

**AMENDED & RESTATED  
DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS  
For  
CANYON PLACE PLANNED UNIT DEVELOPMENT  
in Salt Lake County, Utah**

THIS AMENDED & RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CANYON PLACE PLANNED UNIT DEVELOPMENT (this "Declaration") is hereby adopted by Canyon Place Home Owners Association ("Association"), for and on behalf of its Members, and made effective as of the date recorded in the Salt Lake County Recorder's Office.

RECITALS:

- (A) This Declaration affects and concerns the real property located in Salt Lake County, Utah and more particularly described as follows ("Property"):
- LOTS 1 THROUGH 14, CANYON PLACE PLANNED UNIT DEVELOPMENT PART I, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SALE LAKE COUNTY RECORDER'S OFFICE.
- TAX I.D. NOS. 28-01-305-014 THROUGH 28-01-305-0001
- LOTS 15 THROUGH 24, CANYON PLACE PLANNED UNIT DEVELOPMENT PART II, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SALE LAKE COUNTY RECORDER'S OFFICE.
- TAX I.D. NOS. 28-01-305-017 THROUGH 28-01-305-0026; 28-01-305-039
- (B) On or about August 29, 1975, a Plat Map depicting Canyon Place was recorded in the Salt Lake County Recorder's Office, as Entry No. 2738366.
- (C) On or about September 28, 1976, a Declaration of Covenants, Conditions and Restrictions of Canyon Place Planned Unit Development - Part I ("Enabling Declaration") was recorded in the Salt Lake County Recorder's Office, as Entry No. 2860668.
- (D) On or about October 6, 1976, a Declaration of Covenants, Conditions and Restrictions of Canyon Place Planned Unit Development - Part II ("Part II Declaration") was recorded in the Salt Lake County Recorder's Office, as Entry No. 2863566.
- (E) On or About June 29, 2017, the Amended and Restated Declaration of Covenants, Conditions & Restrictions for Canyon Place Planned Unit Development (the "Declaration") was recorded in the Salt Lake County Recorder's Office as Entry No. 12566319.
- (F) The Property is subject to certain protective covenants, conditions, restrictions and easements, as set forth in this Declaration, as amended from time to time, which are deemed to be covenants running with the land mutually burdening and benefitting each of the Lots within the Subdivision. Common Areas are those areas

that are depicted as Common Areas in the recorded Plat Map(s), as well as any future recorded Plat Map(s), or as described in this Declaration. A Plat Map for the Property is attached hereto as **Exhibit A**.

- (G) The Association now desires to amend and restate the Declaration solely to clarify its obligations to obtain flood insurance as set forth in the amendments to Section 14.2 (a)(1) and 14.2(d). All other provisions of the Declaration remain unchanged and in full force and effect.
- (H) The amendment has been approved by Members holding at least 67% of the total voting power of the Association.
- (I) The Association and its Members desire to subject the Property to the terms and conditions of this Declaration, the Utah Community Association Act, Utah Code Ann. § 57-8a- 101 et. seq., and the Utah Revised Nonprofit Corporation Act, Utah Code Ann. § 16-6a-101 et. seq. The Property does not constitute a cooperative.
- (J) The Property shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved, subject to the following easements, restrictions, covenants, conditions and equitable servitudes, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Property, in furtherance of a general plan for the protection, maintenance, improvement and sale of the Property or any portion thereof. The covenants, conditions, restrictions, reservations, easements and equitable servitudes set forth herein shall run with each Unit located on the Property, including any additions thereto, and shall be binding upon all persons having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of every portion of the Property and any interest therein; and shall inure to the benefit of and be binding upon the Association and its members, and its successors in interest; and may be enforced by the Association, any Member, and their successors in interest.
- (K) These Recitals are made a part of this Declaration.

## **COVENANTS, CONDITIONS AND RESTRICTIONS**

### ARTICLE I DEFINITIONS

- 1.0 Unless the context clearly requires the application of a more general meaning, the following terms, when used in the Declaration, shall have the following meanings:
- (A) "Act" means the Community Association Act, Utah Code Ann. Sections 57-8a-101 et. seq.
  - (B) "Architectural Control Committee" or "ACC" shall mean the Architectural Control Committee created by this Declaration, the Bylaws, and/or Articles of Incorporation.
  - (C) "Assessment" shall mean any monetary charge, fine or fee imposed or levied against an Owner by the Association, as provided in the Governing Documents, regardless of whether said assessment is identified as a regular assessment, special

assessment, individual assessment, reserve assessment, capital improvement assessment, fine, late fee or other charge.

- (D) "Articles" shall mean the Articles of Incorporation for the Association, as amended from time to time.
- (E) "Association" shall mean CANYON PLACE HOMEOWNERS ASSOCIATION, and as the context requires, the officers or directors of that Association.
- (F) "Board" or "Board of Directors" shall mean the duly elected and acting Board of Directors of CANYON PLACE HOMEOWNERS ASSOCIATION.
- (G) "Bylaws" shall mean the Bylaws of the Association, as amended from time to time, a copy of which is attached hereto as Exhibit B. No amendment to the Bylaws shall be effective until it is duly approved and recorded.
- (H) "City" shall mean Cottonwood Heights, Utah and its appropriate departments, officials, and committees.
- (I) "County" shall mean Salt Lake County, Utah and its appropriate departments, officials, and committees.
- (J) "Common Area(s)" shall mean all property designated on the recorded Plat(s) as Common Area(s) or described within this Declaration as Common Area(s), being owned or intended to be owned by the Association for the common use and enjoyment of all Owners, together with all improvements or structures thereon and all of the easements appurtenant thereto.
- (K) "Common Expenses" means any and all costs, expenses and liabilities incurred by or on behalf of the Association, including, without limitation, costs, expenses and liabilities for (A) managing, operating, insuring, improving, repairing, replacing and maintaining those Common Areas maintained by the Association; (B) providing facilities, services and other benefits to Owners as set forth in this Declaration; (C) administering and enforcing the covenants, conditions, restrictions, reservations and easements created hereby; (D) levying, collecting and enforcing the assessments; (E) operating the Association; and (F) creating reserves for any such costs, expenses and liability as required by this Declaration or the Act.
- (L) "Declaration" shall mean this Amended & Restated Declaration of Covenants, Conditions and Restrictions for Canyon Place Planned Unit Development, together with any subsequent amendments or additions through subsequent recording amendments or supplements.
- (M) "Governing Documents" shall mean this Declaration, Bylaws, Articles, Rules, and any other documents or agreements binding upon an Owner.
- (N) "Improvement" shall mean all structures and appurtenances of every type and kind, including but not limited to buildings, Units, single family homes, townhomes, dwellings, residences, garages, walkways, retaining walls, driveways, fences, landscaping, decks, stairs, poles, lighting, signs, satellite dishes or other antennas, and any mechanical equipment located on the exterior of any building.
- (O) "Lot" shall mean any numbered building pad, including any privately owned real

property not included as Common Area, shown on any official and recorded Plat(s), including all Improvement located thereon. If the Subdivision contains Improvements that share a Party Wall, Lot or Unit may also refer to each individually owned Unit.

