or encumbrance recorded before the Original Declaration was recorded; a first or second security interest on the Lot secured by a mortgage or trust deed that is recorded before the Association's notice of lien; or a lien for real estate taxes or other governmental assessments against the Lot. The Association through its duly authorized agents, may bid on the Lot at any foreclosure sale, and may acquire and hold, lease, mortgage, and convey the Lot.

(c) The Association may bring an action to recover a money judgment for unpaid Assessments, fines, and charges under this Declaration against the Owner

without foreclosing or waiving the lien described in paragraph (b) above. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

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

(e) The Association may terminate utilities paid out of the Common Expense and the right to use the Common Areas.

(f) The Association shall have any other remedy available to it by law, including the Act, or in equity.

5.10. **Appointment of Trustee.** The Owners hereby convey and warrant pursuant to U.C.A. Sections 57-1-20 and 57-8a-402 to the Association's attorney of record, with power of sale, the Lot and all improvements to the Lot for the purpose of securing payment of Assessments under the terms of the Declaration.

5.11. **Reimbursement of Tax Collection by County Authorized.** It is recognized that under the Declaration, the Association will own the Common Areas and that it may be obligated to pay property taxes to Utah County to the extent taxes are required on such Common Areas. It is further recognized that each Owner of a Lot as a Member of the Association will be required to reimburse the Association for his pro rata share of such taxes paid. Notwithstanding anything to the contrary contained in the Declaration, Utah County shall be authorized to collect such pro rata share of taxes directly from each Owner by inclusion and said share with the tax levied on each Lot.

5.12 **Reinvestment Fee Contribution.** Subject to the terms and conditions of this Section, the Board shall have the right to establish from time to time (but shall not be required to establish) a Reinvestment Fee assessment in accordance with this Section. If established by the Board, the following terms and conditions shall govern Reinvestment Fees.

1) Upon the occurrence of any sale, transfer, or conveyance of any Living Unit (as applicable, a "Transfer"), the party receiving title to the Living Unit (the "Transferee") shall pay to the Association a Reinvestment Fee in an amount to be established by the Board from time to time, provided that in no event shall the Reinvestment Fee exceed the lesser of (i) 0.5% of the value of the applicable Living Unit, or (ii) the maximum rate permitted by applicable law.

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

- a) Any Transfer to (a) the United States or any agency or instrumentality thereof, or (b) the State of Utah or any county, city, municipality, district or other political subdivision of the State of Utah.
- b) Any Transfer to the Association or its successors.
- c) Any Transfer, whether outright or in trust, that is for the benefit of the transferor or the transferor's relatives, but only if the consideration for the Transfer is no greater than 10 percent of the value of the Living Unit transferred.
- d) Any Transfer or change of interest by reason of death, whether provided for in a will, trust, or decree of distribution, except for a sale of the Living Unit by the estate of an Owner.
- e) Any Transfer made solely for the purpose of confirming, correcting, modifying, or supplementing a Transfer previously recorded, removing clouds on titles.
- f) Any lease of any Living Unit or portion thereof for a period of less than thirty (30) years.
- g) Any Transfer to secure a debt or other obligation or to release property which is security for a debt or other obligation.
- h) Any Transfer in connection with (a) the foreclosure of a deed of trust or mortgage, or (b) a deed given in lieu of foreclosure.
- i) The initial Transfer of any Lot that has not commenced construction of a Living Unit.

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

VI. DUTIES AND POWERS OF THE ASSOCIATION

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

- (a) The powers, duties, and obligations granted to the Association by this Declaration, its Bylaws, and the Articles of Incorporation;
- (b) The powers and obligations of a nonprofit corporation pursuant to the general nonprofit corporation laws of the State of Utah;
- (c) The powers, duties, and obligations of a homeowners association pursuant to the Act, or any successor thereto;
- (d) The powers, duties, and obligations not reserved specifically to the Owners; and
- (e) Any additional or different powers, duties, and obligations necessary or desirable for the purpose of carrying out the functions of the Association pursuant to this Declaration or otherwise promoting the general benefit of the Owners within the Project.

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

6.2. **Specific Powers and Duties.** The powers and duties of the Association, acting through its Board, shall include, without limitation, the following:

- (a) **Maintenance and Services.** The Association shall provide maintenance and services for the Project as provided in Article VII and other provisions of this Declaration.
- (b) **Insurance.** The Association shall obtain and maintain in force policies of insurance as provided in this Declaration or the Bylaws of the Association. The Association shall have no obligation to obtain or maintain any insurance covering the personal and real property of any Owner(s), and each Owner shall be responsible for obtaining and maintaining such personal and real property insurance.
- (c) **Rulemaking.** The Association shall make, establish, promulgate, amend, and repeal Rules governing the conduct of persons and the operation and use of the Property as it may deem necessary or appropriate in order to assure a clean, aesthetically pleasing, peaceful, and orderly use and enjoyment of the Property.
- (d) **Fines.** The Association may impose fines, in an amount provided by Rule or a schedule of fines, for violations of the Declaration or Rules.

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

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

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

(h) **Employment of Agents, Advisers, and Contractors.** The Association, through its Board, may employ the services of any person or corporation as managers, hire employees to manage, conduct, and perform the business, obligations, and duties of the Association, employ professional counsel and obtain advice from such persons or firms or corporations such as, but not limited to, community association managers, landscape architects, accountants, recreational experts, architects, planners, lawyers, reserve study specialists, or what is convenient for the management, maintenance, and operation of the Property.

(i) **Annexation and Consolidation of Associations.** The Association, acting through its Board, shall have the authority to annex additional land, lots, living units and appurtenant common areas into the Project and/or consolidate two or more associations into a single association pursuant to the Utah Community Association Act §57-8a-601. Notwithstanding the applicability of Utah Code §57-8a-601, the Association shall not be required to seek approval by the lots owners of each of the consolidating associations; rather, the board shall have authority to take action to consolidate on behalf of the Association.

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

6.4. **Board of Directors.** Except where a matter or vote is specifically reserved to the Owners, the Board of Directors shall act in all instances on behalf of the Association.

VII. MAINTENANCE

7.1. **Maintenance of Common Areas.** The Association shall maintain, repair, and replace all Common Areas, including, but not limited to, grass, trees, shrubs, walks, private streets, and street lighting, unless the maintenance thereof is assumed by a public body. The Common Areas shall be maintained in a safe condition and in a good and workmanlike manner such as to carry out the purpose for which such areas are intended.

