

**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS
FOR
FAIRWAY ON THE LINKS**

Utah County

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This DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR FAIRWAY ON THE LINKS ("Declaration") is adopted by Fairway on the Links, a Utah nonprofit corporation ("Association") and is effective as of the date it is recorded in the office of the Utah County Recorder.

RECITALS

A. This Declaration affects the real property situated in Utah 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.

B. The *Declaration of Easements, Covenants, Conditions and Restrictions (Including Owner Association Bylaws) Sleepy Ridge* was recorded in the Utah County Recorder's Office on December 13, 2004 as Entry No. 139465:2004 (the "Enabling Declaration").

C. The *Amendment to the Declaration of Easements, Covenants, Conditions and Restrictions Sleepy Ridge* was recorded in the Utah County Recorder's Office on July 20, 2020 as Entry No. 103333:2020 (the "Amendment").

D. The Amendment authorized the rescission of the Enabling Declaration from the Lots within the Project and the creation of a new and separate homeowners association as provided herein.

E. This *Declaration of Covenants, Conditions and Restrictions for Fairway on the Links* is adopted to: (1) document the rescission of the Enabling Declaration, (2) separate the 22 Lots subject to this Declaration from the governance of the Sleepy Ridge Property Owners' Association, (3) clarify and define the rights of the Association and the Owners, in and to the Project, (4) conform to changes to the Utah Community Association Act and other Utah law, (5) provide for a general plan for managing the Project, and (6) in furtherance of the effort to provide a quality living environment and protect and maintain the value of the Project.

F. This Declaration, which (along with and subject to any future amendments) shall be the sole declaration for the Project and shall completely replace and supersede in all respects the Enabling Declaration 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.

G. The Bylaws of the Association attached hereto as Exhibit B supersede and replace all previous bylaws of the Association and any amendments thereto.

H. Pursuant to Article XIV, Section 14.02 of the Enabling Declaration, and pursuant to the terms of the Amendment, the undersigned hereby certifies that the voting requirements necessary to adopt this Declaration and Bylaws have been satisfied.

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, shall define and govern the rights of the Owners and the Association related to the Project.

ARTICLE I. DEFINITIONS

The capitalized terms used in this Declaration shall have the meanings set forth in this Article. Unless the context clearly requires otherwise, the masculine, feminine and neuter genders and the singular and the plural shall be deemed to include one another, as appropriate.

1.1. **Act** shall mean the Utah Community Association Act, codified at Utah Code § 57-8a-101, *et seq.*, 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 for in this Declaration or other Governing Documents.

1.4. **Association** shall mean Fairway on the Links, 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 may renew or reinstate its corporate status without Owner approval.

1.5. **Board** or **Board of Directors** shall mean the Board of Directors of the Association as duly elected in accordance with the terms and conditions of the 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 attached as Exhibit B as the same may be amended from time to time. No amendment to the Bylaws shall be effective until it is recorded.

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. Common Areas shall include, without limitation, Association signs or monuments, open space, private roads, and any real property or improvements within the Project that the Association has the obligation to maintain, repair, or replace for the common benefit of the Owners, as the Board shall determine in its sole and exclusive discretion. Common Areas shall include utility and service lines and similar improvements intended to serve more than one Lot, if the Association is obligated to maintain such utility lines whether such facilities are 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; 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; payments for common utilities and common landscape water; and any other expenses necessary for the common benefit of the Owners.

1.10. **Declaration** shall mean this *Declaration of Covenants, Conditions and Restrictions for Fairway on the Links*, as may be amended from time to time.

1.11. **Design Guidelines** shall mean the requirements governing the location, color, materials, and architectural design of Residences, structures, landscaping and improvements within the Project as adopted by the Board.

1.12. **Governing Documents** shall mean and refer to the Declaration, Articles of Incorporation, Bylaws, Plat, Design Guidelines, and any Rules adopted by the Board.

1.13. **Lot** shall mean each of the individual Lots within the Project, as shown on the Plat, with the exception of the Common Areas. A Lot shall include all improvements constructed thereon, including the Residence.

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 any 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 any Person living, dwelling, visiting, or staying in a Residence or on a Lot. This includes, but is not limited to, all lessees, tenants, guests, and the family members, agents, and representatives living, or staying in a Residence. Occupants shall be bound by the Restrictions in this Declaration and shall be liable for any fines that are assessed for violations of the Governing Documents.

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

1.21. **Plat** shall mean the official Fairway Village at Sleepy Ridge P.R.D. – Phase 1 - Amended subdivision plat (including amendments if any), filed and recorded in the official records of the Utah County Recorder's Office. The Plat is hereby incorporated into and made an integral part of this Declaration, and all requirements and specifications set forth on the Plat and required by the Act are deemed included in this Declaration. If any conflict exists between the Plat and this Declaration, the Declaration shall control.

1.22. **Project** shall include the real property described in Exhibit A, together with the buildings, improvements, and permanent fixtures located thereon, and all easements and rights appurtenant thereto and shall at any point in time mean and refer to the entire Fairway on the Links Subdivision.

1.23. **Residence** shall mean a structure intended for use and occupancy as a single-family residence, together with all improvements located on or with respect to the Lot concerned which are used in connection with such Residence. The Residence shall include, without limitation, the roofs and all exterior surfaces, exterior trim, gutters, downspouts, structural members, and foundations. The Residence shall also include any mechanical equipment and appurtenances located within any one Residence, or located without said Residence but designed to serve only that Residence, such as appliances, air conditioning

compressors, sprinkler systems, antennas, fixtures and the like. All pipes, wires, conduits, or other utility lines or installations constituting a part of the Residence or serving only the Residence shall be deemed to be a part of 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 and refer to the Rules, resolutions, regulations, policies, architectural guidelines, etc. adopted by the Board.

ARTICLE II. PROJECT DESCRIPTION

2.1. **Submission.** The real property described with particularity on Exhibit A attached hereto and incorporated herein by this reference is hereby submitted to the Act. The Declarant declares that 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 Declarant, 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 Fairway on the Links. The Project is not a cooperative.

