

**AMENDED AND RESTATED
DECLARATION OF COVENANTS,
CONDITIONS, EASEMENTS, AND
RESTRICTIONS
OF
STRAWBERRY CREEK VILLAS**

**AN AGE RESTRICTED COMMUNITY
OPERATED FOR RESIDENTS
55 YEARS OF AGE AND OLDER**

Pleasant Grove, Utah County, Utah

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This AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS, AND RESTRICTIONS FOR STRAWBERRY CREEK VILLAS ("Declaration") is adopted by Strawberry Creek Villas Homeowners Association, Inc. ("Association") and is effective as of the date it is recorded in the office of the Utah County Recorder.

RECITALS

- A. The *Declaration of Covenants, Conditions, Easements, and Restrictions for Strawberry Creek Villas* was recorded in the Utah County Recorder's Office on June 12, 2014 as Entry No. 40000:2014 (the "Original Declaration").
- B. The *First Supplemental Declaration of Covenants, Conditions, Easements, and Restrictions for Strawberry Creek Villas* was recorded in the Utah County Recorder's Office on July 21, 2015 as Entry No. 66513:2015.
- C. This Declaration, which (along with and subject to any future amendments) shall be the sole declaration for Strawberry Creek Villas (the Community) and shall completely replace and supersede in all respects all prior declarations and amendments thereto (whether recorded or not, properly adopted or not, or referenced in this Declaration or not), prior to the date of the recording of this Declaration.
- D. This Declaration affects the real property situated in Utah County, Utah, described with particularity on Exhibit A, which exhibit is attached hereto and incorporated in this Declaration by reference (the "Community") and shall be binding on all parties having or acquiring any right, title, or interest to the Community or any part thereof.
- E. IT IS INTENDED THAT THE COMMUNITY BE AN AGE RESTRICTED COMMUNITY OF INDIVIDUALS AGE 55 AND OVER. THE COMMUNITY HAS BEEN CONSTRUCTED, AND SHALL BE MARKETED, MANAGED, AND MAINTAINED IN ACCORDANCE WITH THE PROVISIONS OF THE FEDERAL FAIR HOUSING ACT AND ITS EXEMPTIONS FROM DISCRIMINATION BASED ON FAMILIAL STATUS FOR HOUSING FOR OLDER PERSONS. THE COMMUNITY SHALL BE ADVERTISED AND PROMOTED AS "AGE RESTRICTED" OR AS "HOUSING FOR OLDER PERSONS"; SHALL HAVE A MINIMUM OF 90% OF THE LIVING UNITS OCCUPIED BY AT LEAST ONE PERSON AGE 55 OR OLDER; AND SHALL ESTABLISH REASONABLE MEANS OF VERIFYING AGE AND COMPLIANCE WITH THE FEDERAL FAIR HOUSING ACT AND THE FEDERAL HOUSING FOR OLDER PERSONS ACT.
- F. The Bylaws of the Association attached hereto as Exhibit B supersede and replace any previous bylaws of the Association and any amendments thereto, whether recorded or not.
- G. Pursuant to Section 12.2 of the Original Declaration, at least **two-thirds (2/3)** of the total votes of the Association have approved this Declaration. The signature hereinafter of the president of the Association certifies and **attests** that such vote was obtained.

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

ARTICLE I. DEFINITIONS

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

1.2. **Alleyway** shall mean the asphalt roadways between and leading up to Living Units.

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

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

1.5. **Association** shall mean and refer to the Strawberry Creek Villas Homeowners Association, Inc., a Utah non-profit corporation. Failure of the Association to maintain its corporate status will not result in the dissolution of the Association. The Association Board may renew or reinstate its corporate status without Owner approval.

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

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

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

1.9. **Common Areas** shall mean all areas of the Community, excluding Lots and Living Units. Common Areas may include without obligation or limitation, all Common Areas shown on the Plat, private roadway improvements, Association signs or monuments, open space, clubhouse and pool, common landscaped areas and sprinkler systems, street signage, lighting detached from Living Units, sidewalks, fences, and other similar improvements, all utility and service lines and similar improvements, whether public or private-company owned, intended to serve more than one Living Unit, whether located on a Lot or lying inside of the exterior boundaries of the Living Unit; and any real property or improvements within the Community that the Association has the obligation to maintain, repair, or replace for the common benefit of the Owners, as the Board shall determine in its sole and exclusive discretion.

