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Amended Restrictive Covenants Page 1 of 20  
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**THE AMENDED AND RESTATED**  
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF**  
**PARADISE COVE TOWNHOMES**  
**PHASES I, II, III**

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**THE AMENDED AND RESTATED**  
**DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS OF**  
**PARADISE COVE TOWNHOMES**  
**DECLARATION**

Paradise Cove Homeowners Association hereby declares that all of the properties described below shall be held, sold, conveyed and occupied subject to the following covenants, conditions, restrictions, easements, assessments, charges and liens, and to the Map recorded concurrently. This is for the purpose of protecting the value and desirability of the properties. This Declaration and the Map shall be construed as restrictive covenants or equitable servitudes, as the case may be, and shall run with the properties described herein and be binding on all parties having any right, title or interest in the properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

The Properties are located In St. George, Washington County, Utah, and are described as:

SEE EXHIBIT "A" (Page 14) ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE

**ARTICLE I—DEFINITIONS**

The following definitions control in this Declaration. These terms, though defined, are generally not capitalized in the Declaration.

**Section 1.**     Declaration means this instrument, and any amendments.

**Section 2.**     Association means Paradise Cove Homeowners Association, its successors and assigns.

**Section 3.**     Plat or Map means the subdivision plat recorded herewith entitled "Paradise Cove Townhomes — Phase 1, Phase 2 and Phase 3" consisting of three sheets, prepared and certified by Lloyd Reid Pope, a Utah Registered Land Surveyor" or any replacements thereof, or additions thereto.

**Section 4.**     Property or Properties means that certain real property hereinbefore described and included in Exhibit A.

**Section 5.**     Common Area means that portion of property owned by the Association, shown on the plat as dedicated to the common use and enjoyment of the owners.

**Section 6.**     Limited Common Areas means that portion of property owned by the Association, shown on the plat as dedicated to the exclusive use and enjoyment of the owner of the lot to which such limited common area is adjacent and/or appurtenant. Limited Common Areas are subject to rights of the Association set forth in this Declaration.

**Section 7.** Lot means a separately numbered and individually described plot of land shown on the plat designated for private ownership, but specifically excludes the common and limited common areas.

**Section 8.** Townhome means a single family dwelling, with or without walls or roofs in common with other single family dwelling lots. "Townhome" includes fee title to the real property lying directly beneath the single family dwelling, within lot boundary lines.

**Section 9.** Owner means the entity, person, or group of persons owning fee simple title to any lot which is within the properties. Regardless of the number of parties participating in ownership of each lot, the group of those parties shall be treated as one "owner."

**Section 10.** Member means every person or entity that holds membership in the Association. Every member is an owner, and every owner is a member.

**Section 11.** Board of Trustees means the governing body of the Association.

**Section 12** Mortgage includes "deed of trust" and Mortgagee includes "trust deed beneficiary."

## **ARTICLE II —PROPERTY RIGHTS**

**Section 1.** TITLE TO THE COMMON AREAS: The Declarant has conveyed and will continue to convey fee simple title to the common area and limited common area to the Association, free and clear of all encumbrances and liens. In accepting a deed, the Association will covenant to fulfill all the terms of this Declaration, to maintain the common area in good repair and operate the common area at its own expense, as set forth in this Declaration.

**Section 2.** OWNERS EASEMENT OF ENJOYMENT: Every owner has a right and easement of use and enjoyment in and to the common area. This easement is appurtenant to and passes with the title to every lot, subject to:

- (a) The right of the Association to limit the number of guests of members using the common area.
- (b) The right of the Association to suspend the voting rights and/or common utility service.
- (c) The right of the Association to grant easements for public utilities or other public purposes consistent with the intended use of the common area by the Association.
- (d) The terms and conditions of this Declaration. Declaration of Covenants, Conditions and Restrictions of Paradise Cove Townhomes.
- (e) The right of the Association, through its Trustees, to adopt rules and regulations concerning use of the common area.

**Section 3.** LIMITED COMMON AREA: A lot owner is entitled to the exclusive use of the limited common area adjacent and appurtenant to the lot. The Association, through Its Trustees, may adopt rules

and regulations concerning use of the limited common area. Limited common area is subject to the rights of the Association set forth in this Declaration.

**Section 4. DELEGATION OF USE:** An owner is deemed to delegate his right of enjoyment to the common area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property. No one who is non-resident shall have any such delegable right of enjoyment.

**Section 5. RULES:** The Board of Trustees shall have the authority to promulgate rules and regulations for the governance of the properties, the common areas, limited common areas and persons within the properties including levying fines for violations thereof consistent with Utah law. These rules of the Association shall be compiled and copies shall be made available for inspection.

