

JOINT USE AND CROSS EASEMENT AGREEMENT

PARTIES: Preserve at Water's Edge Condominiums Owners Association, Inc. and The Preserve at Water's Edge Townhomes Association, Inc. (collectively referred to as "the Parties"; individually they may be referred to as a "Party").

RECITALS

- A. The Preserve at Water's Edge Condominiums Owners Association, Inc. ("Preserve COA") is a Utah condominium association, which governs The Preserve at Water's Edge Condominiums Project in Vineyard, Utah County, Utah ("Preserve Condo Project"), subject to a Declaration of Condominium recorded with the Utah County Recorder on June 7, 2016, as Entry Number 51220:2016, as may be amended from time to time.
- B. The Preserve at Water's Edge Townhomes Association, Inc. ("Preserve HOA") is a Utah homeowner's association, which governs The Preserve at Water's Edge Townhomes planned unit development in Vineyard, Utah County, Utah ("Preserve PUD Project"), subject to a Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements recorded with the Utah County Recorder on June 3, 2016 as Entry Number 50173:2016, as may be amended from time to time.
- C. Preserve COA desires to grant the owners and residents of Preserve HOA the right to use its private roadways, visitor parking, and certain common recreational amenities including a tot lot and sport court as depicted on the Preserve Condo Project plat(s) recorded with the Utah County Recorder.
- D. Preserve HOA desires to grant the owners and residents at Preserve COA the right to use its private roadways, visitor parking, and certain common recreational amenities including a tot lot as depicted on the Preserve PUD Project plat(s) recorded with the Utah County Recorder.
- E. Edge Preserves, LLC ("Declarant") is the owner and declarant of the Preserve Condo Project and Preserve PUD Project land and desires to bind the Preserve COA and Preserve HOA, its successors, assigns, and members to this Agreement.

AGREEMENT/EASEMENT

In consideration of the foregoing and the mutual covenants of the Parties contained in this Agreement, the receipt and adequacy of which are hereby acknowledged, the Parties, through the Declarant, agree and are bound as follows:

- 1. Grant of Easement to Preserve HOA.** Subject to the rights and restrictions set forth in this Agreement, Preserve COA hereby grants and conveys to Preserve HOA a permanent and nonexclusive easement over and across the Preserve COA's private roadways, visitor parking areas, and common recreational amenities, as described on the recorded plat(s) for Preserve Condo Project, for purposes of temporary parking, pedestrian and vehicular access to, ingress to and egress from the Preserve COA's private roadways, visitor parking areas, and common recreational amenities, and for the use and enjoyment of the amenities of Preserve COA by Preserve HOA permitted users, as described below (the "Preserve Townhomes Easement"). The Preserve Townhomes Easement is granted by Preserve COA as a benefit and right appurtenant to the Preserve PUD Project. The Preserve Townhomes Easement is granted for the right, benefit, and use of Preserve HOA and Preserve HOA's owners, residents, guests, successors, managers, mortgagees, lessees, and beneficiaries under any deeds of trust (collectively the "Preserve HOA permitted users"), subject to the provisions of this Agreement.
- 2. Grant of Easement to Preserve COA.** Subject to the rights and restrictions set forth in this Agreement, Preserve HOA hereby grants and conveys to Preserve COA a permanent and nonexclusive easement over and across the Preserve HOA's private roadways, visitor parking areas, and common recreational amenities, as described on the recorded plat(s) for Preserve PUD Project, for purposes of temporary parking, pedestrian and vehicular access to, ingress to and egress from the Preserve HOA's private roadways, visitor parking areas, and common recreational amenities, and for the use and enjoyment of the amenities of Preserve HOA by Preserve COA permitted users, as described below (the "Preserve Condos Easement"). The Preserve Condos Easement is granted by Preserve HOA as a benefit and right appurtenant to the Preserve Condo Project. The Preserve Condos Easement is granted for the right, benefit, and use of the Preserve COA and Preserve COA's owners, residents, guests, successors, managers, mortgagees, lessees, and beneficiaries under any deeds of trust (collectively the "Preserve COA permitted users"), subject to the provisions of this Agreement.
- 3. Roadway and Common Area Maintenance, Repair and Replacement.** Preserve HOA and Preserve COA shall have separate and individual obligations to maintain the private roadways, improvements, visitor parking, and recreational amenities located on their respective properties in good condition and repair and

in accordance with all applicable laws, ordinances, rules, regulations, covenants, conditions and restrictions, and governmental requirements. All maintenance, repair, and replacement obligations shall be performed in a prompt, diligent, and regular manner.

