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Amended Restrictive Covenants Page 1 of 47  
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AMENDED AND RESTATED DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
THE VILLAS AT GREEN VALLEY OWNERS ASSOCIATION  
(INCLUDING BYLAWS)  
  
A Planned Lot Development

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THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (hereafter "Declaration") is made on the date evidenced below by The Villas at Green Valley Owners Association (hereafter "Association").

### RECITALS

A. The property subject to this Declaration is the Villas at Green Valley subdivision in Washington County, State of Utah. **Exhibit A** of this Declaration further defines the property subject to this Declaration. All Lots therein are part of the Association, and each Owner of a Lot is a member thereof. The Association is created as a planned unit development and contains certain Common Area, Limited Common Area and easements for the benefit of the Owners of Lots therein.

B. The Association desires to continue to provide for the preservation and enhancement of the property values and improvements of the Property and for maintenance of the Common Area.

C. This Amended and Restated Declaration of Covenants, Conditions and Restrictions supersedes and replaces all prior declarations, and amendments or supplements thereto, recorded against the subdivision, specifically the Declaration of Covenants, Conditions and Restriction of The Villas at Green Valley Owners Association recorded January 11, 2011, as Entry No. 20110001127, records of the Washington County Recorder, State of Utah (the "Original Declaration");

D. Pursuant to Utah Code § 57-8a-104 and Article 10, Section 10.4 of the Original Declaration, sixty-seven percent (67%) of the voting interests of the Association have voted affirmatively to adopt this Declaration.

NOW, THEREFORE, the Association declares that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions restrictions, easements, charges and liens hereinafter set forth:

### ARTICLE I - DEFINITIONS

The following words when used in this Declaration (unless the context otherwise requires) shall have the following meanings:

**1.1 "Act"** shall mean the Utah Community Association Act, Utah Code, Title 57, Chapter 8a, as the same shall be amended from time to time.

**1.2 "Assessment"** means any charge imposed or levied by the Association on or against an Owner or Lot pursuant to the terms of the Governing Documents or applicable law, including (1) annual/regular assessments; (2) special assessments; and (3) individual assessments as set forth herein.

**1.3 "Association"** means and refers to The Villas at Green Valley Owners Association, or such successor association of the Lot Owners acting under this Declaration.

**1.4 “Board” or “Board of Trustees” or “Trustees”** shall mean and refer to the governing body of the Association.

**1.5 “Bylaws”** means the Bylaws of the Association (initially attached hereto as **Exhibit B**), as they may be amended from time to time.

**1.6 “Common Area”** means, refers to, and includes: (a) The real property, excluding all Lots as defined herein, and interests in the real property which are submitted to this Declaration; (b) The real property, excluding all Lots as defined herein, and interests which comprise the Project; (c) All Common Areas and facilities designated as such on the Plat and all property on the Plat excluding the Lots; (d) All Limited Common Areas and facilities; (e) In general, all apparatus, installations and facilities included within the Project and existing for common use; (f) The Project’s roads; (g) All portions of the Project not specifically included within the individual Lots; (h) All other parts of the project normally in common use or necessary or convenient to its use, existence, maintenance, safety or management; (i) All Common Areas as defined in the Act, whether or not enumerated herein.

**1.7 “Common Expenses”** means and refers to all sums which are required by the Association and the Board to perform or exercise its functions, duties, or rights under the Act or the Governing Documents.

**1.8 “Community”** means all of the land described in the Plats, including any property annexed into the Project.

**1.9 “Fines”** shall mean and refer to fines levied by the Association against an individual or entity for violations of the Governing Documents. Fines shall be enforced and collected consistent with the Act and are deemed an assessment herein and may be collected as such.

**1.10 “Governing Documents”** shall mean and refer to a written instrument by which the Association may exercise powers or manage, maintain, or otherwise affect the property under the jurisdiction of the Association, including Articles of Incorporation, Bylaws, Plat, this Declaration, rules and regulations, and architectural or design guidelines.

**1.11 “Home” or “Dwelling” or “Dwelling Unit”** means a single-family dwelling. “Home” includes fee title to the real property lying directly beneath the single-family dwelling within Lot boundary lines.

**1.12 “Improvement”** means every structure or improvement of any kind, including but not limited to landscaping, sprinkler pipes, Homes, decks, porches, awnings, fences, garages, carports, driveways, storage compartments or other products of construction efforts on or in respect to the Property (but does not include any exterior antenna or satellite dish, authorized in accordance with the Declaration).

**1.13 “Limited Common Areas”** means all of the real property identified as limited Common Area herein or on the Plat, except as otherwise stated herein. Limited Common Areas are Common Areas limited to the use of certain Lots to the exclusion of other Lot Owners.

**1.14 “Lot”** means a separately numbered and individually described plot of land shown on the Plat designated as a Lot for private ownership, but specifically excludes the Common and Limited Common Areas.

**1.15 “Manager” or “Managing Agent”** shall mean and refer to the person or entity retained to manage the Property and the Association according to the direction of the Board.

**1.16 “Member”** means every person or entity who holds membership in the Association.

**1.17 “Mortgage”** means any mortgage or deed of trust encumbering any Lot 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 and/or security arrangement has been recorded among the Recorder's Office.

**1.18 “Mortgagee”** means the person or entity secured by a Mortgage.

**1.19 “Owner”** means the person, persons or other entity owning any Lot as shown in the records of the Recorder's Office but does not include a tenant or holder of a leasehold interest or person holding only a security interest in a Lot. Regardless of the number of parties participating in ownership of each Lot, the group of those parties shall be treated as one “Owner.”

**1.20 “Plat” or “Plat Map” or “Record of Survey Map”** (these terms may be used interchangeably herein) means the Record of Survey Maps entitled The Villas at Green Valley recorded at the Recorder's Office of Washington County, as the same may be amended or substituted.

**1.21 “Property” or “Project”** means all of the real property described in the Plats, including all of the real property described in attached **Exhibit A** and all Lots, Common Area, easements and open space.

**1.22 “Resident”** means any Person living at the Project. Residents include without limitation: Owners, family members of Owners, or tenants of Owners.

**1.23 “Rules and Regulations”** means and refers to those rules and regulations adopted by the Board from time to time that are deemed necessary by the Board for the enjoyment of, or furthering the purposes of, the Property and Association.

## **ARTICLE II - PROPERTY DESCRIPTION, RIGHTS & EASEMENTS**

**2.1 Property Subject the Declaration and Bylaws.** The real property which is, and shall be, transferred, held, sold, conveyed, used, occupied and improved subject to the Act and to this Declaration, the Governing Documents, and all agreements, decisions and determinations made by the Board or Association is all of the real property and interests described in the Plats, including any property annexed into the Project, and including the Lots described on **Exhibit A** attached hereto, which Declaration and covenants, conditions and restrictions therein shall run with the land and shall be binding upon each and every party which shall at any time have any right, title or interest in or to the Property or any part thereof, their heirs, successors and assigns, and to any other person who may in any manner use the Property or any part thereof submitted to the provisions of this Declaration, and shall inure to the benefit of each Owner thereof. To the

extent that the Governing Documents are or become inconsistent with the provisions of any future amendments to the Act, the Act, as amended, shall control.

**2.2 Title to the Common Area.** The Association owns all the Common Area, including Limited Common Area. The Association covenants to fulfill all the terms of this Declaration, to maintain the Common Area in good repair and condition at all times and to operate the Common Area at its own expense in accordance with high standards.

**2.3 Limited Common Area.** An Owner is entitled to the exclusive use of the Limited Common Area adjacent and appurtenant to the Lot, if any. 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.

**2.4 Description and Legal Status of Lots.** The Map shows the Lots and building designations, their locations, dimensions from which its areas may be determined together with the Definitions above, and the Common Areas. All Lots are residential Lots. All Lots shall be capable of being independently owned, encumbered, and conveyed.

**2.4 Use and Occupancy.** Except as otherwise expressly provided in the Governing Documents, the Owner(s) of a Lot shall be entitled to the exclusive use and benefits of ownership of such Lot. Each Lot, however, shall be bound by, and the Owner shall comply with, the restrictions contained below and all other provisions of the Governing Documents of the Association for the mutual benefit of the Owners.

**2.5 Easements Reserved.** In addition to the easements shown on the Plat or provided for under this Declaration, the Bylaws or law, the following easements are hereby reserved for the benefit of the Owners and the Association:

(a) **Right of Entry.** The Association and any person authorized by the Association may at any reasonable time, and from time to time at reasonable intervals, enter upon any Lot for the purpose of performing maintenance referred to herein and determining whether or not the Lot is in compliance with the Governing Documents or whether the use of the Lot is causing damage or harm to the Common Areas or Limited Common Areas. Requests for entry shall be made in advance and at a time convenient to the Owner, except in the case of an emergency, when such right shall be immediate. No such entry shall be deemed to constitute a trespass or otherwise create any right of action in the Owner of such Lot.

(b) **Utility Easements.** The Association and any public utility provider shall have an easement through all Lots and the Common Areas for the installation, maintenance and development of utilities and drainage facilities, as may be necessary. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may reasonably interfere with or damage utilities or drainage facilities. The easement area within each Lot and all improvements therein shall be maintained continuously by the Owner of the Lot in accordance with the terms herein, except for those improvements for which a public authority or utility provider is responsible. Each Lot Owner shall have an easement in common with all

Owners to use all pipes, wires, ducts, cables, conduits, public utility lines and other common facilities located in any of the other Lots and serving his or her Lot.

(c) Police, Fire and Ambulance. An easement is hereby granted to all police, fire protection, ambulance services and all similar persons to enter upon the streets and Common and Limited Common Areas in the performance of their duties.

(d) Owners Easements of Enjoyment. All Owners are hereby granted a non-exclusive right and easement of enjoyment to the Common Areas. This easement is appurtenant to and passes with the title to every Lot, subject to the following:

(1) The right of the Association to limit the number of guests of Members using the Common Area.

(2) The right of the Association to suspend the voting rights of a Member for any period during which any assessment or portion thereof against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published Rules and Regulations.

(3) The right of the Association to enter into agreements or leases which provide for use of Common Areas and facilities by a similar Association for use of the Common Areas and facilities of the other Association, or for cash consideration.

(4) 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.

(5) The right of the Association to take such steps as are reasonably necessary or desirable to protect the Common Area against foreclosure.

(6) The terms and conditions of the Governing Documents.

(7) The right of the Association, through its Board, to adopt Rules and Regulations concerning the use of Common Areas.

**2.6 No Encroachment.** No Lot shall encroach upon an adjoining Lot or Common Area without the express written consent of the Board. If, however, an encroachment occurs due to the settlement or shifting of a structure/building or any other reason whatsoever beyond the control of the Board or any Owner, there shall forthwith arise, without the necessity of any further or additional act or instrument, a good and valid easement for the maintenance of such encroachment, for the benefit of the Owner, its heirs, personal representatives and assigns, to provide for the encroachment and non-disturbance of the structure. Such easement shall remain in full force and effect so long as the encroachment shall continue.

**2.7 Waiver of Use.** No Owner may exempt himself from personal liability for assessments duly levied by the Association, nor release the Lot or other property owned, from the liens and charges thereof, by waiver of the use and enjoyment of the Common Area and the facilities

thereon, or by abandonment of the Lot or any other property in the Property.