7.2. **Maintenance of Limited Common Areas.** Owners shall maintain, repair, and replace all Limited Common Areas, including but not limited to driveways, decks, patios, and any other exterior items that are for an individual Owner's specific use. The Limited Common Areas shall be maintained in a safe condition and in a good and workmanlike manner such as to carry out the purpose for which such areas are intended. If an Owner fails to properly maintain, repair, and replace Limited Common Area, the Association may maintain, replace, and repair the Limited Common Area and assess the Owner for all costs incurred.

7.3. **Maintenance of Living Units.** Owners shall maintain Living Units, with the exception that the Association shall maintain roofs and rooftops, exterior walls and their surfaces, gutters, downspouts, foundations, and other similar exterior improvements and building components as may be further determined by the Board in its sole and exclusive discretion. Owners shall maintain windows, doors (including garage doors), shutters, doorsteps, railings, and other similar exterior improvements and building components that are for the Unit Owner's specific use as may be further determined by the Board in its sole and exclusive discretion. Prior to performing any alterations, repairs, or modifications to building components which are to be maintained by the Owners, the Owner must seek written approval from the Association and the Owner must repair any incidental damage to property maintained by the Association. If an Owner fails to properly maintain, repair, and replace a Living Unit, the Association may maintain, replace, and repair the Living Unit and assess the Owner for all costs incurred.

7.4. **Services.** The Association may provide or contract for such services as the Board of Directors may reasonably deem to be of benefit to the Property, including, without limitation, garbage/trash/snow removal for Common Areas, management, and security services.

7.5. **Living Unit Maintenance.** Each Owner shall have the obligation to maintain, repair, and replace the interior elements of the Living Unit as further defined in Section 2.4 above. Each Owner shall paint, repair, replace, and otherwise maintain the interior of his Living Unit and shall maintain, repair, and replace all mechanical devices

and appliances serving only their respective units, including but not limited to, appurtenant electrical, plumbing, and heating, ventilating and air conditioning systems.

7.6. **Party Wall Maintenance.** By acceptance of a deed to a Lot, each Owner hereby acknowledges, agrees, and understands that it is essential that the Party Wall be maintained in good condition and repair to preserve the integrity of the Living Units as they are used and occupied by Owners. Each Owner hereby covenants and agrees not to do anything or to erect any barrier that will hinder, delay, or limit the maintenance of the Party Wall. With respect to the surface components of the Party Wall, each Owner agrees to maintain and keep in good condition and repair, including the making of replacements as needed, all surface components which face into such Owners' respective Living Unit. With respect to pipes, conduits, ducts, and other utility service lines and connections which benefit only one or more, but fewer than all, of the Owners, the Owner(s) benefited solely thereby shall be fully and personally responsible for the cost of maintaining such items in good condition and repair, including the making of replacements as needed. In the event that the need for maintenance or repair of the Party Wall is caused through the willful or negligent act of any Owner or his/her Occupant, the cost of such maintenance or repairs shall be the sole and exclusive expense of such Owner. With respect to structural components of the Party Wall, except as may be otherwise provided in the immediately preceding sentences, the Owners benefitted by the Party Wall agree to share equally in the cost of maintenance and upkeep thereof in good condition and repair, including the replacement thereof as necessary.

7.7. **Owner Maintenance Neglect.** 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 upon any Lot for the purpose of maintaining and repairing such Lot or any improvement thereon (including a Living Unit) 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 or any Rules of the Association. The Association shall also have the power and authority from time to time in its own name, on its own behalf, or in the name and behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoy any breach or threatened breach of this Declaration or any Rules promulgated by the Board, or to enforce by mandatory injunction or otherwise all of the provisions of this Declaration and such Rules.

7.8. **Maintenance Caused by Owner Negligence.** In the event that the need for maintenance or repair of Common Areas as specified herein is caused through the willful or negligent acts of an Owner or his/her Occupants, the Board may cause such repairs to be made by the Association and the cost of such maintenance or repair work shall be added to and become an Individual Assessment (as set forth in Section 5.5) to which such Lot is subject.

VIII. INSURANCE

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

8.2. Property Insurance.

(a) Hazard Insurance. The Association shall maintain a blanket policy of property insurance covering the entire Project, including the Common Area and all buildings including all Living Units, fixtures, and building services equipment as provided in the Act. The Association may maintain broader coverage if afforded by the insurance contract.

i. The blanket policy shall exclude land and other items not normally and reasonably covered by such policies. The blanket policy shall be an “all in” or “all inclusive” insurance as those terms are used in the insurance industry and shall include insurance for any fixture, improvement, or betterment installed in or to the Living Unit or any Limited Common Areas or otherwise permanently part of or affixed to Common Areas, Living Units, or Limited Common Areas, including but not limited to floor coverings, cabinets, light fixtures, electrical fixtures, heating and plumbing fixtures, paint, wall coverings, windows.

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

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

iv. The blanket policy shall include either of the following endorsements to assure full insurable value replacement cost coverage: (1) a Guaranteed Replacement Cost Endorsement under which the insurer agrees to replace the insurable property regardless of the cost; and (2) a Replacement Cost Endorsement under which the insurer agrees to pay up

to one hundred percent (100%) of the Property's insurable replacement cost but not more. If the policy includes a coinsurance clause, it must include an Agreed Amount Endorsement which must waive or eliminate the requirement for coinsurance.

v. Each property policy that the Association is required to maintain shall also contain or provide for the following: (i) "Inflation Guard Endorsement," if available, (ii) "Building Ordinance or Law Endorsement," (the endorsement must provide for contingent liability from the operation of building laws, demolition costs, and increased costs of reconstruction), and (iii) "Equipment Breakdown," if the project has central heating or cooling or other equipment or other applicable fixtures, equipment, or installation, which shall provide that the insurer's minimum liability per accident at least equals the lesser of two million dollars (\$2,000,000) or the insurable value of the building containing the equipment.

(b) Owner Responsibility for Payment of Deductible. If a loss occurs that is covered by a property insurance policy in the name of the Association and another property insurance policy in the name of an Owner:

- i. the Association's policy provides primary insurance coverage;
- ii. notwithstanding Subsection (a) above, and subject to Subsection (c) below:
 - 1) the Owner is responsible for the Association's policy deductible; and
 - 2) the Owner's policy, if any, applies to that portion of the loss attributable to the Association's policy deductible.
- iii. An Owner that has suffered damage to any combination of a Living Unit or a Limited Common Area appurtenant to a Living Unit ("Living Unit Damage") as part of a loss, resulting from a single event or occurrence, that is covered by the Association's property insurance policy ("a Covered Loss") is responsible for an amount calculated by applying the percentage of total damage resulting in a Covered Loss that is attributable to Living Unit Damage ("Living Unit Damage Percentage") for that Living Unit to the amount of the deductible under the Association's property insurance policy; and
- iv. If an Owner does not pay the amount required under Subsection (b) above within 30 days after substantial completion of the repairs to, as applicable, the Living Unit or the Limited Common Area

appurtenant to the Living Unit, the Association may levy an assessment against the Owner for that amount.