2.3. **Description of Improvements.** The major improvements contained in the Project include twenty-two (22) Lots with Residences and appurtenant improvements, private roads, and utility lines. There are also Common Areas as further provided herein, along with other improvements detailed on the Plat. The Lots, their locations, and approximate dimensions are indicated on the Plat.

ARTICLE III. MEMBERSHIP AND VOTING RIGHTS

3.1. **Membership.** Every Owner shall be a Member of the Association with one membership interest per Lot. 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 vote per Lot owned unless otherwise disallowed in this Declaration or the Bylaws.

3.3. **Multiple Ownership Interests.** If there is more than one Owner of a 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, except towards establishing a quorum.

3.4. **Record of Ownership.** Every Owner shall promptly notify the Association of any change in ownership of a Lot by providing the conveyance information to the Secretary of the Association who shall maintain a record of ownership of the Lots. 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.

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. An Owner may delegate his easement and right of use and enjoyment described herein to any permitted Occupants who reside in such Owner's Residence. 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. This right of easement shall not extend to the privately owned Lots of other Owners.

4.2. **Title to Common Areas.** The Association shall hold title or perpetual easements to the various Common Areas within the Project identified in this Declaration.

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 Utah 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 road or open area contained within the Project for purposes of providing police and fire protection, transporting school children, and providing any other governmental or municipal service;**

2) **The right of the Association to suspend voting rights or secondary water use for any period during which any Assessments against his Lot remain unpaid, and for a period not to exceed sixty (60) days for any infraction of the Rules;**

3) **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 sixty-seven percent (67%) of the Lot Owners.**

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

4.5. **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, in accordance with the recorded Plat. Utilities include, without limitation, water, sewer, gas, telephone, electricity, data, video, and cable.

4.6. **Easements for Encroachments.** If any portion of a Common Area improvement encroaches upon any Lot 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.

ARTICLE V. BUDGET AND ASSESSMENTS

5.1. **Annual Budget.** The Board shall prepare and adopt an annual budget for the Association that estimates the Common Expenses to be incurred in the upcoming calendar year. 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 requesting 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; Common Expenses; 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 each Owner's equally allocated portion of the budget. The Board shall give written notice of each Annual Assessment not less than thirty (30) days prior to the beginning of the next calendar year. Each Annual Assessment shall be due and payable on dates established by the Board. At least thirty (30) 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.** 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 construction, reconstruction, or unexpected repair or replacement of the Common Areas; or for any other expense incurred or to be incurred as provided in this Declaration. Special Assessments over one-thousand two-hundred dollars (\$1,200) 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. **Individual Assessments.** In addition to Annual and Special Assessments, 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 to any Restrictions provided in this Declaration. In addition, Individual Assessments may be levied against a Lot and its Owner specifically benefited by any made at 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.

5.7. **Allocation of Assessments**. Annual and Special Assessments shall be fixed at an equal uniform rate for all Lots. Individual Assessments shall be allocated and assessed to each Lot independently from the other Lots.

5.8. **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 from a prior year.

5.9. **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, non-use or limited use of a Lot or Common Areas, 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.

5.10. **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.

5.11. **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.

5.12. **Billing and Collection Procedures.** The Board shall have the right to adopt Rules setting forth procedures for billing and collection of Assessments including late fees and delinquent interest amounts, 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.

5.13. **Due Date and Delinquency.** Assessments shall be paid in a timely manner. Payments are due on the date determined by the Board. Payments are delinquent if received more than ten (10) 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. Unless otherwise set forth in Association Rules or collection procedures, delinquent accounts shall be turned over to collections after being 90 days or more delinquent. Once turned over to collections, a lien may be immediately placed on the Lot and foreclosure process may be immediately commenced.

5.14. **Collection Charge.** If the Association does not otherwise adopt or establish billing and collection procedures in the Rules, the following shall apply: (i) delinquent accounts shall be charged a late fee of twenty-five dollars (\$25.00) each month until the Owner's account (including all collection charges, costs, and attorney fees) is paid in full; and interest shall 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.

5.15. **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 Utah County 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 an Assessment is more than sixty (60) days late, demand and receive from any tenant 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) 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.

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.

5.16. 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.

5.17. 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.

5.18. Reinvestment Fee. The Board shall have the right (but shall not be required) to establish a Reinvestment Fee assessment in accordance with this Section and Utah Code § 57-1-46. If established, 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 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 to be established by the Board in the Rules, 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 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.

5.19. **Account Payoff Information.** The Association may charge a fee for providing Association payoff information needed in connection with financing, refinancing, or closing of the sale of a Lot as provided for in Utah Code § 57-8a-106. The amount of such fee shall be fifty dollars (\$50.00) or as otherwise established in the Rules. Additional paperwork required in a private sale between an Owner and purchaser may be obtained from the Association but may incur additional fees.

5.20. **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.

5.21. **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 of Incorporation;
- 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 homeowners 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 section 57-8a-218(15), the requirements of Utah Code section 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) **Capital Improvements.** Capital improvements to the Project that do not exceed approved budgeted amounts may be authorized by the Board of Directors alone. Capital improvements in excess of the annual budget require the approval of a majority of Owners in attendance at a duly called Member meeting pursuant to the provisions of the Bylaws.
- 7) **Common Areas.** The Association shall hold title to Common Areas within the Plat and shall pay property taxes 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 the services of any person or corporation as managers, hire employees to manage, conduct, and perform the business, obligations, and duties of the Association, employ professional counsel and obtain advice from such persons or firms or corporations such as, but not limited to, community association managers, landscape architects, accountants, recreational experts, architects, planners, lawyers, reserve study specialists, or what is convenient for the management, maintenance, and operation of the Project. Any agreement with a Manager shall not exceed a term of two (2) years, renewable by agreement of the parties for a successive two (2) year term, and shall be terminable by the Association upon no more than sixty (60) days' advance notice. The Board has no authority to enter into a management agreement or contract inconsistent with the terms of the Governing Documents or that provides for a termination fee or requirement for termination for cause.