### **ARTICLE III – THE ASSOCIATION – MEMBERSHIP AND VOTING RIGHTS**

#### **3.1 Organization.**

(a) The Association has been or will be organized as a nonprofit corporation under the nonprofit corporation laws of the state of Utah (Utah Code Annotated Titled 16 Chapter 6a, as may be amended from time to time).

(b) In the event the Association is at any time administratively dissolved by the Division of Corporations and Commercial Code, the Board may re-incorporate the Association without a vote of the Owners.

(c) The affairs of the Association shall be governed by a Board of Trustees as provided herein and in the Bylaws.

**3.2 Membership.** Each Owner during the entire period of Owner’s ownership of one or more Lots within the Community 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 or Home ownership. The membership shall commence, exist and continue by simple virtue of the ownership, shall expire automatically upon termination of ownership and need not be confirmed or evidenced by any certificate or acceptance of membership.

**3.3 Voting Rights.** The method of voting shall be as provided in the Bylaws. Each Owner of a Lot with a Home shall have one (1) vote in matters of the Association for each Home owned as set forth in the Bylaws. No more than one (1) vote may be cast with respect to any Home.

**3.4 Powers, Duties and Obligations.** The Association shall have such powers and duties as may be granted to it or imposed by this Declaration, the Articles of Incorporation, the Bylaws and any applicable statute, as such statute may be amended to expand the scope of association powers, including without limitation:

(a) Duties of the Association. Without limiting any other duties which may be imposed upon the Association by its Articles of Incorporation or this Declaration; the Association shall have the obligation and duty to do and perform each and every one of the following for the benefit of the Owners and the maintenance and improvement of the Property:

- (1) The Association shall maintain the Common Areas.
- (2) Maintain, repair and replace areas of Association responsibility as set forth in Article V herein.



(3) Grant easements, rights of way, or strips of land, where necessary, for utilities and sewer facilities over the Common Area to serve the Common Area and the Lots.

(4) To the extent not assessed to or paid by the Owners directly, the Association shall pay all real property taxes and assessments levied upon any portion of the Property, provided that the Association shall have the right to contest or compromise any such taxes or assessments.

(5) Obtain and maintain in force the policies of insurance required by the provisions of this Declaration.

(6) Employ or contract with a professional manager or management company to perform all or any part of the duties and responsibilities of the Community, subject at all times to direction by the Board of Directors, with such administrative functions and powers as shall be delegated to the Managing Agent by the Board of Directors.

(b) Powers and Authority of the Association. The Association shall have all the powers set forth in its Articles of Incorporation and any Bylaws, together with its general powers as a corporation, and the power to do any and all things which may be authorized, required or permitted to be done by the Association under and by virtue of this Declaration, including the power to levy and collect assessments and fines as provided in this Declaration. Without in any way limiting the generality of the foregoing, the Association shall have the following powers:

(1) The Association shall have the power and authority at any time and from time to time and without liability to any Owner for trespass, damage or otherwise, to enter into any Lot for the purpose of maintaining and repairing such Lot or any improvement thereon if for any reason the Owner fails to maintain and repair such Lot or improvement, or for the purpose of removing any improvement constructed, reconstructed, refinished, altered or maintained upon such Lot in violation of this Declaration.

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

(3) In fulfilling any of its duties under this Declaration, including its duties for the maintenance, repair, operation or administration of the Community or in exercising any of its rights to construct, maintain and repair the Common Areas, the Association shall have the power and authority (i) to pay and discharge any and all liens placed upon any Lot on account of any work done or performed by the Association in the fulfillment of any of its obligations and duties of maintenance, repair, operation or administration and (ii) to obtain, contract and pay for, or to otherwise provide for:

(i) Such utility services, including (without limitation) water, sewer, trash removal, snow removal, electrical, telephone and gas services, as the Officers may from time to time deem desirable;

(ii) The services of architects, engineers, attorneys and certified public accountants and such other professional or nonprofessional services as the Officers may deem desirable.

(iii) A professional manager or management company to perform all or any part of the duties and responsibilities of the Association, and to delegate its powers to committees, officers, and employees, as permitted by law.

(4) Telecommunication or Bulk Service Contracts. The Board shall have the power, in its own discretion and subject to federal law, to enter into, accept an assignment of, or otherwise cause the Association to comply with contracts with telecommunication providers, pursuant to which, the telecommunication provider serves as the exclusive provider of telecommunication services to each Lot in the Project. The Board shall also have the power to enter into or contract on behalf of the Association for similar bulk rate service contracts of any nature deemed in the Association's best interests.

**3.5 Adoption of Bylaws.** The Association has adopted Bylaws for the Association which are being recorded simultaneously with this Declaration.

## ARTICLE IV – FINANCES AND OPERATIONS

### 4.1 Covenant for Assessments.

(a) Each Owner, by acceptance of a deed hereafter conveying any Lot which contains a Home, whether or not so expressed in the deed or other conveyance, shall be deemed to have covenanted and agreed to pay the Association the following types of assessments:

- (1) Annual common assessments (the "Annual Assessment") as provided below.
- (2) Special assessments ("Special Assessments") as provided below.
- (3) Individual assessments ("Individual Assessments") as provided below.

(b) No Member may exempt itself from liability for Assessments by non-use of Common Areas or abandonment of any Lot owned by such Member. No offsets against Assessment amounts shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers.

**4.2 Reinvestment Fee Covenant.** Upon the transfer of title to a Lot from one person or entity to another, a reinvestment fee, in an amount to be determined by the Board, shall be charged and payable to the Association, in addition to any other required amounts. The parties to

the transaction are responsible to negotiate who pays this fee. A separate Notice of Reinvestment Fee will be recorded providing additional notice.

**4.3 Purpose of Assessments.** The Assessments levied by the Association shall be used for payment of Common Expenses and any other expense incurred by the Association, including, but not limited to: (a) the improvement and maintenance, operation, care, and services related to the Common Areas; (b) the payment of insurance premiums; (c) the costs of utilities and other services which may be provided by the Association for the Community; (d) the cost of labor, equipment, insurance, materials, management, legal and administrative fees incurred or expended in performing the duties under this Declaration or the Bylaws; (e) for promoting the recreation, health, safety, and welfare of the residents of the Property; and (f) the cost of funding all reserves established by the Association, including a general operating excess and a reserve for replacements as provided below.

**4.4 Annual Budget and Assessment.**

(a) Annual Budget. The Board shall prepare, or cause the preparation of, and adopt an annual budget for the Association, which shall provide, without limitation, for the maintenance of the Common Areas and for the administration, management and operation of the Association, and shall include a reserve fund line item in an amount the Board determines to be prudent based on the reserve analysis (as defined in Section 4.15). If the Board fails to adopt an annual budget, the last adopted budget shall continue in effect. The Board shall present the adopted budget to Owners at a meeting of the Owners.

(b) Determination of Annual Assessment.

(1) The Board shall fix the amount of the annual assessment ("Annual Assessment") against each Lot for each assessment period at least thirty (30) days in advance of the beginning of the period. Written notice of the Annual Assessments shall be sent to all Members of the Association at least fifteen (15) days in advance of the beginning of any assessment period, or fifteen (15) days in advance of any increase in the Annual Assessment that is to take effect during any assessment period.

(2) The amount of the Annual Assessment may be increased each year by five percent (5%) above the maximum assessment for the previous year, without a majority vote of the membership.

(2) The omission by the Board, before the expiration of any assessment period, to fix the amount of the Annual Assessment for that or the next period, shall not be deemed a waiver or modification in any respect of the provisions of this article or a release of any Member from the obligation to pay the Annual Assessment, or any installment thereof, for that or any subsequent assessment period. In the event of such omission, the Annual Assessment fixed for the preceding period shall continue until a new assessment is fixed.

(3) If the Annual Assessments levied at any time are, or will become, inadequate to meet the expenses incurred by the Association for any reason, including

nonpayment of any Owner's Assessments on a current basis, the Board may, at any time, determine the approximate amount of the inadequacy and adopt a resolution which establishes a supplemental budget which establishes the equitable change in the amount of the Annual Assessment. Owners shall be given at least thirty (30) days' written notice of any changes in the amount of an Assessment.

(c) Uniform Rate of Assessment. Both regular and special assessments shall be fixed at a uniform rate for all Lots.

**4.5 Apportionment of Assessments.** Assessments shall be apportioned as follows:

(a) Annual Assessments. All Lots shall pay an equal share of the Annual Assessment.

(b) Special Assessments. Special Assessments are equal for all Lots, and the obligation to pay a Special Assessment rest with the Owner holding title to the Lot at the time the Special Assessment becomes due.

(c) Individual Assessments. Individual Assessments shall be apportioned exclusively against the Lots benefitted or to which the expenses are attributable as provided for below.

**4.5 Annual Assessment.** Annual Assessments shall be used to satisfy Common Expenses of the Association, including accumulating reasonable reserve amounts. The amount of the Annual Assessment shall be determined by the Board after giving due consideration to the current maintenance costs and future needs of the Association.

**4.6 Special Assessments.** In addition to the Annual Assessments authorized in this article, the Association may levy a special assessment from time to time ("Special Assessment") for the purpose of defraying, in whole or in part, the costs incurred or to be incurred by the Association which cannot be paid for through other types of Assessments. Special Assessments may only be levied if it is first voted upon by the Owners and at least sixty-seven percent (67%) of the Owners cast votes favoring the action. Any special meeting called for the purposes related herein shall be called and held pursuant to the Bylaws.

**4.7 Individual Assessments.** Any expenses which are not common expenses, and which benefit or are attributable to fewer than all of the Lots, may be assessed exclusively against the Lots affected or benefitted. Individual Assessments shall include, but are not limited to: (1) 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 regulations of the Association and for fines or other charges imposed pursuant to this Declaration for violation of this Declaration, the Bylaws or any rules and regulations of the Association; (2) Expenses, other than common expenses, relating to the cost of maintenance, repair replacement and reserves of the Lots which may be incurred by the Association.

**4.8 Nonpayment of Assessments.** The Annual Assessments shall be due and payable on a monthly basis on the first (1st) calendar day of each month, unless otherwise provided by the

Board, and shall be delinquent if not paid by the 10<sup>th</sup> of the month or within such other period established by the Board from time to time. The due date of any Special Assessment or other Assessment shall be fixed in the resolution authorizing the Assessment.

(a) Interest. Delinquent payments may bear interest from the eleventh (11<sup>th</sup>) day of the month (the “date of delinquency”) at the rate established by the Board of Directors, but no more than eighteen percent (18%) per annum.

(b) Late Charge. Each delinquent payment shall be subject to a late charge in the amount to be determined by the Board from time to time.

(c) Acceleration. If paid by installments, the installments may, in the discretion of the Board, be accelerated (including interest as provided for above) and the entire balance declared due and payable upon not less than ten (10) days written notice to the Owner. If, however, the assessment is accelerated and an Owner subsequently files bankruptcy or the Board otherwise decides acceleration is not in its best interest, the Board, at its option and in its sole discretion, may elect to decelerate the obligation.

(d) Rent 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 the assessment 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 other periodic payment, until all amount dues to the Association are paid. Such demand to the tenant shall be made in accordance with the law and the written procedures of the Association. The Board, or its agent, shall give the Owner written notice of its intent to demand full payment from the tenant and such notice shall be made in accordance with the law and the written procedures of the Association.

