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RECORDER, UINTAH COUNTY, UTAH
THE SUNBURST TERRACE SUBDIVISION
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Entry 2015007927
Book 1448 Page 480

AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
THE SUNBURST TERRACE SUBDIVISION

A Planned Residential Development
Uintah County, Utah

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS of The Sunburst Terrace Subdivision is made on the date evidenced below by The Sunburst Terrace Homeowners Association, Inc., a domestic non-profit corporation (the "Association"), established to govern the common affairs of the Association's members, protect property values and establish the covenants, conditions, restrictions and rules of the Association.

RECITALS

A. Whereas, Declarant has heretofore caused to be recorded on November 14, 2005, in Book 950 at Page 397 of the records of the Uintah County Recorder's Office, a Declaration of Covenants Conditions and Restrictions of Sunburst Terrace Planned Unit Development, hereinafter referred to as the "Declaration";

B. Whereas, The Declaration having been amended by the First Amendment thereto on January 04, 2007, Entry Number 2007000109, Book 1011, Page 1-18;

C. Whereas, Valley Mortgage, Inc., a Colorado Corporation ("Valley Mortgage"), being the original Declarant, abandoned the Development, and on May 29, 2009, the Honorable Herbert L. Stern III entered an Order appointing a Receiver to take immediate control over the assets of the Valley Entities including Valley Mortgage (Case No. 09CVS332, Denver District Court, and On April 19, 2010, the Valley Entities filed a Chapter 11 petition in the United States Bankruptcy Court for the District of Colorado (Case No. 10-19101-SBB) to obtain bankruptcy protection; and

D. Whereas, The Association has full authority, as Declarant to Amend the Declaration pursuant to the provisions therein and Utah Code, Title 57, Chapter 8a. The Owners (1) having been given proper notice, (2) having constituted a quorum in person or by proxy, and (3) having voted on the approval of this Amended And Restated Declaration of Covenants, Conditions And Restrictions, have affirmatively, by written vote of at least sixty-seven percent of all Members approved the adoption of this document.

E. Whereas, the Owners and Members of the Association, through the Board of Directors, hereby adopt this Amended and Restated Declaration of Covenants, Conditions and Restrictions as approved by the Owners;

F. Whereas, this Amended and Restated Declaration of Covenants, Conditions and Restrictions supersedes and replaces the Original Declaration and any amendments or supplements thereto; and

G. Whereas, The Sunburst Terrace Subdivision is comprised of the real property described in Exhibit "A" attached hereto (the "Property").

NOW, THEREFORE, the Association does hereby establish and impose upon the Property (as hereinafter defined), the following Covenants for the benefit of, and to be observed and enforced by, the Association, its successors and assigns as well as by all purchasers of Lots.

ARTICLE I. DEFINITIONS

- 1.1. "Assessment" as used herein shall mean any regular, special, individual or other assessment levied by the Association against an Owner pursuant to the terms of this Declaration, the Bylaws or applicable law.
- 1.2. "Association" shall mean and refer to The Sunburst Terrace Homeowners Association; Inc. Said Association shall administer the affairs of all Lots within the Property.
- 1.3. "Board of Directors" or "Board" shall mean and refer to the body responsible for the administration of the Association, elected by the Members and generally serving the same role as a Board of Directors under the Revised Non-Profit Corporations Act.
- 1.4. "Bylaws" shall mean and refer to the Bylaws of the Association, governing the administrative and operational aspects of the Association.
- 1.5. "Common Areas" shall mean and refer to that part of the property which is not included within the Lots (as defined below) and is intended for the common use and enjoyment of the Owners of Lots, including all improvements other than utility lines

now or hereafter constructed or located thereon. The Common Areas shall include any recreational facilities, entrance monument(s), streets, parking areas, and any other real property or facilities which the Association owns and/or which the Association acquires a right of use for the benefit of the Association and its members.

- 1.6. "Common Expenses" shall mean and refer to all items, things and sums described herein which are lawfully assessed against the Lot Owners in accordance with this Declaration, the Bylaws, or the Rules of the Association.
- 1.7. "Community Standard" shall mean and refer to the standard of conduct, maintenance, or other activity/aesthetics generally prevailing in The Sunburst Terrace Subdivision. This Community Standard may be more specifically defined by the Board and shall serve as a standard against which behavioral, maintenance, architectural and landscaping infractions are determined.
- 1.8. "Declaration" shall mean and refer to this Amended and Restated Declaration of Covenants, Conditions and Restrictions.
- 1.9. "Unit" shall mean and refer to a structure or portion of a structure which is designed and intended for use and occupancy as a Single-Family residence, together with all improvements and appurtenances located on the Lot which are used in conjunction with such residence.
- 1.10. "Lot" or "Lots" shall mean and refer to those portions of the Property that are subdivided parcels of land shown and defined as Lots, exclusive of the Common Areas, as shown on the Plat map of The Sunburst Terrace Subdivision.
- 1.11. "Member" shall mean and refer to every Owner of a Lot within the Association.
- 1.12. "Mortgage" means any mortgage or deed of trust encumbering any Lot or any of the Common Areas, and any other security interest existing by virtue of any other form of security instrument or arrangement provided that such mortgage, deed of trust or other form of security instrument has been recorded in the Recorder's Office of Uintah County.
- 1.13. "Mortgagee" means the person or entity secured by the Mortgage.
- 1.14. "Nuisance" as used and referred to herein shall mean anything which is injurious to health, indecent, offensive to the senses or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property.
- 1.15. "Owner" shall mean, refer to and include the person or persons who are the owner of record (in the office of the County Recorder of Uintah County, Utah) of a fee or an undivided fee interest in any Lot. Notwithstanding any applicable theory relating to a

mortgage, deed of trust, or like instrument, the term Owner shall not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to a foreclosure or proceeding in lieu thereof.