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. Other than litigation required for the collection of past due Assessments, the Association shall not commence any litigation without prior approval of a majority of the Members, if the litigation is expected to exceed the cost of fifteen thousand dollars (\$15,000) either in attorney fee expenses or in costs (including any expert reports). The Board may increase the maximum dollar amount set forth in this Section in the Rules.

10) **Loans.** In addition to approval by the Board, a vote of at least 50% of the Owners must be obtained prior to obtaining any loan or financing in the name of the Association.

6.5. Liability. Board Members and officers of the Association shall not be liable to the Association or any Member thereof for any damage, loss, or prejudice suffered or claimed on account of any action or failure to act in the performance of his or her duties, except for intentional or willful bad acts or acts of recklessness. 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 engaged in 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. The Bylaws may set forth requirements for serving on the Board.

6.7. Board Indemnification. Each past and present Board Member shall be entitled to defense and indemnification to the fullest extent permitted by the Utah Revised Nonprofit Corporation Act. The right of any Person to be indemnified shall be subject always to the right of the Association by the Board, in lieu of such indemnity, to settle any 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.

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.

6.9. **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.

6.10. **Management.** The Project may be managed by a professional 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.

ARTICLE VII. MAINTENANCE

7.1. **Association Maintenance.** The Association shall maintain, repair, and replace the following: (i) all Common Areas together with all improvements thereon and all easements appurtenant to the Common Area (ii) the private roads within the Project including snow removal; (iii) private utility lines owned or controlled by the Association that serve more than one Residence; and (iv) personal property owned by the Association. The Association shall also provide The Association shall have no responsibility to maintain or repair any public streets within or adjacent to the Project. The Common Areas and all facilities and structures thereon shall be maintained by the Association in a safe condition and in a good and workmanlike manner such as to carry out the purpose for which such areas are intended. The Board in its sole discretion shall determine the maintenance standard of the Common Areas.

The Association shall have the option (but not the obligation) of providing lawn maintenance services and snow removal services on the private Lots. If such services are provided, they must be provided to all Lots. In the event that Association funds are not sufficient to provide such services, the responsibility for lawn maintenance and snow removal shall be incurred by the Owners for all areas on their respective Lots.

If the maintenance responsibility for an item is not specifically allocated in this Article, then the Board shall have the authority to allocate the maintenance responsibility to either the Owners or the Association, in the sole discretion of the Board in the Rules.

7.2. **Owner Maintenance.** Each Owner shall have the obligation to provide interior and exterior maintenance of their Lot and Residence, including but not limited to the maintenance, repair, and replacement of driveways, sidewalks, structural elements of the Residence, foundations, roofs, walls, windows, doors, landscaping, and utility lines that service the Lot or Residence. Each Owner shall paint, repair, and otherwise maintain the exterior of its Residence in compliance with Association standards and shall maintain, repair, and replace all appurtenant mechanical devices, including but not limited to, lamp posts, lighting fixtures, electrical, plumbing, and heating, ventilating and air conditioning systems. Each Owner shall be responsible for performing all snow removal on the sidewalks and driveways located on their Lot unless the Association elects to perform such services. Owners are responsible for all landscaping on their Lot including tree replacement/trimming, lawn maintenance, gardening, grading, water drainage, etc. unless the Association elects to perform such services.

Owners shall be responsible to maintain, repair, and replace fences which mark the boundaries of their Lots (if any). When such fences serve, benefit, or otherwise mark a boundary of two or more Lots, the responsibility and cost to maintain, repair, and replace the shared portion of such fences shall be borne pro rata by all Owners bounded thereby. In the

event an Owner fails to provide unrestricted access to the landscaped area within an enclosed fence, the Association shall have no obligation to maintain, repair, or replace such areas while access is restricted, or to maintain, repair, or replace landscaping, irrigation systems, or any other unmaintained or damaged property arising out of or resulting from the Owner's failure to provide unrestricted access.

7.3. **Owner Maintenance Neglect.** The Association shall have the power and authority without liability to any Owner for trespass, damage, or otherwise, to enter upon any Lot for the purpose of maintaining and repairing a Residence or any improvement thereon; but only if the Owner fails to maintain and repair such Residence or improvement, or for the purpose of removing any improvement constructed, reconstructed, refinished, altered or maintained upon such Lot in violation of this Declaration or any Rules of the Association. The Board shall have the sole authority and discretion to set maintenance standards and to decide whether an Owner has failed to meet its maintenance obligations. Except as necessary to prevent personal injury or property damage in an emergency, the Association shall first provide reasonable notice and an opportunity to cure before exercising the power granted herein. All costs incurred by the Association in remedying Owner maintenance neglect shall be an Individual Assessment against the Owner's Lot.

The Association shall also have the power and authority from time to time in its own name, on its own behalf, or in the name and behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoy any breach or threatened breach of this Declaration or any Rules promulgated by the Board, or to enforce by mandatory injunction or otherwise all the provisions of this Declaration and such Rules.

7.4. **Common Area Maintenance Caused by Owner Negligence.** If the need for maintenance or repair of Common Areas, roads, gate, the water system, or other area 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 to which such Lot is subject.

7.5. **Utility Charges.** The charges for utilities that are metered separately to each Lot or Residence shall be the responsibility of the respective Lot Owner. In the event water, electrical, sewer, or other utilities are metered collectively for the Project, or metered separately for Common Areas, then the Association shall be responsible for paying for such utility costs as a Common Expense.

ARTICLE VIII. INSURANCE

NOTICE: The Association's Insurance Policy does not cover the personal property or personal liability of the 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.** The Association shall maintain a blanket policy of property insurance covering the Common Area 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.

1) 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.

2) 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.

3) 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.

4) 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.

5) The Association shall keep an amount equal to the Association's property insurance policy deductible or \$10,000, whichever is less, in an operations savings account. This requirement shall not apply to any earthquake or flood insurance deductible.

6) If a loss occurs that is covered by a property insurance policy in the name of an association and another property insurance policy in the name of a lot owner, then the Association's policy provides primary coverage and the Lot Owner is responsible for the Association's policy deductible.