(e) Remedies, Including Suspension of Membership Rights and Services. All membership rights, including the right of a Member to vote, shall be automatically suspended during any period of delinquency, unless otherwise determined by the Board. A Board member shall become immediately ineligible to serve on the Board and automatically dismissed from such position if delinquent more than sixty (60) days in the payment of any Assessment. Any service provided by the Association to the Owners shall also be terminated as to the delinquent Owner at the discretion of the Board. The Association shall have each and every remedy for collection of assessments provided in the Utah Community Association Act, Utah Code Title 57, Chapter 8a, as amended from time to time, and the provisions of the Act shall be deemed to be fully set forth herein when required by such Act in order to exercise any such remedy.

**4.9 Lien.** The Annual Assessment and all other Assessments imposed together with damages, fines, interest, costs of collection, late charges, and attorneys’ fees provided for in this Declaration (whether or not a legal proceeding is initiated) or by law or awarded by a court for enforcement of the Governing Documents shall be a charge and continuing lien upon each of the Lots against which the assessment or charge is made in accordance with the terms and provisions of this Article and shall be construed as a real covenant running with the land. If an assessment is payable in installments, the lien is for the amount of each installment as such becomes due and this provision shall be deemed a notice of assessment. In a voluntary conveyance, the grantee of

a Lot shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his share of the unpaid assessments up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee.

**4.10 Subordination of Lien to Mortgages.** The lien of the Assessments provided for in this article shall be subordinate to the lien of any first mortgagees or deeds of trust now or hereafter placed upon the Lot subject to assessment, except as follows: the sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. Such sale or transfer shall not relieve the Lot from liability or lien for any Assessments thereafter becoming due.

**4.11 Enforcement of Lien.** The lien for nonpayment of assessments may be foreclosed by the Board judicially or non-judicially consistent with the laws of the state of Utah for the non-judicial foreclosure of deeds of trusts. The Association, through duly authorized agents, shall have the power to bid on the Lot at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Upon completion of the foreclosure sale, an action may be brought by the Association or the purchaser at the sale in order to secure occupancy of the defaulting Owner's Lot, and the defaulting Owner shall be required to pay the reasonable rental value of such Lot during any period of continued occupancy by the defaulting Owner or any persons claiming under the defaulting Owner. The Association shall be entitled to the appointment of a receiver to collect the rental income or the reasonable rental value without regard to the value of the security.

**4.12 Personal Obligation and Costs of Collection.** Assessments imposed under this Declaration, together with late charges and interest at a rate to be established by the Board, not to exceed the maximum permitted by law, and costs and reasonable attorneys' fees incurred or expended by the Association in the collection thereof (whether or not a lawsuit is initiated), shall also be the personal obligation of the Owner holding title to any Lot at the time when the assessment became due.

**4.13 Appointment of Trustee.** By acceptance of a deed for a Lot, each Owner as Trustor conveys and warrants to Trustee 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 (including basis of collection) provided for in this Declaration. For purposes of this Section and Utah Code Ann. §§57-1-19, et seq., as amended from time to time, the Trustee shall mean the attorney for the Association, and the Association may provide notice and disclosure of the Trustee by recording an "Appointment of Trustee" on the records of the Washington County Recorder. 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.

**4.14 Reserve Analysis.**

(a) **Reserve Analysis Required.** The Board shall cause a reserve analysis to be conducted no less frequently than every six (6) years, and shall review and, if necessary, update a previously conducted reserve analysis no less frequently than every three (3) years. However, the Board may decrease the frequency of conducting and updating a reserve analysis in a formal

resolution of the Board delivered to all Owners. The Board may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the Board, to conduct the reserve analysis.

(b) **Reserve Analysis Defined.** “Reserve analysis” means an analysis to determine the need for a reserve fund to accumulate reserve funds, and the appropriate amount of any reserve fund. A reserve analysis shall include:

(1) a list of the components identified in the reserve analysis that will reasonably require reserve funds;

(2) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis;

(3) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis;

(4) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and,

(5) a reserve funding plan that recommends how the Association may fund the annual contribution described in subsection (4) above.

(c) **Reserve Analysis Summary Provided to Owners.** The Association shall: (a) annually provide Owners a summary of the most recent reserve analysis or update; and (b) provide a copy of the complete reserve analysis or update to an Owner who requests a copy.

**4.15 Reserve Fund.** The Association shall establish and maintain a reserve fund (also known as “reserve account”), separate from other Association funds, for repairs and replacement of the Common Areas, for any emergency, unforeseen, unusual, or unanticipated expenditure, and for any other purpose determined from time to time by the Board. As stated above, in formulating the budget each year, the Association shall include a reserve fund line item in an amount the Board determines, based on the reserve analysis, to be prudent. The Board may not use money in a reserve fund for daily maintenance expenses unless a majority of the Members vote to approve the use of reserve fund money for that purpose.

The Board’s reasonable determination with respect to the amount of the reserve fund contribution shall be conclusively deemed appropriate absent intentional misconduct or gross mismanagement of Association funds. Except in such instances, individual Board members shall not be held liable for any potential or alleged under-funding of the reserve account.

**4.16 Duty to Pay Independent.** No reduction or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs

or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, order or directive of any municipal or other governmental authority, the obligation to pay Assessments being a separate and independent covenant on the part of the each Owner.

**4.17 Statement of Unpaid Assessment & Payoff Information.** The Association shall, upon demand at any time, furnish to any Owner liable for assessment a certificate in writing signed by an officer of the Association setting forth whether Assessments has been paid. The certificate shall be conclusive evidence of payment of any assessment therein stated as having been paid. A reasonable charge may be levied in advance by the Association for each certificate so delivered. The Association may charge a fee for providing Association payoff information needed in connection with the financing, refinancing, or closing of a Lot Owner's sale of the Owner's Lot up the maximum amount allowed by law.

## **ARTICLE V – ARCHITECTURAL CONTROL COMMITTEE**

**5.1 Architectural Control Committee.** It is the intention and purpose of these covenants, conditions and restrictions to allow the Architectural Control Committee (“ACC”) to: (1) impose architectural standards on the Improvements to any Lot of a type and nature that result in buildings which are architecturally compatible in terms of Lot coverage, proportion, materials, colors, and general appearance; and (2) to imposed construction rules on construction within the Subdivision. To this end, the Board may establish an Architectural Control Committee. The Architectural Control Committee (“ACC”) shall consist of three (3) members, appointed and removed by the Board. The Board shall have the right to decrease or increase the number of members of the ACC. In the event the Board does not create such ACC, the Board shall act as the ACC.

**5.2 Modifications.** No building, fence, wall, Improvement or other structure, extension or expansion of the foregoing, shall be commenced, erected or maintained upon the Property, including any Unit, nor shall any exterior addition to the Property or any Unit, or change or alteration thereto, of any sort, whether structural, landscaping, cosmetic or otherwise, be made by an Owner until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board. Such approval shall be solely at the discretion of the Board as they deem appropriate from time to time. Any such request shall be deemed to have been denied if the relevant Owner, including any subsequent Owner, cannot produce the written approval granted by the Board upon request, and any changes or alterations made by an Owner, or prior Owner, shall be removed and the property restored to its original condition at the request of the Board. In the event the Board fails to approve or disapprove a request by an Owner, the request will be deemed to have been denied.

**5.3 Design Guidelines.** Design and construction of Dwellings and Improvements shall be consistent with and shall comply with the procedures and criteria set forth in this Declaration and such other building and design criteria which the Board is hereby empowered to adopt (referred to as “**Design Guidelines**”) to expand, clarify, and otherwise provide for the harmony and compatibility of the Improvements constructed within the Project. Design Guidelines shall also



be deemed to include the requirement that the quality of all materials to be used in any construction or Improvements within the Project be equal or superior to that utilized for original construction. All builders and Owners shall comply with and are bound by the design restrictions herein, approval process, and the Design Guidelines, if and when such are adopted.

**5.4 Grounds Committee.** The Board and/or ACC may designate a “Grounds Committee” which shall be responsible for observing the complete Property as often as necessary, taking note of items needing attention and reporting to the Board. The duties and responsibilities of the Grounds Committee shall be set forth in a separate resolution or rules of the Board.

**5.5 Pool Committee.** The Board and/or ACC may designate a “Pool Committee” which shall be responsible for observing the pool area as often as necessary, taking note of items needing attention and reporting to the Board. The duties and responsibilities of the Pool Committee shall be set forth in a separate resolution or rules of the Board.

## ARTICLE VI - MAINTENANCE OBLIGATIONS

**6.1 Owner’s Responsibility.** Except to the extent that the Association is responsible therefore under Section 6.2, maintenance, repair and replacement of the Lots and the Dwellings shall be the responsibility of the Owner(s) thereof, who shall maintain such Lots and Dwellings in good condition and repair. Specifically, each Owner is responsible for:

(a) Dwelling Units and Dwelling Interiors. All maintenance and repairs relating to the Dwelling, all interiors and contents of the Dwellings, and all items attached to the Dwelling or located upon the Lot.

(b) Exteriors. Each Owner shall be responsible for maintenance, repair, and replacement to the exterior of each structure which is associated with that Owner’s Lot, which maintenance includes, but is not necessarily limited to: paint; repair, replacement and care of garage doors; stucco and all other exterior surfaces; roofs, all parts and materials of the roof and roofing system including flashing, soffit, fascia, ventilation, ridges, gutters, downspouts, heat tape, etc.; cement patios and decks; all foundations; windows; exterior building surfaces, exterior doors and windows; all other exterior improvements; sidewalks, driveways and walkways located on the Lot; as well as all Improvements constructed on the Lot. All exterior maintenance must stay within the existing color scheme of the Community, or as recommended by the Architectural Control Committee and approved by the Board. Any modifications to the Lot or Dwelling Unit exterior must receive prior written approval from the ACC.

(c) Utilities. The Owner shall pay for all utility services furnished to each Lot except utility services which are not separately billed or metered to individual Lots by the utility or other party furnishing such service, including any water required for landscape maintenance connected to the house meter. All utilities, fixtures and equipment installed within a Lot, commencing at a point where the utility lines, pipes, wires, conduits or systems enter the respective Unit, shall be maintained, replaced, and kept in repair by the Owner of the Lot. Any damage or destruction of any pipes, drains, utilities or other systems maintained by the

Association caused by gross neglect or intentional act of Owners, residents tenants guests and invitees shall be the responsibility of the Owner.

(d) Lot. Each Lot and Dwelling shall be maintained so as to not detract from the appearance of the Community and so as to not adversely affect the value or use of any other Lot or Dwelling. An Owner shall not do any act or 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. Any modifications to the Lot or Dwelling Unit exterior must receive prior written approval from the ACC.

**6.2 Maintenance by Association.** The Association shall be responsible for maintenance, repair, and replacement of the Limited Common Area, Common Areas and any amenities which may be installed on such Common Areas from time to time. If the Common Areas are damaged by the willful misconduct or negligence of an Owner, their guests, tenants, or invitees, such Owner shall be responsible for all such damage.

(a) Landscaping. The Association shall be responsible for the landscaping of the Common Areas, Limited Common Areas and area of any Lot outside the walls of the Home that is of the same character as surrounding Common or Limited Common Area. The Association may appoint a Grounds Committee and may contract with a private landscaping company, snow removal company, or other such grounds maintenance crews as deemed necessary.