- 1.16. "Plat" shall mean and refer to the subdivision Plat of The Sunburst Terrace Planned Unit Development, A planned residential development, executed and acknowledged on the 28th day of October, 2005, prepared and filed for record in the office of the Uintah County Recorder, Entry Number 2005009679, Book 950, Page 396-396.4 and as amended by Entry 2006004523, Book 975, Page 80-80.5.
- 1.17. "Property" shall mean and refer to the entire tract of real property described in the Plat(s) and further described in Article II of this Amended Declaration.
- 1.18. "Rules" shall mean and refer to the Rules of the Association.
- 1.19. "Transfer Fee" shall mean and refer to the fee charged by the Association to each Lot upon the sale or transfer of its respective Lot.

ARTICLE II. PROPERTY DESCRIPTION

The property which is and shall be held, transferred, sold, conveyed and occupied subject to the provisions of this Declaration consists of the following described real property situated in Uintah County, State of Utah:

See Exhibit "A"

ARTICLE III. BOARD OF DIRECTORS

The affairs of the Association shall be managed by a Board of Directors, as may be set forth in the Articles of Incorporation, and/or the Bylaws. The Board of Directors is composed of 3-7 directors elected to 2 year terms. The Board is authorized to adopt, amend and repeal Bylaws, Rules and resolutions not inconsistent with this Declaration, the Articles of Incorporation or the governing statute. The Bylaws, as approved, are incorporated herein by reference and must be recorded in the same manner as this Declaration.

ARTICLE IV. MEMBERSHIP AND VOTING RIGHTS

- 4.1. Membership. Every Owner, upon acquiring title to a Lot, shall automatically become a member of the Association and shall remain a member thereof until such time as his/her ownership of such Lot ceases for any reason, at which time the membership in the Association shall automatically cease and the successor Owner shall become a

Member. Membership in the Association shall be mandatory and shall be appurtenant to and may not be separated from the ownership of a Lot.

- 4.2. Voting Rights. All Members shall be entitled to cast one (1) vote for each Lot owned by them.
- 4.3. Multiple Ownership Interests. In the event that there is more than one Owner of a particular Lot, there is one (1) vote per Lot, as the Owners shall determine amongst themselves. Since a Lot Owner may be more than one person, if only one of such persons is present at a meeting of the Association that person shall be entitled to cast the votes appertaining to that Lot. But if more than one of such persons is present, the vote appertaining to that Lot shall be cast only in accordance with the agreement of a majority of them, and such consent, shall be conclusively presumed if anyone of them purports to cast the vote appertaining to that Lot without protest being made forthwith by any of the others to the person presiding over the meeting.
- 4.4. Meeting of the Members. The requirements, procedures and policies regarding meetings of the members shall be as set forth in the Bylaws of the Association, as may be amended from time to time. An Annual Meeting of the Members shall be held, the time and place to be set by the Board.

ARTICLE V. PROPERTY RIGHTS IN LOTS

- 5.1. Use and Occupancy. Except as otherwise expressly provided for in this Declaration or the Bylaws, the Owner of a Lot shall be entitled to the exclusive use and benefit of such Lot. The owner of each Lot shall be bound by and shall comply with the covenants and restrictions contained in this Declaration, the Bylaws, and the Rules of the Association for the mutual benefit of the Owners collectively.
- 5.2. Easements. Easements for the installation and maintenance of utilities, irrigation and drainage facilities are reserved as shown on the recorded Plat of the Property, or any portion thereof, or other duly recorded instrument(s). Within these easements, no structure, planting, or other material shall be placed or be permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage channels in the easements. Declarant reserves the right to enter upon the Property to correct any flow of water and to establish and re-establish drainage channels.
- 5.3. In addition to the easements shown on the Plat or provided for under this Declaration, the Bylaws or by law, the following easements are hereby expressly reserved or restricted for the benefit of the Association:

- 5.3.1 No Easements for Encroachment. No Unit shall encroach upon an adjoining Lot or the Common Areas without the express written consent of the Lot Owner and the Board.
- 5.3.2 Utility Easement. The Association or any public utility provider shall have an easement over all Lots and Common Areas for the installation, maintenance, and development of utilities. The easement area and all improvements therein shall be maintained continuously by the Owner of the Lot, or in the case of Common Areas by the Association, in accordance with the provisions of this Declaration, except for those improvements for which a public authority or utility provider is responsible.

ARTICLE VI.

PROPERTY RIGHTS IN THE COMMON AREAS AND CONVEYANCES

- 6.1. Members' Easements of Enjoyment. Every member shall have the right and an easement of enjoyment in and to the Common Areas and shall pass with the title to every Lot, subject to the following rights and provisions:
- 6.1.1 The right of the Association to establish Rules, including fines for violations thereof, pertaining to the use of the Common Areas, including but not limited to, recreational facilities, streets, and use of Lots. The Association may impose reasonable limitations on the number of guests per Member who at any given time are permitted to use the Common Areas and may tow improperly parked vehicles. Any such fines, or costs of remedial action, shall be assessed, and collected, against the Owner, as set forth in ARTICLE VII herein.
- 6.1.2 The right of the Association to suspend any Owner's voting privileges during any period of time in which a fine or regular, special or other assessment remains unpaid.
- 6.1.3 The right of the Association to borrow money for the purpose of improving the Common Areas and facilities and to mortgage said property, provided that the rights of such Mortgages shall be subordinate to the rights of the members.
- 6.1.4 The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an affirmative vote of at least eighty percent (80) of all Members entitled to vote in Association matters agree to such a dedication or transfer, and unless written notice of the

proposed action is sent to every member not less than ten (30) days in advance.