1.10. **Common Expenses** shall mean all sums lawfully assessed against Owners; expenses of administration, maintenance, management, operation, repair and replacement of the Common Areas which are maintained by the Association, unless otherwise provided

herein; expenses agreed upon as common expenses by the Association or its Board of Directors; expenses authorized by the Governing Documents or the Act as common expenses; and any other expenses necessary for the common benefit of the Owners.

1.11. **Community** shall mean Strawberry Creek Villas and shall include the real property described in Exhibit A, together with the buildings, improvements, and permanent fixtures located thereon, and all easements and rights appurtenant thereto.

1.12. **Declaration** shall mean and refer to this *Amended and Restated Declaration of Covenants, Conditions, Easements, and Restrictions for Strawberry Creek Villas*, as may be amended from time to time.

1.13. **Design Guidelines** shall mean the requirements governing the location, color, materials, and architectural design of Living Units, structures, landscaping, and improvements within the Community.

1.14. **Driveway** shall mean the concrete area immediately outside a garage door extending from the Alleyway up to the garage door of the Living Unit.

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

1.16. **Guest** shall mean any non-Owner temporarily visiting the Community or temporarily residing with an Owner or Occupant in a Living Unit. Guests are bound by the Governing Documents of the Association and the Owner shall be liable for all fines assessed for damage or violations of the Governing Documents by such Guests.

1.17. **HOPA** shall mean the Housing for Older Persons Act, and the restrictions and requirements codified at 42 U.S.C. §3607(b)(2)(C).

1.18. **Living Unit** shall mean a structure which is designed and intended for use and occupancy as a single-family residence and separated from another Living Unit by one or more Party Walls, together with all improvements located on a Lot which are used in connection with such residential structure. The Living Unit shall include, without limitation, exterior and interior doors, windows, foundations, and garages. The Living Unit shall also include all mechanical equipment and appurtenances located outside the Living Unit but designed to serve only that Living Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors, equipment, fixtures and the like. All pipes, wires, conduits, utility lines, or other similar installations serving only the Living Unit, and any structural members, parts, components or any other property of any kind, including fixtures or appliances within any Living Unit, which are removable without jeopardizing the integrity, soundness, safety or usefulness of the remainder of the building within which the Living Unit is located shall be deemed part of the Living Unit.

1.19. **Lot** shall mean each of the residential individual Lots within the Community, as shown on the Plat. A Lot includes the Living Unit or other improvement or structure constructed thereon. Each Lot consists generally of all structures on or within the boundary of the Lot. As applicable, the Lot shall extend to the center of the **Party Wall**, which shall form the boundary of the Lots sharing that wall. Subject to dividing lines between Lots, any above-ground structure that extends beyond the vertical plane of the ground-level boundary of the Lot is part of the Lot if it: (1) is part of and an integral part of the Living Unit's structure (such as bay windows, pop-outs, eaves, roofs, etc., not to include fences, or other

appurtenant structures that merely connect to the structure); or (2) was constructed as part of the original construction of the Lot.

1.20. **Manager** shall mean a person, persons, or entity selected by the Board to manage the affairs of the Association and Community.

1.21. **Member** shall mean and refer to an Owner.

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

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

1.24. **Occupant** shall mean any person who occupies a Living Unit on a non-temporary basis. Occupants are bound by the Governing Documents of the Association and Owners shall be liable for all fines assessed for damage or violations of the Governing Documents by such Occupants.

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

1.26. **Party Wall** shall mean a wall, including without limitation a foundation wall, that forms part of a Living Unit and is located on or adjacent to a boundary line between two or more adjoining Lots or Living Units that are owned by more than one (1) Owner and is used or is intended to be used by the Owners of the benefitted Living Units as a structural partition wall. A Party Wall may be separated by a sound board between two or more Living Units.

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

1.28. **Plat** shall mean all of the official subdivision plats of the Community, and any amendments thereto, filed and recorded in the official records of the Utah County Recorder's Office.