- (P) "Manager" shall mean any entity or person engaged by the Board of Directors to manage the Subdivision.
- (Q) "Owner" shall mean and refer to the Person or Persons who are vested with record title to a Unit, and whose interest in the Unit is held (in who or in part) in fee simple, according to the records of the Salt Lake County Recorder's Office, including buyers under any contract for deed. However, Owner shall exclude any person or entity holding title solely for purposes of securing performance of any obligations, including the trustee and/or beneficiary under a deed of trust or mortgagee under a mortgage. Membership in the Association is appurtenant to each Unit and an Owner shall be deemed a "Member" of the Association.
- (R) "Party Wall" shall have the meaning as set forth in Article V in this Declaration.
- (S) "Person" shall mean a natural person or any legal entity with a right to hold title to real property in its own name in the State of Utah.
- (T) "Plat(s)" or "Plat Map(s)" shall mean an official and recorded plat of Canyon Place Planned Unit Development in the Salt Lake County Recorder's Office, as it may be amended from time to time.
- (U) "Property" shall have the meaning set forth in the recitals.
- (V) "Rules" mean any instrument adopted by the Board for the regulation and management of the Association as provided in the Governing Documents.
- (W) "Subdivision" shall mean all phases of Canyon Place Planned Unit Development and all Lots and Common Areas, and other property within the subdivision, as shown on the Plat(s) and any future Plat(s) covering the Property.
- (X) "Unit" shall mean any numbered Unit shown on any official and recorded Plat(s), whether or not it contains an Improvement. If the Subdivision contains Improvements that share a Party Wall, Unit may also refer to each individually owned residence, including the roof, interior and exterior walls, and all Improvements related to such Unit. Unit also includes all mechanical equipment and appurtenances located within any one Unit or located without said Unit but designated and designed to serve only that Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus, furnaces, stoves, fixtures and the like, shall be considered part of the Unit, as shall all decorated interiors, all surfaces of interior, structural walls, floors and ceilings, windows and window frames, exterior walls, roofs, doors and door frames, and trim, consisting of, inter alia and as appropriate, wallpaper, paint, flooring, carpeting and tile. All pipes, wires, conduits, or other public utility lines or installations constituting a part of the Unit and serving only the Unit, and any other property of any kind, including fixtures and appliances within any Unit, which are within the Unit but are removable without jeopardizing the soundness, safety or

usefulness of the remainder of the building within which the Unit is situated shall be considered part of the Unit.

ARTICLE II  
EASEMENTS

- 2.1 Easement Concerning Common Area. Each Owner shall have a nonexclusive right and easement of use and enjoyment in and to the Common Area. Such right and easement shall be appurtenant to and shall pass with title to each Unit and in no event shall be separated therefrom, or encumbered, pledged, assigned, or otherwise alienated by an Owner. Any Owner may temporarily delegate the right and easement of use and enjoyment described herein to any family member, household guest, tenant, lessee, contract purchaser, or other person who resides on such Owner's Unit. Notwithstanding the foregoing, no Owner shall have any right or interest in any easements forming a portion of the Common Area except for the necessary parking, access, and utility easements for use in common with others.
- 2.2 Limitation on Easement. An Owner's right and easement of use and enjoyment concerning the Common Area shall be subject to the following:
- (a) The right of the Association to govern by Rules the use of the Common Area for the Owners so as to provide for the enjoyment of said Common Areas by every Owner in a manner consistent with the preservation of quiet enjoyment of the Lots by every Owner, including the right of the Association to impose reasonable limitations on the number of guests per Owner who at any given time are permitted to use the Common Area;
  - (b) The right of the Association to suspend an Owner's right to the use of the Common Areas, or any amenities included therein or services paid for by the Association, for any period during which an Owner is in violation of the terms and conditions of the Governing Documents or delinquent in the payment of a levied assessment or fee.
  - (c) The right of the City, County, and any other governmental or quasi- governmental body having jurisdiction over the Property, to enjoy access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Common Areas for the purpose of providing police and fire protection, transporting school children, utility access/installation, and providing any other governmental or municipal service; and
  - (d) The right of the Association to dedicate or transfer any part of the Common Areas to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association, provided that such dedication or transfer must first be assented to in writing by the Owners of at least sixty-seven percent (67%) of the Lots. No such dedication or transfer, however, may take place without the Association first receiving written approval from City and/or County pursuant to all applicable state and city laws, rules and ordinances in effect at the time of such proposed dedication or transfer.
- 2.3 Reservation of Access and Utility Easements. The Association hereby reserves an easement for access and utilities (including but not limited to: electrical, gas, communication, phone, internet, cable, sewer, drainage and water facilities) over, under, along, across and through the Property, together with the right to grant to a City and

County, or any other appropriate governmental agency, public utility or other utility corporation or association, easements for such purposes over, under, across, along and through the Property upon the usual terms and conditions required by the grantee thereof for such easement rights, provided, however, that such easement rights must be exercised in such manner as not to interfere unreasonably with the use of the Property by the Owners and the Association and those claiming by, through or under the Owners or the Association; and in connection with the installation, maintenance or repair of any facilities as provided for in any of such easements, the Property shall be promptly restored by and at the expense of the person owning and exercising such easement rights to the approximate condition of the Property immediately prior to the exercise thereof. Each Owner in accepting the deed to a Unit expressly consents to such easements and rights-of-way and authorizes and appoints the Association as attorney-in-fact for such Owner to execute any and all instruments conveying or creating such easements or rights-of-way.

- 2.4 Easements for Encroachments. If any part of the Common Areas now existing upon any Unit or hereinafter constructed by Association encroaches upon a Unit, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall exist. If any Common Area improvement on any Unit shall be partially or totally destroyed and then rebuilt in a manner intended to duplicate the structure so destroyed, minor encroachments of such structure upon a Unit or upon any portion of the Common Area due to such reconstruction shall be permitted; and valid easements for such encroachments and the maintenance thereof, so long as they continue, shall exist.
- 2.5 Easement in Favor of Association. The Lots and Common Area 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 and Common Area in order to verify the performance by Owners or other persons of all items of maintenance and repair for which they are responsible;
  - (b) For inspection, maintenance, repair and replacement of portions of the Common Area;
  - (c) For correction of emergency conditions on one or more Lots or on portions of the Common Area;
  - (d) For the purpose of enabling the Association, the Architectural Control Committee or any other committees appointed by the Association to exercise and discharge during reasonable hours their respective rights, powers and duties;
  - (e) For inspection during reasonable hours of the Lots and Common Area in order to verify that the Owners and occupants, and their guests, tenants, and invitees, are complying with the provisions of the Governing Documents.

ARTICLE III  
COMMON AREA & UNITS

- 3.1 Common Areas. The Common Areas consist of areas designated as Common Areas on the recorded Plat(s), including any structures or Improvements related to the operation or maintenance of the Common Areas, together with any rights of way and utilities, as shown

on the recorded Plat(s), including but not limited to private roads, community entrance/signage, community light poles, and open space. Notwithstanding anything contained in this Declaration to the contrary, all Common Areas shall be deemed conveyed to the Association upon recordation of a Plat depicting such Common Areas, reserving all easements as set forth in this Declaration.

3.2 Units.

- (a) The Project consists of twelve (12) Buildings, containing 24 Units, as depicted on the Plat(s) or exhibits attached to this Declaration.
- (b) All Units shall be capable of being independently owned, encumbered, and conveyed. The owner or Owners of each Unit shall be entitled to the exclusive possession and control of such Unit, subject to the rights of the Association set forth in the Governing Documents.

3.3 Separate Taxation of Units. Each Unit constitutes a separate parcel of real estate and will be separately assessed and taxed.

ARTICLE IV  
PARTY WALLS

4.1 General Rules of Law to Apply. Each wall which is built as a part of the original construction of a Unit within the Subdivision and placed on the dividing line between two Units shall constitute a Party Wall, and, to the extent not inconsistent with the provisions of the Act, the general rules of law regarding Party Walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

4.2 Repair and Maintenance. Each Unit that shares one or more Party Wall(s) will also share elements of a common roof, a common exterior wall, or other common exterior elements with adjacent Unit(s). The Owners acknowledge that certain repairs or maintenance to Units with a Party Wall(s) may become necessary, which repairs or maintenance may not be limited to one Unit only, but may necessarily involve the other attached Units. Therefore, all repairs to the roofs, exterior walls, party walls and other common elements must receive prior approval from the Association, which may require cooperation from adjoining Owners.

4.3 Insurance. The existence of Party Walls within the Subdivision will require blanket property insurance coverage as required by the Governing Documents and/or Act.