- 6.1.5 Except as may be otherwise permitted by the provisions of this Declaration, no structure or improvement of any kind shall be erected, placed or maintained on the Common Areas without prior written approval of the Board.
- 6.1.6 All of the foregoing rights specified in this section shall inure to the benefit of, and be enforceable by, the Association against any Member of the Association, or any other person, violating or attempting to violate any of the same, either by action at law for damages or suit in equity to enjoin a breach or violation, or enforce performance of any term, condition, provision, rule or regulation. Further, the Association shall have the right to abate summarily and remove any such breach or violation by any Member at the cost and expense of such Member.
- 6.2. Delegation of Use; Any Member may delegate, in accordance with this Declaration or the Bylaws, his or her right of enjoyment to the Common Areas or facilities thereon to the members of his family, his tenants or contract purchasers who reside on the Property, all subject to such reasonable Rules and regulations which the Association may adopt and uniformly apply and enforce.
- 6.3. Common Area Storage. The Association may from time to time create storage within certain Common Areas. Owners shall have the right to subject to any Rules and regulations promulgated by the Board pertaining to its use.
- 6.4. Waiver of Use. No Member may exempt himself or herself from personal liability for Assessments duly levied by the Association, nor release their Lot from the liens and charges hereof, by waiver of the use and enjoyment of the Common Areas and the facilities thereon or by abandonment of his or her Lot other than by sale thereof.
- 6.5. Form of Conveyance. Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering title to a Lot shall describe the interest or estate involved substantially as follows:
 - 6.5.1 LOT _____ OF THE SUNBURST TERRACE PUD, amended, according to the official plat thereof on file in the office of the recorder, Uintah County, Utah
 - 6.5.2 Whether or not the description employed in any such instrument is in the above specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot.

- 6.6. Title to the Common Area. The Association holds, or shall hold, title to the Common Areas of the Association as represented on the Plat.

**ARTICLE VII.
COVENANT FOR MAINTENANCE ASSESSMENT**

- 7.1. Creation of the Lien and Personal Obligation of Assessments. Each Member, by acceptance of a real estate contract or deed for a Lot, whether or not it shall be so expressed in any such contract or deed, is deemed to covenant and agree to pay to the Association: (1) annual Assessments, (2) special Assessments for capital improvements, such Assessments to be fixed, established and collected from time to time as hereinafter provided; (3) individual Assessments for expenses benefiting or attributable to fewer than all of the Lots (individual assessments may include "fines" as deemed necessary and authorized in this Declaration); and (4) other charges provided for herein including but not limited to a Transfer Fee. The annual, special, individual and other Assessments, together with such interest thereon and costs of collection and attorney's fees thereof, as hereinafter provided, shall be: (1) a charge on the land and shall be a continuing lien upon the lot against which each such Assessment is made and (2) the personal, joint and several obligation of the Owner or Owners of such Lot, the grantee shall be jointly and severally with the grantor for all such unpaid assessments, late payment fees, interest and costs of collection, including attorney's 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.
- 7.2. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Members of the Association and, in particular, for the improvement and maintenance of the properties, services and facilities devoted to this purpose including the enjoyment of the Common Areas, as set forth in this Declaration.
- 7.3. Annual Budget. The Board shall prepare, or cause the preparation of, an annual budget for the Association, which shall provide, without limitation, for the maintenance of the Common Areas, the maintenance of any other area/property over which the Association has maintenance responsibilities, and for the administration, management and operation of the Association. If the Board fails to adopt an annual budget, the last adopted budget shall continue in effect.
- 7.4. Regular Annual Assessments. Regular Assessments of the Association shall be determined and based on an annual amount payable by the Owners, as determined by the Board, based on the needs established in the annual budget for a fiscal year beginning January 1 and ending December 31. On or before December 15 of each

fiscal year the Association shall prepare and furnish to each Owner an operating budget for the upcoming fiscal year. The budget shall itemize the estimated cash requirements for such fiscal year, anticipated receipts, reserves, and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the annual assessments for the upcoming fiscal year and as the major guideline under which the Development shall be operated during such annual period.

- 7.4.1 Date of Commencement of Regular Assessments. Regular Assessments are due the first day of March each year. The Board, however, by written agreement between Owner and the Board, may permit monthly, quarterly, semi-annual or other payment arrangements (herein "Installments").
- 7.4.2 Default. In the event that any annual assessment or Installments are in default for a period of more than sixty (60) days, the Board may declare the entire Assessment, including interest and costs of collection, immediately due and payable.
- 7.4.3 Increases in Assessments. Increases in the regular annual Assessments may be proposed by the Board after due consideration to the current and future needs of the Association. Increases not more than 4% above the regular annual assessment for the previous year require a simple majority vote of the Owners present in person or by proxy (or by any other means lawfully permitted to gather votes) at any meeting called for such purpose. Increases above 4% require the approval of 60% of the Owners present in person or by proxy (or by any other means lawfully permitted to gather votes) at any meeting called for such purpose.
- 7.4.4 Reserve Fund. As part of the budgeting process, the Association shall establish and maintain a reserve fund as part of the regular assessment for repairs and replacement of the Common Areas and for any other long term maintenance responsibilities required of the Association. The reserve fund shall be funded by the allocation and monthly payment to such reserve fund of an amount to be determined by the Board, in its best business judgment and sole discretion, from the regular annual Assessment. The fund shall be conclusively deemed to be a common expense of the Association and may be deposited with any banking institution, the accounts of which are insured by an agency of the United States of America or may, in the discretion of the Board, be invested in obligations of, or fully guaranteed as to principal by, the United States of America, or in any approved and creditworthy Credit Union.
- 7.4.5 Reserve Study/Updates. A study of the reserve account to determine needs and adequacy shall be completed at least once every three (3) years. The

Board shall have sole discretion to set the date and time of such study and by whom it shall be conducted. The Board shall then use the study as its guide, adhering to it as closely as possible, in its efforts to fund and use the Reserve account for its intended purposes.