**Section 6. LOT:** Each lot is owned in fee simple by the owner. However, area within the surveyed lot boundaries but outside the townhome walls shall be treated as limited common area for use purposes, and as exterior area for maintenance purposes.

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

**Section 1. MEMBERSHIP:** Every owner is a member of the association, The term 'owner' includes contract purchasers but does not include persons who hold an interest merely as security for the performance of an obligation unless and until title is acquired by foreclosure or similar proceedings. Membership is appurtenant to and may not be separated from lot ownership. Membership in the Association automatically transfers upon transfer of title by the record owner to another person or entity.

**Section 2. VOTING RIGHTS:**

Members are entitled to one vote for each lot owned. When more than one person holds an Interest in any lot, the group of such persons shall be deemed the member. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot. A vote cast at any association meeting by any of such co-owners, whether in person or by proxy, is conclusively presumed to be the vote attributable to the lot concerned unless written objection is made prior to that meeting, or verbal objection is made at that meeting, by another co-owner of the same lot. In the event an objection is made, the vote involved shall not be counted for any purpose except to determine whether a quorum exists.

### **ARTICLE IV — FINANCES AND OPERATIONS**

**Section 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS :**

Each subsequent owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, covenants and agrees to pay to the Association (1) annual assessments or charges; (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided; (3) any other amount or assessment levied or charged by the Association or Board of Trustees pursuant to this Declaration, and (4) Interest, costs of collection and a reasonable attorney's fee, as hereinafter provided. All such amounts shall be a charge on the lot and shall be a continuing lien upon the lot against which each such assessment or amount is charged. Such assessments and other amounts shall be the personal obligation of the person who was the owner of such lot at the time when the assessment fell due. Successors in-title

shall not be personally liable for assessments delinquent at the time they took title unless that obligation is expressly assumed by them.

**Section 2. PURPOSE OF ASSESSMENTS:** The assessments levied by the Association shall be used (a) for the purpose of promoting the recreation, health, safety, and welfare of the residents and owners of the properties and (b) for the improvement and maintenance of properties, services, and facilities devoted to this purpose. The assessments must provide for but are not limited to, the payment of insurance maintained by the association; the payment of the cost of repairing, replacing, maintaining and constructing or acquiring additions to the common and limited common areas; the payment of administrative expenses of the association; insurance deductible amounts; the establishment of a reserve account for repair, maintenance and replacement of those common and limited common areas which must be replaced on a periodic basis; and other amounts required by this declaration or that the trustees shall determine to be necessary to meet the primary purposes of the association. The assessments may provide, at the discretion of the trustees, for the payment of other charges including, without limitation, maintenance, management, utility, cable television, trash collection, sewer and water changes. In such cases, the assessment shall be increased or decreased accordingly upon the motion and vote of the trustees.

**Section 3. MAXIMUM MONTHLY ASSESSMENT:** Following the recording of this Declaration, the maximum monthly assessment shall be one hundred seventy dollars (\$170.00) per lot. This amount shall be the basis of calculation for future maximum annual assessments. However, this amount may have increased based on the date of recording this Amended and Restated Declaration. Assessment increases from the recording of this Declaration shall be based on the following:

**(a)** From and after the date referred to above the maximum annual assessment may be increased each year by no more than five percent (5%) above the maximum assessment for the previous year, without a vote of the membership.

**(b)** The association may change the basis and maximum of the assessments fixed by this Section prospectively for any annual period provided that any such change shall have the assent of sixty-seven percent (67%) of the votes of members, voting in person or by proxy, at the annual meeting or a meeting duly called for this purpose.

**(c)** The Board of Trustees shall prepare and adopt an annual budget to present and discuss with the members at the annual membership meeting.

**(d)** The Board of Trustees shall prepare or have prepared a reserve analysis. The reserve analysis shall be reviewed and, if needed, updated every three years, consistent with Utah law. As may be required by Utah law, the reserve analysis shall be presented to the members at the annual meeting, or at a special meeting called each year where the members at the meeting vote to determine whether to fund the reserve account, and if so, how to fund it and with what amount. The results of this vote shall be reflected in the minutes of the meeting.

**Section 4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS:** In addition to the annual assessments, the Association may levy in any assessment year a special assessment, applicable to that



year only. Special assessments may only be levied to defray, in whole or in part, the cost of any construction, reconstruction, repair or replacement of common or limited common area structures.

