

14053381 B: 11391 P: 2118 Total Pages: 43  
12/15/2022 03:10 PM By: mpalmer Fees: \$40.00  
Rashelle Hobbs, Recorder, Salt Lake County, Utah  
Return To: MILLER HARRISON LLC  
5292 SO COLLEGE DR MURRAY, UT 84123

**AMENDED AND RESTATED  
DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS  
OF  
THE SAND DUNES**

**A Planned Unit Development  
in  
South Jordan, Salt Lake County, Utah**

# TABLE OF CONTENTS

RECITALS .....	1
ARTICLE I. DEFINITIONS .....	3
ARTICLE II. PROJECT DESCRIPTION .....	5
ARTICLE III. MEMBERSHIP AND VOTING RIGHTS.....	4
ARTICLE IV. PROPERTY RIGHTS INCOMMON AREAS.....	7
ARTICLE V. BUDGET AND ASSESSMENTS.....	8
ARTICLE VI. DUTIES AND POWERS OF THE ASSOCIATION.....	12
ARTICLE VII. MAINTENANCE .....	15
ARTICLE VIII. INSURANCE .....	17
ARTICLE IX. USE RESTRICTIONS .....	18
ARTICLE X. DESIGN GUIDELINES.....	24
ARTICLE XI. ENFORCEMENT.....	25
ARTICLE XII. RIGHTS OF FIRST MORTGAGEE .....	25
ARTICLE XIII. RIGHT OF ENTRY .....	26
ARTICLE XIV. AMENDMENTS .....	26
ARTICLE XV. MISCELLANEOUS.....	26
CERTIFICATION.....	28
EXHIBIT A LEGAL DESCRIPTION .....	29
EXHIBIT B BYLAWS .....	30

This AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF THE SAND DUNES ("Declaration") is adopted by THE SAND DUNES OWNERS ASSOCIATION f/k/a The Sand Dunes Condominium Owners Association ("Association") and is effective as of the date it is recorded in the office of the Salt Lake County Recorder.

## RECITALS

### Background of Recorded Documents

- A. The *Sand Dunes Declaration of Condominium, Covenants, Conditions and Restrictions* was recorded in the Salt Lake County Recorder's Office on November 7, 2002 as Entry No. 8415210 (the "Original Declaration").
- B. *Amendment No. 1 to Declaration of Condominium, Covenants, Conditions and Restrictions of The Sand Dunes* was recorded in the Salt Lake County Recorder's Office on December 12, 2003 as Entry No. 8922935.
- C. *Amendment No. 2 to Declaration of Condominium, Covenants, Conditions and Restrictions of The Sand Dunes* was recorded in the Salt Lake County Recorder's Office on March 11, 2004 as Entry No. 9000788.
- D. *Amendment No. 3 to Declaration of Condominium, Covenants, Conditions and Restrictions of The Sand Dunes* was recorded in the Salt Lake County Recorder's Office on March 3, 2005 as Entry No. 9313041.
- E. *Amendment No. 4 to Declaration of Condominium, Covenants, Conditions and Restrictions of The Sand Dunes* was recorded in the Salt Lake County Recorder's Office on May 26, 2005 as Entry No. 9386296.
- F. Resolution 2005-45 entitled "A Resolution of the City Council of the City of South Jordan, Utah, Requested by the Property Owners within Certain Developments within the City of South Jordan Clarify that these Developments Though Platted with the Word 'Condominium' in their Titles, Do in Fact Meet All City Ordinances as Planned Unit Development Subdivisions and are Treated as Such when Applying City Codes" was recorded in the Salt Lake County Recorder's Office on September 15, 2005 as Entry No. 9490914 (the "Resolution").
- G. The *Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Sand Dunes* was recorded in the Salt Lake County Recorder's Office on February 4, 2014 as Entry No. 11799593 (the "2014 Declaration").

### Background of Community

- H. The Sand Dunes consists of single-family homes and was always meant to be a Planned Unit Development ("PUD").

- I. However, when the developer of The Sand Dunes sought the original approval for the community from the city of South Jordan, the Phase 1 plat (recorded in November 2002) showed The Sand Dunes as a condominium project. In addition, the Original Declaration also stated The Sand Dunes was a condominium project.
- J. The subsequent Phase 2 plat, recorded in March 2004, also showed The Sand Dunes as a condominium project.
- K. The subsequent Phase 3 plat, recorded in March 2005, also showed The Sand Dunes as a condominium project.
- L. In September 2005, the City of South Jordan addressed this issue in its recorded Resolution.
- M. The Resolution states “This resolution is to verify that though the plat titles listed in Section 2 of this resolution contain the word “Condominium” the units within said plats were approved to Planned Unit Development standards for plat design, building codes and permits, and property ownership...The City of South Jordan treat these units as Planned Unit Developments in applying is[sic] codes and ordinances.”
- N. Section 2 of the Resolution lists The Sand Dunes Condominiums Phases 1-3 (including Phase 3 Amended).
- O. Despite the Resolution and despite the fact that The Sand Dunes has always been meant to be a PUD, the 2014 Declaration still referenced The Sand Dunes as a condominium project and submitted The Sand Dunes to the Utah Condominium Ownership Act.
- P. Because The Sand Dunes has always been meant to be a PUD, has acted like a PUD, and has been acknowledged by the City of South Jordan as a PUD, The Sand Dunes should be subject to the Utah Community Association Act and not to the Utah Condominium Ownership Act

### **Purposes and Effect of this Declaration**

- Q. To provide clarity that The Sand Dunes is a PUD and not a condominium, the name of the Association has recently been changed from The Sand Dunes Condominium Owners Association to The Sand Dunes Owners Association, such new name being reflected in this Declaration.
- R. One purpose of this Declaration is to formally submit The Sand Dunes to the Utah Community Association Act and to make clear that The Sand Dunes is a PUD and not a condominium.
- S. An additional purpose of this Declaration is to make needed changes and updates to the CC&Rs to allow The Sand Dunes to be governed more effectively.

- T. This Declaration (along with and subject to any future amendments) shall be the sole declaration for The Sand Dunes and shall completely replace and supersede in all respects the 2014 Declaration and amendments thereto, and all prior declarations and amendments thereto, (whether recorded or not, properly adopted or not, or referenced in this Declaration or not), prior to the date of the recording of this Declaration.
- U. This Declaration affects the real property situated in Salt Lake County, Utah, described with particularity on Exhibit A, which exhibit is attached hereto and incorporated in this Declaration by reference (the "Project") and shall be binding on all parties having or acquiring any right, title, or interest to the Project or any part thereof.
- V. The Bylaws of the Association attached hereto as Exhibit B supersede and replace any previous bylaws of the Association and any amendments thereto, whether recorded or not.
- W. At least sixty-seven percent (67%) of the total votes of the Association have approved this Declaration. The signature hereinafter of the president of the Association certifies and attests that such vote was obtained.

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

## **ARTICLE I. DEFINITIONS**

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

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

1.3. **Assessments** shall mean any monetary charge imposed or levied by the Association against Owners as provided in the Declaration or other Governing Documents.

1.4. **Association** shall mean and refer to The Sand Dunes Owners Association f/k/a The Sand Dunes Condominium Owners Association., a Utah non-profit corporation. Failure of the Association to maintain its corporate status will not result in the dissolution of the Association. The Association Board may renew or reinstate its corporate status without Owner approval.

1.5. **Board** or **Board of Directors** shall mean and refer to the Board of Directors of the Association as duly elected in accordance with the terms and conditions of the Articles and Bylaws. The Board is the governing body of the Association.

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

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

1.8. **Common Areas** shall mean all land, and the improvements situated thereon, within the Project that are designated as open space or Common Areas on the Plat or other recorded instrument and other real property which the Association now or hereafter owns in fee for the benefit of Owners for as long as the Association is the owner of the fee, which may include without obligation or limitation: greenspace, fences that do not border a Lot, entrance gate, streets, and other improvements as detailed on the Plat, and any real property or improvements within the Project that the Board determines in its sole and exclusive discretion, including, without limitation, utility and service lines, systems and similar improvements, whether public or private-company owned, intended to serve more than one Lot, whether located on a Lot or within the Common Area.