(c) Flood Insurance. If any part of the Project is or comes to be situated in a Special Flood Hazard Area as designated on a Flood Insurance Rate Map, a policy of flood insurance shall be maintained covering the Project, or, at a minimum, that portion of the Project located within the Special Flood Hazard Area. That policy shall cover any machinery and equipment that are not part of a building and all Common Area within the Project ("Insurable Property") in an amount deemed appropriate, but not less than the lesser of: (i) the maximum limit of coverage available under the National Flood Insurance Program for the Insurable Property within any portion of the Project located within a designated flood hazard area; or (ii) one hundred percent (100%) of the insurable value of the Insurable Property. If the Project is not situated in a Special Flood Hazard Area, the Association may nonetheless, in the discretion of the Board of Directors, purchase flood insurance to cover water and flooding perils not otherwise covered by blanket property insurance.

(d) Earthquake Insurance. The Association may purchase earthquake insurance as the Board of Directors deems appropriate. If the Board of Directors elects not to purchase earthquake insurance, a vote of a majority of the Owners present at the annual meeting, with a proper quorum, may veto the decision of the Board. If the Owners at the annual meeting veto the decision to not purchase earthquake insurance, the Board of Directors shall purchase earthquake insurance within (60) days of the vote.

(e) Association's Obligation to Segregate Property Insurance Deductible. The Association shall keep in a segregated bank account an amount equal to the Association's property insurance policy deductible or \$10,000, whichever is less. This requirement shall not apply to any earthquake or flood insurance deductible.

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

(g) Notice Requirement for Deductible. The Association shall provide notice to each Owner of the Owner's obligation under Subsection (b) above for the

Association's policy deductible and of any change in the amount of the deductible. If the Association fails to provide notice of the initial deductible, it shall be responsible for the entire deductible in case of any loss. If the Association fails to provide notice of any increase in the deductible, it shall be responsible for paying any increased amount that would otherwise have been assessed to the Owner. The failure to provide notice shall not invalidate or affect any other provision in this Declaration.

8.3. **Comprehensive General Liability (CGL) Insurance.** The Association shall obtain CGL insurance insuring the Association, the agents and employees of the Association, and the Owners, against liability incident to the use, ownership or maintenance of the Common Area or membership in the Association. The coverage limits under such policy shall not be less than Two Million Dollars (\$2,000,000.00) covering all claims for death of or injury to any one person or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which should preclude the insurer from denying the claim of an Owner because of the negligence acts of the Association or another Owner.

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

8.5. **Insurance Coverage for Theft and Embezzlement of Association Funds.** The Association shall obtain insurance covering the theft or embezzlement of funds that shall: (1) provide coverage for an amount of not less than the sum of three (3) months' regular assessments in addition to the prior calendar year's highest monthly balance on all operating and reserve funds, and (2) provide coverage for theft or embezzlement of funds by: (a) Officers and Board of Directors members of the Association, (b) employees and volunteers of the Association, (c) any manager of the Association, (c) officers, directors, and employees of any manager of the Association, and (d) coverage for acts.

8.6. **Worker's Compensation Insurance.** The Board of Directors shall purchase and maintain in effect workers' compensation insurance for all employees of

the Association to the extent that such insurance is required by law and as the Board of Directors deems appropriate.

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

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

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

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

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

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

8.13. **Annual Insurance Report.** Not later than sixty (60) days prior to the beginning of each fiscal year, Board of Directors may obtain a written report by a reputable insurance broker, agent, or consultant (who may be the insurance provider/agent/broker used by the Association) setting forth the existing insurance obtained pursuant to the Declaration and stating whether in the opinion of such broker or consultant, the insurance complies with the requirements of the Declaration and the Act. Such report may also set forth recommendations regarding current policy provisions and for additional insurance reasonably required for the protection of the Owners and Lenders in light of the insurance then available and the prevailing practice with respect to other similar residential projects. The Board of Directors shall be protected in relying on the written report furnished pursuant to this Section provided reasonable care and prudence were exercised in selecting such insurance broker, agent, or consultant. The most recent annual insurance report shall be made available to all Lenders and Owners upon request.

8.14. **Applicable Law.** This Declaration is specifically subjecting the Association to the insurance requirements required by U.C.A. §57-8a-405 that became law in 2011, and any amendments thereto and thereafter enacted by law. It is the intent of this provision that any future changes to the insurance laws applicable to community associations shall apply to this Association.

IX. USE RESTRICTIONS

9.1. **Use of Common Areas.** The Common Areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to Lots and Living Units. Each Owner shall strictly comply with, and shall require its guests to comply with, all provisions of the Association Documents.

9.2. **Use of Lots and Living Units.** All Lots are intended to be improved with Living Units and are restricted to such use. Except as may be approved to the contrary, each Living Unit shall be used only as a single-family residence. No gainful occupation, profession, trade, or other nonresidential use shall be conducted on any Lot or Living Unit without the prior written consent of the Board and applicable governmental entities. However, the Board shall not approve commercial activities otherwise prohibited by this Section unless the Board determines that only normal residential activities would be observable outside of the Living Unit and that the activities would not be in violation of applicable local ordinances. No Lot or Living Unit shall be used, occupied, or altered in violation of law, so as to jeopardize the support of any other Living Unit, so as to create a nuisance or interfere with the rights of any Owner, or in any way which would result in an increase in the cost of any insurance covering the Common Areas. An Owner may use

a Unit for a private office so long as the Owner does not invite others to the Unit to conduct business.

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

9.4. **Recreational Vehicles.** No boats, trailers, motorhomes, large trucks, commercial vehicles, or the like, as determined in the sole discretion of the Board, belonging to Owners or other residents of the Property shall be parked anywhere within the Project, except within a garage or designated area. No motor vehicle of any kind shall be repaired, constructed, or reconstructed upon any street or other Common Areas, except for emergency repairs to vehicles. No portion of any Lot may be used for repair of motor vehicles except inside a garage.