**Section 5. ADDITIONAL ASSESSMENTS:** In addition to the annual assessments and special assessments for capital improvements authorized herein, the association, by and through the Board of Trustees, shall levy such additional assessments as may be necessary from time to time for the purpose of repairing and restoring the damage or disruption resulting to streets or other common or limited common areas from the activities of the City of St. George in maintaining, repairing or replacing the City's utility lines and facilities thereon, up to \$500.00 per unit without a vote of the membership.

**Section 6. NOTICE & QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 3 & 4.** Written Notice of any meeting of members called for the purpose of taking any action authorized under Sections 3 & 4, shall be sent to all members at least thirty (30) days in advance of said meeting.

Notice may be sent via U S Mail, Email, posting on the HOA Website and/or via text message. At the first meeting called, the presence at the meeting of members, or of proxies, entitled to cast sixty percent (60%) of all the votes of the membership shall constitute a quorum. If the quorum requirement is not met at such a meeting, another meeting may be called, on at least thirty (30) days advance written notice, and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**Section 7. UNIFORM RATE OF ASSESSMENT:** Assessments, both annual and special, must be fixed at a uniform rate for all lots; annual, special and additional assessments may be collected on a monthly or quarterly basis, as the Trustees determine.

**Section 8. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS:** The annual assessment provided for herein shall commence to accrue on the first day of the month. At least thirty (30) days prior to the commencement of each new assessment period, the Trustees shall send or cause to be sent a written notice of the annual assessment to each owner subject thereto. Notice may be sent via U S Mail, Email, posting on the HOA Website and/or via text message. This notice shall not be a pre-requisite to validity of the assessment. The assessment due dates shall be established by the Trustees. The Trustees may provide for the payment of annual and special assessments in equal installments throughout the assessment year

**Section 9. EFFECT OF NON-PAYMENT OF ASSESSMENT- REMEDIES OF THE ASSOCIATION.** Any assessment or installment thereof not paid within ten (10) days after the due date therefor shall be delinquent and shall bear interest from the due date at the rate of eighteen percent (18%) per annum (or such lesser rate as the Trustees shall determine appropriate) until paid. In addition, the Trustees may assess a late fee for each delinquent installment which shall not exceed ten per cent (10%) of the Installment.

The Trustees may in the name of the Association, (a) bring an action of law against the owner personally obligated to pay any such delinquent assessment without waiving the lien of assessment, or (b) may foreclose the lien against the property in accordance with the laws of the State of Utah applicable to the exercise of powers of sale in deeds of trust or to the foreclosure of mortgages, or in any other manner

permitted by law, and/or (a) may restrict, limit, or totally terminate any or all services performed by the Association In behalf of the delinquent member.

There shall be added to the amount of any delinquent assessment the costs and expenses of any action, sale or foreclosure, and a reasonable attorneys fee, together with an amount for the reasonable rental for the lot from time to time of commencement of the foreclosure. The Association shall be entitled to appoint a receiver to collect the rental income or the reasonable rental without regard to the value of the other security, as permitted by law.

A lot owner's acceptance of the owner's interest in a lot constitutes a simultaneous conveyance of the lot in trust, with power of sale, to the trustee as designated herein and as permitted by Utah law. A power of sale is hereby conferred upon the Association which it may exercise to foreclose its lien. Pursuant to this power of sale, the lot of an owner may be sold in the manner provided by Utah law pertaining to a judicial or non-judicial foreclosure of deeds of trust as if said Association were beneficiary under a deed of trust. The Association may designate any person or entity qualified by law to serve as Trustee for purposes of exercising the power of sale for any type of foreclosure permitted by Utah law. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the common area or by abandonment of his lot.

If a lot owner fails to pay an assessment for a period of more than sixty (60) days after the assessment is due and payable, then beginning with the next monthly or periodic payment due to the owner from the tenant, the association may make demand on the owner and then the tenant to make all rental/lease payments to the association until the assessment account is current. The association shall follow the procedures outlined pursuant to Utah law with respect to collecting rent from tenants in such situations.

**Section 10.** **SUBORDINATION OF LIENS TO MORTGAGES:** The lien for the assessments provided for herein shall be subordinate to the lien of any first mortgage held by an institutional lender or Insured by the Federal Housing Administration or the Veterans Administration if the mortgage was recorded prior to the date the assessment became due. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to foreclosure of a first mortgage or any proceeding in lieu thereof shall extinguish the assessment lien as to payments which became due prior to such sale or transfer. No sale or transfer, however, shall relieve a lot or owner from personal liability for assessments coming due after they take title or from the lien of such later assessments.