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

1.10. **Declaration** shall mean and refer to this *Amended and Restated Declaration of Covenants, Conditions, and Restrictions of The Sand Dunes*, as may be amended from time to time.

1.11. **Governing Documents** shall mean and refer to the Declaration, Plat, Articles, Bylaws, and any Rules adopted by the Board.

1.12. **Limited Common Area** shall mean any Common Area designated on the Plat or by the Board as reserved for the use by the Owner of a Lot to the exclusion of the other Owners in the Project, including driveways.

1.13. **Lot** shall mean and refer to each of the individual lots within the Project, as shown on the Plat, with the exception of the Common Areas.

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

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

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

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

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

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

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

1.21. **Plat** shall mean all of the official subdivision plats of the Project, and any amendments thereto, filed and recorded in the official records of the Salt Lake County Recorder's Office.

1.22. **Project** shall mean The Sand Dunes and shall include the real property legally described in Exhibit A, together with the buildings, improvements, and permanent fixtures located thereon, and all easements and rights appurtenant thereto.

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

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

1.25. **Rules** shall mean the rules, resolutions, regulations, policies, design guidelines, etc. adopted by the Board.

## ARTICLE II. PROJECT DESCRIPTION

2.1. **Submission.** The Project and all real property described with particularity on Exhibit A attached hereto and incorporated herein by this reference is hereby submitted to the Act. The Project and all of the Lots shall be held, conveyed, transferred, sold, mortgaged, encumbered, occupied, used, and improved subject to the Restrictions, which Restrictions shall constitute covenants and conditions running with the land and shall be binding upon and inure to the benefit of the Association and each Owner, including their respective heirs, successors, and assigns.

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

2.3. **Description of Improvements.** The improvements contained in the Project will be located upon the real property described in Exhibit A. The major improvements contained in the Project include 90 Lots, detached Residences, appurtenant structures on the Lots, greenspace, and other improvements detailed on the Plat. All improvements have been and shall continue to be constructed in a style and of materials architecturally compatible with the other improvements on the Project. The Lots, their locations, and approximate dimensions are indicated on the respective Plats. The principal materials with which the Residences are constructed are wood frames, with stone, brick and/or stucco exteriors.

2.4. **Common Areas.** The Common Areas of the Project shall be as identified on the Plats and as defined in Article 1, Section 1.8 above.

2.5. **Lot.** Each Lot consists of: the single family Residence constructed on the Lot and all components thereof; all garages or other approved structures and improvements located within the boundaries of the Lot; and all pipes, wires, conduits, chutes, flues, ducts, shafts, public utility, water or sewer lines, or any other similar fixtures serving that Lot and the Residence.

2.6. **Registered Agent.** The Registered Agent of the Association shall be as provided in the entity filings with the Utah State Department of Commerce, Division of

Corporations and Commercial Code. The Board may change the Registered Agent without Owner vote or approval.

### **ARTICLE III. MEMBERSHIP AND VOTING RIGHTS**

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

3.2. **Voting Rights**. Owners shall be entitled to one (1) vote per Lot owned.

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

3.4. **Record of Ownership**. Every Owner shall promptly file the conveyance document (or in the case of contract buyer, a copy of the sales contract) for his Lot with the Manager of the Association who shall maintain a record of ownership of the Lots. In addition, every Owner shall register his/her contact information with the Manager, which includes phone numbers, email addresses, and other information so required by the Association for Association notice purposes. Any cost incurred by the Association in obtaining the information about an Owner as specified herein which is not furnished by such Owner shall nevertheless be at the expense of such Owner and shall be reimbursed to the Association as an "Individual Assessment" in accordance with the provisions of Article V.

3.5. **Proxies**. An Owner may give his proxy to another Owner, a third person, or to a contract purchaser of his Lot to vote on all matters coming before the Association for vote provided the same is in writing, including electronic form as allowed by the Utah Revised Nonprofit Corporation Act at §16-6a-712, as amended from time to time, signed by the Owner, and is presented to those Association officers conducting such vote or as may be further provided in the Bylaws.

### **ARTICLE IV. PROPERTY RIGHTS IN COMMON AREAS**

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



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

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

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

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

3) The right of the Association to suspend voting rights and right to use the Common Areas by an Owner for any period during which any Assessments against his Lot remain unpaid;

4) The right of the Association to dedicate or transfer all or any part of the Common Areas, and any sewer, water and storm drain lines to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association. Any such dedication or transfer must, however, be assented to by two-thirds (2/3) of all Lots.

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

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

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

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

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

## **ARTICLE V. BUDGET AND ASSESSMENTS**

5.1. **Annual Budget.** The Board shall prepare and adopt an annual budget for the Association. The annual budget shall provide, without limitation, for the maintenance of the Common Areas and for the administration, management, and operation of the Association.

The Board may revise the budget from time to time as the Board deems appropriate. If the Board fails to adopt an annual budget, the last adopted budget shall continue in effect until a new annual budget is adopted. The budget shall be made available to Owners within thirty (30) days after adoption. Owners may disapprove a budget according to the provisions of the Act.

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

5.3. **Purpose of Assessments.** Assessments levied by the Association shall be used for the purpose of promoting the health, safety, and welfare of residents of the Project, including but not limited to the appearance and aesthetics of the Project. The use made by the Association of funds obtained from Assessments may include, but is not limited to: payment of the cost of taxes and insurance on the Common Areas; maintenance, repair, and improvement of the Common Areas; establishing and funding a reserve to cover major repair or replacement of improvements within the Common Areas; and any expenses necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under the Governing Documents.

5.4. **Annual Assessments.** Annual Assessments shall be made on a calendar year basis based on the annual budget. Each Annual Assessment shall be due and payable in monthly installments on the seventh (7<sup>th</sup>) day of each month, unless a different payment arrangement is made by the Board. At least fifteen (15) days prior to the effective date of any change in the amount of the Annual Assessment, the Association shall give each Owner written notice of the amount.

5.5. **Special Assessments.** In addition to Annual Assessments authorized above, the Board may levy a Special Assessment payable over such a period as the Board may determine for the purpose of defraying, in whole or in part any expense or expenses not reasonably capable of being fully paid with funds generated by Annual Assessments; the cost of any reconstruction or unexpected repair or replacement of the Common Areas; or for any other expense incurred or to be incurred as provided in this Declaration, except for new capital improvements further described in Section 6.4(6) below. Special Assessments over five-hundred dollars (\$500) per Lot in a calendar year must be approved and assented to by a majority of the Members present in person or by proxy at a meeting duly called for such purpose. Notice in writing of the amount of any Special Assessments and the time for their payment shall be given as soon as is reasonably possible to the Owners. Payment shall be due on the dates and in the manner determined by the Board and provided in the notice.

5.6. **Benefited Assessments.** In addition to Annual Assessments and Special Assessments authorized above, the Board may levy Benefited Assessments against particular Lots to cover the costs of the Association in providing special benefits, items, or services to the particular Lots. Benefited Assessments may be levied in advance of the Association providing such special benefits, items, or services to particular Lots and shall be imposed equally upon all benefited Lots.

5.7 **Individual Assessments.** In addition to Annual, Benefited, and Special Assessments authorized above, the Board may levy Individual Assessments against a Lot and its Owner for: (a) administrative costs and expenses incurred by the Board in enforcing the Governing Documents against the Owner or his/her Occupants; (b) costs associated with the

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

5.8. **Allocation of Assessments.** Annual Assessments and Special Assessments shall be fixed at a uniform rate for all Lots. Benefited Assessments shall be fixed at a uniform rate for all benefited Lots. Individual Assessments shall be allocated separately to each Lot based on the costs incurred by the Association.

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

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

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

5.12. **Personal Obligation and Lien.** All Assessments, together with any interest, late fees, collection costs, and attorney fees if collection efforts become necessary shall be, constitute, and remain: (a) a charge and continuing lien upon the Lot with respect to which such Assessment is made; and (b) the personal obligation of the person who is the Owner of such Lot at the time the Assessment falls due. No Owner may exempt himself or his Lot from

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

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

5.14. **Due Date and Delinquency.** Assessments shall be paid in a timely manner. Payments are due in advance on the seventh (7<sup>th</sup>) day of the month or the first day of such other period established for the payment of Assessments. Payments are delinquent if received more than seven (7) days from the date that they became due. Whenever an Assessment is delinquent, the Board may at its option invoke any one or more options or all of the sanctions granted in this Article or the Act.