(b) Responsibility over Owner's Lot. The Association, by and through the Board, may assume the Owner's general maintenance responsibility over a Lot, if, in the opinion of the Board, the Owner is unwilling or unable to adequately provide such maintenance. Before assuming such maintenance responsibility, the Board shall provide notice to the Owner of its intention to do so, and if such Owner has not commenced and diligently pursued remedial action with fifteen (15) days after mailing of such written notice, then the Association may proceed to maintain the Lot. The expenses of such maintenance incurred by the Association shall be reimbursed to the Association by the Owner. Such expenses shall constitute an assessment and collected in the same manner as assessments pursuant to this Declaration.

(c) Roads. The Association is responsible for the maintenance and repair of Association roads which are located within the Project.

(d) Fences. Perimeter fencing (fencing located along the outside perimeter of the Community) and privacy fencing (fencing between patios) is the responsibility of the Association.

**6.3 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, after reasonable notice to the Owner, to enter upon any Lot at reasonable hours.

**6.4 Damage and Destruction Affecting Lot or Dwelling Unit, Duty to Rebuild.** If all or any portion of any Lot or Dwelling Unit is damaged or destroyed by fire or other casualty, it

shall be the duty of the Owner of said Lot or Dwelling Unit to rebuild, repair or reconstruct said Lot and Dwelling Unit in a manner which will restore it substantially to its appearance and condition immediately prior to the casualty.

**6.5 Damage and Destruction to Common Areas.** In the event of damage or destruction to the Common Area, the Association shall cause such Common Area to be repaired and any Improvement thereon to be reconstructed substantially as it previously existed. Each Owner shall be liable to the Association for any damage to the Common Area caused by negligent or willful misconduct of the Owner, its family, guests and invitees. The cost of correcting such damage shall be an Individual Assessment against the Lot owned by the Owner.

**6.6 Clarification and Alteration of Certain Maintenance Duties by Rule.** To the extent not clarified herein and not inconsistent with the provisions of this Declaration, the Association may, by duly adopted Board resolution, identify and assign those areas of maintenance and responsibility that are either (1) Owner responsibilities; or (2) Association responsibilities. Furthermore, the duty of maintenance for the area of a Lot may be altered by duly adopted Board resolution. Such determinations shall be set forth in a Board resolution distributed to all Owners, included with other rules of the Association, and shall be binding against all Owners.

## ARTICLE VII – RESTRICTIONS ON USE

**7.1 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 property. All buildings or structures erected in the properties shall be of new construction and no buildings or structures shall be removed from other locations to the properties. After initial construction on a Lot, no subsequent building or structure of a temporary character, trailer, basement, tent, camper, shack, garage, barn or other building shall be placed or used on any Lot at any time.

**7.2 Residential Use.** Units shall be used for single-family, residential purposes in accordance with, and subject to, the other provisions of this Declaration and the Bylaws and Rules and Regulations adopted pursuant thereto. Except as otherwise provided in this Article, no trade, craft, business, profession, commercial or similar activities that cause additional pedestrian or vehicular traffic, creates a sight or noise nuisance, shall be conducted on any Lot, Home, or in any other portion of the Project.

**7.3 Lease Restrictions.** All leases shall be in writing and be subject to the Governing Documents and any failure by the lessee to comply with the terms of such documents shall be a default under the Lease. Consistent with the provisions of the Declaration and the Utah Community Association Act, the leasing and renting of Lots by Owners shall be in accordance with the terms herein.

The terms “leasing,” “lease,” “leasing,” “renting,” “rent,” or “rental” used in reference to any Lot within the Association shall mean and refer to the granting of a right to use or occupy a Lot to any person or entity for a specific term or indefinite term, in exchange for the payment of rent (money, property or other goods or services of value); but shall not mean nor include joint

ownership of a Lot by means of joint tenancy, tenancy-in-common or other forms of co-ownership.

(a) Restrictions. All Owners and Lots shall be subject to the following restrictions (subject to (b) below):

(1) Rental Cap. It is hereby amended and agreed that no more than **five percent (5%) of the total number of Lots**, may be rented at any given time, except as provided within this document or as may be required by law (“Rental Cap”).

(2) Short Term Rentals. No Owner may lease or rent less than their entire Home, and no Owner may lease or rent any Home for a period of less than **twelve (12) consecutive months**.

No short term, daily, weekly or monthly rentals are permitted including, but not limited to, nightly or other short-term rentals through programs such as VRBO, Airbnb, or similar arrangements.

(b) Statutory Exemptions. The following Lot Owners and their respective Lots, upon proof sufficient to the Board, are **exempt** from the Rental Cap limit outlined herein below unless otherwise stated:

(1) A Lot Owner in the military for the period of the Lot Owner’s deployment;

(2) A Lot occupied by a Lot Owner’s parent, child, or sibling;

(3) A Lot Owner whose employer has relocated the Lot Owner for two (2) years or less;

(4) A Lot owned by an entity that is occupied by an individual who: (i) Has voting rights under the entity’s organizing documents; and (ii) Has a twenty-five percent (25%) or greater share of ownership, control, and right to profits and losses of the entity; or

(5) A Lot owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for the estate of: (i) A current resident of the Lot; or, (ii) The parent, child, or sibling of the current resident of the Lot.

(c) Hardship/Discretionary Exemptions to Rental Prohibition. The Board shall have the sole discretion to allow rentals that would otherwise exceed the Rental Cap stated herein upon the showing of an undue hardship by the requesting Owner. The Board shall state the terms and duration of the hardship exemption granted and cause the Owner to sign an agreement to such terms. Upon written request and sufficient proof, the following exemptions may be approved for up to three (3) years with the opportunity to obtain no more than one (1) year conditional exemption:

- (1) Religious, government or civic/humanitarian service.
- (2) The Owner is a mortgagee who has acquired title to the Lot through foreclosure or otherwise.
- (3) In the event the Owner must reside in a skilled nursing or assisted living facility, the Owner or their designated or appointed agent shall be allowed to rent or lease the Owner's Home.

No other hardship exemptions are guaranteed, nor may this Section be relied on by any Owner that such an exemption will be granted.

(d) Multiple Lot Ownership. An Owner is not eligible to rent more than one Lot until the pending applications of:

- (i) All Owners who are not currently renting or leasing Lot have been approved; and
- (ii) All Owners who are currently renting or leasing fewer Lots than the applicant have been approved.

(e) Application and Approval. Owners desiring to rent or lease their Lots shall submit a written application to the Board (and/or its agent). Additionally, the Owner shall submit to the Board within ten (10) days of occupancy by the tenants, the names of those occupying the Lot. The Board shall monitor and make a determination of whether the rental or lease will exceed the Rental Cap.

- (1) The Board shall:
  - (a) Approve the application if it determines that the rental or lease will not exceed the Rental Cap; or
  - (b) Deny the application if it determines that the rental or lease of the Lot will exceed the Rental Cap.

(2) Applications from an Owner for permission to rent or lease shall be reviewed and approved or denied by the Board as set forth in this subsection.

(a) The Board shall review applications for permission to rent or lease in chronological order based upon the date of receipt of the application. Within ten (10) days of receipt, the Board shall approve or deny an application as provided herein and shall notify the Owner within fifteen (15) days of receipt of the application if permission is not given and the reason for the denial.

(b) If an Owner's application is denied, the applicant may be placed on a waiting list according to the date the application was received so that the Owner whose application was earliest received will have the first opportunity to rent or lease.

(c) The Board is authorized to adopt, by Board rule, procedures and policies that govern the creation, organization and process to implement the above-mentioned waiting list. Said procedures may be modified from time-to-time by the Board to fairly implement the waiting list program described herein.

(3) An application form, the application approval process, a waiting list, and any other rules deemed necessary by the Board to implement this Section may be required and established by rules or resolution adopted by the Board consistent with this Declaration and to ensure the consistent administration and enforcement of the rental restrictions contained herein.

(4) All Owners shall provide the Board with a copy the executed lease, which shall be kept on file with the books and records of the Association so that the Association may determine the number of Lots rented or leased. The Lease Agreement shall be on a form prescribed by resolution of the Board.

(5) If an Owner fails to submit the required application, fails to use and submit a copy of the Lease Agreement and rents or leases any Lot/Unit, and/or rents or leases any Lot after the Board has denied the Owner's application, the Board may assess fines against the Owner or Tenant (as may be consistent with Utah law, Utah Code §57-8-8.1) and the Owner's Lot in an amount to be determined by the Board pursuant to a schedule of fines adopted by resolution.

In addition, regardless of whether any fines have been imposed, the Board may proceed with any other available legal remedies, including but not limited to an action to terminate the rental or lease agreement and removal of any tenant or lessee.

(6) The Association shall be entitled to recover from the offending Owner its costs and attorney's fees incurred for enforcement of this Section regardless of whether any lawsuit or other action is commenced. The Association may assess such costs and attorney's fees against the Owner and the Lot as an assessment pursuant to the Declaration.

(f) Grandfathering Clause. All Owners of record prior to the recordation of this Declaration currently renting or leasing their Lot, may continue to rent or lease their Lot, for as long as they own the Lot, until the Owner occupies the Lot, or until such time as title to the Lot changes, for whatever reason, unless a statutory exemption (Section 7.4(b) above) is required. At such time title changes, the "grandfathered status" is lost.

(g) Lease Agreement. Rental and lease agreements shall comply with this subsection.

(1) The Owner shall provide the tenant or lessee with a copy of the Declaration, the Bylaws, including any relevant amendments to such documents, and all rules and regulations then in effect and shall take a receipt for delivery of the documents. In the event

any such documents are amended, revised, changed, or supplemented by the Association, the Owner shall provide the tenant or lessee with a copy of the amendments, revisions, changes, or supplements within ten (10) days of adoption by the Association, its Board, or its membership.

(2) Upon the commencement of the rental or lease period, the Owner shall provide the Association with a signed copy of the Approved Lease Agreement.

(h) Remedies. In addition to any other remedies available to the Association, the Board may require the Owner to terminate a lease or rental agreement if the Board determines that any lessee or tenant has violated any provision of this Declaration, the Articles of Incorporation, the Bylaws, or any amendments thereto, or the rules and regulations adopted thereto. If an Owner fails to correct any such violations related to their tenants or fails to terminate the lease pursuant to the above, the Owner hereby grants the Board standing to initiate eviction proceedings against their tenant and considers the Association a third-party beneficiary to its rental/lease agreement.

(i) Additional Rules. The Board is authorized to promulgate additional rules, procedures and requirements regarding rentals and the rental process as it deems necessary from time to time to give effect to, or further clarify, this amendment.

(1) Fines, Sanctions and Attorney's Fees. The Board shall have the power to enforce the Association's governing documents, including by obtaining injunctive relief from the courts, by issuing fines, by terminating any common service paid for as a common expense, and by utilizing any other remedy authorized by law or the governing documents in order to maintain and operate the project and to enforce these rental restrictions. The Association shall be entitled to its attorney's fees and costs in any action to enforce the terms of this Amendment or its rules.