9.5. **Pets.** No pets, animals, livestock, or poultry of any kind shall be bred in, on or about the Living Units. Owners shall be allowed to have up to two (2) domestic household pets. Whenever a pet is allowed to leave a Lot, it shall be kept on a leash or in a cage. Any exterior structure for the care, housing, or confinement of any such pets shall be approved by the Board in advance and maintained by the Owner. All pet waste shall immediately be picked up by its owner. Pets may not be tied or tethered in the Common Area. An owner who causes any animal to be brought upon the Property shall indemnify and hold harmless the Association and/or Owners from and against any loss, damage, or liability which they may sustain as a result of the presence of such animal on the Property, whether or not the Association has given its permission therefore, and shall be responsible for the restoration of the Property or any portion thereof that may be damaged, soiled, or despoiled by such pet. All pets must be properly licensed and registered with the appropriate governmental agency and must abide by all pet Rules adopted by the Board of Directors from time to time. Pets may not create a nuisance. The following acts of an animal may constitute a nuisance: (a) it causes damage to property of anyone other than its Owner; (b) it causes unreasonable fouling of the air by odors; (c) it causes unsanitary conditions; (d) it defecates on any Common Area or Limited Common Area of another Owner and the feces are not immediately cleaned up by the responsible party; (e) it barks, whines, or howls, or makes other disturbing noises in excessive, continuous, or untimely fashion; or (f) it molests or harasses passerby's by lunging at them or chasing passing vehicles. Any exception to the animal rule must be

approved in writing by the HOA board. Notwithstanding the foregoing, the term “pet” or “animal” as used herein shall not include Assistance Animals as allowed under the Federal Fair Housing Act and other state and local fair housing laws to accommodate residents with disabilities. The Association may adopt a separate Reasonable Accommodation Policy for Assistance Animals.

9.6. **Machinery and Equipment.** No machinery or equipment of any kind shall be placed, used, operated, or maintained on or adjacent to any Lot except such machinery or equipment as is usual and customary in connection with the use, maintenance, or construction of a Living Unit or appurtenant structures.

9.7. **Maintenance and Repair.** No interior structure of a Living Unit shall be permitted to fall into disrepair and, subject to the requirements herein as to approval by the Board, each Living Unit at all times shall be kept in good condition.

9.8. **Nuisances.** No rubbish or debris of any kind shall be placed in, upon, or adjacent to any Living Unit or Lot, so as to render such Living Unit or Lot or portion thereof unsanitary, unsightly, offensive, or detrimental to other Owners. No Living Unit or Lot shall be used in such manner as to obstruct or interfere with the enjoyment of other Owners and Occupants. Without limiting any of the foregoing, no speakers, horns, whistles, bells, or other sound devices (except security devices used exclusively for security purposes) shall be located or placed outside of a Living Unit. Living Units shall be kept and maintained in a clean and sanitary state so as not to attract rodents and other pests. In the event that rodents and other pests result from unclean and unsanitary conditions within a Living Unit, the Association may contract with a rodent and pest removal company and assess the resulting costs against the Owner of the Living Unit as an Individual Assessment. No clothes, clothesline, sheets, blankets, laundry of any kind or similar articles may be hung out or exposed on any parts of the Units, Limited Common Area, or Common Area, with the exception of well-maintained patio furniture on patios or decks. Barbecue devices shall be located solely on porches, and shall be well-maintained and used in strict accordance with all applicable fire code and other regulations.

9.9. **Signs.** No signs whatsoever shall be erected or maintained in the Project, including upon any Lot, except as otherwise allowed by the Board. “For Sale” or “For Lease” signs may be erected on a Lot during the time the Unit is actually being offered for sale or lease.

9.10. **Trash Containers and Collection.** All garbage and trash shall be placed and kept in covered containers of a type and style which shall be approved by the Board. Such containers shall be maintained in the garages or other area approved by the Board. Furniture, mattresses, garbage, and trash shall not be dumped and/or stored anywhere in the Project unless it fits and is placed in the garbage container assigned to such Living Unit.

9.11. **Smoke and Carbon Monoxide Detectors.** Owners are responsible to ensure that each Living Unit has an operable carbon monoxide detector and smoke detectors as required by building code.

9.12. **Unit Heating.** Owners shall heat Units to no less than fifty-degrees (50° F) at all times to prevent pipes from freezing.

9.13. **Smoking.** The Project shall be compliant with the Utah State laws and regulations.

9.14. **Vehicles and Parking.** Vehicles parked in the driveways shall not extend onto the street or onto landscaped areas. No repairs of any vehicle may be undertaken within the Project, except within a garage. No vehicles may be left on blocks or jacks. Owners shall not park any inoperable, unlicensed, or unregistered vehicles in the Project. Vehicles shall be parked in garages to the extent space is available. To the extent that Owners and their guests do not park in garages, parking space is limited to the driveway or space in front of the Unit to which they are residing or visiting. Guests may also park in designated guest or visitor spaces. Garages may not be converted to living space. The Board may adopt other Rules relating to the parking of vehicles, including, without limitation, size and dimensions of the vehicles parked within the Project; the admission and temporary parking of vehicles within the Project; and the right to remove or cause to be removed any vehicles that are improperly parked; the levying of fines to Owners and Occupants who violate, or whose invitees violate, such Rules; and any other parking Rules the Board deems necessary.

9.15. **Temporary Structures.** No structure or building of a temporary character, including a tent, shack, mobile home, trailer shall be placed anywhere within the Project, including in a driveway, unless such is approved by the Board and under no circumstance shall overnight sleeping be allowed in such structure or building.

9.16. **Notice of Conveyance.** Promptly after a conveyance of a fee simple interest in a Unit, the grantee shall furnish a copy of the conveyance deed to the Association.

9.17. **Subdivision, Rezoning, and Timesharing.** No unit may be subdivided, rezoned, granted a variance or use permit, or timeshared (aka interval ownership or anything similar).

9.18. **Exterior Appearance.** No Owner shall cause or permit anything to be placed on the outside walls of any Unit, and no sign, awning, canopy, window air conditioning unit, shutter, or other fixture shall be affixed to any part thereof.

9.19. **Windows and Doors.** Solar screens and window treatment other than draperies, curtains or blinds (horizontal or vertical) are subject to the prior written approval of the Board. Aluminum foil and similar material shall not be permitted in any exterior windows. Window tinting shall require the prior written approval of the Board, and shall

be properly installed and maintained so as not to become damaged, scratched, discolored or otherwise unsightly. Garage doors must remain closed except when the resident is entering or exiting the garage.

9.20 **Antennae Satellite Dishes.** No antennae or satellite dish shall be installed or maintained on the front (street side) of any Unit. In no event shall any satellite dish be permitted anywhere in the Project, the diameter of which is greater than one (1) meter (39 inches).