- 7.5. Special Assessments for Capital Improvements. In addition to the regular Assessments, the Association may levy in any calendar year, a special Assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto. Such assessment shall be approved by sixty-seven percent (67%) of the votes of the Members who are voting in person or by proxy (or by any other means lawfully permitted to gather votes) at a meeting duly called for this purpose, written notice of which shall be sent to all Members no more than sixty (60) day but not less than thirty (30) days in advance of the meeting, setting forth the purpose of the meeting.
- 7.6. Individual Assessments. Any expenses benefiting or attributable to fewer than all of the Lots may be assessed exclusively against the Lots affected or benefited. Individual Assessments shall include, but shall not be limited to Assessments levied against any Lot to reimburse the Association for costs incurred in bringing the Lot or its Owner into compliance with the provisions of this Declaration or Rules and for fines or other charges imposed pursuant to this Declaration for violation of this Declaration, the Bylaws or any Rules.
- 7.7. Uniform Rate of Assessment. Both regular and special assessments shall be fixed at a uniform rate for all Lots.
- 7.8. Certificate of Payment. The Association shall, upon demand, furnish to any owner liable for said assessment, a certificate in writing signed by an officer of the Association or its attorney, setting forth whether the regular and special assessments on a specified Lot have been paid, and the amount of the delinquency, if any. The certificate shall be conclusive evidence of payment of any Assessment therein stated as having been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.
- 7.9. Sale or Transfer of Lot. In the event that any Lot is sold or transferred, the regular annual assessment in its entirety, or any balance thereof, and any other assessments then due shall be paid at the time of conveyance. The regular annual Assessment may be prorated between the parties involved. The Board may also charge the Owner a

Transfer fee of an amount not to exceed \$75.00 and other reasonable charges, as provided herein or by law.

**ARTICLE VIII.
NON-PAYMENT OF ASSESSMENTS**

- 8.1. Delinquency. Any Assessment or Installment which are not paid when due, shall be delinquent. With respect to each Assessment or Installment, if any, not paid within twenty (20) days after its due date, the Association shall require the owner to pay a late fee charge in a sum to be determined by the Board and such delinquent amount shall bear interest from the date of delinquency at the rate established by resolution of the Board or by individual contract, not to exceed the maximum rate permitted by law. If any such Assessment or payment is not paid within thirty (30) days after the delinquency date, the Association may, at its option: (1) bring an action at law against the Owner personally obligated to pay the same, (2) turn the account over to an attorney or other or, foreclose the lien against the Lot (either by judicial or non-judicial foreclosure procedures), and there shall be added to the amount of such Assessment the late charge, interest, and all costs of collection, including reasonable attorney's fees. Each Owner vests in the Association or its assigns the right and power to bring all actions at law or lien foreclosure against such owner or other owners for the collection of such delinquent Assessments.
- 8.1.1 Acceleration. In the event an Owner shall fail to pay any installment before the thirty- first (31st) day after which it is due, the Board may, at its option, declare immediately due and payable the total, remaining amount of the annual Assessment due. Unless said accelerated amount is paid within ten (10) days after written demand therefore is made, the entire accelerated amount shall become a delinquent Assessment for all purposes under this Declaration.
- 8.1.2 Trust Deed for Assessments. By acceptance of a deed for a Lot, each Owner as trustor conveys and warrants to trustee, as selected by the Board, in trust for the Association as beneficiary, with power of sale, the Owner's Lot and all improvements thereon for the purpose of securing payment of all Assessments provided for in this Declaration for purposes of this Article and Utah Code Ann. § 57-8a-304, et seq., as amended from time to time. Each Owner hereby also grants to the Association and trustee all powers and rights of non-judicial trust deed foreclosure provided for in Utah Code Ann. §§ 57-1-19, et seq.
- 8.2. Foreclosure Sale. Any such foreclosure and subsequent sale as provided for above in Section 8.1 is to be conducted in accordance with the laws of the State of Utah relating to liens, mortgages, and deeds of trust. The Association, through its duly

authorized agents, shall have the power to bid on the lot at a foreclosure sale, and to acquire and hold, lease, mortgage and convey the same.

- 8.3. Cumulative Remedies. The Assessment lien and the rights of foreclosure and sale there under shall be in addition to all other rights and remedies which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid Assessments, as above provided.
- 8.4. Lease Payments by Tenant to Association. If the Owner of a Lot who is leasing the Lot fails to pay an assessment for more than sixty (60) days after any Assessment or Installment is due, the Board may demand that the tenant pay to the Association all future lease payments due to the Owner, beginning with the next monthly or other periodic payment, until the amount due to the Association is paid. The Board, or its agent, shall give the Owner and the tenant written notice of its intent to demand full payment from the tenant. The notice to the Owner shall state (1) the date certain by which the Association expects full payment; (2) the amount due and owing to the Association, and (3) that the Association will make demand upon the Tenant for future lease payments to be made to the Association if this request is not adhered to. In the event that the tenant fails or refuses to pay rents to the Association as provided for herein, the Association has the right to proceed against the tenant through a civil action for unlawful detainer. The collection of rents by the Association in lieu of Assessments in no way waives the Association's right's to pursue other remedies against the Owner or Lot that is in default.