(2) Lease Payments by Tenant to Association. If an Owner who is renting his or her Lot fails to pay an assessment for more than sixty (60) days after the assessment is due, the Board may demand that the tenant, and the tenant thereafter shall, pay to the Association all future lease payments due to the Owner, beginning with the next monthly other periodic payment, until the amount due to the Association is paid in accordance with the procedures established by law, and such amounts shall be the personal obligation and debt of the tenant to the Association, jointly and severally with the Owner.

(3) Owner responsible for actions of Tenant. Any Owner allowing a non-owner occupant to occupy his or her Lot shall be responsible for the occupant's compliance with the Declaration, Bylaws and Rules.

**7.4 Animals.** Dogs, cats or other household pets, no more than two (2) in number, may be kept as permissible within current zoning regulations provided that they are not kept, bred, or maintained for any commercial purpose. No horses or other animal shall be allowed on any Lots within the subdivision. The owner of any dog must keep such dog on a leash or in a cage when outside of the Lot or keep it confined within the Lot or Limited Common Area appurtenant thereto, and under the owner's control. Those animals which are permitted shall not cause any noise or disturbance that would be deemed a nuisance to other Owners or residents within the

Community. Any inconvenience, damage or unpleasantness caused by such pets shall be the responsibility of the respective Owners thereof and Owners shall be responsible for removal of waste of their animals. The Association may, by rule, further restrict or regulate the keeping of pets. An Owner may be required to remove a pet that is in violation of the Governing Documents or if the animal is considered dangerous or unsafe to the Members, guests tenants or properties.

**7.5 Offensive Activities.** No noxious, offensive or unsightly conditions, including, but not limited to, the placement or storage of inoperable vehicles, car parts and appliances, or activities shall be permitted on any Unit or other portion of the Common Areas or Limited Common Areas, nor shall anything be done in or placed upon any Common Area which interferes with or jeopardizes the enjoyment of other Lots, or which is a source of annoyance to residents.

**7.6 Noise Disturbance.** Residents shall exercise extreme care to minimize noise and to use musical instruments, radios, televisions, amplifiers, or any other device so as to not disturb other residents. Noise disturbances shall subject the Owner of the Lot from which the noise originates to a fine, as levied by the Board of Directors in its sole discretion.

**7.7 Unlawful Activities.** No unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

**7.8 Rubbish and Trash.** No part of the Property may be used or maintained as a dumping ground for rubbish, trash, garbage, or any other waste. No garbage, trash, or other waste may be kept or maintained on any part of the Property except in a proper sanitary container as specified by the Association. All loose garbage shall be placed in a bag to prevent spilled debris from littering the Community. All such waste and garbage must be promptly and periodically removed.

**7.9 Parking.** No motor vehicle of any kind may be parked on any street within the Community for more than seventy-two (72) consecutive hours. No inoperable vehicle may be parked within the Community. Recreational vehicles such as boats, trailers, and like vehicles or equipment may not be parked within the Community for more than seventy-two (72) consecutive hours without being used, unless otherwise permitted by the Rules and Regulations.

The driving, parking, and storing of vehicles in, on or about the Community (including the Lots) shall be subject to the parking rules adopted from time to time by the Association. The Association may have a vehicle parked in violation of any rule or of this Declaration removed (towed) or booted and the Owner may be assessed the cost of such removal and any storage necessitated thereby and the owner of the vehicle shall indemnify, defend, and hold harmless the Association and its officers and agents from all claims which may arise from any towing, removal, storage or sale of such vehicle. The Association may adopt separate rules and regulations regarding parking and allowances within the Association.

**7.10 External Apparatus.** No Unit 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 Board of Directors. No sheds or outbuildings are permitted.

**7.11 Signs.** No sign of any kind shall be displayed to the public view without the approval of the Board, except a single sign advertising the sale of a Lot that is no more than three (3) feet by two (2) feet.

**7.12 Antenna and Dish Policy.** Owners are encouraged to use cable service for television and internet when available. Satellite dishes and antennas not regulated by the FCC are prohibited. Satellite antennas, such as Direct Broadcast Satellite (“DBS”) antennas/dishes one meter in diameter or less, and designed to receive direct broadcast satellite service, including direct-to-home satellite service, or receive or transmit fixed wireless signals via satellite, may be installed; provided the dish and any wires are installed so as to not be visible from the streets. If placing the dish or antenna so that it is not visible from the streets precludes reception of an acceptable quality signal, the dish shall be installed with the least visibility from the streets possible. No dish may encroach upon the Common Area or the property of another Owner. The Owner shall keep the dish in good repair so that it does not violate any portion of this Declaration. The terms “dish” and “antenna” are to be used interchangeably in the interpretation of the above policy.

**7.13 Solar Panels and Energy Saving Devices.** No exterior solar panels, wind generation or other energy generation devices shall be permitted except upon prior written approval of the Board. The Board may adopt rules and guidelines for any such devices, if allowed, and all such devices shall be maintained and remain operable at the sole expense and responsibility of the Owner.

**7.14 Hot Tubs.** Hot tubs are prohibited outside the Home on any Lot.

**7.15 Swimming Pool.** A swimming pool is located on Common Area and provided as a common amenity for the Association’s Members, residents and guests. The Board shall adopt Rules and Regulations regarding the use of the swimming pool, spa, and pool area. Any violation of such rules shall be deemed a violation of the Association’s Governing Documents and enforceable as provided herein.

**7.16 Planting and Gardening.** No fences, plants, hedges or walls shall be planted, erected or maintained upon any property except as approved by the Trustees.

**7.17 Use of Common Area.** Except for the rights of ingress and egress, Owners are hereby prohibited and restricted from using any of the Common Areas, other than as permitted in this Declaration or as may be allowed by the Board. It is expressly acknowledged and agreed by all parties concerned that this restriction is for the mutual benefit of all Unit Owners in the Property and is necessary for the protection of interests of all said Owners in and to the Common Area.

**7.18 Increase in Insurance Cost.** Nothing shall be done or kept within any Unit or on the Common Areas, including Limited Common Areas, which will increase the cost of insurance to

the Association or to other Owners. No Owner shall permit anything to be done or kept within his or her Unit or Common Areas which will result in cancellation of insurance on any Unit.

**7.19 Association Rules and Regulations.** In addition to the restrictions and requirements above, the Board of Directors from time to time may, by resolution, adopt, modify, or revoke such rules and regulations governing the conduct of persons and the operation and use of the Units and Common Areas as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Property. Reasonable fines may be levied and collected as an assessment for violations of said rules and regulations and for violations of any restrictions contained in this Declaration. A schedule of fines may be adopted by the Board of Directors specifying the amounts of such fines, and any other provisions or procedures related to the levying of such fines.

## **ARTICLE VIII – RULES, ENFORCEMENT, APPEAL**

### **8.1 Rules and Regulations.**

(a) The Board may adopt, amend, modify, cancel, limit, create exceptions to, expand, or enforce the Rules and Regulations, subject to limitation and requirements of the law, including the right of the Owners to disapprove a rule pursuant to law, and subject to the Board's duty to exercise business judgment on behalf of the Association and the Owners.

(b) Before adopting, amending, modifying, canceling, limiting, creating exceptions to, or expanding the Rules and Regulations, the Board shall:

(1) at least fifteen (15) days before the Board will meet to consider a change to the Rules and Regulations, deliver notice to the Owners that the Board is considering a change to the Rules and Regulations;

(2) provide an open forum at the Board meeting giving Owners an opportunity to be heard at the Board meeting before the Board takes action under Section 8.1(a); and,

(3) deliver to the Owners a copy of the change in the Rules and Regulations approved by the Board within fifteen (15) days after the date of the Board meeting.

(c) The Board may adopt a rule without first giving notice to the Owners if there is an imminent risk of harm to the Common Area, an Owner, an occupant of a Lot, a Lot, or a Home. The Board shall provide notice to the Owners of such a rule within fifteen (15) days of adoption by the Board.

**8.2 Compliance.** Each Owner, tenant or occupant of a Lot shall comply with the provisions of this Declaration, the Bylaws and the rules and regulations adopted pursuant thereto and any applicable statute. Failure to comply therewith shall be grounds for levying of a fine and an action or suit maintainable by the Association or an aggrieved Owner.

**8.3 Remedies.** Violation of any provisions of the Governing Documents, or of any decision of the Association made pursuant to such documents, shall give the Board, the right, but not the obligation, 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 after giving notice:

(a) Subject to the provisions of this Declaration, to enter the Lot 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 of Directors 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;

(b) To enjoin, abate, or remedy such thing or condition by appropriate legal proceeding;

(c) To levy fines, and a violation of any specific and express rule, regulation, covenant, restriction, or term of any Governing Document of the Association (a “violation”), and any subsequent occurrence of such violation, shall be subject to a fine in the amount determined by the Board from time to time. A subsequent occurrence of the same violation occurring within one (1) year of a prior occurrence is and shall be deemed the same violation for all purposes, including the purpose of notice, and each such subsequent occurrence shall be subject to an immediate fine without further warning or notice, pursuant to Utah law;

(d) To suspend the right to receive access or use any services or facilities provided by or through the Association until the violation is corrected;

(e) To suspend the voting rights of an Owner, but not for longer than sixty (60) days except in the case of a continuous violation; or

(f) Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration, the Bylaws and any rules or regulations adopted pursuant thereto. The Association shall be entitled to an award of its attorneys’ fees and costs in any action taken for the purpose of enforcing or otherwise implementing the terms of the Governing Documents, or for any action taken pursuant to the Governing Documents, if it prevails in such action, regardless of who instituted the action.

**8.4 Fines.** The Board may assess a fine against an Owner for a violation of the Governing Documents in accordance with the following provisions.

(a) Warning. A written warning (“Warning”) shall be sent to the Owner of the lot. The Warning shall:

(1) describe the violation,

(2) state the rule or provision of the Governing Documents that the Owner has violated,

(3) state that the Board may, in accordance with the provisions of the law, assess fines against the Owner and suspend membership rights if a continuing violation is not cured or if the Owner commits similar violations within one (1) year after the day on which the Board gives the Owner the Warning or assesses a fine against the Owner,

(4) if the violation is a continuous violation, state a time by which the Owner must cure the violation (which time must be at least forty-eight (48) hours after the day the Owner is given the Warning), and

(5) state the amount of the fine that will be assessed if a continuous violation is not cured within forty-eight (48) hours or if the Owner commits similar violations within one (1) year after the day on which the Board gives the Owner the Warning.

(b) Initial Fine. The Board may assess a fine against an Owner if: (i) within one (1) year after the day on which the Board gives the Owner a Warning, the Owner commits another violation of the same rule or provision identified in the Warning; or (ii) for a continuing violation, the Owner does not cure the violation within forty-eight (48) hours after the day the Owner is given the Warning.

(c) Subsequent Fines for Same Violation. After a fine is assessed against an Owner, the Board may, without further warning, assess an additional fine against the Owner each time the Owner: (i) commits a violation of the same rule or provision within one (1) year after the day on which the Board assesses a fine for a violation of the same rule or provision; or (ii) allows a violation to continue for ten (10) days or longer after the day on which the Board assesses the fine.

(d) Membership Rights. An Owner shall not be deemed an Owner in Good Standing for sixty (60) days after a fine is assessed against the Owner.