ARTICLE V  
MAINTENANCE OF COMMON AREAS & UNITS

5.1 Maintenance, Repair & Replacement by the Association of Common Areas. The Association shall maintain all Common Areas, not maintained by the Owners, in good order and repair and shall otherwise manage and operate all Common Areas, as it deems necessary and appropriate. The Association shall furnish and be responsible for, at the Association's expense, the maintenance, repair, and replacement of the Common Areas, not maintained by the Owners, which include the following:

- (a) Snow Removal. The Association shall make reasonable and prudent efforts to contract with a third party for the removal of snow from private roads, sidewalks,

driveways, and other relevant Common Areas within the Subdivision. Owners shall be responsible and take reasonable precautions with respect to ice and ice accumulation. The work of removing snow may be delegated to a third party, who will utilize its discretion in the frequency of the snow removal and the amount of accumulation meriting removal. The Association shall not be responsible or liable for said third party's discretion and removal of snow.

- (b) Landscaping. The Association shall perform general landscaping maintenance of the Units' front and side yards (where applicable), which shall include mowing, edging, blowing of grass, raking and disposal of leaves, and necessary tree and bush trimming. The Association shall maintain the original sprinkler system, as originally installed, in the front and side yards. Owner is responsible for any approved changes in sprinkler modification or landscaping. Owner shall be responsible for providing necessary access to the landscaping in any fenced area.
- (c) Repair, maintenance, and replacement of the perimeter fence.
- (d) Asphalt repair, maintenance, and replacement of any private roads within the Subdivision.
- (e) Any light poles.
- (f) All mailboxes.
- (g) Asphalt driveways;
- (h) Sidewalks adjoining the community roadways (not including sidewalks leading to individually owned Units); and
- (i) Private utility lines/infrastructure that serves more than one Unit and is not the responsibility of the City or County;

5.2 Owner's Responsibility for Maintenance, Repair and Replacement of Common Area Sidewalks Leading to an Owner's Unit.

- (a) Owners shall maintain, repair, and replace the sidewalks that lead from community roadways or community sidewalks adjacent to roadways to an Owner's individual Unit.

5.3 Association's Responsibility for Maintenance, Repair and Replacement of the Units:

- (a) Sewer and drainage pipes, water, and utility lines to the extent said utilities serve two or more Units.

5.4 Owner's Responsibility for Maintenance, Repair and Replacement of Units. Each Owner, at such Owner's sole cost and expense, shall maintain and/or replace such Owner's Unit, and the Improvements constituting a part thereof, in good order and repair, including:

- (a) Roofs, rain gutters and other overhangs.
- (b) Entryways, decks, patios, patio fencing and any Improvement or landscaping existing within the backyard, including sprinkler systems in the back yards.
- (c) Foundations (including any concrete pad within a Unit and garage);
- (d) All structural components, all exterior and interior walls, framing and insulation in



the Unit;

- (e) Outside exterior surfaces of Units;
- (f) All interior and exterior doors, including frames, locks, hinges, door jams and garage doors;
- (g) Finished interior of the Unit, including: flooring, tiles, wallpaper, paint, carpet, wood, fireplaces, other material comprising finished interior floors, walls or ceilings;
- (h) Drywall, wallboard and similar materials within a Unit;
- (i) Skylights, windows, window wells, window sills, window frames, shutters, glass, screens, and patio doors;
- (j) Sewer and drainage pipes, wiring, power, water and other utility lines to the extent located within an Owner's Unit or serves only that Owner's Unit;
- (k) Plumbing fixtures, fans, stoves, refrigerators, appliances, heaters, furnaces, fireplaces, vents, chimneys, HVAC systems, compressors, condensers, ducting, air conditioning, water spigots, lighting fixtures, pipes, and similar appliances, fixtures and pipes that exclusively serve an Owner's Unit(s);
- (l) All other items that are approved Owner Improvements, including solar panels, awnings, attic vents, and roof-mounted equipment and devices (and necessary attachments and water seals therefore);
- (m) Any of the following located wherever they might be located (inside or outside of the Unit) that serve an Owner's Unit exclusively: lighting fixtures (including lighting attached to exterior walls, but not including Association security lights), fans, plumbing fixtures (other than pipes located outside of a Unit and that do not exclusively serve that Unit), stoves, refrigerators, hot water heaters, air conditioning units (including compressors, condensers, ducting, and forced air units). Intercoms, security systems, water spigots and bibs, vents, chimneys and fireplaces, and such other appliances, fixtures, and decorations as an Owner may install as permitted in this Declaration; and
- (n) Maintenance, repair and replacement of alterations and modifications to the design of the exterior of a Unit from its original design shall be responsibility of the Owners.
- (o) All exterior lighting on Units and garages.

5.5 Maintenance by Owner/Repairs by Association. It is the obligation of each Owner to maintain his Lot and Unit at all times in order to preserve and enhance the enjoyment of the Subdivision. In the event that an Owner permits his/her Unit or Improvements to fall into a state of disrepair that is dangerous, unsafe, unsanitary or unsightly condition or fails to comply with any other covenant or restriction in violation of this Declaration, the Association may give written notice to the Owner describing the condition complained of and demand that the Owner correct the condition within 30 days. If the Owner fails to take corrective action, the Association shall have the right, but not the obligation, to enter upon the offending Owner's Unit and take corrective action to abate the condition. All costs of

abatement shall be charged to the Owner, who agrees to promptly pay the reasonable costs of any work performed under this provision. In addition, each Owner hereby grants to the Association a lien on the Unit and any improvements to secure repayment of any sums advanced pursuant to this section, which lien may be foreclosed at any time by the Association in the manner prescribed in Utah for the foreclosure of mortgages. Alternatively, without requiring foreclosure, the Association may seek collection of sums advanced directly from the Owner of the Unit in question. Unpaid amounts will bear interest from the date advanced at the lawful judgment rate under applicable state law.

- 5.6 Alterations of Exterior Appearance. The Owners will maintain their Units and Improvements in substantially the same condition and appearance as that approved by the ACC. No exterior repairs, alterations, improvements, or remodeling (whether structural or not) to the Unit or changes in landscaping are allowed without the advance written consent of the ACC, including approval of colors and materials.
- 5.7 Repair Following Damage. In the event of casualty loss or damage to the improvements, the Owner will be entitled to reconstruct the Improvements as they existed prior to the damage or loss without review by the ACC, provided however that alterations or deviations from the original approved plans will require review. Nothing in this Declaration is intended to prevent an Owner who has suffered property damage or loss from taking temporary measures to secure the property and prevent injury or dangerous conditions following loss or damage, before re-construction begins. Such temporary measures may be taken without the consent or approval of the ACC, provided that any such measure must be of a temporary nature, and repair or reconstruction must begin as soon as circumstances will permit. No damaged structure will be permitted to remain on any Unit for more than 90 days without repairs commencing and any damaged structure which does remain unrepaired after 90 days following the occurrence of damage is deemed a nuisance which may be abated by the Association.

#### ARTICLE VI MEMBERSHIP & VOTING

- 6.1 Membership in the Association shall at all times consist exclusively of the Owners. Each Owner shall be a member of the Association so long as such Owner has an ownership interest in a Unit and such membership shall automatically terminate when the Owner ceases to have an ownership interest in the Unit. Upon the transfer of an ownership interest in a Unit the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association. If titled ownership to a Unit is held by more than one Person, the membership appurtenant to that Unit shall be shared by all such Person in the same proportional interest and by the same type of tenancy in which title to the Unit is held.
- 6.2 Voting shall be conducted as set forth in the Bylaws.

#### ARTICLE VII HOMEOWNER ASSOCIATION

- 7.1 Organization. The Association has been created to effectively enforce the Governing Documents and shall operate as a non-profit corporation. The Association shall be comprised of the Owners within the Subdivision, and is established for the benefit of the Owners and the enforcement of the Governing Documents. Membership in the Association

is deemed an appurtenance to the Unit, and is transferable only in conjunction with the transfer of the title to the Unit. The Association shall serve as the organizational body for all Owners.