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

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

1) The Association may suspend such Owner's voting rights.

2) The Association shall have a lien against each Lot for any Assessment levied against the Lot and any fines or other charges imposed under this Declaration or the Bylaws against the Owner of the Lot from the date on which the Assessment, fine, or charge is due. This lien shall arise and be perfected as of the date of the recording of this Declaration. At any time, any Assessment or installment thereof is delinquent, the Association, by and through its Board or any Manager, may file a notice of lien in the deed records of Salt Lake County, Utah against the Lot with respect to which the delinquency pertains. Once filed, such lien shall accumulate all future Assessments or installments, interest, late fees, penalties, fines, attorney fees, and other appropriate costs properly chargeable to an Owner by the Association, until such amounts are fully paid. Said lien may be foreclosed at any time as allowed by law. The lien of the Association shall be superior to all other liens and encumbrances except: a lien or encumbrance recorded before the original Declaration was recorded; a first or second security interest on the Lot secured by a

mortgage or trust deed that is recorded before the Association's notice of lien; or a lien for real estate taxes or other governmental assessments against the Lot. The Association through its duly authorized agents, may bid on the Lot at any foreclosure sale, and may acquire and hold, lease, mortgage, and convey the Lot.

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

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

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

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

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

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

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

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

5.20. **Reinvestment Fee.** The Board, by resolution, shall have the right to establish from time to time (but shall not be required to establish) a "Reinvestment Fee" assessment in accordance with this Section and Utah Code §57-1-46. If established by the Board, the following terms and conditions shall govern Reinvestment Fees.

1) Upon the occurrence of any sale, transfer, or conveyance of any Lot as reflected in the office of the Salt Lake County recorder, regardless of whether it is pursuant to the sale of the Lot or not (as applicable, a "Transfer"), the party receiving title to the Lot (the "Transferee") shall pay to the Association a Reinvestment Fee in an amount established by the Board, provided that in no event shall the Reinvestment Fee exceed the maximum rate permitted by law.

2) The Association shall not levy or collect a Reinvestment Fee for any of the Transfer exempted by Utah Code § 57-1-46.

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

5.21. **Account Payoff Information**. The Association may charge a fee for providing account payoff information in connection with the closing of an Owner's financing, refinancing, or sale of a Lot as provided for in Utah Code §57-8a-106. The Board may set forth the amount of the fee in the Rules, but such fee shall not exceed the maximum amount allowed pursuant to Utah law. If not otherwise set forth in the Rules, the account payoff fee shall be fifty dollars (\$50.00).

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

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

## **ARTICLE VI. DUTIES AND POWERS OF THE ASSOCIATION**

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

6.2. **Legal Organization**. The Association may be incorporated as a nonprofit corporation. In the event the nonprofit corporate status expires or is invalidated in any manner, the Board, in its sole discretion, may renew and/or reincorporate the Association. Any such

expiration or invalidation shall not relieve any Owner from paying Assessments and abiding by all Restrictions contained in this Declaration.

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

- 1) The powers, duties, and obligations granted to the Association by this Declaration, its Bylaws, and the Articles;
- 2) The powers and obligations of a nonprofit corporation pursuant to the general nonprofit corporation laws of the State of Utah;
- 3) The powers, duties, and obligations of a homeowner's association pursuant to the Utah Community Association Act, or any successor thereto;
- 4) The powers, duties, and obligations not reserved specifically to Lot Owners; and
- 5) Any additional or different powers, duties, and obligations necessary or desirable for the purpose of carrying out the functions of the Association pursuant to this Declaration or otherwise promoting the general benefit of the Owners within the Project.

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

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

- 1) **Maintenance and Services.** The Association shall provide maintenance and services for the Project as provided in Article VII and other provisions of this Declaration.
- 2) **Insurance.** The Association shall obtain and maintain in force policies of insurance as provided in this Declaration, the Act, or the Bylaws of the Association. The Association shall have no obligation to obtain or maintain any insurance covering the personal and real property of any Owner(s), and each Owner shall be responsible for obtaining and maintaining such personal and real property insurance.
- 3) **Rulemaking.** The Association, through its Board, shall make, establish, promulgate, amend, and repeal Rules governing the conduct of persons and the operation and use of the Project as it may deem necessary or appropriate in order to assure a clean, aesthetically pleasing, peaceful, and orderly use and enjoyment of the Project. Pursuant to Utah Code §57-8a-218(15), the requirements of Utah Code §57-8a-218(1) through (13), except subsection (1)(b)(ii), are hereby modified to not apply to the Association.
- 4) **Assessments.** The Association shall adopt budgets and impose and collect Assessments as provided in Article V of this Declaration.
- 5) **Enforcement.** The Association shall perform such acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce the provisions of the Governing Documents of the Association. Owners, Occupants, guests, and family members shall be jointly and severally liable for any fines incurred for violations of the Governing Documents.
- 6) **New Capital Improvements.** New capital improvements to the Project up to and equaling seven thousand five-hundred dollars (\$7,500) may be authorized by the Board of

Directors alone. New capital improvements in excess of seven thousand five-hundred dollars (\$7,500) require the approval of a majority of Owners in attendance, whether by person or by proxy, at a duly called Member meeting. The maintenance, repair, and replacement of existing Common Areas is not considered a new capital improvement. If the capital improvement is included or considered in an Association reserve analysis, it is not a new capital improvement.

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

8) **Employment of Agents, Advisers, and Contractors.** The Association may employ professional counsel and obtain advice from such persons or firms or corporations such as, but not limited to, community association managers, landscape architects, accountants, recreational experts, architects, planners, lawyers, reserve study specialists, or what is convenient for the management, maintenance, and operation of the Project.

9) **Litigation.** The Board may instigate litigation to enforce the provisions of this Declaration or any other Common Law or statutory right which the Association is granted.

10) **Shared Use of Open Space.** An easement for recreational use of the Association's open space shall be granted by the Association as a benefit and right appurtenant to Lot Owners and their successors, heirs, assigns, lessees, and tenants subject to provisions of this Declaration or other Governing Documents.

11) **Financial Records.** The Association shall maintain corporate and financial records as required by the Act and the Bylaws.

12) **Joint Use/Maintenance Agreements.** The Association may enter joint use and maintenance agreements for usage of the Association's Common Areas and parks.

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

6.6. **Board of Directors.** The governing body of the Association shall be the Board of Directors. Except where a matter or vote is specifically reserved to the Owners, the Board shall act in all instances on behalf of the Association. Board Members shall be elected pursuant to the provisions set forth in the Bylaws which may set forth requirements for serving on the Board. Without limiting the generality of the foregoing, the Board may appoint one or more "Committees", and such Committees (which may consist of one or more members, as determined by the Board) shall have such authority and duties as may be determined from time to time by the Board relating to the budgeting, operation, financial management and administration of the Project. While any Committee established by the Board shall report to the Board regularly regarding its activities, the Board may by express directive relinquish and transfer all authority and responsibility with respect to such prior delegated duties.



6.7. **Management.** The Project may be managed by a Manager selected by the Board to assist in the management and operation of the Project. The Board may delegate such of its powers and duties to the Manager as it deems appropriate; reserving the right, however, to control and oversee the administration thereof. Any powers and duties delegated to any Manager may be revoked by the Board at any time, with or without cause.

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

## ARTICLE VII. MAINTENANCE

7.1. **Owner Responsibility.** Unless otherwise agreed to in writing by the Association, each Owner shall have the exclusive responsibility for (at the Owner's own expense) all of the maintenance, repair, and replacement of the Owner's Lot, Residence, and appurtenant Limited Common Areas, including, but not limited to, the following:

1) **Maintenance of Lot, Structures, and Improvements.** Each Owner shall have the obligation to provide all maintenance, repair, and replacement for the Residence, Lot, appurtenant Limited Common Areas, and all other structures and improvements contained on the Lot including, but not limited to, roofs, gutters, down spouts, window wells, exterior building surfaces, driveways, and landscaping. Each Owner shall be responsible to paint, repair, and otherwise maintain the exterior of his or her Residence and shall maintain all mechanical devices, including, but not limited to, appurtenant electrical, plumbing, heating, ventilating, and air conditioning systems. The Residence, Lot, appurtenant Limited Common Areas, and all other structures and improvements contained on the Lot shall be maintained in such a manner as to preserve and achieve structural integrity, safety, an attractive appearance, and a clean, sanitary, good, and uncluttered condition.