**8.5 Appeal by Owner.** Any Owner who is assessed a fine or other penalty or who has rights suspended may request an informal hearing before the Board to dispute the fine, penalty or suspension within thirty (30) days after the date of the notice stating that the fine or penalty is assessed or that rights have been suspended. The hearing requested shall be conducted in accordance with procedures promulgated by resolution of the Board from time to time, or if none, in accordance with the standards determined by the Board at the hearing.

**8.6 Action by Owners.** Subject to any limitation imposed under the Governing Documents 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.

**8.7 Injunctive Relief.** Nothing in this Section shall prevent an Owner, the Association, or other interested party from resorting to a court of competent jurisdiction in those instances where injunctive relief may be appropriate.

**8.8 Purchase Subject to Violations.** Buyers shall take ownership of Lots subject to any violations of the Governing Documents which may exist concerning the Lot, whether or not such violations were disclosed by the seller of the Lot and whether or not the Association knew of the violations at the time of sale. Such buyers shall be liable for correcting such violations upon demand by the Association.

## ARTICLE IX - INSURANCE

### 9.1 Types of Insurance Maintained by the Association.

(a) The Board shall at all times purchase, maintain in force, and pay the premiums for, (as well as such other insurance as it deems reasonable) if reasonably available, and consistent with that of similarly situated first-class subdivisions in the county and with the Act:

(1) Property Insurance. Property insurance for the Common Area, if required by law or deemed necessary by the Board;

(2) Liability. Liability insurance with adequate limits of liability for bodily injury and property damage, but in no event less than one million dollars (\$1,000,000.00) per occurrence;

(3) Directors and officers (D & O) liability insurance coverage.

(b) The Board may purchase and maintain in force, if and as deems reasonable, the following types of insurance:

(1) Fidelity. Fidelity insurance or bond covering all Board members, officers, employees and other persons handling or responsible for the funds of, or administered by, the Association. Where a Managing Agent has the responsibility for handling or administering funds of the Association, fidelity coverage shall include coverage for its officers, employees, and agents handling or responsible for funds of, or administered on behalf of, the Association. Such fidelity bond or insurance shall name the Association as an obligee and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or Managing Agent, as the case may be, at any given time during the term of each bond or policy, and in no event, no less than a sum equal to three (3) months' aggregate assessments on all Lots plus reserve funds. The bonds or policies shall contain waivers by the issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions. The bonds or policies shall provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days' prior written notice to the Association or insurance trustee.

(2) Other. Any other policy as determined by the Board.

(c) **Certificate of Insurance.** Evidence of insurance shall be issued to each Owner and Mortgagee upon request.

**9.2 Owner's Insurance.** Each Owner and resident shall purchase and maintain adequate liability and property insurance on his or her Lot and Home subject to the following:

(a) **Primary Coverage.** The insurance coverage of an Owner shall be primary. Unless elected by the Board pursuant to Section 9.1(b) above, the Association shall not maintain insurance on an Owner's Lot, Home, personal property, or contents;

(b) **Prompt Repair.** Each Owner further covenants and agrees that in the event of any partial loss, damage or destruction of its Lot or Home, the Owner shall promptly proceed to repair or to reconstruct the damaged structure in a manner consistent with the original construction;

(c) **Failure to Repair.** If the Board determines that any Owner has failed to properly discharge its obligation with regard to the repair or reconstruction of the damaged structure, then the Association may, but is not obligated to, provide such repair or reconstruction at the Owner's sole cost and expense.

## ARTICLE X - AMENDMENT

This Declaration, as well as the Plat, may be amended if any provision, covenant, condition or restriction whatsoever, may thereby be added, modified or deleted, if such amendment is approved by Owners holding at least sixty-seven percent (67%) of the voting rights of the Association. An amendment shall not be effective until the amendment is certified by the president of the Association as being adopted in accordance with this Declaration is acknowledged and is recorded in the Washington County Recorder's Office.

## ARTICLE XI - MISCELLANEOUS PROVISIONS

**11.1 Priority of Governing Documents.** In the event of any conflict between or among this Declaration and any other Governing Document, the document in the highest priority beginning with the first document listed hereinafter shall prevail (as to any such conflict) over any later listed document: this Declaration, the Articles of Incorporation, Bylaws, Rules and Regulations.

**11.2 Recovery of Costs and Attorney Fees.** The Association shall be entitled to recover its costs and attorney's fees incurred for enforcement of this Declaration regardless of whether any lawsuit or other action is commenced. Such costs and attorney's fees shall automatically be and constitute an assessment against the Owner and the Lot. Additionally, the prevailing party shall be entitled to its attorney fees and costs in any dispute concerning any Governing Document, including an action dealing with the declaration of rights and obligations thereunder with or without a defaulting party, whether such costs and expenses are incurred with or without suit; before or after judgment; in any appeal; in any bankruptcy or receivership proceeding; or in connection with any alternative dispute resolution proceeding.

**11.3 Invalidity; Number; Captions.** 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.

**11.4 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 a joint and several responsibility and the act or consent of any one 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 of Directors, 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.

**11.5 Lessees and Other Invitees.** No damage to, or waste of the Common Areas or any part thereof shall be committed by any Owner or any Lot occupant, guest, invitee, lessee of any Owner, and each Owner shall indemnify and hold the Board and the other Owners harmless against all loss resulting from any such damage or waste caused by any such person. Lessees, invitees, guests, Lot occupants, contractors, family members and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of the Governing Documents 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.

**11.6 Waiver, Precedent and Estoppel.** No restriction, condition, obligation or provision contained in this Declaration or rules and regulations adopted pursuant hereto shall be deemed to have been abrogated or waived by the Association, the Board 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, Board or Owner as to any similar matter.

**11.7 Interpretation.** All questions of interpretation or construction of any of the covenants or restrictions in this Declaration shall be resolved by the Board, and its decision shall be final, binding and conclusive on all parties affected for all purposes. The covenants, restriction and terms of this Declaration are to be interpreted broadly to give effect to the Association's role as the governing body of the Community and to grant all the powers necessary for management of the common property, administration of the servitude regime, carrying out other functions set forth herein, and furthering the purposes of the Association. The enumeration of specific items, acts, rights, or powers in this instrument does not limit or restrict and is not to be construed or interpreted as limiting or restricting, the general powers granted to the Association or Board except where powers are expressly restricted.

**11.8 Premises Liability.** The Association and the Board is and shall remain wholly free and clear of any and all liability to, or claims by, all Owners and all persons and entities, of whatever kind or character, whether sounding in contract or tort, deriving from the occurrence of any injury or damage to any person or property on, or in respect of the use and operation of, the Common Area or any of its improvements, fixtures, and facilities and an Owner shall defend, indemnify and hold harmless the Association and Board against such claim, loss or liability asserted by such Owner or his or her guest, invitee, licensee, tenant, or visitor. In this respect, it shall be the affirmative duty and responsibility of each Owner and user of the Common Area facilities to continuously inspect the same for any defects or perils or other unsafe conditions or circumstances, prior to and during such use or enjoyment thereof; and all users of, and visitors to, the Common Area and its improvements and facilities shall use, enjoy, and visit, the same at their own risk and peril.

**11.9 Notice of Sale, Mortgage, Rental, or Lease.** Immediately upon the sale, mortgage, rental, or lease of any Lot, the Owner shall promptly inform the secretary or manager of the name and address of said grantee, vendee, mortgagee, lessee, or tenant.

IN WITNESS WHEREOF, The Villas at Green Valley Owners Association has executed this Declaration this 3 day of MAY, 2022.

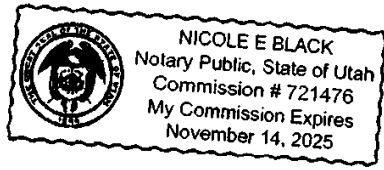
THE VILLAS AT GREEN VALLEY  
OWNERS ASSOCIATION

*Emily S Long*  
By: Emily S. Long  
Its: President

STATE OF UTAH )  
County of Washington )ss:

The foregoing instrument was acknowledged before me on this 3rd day of May, 2022 by Emily S. Long.

*W E B R*  
Notary Public for Utah





**EXHIBIT A**

(LEGAL DESCRIPTION)

All Lots and Common Area (46 total), VGV – VILLAS AT GREEN VALLEY (SG), as set forth on the plat map and in the office of the Washington County Recorder for Washington County, state of Utah.

Parcels SG-VGV-1 through SG-VGV-46

**EXHIBIT B**  
**BYLAWS**  
**OF**  
**THE VILLAS AT GREEN VALLEY OWNERS ASSOCIATION**

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**ARTICLE 1 – NAME AND LOCATION**

The name of the corporation is The Villas at Green Valley Owners Association, hereafter referred to as “Association.” The principal office of the Association shall be at a location established by resolution of the Board of Trustees. All meetings of Members and Trustees may be held at such places within the state of Utah as may be designated by the Board of Trustees.

## ARTICLE 2 - DEFINITIONS

The definitions contained in or adopted by the Declaration shall be applicable to these Bylaws.

## ARTICLE 3 – MEMBERSHIP AND VOTING RIGHTS

3.1 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 recorded Owner to another person or entity.

3.2 Voting Rights. The Association has one class of voting membership: All 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 one 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.

3.3 Qualification for Membership. No person, persons, entity or entities shall exercise the rights of membership until satisfactory proof has been furnished to the secretary of the Association of qualification as a Member, or nominee of a Member, pursuant to the terms of the Articles of Incorporation and the Bylaws. Such proof may consist of a copy of a duly executed and acknowledged warranty deed or title insurance policy showing said person, persons, entity or entities, or the person nominating him/her qualified in accordance therewith, in which event said deed or title insurance policy shall be deemed conclusive evidence in the absence of a conflicting claim based upon a later deed or title insurance policy.

3.4 Suspension of Membership. The rights of membership are subject to the payment of annual and special assessments levied by the Association. If a Member fails to make payment of any annual or special assessment levied by the Association within thirty (30) days after the same shall become due and payable, the voting rights of such Member may be suspended by the Board of Trustees until such assessment has been paid. Rights of a Member may also be suspended for violation of any of the use restrictions. Rights of a Member also may be suspended after notice and hearing, for infraction of any published Rules and Regulations established by the Board of Trustees governing the use of the services, facilities or equipment of the Association, for a period not to exceed sixty (60) days.

3.5 Affairs, Electronic Means. Any transaction or action involving the business or affairs of the Association, including but not limited to voting and providing notice or records, may be conducted by electronic means. The Association may accept a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation as the act of the Member if the

Board does so in good faith and has no reason to believe it is not the act of the Member. A writing may be delivered in an electronic medium or by electronic transmission, and may be signed by photographic, electronic, or other means. An electronic record or electronic signature is attributable to a person if it was the act of the person. An electronic signature may consist of a mark, symbol, character, letter, or number or any combination thereof attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record and the same shall be considered the signature of such person. A writing includes any document, record, vote, ballot, proxy, or instrument required or permitted to be transmitted by a Member or by the Association.

#### **ARTICLE 4 - MEETINGS OF MEMBERS**

4.1 Open Meetings. Except as provided herein, all meetings of the Association shall be open to Owners. At each meeting, the Board shall provide Owners a reasonable opportunity to offer comments. The Board may limit the comments to one specific time period during the meeting. Beyond such comment period, no Owner shall have a right to participate in the Board meeting unless the Owner is also a member of the Board. The President or Board shall have the authority to exclude an Owner who disrupts the proceedings at a meeting. The Board may adopt policies governing meetings of the Board from time to time, including policies to reflect current Utah law. If such Utah law supersedes any provision of these Bylaws, the policy adopted by the Board shall also supersede these Bylaws to the extent the policy restates then current Utah law. "Meeting" means a gathering of the Association whether in person or by means of electronic communication, in real time, at which the Board can take binding action.