ARTICLE IX. OPERATION AND MAINTENANCE

- 9.1. Maintenance by Owner. Each Unit shall be maintained by the Owner thereof so as not to detract from the appearance of the property and so as not to adversely affect the value or use of any other Unit.
- 9.1.1 General. The maintenance and repair of each Lot, including but not limited to improvements constructed thereon, landscaping, the interior and exterior of the Unit and the interior and exterior of any fence on the boundary line of each Lot shall be the responsibility of the Owner(s) thereof.
- 9.1.2 Lot Maintenance. Each Lot shall at all times be kept in a clean and well maintained condition. Additionally, the Board may from time to time establish specific Rules and regulations pertaining to maintenance standards as well as individual assessments and fines for the violation of such Rules and regulations. Individual Lot assessments/Fines are charged against the violating Owner and respective Lot on an on-going monthly basis until such time as the violation is corrected.

- 9.1.3 Exterior Colors. Stains and paints shall be colors of subdued earth tones. No bright or garish colors, except white, shall be permitted on the exterior of any Unit or appurtenant structure including storage shed(s).
- 9.1.4 Garbage. No Owner is allowed to have any non-commercially serviced outside trash bins or storage of waste or permit the burning of trash materials; All Garbage receptacles shall be removed from the public street within 24 hours of each Lot's respective garbage pickup day.
- 9.1.5 Hazardous Materials. No contaminates or hazardous materials may be released into the HOA drainage system.
- 9.2. Operation and Maintenance by Association. To the extent not clarified herein and not inconsistent with the provisions of this Declaration, the Association may, by a duly adopted Board Resolution, identify and assign those areas of maintenance and responsibility that are either (1) Owner responsibilities; or (2) Association responsibilities. Such determinations shall be set forth in a Board resolution distributed to all Owners and shall be binding against all owners.
- 9.2.1 Common Areas. The Association shall, subject to the Board's budget and financial restraints, provide for such maintenance and operation of the Common Areas as may be necessary or desirable to make them appropriately usable in conjunction with the Lots. This shall include keeping them clean, functional, attractive, and generally in good condition and repair.

ARTICLE X. RESTRICTIONS

- 10.1. Residential Use. Lots shall be used for residential purposes permitted by applicable zoning ordinances, and each Lot shall have setback lines pursuant to Uintah County guidelines and the Plat. Each Lot is restricted to one single family dwelling and any subdivision thereof is prohibited.
- 10.2. Association Rules. The Board from time to time, subject to and not inconsistent with the provisions of the Declaration or the Bylaws, may adopt, amend, repeal and enforce reasonable Rules and regulations governing, among other things; (a) the use of the Common Areas; (b) the use of any roads or utility facilities owned by the Association; (c) the collection and disposal of refuse; (d) uses and nuisances pertaining to the Property; and (e) collection procedures pertaining to non-payment of assessments and/or fines, and (f) all other matters concerning the use and enjoyment of the Property and the conduct of Owners and their invitees within the Development
- 10.3. Each Lot is also subject to the following restrictions and/or requirements:

- 10.3.1 Each building site shall contain a two (2) car garage, which structure may be attached or detached from the Unit.
- 10.3.2 The Lot with a property description of "Lot 40 of SUNBURST TERRACE SUBDIVISION" shall be exempt from the restriction and requirement of paragraph 10.3.1.
- 10.4. Parking. No motor homes or commercial vehicles or trucks exceeding one (1) ton shall be stored on the Owners' Lots. No vehicles shall be parked in areas not specifically designated for parking. No vehicles shall be parked overnight on the street. Violators may be subject to towing.
- 10.5. Pets. The Board may at any time create Rules and regulations pertaining to Pets and/or animal restrictions.
- 10.6. Speed Limit. Vehicular traffic may not exceed 15 mph speed limit within the Sunburst Terrace Development. Infractions may subject the Owner to fines as set forth in the Rules and Regulations.
- 10.7. No Violation of Rules. No Owner shall violate the Rules as adopted from time to time by the Board. Owners may be charged an individual assessment or fine as established by the Board for such violations.

ARTICLE XI.
ARCHITECTURAL CONTROL

- 11.1. Architectural Control. The Board of Directors may schedule a special meeting for the purpose of reviewing certain improvements, shed and/or fencing construction in an effort to establish and maintain reasonable standards and to ensure that all improvements within the Development harmonize with existing surroundings and structures. The Board may establish a committee to perform this function. No Unit, accessory of or addition to a Unit shall be constructed or maintained, and no alteration, repainting, or refurbishing of the exterior of any Unit shall be performed, unless complete plans and specifications therefore have first been submitted to and approved by the Board or its Committee.
- 11.2. Standard. The Board or its committee shall establish written policies and procedures pertaining to architectural control. In deciding whether to approve or disapprove plans and specifications submitted to it, the Board or its committee shall use such written policies as a guide and further use its best judgment to insure that all construction on Lots within the Property conform to and harmonize with existing surroundings, structures and community standards.

- 11.3. Construction. Once begun, any improvements, construction, landscaping, or alterations approved by the Committee shall be diligently prosecuted to completion.
- 11.4. No Liability for Damage. The Board, nor its agents shall be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article and shall be indemnified and held harmless against any damages or costs resulting from any action brought against them.