4. **Cost Sharing.** Preserve COA and Preserve HOA shall share the costs of maintenance and upkeep of only the sport court, as depicted on the Preserve Condo Project plat(s), on a pro rata basis based on the relative number of residential units certified for occupancy within each Project. Each Party shall separately and individually fund the maintenance, repair, and replacement of the all other private roadways, recreational amenities, and visitor parking stalls on each respective Project plat(s). Any invoice for shared costs shall be payable no later than 30 days following submission to the other Party. Late payments shall be subject to interest at the rate of 18% per annum.
5. **Damage by Preserve HOA or Preserve COA.** If damage to Preserve COA property beyond ordinary wear and tear is directly attributable to Preserve HOA or Preserve HOA permitted users, then Preserve HOA shall repair such damage as soon as reasonably possible, at its sole expense without any right of partial reimbursement from Preserve COA. Likewise, if damage to Preserve HOA property beyond ordinary wear and tear is directly attributable to Preserve COA or Preserve COA permitted users, then Preserve COA shall repair such damage as soon as reasonably possible, at its sole expense without any right of partial reimbursement from Preserve HOA.
6. **Restriction on Use.** Neither Preserve COA nor Preserve HOA, nor any Preserve COA or Preserve HOA permitted users shall place any obstruction on the easement area whatsoever, except as is necessary in connection with the Parties' maintenance and repair obligations set forth in this Agreement. Neither Preserve COA nor Preserve HOA, shall place any building or other improvement on or over the easement area, except as authorized under each Parties governing documents. Each Party and its permitted users shall be bound by any posted or published rules governing the easement areas.
7. **Condemnation.** In the event Preserve COA or Preserve HOA property or any portion thereof is taken by power of eminent domain, or is conveyed under threat of condemnation, the obligations hereunder of the Party owning such property shall be abated to the extent of the taking. Proceeds from any taking of Preserve COA or Preserve HOA properties shall belong exclusively to the owners of such property.
8. **Non-Use.** No obligation arising out of this Agreement, or right granted under this Agreement shall lapse because of non-use.

9. **Easements Run with the Land.** Declarant hereby declares that the Preserve Condos Easement and Preserve Townhomes Easement shall run with the land as to all property benefitted and burdened thereby, including any partition or division of such property. The rights, covenants and obligations contained in this Agreement shall bind, burden, and benefit Preserve COA and Preserve HOA and their respective successors, assigns, heirs, lessees, mortgagees, and beneficiaries under any deeds of trust.

10. **Conformance with Governmental Requirements.** The Parties shall cause all their respective uses of the easement area to be in conformance with all applicable federal, state, county and municipal laws, ordinances, regulations and requirements.

11. **Recording.** This Agreement shall be recorded in the official records of Utah County, Utah.

12. **Waiver.** Failure of either Party at any time to require performance of any provision of this Agreement shall not limit such Party's right to enforce such provision, nor shall any waiver of breach of any provision of this Agreement constitute a waiver of any succeeding breach of such provision or waiver of such provision itself.

13. **Attorney Fees.** If a suit, action, or other proceeding of any nature whatsoever is instituted in connection with any controversy arising out of this Agreement or to enforce any rights hereunder, the prevailing Party shall be entitled to recover its attorney fees and expenses and all other fees and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court at trial or on any appeal or review, in addition to all other amounts provided by law.

14. **Remedies.** In the event that either Party fails to perform any obligation under this Agreement, the other Party shall be entitled to demand specific performance of such obligation, to obtain appropriate injunctive relief (without the necessity of showing inadequate remedies at law), to cure the default of such obligation and recover the costs thereof from the Party reaching such obligation, or to pursue any other remedy available at law or equity. The remedies authorized throughout this Agreement are not mutually exclusive and may be maintained independently of each other.