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

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

ARTICLE II. COMMUNITY DESCRIPTION

2.1. **Submission**. The Community and all real property described with particularity on Exhibit A attached hereto and incorporated herein by this reference is hereby submitted to the Act. The Community and all of the Lots shall be held, conveyed, transferred, sold, mortgaged, encumbered, occupied, used, and improved subject to the Restrictions, which Restrictions shall constitute covenants and conditions running with the

land and shall be binding upon and inure to the benefit of the Association and each Owner, including their respective heirs, successors, and assigns.

2.2. **Name.** The Community, as submitted to the provisions of this Declaration, shall be known as Strawberry Creek Villas. The Community is not a cooperative.

2.3. **Description of Improvements.** The major improvements contained in the Community are 76 residential Lots and dwellings consisting of attached homes. The Lots, their locations, types of dwellings constructed, and approximate dimensions are indicated on the Plat. The Community also includes open space, a clubhouse and pool, and private roads.

2.4. **Registered Agent.** The Registered Agent of the Association shall be as provided in the entity filings with the Utah State Department of Commerce, Division of Corporations and Commercial Code. The Board may change the Registered Agent without Owner vote or approval.

ARTICLE III. MEMBERSHIP AND VOTING RIGHTS

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

3.2. **Voting Rights.** Except as otherwise stated in this Declaration or the Bylaws, Owners shall be entitled to one (1) vote per Lot owned.

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

3.4. **Record of Ownership.** Every Owner shall promptly notify the Association of any change in ownership of a Lot by providing the conveyance information to the Secretary of the Association or to the Property Manager who shall maintain a record of ownership of the Lots. Any cost incurred by the Association in obtaining the information about an Owner as specified herein which is not furnished by such Owner shall nevertheless be at the expense of such Owner and shall be reimbursed to the Association as an Individual Assessment.

ARTICLE IV. DUTIES AND POWERS OF THE ASSOCIATION

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

4.2. Legal Organization. The Association is incorporated as a nonprofit corporation. In the event the nonprofit corporate status expires or is invalidated in any manner, the Board, in its sole discretion, may renew and/or reincorporate the Association. Any such expiration or invalidation shall not relieve any Owner from paying Assessments and abiding by all Restrictions contained in this Declaration.

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

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

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

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

- 1) **Maintenance and Services.** The Association shall provide maintenance and services for the Community as provided in Article VII and other provisions of this Declaration.

2) **Insurance.** The Association shall obtain and maintain in force policies of insurance as provided in this Declaration, the Act, or the Bylaws of the Association. The Association shall have no obligation to obtain or maintain any insurance covering the personal property and personal liability of any Owner(s), and each Owner shall be responsible for obtaining and maintaining such personal property and personal liability insurance.

3) **Rulemaking.** The Association, through its Board, shall make, establish, promulgate, amend, and repeal Rules governing the conduct of persons and the operation and use of the Community as it may deem necessary or appropriate in order to assure a clean, aesthetically pleasing, peaceful, and orderly use and enjoyment of the Community.

4) **Assessments.** The Association shall adopt budgets and impose and collect Assessments as provided in Article VI of this Declaration.

5) **Enforcement.** The Association shall perform such acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce the provisions of the Governing Documents of the Association. An Owner shall be liable for any fines incurred for violations of the Governing Documents by the Owner, or the Owner's Occupants or Guests.

6) **New Capital Improvements.** New capital improvements to the Community that do not exceed five percent (5%) of the Annual Budget may be authorized by the Board of Directors alone. New capital improvements equal to or in excess of five percent (5%) of the Annual Budget require the approval of a majority of Owners in attendance, whether by person or by proxy, at a duly called Owner meeting. The maintenance, repair, and replacement of existing Common Areas is not considered a new capital improvement. If the capital improvement is included or considered in an Association reserve analysis, it is not a new capital improvement.

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

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

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

10) **Loans.** Upon the approval of a majority of Owners in attendance, whether by person or by proxy, at a duly called Owner meeting, the Board may obtain lender financing for Association improvements or obligations.

11) **Bulk Service Agreements.** The Association shall have the right, but not the obligation, to enter agreements for the provision of cable, television, internet, telephone, or other similar services for all of the Lots or groups of Lots provided such agreements are approved by a majority of Owners in attendance, whether by person or by proxy, at a duly called Owner meeting. Such services shall be assessed to the Owners pursuant to the provisions of this Declaration and in any Assessment, may be broken out as a separate line item on invoices, statements, or notices of Assessment.