4.2 Annual Meetings. The annual meeting of the Members for the election of Trustees, the presentation of the annual financial report of the Association and for the transaction of such other business as the Board of Trustees may determine, shall be held at such time and place as may be designated by the Trustees.

4.3 Special Meetings. Special meetings of the Members may be called at any time by the President or by the Board of Trustees, or if the Association receives one or more written demands for the meeting that state the purpose or purposes for which the meeting is to be held and are signed and dated by at least twenty-five percent (25%) of the Members who are entitled to vote. When a special meeting is demanded by the Members, the Board shall set the time and date for the meeting so that the meeting occurs within sixty-five (65) days of receipt of the demand and if notice of the meeting is not given by the Board within thirty (30) days after the date the written demand is delivered to an Association officer, a person signing the demand may set the time and place of the meeting and give notice pursuant to the requirements herein. Business transacted at a special meeting shall be confined to the purposes stated in the notice of the meeting.

4.4 Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, in a fair and reasonable manner, including by delivering a copy of such notice to each Member entitled to vote thereat, in accordance with the notice requirements specified in these Bylaws, and sufficiently in advance of the meeting to provide fair and reasonable notice of the meeting, as determined by the Board. Notice shall always be deemed fair and reasonable if given at least ten (10) days before the

meeting, but shorter notice may also be fair and reasonable when all the circumstances are considered. The notice shall specify the place, day and hour of the meeting, and must include a description of any matter that must be approved by the Members and, in the case of a special meeting, the purpose of the meeting.

(a) Notice by Electronic Means. In any circumstance where notice is required to be given to the Members, the Association may provide notice by electronic means, including text message, email, or an Association website, if the Board deems the notice to be fair and reasonable. A Member may require the Association, by written demand, to provide notice to the Member by mail. The Board is authorized to promulgate rules and procedures facilitating the implementation of this Section as it deems fit from time to time, including requiring Members to furnish the Association with a current email address.

(b) Except as otherwise provided in the Declaration, these Bylaws or law, all notices to any Owner shall be sent to such address as may have been designated by him or her, from time to time, in writing to the Board, or if no address has been designated, then to the Owner's Lot.

(c) If a Lot is jointly owned, notice shall be sent to a single address, of which the secretary has been notified in writing by such parties. If no address has been given to the secretary in writing, then mailing to the Lot shall be sufficient.

4.5 Proxies and Absentee Ballots. A vote may be cast in person, by proxy or by absentee ballot. A proxy given by an Owner to any person who represents the Owner at meetings of the Association shall be in writing, dated and signed by such Owner and shall be filed with the secretary in accordance with procedures adopted by resolution of the Board. No proxy shall be valid after the meeting for which it was solicited, unless otherwise expressly stated in the proxy; however, no proxy may be valid for more than eleven (11) months after the date of execution. No proxy shall be valid if it purports to be revocable without notice. An Owner may not revoke a proxy given except by actual notice of revocation to the person presiding over a meeting of the Association, or to the Board if a vote is being conducted by written ballot in lieu of a meeting. Every proxy shall automatically cease upon sale of the Lot.

#### 4.6 Fiduciaries and Joint Owners.

(a) Fiduciaries. An executor, administrator, guardian, or trustee may vote in person or by proxy, at any meeting of the Association with respect to any Lot owned or held in such capacity, whether or not the same shall have been transferred to his or her name; provided, that the person shall satisfy the secretary that he or she is the executor, administrator, guardian, or trustee holding the Lot in such capacity.

(b) Joint Owners. Whenever any Lot is owned by two or more persons jointly, according to the records of the Association, the vote of the Lot may be exercised by any one of the Owners then present, in the absence of protest by a co-owner. In the event of a protest, no one co-owner shall be entitled to vote without the approval of all co-owners. In the event of disagreement among the co-owners, the vote of the Lot shall be disregarded completely in determining the proportion of votes given with respect to the matter.

4.7 Quorum of Owners.

(a) At any meeting of the Association or action taken without a meeting, and except as otherwise provided in the Declaration or these Bylaws, the presence of a majority of Members entitled to vote, represented in person, by proxy, or by written ballot, shall constitute a quorum for any action.

(b) If any meeting or vote of Members cannot be organized because of a lack of quorum, the Members who are present may adjourn the meeting without notice other than announcement at the meeting, until a quorum shall be present or represented.

(c) The subsequent ratification of an Owner of the action taken at a meeting shall constitute the presence of the person for the purpose of determining a quorum. When a quorum is once present to organize a meeting it cannot be broken by the subsequent withdrawal of an Owner or Owners.

4.8 Binding Vote. If a quorum is present, the affirmative vote of the majority of the Members represented at the meeting shall be the act of all the Members, unless the act of a greater number is expressly required by law or the Governing Documents of the Association. Upon direction of the presiding officer, the vote upon any business before a meeting shall be by ballot or voice vote.

4.9 Order of Business. The order of business at annual meetings of the Association shall be according to the order established by the presiding officer.

4.10 Action by Written Ballot in Lieu of a Meeting. Any action that may be taken at any annual, regular, or special meeting of Members may be taken without a meeting if the Association causes to be delivered a written ballot to every Member entitled to vote on the matter not less than fifteen (15) days prior to the date on which the ballots must be received by the Association in order to be counted. A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot pursuant to this Section shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written ballot shall indicate the number of responses needed to meet the quorum requirements; state the percentage of approvals necessary to approve each matter other than election of directors; specify the time by which a ballot must be received by the Association in order to be counted; and be accompanied by written information sufficient to permit each person casting such ballot to reach an informed decision on the matter. In the event the action is for election of Board members, there shall be space on the ballot to write in nominations. Action taken under this Section has the same effect as action taken at a meeting of Members and may be described as such in any document.

4.11 Action without Notice and a Meeting. Any action required to be taken or which may be

taken at a meeting of Members may be taken without a meeting and without prior notice if one or more consents in writing, setting forth the action so taken, are signed by Members having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all Members entitled to vote on the action were present and voted. All such writings must be received by the Association within a sixty (60) day period. Any such writing may be received by the Association by electronically transmitted facsimile or other form of communication providing the Association with a complete copy thereof, including a copy of the signature thereto. Action taken pursuant to this Section shall be effective when the last writing necessary to effect the action is received by the Association, unless the writings describing and consenting to the action set forth a different effective date.

## **ARTICLE 5 – BOARD OF TRUSTEES – SELECTION, TERM OF OFFICE**

### **5.1 Number, Term and Qualifications.**

(a) The affairs of the Association shall be governed by a Board of Directors composed of three (3), five (5), or seven (7) Board members. The numbers of persons constituting the whole Board of Trustees to be fixed from time to time by resolution of the Board.

(b) Members of the Board shall serve for a term of two (2) years. The terms shall be staggered so all Board members are never elected in the same year.

(c) All Board members must be an Owner or the spouse of an Owner of a Lot, except that a husband and wife may not serve on the Board at the same time. A representative of an entity which owns a Lot, and only one such representative, may serve on the Board, such that a shareholder of a corporation, a member of an LLC, a partner of a partnership, a trustee or beneficiary of a trust, or a personal representative of an estate, may serve on the Board if the corporation, LLC, partnership, trust or estate owns a Lot.

5.2 Vacancies. Vacancies on the Board, caused by any reason other than the removal of a Board member by a vote of the Association, shall be filled for the balance of the term by vote of a majority of the remaining Board members even though they may constitute less than a quorum. Each person so elected shall be a Board member until a successor is elected upon expiration of the term for which the person was elected by the other Board members to serve.

### **5.3 Removal of Board Members.**

(a) At any annual or special meeting, any one or more of the Board members, other than interim Board members, may be removed, with or without cause, by a majority of the voting interests of the Members. A successor may be elected at that meeting to fill the vacancy thus created. The notice of the meeting must state that the removal is to be considered and any Trustee whose removal has been proposed by the Owners may be given an opportunity to be heard at the meeting.

(b) The Board may declare the office of a member of the Board to be vacant in the

event such member is absent from three (3) consecutive regular meetings of the Board or from more than twenty-five percent (25%) of the regular meetings held in any twelve (12) month period, or, within twenty-four (24) hours of a request to take action without a meeting, more than twice in any six (6) month period fails to respond in writing by (1) voting for the action, (2) voting against the action, or (3) abstaining from voting and waiving the right to demand that action not be taken without a meeting. The vacancy shall be filled as provided in Section 5.2 above.

5.4 Compensation. No Board member shall receive compensation for any service he or she may render to the Association as a Board member. However, any Board member may be reimbursed for actual expenses incurred in the performance of his or her duties.

5.5 Action Taken Without a Meeting. The Board shall have the right to take any action in the absence of a meeting which they could take at a regular or special meeting of the Board, if all the Board members agree in writing to take a vote or an action without a meeting. The action being taken shall not require unanimous consent of the Board. Any action so taken shall have the same effect as though taken at a meeting of the Board members.

#### **ARTICLE 6 - NOMINATION AND ELECTION OF BOARD MEMBERS**

6.1 Nomination.

(a) Method of Nomination. Nomination for election to the Board shall be made in the manner determined by the Board, which may include a Nominating Committee and/or nominations from the floor at a meeting. If one is established, the Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies.

(b) Nominating Committee. The Nominating Committee, if any, shall consist of a chairman, who shall be a member of the Board; and one or more Members of the Association.

6.2 Election. At the election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

6.3 Election of Trustees by Mail. The election of Trustees may be handled pursuant to Section 4.10 of these Bylaws.

#### **ARTICLE 7 - MEETINGS OF THE BOARD OF TRUSTEES**

7.1 Regular Meetings. The first meeting of the newly elected Board of Trustees will immediately follow the annual meeting of Members. Thereafter, regular meetings of the Board of Trustees shall be held at such place and hour as may be determined from time to time by the Board. Written notification of each regular Board meeting shall be delivered to all Trustees at least seven (7) days prior to any regular Board meeting.



7.3 Special Meetings. Special meetings of the Board shall be held when called by the president of the Association, or by any two (2) Board members, after not less than three (3) days' notice to each Board member by mail, electronic mail, telephone, or facsimile, unless waived pursuant to 7.8 below. The notice must state the time, place, and purpose of the meeting.

7.4 Quorum and Acts. At all meetings of the Board a majority of the existing Board members shall constitute a quorum for the transaction of business and the acts of the majority of the Board members present shall be the acts of the Board. If, at any meeting of the Board, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted without further notice.

7.5 Open Meetings: Executive Sessions.

(a) Open Meetings. Except as provided in subsection (b), all meetings of the Board shall be open to Lot Owners. However, no Owner shall have a right to participate in the Board meeting unless the Owner is also a member of the Board. The president or Board shall have the authority to exclude an Owner who disrupts the proceedings at a Board meeting.