15. **Amendment and Termination.** This Agreement may be amended and/or terminated by either: (1) the Declarant, but only while the Declarant controls both Parties, or (2) by a written agreement signed by representatives of the Parties, their successors or assigns. If amended by the Parties (not Declarant), such signors must be authorized in accordance with their governing documents, and in no event shall any amendment hereto between the Parties be accomplished

EXHIBIT A - LEGAL DESCRIPTION FOR RECORDING

That certain real property, located in Utah County, State of Utah and more particularly described as:

Townhomes

Lots 101 through 125, THE PRESERVE AT WATER'S EDGE TOWNHOMES, PLAT "A", according to the official plat thereof on record with the Utah County Recorder's Office, Utah, also described as serial numbers 49-808-0101 through 49-808-0125.

Lots 126 through 203, THE PRESERVE AT WATER'S EDGE TOWNHOMES, PLAT "B", according to the official plat thereof on record with the Utah County Recorder's Office, Utah, also described as serial numbers 49-815-0126 through 49-815-0203.

Condominiums

Units 101 to 110 of PLAT A, THE PRESERVE AT WATER'S EDGE CONDOMINIUM, according to the official plat thereof on record with the Utah County Recorder's Office, Utah, also described as Serial Numbers 49:809:0101 through 49:809:0110.

Units 201 to 210 of PLAT A, THE PRESERVE AT WATER'S EDGE CONDOMINIUM, according to the official plat thereof on record with the Utah County Recorder's Office, Utah, also described as Serial Numbers 49:809:0201 through 49:809:0210.

Units 1901 to 1910 of PLAT A, THE PRESERVE AT WATER'S EDGE CONDOMINIUM, according to the official plat thereof on record with the Utah County Recorder's Office, Utah, also described as Serial Numbers 49:809:1901 through 49:809:1910.

Units 2001 to 2010 of PLAT A, THE PRESERVE AT WATER'S EDGE CONDOMINIUM, according to the official plat thereof on record with the Utah County Recorder's Office, Utah, also described as Serial Numbers 49:809:2001 through 49:809:2010.

Units 1101 to 1110 of THE PRESERVE AT WATER'S EDGE CONDOMINIUMS, PLAT "B-1", according to the official plat thereof on record with the Utah County Recorder's Office, Utah.

Units 1201 to 1210 of THE PRESERVE AT WATER'S EDGE CONDOMINIUMS, PLAT "B-2", according to the official plat thereof on record with the Utah County Recorder's Office, Utah.

Units 1001 to 1010 of THE PRESERVE AT WATER'S EDGE CONDOMINIUMS, PLAT "B-3", according to the official plat thereof on record with the Utah County Recorder's Office, Utah.

Units 1301 to 1310 of THE PRESERVE AT WATER'S EDGE CONDOMINIUMS, PLAT "B-4", according to the official plat thereof on record with the Utah County Recorder's Office, Utah.

Units 901 to 910 of THE PRESERVE AT WATER'S EDGE CONDOMINIUMS, PLAT "B-5", according to the official plat thereof on record with the Utah County Recorder's Office, Utah.

Units 1401 to 1410 of THE PRESERVE AT WATER'S EDGE CONDOMINIUMS, PLAT "B-6", according to the official plat thereof on record with the Utah County Recorder's Office, Utah.

Units 801 to 810 of THE PRESERVE AT WATER'S EDGE CONDOMINIUMS, PLAT "B-7", according to the official plat thereof on record with the Utah County Recorder's Office, Utah.

Units 701 to 710 of THE PRESERVE AT WATER'S EDGE CONDOMINIUMS, PLAT "B-8", according to the official plat thereof on record with the Utah County Recorder's Office, Utah.

without a two-thirds (2/3) majority vote of the voting interests of both the Preserve COA and Preserve HOA. The 2/3 majority vote is not required for an amendment made by the Declarant, who has unilateral amendment authority so. Any amendment and/or notice of termination shall be recorded in the official records of Utah County, Utah.

IN WITNESS WHEREOF, this Joint Use Agreement and Easement is hereby made effective when recorded with the Utah County Recorder and shall be binding upon the Parties as provided above.

EDGE PRESERVE, LLC

By: *Steve Maddox*

Its: *Manager*

State of Utah)
County of Utah) :ss

On this 11 day of November, 2016 personally appeared before me Steve Maddox, who being by me duly sworn, did say that she is the manager of Edge Preserve LLC; and that he/she signed the foregoing Declaration on and in behalf of said limited liability company; and that the foregoing information is true and accurate to the best of his knowledge.

Michelle Holt
NOTARY PUBLIC