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

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

14) **Leasing/Sale of Common Areas.** The Association may enter into leases for portions of the Common Area as may be beneficial to the Association and the Owners. The Association may sell Common Area, provided the affirmative vote of Owners holding at least fifty-one percent (51%) of the voting interests of the Association is obtained.

15) **Construction of Amenities.** The Association shall have no affirmative obligation to construct additional amenities or structures on the Common Areas. However, the Association may construct additional amenities or structures if it is in the interest of the Association to do so, pursuant to the provisions of this Declaration or other Governing Documents.

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

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

4.7. **Management.** The Community shall be managed by a Manager selected by the Board to assist in the management and operation of the Community. The Board may

delegate such of its powers and duties to the Manager as it deems appropriate; reserving the right, however, to control and oversee the administration thereof. Any powers and duties delegated to any Manager may be revoked by the Board at any time, with or without cause.

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

ARTICLE V. PROPERTY RIGHTS IN COMMON AREAS

5.1. **Easement of Enjoyment.** Each Owner shall have a right and easement of use and enjoyment in and to the Common Areas. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom. This easement shall extend to Occupants of the Living Unit. Any Owner may delegate the right and easement of use and enjoyment described herein to any tenant, lessee, or contract purchaser who resides on such Owner's Lot. The rights and privileges of such delegee or assignee shall be subject to suspension in the same manner and to the same degree as those of an Owner.

5.2. **Title to Common Areas.** The Association shall hold the title to the various Common Areas within the Community.

5.3. **Limitation on Easement.** An Owner's right and easement for the use and enjoyment of the Common Areas shall be subject to the following:

1) The right of the Association to impose reasonable limitations on the number and age of Owners, Occupants, and/or Guests who at any given time are permitted to use the Common Areas;

2) The right of Utah County and any other governmental or quasi-governmental body having jurisdiction over the Community to access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Community for purposes of providing police and fire protection, transporting school children, and providing any other governmental or municipal service;

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

4) The right of the Association to dedicate or transfer all or any part of the Common Areas, and any sewer, water and storm drain lines to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association. Any such dedication or transfer must, however, be approved by Owners holding at least fifty-one percent (51%) of the voting interests of the Association.

5.4. **Association Easement.** The Association, its Board, the Manager, employees, agents, and contractors shall have non-exclusive easements to use the Common Areas and access Lots as needed to perform their duties as assigned by the Governing Documents, subject to the limits of Section 13.1.

5.5. **Easement for Utility Services.** The Community is subject to a blanket easement over, across, above, and under it for ingress, egress, installation, maintenance,

repair, and replacement of roads and utilities. Utilities include, without limitation, water, sewer, gas, telephone, electricity, data, video, and cable.

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

5.7. **Party Wall and Shared Roof Easement**. Each Owner hereby acknowledges and agrees that a Party Wall or shared roof, as applicable, may presently encroach upon or overlap the Owner's Lot. Each Owner hereby grants to the Association, and the adjoining Owner of the other Lot that shares the Party Wall, or shared roof, an easement over and upon its Lot and Living Unit for the purpose of maintaining the Party Wall and shared roof. By accepting a deed to a Lot, each Owner hereby covenants and agrees not to do anything or to erect any barrier that will hinder, delay or limit the maintenance of the Party Wall and shared roof and the performance of each Owner's obligation to maintain and repair the structure.

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

ARTICLE VI. BUDGET AND ASSESSMENTS

6.1. **Annual Budget**. The Board shall prepare and adopt an annual budget for the Association. The annual budget shall provide, without limitation, for the maintenance of the Common Areas, those portions of the Lots and Living Units for which the Association has maintenance responsibilities as outlined in Section 7.1(2), and for the administration, management, and operation of the Association. The Board may revise the budget from time to time as the Board deems appropriate. If the Board fails to adopt an annual budget, the last adopted budget shall continue in effect until a new annual budget is adopted. The budget shall be made available to Owners within thirty (30) days after adoption.