2) **Utility Lines Serving Lot.** The Owner shall be responsible for maintaining all utility lines (including, but not limited to, sewer, water, power, gas, and electrical) serving the Owner's Lot and/or Residence, up to the point such utility lines serve multiple Residences or Lots.

3) **Landscaping.** Each Owner shall be responsible for installing, maintaining, and replacing all landscaping on the Owner's Lot and appurtenant Limited Common Areas, including at a minimum, lawns on all areas not otherwise landscaped. Landscaping shall include the provision and maintenance of a sprinkling system for each Lot and appurtenant Limited Common Areas. Each Owner shall maintain the Landscaping on the Lot and appurtenant Limited Common Areas in a good and attractive condition. Weeds shall be removed and controlled, and plants and trees shall be trimmed and properly maintained.

4) **Fencing.** Owners may cause the backyard portions of their Lots (areas to the rear of the front-most facing surface of the Residence) to be fenced in. Fences shall follow Lot lines and shall not encroach on the Common Area. No fencing shall be permitted in the front of a Lot (areas between the street and the front-most facing surface of the Residence) or on any of the appurtenant Limited Common Areas. Unless otherwise permitted in the Association's Rules or approved and permitted by the Board in writing and in its sole discretion, fencing material shall be solid white vinyl and

shall be six (6) feet in height; provided, however, that this fencing material restriction shall not apply to fencing in existence on the date this Declaration is recorded until such fencing is replaced, at which time the fencing material must comply with this Subsection 4. This fencing material restriction shall not apply to the cement/rock fencing that borders the west boundary of the Project along 4000 West. That fencing shall remain a contiguous cement/rock fence at all times. Each Owner shall be responsible for maintaining, repairing, and replacing fences that border his or her Lot. Owners shall notify the Association at least one (1) week before any fence is installed or replaced pursuant to this Subsection 4. Repair of fences does not require notice to the Association.

5) **Snow Removal.** Owners shall be responsible for removing snow from all sidewalks, paths, walkways, driveways, and steps in or on the Lots and appurtenant Limited Common Areas.

7.2 **Association Responsibility.** The Board, in its sole discretion, shall determine the appropriate maintenance standard for the Common Areas. The Association shall be responsible for the maintenance, repair, and replacement of the Common Areas (excluding the appurtenant Limited Common Areas, which areas shall be the responsible of the Owners as provided in Section 7.1), including, but not limited to, the following:

1) **Common Area Improvements.** The Association shall maintain, repair, and replace all improvements in the Common Areas.

2) **Landscaping.** The Association shall maintain, repair, and replace all landscaping in the Common Area and shall provide mowing and trimming to the Common Areas.

3) **Fences.** The Association shall maintain, repair, and replace those fences that do not border a Lot.

4) **Snow Removal.** The City of South Jordan will provide snow removal for all public streets in the Project. To the extent any private streets exist in the Project, the Association shall provide snow removal for such streets. The Association shall provide snow removal for sidewalks and walkways, if any, in the Common Area.

7.3. **Board Discretion to Determine Maintenance Responsibilities.** In the event a maintenance obligation is not outlined herein or confusion arises as to a maintenance obligation, the Board may, by resolution and in its sole discretion, determine whether the Association or the Owners shall have the responsibility to fulfill the maintenance obligation.

7.4. **Owner Maintenance Neglect.** In addition to any other action allowed by this Declaration, if an Owner: (a) fails to maintain his or her Lot, Residence, or appurtenant Limited Common Areas as required by the Governing Documents, or (b) fails to make repairs otherwise required of the Owner in such a manner as may be deemed reasonably necessary in the judgment of the Board to preserve and protect the structural integrity, attractive appearance, good condition, and value of the Lots in the Project, the Association may give written notice to such Owner stating with particularity the nature of the default and the corrective action that the Board determines to be required, and requesting that the same be carried out with a period of not less than fourteen (14) days. If the Owner fails to carry out such action within the time period specified by the notice, the Association may cause corrective action to be taken (which may include completing repairs and replacements) and

may assess the Owner for all costs associated therewith, including attorney fees if attorney fees have been incurred.

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

## ARTICLE VIII. INSURANCE

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

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

8.2. **Property Insurance.** Owners are responsible to provide property insurance covering their Residences and Lots. The Association shall maintain a blanket policy of property insurance covering the Common Areas, and any fixtures or equipment thereon that are the obligation of the Association to maintain. The Association may maintain broader coverage if afforded by the insurance contract.

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

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

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

(d) The blanket policy shall include either of the following endorsements to assure full insurable value replacement cost coverage: (1) a Guaranteed Replacement Cost Endorsement under which the insurer agrees to replace the insurable property regardless of the cost; and (2) a Replacement Cost Endorsement under which the insurer agrees to pay up to one hundred percent (100%) of the Project's insurable replacement cost but not more. If the policy includes a coinsurance clause, it must

include an Agreed Amount Endorsement which must waive or eliminate the requirement for coinsurance.

(e) Each property policy that the Association is required to maintain shall also contain or provide for the following: (i) "Inflation Guard Endorsement," if available, and (ii) "Building Ordinance or Law Endorsement," (the endorsement must provide for contingent liability from the operation of building laws, demolition costs, and increased costs of reconstruction.

(f) The Association shall set aside an amount equal to the amount of the Association's property insurance deductible or, if the policy deductible exceeds \$10,000, an amount not less than \$10,000.

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

**8.3. Comprehensive General Liability (CGL) Insurance.** The Association shall obtain CGL insurance insuring the Association, the agents and employees of the Association, and the Owners, against liability incident to the use, ownership or maintenance of the Common Area or membership in the Association. The coverage limits under such policy shall not be less than One Million Dollars (\$1,000,000.00) covering all claims for death of or injury to any one person or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which would preclude the insurer from denying the claim of an Owner because of the negligence acts of the Association or another Owner.

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

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

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

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

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

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

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

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

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

## ARTICLE IX. USE RESTRICTIONS

9.1. **Use of Common Areas**. The Common Areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to Lots. The Common Areas shall be used at the sole risk and responsibility of the Owners, Occupants, and their guests.

9.2. **Use of Lots**. All Lots shall have a single-family Residence and are restricted to such use. No gainful occupation, business, trade, or other nonresidential use shall be conducted on any Lot or Residence except with the prior written consent of the Board.

Notwithstanding the foregoing, activities otherwise prohibited by this Section are permitted without Board approval if (1) only normal residential activities would be observable outside of the Residence; (2) the business activity does not involve persons coming on to the Project who do not reside in the Project in a manner and/or amount that would constitute a nuisance; (3) the business activity does not involve the solicitation of Occupants or Owners; (4) the business will not result in the increase of the cost of the Association's insurance; and (5) the activities would not be in violation of applicable local ordinances.

9.3. **Offensive or Unlawful Activities.** No noxious or offensive activities shall be carried on upon any Lot or Common Area, nor shall anything be done or placed on any Lot or Common Area which interferes with or jeopardizes the quiet enjoyment of other Lots or the Common Areas. Owners and Occupants shall abide by all laws, ordinances, and regulations of all governmental bodies having jurisdiction thereof, including, but not limited to, how Lots and Residences are used. No use shall be made of any Lot which would result in an increase in the cost of the Association's insurance or which would cause the improvements within the Project or any part thereof to be uninsurable against loss by fire or other perils included in insurance contracts, or cause such insurance to be canceled or suspected, or cause any company issuing such insurance to refuse renewal thereof.