- 7.2 Enforcement Powers. The Association shall have all powers granted to it by the Governing Documents and the Act to enforce these covenants and restrictions by actions in law or equity brought in the name of the Association, and the power to retain professional services needed to the enforcement of the Governing Documents and to incur expenses for that purpose, including but not limited to: (1) record, lien, foreclose and other enforcement and collection actions against an Owner and their Unit; (2) initiate legal or similar proceedings; (3) impose fines; (4) collect any rents directly from tenant for past due assessments; (5) terminate an Owners' right to receive utility service paid as a common expense (with the exception of water, sewer, power and natural gas); (6) terminate an Owner's right to utilize Common Area and/or amenities; and (7) any other action or remedy allowed by the Governing Documents or Utah law.
- (a) The Association shall have the exclusive right to initiate enforcement actions in the name of the Association. The Association may appear and represent the interest of the Subdivision at all public meetings concerning zoning, variances, or other matters of general application and interest to the Owners.
  - (b) The Association shall have the authority to initiate and compromise claims and litigation on behalf of the Association resulting from the enforcement of the Governing Documents. In the event that the Association initiates legal action against a specific Owner or Owners to enforce these Governing Documents, whether or not such action results in the commencement of a formal legal proceeding, the Association shall have the right to assess the costs of such litigation, dispute, or enforcement action, including reasonable attorney fees, against the Owner(s) or Unit(s) in question and collect those assessments in any manner authorized in the Governing Documents or Utah law.
  - (c) The Board shall be afforded discretion to utilize its reasonable judgment to determine whether and how to: impose fines, record liens, pursue legal action; otherwise enforce the Governing Documents; or when and how to settle or compromise claims.
- 7.3 Assessments. Assessments will be made to meet the anticipated and recurring costs, expenses, and Common Expenses of the Association. The Association has the power to levy assessments against each Unit as necessary to carry out its functions. Assessments shall be levied against all Lots in the Property, whether vacant or improved. Each Owner shall, by acquiring or in any way becoming vested with his/her interest in a Unit, be deemed to covenant and agree to pay to the Association the assessments described in these covenants, together with late payment fees, interest and costs of collection (including reasonable attorney fees), if and when applicable.
- (a) All such amounts shall be, constitute and remain: (i) a charge and continuing lien upon the Unit with respect to which such assessment is made until fully paid; and (ii) the personal, joint and several obligations of the Owner or Owners of such Unit at the time the assessment falls due. No Owner may exempt himself or his Unit from liability for payment of assessments by waiver of his rights in the Common

Areas or by abandonment of his Unit. In a voluntary conveyance of a Unit, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments, late payment fees, interest and costs of collection (including reasonable attorney fees) which shall be a charge on the Unit at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee.

- (b) **Special Assessment.** The Association may levy special assessments for the purpose of defraying, in whole or in part: (a) any expense or expenses not reasonably capable of being fully paid with funds generated by monthly assessments; or (b) the cost of any construction, reconstruction, or unexpectedly required repairs or replacement of the Common Areas. Except for emergency situations that currently create further damage or a serious safety concern, special assessments shall be approved by fifty-one (51%) of Owners.
  - (c) **Individual Assessment.** In addition, the Association may levy individual assessments on every Unit, Owner or occupant that shall cause any damage to the Subdivision or otherwise causes the Association to incur any individual expense for maintenance, repairs, or enforcement action taken under the provisions of the Governing Documents. The amount of any such individual assessments shall be determined by the cost of such repairs, maintenance or enforcement action, including all overhead and administrative costs (including reasonable attorney fees), and shall be allocated among the affected Owner(s) or Unit(s) according to the cause of damage, maintenance, repair work or enforcement action, as the case may be, which individual assessment may be levied in advance of the performance of work.
  - (d) **Reserve Fund Assessment.** The Association may levy a reserve fund assessment, as set forth in this article.
  - (e) **Other Assessments.** The Association may levy other assessments or fees, as authorized by the Governing Documents.
- 7.4 **Budget.** The Board is authorized and required to adopt a budget for each fiscal year. The adopted budget shall be presented to the Owners at or before each annual meeting.
- (a) The Board may revise the approved budget from time to time as necessary to accurately reflect actual and/or anticipated expenses that are materially greater than previously budgeted.
  - (b) Regular Assessments shall be paid in equal monthly installments.
- 7.5 **Reserve Fund Analysis.** The Board shall cause a reserve analysis to be conducted no less frequently than every six (6) years to analyze the cost of repairing, replacing or restoring Common Area that have a useful life of three years or more and a remaining useful life of less than 30 years. This reserve analysis should be reviewed no less frequently than every three (3) years and updated if necessary. The Board shall engage a qualified specialist person, as determined by the Board, to conduct the reserve analysis.
- (a) The Board may not use money in a reserve fund:
    - (i) For daily maintenance expenses, unless a majority of the Owners vote to

approve the use of reserve fund money for that purpose;

- (ii) For any purpose other than the purpose for which the reserve fund was established, unless a majority of the Owners vote to approve the alternate purpose; or
- (iii) In the event that the Association experiences a surplus in any fiscal year, the Board may elect to place said surplus in the reserve fund account.

- 7.6 Reserve Fund Account Creation. The Board shall create a reserve fund account that is separate and distinct from the Association's general account, which account shall be funded from the reserve fund assessments. The amount of the reserve fund assessment shall be a separate line item in the approved budget. The Board shall cause an assessment to be made against all Owners in an amount sufficient, within the Board's discretion, to fund the reserve account.
- 7.7 Reinvestment Fee. The Board shall have power to levy a one-time reinvestment fee when a change in ownership of a Unit occurs in an amount equal to two (2) regular monthly assessments, unless a lesser amount is determined by the Board.
- 7.8 Date of Commencement of Assessments. The assessments provided for herein shall commence as to each Unit on the first day of the first month following the effective date of the first budget. Assessments shall be due and payable in a manner and on a schedule, as the Board may provide.
- 7.9 Fines. Following notice as required by the Act, the Association shall have the power to assess a fine against an Owner and/or their Unit for a violation of the terms and conditions of the Governing Documents in an amount set by the Board.
- 7.10 Hearing Process. The Board shall have authority to create a reasonable hearing process applicable when the Association takes an adverse action related to any particular Owner(s) in accordance with the Act.
- 7.11 Association Rules. The Board from time to time and subject to the provisions of the Governing Documents, may adopt, amend, repeal and enforce Rules governing: (a) the use of the Common Areas; (b) the use of any facilities owned by the Association; (c) the collection and disposal of refuse; (d) the maintenance of animals in the Subdivision; (e) collection policies and procedures; and (f) other matters concerning the use and enjoyment of the Property and the conduct of residents, as deemed necessary by the Board. The Rules may supplement, clarify, and add detail to issues addressed in Governing Documents. However, the Rules may not contradict the Governing Documents.
- 7.12 Statement of Account & Payoff Information. Upon a written request from an Owner that the Association provide the Owner with a statement of his/her account, the Association may charge a fee, not to exceed \$10.00, for providing such statements. In addition, when a request is made to the Association to provide payoff information needed in connection with the financing, refinancing, or closing of a Unit Owner's sale of his/her Unit, the Association may charge a fee not to exceed \$50.
- 7.13 Availability of Documents. The Association shall make appropriate documents available to Owners (and their lenders, insurers and/or authorized agents) consistent with the Act and the Utah Revised Non-Profit Act. The Board may adopt a record retention policy to

govern its record retention procedures.

- 7.14 Indemnity of Association Board and Officers. The Association will indemnify the officers, agents, and Board against any and all claims arising against them personally which are a result of the good faith exercise of the powers, duties and responsibilities of their office under the Governing Documents.
- 7.15 Election, Notice of Election, Notice of Meeting and Special Meetings. Election procedures and notice of any meeting shall be conducted as set forth in the Articles of Incorporation and Bylaws of the Association.
- 7.16 Number of Board, Term of Office. The appointment, election and term of the Members of the Board are set forth in the Bylaws and Articles. Members of the Board of Directors may serve consecutive terms and may also serve as officers of the Association.
- 7.17 Independent Accountant/Bookkeeper. The Association may retain the services of an independent accountant or bookkeeper to assist the Board of Directors and officers to maintain accurate financial records of the Association.