(b) Executive Sessions. In the discretion of the Board, the following matters may be considered in executive session:

- (1) Consultation with legal counsel concerning the rights and duties of the Association regarding existing or potential litigation or criminal matters;
- (2) Personnel matters, including salary negotiations and employee discipline;
- (3) The negotiation of contracts with third parties;
- (4) Collection of unpaid assessments; and
- (5) Other matters of a sensitive, private, or privileged nature at the discretion of the Board.

(c) Executive Session Procedure. Except in the case of an emergency, the Board shall vote in an open meeting whether to meet in executive session. If the Board votes to meet in executive session, the president or other presiding officer shall state the general nature of the action to be considered and, as precisely as possible, when and under what circumstances the deliberations can be disclosed to Owners. The statement, motion or decision to meet in executive session must be included in the minutes of the meeting.

7.6 Action Without a Meeting. Whenever the Board is required or permitted to take any action by vote, such action may be taken without a meeting with written consent, setting forth the action so taken, signed by a majority of the Trustees.

7.7 Meetings by Telephonic or Electronic Communication. In the event of an emergency, or by decision of the Board, meetings of the Board may be conducted by telephonic communication or by the use of a means of communication that allows all members of the Board participating to hear each other simultaneously or otherwise to be able to communicate during the meeting.

7.8 Waiver of Notice. Any Board member may, at any time, waive notice of any meeting of the Board in writing, and the waiver shall be deemed equivalent to the giving of the notice. Attendance by a Board member at any meeting of the Board shall constitute a waiver of notice by the Board member, except where the Board member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. If all Board members are present at any meeting of the Board, no notice to Board members shall be required and any business may be transacted at the meeting.

#### **ARTICLE 8 - POWERS, RIGHTS, AND DUTIES OF THE BOARD**

8.1 General Powers. The Board shall have the power to:

- (a) adopt and publish rules and regulations governing the use of the equipment and facilities of the Association and to establish reasonable admission and other fees for the use thereof;
- (b) suspend the voting rights and any other rights of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association or in violation of any of the use restrictions. Such rights may also be suspended for infraction of any published rules and regulations, after notice and hearing, for a period of not to exceed sixty (60) days;
- (c) employ a manager, an independent contractor or such other employees as they deem necessary, and to prescribe their duties;
- (d) borrow money for the purpose of improving the Common Area, and in aid thereof to mortgage said property, such mortgage to be subordinate to the rights of the Owners;
- (e) with the approval of sixty-seven percent (67%) of Owners, to sell, exchange, hypothecate, alienate, encumber, dedicate, release or transfer all or part of the Common Area to any private individual, corporate entity, public agency, authority or utility;
- (f) enter into agreements or leases which provide for use of the Common Areas and facilities, or for cash consideration;
- (g) grant easements for public utilities or other public purposes consistent with the intended use of the common and limited Common Area;
- (h) levy and collect assessments as more fully outlined in the Declaration;
- (i) purchase insurance as outlined in the Declaration;
- (j) adopt or appoint an Architectural Control any Committee;
- (k) appoint arbitrators to resolve disputes;
- (l) exercise for the Association all powers, duties and authority vested in or delegated

to this Association and not reserved to the membership by other provisions of these Bylaws or the Articles of Incorporation or Declaration;

(m) enforce and administer the Declaration of Covenants, Conditions and Restrictions recorded as affecting the properties.

8.2 Duties. It shall be the duty of the Board of Trustees to:

(a) act within thirty (30) days upon any request for approval or disapproval submitted pursuant to the Declaration of Covenants, Conditions and Restrictions;

(b) cause to be kept a complete record of all its acts and corporate affairs and to present a statement hereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by a majority of the Members who are entitled to vote;

(c) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(d) prepare a roster of the properties and the assessments applicable thereto;

(e) fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period;

(f) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual or special assessment period;

(g) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or bring an action at law against the Owner personally obligated to pay the same;

(h) furnish a certificate upon demand, and for a reasonable charge, signed by an officer of the Association setting forth, whether the assessment on a specified lot has been paid;

(i) maintain an adequate reserve fund for maintenance, repairs, and replacement of any elements of the common or limited Common Areas which must be replaced on a regular basis.

8.3 Best Interest of Association and Reliance on Information. A Board member or officer shall discharge the Board member or officer's duties (a) in good faith, (b) with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and (c) in a manner the Board member or officer reasonably believes to be in the best interests of the Association. The Board members shall, at all times, keep themselves reasonably informed and take such steps and necessary actions as a reasonable, prudent person would do to serve the best interest of the Association.

In discharging duties, a Board member or officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if

prepared or presented by: (a) one or more officers or employees of the Association whom the Board member or officer reasonably believes to be reliable and competent in the matters presented, (b) legal counsel, a public accountant, or another person as to matters the Board member or officer reasonably believes are within the person's professional or expert competence, or (c) in the case of a Board member, a sub-committee of the Association or Board of which the Board member is not a member if the Board member reasonably believes the sub-committee merits confidence.

## **ARTICLE 9 - OFFICERS AND THEIR DUTIES**

9.1 Enumeration of Offices. The Officers of this Association shall be a President, Vice-President, Secretary, and Treasurer, who shall at all times be members of the Board of Trustees; and such other officers as the Board may from time to time create.

9.2 Election and Vacancies. The election of officers shall take place at the first meeting of the Board of Trustees following each annual meeting of the Members.

9.3 Term. The officers of the Association shall be elected annually by the Board, and each shall hold office for two (2) years unless they shall sooner resign, or be removed, or otherwise be disqualified to serve.

9.4 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

9.5 Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, or any officer of the Board. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise necessary to make it effective.

9.6 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer they replace.

9.7 Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special office created pursuant to Section 9.4 of this Article.

9.8 Compensation of Officers. No officer who is a member of the Board may receive any compensation from the Association for acting as an officer, unless the compensation is authorized by a vote of the Owners. The Board may fix any compensation to be paid to any officers who are not also Board members.

9.9 Duties of Officers. Officers shall have such duties prescribed with respect to the office by the Declaration, Bylaws, and by the Board, to the extent not inconsistent with these Bylaws or the Declaration. The Board may delegate any powers or duties of officers to other persons or

agents as the Board deems necessary or appropriate from time to time. Any principal officer may prepare, execute, certify, and record amendments to the Declaration on behalf of the Association in accordance with the amendment provisions of the Declaration. The general duties of the officers are as follows:

(a) **President.** The president shall preside at all meetings of the Association and of the Board. The president shall have all of the general powers and duties which are usually vested in the office of president of an association. The president shall have the authority to sign all leases, mortgages, deeds and other written instruments, including amendments to the Governing Documents and shall co-sign all checks and promissory notes, unless otherwise delegated to another person, agent or management company and reported to the Treasurer.

(b) **Vice-President.** The vice-president shall act in the place and stead of the president in the event of the president's absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board. The Vice-President shall likewise have the authority to sign all leases, mortgages, deeds and other written instruments.

(c) **Secretary.** The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and the Association, have charge of such books, papers and records as the Board may direct, shall have the responsibility for preparation and maintenance other records and information required to be kept by the Association.

(d) **Treasurer.** The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and disburse such funds as directed by resolution of the Board of Trustees; sign all checks and promissory notes of the Association; maintain a roster of properties, assessments and payments; keep proper books of account; issue certificates of payment of assessments; notify the Trustees of Members who are delinquent in paying assessments and prepare an annual budget and statement of income and expenditures to be represented to the membership at its regular annual meeting, and deliver a copy of the budget and statement to the Members at said meeting. These duties may be delegated to another person, agent or management company and reported to the Treasurer.

#### **ARTICLE 10 – FINANCIAL MATTERS AND ASSOCIATION RECORDS**

10.1 **Depositories.** The Board of Trustees shall select such depositories, as it considers proper for the funds of the Association. All checks and drafts against such deposited funds shall be signed and countersigned by persons specified by the Board or in these Bylaws.

10.2 **Contracts.** The Board of Trustees may authorize any officer or officers, agent or agents, in addition to those specified in these Bylaws, to enter into any contract or execute and deliver any instrument in the name of or on behalf of the Association, and such authority may be general or confined to specific instances. Unless so authorized by the Board of Trustees, no officer, agent or employee shall have any power or authority to bind the Association by any contract or engagement or to pledge its credit or render it liable for any purpose or for any amount.

10.3 **Fiscal Year.** The fiscal year of the Association shall be January 1 through December 31.

10.4 Annual Report. The Board of Trustees shall present at the annual meeting of the Members the report of the Treasurer, giving the annual budget and a statement of income and expenses, and a report of other affairs of the Association during the preceding year. The Board of Trustees shall provide all Members, at the expense of the Association, copies of said annual budget and statement of income and expense.

10.5 Books and Records. The Association shall maintain within the state of Utah, all documents, information and other records of the Association in accordance with the Declaration, these Bylaws and the Utah Revised Nonprofit Corporation Act. The books, records and papers of the Association may be subject to inspection by Members pursuant to the Act and Utah Revised Nonprofit Corporation Act.

#### **ARTICLE 11 - INDEMNIFICATION OF TRUSTEES AND OFFICERS**

Each Trustee and officer of the Association now or hereafter serving as such shall be indemnified by the Association against any and all claims and liabilities to which he has or shall become subject while or after serving by reason of serving as Trustee or officer, or by reason of any action alleged to have been taken, omitted, or neglected by him as such Trustee or officer; and the Association shall reimburse each such person for all legal expenses reasonably incurred by him in connection with any such claim or liability; provided, however, that no such person shall be indemnified against, or be reimbursed for any expense incurred in connection with, any claim or liability arising out of his own willful misconduct or gross negligence. The right of indemnification herein above provided for shall not be exclusive of any rights to which any Trustee or officer of the Association may otherwise be entitled by law.

#### **ARTICLE 12 – COMMITTEES**

The Board of Trustees may appoint committees as deemed appropriate in carrying out its purposes. The Policies and Procedures shall be determined in the Declaration of Covenants, Conditions and Restriction. All Committees shall be composed of two or more representatives appointed by the Trustees. All committees shall report to the Trustees. No member of any committee has the authority to take action or make decisions without a vote of the Trustees.

#### **ARTICLE 13 – AMENDMENTS**

These Bylaws may be altered, amended, repealed or added to by a majority vote of the Board of Trustees or the majority of the voting rights of the Members at any annual or special meetings of the Members. An amendment shall not be effective until certified by the president of the Association as being adopted in accordance with these Bylaws, acknowledged, and recorded with the Washington County Recorder's Office. No action to challenge the validity of an adopted amendment may be brought more than two (2) years after the amendment is recorded.

#### **ARTICLE 14 - MISCELLANEOUS**

14.1 Waiver, Precedent and Estoppel. No restriction, condition, obligation, or provision

contained in these Bylaws or rules and regulations adopted pursuant hereto shall be deemed to have been abrogated or waived by the Association 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 as to any similar matter.

14.2 Invalidity; Number; Captions. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws. As used 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 these Bylaws.

14.3 Conflicts. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

IN WITNESS WHEREOF, the Association has caused these Bylaws to be executed by its duly authorized officers on this 2 day of May, 2022.

**THE VILLAS AT GREEN VALLEY  
OWNERS ASSOCIATION**

(Sign): Emily S. Long  
(Print Name): Emily Long President

(Sign): Michael A. Rostie  
(Print Name): Michael A. Rostie Secretary/  
Treasurer