**ARTICLE XII.
COMPLIANCE AND ENFORCEMENT**

- 12.1. Compliance. Each Owner, tenant or occupant of a Unit shall comply with the provisions of this Declaration, the Bylaws, any and all Rules adopted pursuant thereto and any applicable statutes or ordinances. Failure to comply therewith shall be grounds for an action or lawsuit maintainable by the Association or an aggrieved Owner.
- 12.2. Remedies. Violation of any provisions of this Declaration, the Bylaws, or any Rules adopted pursuant thereto, or of any decision of the Association made pursuant to such documents, shall give the Board, acting on behalf of the Association, the right, in addition to any other rights set forth in this Declaration or the Bylaws, or under law, to do, any or all of the following:
- 12.2.1 To enter the Lot which or as to which such violation exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition that may exist contrary to the intent and meaning of such provisions, and the Board shall not thereby be deemed guilty of any manner of trespass, provided that judicial proceedings shall be instituted before any items of construction may be altered or demolished;
- 12.2.2 To enjoin, abate, or remedy such thing or condition by appropriate legal proceeding;
- 12.2.3 To levy reasonable fines pursuant to a schedule of fines adopted by resolution of the Board, which fines shall be collected in the same manner as an unpaid Assessment as hereinabove provided. A copy of such shall be delivered to each Owner, mailed to the mailing address of each Lot or mailed to the mailing address designated by the Owner in writing to the Association;
- 12.2.4 To suspend the voting rights of each Member in violation until such time as the violation has been corrected and any fines pertaining thereto have been paid in full, including any interest, costs or attorney's fees.

- 12.2.5 To bring suit or action against the Owner(s) on behalf of the Association and other Owners to enforce this Declaration, the Bylaws and any Rules adopted pursuant thereto.
- 12.3. Action by Owners. Subject to the Bylaws or Utah law, an aggrieved Owner may bring an action against such other Owner or the Association to recover damages or to enjoin, abate, or remedy such thing or condition by appropriate legal proceedings.
- 12.4. Injunctive Relief. Subject to Section 13.2, nothing in this section shall prevent an Owner, the Association, or other interested party from resort to a court of competent jurisdiction in those instances where injunctive relief may be appropriate.
- 12.5. Notification of First Mortgagee. The Board shall notify in writing any first Mortgagee of any individual Lot for which the Association files a lien or pursues any other course of action due to a default in performance of the terms of this Declaration by the Lot Owner which is not cured within sixty (60) days, provided such Mortgagee has requested in writing to be so notified.

ARTICLE XIII. INSURANCE

- 13.1. Association Insurance. The Association shall obtain and keep in full force and effect insurance coverages described in this Article. Insurance coverage shall be secured from companies licensed to do business in the State of Utah, with a rating of "A" or better from Bests Insurance Report. Each policy of insurance obtained by the Association shall, if possible, include: (a) a standard mortgagee clause commonly accepted by private institutional mortgage investors in the areas; (b) a waiver of the insurer's subrogation rights with respect to the Association, the Board, the Owners and their respective servants, agents and guests with respect to claims arising from areas to be insured by the Association; (c) a provision that the insurance cannot be cancelled, suspended or invalidated due to the conduct of any particular Owner or Owners; (d) a provision that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Owners; (e) that a mortgagee endorsement clause providing that there shall not be less than ten (10) days notice of reduction or cancellation relating to any of the policies. Premiums for the Association's insurance shall be a common expense.
- 13.2. Liability Insurance. Liability insurance coverage shall be secured from companies licensed to do business in the State of Utah, with a rating of "A" or better from Bests Insurance Report. The Association shall obtain and maintain Public Liability Insurance to insure the Association, the Board, the Managing agent and employees of the Association against claims for bodily injury and property damage arising out of the conditions of the Common Areas or activities thereon under a Comprehensive

General Liability form. Such insurance shall be for such limits as the Board may decide, but not less than those limits customarily carried in connection with properties of comparable character and usage in the Salt Lake County, State of Utah, nor less than \$1,000,000 for personal injury and property damage arising out of a single occurrence, such coverage to include protection against water damage liability, liability for non-owned and hired automobile, liability for the property of others and such other risks as shall customarily be covered with respect to property similar in construction, location and use. The policy shall contain a "Severability of Interest" endorsement which shall preclude the insurer from denying the claim of any Owner because of negligent acts of the Association or other Owners and a cross liability endorsement pursuant to which the rights of the named insured as between themselves are not prejudiced. The policy shall provide that the policy may not be canceled or substantially modified by the insurer unless it gives at least thirty (30) days prior written notice thereof to each insured. Any such coverage procured by the Board shall be without prejudice to the right of the Owners to insure their personal liability for their own benefit at their own expense.

- 13.3. Fidelity Coverage. The Association shall maintain fidelity coverage to protect against dishonest acts on the part of officers, trustees, managing agents, directors and employees of the Association and all others who handle, or are responsible for handling, funds of the Association. In that event, such fidelity bonds shall:

13.3.1 Name the Association as an obligee;

13.3.2 Be written in an amount based upon the best business judgment of the Association but in no event be less than a sum equal to three months' assessment on all Lots;

13.3.3 Contain waivers of any defense based upon the exclusion of volunteers or persons who serve without compensation from any definition of "employee" or similar express; and;

13.3.4 Provide that a policy may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days prior written notice to the insured.