#### ARTICLE VIII

##### NONPAYMENT OF ASSESSMENTS & THE APPOINTMENT OF TRUSTEE

- 8.1 Delinquent Assessment. Any assessment not timely paid shall be delinquent, and the Association may invoke any and all remedies to recover said delinquent assessments including by: suit, judgment, lien, foreclosure, or other remedy authorized by the Governing Documents or the Act.
- 8.2 Due Date, Charges & Interest. Unless otherwise established by the Board, monthly assessments shall be due and payable on the first of each month and late if not received by the 10th of each month. The Board may charge a late fee in an amount set by the Board, but not to exceed \$50, for each unpaid or late assessment. In addition to late fees, interest shall accrue on all unpaid balances at 18% per annum or 1.5% per month. The Board may also impose attorney fees and other reasonable charges imposed by a Manager or attorney related to collections.
- 8.3 Lien. Upon recording of a notice of lien on any Unit, there shall exist a perfected lien for unpaid assessments prior to all other liens, except: (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto; and (2) the lien or charge of any first or second mortgage of record made in good faith and for value recorded prior to a recorded notice of lien by the Association.
- 8.4 Foreclosure. The Association shall have the power to bid for the Unit at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be charged or levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged had such Unit not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid assessments and attorney fees shall be maintainable without foreclosing or waiving the lien securing the same.
- 8.5 Other Remedies. All rights and remedies of the Association shall be cumulative and the

exercise of one right or remedy shall not preclude the exercise of any other right or remedy. The "One Action Rule" shall not be a defense to the enforcement of all rights and remedies of the Association. The Association may elect to bring an action to recover for a delinquent Assessment against the Owner or other obligee personally. Any attorney fees or costs incurred in these efforts shall also be assessed against the Owner(s), their Unit(s), and/or other obligees jointly and severally.

- 8.6 Payment by Tenant. The Association shall be entitled to demand and collect from a tenant of any Unit, the amount of any assessment that is more than sixty (60) days past due.
- 8.7 Attorney Fees. In addition to the recovery of costs and attorney fees as provided herein, the Association shall be entitled to recover all reasonable attorney fees and costs incurred as a result of an Owner breach of the Governing Documents, including meetings, research, memoranda, monitoring and other legal work incurred in response to an Owner breach or violation of the Governing Documents. These fees may be collected by special or individual assessment against the subject Owner(s) or Unit(s).
- 8.8 Appointment of Trustee. The Association hereby conveys and warrants pursuant to U.C.A. Sections 57-1-20 and 57-8a-402 to Burt R. Willie, Esq., a licensed member of the Utah State Bar, with power of sale, the Unit and all Improvements to the Unit or Unit for the purpose of securing payment of assessments under the terms of this Declaration.

ARTICLEIX  
SUBORDINATION OF LIEN TO INSTITUTIONAL  
FIRST AND SECOND MORTGAGES

- 9.1 The lien of assessments, including interest, late charges (subject to the limitations of Utah law), and costs (including attorney fees) provided for herein, shall be subordinate to the lien of any institutional first or second mortgage of record made in good faith and for value, recorded prior to a recorded notice of lien by the Association. No foreclosure, sale or transfer shall relieve any Owner who was the Owner prior to such foreclosure, sale, or transfer from personal liability for any assessments due and owing prior to such foreclosure, sale or transfer.

ARTICLEX  
USE LIMITATIONS & RESTRICTIONS

- 10.1 Single Family. All Lots shall be used only for single-family residential purposes, which shall mean and refer to 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, including an enclosed double garage.
- 10.2 Zoning Regulations. The lawfully enacted zoning regulations of the City and/or County, and any building, fire, and health codes are in full force and effect in the Subdivision. No Lot may be occupied in a manner that is in violation of any statute, law, or ordinance.
- 10.3 Licensed Contractor. Unless the Architectural Control Committee gives a written waiver of approval to an Owner, no Improvement may be constructed, remodeled, or altered on any Lot except by a licensed contractor, duly qualified and licensed by the appropriate governmental authorities.
- 10.4 Limitation for Certain Business Uses. Businesses, professions, or trades may not require

heavy equipment or create a nuisance within the Subdivision. Nothing in this provision is intended to prevent the use by any Owner of their Unit for a home occupation business pursuant to City or County ordinance or a properly licensed nightly rental Unit.

- 10.5 Restrictions on Signs. No signs will be permitted without the written authorization of the Board. The Board may adopt Rules with respect to "For Sale" or "For Rent" signs in the Community.
- 10.6 Completion Required Before Occupancy. No Dwelling may be occupied prior to its completion and the issuance of a certificate of occupancy by the City and/or County.
- 10.7 Combination of Units. No Unit may be combined with another Lot without the consent of the Architectural Control Committee.
- 10.8 Construction. No Improvement shall be permitted to remain incomplete for a period in excess of one (1) year from the date of commencement of construction, re-construction, or remodeling unless any delays are approved in writing by the ACC.
- 10.9 Garbage. All garbage, rubbish, and trash shall be kept in covered containers. In no event shall such containers be maintained so as to be visible from neighboring Lots, roadways, and Common Areas. The storage, collection and disposal of garbage, rubbish and trash shall be in strict compliance with applicable laws and the Rules of the Board.
- 10.10 No Annoying Lights. No outdoor lighting shall be permitted except for lighting that is designed to aim downward and reasonably limit the field of light to the confines of the Lot on which it is installed. This shall not apply to street lighting maintained by the City and/or County. Holiday or seasonal decorative lights, that otherwise comply with the terms of the Governing Documents, are permitted.
- 10.11 No Annoying Sounds. No speakers, wind bells, windchimes, or other noise making devices may be used or maintained on any Lot which creates noise that might reasonably be expected to be unreasonably or annoyingly loud to adjoining Lots, except for security or fire alarms.
- 10.12 Restriction on Animals: No animals other than ordinary household pets shall be kept or allowed to remain within the Property. The Board may adopt rules and procedures to further define permissible animals, including the number, type, and size of the animal, as well as rule and policies governing the behavior of animals and their owners within the Project. The Association may take such legal action, as may be necessary, to prevent continued violations or damage from violations of rules including, but not limited to: Fines, injunctions, restraining orders, and enforcement action.
- 10.13 Fencing. Only the Association may approve fencing within the Project. Any approved fencing within Owner's Patio area must receive prior, written approval from the ACC, and must be constructed of similar material, color, height, and appearance to existing fencing within the patios.
- 10.14 Energy Conservation Equipment. No solar energy device, solar energy collector panels, other energy conservation equipment or attendant hardware shall be constructed or installed within the Project without the prior written consent of the Board of Directors.
- 10.15 Vehicles. No vehicles may be parked or stored within the Subdivision unless they are in good repair, operable and in running condition, properly licensed, and in compliance with



all City and/or County ordinances. The Association reserves the right to adopt Rules relating to allowed vehicles and vehicle repair in the Subdivision.

- 10.16 Parking of Automobiles and Other Vehicles. Owners are required to park in accordance with Rules adopted by the Board, which shall be adopted in accordance with the Act, with Owners receiving prior notice and an opportunity to comment concerning Rules governing parking. The Board shall enforce any adopted parking rules through notice, fines, towing and other legal and appropriate action.
- 10.17 Antennas. Exterior antennas and satellite dishes shall not be permitted to be placed upon the exterior of the front or sides of any structure, except as permitted by the Board of Directors. The Board of Directors, however, shall comply with all applicable Federal and State laws regarding the placement of antennas and satellite dishes.
- 10.18 No Smoking. Consistent with the Utah Clean Air Act, the Board reserves the right to adopt Rules for the enforcement of this restriction. In the event an Owner or occupant violates the prohibition on smoking within the Subdivision, the Board shall have authority to issue Fines and initiate such other legal action as deemed appropriate by the Board.