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

8) The Association shall provide notice to each Owner of the Owner's obligation for the Association's policy deductible and of any change in the amount of the deductible.

9) The Association shall have no obligation to obtain or maintain any insurance covering Owners' personal and real property, and each Owner shall be responsible for obtaining and maintaining such personal and real 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, the officers, and the Association against claims of wrongful acts and mismanagement. To the extent reasonably available, this policy shall include coverage for: (1) failure to maintain adequate reserves, (2) failure to maintain books and records, (3) failure to enforce the Governing Documents, (4) breach of contract, (5) volunteers and employees, (6) monetary and non-monetary claims, (7) claims made under fair housing act or similar statutes or that are based on discrimination or civil rights claims, and (8) defamation. In the discretion of the Board, the policy may also include coverage for the Manager and its employees and may provide that such coverage is secondary to any other policy that covers the Manager or its employees.

8.5. **Theft and Embezzlement Insurance.** The Association may obtain insurance covering the theft or embezzlement of funds by Board Members, officers, employees, Manager, and contractors of the Association in the discretion of the Board.

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 insurance policy shall be the Association. Each Owner shall also be an insured under all property and CGL insurance policies as required by law.

8.9. **Owner Insurance.** Each Owner shall be responsible to purchase and maintain in force appropriate hazard, content, property and liability insurance as such Owner shall determine to be appropriate to the Owner's needs, Residence, personal property, and circumstances. The Association is not required to file claims on any of its policies for any damage or liability claim of Owners

8.10. **Right to Negotiate Claims & Receive Proceeds.** Insurance proceeds for a loss under the Association's property insurance policy are payable to the Association, and shall not be payable to a holder of a security interest. 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, any remaining proceeds shall be paid to the Association. If the property is not to be repaired or restored, or if there are remaining proceeds after such repairs have been paid for, the remaining proceeds may be distributed to the Owners and lien holders, as their interests remain with regard to the Lots or may be held as credits in accordance with their interest in the Association. Each Owner hereby appoints the Association 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.

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

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

8.13. **Applicable Law.** This Declaration is specifically subjecting the Association to the insurance requirements and provisions in Part 4 of the Act, and any amendments thereto and thereafter enacted by law. It is the intent of this provision that any future changes to the insurance law applicable to community associations shall apply to this Association.

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. Owners are restricted from placing any personal property or fixtures within the Common Areas without the Board's approval in writing. Owners are subject to fines for violations of this restriction. The Board is authorized to adopt Rules that further define and describe prohibited and allowed items in the Common Areas.

9.2. **Use of Lots.** Lots shall have single-family Residences and are restricted to such use. No gainful occupation, business, trade, or other nonresidential use shall be conducted on any Lot without the prior written consent of the Board and applicable governmental entities. Notwithstanding the foregoing, activities otherwise prohibited by this Section are permitted without Board approval if only normal residential activities would be observable outside of the Residence; the business activity does not involve persons coming on to the project who do not reside in the Project; the business activity does not involve the solicitation of Occupants or Owners; the business will not result in the increase of the cost of the Association's insurance; and that 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, or which is a source of annoyance to residents. No unlawful use shall be made of a Lot or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. No use shall be made of any 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 suspended, or cause any company issuing such insurance to refuse renewal thereof. The Board may use its discretion in approving commercial uses that do not unreasonably affect the Project or its Owners or Occupants.

9.4. **Recreational Vehicles.** The Board is authorized to adopt Rules governing the parking of boats, trailers, motorhomes, large trucks, commercial vehicles, RVs, or the like within the Project. If no Rules are adopted, then recreational vehicles may only be parked in the Project with the approval of the Board evidenced by a Board issued parking pass for a limit of up to 48 hours.

9.5. **Pets.** Up to two domestic pets may be kept in Residences in conformance with local government requirements. No pets, animals, livestock, or poultry of any kind shall be commercially bred in, on, or about the Project. The Board may adopt Rules that vary or expand upon the restrictions related to pets, including but not limited to, restrictions on the number and types of pets, requirements for registration with the Association, and noise limitations. Pets must be on a leash when outside an Owner's Residence. Pets may not create a nuisance. The following acts of an animal may constitute a nuisance: (a) it causes damage to property of anyone other than its owner; (b) it causes unreasonable fouling of the air by odors; (c) it causes unsanitary conditions; (d) it defecates on any Common Area or Lot of another Owner and the feces are not immediately cleaned up by the responsible party; (e) it barks, whines, or howls, or makes other disturbing noises in an excessive, continuous, or untimely fashion. The Association may levy fines for Rule violations and assess Individual Assessments to Owners for any damages to the Common Areas and landscaping caused by a pet.

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. The Board shall have the authority to adopt additional Rules relating to machinery and equipment to clarify, alter, or expand the restrictions contained in this Section.

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 unreasonably 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, 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 after 10:00 p.m. and before 7:00 a.m., or excessive use of outside speakers or amplifiers;

8) Allowing pet to be unleashed and wander outside an Owner's Lot; continuous barking, meowing, or other animal noises; and failing to clean up immediately any feces deposited by a pet in the Common Area or another Owner's Lot.

9.8. **Signs.** The Association may regulate and restrict signs in the Project to the extent permitted by law in the Rules. Unless otherwise designated in the Rules, signs are prohibited, except "For Sale" or "For Rent" signs. 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. For Sale or For Rent signs may not exceed a surface area of five (5) square feet per side. United States Flags if displayed, must be displayed in conformance with U.S. Code Title 4, Chapter 1 and applicable Utah laws.

9.9. **Trash Containers.** All garbage and trash shall be placed and kept in covered containers of a type and style which shall be approved by the Board. Such containers shall be maintained as not to be visible from the street view except to make them available for collection for a reasonable amount of time as determined by the Board. The Association may adopt additional Rules for the storage and concealment of trash containers based on the characteristics of each Lot type with the intent to prevent trash containers from being unreasonably visible.