**Section 11.** **BOOKS, RECORDS AND AUDITS:** The Association shall maintain current copies of the Declaration, Articles, Bylaws, Rules and other similar documents, as well as its own books, records and financial statements which shall all be available for inspection by lot owners and insurers as well as by holders, insurers and guarantors of first mortgages during normal business hours upon reasonable notice. Charges shall be made for copying, researching or extracting from such documents. A lot owner or holder, insurer or guarantor of a first mortgage may obtain an audit of Association records at its own expense so long as the results of the audit are provided to the Association.

#### **ARTICLE V – INSURANCE**

**Section 1.** **CASUALTY INSURANCE ON INSURABLE COMMON AREA:** The Trustees shall

keep all insurable improvements and fixtures of the common area insured against loss or damage by fire for the full insurance replacement cost thereof, and may obtain insurance against such other hazards and casualties as the Association may deem desirable. The Association may also insure any other property whether real or personal, owned by the Association, against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the owner and beneficiary of such insurance. The insurance coverage with respect to the common area shall be written in the name of, and the proceeds thereof shall be payable to, the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was intended. Premiums for all insurance carried by the Association are common expenses which shall be included in the regular annual assessments made by the Association.

In addition to casualty insurance on the common areas, the Trustees may elect to obtain and continue in effect, on behalf of all owners, adequate blanket casualty and fire insurance in such form as the Trustees deem appropriate in an amount equal to the full replacement value, without deduction for depreciation or coinsurance, of all of the Townhomes including the structural portions and fixtures thereof. Insurance premiums from any such blanket insurance coverage, and any other insurance premiums paid by the Association shall be a common expense of the Association to be included in the regular annual assessments as levied by the Association. The insurance coverage with respect to the Townhomes shall be written in the name of, and the proceeds thereof shall be payable to the Association as trustee for the owners.

**Section 2.** **REPLACEMENT OR REPAIR OF PROPERTY:** In the event of damage to or destruction of any part of the common area improvements, the Association shall repair or replace the same from the insurance proceeds available. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the property damaged or destroyed, the Association may make a reconstruction assessment against all lot owners to cover the additional cost of repair or replacement not covered by the insurance proceeds, in addition to any other common assessments made against such lot owner. In the event that the Association is maintaining blanket casualty and fire insurance on the Townhomes, the Association shall repair or replace the same to the extent of the insurance proceeds available. In the event of damage or destruction by fire or other casualty to any portion of the development covered by insurance written in the name of the Association, the Trustees are empowered to and shall represent the members in any proceedings, negotiations, settlements or agreements. The Association is appointed attorney-in-fact of each owner for this purpose.

**Section 3.** **LIABILITY INSURANCE:** The Trustees shall obtain a comprehensive policy of public liability insurance covering all of the common and limited common property for at least \$1,000,000.00 per occurrence for personal or bodily injury and property damage that results from the operation, maintenance or use of the common areas. Liability insurance policies obtained by the Association shall contain a 'severability of interest' clause or endorsement which shall preclude the insurer from denying the claim of an owner because of negligent acts of the Association or other owners.

**Section 4.** **FIDELITY INSURANCE:** The Trustees may elect to obtain fidelity coverage against dishonest acts on the part of managers, Trustees, officers, employees, volunteers, management agents or others responsible for handling funds held and collected for the benefit of the owners or members. In procuring fidelity insurance the Trustees shall seek a policy which shall (1) name the Association as obligee or beneficiary, plus (2) be written in an amount not less than the sum of (I) three months'

operating expenses and (II) the maximum reserves of the Association which may be on deposit at any time, and (3) contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee."

**Section 5.** **ANNUAL REVIEW OF POLICIES:** All insurance policies shall be reviewed at least annually by the Trustees in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacements of the property which may be damaged or destroyed.

**Section 6.** **OTHER POLICIES OBTAINED BY OWNERS:** Nothing herein shall prohibit an owner from purchasing and maintaining any insurance they so desire. Owners should insure their contents as the Association has no obligation to cover townhome contents or personal property therein. Owners should obtain insurance in the amount of the Association's deductible in the event that they are deemed liable for said deductible. In the event the association does not elect to obtain and continue in effect, on behalf of all owners, adequate blanket casualty and fire insurance in such form as the Trustees deem appropriate in an amount equal to the full replacement value, without deduction for depreciation or coinsurance, of all of the Townhomes including the structural portions and fixtures thereof, then each owner shall be responsible to insure their own townhome structure.