#### ARTICLE XI LONG-TERM RENTAL RESTRICTIONS

- 11.1 Long Term Leasing. Any occupancy by tenant(s) for longer than six months shall be considered a long term lease. Any long term lease shall be in writing and shall provide as a term of the agreement that the occupant shall comply with the Governing Documents, and that any failure to comply shall be a default under the lease. If a lease does not include these provisions, they shall nonetheless be deemed to be part of the lease and binding on the Owner and the occupant.
- (a) An Owner shall provide the Board with information identifying the occupants, vehicles, phone numbers, and other applicable contact information.

#### ARTICLE XII ARCHITECTURAL RESTRICTIONS

- 12.1 Approved Plans. The ACC must provide prior, written approval of all plans for construction or remodeling within the Subdivision, which plans must be harmonious with existing Improvements and the existing character within the Subdivision. Following the recordation of this Declaration, the ACC shall prepare and present Design Guidelines, which must be approved by 51% of Owners prior to becoming binding upon Owners. Thereafter, the ACC shall determine, in its sole discretion, whether the proposed Improvements will be harmonious with the existing Improvements in the Subdivision and otherwise compliant with the Design Guidelines.
- (a) The Board may adopt rules and policies with respect to the submission and review of proposed Improvements.
- 12.2 Dwelling Construction & Materials. The allowed construction colors, materials, appearance etc. should be contained within the Design Guidelines.
- 12.3 Landscaping. That portion of the Unit which is visible from a street shall be landscaped in

accordance with a plan (including a specified date of completion) approved by the ACC. No landscaping may be modified or changed, without the express written consent of the ACC.

- 12.4 Temporary Structures. No structure of a temporary character, trailer, recreational vehicle, tent, shack, garage, barn, or other outbuilding shall be used on any Unit at any time as a residence, either temporarily or permanently.

ARTICLE XIII  
ARCHITECTURAL CONTROL COMMITTEE

- 13.1 Architectural Control Committee ("ACC"). An Architectural Control Committee may be appointed by the Board in accordance with the Bylaws and the Articles of the Association to oversee any construction, re-construction, remodeling or altering of exterior Improvements. It is recommended that the ACC be comprised of a Board Member, an Owner not on the Board, and a member of the management company. If no ACC is appointed, the Board will temporarily assume the duties and responsibilities of the ACC until an ACC may be constituted.
- 13.2 Approval by Board or ACC Required. No exterior Improvement of any kind will be constructed or commenced on any Unit(s) without the prior, written approval of the ACC. Approval of the Committee and will be sought in the following manner:
- (a) Plans Submitted. A written rendering, prepared by a licensed architect or engineer, of the proposed remodeling or construction must be submitted. The Plans shall also include: (1) a description of how debris will be removed; (2) name, address and phone number of contractor(s) performing the work; (3) when construction or remodeling will begin and conclude; and (4) proposal to mitigate any nuisance to other Owner(s).
  - (b) Review. Within 30 days from receipt of the submitted plans, the ACC will review the plans and respond in writing to the Owner determining whether or not the plans comply with the conditions imposed by the Declaration and are consistent with and in architectural harmony with other Improvements within the Subdivision. The Board or ACC may: (1) approve the plans; (2) reject the plans; (3) request additional information; or (4) require that certain conditions be met. There shall be no architectural review fee.
- 13.3 Variances. The ACC cannot grant any variance that has the effect of modifying applicable zoning or building code regulations or directly violates the Governing Documents. The burden of obtaining a variance is entirely on the applicant.
- 13.4 Board and ACC Not Liable. The Board, ACC and its members shall not be liable to the applicant for any damages, or to the Owners of any Lots within the Subdivision for their actions, inactions, or approval or disapproval of any set of plans submitted for review. The Owners' shall have no claim against the Board or ACC as a result of the performance or failure to perform the duties created by this Declaration. Each Owner has an equal duty and right to enforce these covenants against every other Owner, and may seek independent redress if it believes the Board or ACC has acted improperly.
- 13.5 Limitations on Review. The ACC's review is limited to those matters expressly granted in

this Declaration. The ACC shall have no authority over the enforcement of building codes, zoning ordinances, or other statutes, laws or ordinances affecting the development or improvement of real property and shall have no liability to any Owner whose plans were approved in a manner that included any such violation. Corrections or changes in plans to bring them into conformity with applicable codes must be approved by the ACC prior to construction.

ARTICLE XIV  
INSURANCE

- 14.1 Insurance Requirement. The Association shall obtain insurance as required in this Declaration and as required by the Act. 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.

As used in this Article:

- (1) "Covered Loss" means a loss, resulting from a single event or occurrence that is covered by the Association's property insurance policy.
- (2) "Unit Damage" means damage to any combination of a Unit or Improvements appurtenant to a Unit.
- (3) "Unit Damage Percentage" means the percentage of total damage resulting in covered loss that is attributable to Unit Damage.

14.2 Property Insurance.

- (a) Blanket Policy of Property Insurance. The Association shall maintain a blanket policy of property insurance covering all Common Areas, Buildings and Units.
  - (1) At a minimum, any required 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. In no event shall the Association be required to purchase flood insurance and flood damage shall not be a covered loss unless the Association affirmatively decides to purchase flood insurance.
  - (2) Any 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 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.
  - (3) A 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; or (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.

- (4) 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) "Equipment Breakdown," if the project has central heating or cooling or other equipment or other applicable fixtures, equipment, or installations, which shall provide that the insurer's minimum liability per accident at least equals the lesser of one million dollars (\$1,000,000) or the insurable value of the building containing the equipment.
- (b) Owner Responsibility for Payment. 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:
- (1) The Association's policy provides primary insurance coverage;
  - (2) The Owner is responsible for the Association's policy deductible;
  - (3) The Owner's policy, if any, applies to that portion of the loss attributable to the Association's policy deductible.
  - (4) An Owner who owns a Unit has suffered Unit Damage as part of a Covered Loss is responsible for an amount calculated by applying the Unit Damage Percentage for that Unit to the amount of the deductible under the Association's property insurance policy.
  - (5) If an Owner does not pay the amount required under this Article within 30 days after substantial completion of the repairs to, as applicable, the Unit, the Association may levy an assessment against the Owner for that amount.
- (c) Earthquake Insurance. The Association may, if approved by a majority of Owners, purchase earthquake insurance.
- (d) Flood Insurance. The Association is not required to obtain flood insurance for any part of the Property; however, the Association may choose to obtain flood insurance for the entire Project or may obtain flood insurance covering only those Lots situated in a Special Flood Hazard. Costs for any flood insurance policy obtained pursuant to this Section 14.2(d) will be individually assessed only to those Lots covered by said policy.
- (e) Associations 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. If the amount held in this account is used to pay any deductible, it shall be replenished within twelve (12) months.
- (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 for the Association's policy deductible and of any change in the amount of the deductible. The failure to provide notice shall not invalidate or affect any other provision in this Declaration.

14.3 Comprehensive General Liability (CGL) Insurance. The Association shall obtain CGL Insurance insuring the Association, the agents and employees of the Association, and the owner, against liability incident to the use, ownership or maintenance of the Common Area or membership in the Association. The coverage limits under such policy shall not be less than One Million Dollars (\$1,000,000) covering all claims for death of or injury to any one person or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or Equivalent coverage which would preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or another Owner

14.4 Director's and Officer's Insurance. The Association shall obtain Directors' and officers' liability insurance protecting the Board of Directors, the officers, and the Association against claims of wrongful acts, mismanagement, failure to maintain adequate reserves, failure to maintain books and records, failure to enforce the Governing Documents, and breach of contract (if available)/ The policy shall:

- (a) Include coverage for volunteers and employees;
- (b) Include coverage for monetary and non-monetary claims;
- (c) 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
- (d) 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.

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

- (a) Provide coverage for an amount of not less than the sum of three months regular assessment in addition to the prior calendar year's highest monthly balance on all operating and reserve funds; and
- (b) Provide coverage for theft or embezzlement of funds by"
  - (i) Officers and Board of Directors member of the Association;
  - (ii) Employees and volunteers of the Association;
  - (iii) Any manager of the Association; and
  - (iv) Officers, directors, and employees of any manager of the Association.