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

6.3. **Purpose of Assessments**. Assessments levied by the Association shall be used for the purpose of promoting the health, safety, and welfare of residents of the Community, including but not limited to the appearance and aesthetics of the Community. The use made by the Association of funds obtained from Assessments may include, but is not limited to: payment of the cost of taxes and insurance on the Common Areas;

maintenance, repair, and improvement of the Common Areas and other areas for which the Association has maintenance responsibilities; establishing and funding a reserve to cover major repair or replacement of improvements within the Common Areas; and any expenses necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under the Governing Documents.

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

6.5. **Special Assessments.** The Board may levy a Special Assessment payable over such a period as the Board may determine for the purpose of defraying, in whole or in part any expense or expenses not reasonably capable of being fully paid with funds generated by Annual Assessments; the cost of any reconstruction or unexpected repair or replacement of the Common Areas; or for any other expense incurred or to be incurred as provided in this Declaration, except for new capital improvements further described in Section 4.4(6) above. The Board, in its sole discretion, may levy Special Assessments up to or equal to two-hundred dollars (\$200) per Lot in a calendar year. Special Assessments over two-hundred dollars per Lot (\$200) in a calendar year must be approved and assented to by at least fifty-one percent (51%) of the Owners present in person or by proxy at a meeting duly called for such purpose. Notice in writing of the amount of any Special Assessments and the time for their payment shall be given as soon as is reasonably possible to the Owners. Payment shall be due on the dates and in the manner determined by the Board and provided in the notice.

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

6.7. **Individual Assessments.** In addition to Annual, Special, and Benefited Assessments authorized above, the Board may levy Individual Assessments against a Lot and its Owner for: (a) administrative costs and expenses incurred by the Board in enforcing the Governing Documents against the Owner or his/her Occupants or Guests; (b) costs associated with the maintenance, repair, or replacement of Common Areas caused by the neglect or actions of an Owner or his/her Occupants or Guests; (c) any other charge, fine, fee, expense, or cost designated as an Individual Assessment in the Governing Documents or by the Board, including, without limitation, action taken to bring a Lot and its Owner into compliance with the Governing Documents; (d) nonpayment of a "Reinvestment Fee"; (e) costs of providing services to the Lot upon request of the Owner; and (f) attorney fees, court or collection costs, fines, and other charges relating thereto as provided in this Declaration. In addition, Individual Assessments may be levied against a Lot and its Owner specifically benefited by any improvements to adjacent roads, sidewalks, planting areas or other

portions of the Common Areas made on the written request of the Owner of the Lot to be charged.

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

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

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

6.11. **Written Statement of Unpaid Assessment.** Upon the written request of an Owner, the Association shall issue a written statement (i.e. an account statement) indicating whether or not all Assessments respecting such Lot are current and, if not, the amount of the delinquency. Such written statement shall be conclusive in favor of all persons who in good faith rely thereon. The Association may charge the requesting Owner a reasonable fee of up to ten dollars (\$10) or an amount greater if so provided in the Act.

6.12. **Personal Obligation and Lien.** All Assessments, together with any interest, late fees, collection costs, and attorney fees if collection efforts become necessary shall be, constitute, and remain: (a) a charge and continuing lien upon the Lot with respect to which such Assessment is made; and (b) the personal obligation of the person who is the Owner of such Lot at the time the Assessment falls due. No Owner may exempt himself or his Lot from liability for payment of Assessments by waiver of his rights concerning the Common Areas or by abandonment of his Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all such unpaid Assessments, late payment fees, interest, and costs of collection, including reasonable attorney fees, which shall be a charge on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore.

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

may be given at any time prior to or after delinquency of such payment. A copy of such notice may also be provided to Occupants if the Owner is not a resident at the Community.

6.14. **Due Date and Delinquency.** Assessment payments are due in advance on the first day of the month or the first day of such other period established for the payment of Assessments. Payments are delinquent if received more than ten (10) days from the date that they became due. Whenever an Assessment is delinquent, the Board may at its option invoke any one or more options or all of the sanctions granted in this Article or the Act.