9.10. **Parking.** Overnight parking along the private streets in the Project is prohibited. Owners, Occupants, and tenants must park entirely within the Owner's driveway or garage. Parking of vehicles inside garages is encouraged. At no time shall any vehicle be parked in a manner that would block an entrance to a Lot, a driveway, or at any other location within the Project, which would impair vehicular or pedestrian access, or snow removal. The Board may adopt additional Rules relating to the parking of vehicles within the Project that expand or vary the restrictions in this section, including, without limitation: winter specific restrictions, 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 assessment of charges to Owners and Occupants who violate, or whose invitees violate, such Rules.

9.11. **Unsightly Items, Trash, and Storage.** No observable unsightly outdoor storage of any kind shall be permitted on a Lot which may be seen from the Association's roads or another Lot. Furthermore, the Board is authorized to adopt and implement reasonable Rules pertaining to unsightly items and exterior storage. The Board shall have the sole and absolute discretion to determine if an item is unsightly.

9.12. **Leasing.** The leasing of a Residence is permitted so long as such leasing is in conformance with applicable City codes and regulations. Any agreement for the leasing, rental, or occupancy of a Residence shall be in writing and 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 ten (10) days after delivery of written notice of the creation of a nuisance or violation of the Governing Documents by a tenant, 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.

9.13. **Holiday Decorations**. The Association may adopt 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 Unit with the apparent purpose, in whole or in part, of making it visible to people outside of the Unit.

9.14. **Landscape Maintenance**. The Association shall have the right and duty to maintain and the right to alter and change any and all landscaping in the Common Area. The Association shall have the right of access to all Common Area as necessary for such landscape maintenance. If the Association elects to provide landscape maintenance in the Project, but is unable to enter into an area of a Lot for landscape maintenance, then the Owner shall be responsible for such maintenance.

9.15. **Governmental Laws**. All Utah County ordinances and Orem City public utilities ordinances are hereby incorporated into this Declaration and the Board shall have the authority, but not the obligation, to enforce any such ordinances as if they were specifically enumerated herein. Notwithstanding the foregoing, any restrictions set forth in this Declaration that are more restrictive than County or City ordinances shall be deemed controlling.

9.16. **Variances**. The Board may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this Article if the Board determines in its discretion (by unanimous vote): (i) that the restriction would create an unreasonable hardship or burden on an Owner or Occupant, (ii) that a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete and unreasonable to enforce, or (iii) that the activity permitted under the variance will not have any adverse financial affect or any other substantial adverse effect on the Association or other Owners and 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 every member of the then-existing Board. No variance may be granted that is inconsistent with the Act.

ARTICLE X. ARCHITECTURAL CONTROLS

10.1. **Architectural Review**. The Board shall act as an architectural review committee to insure that all improvements and landscaping within the Project harmonize with the Design Guidelines and existing surroundings and structures. The Board's architectural review responsibilities include but are not limited to reviewing and approving all exterior improvements within the Project and to ensure that Lot Owners maintain their Lot appearance and conditions in accordance with the terms of the Governing Documents. No landscaping, grading, excavation, exterior painting, fence, wall, residence, shed, or other structure, or alteration of any kind, shall be commenced, erected, maintained, improved, altered, or made until the plans, specifications, colors, and/or materials have been approved in writing by the Board.

10.2. **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. They shall not require modifications to or removal of any structures previously approved once the approved construction or modification has begun. However, any new work on such structures must comply with the Design Guidelines as amended.

10.3. **Review Procedures & Enforcement**. The Board may adopt Rules to govern architectural review procedures. If no Rules are adopted, then the following provisions shall apply:

1) Complete plans and specifications must be submitted to the Board for review. Plans shall give complete descriptions and color samples of materials to be used. The Board will base its approval of plans, specifications, landscaping plans, and other alterations upon compliance with the Design Guidelines, and any other guidelines adopted by the Association.

2) The Board shall have the sole discretion to determine compliance of plans and may withhold approval of any proposal if the Board finds the proposal would be inappropriate for a particular Lot or incompatible with the Design Guidelines or other Association standards. The Board shall also have the right to refuse to approve any plans or specifications, including grading and location plans, which are not suitable or desirable in its opinion, for aesthetic or other considerations.

3) **Once approved by the Board, no changes or deviations in or from the plans and specifications shall be made without the prior written approval of the Board. The Board's approval of any proposal shall automatically be revoked within three (3) months after issuance unless construction or other work relating to the proposal has been commenced or the Owner has applied for and received an extension of time from the Board.**

4) **Subsequent to receiving approval of the Board and prior to the commencement of construction, each Owner will be responsible for obtaining a building permit from the County when required.**

5) **If any structure is altered, erected, placed or maintained on any Lot other than in accordance with approved plans and specifications therefor and applicable law, such action shall be deemed to be a violation of the provisions of this Declaration and, promptly after the Association gives written notice thereof to its Owner, such structure shall be removed or restored to its condition prior to such action, and such use shall cease, so as to terminate such violation. If within thirty (30) days after having been given such notice, such Owner has not taken reasonable steps to terminate such violation, any agent of the Association may enter upon such Lot and take such steps as are reasonably necessary to terminate such violation. Such Owner shall be personally liable to the Association for the cost thereof, to the same extent as she is liable for an Assessment levied against such Lot.**

6) **Any member of the Board, upon the occurrence of a violation of the provisions of this Declaration, and after the Association or the Board gives written notice thereof to the Owner of the applicable Lot, at any reasonable time, may enter upon and inspect any Lot and the exterior of any structure thereon to ascertain whether the maintenance, construction or alteration of such structure or Alteration are in accordance with the provisions hereof.**

7) Decision of the Board may be based on purely aesthetic considerations.

8) The Board shall have the right to charge a reasonable processing fee for the review of alteration requests as set forth in the Rules or Design Guidelines.