- 13.4. Further General Requirements. Insurance procured and maintained by the Board shall not require contribution from insurance held by any of the Owners or their Mortgagees. Each policy of insurance obtained by the Board shall, if reasonably possible, provide:

13.4.1 A waiver of the insurer's right of subrogation against the Association, and their respective directors, officers, agents, employees, invitees and tenants;

- 13.4.2 That it cannot be canceled, suspended or invalidated due to the conduct of any particular Owner or Owners;
- 13.4.3 That it cannot be canceled, suspended or invalidated due to the conduct of the Association without a prior written demand that the defect be cured; and
- 13.4.4 As stated above, that any "no other insurance" clause therein shall not apply with respect to insurance maintained individually by any of the Owners.
- 13.5. Review of Insurance. The Board shall periodically, and whenever requested by Owners entitled to exercise at least twenty percent (20) of the outstanding votes in the Association, review the adequacy of the Association's insurance program and shall report in writing the conclusions and action taken on such review to the Owner of each Unit and to the holder of any Mortgage on any Lot who shall have requested a copy of such report. Copies of every policy of insurance procured by the Board shall be available for inspection by any Owner and any Mortgagee.
- 13.6. Other Insurance Provisions. All insurance required pursuant to this Article shall be written by insurers licensed in the State of Utah and that are members of the Utah Property and Casualty Insurance Guaranty Association. Notwithstanding anything in this Article to the contrary, any insurance required to be obtained by the Association pursuant to this Article shall be required only to the extent that such coverage is reasonably obtainable at reasonable rates and is customarily obtained with respect to improvements or facilities have the same or similar characteristics of the Common Areas and Units or risks being insured.
- 13.7. Deductible. For all claims against the Association's insurance policy for which the damage or injury is caused or due to the Common Area or Areas over which the Association has responsibility, the Association shall pay the deductible. If, however, the Association's insurance is obligated to cover a loss which was attributable to the negligence or fault of an Owner, its tenants, guests, invitees or agents, then the "at fault" Owner shall pay the deductible. Failure to pay the deductible within thirty (30) days shall entitle the Association to collect said unpaid deductible in the same manner as an unpaid assessment.

ARTICLE XIV.
RIGHTS OF MORTGAGEES

- 14.1. As used in this Article, the term "Mortgage" shall mean and include both a first Mortgage on any Lot and first deed of trust on any Lot, and the term "Mortgagee" shall mean and include both a Mortgagee under a first Mortgage on any lot and a beneficiary under a first deed of trust on any Lot.

- 14.2. Subordination of Assessment Liens. The lien of the Assessments provided for in this Declaration and under Utah State law shall be subordinate to the lien of any first Mortgagees or deeds of trust now or hereinafter placed upon the Lot subject to Assessments, but only to the extent of Assessments or Installments which accrue prior to foreclosure of the Mortgage, exercise of a power of sale available thereunder, (except for claims for a pro rata share of such prior assessments resulting for a pro rata reallocation thereof to all Lots including the Lot in which the mortgagee is interested).
- 14.2.1 In the event that any Lot is sold or transferred through foreclosure, the regular annual Assessment shall be prorated and the new Owner shall be immediately liable for the payment of that portion representing the remainder of the current year. The foreclosure of a Lot shall not relieve the Lot or its Owner(s) from liability for any Assessments thereafter becoming due, nor from the lien of any future Assessment.
- 14.3. Unless sixty-seven percent (67%) of the Mortgagees (based upon one vote for each Mortgagee) of the individual Lots have given their prior written approval or waived their rights as provided for herein, neither the Association nor any other party shall be entitled by act as follows:
- 14.3.1 To alter the provisions pertaining to the uniform rate of Assessments;
- 14.3.2 To abandon, partition, subdivide, encumber, sell, dedicate, or transfer all or any part of the Common Areas;
- 14.3.3 To seek to abandon or materially alter the arrangement which is established by the Declaration;
- 14.3.4 To change, waive, abandon, or cease enforcement of the arrangement created under this Declaration concerning architectural control, or maintenance of the individual Units and Common Areas;
- 14.3.5 To fail to maintain the fire, casualty, and extended coverage insurance provided for in this Declaration;
- 14.3.6 To use proceeds of such insurance for purposes other than the repair, replacement or reconstruction of improvements comprising a part of the Common Areas; and
- 14.3.7 To amend this ARTICLE XIV.

**ARTICLE XV.
AMENDMENTS**

- 15.1. How Proposed. Amendments to the Declaration shall be proposed by either a majority of the Board or a special committee appointed by the Board, or by Owners holding thirty percent (30%) or more of the voting rights. The proposed amendment must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon or attached to any request for approval or consent to the amendment. Notice of the meeting must be distributed to Members at least 30 days prior to the meeting.
- 15.2. Approval Required. Except as otherwise provided in Sections 15.3 and 15.4 of this Article or by other provisions of this Declaration, this Declaration may be amended if such amendment is approved by the affirmative vote of at least sixty-seven percent (67%) of those members, entitled to vote, present or represented by proxy at a meeting duly called for such purpose. In the event that a quorum representing 67% of the Members is not present or represented by proxy, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.
- 15.3. Additional Approval Requirements. No amendment may change the boundary of any Lot or the method of determining liability for Common Expenses or right to common profit, or voting rights of any Lot unless the Owners of the affected Lots unanimously consent to the amendment.
- 15.4. Execution and Recordation. An amendment shall not be effective until the amendment is certified by the president and secretary of the Association as being adopted in accordance with this Declaration, is acknowledged and is recorded in the Recorder's Office of Salt Lake County, Utah.

**ARTICLE XVI.
MISCELLANEOUS**

- 16.1. Duration. This Declaration perpetually shall run with the land and shall be and remain in full force and effect at all times with respect to all property included within the Property and the Owners thereof for an initial period of thirty (30) years commencing with the date on which this Declaration is recorded. Thereafter, this Declaration shall continue to run with the land and be and remain in full force and effect at all times with respect to all property within the Property and the Owners thereof for successive, additional periods of ten (10) years each. The continuation from the initial or any additional period into the next subsequent period shall be automatic and without the necessity of any notice, consent or other action whatsoever.