#### **ARTICLE VI — ARCHITECTURAL CONTROL COMMITTEE**

There may be an Architectural Control Committee composed of three (3) or more representatives and until such appointment is made in writing, the Trustees shall function in that capacity. No structures, buildings, fences, walls or additions or extensions or expansions of any of the foregoing nor any exterior additions or changes or alteration, including color changes, of any lot or townhome shall be made until the plans and specifications showing the nature, kind, shape, height, materials, colors and location of the same shall have been submitted to and approved in writing by the Architectural Control Committee. In the event said committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and compliance with this article will be deemed to have been made. The Architectural Control Committee shall consider the harmony of external design and location in relation to surrounding structures and topography when making its decision.

#### **ARTICLE VII –EXTERIOR MAINTENANCE**

**Section 1.** **EXTERIOR MAINTENANCE BY OWNER:** Each owner shall be responsible for maintenance to the exterior of the townhome owned and the limited common area adjacent and appurtenant to the lot. The Trustees shall, however, in the default of the owner to perform maintenance which is the owner's responsibility, and after ten days written notice (which notice shall not be required in the event of emergency or threat to life, health, property or safety, provide exterior maintenance upon each townhome and lot, and the limited common area adjacent and appurtenant thereto. The cost of such maintenance shall be assessed against the lot or townhome and collected as an assessment, with all collection remedies available to the Association as stated in this Declaration.

**Section 2.** **EXTERIOR MAINTENANCE BY ASSOCIATION:** The Association shall be

responsible for maintenance upon the common area, the limited common area which is not adjacent to any lot, and the area of any lot outside the walls of the townhome which is of the same character as surrounding common or limited common area. The cost of such maintenance shall be a common expense.

**Section 3. ACCESS AT REASONABLE HOURS:** For the purpose solely of performing the maintenance required by this article, the Association, through its duly authorized agents or employees, shall have the right to enter upon any lot or limited common area at reasonable hours.

**Section 4. ALTERATION OF CERTAIN MAINTENANCE DUTIES BY RULE:** The duty of maintenance for the area of a lot outside the walls of the townhome, and the limited common areas adjacent and appurtenant to the townhomes may be altered by Rule of the Association.

### **ARTICLE VIII- USE RESTRICTIONS**

**Section 1. GENERAL USE RESTRICTIONS:** All of the properties which are subject to this declaration are hereby restricted to residential dwellings and buildings in Connection therewith, including but not limited to community buildings on the common properly. No building or structure of a temporary character, trailer, basement, tent, camper, shack, garage, barn or other outbuilding shall be placed or used on any lot at any time.

**Section 2. SIGNS:** Commercial Activity Except for one 'For Rent' or 'For Sale' sign of not more than two (2) square feet, no advertising signs, billboards, objects of unsightly appearance, or nuisances shall be erected, placed, or permitted to remain on any lot or any portion of the properties. No commercial activities of any kind whatever shall be conducted in any building or on any portion of the properties.

**Section 3. QUIET ENJOYMENT:** No noxious or offensive activity shall be carried on upon any part of the properties nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the owners or which shall in any way increase the rate of insurance. The Trustees may further define those activities deemed to be noxious and offensive by rule and regulation.

**Section 4. ANIMALS:** No animals, livestock or poultry of any kind shall be raised, bred or kept on any of said lots, except that dogs, cats or other household pets, two or less in total number, may be kept provided that they are not kept, bred or maintained for any commercial purpose. Notwithstanding the foregoing, no animals or fowl may be kept on the property which result in an annoyance or are obnoxious, by noise, smell or otherwise, to lot owners. All pets must be kept in the lots or on a leash when in the common areas. This provision may be made more restrictive by Rule of the Association.

**Section 5. USE OF COMMON AREA:** Except for the rights of ingress and egress, owners are hereby prohibited and restricted from using any of said common area, other than as permitted in this declaration of covenants or as may be allowed by the Trustees. It is expressly acknowledged and agreed by all parties concerned that this restriction is for the mutual benefit of all owners of lots in the properties and is necessary for the protection of the interests of all said owners in and to the common area.

**Section 6. PARKING:** No motor vehicle which is inoperable shall be allowed within the

properties, and will be subject to removal by the Association, at the owner's expense within 48 hours after notice either being posted on the vehicle or delivered to the owner. Recreational vehicles, boats, travel trailers and similar property may not be parked within the properties unless permitted by rule of the association. Overnight parking on the street is prohibited.

**Section 7.** **PLANTING AND GARDENING:** No planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon any property except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Architectural Control Committee.