X. ARCHITECTURAL CONTROLS

10.1. **Architectural Review Committee.** There shall be no independent architectural control committee. The Board of Directors of the HOA shall serve as such and the function of which shall be to ensure that all improvements and landscaping within the Property harmonize with existing surroundings and structures, and that they are in a state of good repair and appearance.

10.2. **Architectural Controls.** No exterior changes whatsoever shall be commenced, erected, maintained, made, or done without the prior written approval of the Board of Directors. By way of illustration, but not of limitation, the following are considered exterior changes: painting, landscaping, lighting, repairs, excavation, patio covers, screens, doors, evaporative coolers, window air conditioners, fireplaces, skylights, storage buildings, solar collectors, decks, balconies, shade screens, awnings, window coating or tinting, furniture, decorative alterations or other work that in any way alters the exterior appearance of the Property. The Board of Directors may designate the design, color, style, model, and manufacturer of any exterior improvement or alteration. Such designations shall be for the purpose of achieving uniformity of appearance and preservation of property values. No interior structural changes whatsoever shall be commenced, erected, maintained, made or done without the prior written approval of the Board of Directors. By way of illustration, but not of limitation, the following are considered interior structural changes: moving, removing, adding, or altering walls, doorways, windows, skylights, solar panels, venting, and the like.

10.3. **Liability for Damages.** The Board of Directors shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect made pursuant to this Article X.

XI. ENFORCEMENT

The Association or any Owner shall have the right to enforce, by proceedings at law or in equity, each provision of this Declaration, including the right to prevent any violation of such, and the right to recover damages and other sums for such violation(s). The Association or any Owner shall also have the right to enforce by proceedings at law or in equity the provisions of the Bylaws and the Rules and any respective amendments thereto. The prevailing party in any action for the enforcement of any provisions of the

Association Documents (including but not limited to litigation and the appeal thereof) shall be entitled to collect court costs and reasonable attorneys' fees.

XII. RIGHTS OF FIRST MORTGAGEE

Notwithstanding anything to the contrary contained herein, the following provisions shall apply:

12.1. **Rights of First Refusal.** Nothing herein shall impair the rights of the first Mortgagee of a Lot to: (1) foreclose or take title to a Lot pursuant to the remedies provided in the Mortgage; (b) accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor; or (c) sell a Lot acquired by a Mortgagee.

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

12.3. **Mortgagees' Rights to Inspect Association Records.** The holders of first Mortgages shall have the right upon reasonable notice and during business hours to inspect and copy at their own expense all books and financial records of the Association.

XIII. RIGHT OF ENTRY

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

XIV. MISCELLANEOUS

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

14.2. **Amendment.** Except as otherwise provided herein, this Declaration and/or the Plat may be amended only upon the affirmative vote of at least sixty-seven percent (67%) of the Owners. Amendments to the Declaration shall be proposed by either a majority of the Board or by at least fifty percent (50%) of the Owners. The proposed amendment must be reduced to writing and must be included in the notice of any meeting at which action is to be taken thereon. Any amendment(s) shall be effective upon recordation in the office of the recorder of Utah County, State of Utah. In such instrument the Board and/or President of the Association shall certify that the vote required by this Section for amendment has occurred. If a Lot is owned by more than one Owner, the signature of any one Owner shall be sufficient to constitute approval for that Lot under this Section. If a Lot is owned by an entity or trust, the signature of any one officer, trustee, or agent of the entity shall be sufficient to constitute approval for that Lot under this Section. No acknowledgment of any signature shall be required.

14.3. **Consent in Lieu of Voting.** In any case in which this Declaration requires authorization or approval of a transaction the assent or affirmative vote of a stated percentage of the votes present or represented at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Members entitled to cast at least the stated percentage of all membership votes outstanding in the Association. The following additional provisions shall govern any application of this Section 14.3:

- (a) All necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Member.
- (b) The total number of votes required for authorization or approval under this Section 14.3 shall be determined as of the date on which the last consent is signed.
- (c) Except as provided in the following sentence, any change in ownership of a Lot which occurs after consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose.

14.4. **Expandable Project.** The Board herewith expressly reserves the right and option to expand the Project by the addition of Additional Land and Lots and Living Units to be constructed thereon, all in accordance with the provision of this Section and/or Section 6.2 of this Declaration.

1) Expansion of the Project by the Board is without limitation, except as set forth in this Section, and shall be effective without prior approval of any Owner.

2) The Board's right to expand the Project as provided in this Section shall not expire until the Board elects in writing to not add Additional Land to the Project.

3) All improvements upon Additional Land shall be made in such a manner as to conform to all governmental regulations appertaining thereto, but such improvements may be located upon the Additional Land, or any portion thereof, in such manner as the Board deems appropriate in its sole discretion, subject to the requirements contained herein.

4) All improvements erected upon any Additional Land added to the Project will be compatible with the Living Units and improvements then upon or to be constructed upon the Property, all such additional Living Units and improvements to be approximately equal to or better in terms of quality of construction and materials to be used. Notwithstanding the above, no assurances can be made by the Board in every instance that such structures and improvements will be identical in all regards.

5) The Board consents and agrees that any Lot and Living Unit constructed within the Project and upon Additional Land will be similar in all material respects to the Living Units presently contained or to be constructed upon the Property and shown on the Plat.

6) The Board simultaneously with the submission of Additional Land to the Project shall prepare and record in the Utah County records, a supplemental Plat pertaining to such Additional Land to be added showing the location and dimensions of each Lot and Living Unit created from and located upon such Additional Land, and the Living Unit designation of each Living Unit so created.

7) Simultaneously with the recording of said supplemental Plat, the Board shall duly execute, acknowledge, and record a Supplemental Declaration setting forth that an expansion of the Project has occurred. Such Supplemental Declaration shall include, in addition to any requirements of the Act, the following: (i) if now shown on the supplemental Plat, a legal description of the Additional Land added to the Project; (ii) the designation of each Lot and Living Unit created from and included within the Additional Land.

14.5. **Dissolution.** The Association may be dissolved by the affirmative assent in writing from 100% of the Owners and first Mortgagees.

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

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

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

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

14.10. **Effective Date.** The Declaration and any amendment hereof shall take effect upon its being filed for record in the office of the County Recorder of Utah County, Utah.

IN WITNESS WHEREOF, the Association, through the Board of Directors, has executed this instrument the day and year set forth below.