- 14.6 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 Lender.
- 14.7 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.
- 14.8 Association's Right to Negotiate All Claims and Losses and Receive Proceeds. Insurance proceeds for a loss under the Association's property insurance policy shall be payable to the Association; and shall not be payable to a holder of a security interest. 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 proceeds remaining 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 Units. Each Owner hereby appoints the Association, as attorney-in-fact for the purpose of negotiating all losses related thereto, including: the collection, receipt of, and 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 representative, successors or assigns of an Owner.
- 14.9 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.
- 14.10 Waiver of Subrogation against Owners and Association. All property and COL 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.
- 14.11 Owners' Individual Coverage. EACH OWNER SHOULD PURCHASE INDIVIDUAL PROPERTY, FIRE AND EXTENDED COVERAGE IN THE AMOUNT RECOMMENDED BY THE OWNER'S INDEPENDENT INSURANCE AGENT.

ARTICLE XV  
DAMAGE & DESTRUCTION

- 15.1 Immediately after damage or destruction by fire or other casualty to all or any part of the Common Areas covered by insurance written in the name of the Association, the Board, or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Common Areas. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Common Areas to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.
- 15.2 Any damage or destruction to the Common Areas shall be repaired or reconstructed unless Owners representing at least seventy-five (75%) percent of the total vote of the

Association, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the costs of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Areas shall be repaired or reconstructed; provided, however, this provision shall not apply to construction mortgagees providing construction financing for such damaged property.

- 15.3 In the event, that it should be determined in the manner described above that the damage or destruction to the Common Areas shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Common Areas shall be restored to their natural state and maintained by the Association, in a neat and attractive condition.

**ARTICLE XVI  
DISBURSEMENT OF PROCEEDS**

- 16.1 If the damage or destruction for which the proceeds of insurance policies are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction to the Common Areas shall be retained by and for the benefit of the Association and placed in a capital improvement and/or reserve account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner(s) shall be retained by and for the benefit of the Association and placed in a capital improvements and/or reserve account.

**ARTICLE XVII  
REPAIR AND RECONSTRUCTION**

- 17.1 If the damage or destruction to the Common Areas for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the members, levy a special assessment against all Owners as provided in the Governing Documents.

**ARTICLE XIII  
CONDEMNATION**

- 18.1 Whenever all of any part of the Common Areas shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of members representing at least sixty-seven percent (67%) of the total Association vote by any authority having the power of condemnation or eminent domain), each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows: if the taking involves a portion of the Common Areas on which improvements have been constructed, then, unless within sixty (60) days after such taking the Owners representing at least sixty-seven percent

(67%) of the total vote of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Areas to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Association. If the taking does not involve any improvements of the Common Areas, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

ARTICLE XIX  
MISCELLANEOUS PROVISIONS


- 19.1 Violation Deemed a Nuisance. Any violation of these covenants that is permitted to remain on the Property is deemed a nuisance and is subject to abatement by the Association or by any other Owner.
- (a) Any single or continuing violation of the covenants contained in this Declaration may be enjoined in an action brought by an Owner or by the Association. In any action brought to enforce these covenants, the prevailing party shall be entitled to recover as part of its judgment the reasonable costs of enforcement, including reasonable attorney fees and court costs.
  - (b) Nothing in this Declaration shall be construed as limiting the rights and remedies that may exist at common law or under applicable federal, state, or local laws and ordinances for the abatement of nuisances, health and safety, or other matters. This Declaration is to be construed as being in addition to those remedies available at law.
  - (c) The remedies available under this Declaration and at law or equity generally are not to be considered as exclusive, but rather as cumulative.
  - (d) The failure to take enforcement action shall not be construed as a waiver of the contents contained in this Declaration in the future or against other similar violations.
- 19.2 Severability. Each of the covenants contained in this Declaration shall be independent of the others, and in the event that any one is found to be invalid, unenforceable, or illegal by a court of competent jurisdiction, the remaining covenants shall remain in full force and effect.
- 19.3 Limited Liability. Neither the Board, the ACC, its individual members, nor any Owner shall have personal liability to any other Owner for actions or inactions taken under these covenants, provided that any such actions or inactions are the result of the good faith exercise of their judgment or authority, under these covenants, and without malice.
- 19.4 Consent, Power of Attorney, Waiver. By acceptance of a deed, lease, or other conveyance of an interest in Unit, each Owner or Occupant consents to the rights reserved to the Association in this Declaration, including but not limited to, the right to prepare, execute, file, process, and record necessary and appropriated documents and other items to establish and grant easements and to make necessary and appropriate amendments of this Declaration, the Plat and Bylaws. By such acceptance, each Owner or Occupant agrees to



execute all documents and to do all other things as may be necessary or convenient to effect the same; and such acceptance shall be deemed an appointment of the Association, with full right of substitution, as the attorney-in-fact of such Owner or Occupant to execute such documents and to do such things on Owner's or Occupant's behalf; and such appointment, being coupled with an interest, shall be irrevocable for the specific period of the Association's reserved rights as set forth in this Declaration and shall not be affected by the disability of any such Owner or Occupant.

- 19.5 No Representations and Warranties. Each Owners and occupant understands, agrees, and acknowledges through taking title or residing in the Subdivision that the Association and the Board have not made any representations or warranties of any kind related to the Subdivision and that each Owner or occupant has not relied upon any reorientations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose relative to the Subdivision.
- 19.6 Conflicting Provisions. In the case of any conflict between the Governing Documents, the order of priority from the highest to the lowest shall be the Declaration, the Plat, the Articles, Bylaws, and then the Rules.
- 19.7 Amendment. At any time while this Declaration is in effect, the covenants herein contained can only be modified by the affirmative vote of the Owners representing not less than sixty-seven (67%) percent of the total votes of the Association. No meeting or voting shall be required for an amendment, if the required, written consent is obtained from the requisite number of Owners.
- 19.8 Constructive Notice. Every person who owns, occupies or acquires any right, title or interest in any Unit in the Subdivision is conclusively deemed to have notice of this Declaration and its contents, and to have consented to the application and enforcement of each of the provision of this Declaration against his/her Unit, whether or not there is any reference to this Declaration in the instrument by which he/she acquires interest in any Unit.
- 19.9 Notices. All notices under this Declaration are provided as set forth m the Bylaws.
- 19.10 Liberal Interpretation. The provisions of this Declaration shall be interpreted liberally to further the goal of creating a uniform plan for the development of the Subdivision. Headings are inserted for convenience only and shall not be considered in interpretation of the provisions. Singular will include plural, and gender is intended to include masculine, feminine and neuter as well.

Canyon Place Planned Unit Development

  
By: TED LACY  
Its: BOARD MEMBER

STATE OF UTAH                    )  
  :SS  
COUNTY OF Salt Lake )

On this 10<sup>th</sup> day of November, 2020, personally appeared before me Fed Lary, who being by me duly sworn, did say that he is a Board Member of Canyon Place Home Owners Association, a Utah non-profit corporation and that the within and foregoing instrument was signed on behalf of said corporation by authority and said individual duly acknowledged to me that said corporation approved the same.

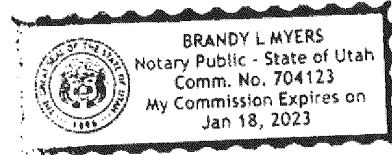
Brandy L Myers  
Notary Public

Canyon Place Planned Unit Development

Erk A Belic

By: ERK A. BELIC

Its: BOARD MEMBER



STATE OF UTAH )  
:SS  
COUNTY OF SALT LAKE

On this 13 day of NOV, 2020, personally appeared before me Austin Michael Wood who being by me duly sworn, did say that he is a Board Member of Canyon Place Home Owners Association, a Utah non-profit corporation and that the within and foregoing instrument was signed on behalf of said corporation by authority and said individual duly acknowledged to me that said corporation approved the same.