9.4. **Vehicles and Parking.** Owners and Occupants shall park all vehicles, trailers, boats, and recreational vehicles in accordance with South Jordan City parking regulations. At no time shall any vehicle be parked in a manner that would block an entrance to a Lot or at any other location within the Project that would impair vehicular or pedestrian access or snow removal. The Board may adopt additional Rules relating to the parking of vehicles within the Project, including, without limitation: the size and dimensions of the vehicles parked within the Project; the admission and temporary parking of vehicles within the Project; the right to remove or cause to be removed any vehicles that are improperly parked; and the levying of fines to Owners and Occupants who violate, or whose invitees violate, such Rules. The Association reserves the right to prosecute complaints against those who create ongoing safety or environmental concerns.

9.5. **Pets and Animals.** Animals kept on any Lot shall be properly fenced, sheltered, and cared for. Each Owner shall clean facilities for their pets as needed to maintain them free from objectionable odors, pests, insects, etc. No animal or other pet of any kind other than common domesticated animals shall be allowed, such as, but not limited to, dogs, cats, birds, fish, and hamsters. No animal shall, in the opinion of the Board, be dangerous to other residents or other residents' pets or make unreasonable amounts of noise or create odor nuisances. All dogs shall be kept on a hand-held leash except when on an Owner's Lot. Owners are solely responsible for the actions and behavior of the pets and animals staying or visiting at the Residence, and shall hold the Association harmless from any damage or injury caused by such pets and animals. All Owners shall be responsible for the pickup and disposal of any excrement deposited by his or her pets and animals. Owners shall follow all city ordinances relating to animals. The Board may adopt additional Rules regarding pets and animals in the community, including the number of pets allowed on a Lot, breeds of animals allowed or disallowed, and removal of pets in violation of this Section.

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

of a Residence or appurtenant structures; or except any machinery or equipment allowed by the Board for durations permitted by the Board.

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

- 1) The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot or the Common Areas;
- 2) The storage of any item, property or thing that will cause any Lot or the Common Area to appear to be in an unclean or untidy condition or that will be noxious to the senses;
- 3) The accumulation of rubbish, unsightly debris, garbage, equipment, unregistered or abandoned vehicles, or other things or materials that constitute an eyesore as reasonably determined by the Board;
- 4) The storage of any substance, thing or material upon any Lot or in the Common Areas that will emit any foul, unpleasant or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;
- 5) Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents, their guests or invites, particularly if the police or sheriff must be called to restore order;
- 6) Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature that diminishes or destroys the enjoyment of the Association by other residents, their guests or invitees;
- 7) Too much noise or traffic in, on or about any Lot or the Common Area, especially after 10:00 p.m. and before 7:00 a.m., or excessive use of outside speakers or amplifiers;
- 8) Activities or conditions defined as a nuisance by South Jordan City or other governmental entity with jurisdiction over the Project; or
- 9) Other sights, sounds, smells, activities, or behaviors deemed a nuisance by the Board.

9.8. **Signs.** The Association may regulate and restrict signs in the Project to the extent permitted by law. Unless otherwise designated in the Rules, the following restrictions shall apply: Only "For Sale" signs no larger than 3 feet by 2 feet and that are placed in the window of a Residence are permitted. All other signs may only be erected or maintained in the Project, whether in a window or otherwise, with the prior approval of the Board. In no instance may signs be placed in the Common Area without the written consent of the Board.

9.9. **Garbage and Refuse Disposal.** All rubbish, trash, and garbage shall be regularly removed from the Property or Lots and shall not be allowed to accumulate thereon. All garbage, trash, or other waste shall be kept in sanitary receptacles, including recyclable containers, shall not be stored in the front of the Residence but shall be stored in the garage or along the side of the Residence, except on trash collection days. No equipment or storage

piles may be kept outside of the Residence. The Board may adopt additional Rules for the storage and concealment of trash containers.

9.10. **External Fixtures and Clotheslines.** Unless otherwise provided in the Rules and to the extent permissible by applicable law, Owners may construct, erect, maintain external items and fixtures such as television and radio antennas, satellite dishes, flag poles, and lighting fixtures on their Lots without the prior written approval of the Board. Unless otherwise permitted in the Rules, clotheslines and external laundering and drying of clothes and other items are prohibited.

9.11 **Equipment and Automobile Maintenance.** Unless otherwise provided by the Board, no equipment or car maintenance or repairs of any nature shall be permitted on the Property except in a garage. Emergency repairs in the driveway of Lot that do not exceed 24-hours are permitted.

9.12. **Smoking.** Smoking is prohibited in the Common Areas and shall constitute a nuisance under Section 9.7 herein. It shall also be a nuisance under Section 9.7 to permit or cause any smoke to drift or otherwise enter into another Lot or Residence. Neither an Owner complaining of smoke nor the Association responding to a complaint shall be required to close windows or doors, make repairs, or otherwise make any physical alteration to the Project or to any Lot or Residence to prevent drifting smoke from entering into that Lot or Residence. It shall be the sole responsibility of the Owner causing the smoke to prevent or stop smoke from entering any other Lot. Smoking shall include the inhaling, exhaling, breathing, carrying, or possession of any lighted cigarette, cigar, pipe, electronic cigarette, vaping device, other product containing any amount of tobacco, or other similar heated, smoldering, or lit product. The Board may adopt additional Rules to address smoking within the Project.

9.13. **Unsightly Items and Storage.** No observable outdoor storage of any kind shall be permitted on front yards, porches, etc., which may be seen from the Association's roads or another Lot except for patio furniture in good repair and condition. Junk, unlicensed or inoperable cars, or other unsightly items shall not be maintained or stored on any Lot except within an enclosed garage.

9.14. **Leases.** Each Residence shall be occupied by at least one Owner of the Residence as his or her primary residence for the first twelve (12) months the Owner owns the Lot. After the twelve (12) months, an Owner may lease his or her Residence as outlined herein. The twelve (12) month waiting period shall not apply to Owners who own Lots as of the date this Declaration is recorded, but shall apply to all Owners who purchase a Lot after the date this Declaration is recorded. Any agreement for the leasing, rental, or occupancy of a Residence (hereinafter in this Section referred to as a "lease") shall be in writing, a copy of which shall be provided to the Board along with the name and contact information for all adult tenants, vehicle information of the tenants, and any other information deemed necessary by the Board. No Owner shall be permitted to lease his/her Residence for transient, hotel, or seasonal purposes. All leases shall be for an initial term of no less than twelve (12) months. Daily, weekly, or other short-term rentals, including Airbnb or other similar leasing practices, are prohibited. No Owner may lease individual rooms to separate persons or less than his or her entire Residence. All leases shall provide that the tenant is subject to and shall abide by the Governing Documents and the tenant's failure to do so shall constitute a breach of the lease agreement. Within 10 days after delivery of written notice of the creation of a nuisance or violation of the Governing Documents, the Owner shall proceed promptly to either abate or terminate the nuisance, or cure the default, and notify the Board in writing of his or her



intentions. If the Owner fails to act accordingly, the Board may initiate eviction proceedings on behalf of the Owner, and through this Declaration the Owner hereby assigns the Association the authority to do so. In addition to other legal remedies, the Board may also assess fines for non-compliance with this Section. The Owner of a Lot shall be responsible for the Non-Owner Occupant's or any guest's compliance with the Governing Documents and the Owner and Occupant shall be jointly and severally liable for any fines for violationsthereof.

9.15. **Window Covers.** No window shall be covered by paint, grease, blankets, rugs, foil, sheets, towels, newspaper, or similar items. The Board may adopt Rules regulating the type, color, and design of the external surface of window covers.

9.16. **Holiday Decorations.** Holiday decorations may be displayed on the Lots within thirty (30) days before and thirty (30) days after the related holiday. The Board may adopt additional Rules to regulate holiday decorations in the Project, to the extent permitted by law. Holiday decorations shall include any type of object (including, but not limited to, lights, wreaths, plants, trees, displays, inflatable items, religious iconography or symbols) relating to any national or religious holiday or used to convey a religious message, symbol, idea, identification, or for any other purpose that holiday decorations are typically understood and which are placed in, on, or outside of a Residence or Lot with the apparent purpose, in whole or in part, of making it visible to people outside of the Residence or Lot.