10.4. **Interior Remodeling**. Owners may make alterations within the Owner's Residence that do not impact the exterior appearance of the Residences, but an Owner shall not make any alterations on the exterior of their Residence or other structure without the prior written approval of the Board. An Owner shall be liable for any and all damage and/or liability associated with any remodeling or maintenance work including damage to another Residence, or any Common Area. Owners shall not use the Common Area for staging, storage, assembly, or construction without prior written permission of the Board.

10.5. **Building Restrictions**. Unless otherwise specifically modified in the Design Guidelines, the following building restrictions shall apply: no additional structures may be constructed on Lots, no additions may be made to a Residence, no additional parking pads may be added to the Common Area, and the driveways on private Lots may not be increased in size from original construction.

10.6. **Variances**. The Board may authorize variances from compliance with any of the architectural provisions of this Declaration when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration may require. Such variances must be in writing and must be signed by 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.

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

ARTICLE XI. ENFORCEMENT

11.1. **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 and shall be personally jointly and severally liable for any fines for violations thereof.

11.2. **Enforcement of Governing Documents**. The Association or any Owner shall have the right to enforce, by proceedings at law or in equity, each provision of this Declaration and other Governing Documents, including the right to prevent any violation of such, and the right to recover damages and other sums for such violation(s). The prevailing party in any action for the enforcement of any provisions of the Governing Documents (including but not limited to litigation and the appeal thereof) shall be entitled to collect court costs and reasonable attorney fees. Failure to enforce any covenant or restriction within the Governing Documents shall in no event be deemed a waiver of the right to do so thereafter.

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 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 maintenance 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 (even in the event of an emergency) without the consent of the Lot Owner and under any terms or conditions set forth by such Owner. Owners shall maintain up-to-date emergency contact information records with the Association, including any local representative an Owner may have for notice purposes. Owners shall be responsible for any costs incurred by the Association as a result of entering a Lot under this Section and shall defend, indemnify and hold harmless the Association for all damages related to such entry, except for such damages resulting from intentional or willful misconduct.

ARTICLE XIV. AMENDMENTS

14.1 **Amendments.** This Declaration may be amended upon the affirmative vote of at least sixty percent (60%) 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 Utah County Recorder. In such instrument the Board shall certify that the vote required by this Section for amendment has occurred. No acknowledgment of any signature used for voting shall be required.

14.2. **Necessary Amendments.** The Association may unilaterally amend this Declaration without Owner vote if such amendment is necessary: (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to satisfy the requirements of any local, State, or Federal governmental agency; or (c) to correct any scrivener's error.

ARTICLE XV. MISCELLANEOUS

15.1. **Notices.** Any notice required or permitted to be given to any Owner according to

the provisions of this Declaration shall be deemed to have been properly furnished if personally delivered, emailed, texted, 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, phone number, or mailing address has been provided, the physical address of the Lot owned by said Owner shall be used for notice purposes. The use of the term "written notice" in this Declaration or other Governing Document shall include notices sent via email, text, facsimile, or other electronic communication; or notices printed on paper and sent by hand-delivery, regular mail, or any notice otherwise physically received by an Owner.

Unless an Owner notifies the Association in writing that they desire to receive notices via USPS mail, each Owner shall provide to the Board, or the Association's Manager, an email address that the Association may use to affect notice as described herein, along with a telephone number that can receive texts. Any notice sent via email or text shall be deemed to be delivered once the notice has been sent to the email address or phone number on file with the Association. Any notice sent by mail shall be deemed delivered when postmarked in the United States mail. In the case of co-Owners, any such notice may be delivered or sent to any one of the co-Owners on behalf of all co-Owners and shall be deemed delivered to all such co-Owners. The declaration of an officer or authorized agent of the Association declaring under penalty of perjury that a notice has been sent to any Owner or Owners, in any manner that this Section allows, shall be deemed conclusive proof of such delivery.

Notice to the Association shall be delivered by registered or certified United States mail postage prepaid, addressed to the office of the Manager of the Association (if any); or if there is no Manager, the Registered Agent with the Utah Department of Commerce (if any); or if there is none, to the President of the Association. The Association shall have the right to designate an email or USPS mailing address for receipt of notices hereunder by Rule.

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 also use any method allowed under Utah law and the Utah Revised Nonprofit Corporation Act to obtain Owner Consent without a meeting.

15.3. Dissolution. The Association may be dissolved by the affirmative assent in writing from ninety percent (90%) of the Owners. Upon dissolution of the Association, all of its agency or authority to be used for purposes similar to those provided for in the Articles or this Declaration. In the event such dedication or transfer is not made or is not accepted, the Association's assets shall be transferred to a nonprofit corporation, trust, or other entity to be used for such similar purposes, and each Owner shall continue to be obligated to make assessment payments for the maintenance and upkeep of the Common Areas, common access roadways, curbs, gutters, and sidewalks on a pro rata basis which conforms substantially with the assessments procedure, terms and conditions set forth herein.

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 part thereof, and any gender shall include the other. The invalidity or unenforceability of any portion of the Declaration shall not affect the validity or enforceability of the remainder hereof. Except for

judicial construction, the Board, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all Persons and property benefitted or bound by the covenants and provisions 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. **Fair Housing Accommodations.** Notwithstanding anything to the contrary in this Declaration, the Association, upon receipt of a written opinion from its counsel that such action is required, may make or permit reasonable accommodations or modifications to the Project that are otherwise prohibited by the Governing Documents, as required under State or Federal Fair Housing Acts, to accommodate a Person with a disability (as defined by State or Federal law at the time the accommodation is requested). Reasonable accommodations or modifications may include modifications to a Lot, the Common Area facilities and buildings, or deviations from provision of the Governing Documents. Any such modification and accommodation made under this Section shall not act as a waiver of the provisions of the Governing Documents with regard to any other Person or Owner.

15.7. **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.

15.8. **Condemnation.** If a portion of the Common Area is taken by eminent domain, or sold under threat thereof, and the taking does not include any Lot, the Board shall cause the award to be utilized for repairing or restoring that area 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.