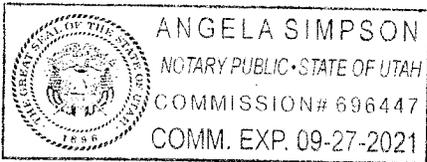
PHEASANT MEADOW AT SLEEPY RIDGE HOMEOWNERS' ASSOCIATION, INC.

By: B.R.B.

Its: HOA Board Member

State of Utah)
):ss
County of Utah)

On this 5 day of October, 2017, personally appeared before me Brett Bezzant, who being by me duly sworn, did say that s/he is an authorized representative of the Association; that said instrument was signed by him/her, with authority from the Board of Directors, on behalf of said Association after having received approval from at least 67% of all Owners; and that the foregoing information is true and accurate to the best of his/her knowledge.



Angela Simpson
Notary Public

EXHIBIT A - Legal Description

PHEASANT MEADOW AT SLEEPY RIDGE

Lots 101 through 172, PHEASANT MEADOW AT SLEEPY RIDGE, PHASE 1 AMENDED subdivision, according to the official plat thereof recorded at the Utah County Recorder's Office, Utah.

Serial Numbers: 49:682:0101 through 49:682:0172

Common Area, PHEASANT MEADOW AT SLEEPY RIDGE, PHASE 1 AMENDED subdivision, according to the official plat thereof recorded at the Utah County Recorder's Office, Utah.

Serial Number: 49:682:0173

Lots 201 through 210, PHEASANT MEADOW AT SLEEPY RIDGE, PHASE 2A subdivision, according to the official plat thereof recorded at the Utah County Recorder's Office, Utah.

Serial Numbers: 49:732:0201 through 49:732:0210

Common Area, PHEASANT MEADOW AT SLEEPY RIDGE, PHASE 2A subdivision, according to the official plat thereof recorded at the Utah County Recorder's Office, Utah.

Serial Number: 49:732:0211

Lots 211 through 231, PHEASANT MEADOW AT SLEEPY RIDGE, PHASE 2B subdivision, according to the official plat thereof recorded at the Utah County Recorder's Office, Utah.

Serial Numbers: 49:734:0211 through 49:734:0231

Common Area, PHEASANT MEADOW AT SLEEPY RIDGE, PHASE 2B subdivision, according to the official plat thereof recorded at the Utah County Recorder's Office, Utah.

Serial Number: 49:734:0233

Lots 301 through 318, PHEASANT MEADOW AT SLEEPY RIDGE, PHASE 3A subdivision, according to the official plat thereof recorded at the Utah County Recorder's Office, Utah.

Serial Numbers: 49:745:0301 through 49:745:0318

Common Area, PHEASANT MEADOW AT SLEEPY RIDGE, PHASE 3A subdivision, according to the official plat thereof recorded at the Utah County Recorder's Office, Utah.

Serial Number: 49:745:0320

Lots 319 through 345, PHEASANT MEADOW AT SLEEPY RIDGE, PHASE 3B subdivision, according to the official plat thereof recorded at the Utah County Recorder's Office, Utah.

Serial Numbers: 49:757:0301 through 49:757:0318

Common Area, PHEASANT MEADOW AT SLEEPY RIDGE, PHASE 3B subdivision, according to the official plat thereof recorded at the Utah County Recorder's Office, Utah.

Serial Number: 49:757:0346

EXHIBIT B - Bylaws
SECOND AMENDED BYLAWS
OF
PHEASANT MEADOW AT SLEEPY RIDGE HOMEOWNERS' ASSOCIATION, INC.,
A UTAH NONPROFIT CORPORATION
Orem City, Utah County, Utah

THESE SECOND AMENDED BYLAWS OF PHEASANT MEADOW AT SLEEPY RIDGE HOMEOWNERS' ASSOCIATION, INC. are effective upon recording in the Utah County Recorder's Office pursuant to the Utah Community Association Act and the Utah Revised Nonprofit Corporation Act (referred collectively herein as the "Acts").

RECITALS

1. The capitalized terms used in these Bylaws bear the same meaning as used in the Second Amended and Restated Declaration of Covenants, Conditions, and Restrictions of Pheasant Meadow at Sleepy Ridge, a Planned Unit Development ("Declaration").
2. These Bylaws shall supersede and replace all prior Bylaws adopted by the Association regardless of whether such Bylaws were recorded with the Utah County Recorder.
3. These Bylaws are adopted in order to complement the Declaration and to eliminate ambiguity, to further define the rights of the Association and the Lot Owners, to provide for the ability to more effectively govern and operate the Association, and to further the Association's efforts to safely, efficiently, and economically provide a quality living environment desired at the Project.
4. All present and future Lot Owners, tenants, guests, or any other persons who enter the Project are subject to these Bylaws. The mere acquisition or rental of any of the Lots or parts thereof, or the mere act of occupancy or use of any said Lots or part thereof or the Common Areas will signify that these Bylaws are accepted, ratified, and will be complied with by said persons.

ARTICLE I
DEFINITIONS

Except as otherwise provided herein or as may be required by the context, all capitalized terms used herein shall have the same meaning and effect as used and defined in the Declaration.

ARTICLE II

APPLICATION

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

ARTICLE III

OWNERS

3.1 **Annual Meetings.** The annual meeting of the Owners shall be held each year during the month of _____ on a day and at a time established by the Board of Directors. The purpose of the annual meeting shall be electing Board Members and transacting such other business as may come before the meeting. If the election of Board Members cannot be held on the day designated herein for the annual meeting of the Owners, or at any adjournment thereof, the Board of Directors shall cause the election to be held either at a special meeting of the Owners to be convened as soon thereafter as may be convenient or at the next annual meeting of the Owners. The Board of Directors may from time to time by resolution change the month, date, and time for the annual meeting of the Owners.

3.2 **Special Meetings.** Special meetings of the Owners may be called by a majority of the Board of Directors, the President, or upon the written request of Owners holding not less than forty percent (40%) of the voting interests of the Association. Any written request for a special meeting presented by the Owners shall be delivered to the President and shall include the original signature of each Owner affirmatively supporting such request along with a complete statement of the purpose of the meeting on each page containing signatures. The President shall then call, provide notice of, and conduct a special meeting within 45 days of receipt of the request.

3.3 **Place of Meetings.** The Board of Directors may designate any place in Utah, County that is reasonably convenient for the Owners as the place of meeting for any annual or special meeting. If no designation is made, or if a special meeting is otherwise called, the place of the meeting shall be held at the office of the Association.