9.17. **Energy Conservation Equipment.** Solar energy collector panels and attendant hardware or other energy conservation equipment (collectively referred within this Section as "Energy Equipment") must be in accordance with South Jordan City building codes and requirements and are subject to design guidelines and Rules. Such design guidelines and Rules must require that the installation be an integral and harmonious part of the architectural design of the Lot or Residence. The following requirements shall apply to any Energy Equipment allowed by the Board:

- 1) The Energy Equipment shall be installed in a manner that complies with all applicable, health, safety, and building requirements established by applicable law, regulation, building code, or ordinance;
- 2) If the Energy Equipment is used to heat water, it shall be certified by the "Solar Rating and Certification Corporation", or a nationally recognized solar certification entity, as determined by the Board;
- 3) If the Energy Equipment is mounted on a roof, it shall not extend above the roof line and all panel frames, support brackets, and visible piping and wiring shall be similar in color and texture to the roof material;
- 4) If the Energy Equipment is mounted on the ground, it shall not be visible from the street that the Residence fronts;
- 5) Any and all costs incurred by the Association in reviewing any application to install Energy Equipment or in carrying out or enforcing the terms of this Section, including attorneys' fees, shall be paid to the Association as an Individual Assessment as set forth in Article V above;
- 6) The Owner of the Residence or Lot whereupon the Energy Equipment is installed shall maintain the same in a clean, attractive, and workmanlike manner, as determined by the Board;

7) As provided by the Act, the Owner installing the Energy Equipment shall be jointly and severally liable with any subsequent Lot Owner for a violation of any Rules or design guidelines duly adopted by the Association regarding the placement, care, maintenance, and so forth of any Energy Equipment, including those requirements set forth herein;

8) The Lot Owner shall be responsible for, and shall indemnify and hold the Association harmless from, any damage or injury to person or property that is caused by the Energy Equipment; and

9) As a condition of installing any Energy Equipment, a deed restriction or similar agreement covering the foregoing requirements, and any others imposed by the Association (as used herein "Energy Agreement"), may, in the discretion of the Board, be entered into by the Owner and the Association. The Energy Agreement shall be recorded against the Lot, run with the Lot, and be binding upon the Lot's successors in interest and assigns.

9.18. **Lighting.** Exterior lighting fixtures and walkway and landscaping lights shall be allowed only to the extent approved by the Board.

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

## ARTICLE X. DESIGN GUIDELINES

10.1. **Design Guidelines.** The Board may adopt design guidelines for the purpose of maintaining a consistent character and quality of appearance of the improvements within the project. The design guidelines may designate the design, style, model, and manufacturer of any materials to be used for an exterior improvement or alteration that is acceptable to the Board. The design guidelines may also designate landscaping requirements. Such designations shall be for the purpose of achieving uniformity of appearance and preservation of property values. Amendments to the design guidelines shall apply prospectively only.

10.2. **Variations.** The Board may authorize variances from compliance with any of the architectural provisions of this Declaration or design guidelines. Such variances must be in writing and must be signed by all of the members of the Board. If a variance is granted, no violation of the Governing Documents shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of a variance shall not operate to waive any Restrictions of the Governing Documents, other than those specifically identified in the variance, nor shall it affect an Owner's obligation to comply with all governmental laws and regulations.

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

## **ARTICLE XI. ENFORCEMENT**

11.1 Enforcement of Governing Documents. The Association, through the Board, shall have the power and authority in its own name, on its own behalf, or in the name and behalf of any Owner(s) who consents thereto, to enforce (by fine, proceedings at law or in equity, or any other manner allowed by law) each provision of the Governing Documents and design guidelines, including the right to prevent any violation of such, and the right to recover damages and other sums for such violation(s). The Association shall have the right to collect costs and reasonable attorney fees from Owners for all enforcement actions taken by the Association, whether or not a lawsuit or other official legal action is instigated by the Association. Owners may also enforce the Governing Documents and design guidelines as allowed by law through proceedings at law or in equity. The prevailing party in any action for the enforcement of any provisions of the Governing Documents and design guidelines (including but not limited to litigation and the appeal thereof) shall be entitled to collect court costs and reasonable attorney fees. Occupants, guests, and invitees shall be jointly and severally liable with the Owner for any fine assessed as a result of their action in violation of the provisions of the Governing Documents.

## **ARTICLE XII. RIGHTS OF FIRST MORTGAGEE**

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

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

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

## **ARTICLE XIII. RIGHT OF ENTRY**

13.1 Right to Enter Lots. The Association acting through the Board or its duly authorized agent shall have the right at all times and upon reasonable notice of at least 48 hours to enter upon any Lot on the areas located outside the exterior boundaries of a Residence, without trespass, and regardless of whether or not the Lot Owner or Occupant thereof is present at the time, to abate any infractions, to fulfill its responsibilities, to exercise

its rights, to make repairs, and to correct any violation of any of the Governing Documents. The notice set forth in this Section shall not be necessary in case of an emergency threatening other Residences, Occupants, or other parts of the Project. Nothing in this Section shall be construed to authorize the entry of the Association into the interior of a Residence without the consent of the Lot Owner unless there is an emergency threatening another Residence or the Occupants of another Residence. Owners shall maintain up-to-date emergency contact information records with the Association, including any local representative an Owner may have for notice purposes.

## **ARTICLE XIV. AMENDMENTS**

14.1 **Amendments.** This Declaration may be amended upon the affirmative vote of at least sixty-seven percent (67%) of the voting interests of the Association. No meeting shall be required for an amendment if the required vote for approval is obtained by written consent or ballot. Any amendment(s) shall be effective upon recordation in the office of the Salt Lake County Recorder. In such instrument the Board shall certify that the vote required by this Section for amendment has occurred. If a Lot is owned by more than one Owner, the vote of any one Owner shall be sufficient to constitute approval for that Lot under this Section. If a Lot is owned by an entity or trust, the vote of any one officer, trustee, or agent of the entity shall be sufficient to constitute approval for that Lot under this Section. No acknowledgment of any signature used for voting shall be required.

## **ARTICLE XV. MISCELLANEOUS**

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

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

15.3. **Dissolution.** The Association may be dissolved by the affirmative assent in writing from 80% of the Lot Owners. Upon dissolution, the Association's assets shall be transferred to a nonprofit corporation, trust, or other entity to be used for purposes similar to those provided herein, and each Owner shall continue to be obligated to make assessment payments for the maintenance and upkeep of the Common Areas and facilities on a pro rata basis which conforms substantially with the assessments procedure, terms and conditions set forth in Article V.

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

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

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

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

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

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

**CERTIFICATION**

IN WITNESS WHEREOF, this Amended and Restated Declaration of Covenants, Conditions, and Restrictions of The Sand Dunes was duly approved by at least 67% of the total voting power of the Association.

DATED as of the 12 day of 14, 2022.

The Sand Dunes Owners Association  
A Utah Nonprofit Corporation

BRYAN FOSTER

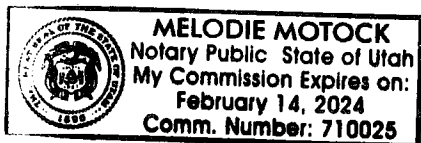
By: [Signature]

Its: PRESIDENT

State of Utah )  
                          ) ss.  
County of Salt Lake

On the 14 day of December 2022, personally appeared before me Bryan Foster who by me being duly sworn, did say that she/he is an authorized representative of The Sand Dunes Owners Association, and that the foregoing instrument is signed and executed by authority of the consent of its members.

Notary Public [Signature]



**EXHIBIT A**  
**LEGAL DESCRIPTION AND PARCEL NUMBERS**

**Phase 1**

Common Area and Units (Lots) 101-134, according to the Sand Dunes Condominium Phase 1 official plat, and any amendments thereto, on file and of record in the office of the Salt Lake County Recorder.

Parcel Numbers: 27-17-301-002-0000 through 27-17-301-035-0000  
27-17-301-096-0000 (Common Area)

**Phase 2**

Common Area and Units (Lots) 201-226, according to the Sand Dunes Condominium Phase 2 official plat, and any amendments thereto, on file and of record in the office of the Salt Lake County Recorder.