**Section 8.** **EXTERNAL APPARATUS:** No lot owner shall cause or permit anything (including, without limitation, awnings, canopies or shutters) to hang, be displayed or otherwise affixed to or placed on the exterior walls or roof or any part thereof, or on the outside of windows or doors, without the prior written consent of the Architectural Control Committee.

**Section 9.** **EXTERIOR TELEVISION OR OTHER ANTENNAS:** Location of FCC approved satellite dishes may not be restricted by the Association so as to cause unreasonable delay in installation, unreasonable increase the cost of equipment or its installation, maintenance, or use; or preclude reception of an acceptable signal. However, reasonable locations for such dishes may be required so long as they comply with FCC regulations. No exterior radio or other antennas, except one television antenna which shall not exceed four feet in height, per lot, shall be placed, allowed or maintained upon any lot or upon any structure or portion of the improvements situated and located upon the properties without prior written approval of the Trustees.

**Section 10.** **GARBAGE REMOVAL:** All rubbish, trash and garbage shall be regularly removed from the lots and shall not be allowed to accumulate thereon. Garbage should be placed in proper containers.

**Section 11.** **OIL AND MINING OPERATION:** No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in the properties of any lot. No derrick, lift, shaft or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon the properties or any lot.

**Section 12.** **INTERIOR UTILITIES:** All utilities, fixtures and equipment installed within a lot, commencing at a point where the utility lines, pipes, wires, conduits or systems enter boundaries of a lot, shall be maintained and kept in repair by the owner thereof. An owner shall neither act nor do any work that will impair any easement or hereditament nor do any act nor allow any condition to exist which will adversely affect the other lots or owners.

**Section 13.** **LEASES AND LIMITATIONS:** Any lease or rental agreement shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, the Articles of Incorporation, Bylaws and Rules and Regulations of the Association and that any failure by lessee to comply with the terms of such documents shall be a default under the lease. If, after two written notices are given to the owner of a violations by the tenant, then the Association may, as an intended third-party beneficiary under the lease, initiate legal proceedings to remove the tenant if the violations are not cured.

The number of rentals in the Paradise Cove Homeowner association shall not exceed (6) six townhomes.

Those townhomes currently under lease prior to this agreement shall be granted a "grandfather status" until the unit is sold or owner re-occupies the unit. Future rental agreements shall be approved on a first come basis. Those wanting to place a unit on a potential rental list will notify the secretary and /or the property management agent for Paradise Cove Homeowners Association. Any rental or lease agreement must be in writing and presented to the board of trustees for approval prior to occupancy. All rental or lease agreements must be for a minimum period of twelve (12) months, with any renewal also for a minimum period of twelve months. No dormitory or individual room rentals are permitted. No unit shall be rented, leased or utilized for transient hotel purposes, commercial or vacation timeshare. Further, no owner shall lease or rent less than his or her entire living unit. The units may not be divided into a smaller rental space than the entire unit space. A renter or lessee may not sublet or allow a third party to occupy the unit. The association must be notified through its secretary and/ or property management agent forty- eight (48) hours prior to any move in or move out. Notwithstanding the above the owner shall occupy their townhome for at least 12 twelve consecutive months before it qualifies for a rental townhome.

**Section 14. NUISANCE:** No noxious or offensive activity shall be carried on upon any lot, or common area, nor shall anything be done thereon which may be, or may become, annoyance or nuisance to the owners or residents of other lots.

#### **ARTICLE IX — EASEMENTS**

**Section 1. UTILITIES:** There is hereby created a blanket easement upon, across, over and under all of the properties for public utility purposes. By virtue of this easement, it shall be expressly permissible for all public utilities serving the properties to lay, construct, renew, operate and maintain conduits, cables, pipes, mains, ducts, wires and other necessary equipment on the properties, provided that all such services shall be placed underground, except that said public utilities may affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under roofs and exterior walls. Notwithstanding anything to the contrary contained in this section. No sewers, electrical lines, water lines, or other utilities may be installed or relocated on the properties in such a way as to unreasonably encroach upon or limit the use of the common area or limited common area or any structure thereon. In the initial exercise of easement rights under this Section, a utility shall make reasonable efforts to occupy and use the same physical location or lane as other utilities. After a utility service has initially exercised its easement rights under this Section, the utility shall make reasonable efforts to occupy and use the same physical location as its prior installations. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Association shall have the right to grant such easement on said property without conflicting with the terms hereof.

**Section 2. MAINTENANCE BY ASSOCIATION:** An easement is hereby granted to the Association, its officers, agents, employees and to any maintenance company selected by the Association to enter in or to cross over the common and limited common areas and any lot to perform the duties of maintenance and repair.