Austin Michael Wood  
Notary Public

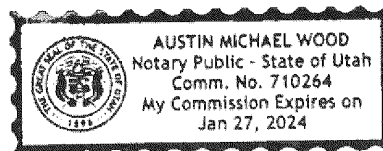




EXHIBIT "B"  
AMENDED & RESTATED BYLAWS  
OF CANYON PLACE HOMEOWNERS ASSOCIATION

The following are the Amended & Restated Bylaws ("Bylaws") of Canyon Place Home Owners Association, a Utah nonprofit corporation (the "Association"). These Bylaws shall replace any prior bylaws, whether or not recorded, and any amendments thereto, through the date these Bylaws are recorded. Upon recordation of these Bylaws, they are binding upon the Association and all present and future Owners and/or occupants.

ARTICLE I  
DEFINITIONS

**Section 1.1 Definitions.** All terms used but not defined herein shall have the meanings given them under that certain Amended & Restated Declaration of Covenants, Conditions & Restrictions for Canyon Place, Planned Unit Development, of even date and recorded in the Official Records of the Salt Lake County Recorder's Office (hereinafter referred to as the "Declaration"), and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein, as if set forth herein at length. The term "Owner" shall mean and refer to those persons entitled to membership in the Association, as provided in the Declaration and Articles of Incorporation of the Association.

ARTICLE II  
MEETINGS OF OWNERS

**Section 2.1 Annual Meetings.** An annual meeting of the Owners shall be held no less than once each calendar year at a location and time designated by the Board. The Board may set the date, time, and location of the annual meeting in accordance with Section 2.3 below.

**Section 2.2 Special Meetings.** Special meetings of the Owners may be called at the request of the Board, or upon written request of the Owners holding at least fifty-one percent (51%) of the total membership, as defined in the Declaration. Notwithstanding, the Board remains the only authorized body to act for and in behalf of the Association.

**Section 2.3 Notice of Meetings.** Unless an Owner requests in writing that all notices be provided to said Owner by U.S. mail, all notices shall be given by, or at the direction of, the Board via email. Notice shall be provided at least ten (10) days before a meeting, but no more than sixty (60) days, to each Owner entitled to vote. Said notice is effective upon sending the email. Notices provided by U.S. mail shall be sent via U.S. First Class Mail and effective upon depositing in the mail. Notices shall specify the location, day, and time of the meeting, and, in the case of a special meeting, the purpose of the meeting. Upon becoming a Member of the Association or upon the written request by the Association, Owners shall provide a valid email address for purpose of notification related to the Association unless the Owner has opted out by providing a written request to the Association for notice by U.S. mail.

**Section 2.4 Quorum.** The quorum required for any action by the Owners hereunder, unless otherwise specifically set forth in the Declaration, shall be as follows: at each scheduled meeting called, the presence of Owners holding, or holders of proxies entitled to cast, at least twenty-five percent (25%) of all outstanding votes shall constitute a quorum for the transaction of business. If

a quorum is not met, the meeting shall be postponed to a date of not more than thirty (30) days at which time the Owners and proxies present shall constitute a quorum for transacting business. In the case of any postponement, no notice of such rescheduled meeting shall be required except an announcement thereof at the original meeting.

**Section 2.5 Proxies.** At all meetings of Owners, each Owner may vote in person or by proxy. All proxies shall be in writing, signed by the Owner, and filed with the Board on or before said meeting. Notwithstanding, any proxy delivered to the Board at the meeting must be provided no later than any point in the meeting announced as the final time to deliver proxies. The notice of meeting and/or the proxy form provided with any notice of meeting may also provide a deadline to return proxies, after which time further proxies will not be received. Every proxy shall be revocable and shall automatically terminate upon conveyance by the Owner of his Unit. If conflicting proxy votes for an Owner or Unit exist, said proxy votes will not be counted.

**Section 2.6 Conduct of Meetings.** The President, or in his absence the Vice President, shall preside over all meetings. The Secretary or other authorized person shall keep minutes of all meetings and maintain a record of the minutes including, but not limited to: election of directors, adopted resolutions, adopted Rules and other matters coming before the Owners.

**Section 2.7 Action Taken Without a Meeting.** Any action that may be taken at any annual or special meeting of members may be taken without a meeting and without prior notice, if one or more consents in writing, setting forth the action taken, are signed by the members having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all members entitled to vote on the action were present and voted.

In addition, the Board may obtain approvals and conduct business through mail or email/electronic ballots. The ballot must set forth each proposed action and provide the option of voting for or against each proposed action with the requisite number of members approving the action that would be necessary to authorize or take the action at a meeting at which all members entitled to vote on the action were present and voted. The ballot must specify the period during which the Association shall accept written ballots for counting. Following this period, the Association shall provide notice of whether such action was or was not approved.

**Section 2.8 Voting.** Only an Owner that is current on all assessments and charges due and owing shall be deemed in good standing and entitled to vote at any annual or special meeting.

The Association shall have one class of voting membership, and each Owner shall be entitled to one equal vote for each Unit in which they are an Owner. There shall only be one vote for each Unit in the Subdivision. Since an Owner may be more than one Person, if only one of such Person(s) is present at the meeting of the Association, that Person shall be entitled to cast the vote appertaining to that Unit. But if more than one of such Person(s) is present, the vote appertaining to that Unit shall be cast only in accordance with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to cast the vote appertaining to that Unit without protest being made forthwith by any of the others to the person presiding over the meeting. The vote appurtenant to any one Unit may not be divided between Owners of such Unit. If the vote of a majority of the Owners of a Unit cannot be determined, no vote shall be cast in relation to such Unit.

he Association shall honor: the vote of a trustee or successor trustee of any trust that is an Owner on the real property records; the vote of an individual that is a holder of a Limited or General

Durable Power of Attorney with respect to an Owner who is disabled; and the vote of the authorized representative of any legally organized and existing entity, that is an Owner on the real property records.

ARTICLE III  
BOARD, SELECTION AND TERM OF OFFICE

**Section 3.1 Number & Tenure.** The affairs of the Association shall be managed by a Board of Directors composed of three (3) individuals ("Board"). Members of the Board of Directors shall serve for a term of two years; provided, however, that initially, the Board shall identify one of the three members of the Board to serve for a one year term. The other members shall serve for a two year term. Thereafter, all members elected each year shall serve for a two year term. The members of the Board of Directors shall serve until their respective successors are elected, or until their death, resignation, or removal. Any change in the number of Directors may be made only by amendment of these Bylaws.

Directors may replace another Director through appointment if a Director has two consecutive unexcused absences from Board Meetings.

**Section 3.2 Eligibility.** All members of the Board shall be Owners or an Owners' legal partner that resides with Owner in the Unit. Notwithstanding, only one member of a single household can be a member of the Board at any one time. If there are insufficient Owners or Owners' spouses or significant others that are willing to serve on the Board, then other residents with the Subdivision may serve on the Board.

**Section 3.3 Resignation & Removal.** A Director may resign at any time by delivering a written resignation to either the President or the Board. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Director may be removed from the Board with a vote of at least (51 %) of the Owners of the Association. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining Directors and shall serve for the unexpired term of his predecessor.

**Section 3.4 Compensation.** No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

**Section 3.5 Action Taken Without a Meeting.** The Directors may take any action in the absence of a meeting that they could take at a meeting by obtaining the written approval of a majority of the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Board. Further, a manager or Director may set forth a reasonable deadline for a response to a proposed action, whereby a non-response becomes an affirmative vote by the non-responsive Director.

**Section 3.6 No Estoppel or Reliance.** No one may rely upon any authorization (from the Board or otherwise) contrary to the terms and conditions of the Governing Documents regardless of circumstances. No claim of estoppel, waiver or similar equitable claims or defense may be raised by anyone related to any alleged reliance.

**Section 3.7 Records Retention.** The Board shall take appropriate action to develop, implement and update procedures for record retention. The Board should maintain documents in a manner to be easily accessible and copied. The Board may budget specifically for this expense and may seek