3.4 **Notice of Meetings.** The Board of Directors shall cause written or printed notice of the date, time, and place (and in the case of a special meeting, the purpose or purposes) for all meetings of the Owners. Such written or printed notice shall be delivered

to each Owner of record entitled to vote at such meeting not more than sixty (60) nor less than fifteen (15) days prior to the meeting. Such notice may be emailed, hand-delivered, or mailed. If emailed, such notice shall be deemed delivered when sent to the Owner's email address registered with the Association. If mailed, such notice shall be deemed to be delivered when deposited in the U.S. mail addressed to the Owner at the Owner's address registered with the Association, with first-class postage thereon prepaid. Each Owner shall register with the Association such Owner's current email address and mailing address for purposes of notice hereunder. Such registered email and mailing addresses may be changed from time to time by notice in writing to the Association. If no address is registered with the Association, an Owner's Living Unit shall be deemed to be the Owner's registered address and notice to the Living Unit address may be made by first-class mail or by posting the meeting notice on the front door. An Owner may opt out of receiving notices from the Association via email by giving written notice to the Board of Directors stating that the Owner will not accept notices by way of email.

3.5 **Qualified Voters.** An Owner shall be deemed to be in "good standing" and "entitled to vote" at any meeting of the Association if he or she has fully paid his or her share of any Assessment (together with any interest and/or late fees) at least 48 hours prior to the commencement of the meeting and is not in violation of any such provisions contained within the Governing Documents.

3.6 **Record Date for Notice Purposes.** The Board of Directors may designate a record date, which shall not be more than sixty (60) nor less than fifteen (15) days prior to the meeting, for the purpose of determining Owners entitled to notice of any meeting of the Owners. If no record date is designated, the last date on which a notice of the meeting is mailed or delivered shall be deemed to be the record date for determining Owners entitled to notice. The persons or entities appearing in the records of the Association on such record date as the Owner(s) of record of Living Units in the Project shall be deemed to be the Owners of record entitled to notice of the meeting of the Owners.

3.7 **Quorum.** At any meeting of the Owners, the presence of Owners and holders of proxies entitled to cast more than thirty-three percent (33%) of the voting interests of the Association shall constitute a quorum for the transaction of business. If, however, such quorum shall not be present or represented at any meeting, the Board of Directors shall have power to adjourn the meeting and reschedule for a time not earlier than twenty-four (24) hours, nor later than thirty (30) days after the set time for the original meeting. Notice of such rescheduled meeting shall not be required except an oral announcement at the meeting to be rescheduled. No other type of notice shall be required for the rescheduled meeting. At such rescheduled meeting, the number of Owners present, either in person or by proxy, shall constitute quorum for the transaction of business at the rescheduled meeting.

3.8 **Proxies.** At each meeting of the Owners, each Owner entitled to vote shall be entitled to vote in person or by proxy provided, however, that the right to vote by proxy

shall exist only where the instrument authorizing such proxy to act shall have been executed by the Owner or by the Owner's attorney when duly authorized in writing. If a Living Unit is jointly owned, the instrument authorizing a proxy to act may be executed by any one (1) Owner of such Living Unit or the Owners' attorneys when duly authorized in writing. 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. Such instrument authorizing a proxy to act shall set forth the specific matters or issues upon which the proxy is authorized to act, and may allow the proxy to vote on any issue arising at any particular meeting or meetings. Proxies shall be filed with the Secretary (or with such other officer or person who may be acting as secretary of the meeting) before the meeting is called to order. The secretary of the meeting shall enter a record of all such proxies in the minutes of the meeting.

3.9 **Votes.** With respect to each matter submitted to a vote of the Owners, each Owner entitled to vote at the meeting shall have the right to cast, in person or by proxy, the number of votes appertaining to the Living Unit of such Owner, as shown in the Declaration. The affirmative vote of a majority of the votes entitled to be cast by the Owners present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by the Owner, unless a greater proportion is required by the Articles of Incorporation, these Bylaws, or the Declaration. When a Living Unit is jointly owned, any Owner may exercise the vote for such Living Unit on behalf of all Co-Owners of the Living Unit. In the event of two (2) conflicting votes by Co-Owners of one (1) Living Unit, no vote shall be counted for that Living Unit. In no event shall fractional or cumulative votes be exercised with respect to any Living Unit.

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

3.11 **Action Taken Without a Meeting.** Owners have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of Owners in accordance with the requirements of U.C.A. §16-6a-707 and any other applicable sections of the Acts. Any action so approved shall have the same effect as though taken at a meeting of the Owners.

ARTICLE IV

BOARD OF DIRECTORS

4.1 **General Powers.** The Project and the affairs and business of the Association shall be managed by the Board of Directors. The Board of Directors may exercise business

judgment and all of the powers of the Association, whether derived from the Declaration, these Bylaws, the Articles, or the Acts except such powers that the Declaration, these Bylaws, the Articles, and the Acts vest solely in the Owners.

4.2 **Number and Qualifications.** The property, business, and affairs of the Association shall be governed and managed by a Board of Directors composed of either three (3) or five (5) persons, as determined by the Board of Directors, who meet the qualifications provided in the Declaration.

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

4.4 **Term of Office.** Owners shall elect two (2) Board Members for two (2) year terms and one (1) Board Member for a one (1) year term, and at each annual meeting thereafter, the Owners shall elect the number of Board Members whose terms are to expire for a term of two (2) years each.

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

4.6 **Special Meetings.** Special meetings of the Board of Directors may be called by the President or a majority of the Board Members on at least two (2) business days' prior notice to each Board Member. The person or persons authorized to call special meetings of the Board of Directors may fix any place, within Utah County, as the place for holding the meeting and shall provide a conference call-in number for Board Members not able to attend in person. Notice shall be given personally, by email, or by telephone, including text message. By unanimous consent of the Board of Directors, special meetings may be held without call or notice to the Board Members.

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

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

- a. Consult with legal counsel of the Association to obtain legal advice and discuss legal matters;

- b. Discuss existing or potential litigation, mediation, arbitration, or an administrative proceeding;
- c. Discuss a labor or personnel matter;
- d. Discuss a matter relating to the initial contract negotiations, including the review of a bid or proposal;
- e. Discuss a matter involving a Person, if the Board determines that public knowledge of the matter would violate the Person's privacy; or
- f. Discuss a delinquent assessment.

4.9 **Board Meeting Location.** The Board of Directors may designate any place in Utah County as the place of meeting for any regular or special Board meeting. Board meetings may also be held with Board Members appearing telephonically so long as any Board Member appearing telephonically consents to such appearance. If a Board meeting is held by telephone, the Association shall provide the call-in information such that Owners may call-in to access the meeting.