Parcel Numbers: 27-17-301-037-0000 through 27-17-301-039-0000  
27-17-301-041-0000  
27-17-301-043-0000 through 27-17-301-062-0000  
27-17-301-064-0000  
27-17-301-096-0000 through 27-17-301-097-0000 (Common Area)  
27-17-301-099-0000

**Phase 3**

Common Area and Units (Lots) 301-330, according to the Sand Dunes Condominium Phase 3 official plat, and any amendments thereto, on file and of record in the office of the Salt Lake County Recorder.

Parcel Numbers: 27-17-301-066-0000 through 27-17-301-095-0000  
27-17-301-096-0000 (Common Area)

**EXHIBIT B**  
**BYLAWS**  
**OF**  
**THE SAND DUNES OWNERS ASSOCIATION**

These BYLAWS OF THE SAND DUNES OWNERS ASSOCIATION f/k/a The Sand Dunes Condominium Owners Association are effective upon recording in the Salt Lake County Recorder's Office pursuant to the Utah Community Association Act ("Act") and the Utah Revised Nonprofit Corporation Act ("Nonprofit Act") (referred collectively herein as the "Acts").

**RECITALS**

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

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

C. These Bylaws of the Association supersede and replace any previous bylaws of the Association and any amendments thereto, whether recorded or not.

**ARTICLE I**  
**DEFINITIONS**

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

**ARTICLE II**  
**APPLICATION**

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

**ARTICLE III**  
**OWNERS**

3.1 **Annual Meetings.** The Annual Meeting of the Owners shall be held each year on a day and time established by the Board. The purposes of the Annual Meeting may include



the election of Board Members, the distribution of financial reports and budget, distributing the most recent reserve study, and to transact such other business as may come before the meeting. The Board may from time to time by resolution change the month, date, and time for the Annual Meeting.

3.2 **Special Meetings.** Special Meetings of the Owners may be called by a majority of the Board, the President, or upon the written request of Owners holding not less than thirty-five percent (35%) of the voting interests of the Association. Any written request for a Special Meeting presented by the Owners shall be delivered to the President and shall include the original signature of each Owner affirmatively supporting such request along with a complete statement of the purpose of the meeting on each page containing signatures. The President shall then call, provide notice of, and conduct a Special Meeting within 45 days of receipt of the Owner request.

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

3.4 **Notice of Meetings.** The Board shall cause written or printed notice of the date, time, and place (and in the case of a Special Meeting, the purpose or purposes) for all Owner meetings. Such written or printed notice shall be delivered to each Owner of record entitled to vote at such meeting not more than thirty (30) nor less than ten (10) days prior to the meeting. Such notice may be sent via email, text, hand-delivery, regular mail, or as otherwise allowed by the Act. If sent by email or text, such notice shall be deemed delivered and effective on the date transmitted to the Owner's email address or telephone number registered with the Association. If mailed, such notice shall be deemed to be delivered and effective on the date deposited in the U.S. mail if addressed to the Owner's address registered with the Association. Each Owner shall register with the Association such Owner's current email address, phone number, and mailing address for purposes of notice hereunder. Such registered email, phone number, and mailing address may be changed from time to time by notice in writing to the Association. If no address is registered with the Association, an Owner's Residence shall be deemed to be the Owner's registered address and notice to the Residence address may be made by first-class mail or by posting the meeting notice on the front door. An Owner may opt out of receiving notices from the Association via email or text by giving written notice to the Board stating that the Owner will not accept notices by way of email or text.

3.5 **Qualified Voters.** An Owner shall be deemed to be in "good standing" and "entitled to vote" at any meeting of the Association if he or she is not delinquent in the payment of Assessments.

3.6 **Record Date for Notice Purposes.** The Board may designate a record date, which shall not be more than thirty (30) nor less than ten (10) days prior to the meeting, for the purpose of determining Owners entitled to notice of any meeting of the Owners. If no record date is designated, the last date on which a notice of the meeting is mailed or delivered shall be deemed to be the record date for determining Owners entitled to notice. The persons or entities appearing in the records of the Association on such record date as the Owner(s) of record of Lots in the Project shall be deemed to be the Owners of record entitled to notice of the Owner meeting.

3.7 **Quorum.** Those Owners present in person or by proxy at any duly called

meeting that is called and held in compliance with the requirements of this Article, shall constitute a quorum for the adoption of decisions.

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

3.9 **Votes**. With respect to each matter submitted to an Owner vote, each Owner entitled to vote at the meeting shall have the right to cast, in person or by proxy, one (1) vote per Lot owned. The affirmative vote of a majority of the votes entitled to be cast by the Owners present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by Owners, unless a greater proportion is required by the Articles of Incorporation, these Bylaws, or the Declaration. The election of Board Members may be by secret ballot. When a Lot is jointly owned, any Owner may exercise the vote for such Lot on behalf of all Co-Owners of the Lot. In the event of two (2) conflicting votes by Co-Owners of a Lot, no vote shall be counted for that Lot. In no event shall fractional or cumulative votes be exercised with respect to any Lot. Only those Owners who are not delinquent in the payment of Assessments to the Association shall be entitled to vote. Voting for any Association matter, including elections, may be done electronically, including online voting, so long as the Board can reasonably determine the validity of the vote. The Board may adopt additional Rules regarding such electronic voting, including timeframes for voting and other issues.

3.10 **Waiver of Irregularities**. All inaccuracies and irregularities in calls or notices of meetings and in the manner of voting, in the form of proxies and the method of ascertaining Owners present, and in the decision and votes of the Board or of the Owners shall be deemed waived by those Members in attendance if no objection is made at the meeting. For those Members who are not in attendance at the meeting, the right to challenge inaccuracies and irregularities in calls, notices, voting, and decisions shall be waived if no objection is made within thirty (30) days of the date of the meeting.

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

3.12 **Minutes of Meetings**. The Secretary shall take minutes of all meetings of the Owners. The minutes shall include, at a minimum, (1) the identification of the Persons present

in person and by proxy, (2) the meeting date, (3) the identification of any issue that is voted on or decided in the meeting, (4) the number of votes cast for and against any issue decided upon, and (5) the exact wording of any resolution passed at the meeting. The failure to take appropriate minutes or otherwise comply with this section does not invalidate any action taken at a meeting.

## **ARTICLE IV BOARD OF DIRECTORS**

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

4.2 **Number and Qualifications.** The property, business, and affairs of the Association shall be governed by a Board of Directors composed of five (5) individuals. Board Members must be in good standing (see Section 3.5 herein), must be at least 18 years old, must reside in the Project, and must be an Owner or the spouse of an Owner of a Lot in the Project. If an Owner is a corporation, partnership, limited liability company, or trust, an officer, partner, member, manger, agent, trustee, or beneficiary of such Owner may be a Board Member. No more than one (1) Board Member may reside in the same household. If a Board Member ceases to meet any required qualifications during the Board Member's term, such person's membership on the Board shall automatically terminate.

4.3 **Nominations.** No more than sixty (60) or less than fifteen (15) days before an election to the Board of Directors is held, the Association shall notify the Owners of the election, of the number of upcoming vacancies that will filled at the election, and shall issue a call for nominations. The time period for nominations shall remain open for at least ten (10) days. Nominations for candidates shall be made in writing to a current Board Member or to the Manager. All nominees shall meet the qualifications for Board Members provided in these Bylaws. The Board of Directors may from time to time amend this nomination procedure by resolution.

4.4 **Election.** The election of Board Members shall be made by a vote of the Owners. If the election of Board Members is not held during the Annual Meeting, or at any adjournment thereof, the Board may hold the election at a Special Meeting of the Owners. Pursuant to Section 3.9 above, the election may also take place electronically, including online voting, so long as the Board can reasonably determine the validity of the vote. During each election, the Owners (or their proxies, if the election takes place during an Annual or Special Meeting) may cast, with respect to each vacancy, one (1) vote. The candidates receiving the largest number of votes shall be elected. Cumulative (i.e. an Owner casting all of his or her votes for the same candidate) or fractional voting is not permitted.

4.5 **Term of Office.** Each Board Member shall be elected for a term of two (2) years. Board Members may serve consecutive terms if reelected.

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

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

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

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

4.10 **Owner Attendance**. Any Owner may request notice of Board meetings by requesting such notice from a Board Member or Manager and providing a valid email address and phone number capable of receiving text messages which may be used by the Association in sending notice. If Owners attend a Board meeting, the Board may select a specific period of time during the meeting and limit Owner comments to such time period. The Board in its sole discretion may set a reasonable length of time that each Owner may speak.