**Section 3. OTHER EASEMENTS:** The easements provided for in this Article shall in no way affect

any other recorded easement.

#### **ARTICLE X -- GENERAL PROVISIONS**

**Section 1.** **ENFORCMENT:** The association, or any owner, shall have the right to enforce, by any proceeding at law or In equity, all restrictions, conditions, covenants reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, or any rule of the association, including but not limited to any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants. Failure of the association or of any owner to enforce any covenant or restriction herein contained or any rule of the association shall in no event be deemed a waiver of the right of the association or any owner to do so thereafter. In the event action, with or without suit, is undertaken to enforce any provision hereof or any rule of the association, the party against whom enforcement is sought shall pay to the association or enforcing owner a reasonable attorney's fee. The Trustees may levy a fine or penalty not to exceed 10% of the amount of the maximum annual assessment against any owner who fails to refrain from violation of these covenants or a rule of the Association, after three (3) days written notice. Fines and notice thereof shall be levied in compliance with Utah Law.

**Section 2.** **SEVERABILITY:** All of said conditions, covenants and reservations contained in this Declaration shall be construed together, but if any one of said conditions, covenants, or reservations, or any part thereof, shall at any time be held Invalid, or for any reason become unenforceable, no other condition, covenant, or reservation, or any part thereof, shall be thereby affected or impaired; association and owners, their successors, heirs and assigns shall be bound by each article, section, subsection, paragraph, sentence, clause and phrase of this Declaration, irrespective of the invalidity or unenforceability of any other article, section, subsection, paragraph, sentence, clause or phrase.

**Section 3.** **DURATION:** The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the owner of any lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns for a term of twenty (20) years from the date this declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years.

**Section 4.** **AMENDMENT:** The covenants, conditions and restrictions of this Declaration may be amended by an instrument approved by not less than sixty-seven percent (67%) of the total number of owners qualified to vote. Any amendment must be properly recorded in the records of Washington County, Utah, to become effective.

**Section 5.** **NOTICES:** Any notice required to be sent under the provisions of this Declaration shall be deemed to have been properly sent when deposited in the U.S. Mail, postpaid, to the last known address of the person who is entitled to receive it. Notice may also be sent via email, posting to the association website, fax and/or text message.

**Section 6.** **GENDER AND GRAMMAR:** The singular, wherever used herein, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.



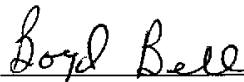
**Section 7. WAIVERS:** No provision contained In the Declaration shall be deemed to have been waived by reason of any failure to enforce it, irrespective of the number of violations which may occur.

**Section 8. TOPICAL HEADINGS:** The topical headings contained in this Declaration are for convenience only and do not define, limit or construe the contents of the Declaration of Covenants, Conditions and Restrictions of Paradise Cove Townhomes.

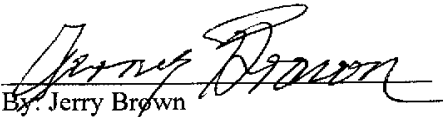
**Section 9. DISPUTES:** Disputes between parties (members and /or Trustees) shall be submitted to mediation prior to any legal action being pursued. However, matters relating to collections or that may affect health, life and safety of the property, the owners or Board need not be subject to mediation

IN WITNESS WHEREOF, the President and Secretary of the Paradise Cove Homeowners Association has executed this Amended and Restated Declaration this 16 day of September, 2013.

**PARADISE COVE HOMEOWNERS ASSOCIATION**



By: Boyd Bell  
Its: President



By: Jerry Brown  
Its: Treasurer

**CERTIFICATION**

I, Boyd Bell and Jerry Brown the undersigned, do hereby certify: That I am the duly elected and acting Director of the Paradise Cove Homeowners Association, Inc., a Utah corporation, and that the foregoing Amended and Restated Declaration was duly amended and adopted by a vote of the membership on the 16 day of September, 2013.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 16 day of September, 2013.