4.10 **Board Action.** Notwithstanding noncompliance with Sections 4.7 and 4.8, Board action is binding and valid unless set aside by a court of law. A person challenging the validity of a Board action for failure to comply with Sections 4.7 and 4.8 may not bring the challenge more than sixty (60) days after the Board has approved the minutes recording the Board action.

4.11 **Compensation.** No Board Member shall receive compensation for any services that such member may render to the Association as a Board Member; provided, however, that a Board Member may be reimbursed for expenses incurred in performance of such duties as a Board Member to the extent such expenses are approved by a majority of the other Board Members. Nothing herein contained shall be construed to preclude any Board Member from serving the Project in any other capacity and receiving compensation therefore, so long as approved in advance by a majority of disinterested Board Members.

4.12 **Resignation and Removal.** A Board Member may resign at any time by delivering a written resignation to either the President or the Secretary. Unless otherwise specified therein, such resignation shall take effect upon delivery. A Board Member elected by the Owners may be removed at any time, with or without cause, at a special meeting of the Owners duly called for such purpose upon the affirmative vote of more than fifty percent (50%) of the entire voting interests of the Association.

4.13 **Vacancies and Newly Created Board Memberships.** If vacancies shall occur in the Board of Directors for any reason (including death, resignation, or disqualification) except removal by the Owners, the Board Members then in office shall continue to act, and such vacancies shall be filled by a majority vote of the Board Members then in office, though less than a quorum. Any vacancy in the Board of Directors occurring by reason

of removal of a Board Member by the Owners may be filled by election of the Owners at the meeting at which such Board Member is removed. Any Board Member elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of his predecessor. Except by reason of death, resignation, disqualification, or removal, Board Members shall continue to serve until their successors are elected.

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

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

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

4.17 **Meeting.** For purposes of this Article IV, a Board meeting does not include a gathering of Board Members at which the Board does not conduct and vote on Association business.

ARTICLE V

OFFICERS

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

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

5.3 **Subordinate Officers.** The Board of Directors may from time to time appoint such other officers or agents as it may deem advisable, each of whom shall have such title,

hold office for such period, have such authority, and perform such duties as the Board of Directors may from time to time determine.

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

5.5 **Vacancies and Newly Created Offices.** If any vacancy shall occur in any office by reason of death, resignation, removal, disqualification or any other cause, or if a new office shall be created, such vacancies or newly created offices may be filled by majority vote of the Board of Directors at any regular or special Board meeting.

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

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

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

5.9 **The Treasurer.** The Treasurer shall have the custody and control of the funds and financial accounts of the Association, subject to the action of the Board of Directors, and when requested by the President, shall report the state of the finances of the Association at each meeting of the Owners and at any meeting of the Board of Directors. The Treasurer shall perform such other duties as required by the Board of Directors.

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

ARTICLE VI COMMITTEES

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

6.2 **Proceeding of Committees.** Each committee designated hereunder by the Board of Directors may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such committee may from time to time determine. Each such committee shall keep a record of its proceedings and shall regularly report such proceedings to the Board of Directors.

6.3 **Quorum and Manner of Acting.** At each meeting of any committee designated hereunder by the Board of Directors, the presence of members constituting at least a majority of the authorized membership of such committee (but in no event less than two (2) members) shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee. The members of any committee designated by the Board of Directors hereunder shall act only as a committee, and the individual members thereof shall have no powers as such. A committee may exercise the authority granted by the Board of Directors.

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

6.5 **Vacancies.** If any vacancy shall occur in any committee designated by the Board of Directors due to disqualification, death, resignation, removal, or otherwise, the remaining members shall, until the filling of such vacancy by the Board of Directors, constitute the then total authorized membership of the committee and, provided that two (2) or more members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Board of Directors.

ARTICLE VII

INDEMNIFICATION

7.1 **Indemnification** In addition to the indemnification provisions and requirements set forth in the Declaration, no Board Member, officer, or committee member shall be personally liable for any obligations of the Association or for any duties or obligations arising out of any acts or conduct said Board Member, officer, or committee member performed for or on behalf of the Association. The Association shall and does hereby indemnify and hold harmless each person who shall serve at any time as a Board Member, officer, or committee member of the Association, as well as such person's heirs and administrators, from and against any and all claims, judgments and liabilities to which such persons shall become subject, by reason of that person having heretofore or hereafter been a Board Member, officer, or committee member of the Association or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him as such Board Member, officer, or committee member and shall reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability; provided that no such person shall be indemnified against or be reimbursed for or be defended against any expense or liability incurred in connection with any claim or action arising out of such person's willful or intentional misconduct. The rights accruing to any person under the foregoing provisions of this Section shall not exclude any other right to which such person may lawfully be entitled, nor shall anything herein contained restrict the right of the Association to indemnify or reimburse such person in any proper case, even though not specifically provided for herein or otherwise permitted. The Association, its Board Members, officers, committee members, employees, and agents shall be fully protected in taking any action or making any payment or in refusing so to do in reliance upon the advice of counsel.

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

7.3 **Insurance**. The Board of Directors, in its discretion, may direct that the Association purchase and maintain insurance on behalf of any person who is or was a Board Member, officer, committee member, or employee of the Association or is or was serving at the request of the Association as a Board Member, officer, committee member,

employee, or agent of another association, corporation, partnership, joint venture, trust or other enterprise against any liability asserted against, and incurred by, such person in any such capacity or arising out of such person's status as such, whether or not the Association would have the power to indemnify such person against liability under the provisions of this Article VII.

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

ARTICLE VIII

RULES AND REGULATIONS

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

ARTICLE IX

AMENDMENTS

9.1 Amendments by Association. Amendments to the Bylaws shall be proposed by either a majority of the Board of Directors or by Owners holding at least forty percent (40%) of the voting interests of the Association. The proposed amendment must be reduced to writing and must be included in the notice of any meeting at which action is to be taken thereon, or included as part of the written ballot in lieu of such meeting. Except as otherwise provided herein, the Bylaws may be amended, altered, or repealed and new Bylaws may be adopted by the Owners upon the affirmative vote of more than sixty percent (60%) of the voting interests of the Association. Any amendment(s) shall be

Its: HOA Board Member

State of Utah)

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County of Utah)

On this 5 day of October, 2017, personally appeared before me Brett Bezzant, who being by me duly sworn, did say that s/he is the HOA Board Member of the Pheasant Meadow at Sleepy Ridge Homeowners' Association, Inc., and that the foregoing information is true and accurate to the best of his/her knowledge, and that the foregoing instrument was signed by him/her on behalf of the Association, as authorized by the Board of Directors.

Angela Simpson
NOTARY PUBLIC