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

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

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

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

4.14 **Compensation**. No Board Member shall receive compensation for any services rendered to the Association as a Board Member; provided, however, that a Board Member may be reimbursed for expenses incurred in performance of such duties as a Board Member

to the extent such expenses are approved by a majority of the other Board Members. Nothing herein contained shall be construed to preclude any Board Member from serving the Project in any other capacity and receiving compensation therefore, so long as approved in advance by a majority of disinterested Board Members.

4.15 **Resignation and Removal.** Board Members may resign at any time by delivering a written resignation to either the President or the Secretary. Unless otherwise specified therein, such resignation shall take effect upon delivery. A Board Member may be removed at any time, with or without cause, by the Owners at a special meeting duly called for such purpose upon the affirmative vote of more than fifty percent (50%) of the entire voting interests of the Association. A Board Member may also be removed with a majority vote of the Board if a Board Member misses three (3) or more consecutive Board meetings or misses more than 50% of the Board meetings in a calendar year.

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

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

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

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

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

## **ARTICLE V OFFICERS**

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

5.2 **Election, Tenure, and Qualifications.** Officers shall be elected by the Board at the first Board meeting following each Annual Meeting of the Owners. Each such officer shall hold such office until the next ensuing meeting of the Board following the Annual Meeting of the Owners and until a successor has been elected and qualified, or until such officer's death, or until resignation, disqualification, or removal in the manner provided in these Bylaws, whichever first occurs. Any person may hold any two (2) or more of such offices, except that

the President may not also be the Secretary. No person holding two (2) or more offices shall act in or execute any instrument in the capacity of more than one (1) office.

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

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

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

5.6 **President**. The President shall preside at meetings of the Board of Directors and at meetings of the Owners. At the meetings, the President shall have all authority typically granted to the person presiding over the meeting.

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

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

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

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

## **ARTICLE VI COMMITTEES**

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

responsibilities beyond those specifically assigned by the Board in a written resolution. The Board may terminate a committee at any time.

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

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

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

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

## **ARTICLE VII INDEMNIFICATION**

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

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

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

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

## **ARTICLE VIII RECORDS AND AUDITS**

8.1 **General Records.** The Board of Directors or the Manager for the Association shall keep detailed records of the actions of the Board of Directors and Manager; minutes of the meetings of the Board of Directors; and minutes of the Owner meetings of the Association. The Board of Directors or the Manager shall also maintain a book of resolutions containing the rules, regulations, and policies adopted by the Association and Board of Directors. The Board of Directors or the Manager shall also maintain a list of Owners.

8.2 **Records of Receipts and Expenditures.** The Board of Directors or its designee shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Project, itemizing the maintenance and repair expenses of the Common Areas or Association property and any other expenses incurred.

8.3 **Financial Reports and Audits.** An annual report of the receipts and expenditures of the Association and a balance sheet showing assets and liabilities shall be rendered by the Board of Directors to all Owners and to any mortgagees of Lots who request the same. The Board of Directors may also annually, at the expense of the Association, obtain an "accounting review" or "agreed upon procedures" by a certified public accountant or other similar financial review of the books and records pertaining to the Association and furnish copies thereof to the Owners and Eligible Mortgagees of Lots who request this information. From time to time the Board may also, at the expense of the Association, obtain an audit by a certified public accountant of the books and records of the Association. At any time, any



Owner or Eligible Mortgagee may, at such Owner's or Eligible Mortgagee's own expense, cause an audit or inspection to be made of the books and records of the Association.

**8.4 Inspection of Records by Owners.** Except as provided in Section 8.5 below, all records of the Association shall be reasonably available for examination by an Owner and any Eligible Mortgagee of a Lot pursuant to Rules adopted by resolution of the Board of Directors. The Board of Directors shall maintain a copy, suitable for the purposes of duplication of the following: (1) The Declaration, Bylaws, and any amendments in effect or supplements thereto, and Rules of the Association; (2) The most recent financial statement prepared pursuant to Section 8.3 above; and (3) The current operating budget of the Association. The Association shall, within a mutually agreeable time, after receipt of a written request by an Owner, furnish the requested information required to be maintained under this Section 8.4. The Board, by resolution, may adopt reasonable Rules governing the frequency, time, location, notice and manner of examination and duplication of Association and the imposition of a reasonable fee for furnishing copies of any documents, information or records described in this Section. The fee may include reasonable personnel costs incurred to furnish the information, including any and all fees the Association may be charged by its designee that assists the Association in furnishing this information, which may include managerial, legal, or accounting fees.

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

- (a) Personnel matters relating to a specific identified person or a person's medical records.
- (b) Contracts, leases, and other business transactions that are currently under negotiation to purchase or provide goods or services.
- (c) Communications with legal counsel that relate to matters specified in subsections a. and b. of this Section, or current or pending litigation.
- (d) Documents concerning existing or potential litigation, mediation, arbitration, or administrative proceedings.
- (e) Disclosure of information in violation of law.
- (f) Documents concerning existing or potential matters involving federal, state or local administrative or other formal proceedings before a governmental tribunal for enforcement of the Declaration, Bylaws or Rules;
- (g) Documents, correspondence, or management or Board of Director reports compiled for or on behalf of the Association or the Board by its agents or committees for consideration by the Board in executive session.
- (h) Documents, correspondence, or other matters considered by the Board of Directors in executive session.
- (i) Files of individual Owners, other than those of a requesting Owner or requesting Eligible Mortgagee of an individual Owner, including any individual Owner's file kept by or on behalf of the Association.

## **ARTICLE IX RULES AND REGULATIONS**

**9.1 Rules.** The Board shall have the authority to adopt and establish by resolution such Association Rules as it may deem necessary for the maintenance, operation, management, and control of the Project. The Board may from time to time, by resolution, alter,

amend, and repeal such Rules and use their best efforts to see that they are strictly observed by all Owners and residents. Owners are responsible to ensure that their lessees, invitees, and guests strictly observe the Rules then in effect as well as the covenants and restrictions of the Declaration and shall be jointly and severally liable for their violations and resulting fines.

**ARTICLE X  
AMENDMENTS**

10.1 **Amendments.** The Bylaws may be amended, altered, or repealed upon the affirmative vote of at least fifty-one percent (51%) of the voting interest of the Association. Any amendment(s) shall be effective upon recordation in the office of the Salt Lake County Recorder. In such instrument, the President shall execute the amendment and certify that the vote required by this Section has occurred. If a Lot is owned by more than one Owner, the vote of any one Owner shall be sufficient to constitute approval for that Lot under this Section. If a Lot is owned by an entity or trust, the vote of any one officer, trustee, or agent of the entity shall be sufficient to constitute approval for that Lot under this Section. No acknowledgment of any Owner or Board Member signature shall be required.

**ARTICLE XI  
MISCELLANEOUS PROVISIONS**

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

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

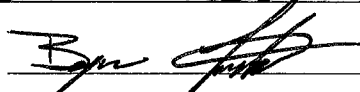
11.3 **Conflicts.** These Bylaws are intended to comply with the Declaration. In case of any irreconcilable conflict, the Declaration shall control over these Bylaws.

IN WITNESS WHEREOF, the Board of Directors has executed these Bylaws of The Sand Dunes Owners Association as of the day and year written below, after having receiving approval from at least 67% of the total voting power of the Association.

DATED as of the 12 day of 14, 2022.

**The Sand Dunes Owners Association**  
A Utah Nonprofit Corporation

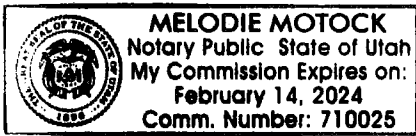
BRYAN FOSTER

By: 

Its: PRESIDENT

State of Utah            )  
                                  ) ss.  
County of Salt Lake

On the 14 day of December 2022, personally appeared before me Bryan Foster who by me being duly sworn, did say that she/he is an authorized representative of The Sand Dunes Owners Association and that the foregoing instrument is signed and executed by authority of the consent of its members.



Notary Public Melodie Motock