- 16.2. Invalidity. The invalidity of any part of this Declaration shall not impair or affect in any manner the validity, enforceability, or effect of the balance of this Declaration. As used herein, 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 used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Declaration.
- 16.3. Joint Owners. In any case in which two or more persons share the ownership of any Lot, regardless of the form of ownership, the responsibility of such persons to comply with this Declaration shall be joint and several and the act or consent of anyone or more of such persons shall constitute the act or consent of the entire ownership interest; provided, however, that in the event such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Board, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter in accordance with the Bylaws.
- 16.4. Lessees and Other Invitees. Lessees, invitees, contractors, family members and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of this Declaration, the Bylaws and Rules adopted by the Association restricting or regulating the Owner's use, improvement or enjoyment of such Owner's Lot and other areas within the Property. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner.
- 16.5. Non-waiver of Right to Enforce. Failure by the Association or any Owner to enforce any covenant or restriction contained in this Declaration shall in no event be deemed a waiver of the right to do so thereafter. In addition, no restriction, condition, obligation or provision contained in this Declaration or Rules adopted pursuant hereto shall be deemed to have been abrogated or waived by the Association or any Owner by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur and any failure to enforce the same shall not be deemed to constitute precedent or estoppel impairing the right of the Association or Owner as to any similar matter.
- 16.6. Notice of Sale, Mortgage, Rental, or Lease. Immediately upon the sale, mortgage, rental, or lease of any Lot, the Owner shall promptly inform the Association of the name and address of said grantee, vendee, mortgagee, lessee, or tenant.

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IN WITNESS WHEREOF, the Declarant has executed this Amendment as of the above effective date.

DECLARANT:

Sunburst Terrace Home Owners Association
a Utah Non-profit Corporation

Teresina Kay Hall
By: Teresina (TKay) Hall
President

STATE OF UTAH)
 :SS
COUNTY OF UINTAH)

On the 17 day of July 2015, personally appeared before me Teresina (TKay) Hall, whose identity is personally known to me on the basis of satisfactory evidence and who by me duly sworn, did say that said document was signed by him in behalf of the Sunburst Terrace Home Owners Association by authority of its bylaws and said Teresina (TKay) Hall acknowledged to me that said Association executed the same. CC&R'S

Janadene Putnam
NOTARY PUBLIC

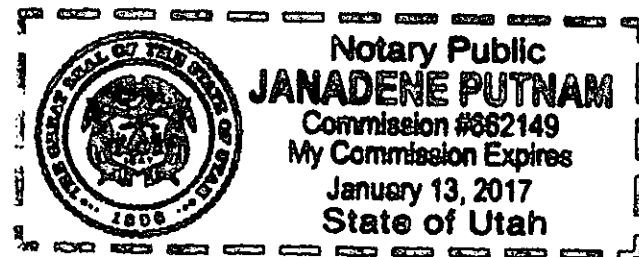


EXHIBIT A

TO THE
AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
THE SUNBURST TERRACE SUBDIVISION
A Planned Residential Development
Uintah County, Utah

LEGAL DESCRIPTION OF LAND SUBJECT TO DECLARATION

Note to recorder, clerk and title examiners: From and after the date of the recording of this Amendment, the following property shall be subject to the Declaration, as amended by restated Declaration:

Lots 1 through 122, inclusive, of SUNBURST TERRACE PLANED UNIT DEVELOPMENT

The following Parcel Numbers are being provided as a convenience for the County Recorder's Office only:

05-108-0201	05-108-0226	05-108-0251	05-108-0276	05-108-0301
05-108-0202	05-108-0227	05-108-0252	05-108-0277	05-108-0302
05-108-0203	05-108-0228	05-108-0253	05-108-0278	05-108-0303
05-108-0204	05-108-0229	05-108-0254	05-108-0279	05-108-0304
05-108-0205	05-108-0230	05-108-0255	05-108-0280	05-108-0305
05-108-0206	05-108-0231	05-108-0256	05-108-0281	05-108-0306
05-108-0207	05-108-0232	05-108-0257	05-108-0282	05-108-0307
05-108-0208	05-108-0233	05-108-0258	05-108-0283	05-108-0308
05-108-0209	05-108-0234	05-108-0259	05-108-0284	05-108-0309
05-108-0210	05-108-0235	05-108-0260	05-108-0285	05-108-0310
05-108-0211	05-108-0236	05-108-0261	05-108-0286	05-108-0311
05-108-0212	05-108-0237	05-108-0262	05-108-0287	05-108-0312
05-108-0213	05-108-0238	05-108-0263	05-108-0288	05-108-0313
05-108-0214	05-108-0239	05-108-0264	05-108-0289	05-108-0314
05-108-0215	05-108-0240	05-108-0265	05-108-0290	05-108-0315
05-108-0216	05-108-0241	05-108-0266	05-108-0291	05-108-0316
05-108-0217	05-108-0242	05-108-0267	05-108-0292	05-108-0317
05-108-0218	05-108-0243	05-108-0268	05-108-0293	05-108-0318
05-108-0219	05-108-0244	05-108-0269	05-108-0294	05-108-0319
05-108-0220	05-108-0245	05-108-0270	05-108-0295	05-108-0320
05-108-0221	05-108-0246	05-108-0271	05-108-0296	05-108-0321
05-108-0222	05-108-0247	05-108-0272	05-108-0297	05-108-0322
05-108-0223	05-108-0248	05-108-0273	05-108-0298	
05-108-0224	05-108-0249	05-108-0274	05-108-0299	
05-108-0225	05-108-0250	05-108-0275	05-108-0300	