Boyd Bell  
By: Boyd Bell  
Its: President

Jerry Brown  
By: Jerry Brown  
Its: Treasurer

**EXHIBIT "A"**

**PHASE I**-BEGINNING AT A POINT S 89°39'15" W 24.83' ALONG THE SECTION LINE FROM THE SOUTH, ¼ CORNER OF SECTION 23, TOWNSHIP 42 SOUTH, RANGE 16, WEST, SALT LAKE BASE & MERIDIAN AND RUNNING THENCE S 89°39'15" W 119.01 FEET ALONG THE SECTION LINE, THENCE LEAVING SAID SECTION LINE N 00°48'35" W 1134.51 FEET THEN N 89°11'25" E 39.55 FEET; THENCE N 00°47'23" W 203.99 FEET TO "A" POINT ON THE 1/16 LINE THENCE N 89°33'29" E 104.23 FEET ALONG THE 1/16 LINE TO THE 1/16 CORNER, SAID POINT BEING THE NORTHWEST CORNER OF "KING'S COURT" SUBDIVISION. THENCE ALONG THE BOUNDARY LINE OF SAID SUBDIVISION S 00°48'35" E 110.00 FEET; THENCE N 89°17'22" E 30.20 FEET TO A POINT ON A 300.00 FOOT RADIUS CURVE TO THE RIGHT (LC BEARING S 08°47'45" W 90.22 FEET) THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE 90.57 FEET TO THE POINT OF A 794.49 FOOT RADIUS REVERSE CURVE (LC BEARING S 08°19'02" W 252.05 FEET); THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE 253.12 FEET; THENCE S 00°48'35" E 890.93 FEET TO THE POINT OF BEGINNING. CONTAINING 3.712 ACRES.

**PHASE II**-BEGINNING AT A POINT ON THE WEST BOUNDARY LINE OF "PARADISE COVE TOWNHOMES-PHASE I", SAID POINT BEING S 89°39'15" W 143.84 FEET ALONG THE SECTION LINE AND N 00°48'35" W 450.51 FEET FROM THE SOUTH ¼ CORNER OF SECTION 23, TOWNSHIP 42 SOUTH, RANGE 16 WEST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE S 89°11'25" W 186.73 FEET; THENCE S 15°14'17" W 159.81 FEET; THENCE N 74°45'43" W 74.00 FEET; THENCE S 15°14'17" W 25.77 FEET; THENCE N 10°26'28" E 180.10 FEET; THENCE N 41°18'14" E 111.20 FEET; THENCE N 89°11'25" E 162.51 FEET TO A POINT ON THE WEST BOUNDARY LINE OF SAID TOWNHOMES; THENCE ALONG SAID BOUNDARY LINE S 00°48'35" E 605.84 FEET TO THE POINT OF BEGINNING CONTAINING 4.585 ACRES

**PHASE III**- BEGINNING AT THE SOUTHWEST CORNER OF "PARADISE COVE TOWNHOMES - PHASE I", SAID POINT BEING S 89°39'15" W 143.84 FEET ALONG THE SECTION LINE FROM THE SOUTH ¼ CORNER OF SECTION 23, TOWNSHIP 42 SOUTH, RANGE 16 WEST, SALT LAKE BASE & MERIDIAN AND RUNNING THENCE ALONG THE WEST BOUNDARY LINE OF SAID TOWNHOMES N 00°48'35" W 450.51 FEET TO A POINT ON THE SOUTH BOUNDARY LINE OF "PARADISE COVE TOWNHOMES - PHASE II", THENCE ALONG SAID BOUNDARY LINE S 89°11'25" W 186.73 FEET; THENCE S 15°14'17" W 159.81 FEET; THENCE N 74°45'43" W 74.00 FEET; THENCE S 15°14'17" W 25.77 FEET; THENCE N 74°45'43" W 104.00 FEET; THENCE LEAVING SAID TOWNHOMES S 15°14'17" W 122.61 FEET; THENCE S 00°48'35" E 199.94 FEET TO A POINT ON THE SECTION LINE; THENCE ALONG SAID SECTION LINE N 89°39'15" E 443.01 FEET TO THE POINT OF BEGINNING. CONTAINING 3.752 ACRES.

IN WITNESS WHEREOF, the undersigned, being the President of The Paradise Cove Townhomes Association Board of Trustees, has hereunto set his hand and seal this 16 day of September, 2013.

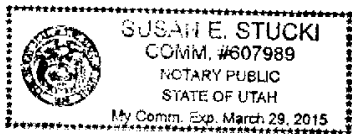
President:

Boyd Bell  
Boyd Bell

ATTEST:

STATE OF UTAH )  
County of Washington ) :ss.

Personally appeared before me, Boyd Bell being the President Paradise Townhomes Homeowners Association and executed the AMENDED AND RESTATED DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS OF PARADISE TOWNHOMES, this 16 day of September 2013.



Susan E. Stucki  
NOTARY PUBLIC residing at:

1240 E 100 S #10  
St. George, UT 84790

My Commission expires: 3/29/15