15.9. **Attorney Fees.** If the Association utilizes legal counsel to enforce any Restriction, or after an Owner communicates or demonstrates an intent not to comply with a Restriction, the Association may assess all reasonable attorney fees and costs associated with such enforcement to the Owner as an Individual Assessment, regardless of whether a lawsuit is initiated or not. The term "costs" as used in this Section shall include all costs including but not limited to copying costs, deposition costs, expert witness fees, investigative costs, service costs, and filing fees paid to courts. "Costs" is specifically defined in this Section to be broader and to include costs that are not included in costs as the term is used in the Utah Rules of Civil Procedure

15.10. **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.

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

* * * *

IN WITNESS WHEREOF, the Board of Directors has executed this Declaration of Covenants, Conditions and Restrictions for Fairway on the Links this 23 day of SEPTEMBER, 2020.

FAIRWAY ON THE LINKS
a Utah nonprofit corporation

By: Christie L. Atkinson

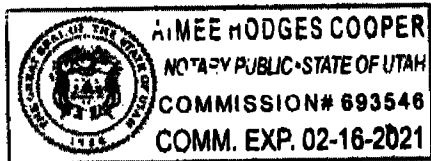
Name: Christie L. Atkinson

Its: HOA President

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

On the 23rd day of SEPTEMBER, 2020, personally appeared before me CHRISTIE L. ATKINSON who by me being duly sworn, did say that she/he is an authorized representative of Fairway on the Links, and that the foregoing instrument is signed on behalf of said company and executed with all necessary authority.

Notary Public: [Signature]



Aimee Hodges Cooper
Commission No. 693546
Exp. 02-16-2021

EXHIBIT A

LEGAL DESCRIPTION

All of **FAIRWAY VILLAGE AT SLEEPY RIDGE P.R.D. PHASE 1 AMENDED**, according to the official plat on file in the office of the Utah County Recorder as Entry No. 41810:2006.

Including Lots 1 – 22 and Common Area Parcels

Parcel Numbers: 39:195:0001 through 39:195:0024

EXHIBIT B
BYLAWS
OF
FAIRWAY ON THE LINKS

These BYLAWS OF FAIRWAY ON THE LINKS are effective upon recording in the Utah County Recorder's Office pursuant to the Utah Community Association Act and the Utah Revised Nonprofit Corporation Act (referred collectively herein as the "Acts").

RECITALS

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 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 Fairway on the Links, and to further the Association's efforts to safely, efficiently, and economically provide a quality living environment.

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 Declaration of Covenants, Conditions and Restrictions for Fairway on the Links.

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 in October on a day and time established by the Board. The purposes of the Annual Meeting will include the election of Board Members, the distribution of financial reports and budget, a review of any revisions to the Rules, 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 change the month, date, and time for the Annual Meeting so long as it provides notice to Owners of the meeting. If the election of Board Members cannot be held during the Annual Meeting, or at any adjournment thereof, the Board shall cause the election to be held either at

a Special Meeting of the Owners to be convened as soon thereafter as may be convenient or at the next Annual Meeting.

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 forty percent (40%) of the voting interests of the Association. Any written request for a Special Meeting presented by the Owners shall be delivered to the President and shall include the original signature of each Owner affirmatively supporting such request along with a complete statement of the purpose of the meeting on each page containing signatures. The President shall then call, provide notice of, and conduct a Special Meeting within 45 days of receipt of the Owner request.

3.3 **Place of Meetings**. The Board may designate any place in Utah County that is reasonably convenient for the Owners as the place of any Owner Meeting. In addition, the Association may hold and conduct Owner meetings through any type of electronic means that allows Owners to communicate orally in real time including telephone and video conferencing.

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 sixty (60) nor less than ten (10) days prior to the meeting. Such notice may be sent via email, text, hand-delivery, or regular mail. 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 postmarked 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 has fully paid his Assessment account (together with interest or other fees) at least 48 hours prior to the commencement of the meeting and is not in violation of any provision of the Governing Documents.

3.6 **Record Date for Notice Purposes**. The Board may designate a record date, which shall not be more than sixty (60) 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**. Any number of Owners present in person or by proxy at any meeting duly called and held in compliance with the requirements of these Bylaws, shall constitute a quorum for the transaction of business and adoption of decisions. A majority of the voting

interest of the Owners in attendance in person or by proxy, shall decide any vote or question brought before the meeting. Notwithstanding the foregoing, if the Act, or the Governing Documents require a fixed percentage of Owner votes to approve any specific action (*e.g.*, amending Governing Documents), that percentage shall be required to approve such action.

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 by an Owner to any person who represents the Owner at meetings of the Association shall be in writing, dated, and signed by such Owner. Such instrument may allow the proxy to vote on any issue arising at any particular meeting or meetings, or may set forth the specific matters or issues upon which the proxy is authorized to act. 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**. Owners shall be entitled to vote on each matter submitted to an Owner vote in person, by proxy, or by any type of written or electronic ballot. Owners shall have the number of votes appertaining to the Lot of such Owner, as set forth in the Declaration. **The affirmative vote of a majority of the votes entitled to be cast by the Owners present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by Owners, unless a greater proportion is required by the Articles of Incorporation, these Bylaws, or the Declaration.** 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 whose accounts with the Association are paid in full at least 48 hours prior to the meeting shall be entitled to vote.

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 through ballot, written consent, or otherwise. The Association may also use any other method permitted for actions without a meeting 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. It is intended that this Section shall be construed broadly to permit maximum flexibility in voting methods.

3.12 **Minutes of Meetings.** The Secretary, or the Manager, shall take minutes of all Owner meetings. 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. Draft meeting minutes for each Owner meeting shall be made available to requesting Owners within sixty (60) days of the meeting.

ARTICLE IV BOARD OF DIRECTORS

4.1 **Powers.** The Project and the business and affairs of the Association shall be governed and 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 Board of Directors shall be composed of three (3) persons. Board Members must: (i) be at least 18 years old; (ii) be an Owner or the spouse of an Owner of a Lot in the Project; and (iii) reside in the Project as their primary residence. No two (2) Board Members may reside in the same Residence or be business partners if the business is related to their ownership of a Lot. If an Owner is a corporation, partnership, limited liability company, or trust, an officer, partner, member, manager, agent, trustee, or beneficiary of such Owner may be a Board Member. 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 **Election.** The election of Board Members shall be made by a vote of the Owners at the Annual Meeting, or a Special Meeting designated for such purpose. At such election, the Owners or their proxies may cast, with respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The Association may accept written ballots for Board Member election voting purposes from those Members unable to attend a meeting in which an election is held. The persons receiving the largest number of votes shall be elected. The election of Board Members may be conducted through open voting or by secret ballot. Cumulative voting is not permitted.

4.4 **Term of Office.** Board Members shall serve two (2) year terms. The terms shall be staggered and overlap so that an election for at least one Board Member position is held each year. Board Members may serve consecutive terms if reelected.

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

4.6 **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 and those Owners who have requested notice.

4.7 **Meeting Notice.** Notice shall be given to Board Members and Owners who have requested notice personally, by email, or by telephone, including text message at least two (2) business days' in advance of the meeting. By unanimous consent of the Board, Board meetings may be held without call or notice to the Board Members, but notice shall always be provided to those Owners who have requested notice of Board meetings.

4.8 **Quorum and Manner of Action.** A majority of 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.

4.9 **Owner Attendance.** Any Owner may request notice of Board meetings by requesting such notice from a Board Member and providing a valid email address at which the Owner will receive notice. Owners who have requested notice of Board meetings shall be given notice along with the Board Members and shall be provided any call-in number or other means of attendance by electronic communication that is provided to Board Members. 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.

4.10 **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 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.

4.11 **Board Meetings Generally.** The Board may designate any place in Utah 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 may call-in to access the meeting.

4.12 **Board Action.** Notwithstanding noncompliance with any provision within these Bylaws, 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 these Bylaws may not bring the challenge more than sixty (60) days after the Board has taken the action in dispute.

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

4.14 **Resignation and Removal.** Board Members may resign at any time by delivering a written resignation to another Board Member. Unless otherwise specified therein,

such resignation shall take effect upon delivery. A Board Member may be removed at any time, with or without cause, at a Special Meeting of the Owners duly called for such purpose upon the affirmative vote of more than fifty percent (50%) of the entire voting interests of the Association. At such a meeting, the Owners shall vote for a new Board Member to fill the remaining term of the removed Board Member. Board Members may also be removed by a majority vote of the other active Board Members upon the occurrence of any of the following: failure to attend three (3) consecutive Board meetings, failure to remain current on Assessments, or a violation of the Governing Documents. If removal occurs based on the preceding sentence, then the remaining Board Members may appoint a replacement to serve the remaining term of the removed Board Member.

4.15 **Vacancies**. If vacancies 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.

4.16 **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 Board meeting if a majority of the Board Members consent to the action in writing. The term "in writing" shall specifically include email and text messaging. Board Members may also take action without a meeting if the Board complies with any applicable provisions of the Acts. Any action so approved shall have the same effect as though taken at a Board meeting.

4.17 **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.

4.18 **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.

4.19 **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, 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 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, resignation, disqualification, or removal in the manner provided in these Bylaws, whichever first occurs. Board Members may hold any two (2) or more of such offices. 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**. Officers may resign at any time by delivering a written resignation to any Board Member. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed and replaced upon the affirmative vote of a majority of the Board Members at any time, with or without cause.

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

5.7 **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. The Secretary shall also act in the place of the President in the event of the President's absence or inability or refusal to act. The duties of the Secretary may be delegated to the Manager.

5.8 **Treasurer**. The Treasurer shall have the custody and control of the funds and financial accounts of the Association, subject to the action of the Board, 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 shall perform such other duties as required by the Board. The duties of the Treasurer may be delegated to the Manager.

5.9 **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 deems appropriate in carrying out its duties, responsibilities, functions, and powers. No committee members shall receive compensation for services rendered to the Association as a member of a committee; provided, however, that a 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 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 occurs in a committee for any reason, 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**. 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 defend, 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 defense and indemnification provided herein shall not be deemed exclusive of any other right to defense and indemnification to which any person

seeking indemnification may be entitled 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 that all Board Members, officers, and committee members be and hereby are defended and indemnified to the fullest extent permitted by the laws of the State of Utah and these Bylaws. The defense and 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, in its discretion, may 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, Manager or employee of the Association or is or was serving at the request of the Association as a Board Member, officer, committee member, Manager, 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 defend or indemnify such person against liability under the provisions of this Article.

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

ARTICLE VIII RULES AND PROCEDURES

8.1 **Rules.** The Board shall have the authority to adopt Association Rules as it deems 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 Occupants. Owners are responsible to ensure that their lessees, invitees, and guests strictly observe the Rules then in effect as well as the covenants and restrictions of the Declaration and shall be jointly and severally liable for their violations and resulting fines. Copies of all Rules adopted by the Board shall be sent to all Owners at least ten (10) days prior to the effective date thereof. The Rules shall not be recorded.

ARTICLE IX AMENDMENTS

9.1 **Amendments.** The Bylaws may be amended, altered, or repealed and new Bylaws may be adopted 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 Utah County Recorder. In such instrument a Board Member shall execute the amendment and certify that the vote required by this Section has occurred. No acknowledgment of any Owner or Board Member signature shall be required.

ARTICLE X MISCELLANEOUS PROVISIONS

10.1 **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.

10.2 **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.

10.3 **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 Fairway on the Links this 23rd day of SEPTEMBER, 2020.

FAIRWAY ON THE LINKS
a Utah nonprofit corporation

By: Christie L. Atkinson

Name: Christie L. Atkinson

Its: HOA President

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

On the 23rd day of SEPTEMBER, 2020, personally appeared before me CHRISTIE L. ATKINSON who by me being duly sworn, did say that she/he is an authorized representative of Fairway on the Links, and that the foregoing instrument is signed on behalf of said company and executed with all necessary authority.

Notary Public: [Signature]



Aimee Hodges Cooper
Commission No. 693546
Exp. 02-16-2021