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

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

- 1) The Association may suspend such Owner's voting rights.
- 2) If a delinquent Owner is renting his Lot, the Board may, at its option, so long as such default shall continue, demand and receive from any tenant of the Owner the rent due or becoming due and the payment of such rent to the Board shall discharge such tenant for rent due, and shall discharge the Owner for such Assessments to the extent of the amount so paid.
- 3) The Association may terminate utilities paid out of the Common Expense, and the right to use the Common Areas.
- 4) The Association shall have a lien against each Lot for any Assessment levied against the Lot and any fines or other charges imposed under this Declaration or the Bylaws against the Owner of the Lot from the date on which the Assessment, fine, or charge is due. This lien shall arise and be perfected as of the date of the recording of this Declaration. At any time, any Assessment or installment thereof is delinquent, the Association, by and through its Board or any Manager, may file a notice of lien in the deed records of Utah County, Utah against the Lot with respect to which the delinquency pertains. Once filed, such lien shall accumulate all future Assessments or installments, interest, late fees, penalties, fines, attorney fees, and other appropriate costs properly chargeable to an Owner by the Association, until such amounts are fully paid. Said lien may be foreclosed at any time as allowed by law. The lien of the Association shall be superior to all other liens and encumbrances except: a lien or encumbrance recorded before the original Declaration was recorded; a first or second security interest on the Lot secured by a mortgage or trust deed that is recorded before the Association's notice of lien; or a lien for real estate taxes or other governmental assessments against the Lot. The Association through its duly authorized agents, may bid on the Lot at any foreclosure sale, and may acquire and hold, lease, mortgage, and convey the Lot.
- 5) The Association may bring an action to recover a money judgment for unpaid Assessments, fines, and charges under this Declaration against the Owner

without foreclosing or waiving the lien described above. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE VII. MAINTENANCE

7.1. Association Maintenance.

1) **Common Areas.** The Association shall maintain, repair, and replace the Common Areas together with all improvements thereon and all easements appurtenant to the Common Area. Specifically, the Association shall maintain, repair, and replace, but without limitation, the following: (i) common landscaped areas, including trees, (ii) private utility lines owned or controlled by the Association that serve more than one Living Unit, if any, (iii) fences and other common improvements installed for the benefit of all Owners, (iv) private roads and Alleyways in the Community, (v) clubhouse and pool, and (vi) personal property owned by the Association. The Board, in its sole discretion, shall determine the maintenance standard of the Common Areas.

2) **Lots and Exterior of Living Units.** The Association shall maintain, repair and replace the following on Lots: landscaping, concrete, fences, patios and Driveways. The Association shall also maintain, repair and replace roofs, gutters, downspouts, foundations, exterior walls, walkways, porches and thresholds, stoops, exterior doors and door frames (but not screen doors and storm doors), utility and service lines up to the point of entry into Living Units (water lines to shut off valves and power lines to breaker boxes) and all other exterior elements of the Living Units. If utility or service lines for one Living Unit run under or through other Living Units in the same building, repairs that require access and work in **other Living Units** in the same building shall be the responsibility of the Association. **The Association shall also paint and maintain the exterior of garage doors. Further, the Association shall maintain, repair and replace the structural portions of Party Walls.**

3) Snow Removal. The Association shall perform snow removal on the roads, sidewalks, Alleyways, Driveways, and walkways of Living Units in the Community as the Board may deem necessary and reasonable.

7.2. **Owner Maintenance**. Each Owner shall maintain, repair, and replace the interior of his or her Living Unit, including but not limited to, ceilings, floors, walls, surface elements of Party Walls, permanent fixtures, and utility and service lines from the point of entry into the Living Unit. Owners shall maintain the mechanical equipment of garages and replace garage doors, but the Association shall paint and maintain the exterior of garage doors. Each Owner shall maintain, repair, and replace all mechanical devices pertaining to the Living Unit, including but not limited to, appurtenant electrical, plumbing, and heating, ventilating and air conditioning systems. Each Owner shall also maintain, repair, and replace screen doors and storm doors, and all windows and window screens in Living Units.

7.3. **Owner Maintenance Neglect**. If an Owner fails to meet his or her maintenance obligations contained herein, the Association may enter upon any Lot for the purpose of maintaining and repairing such Lot or any exterior improvement thereon, subject to the limits of Section 13.1. The Board shall have the sole authority and discretion to decide whether an Owner has failed to meet its maintenance obligations. Except as necessary to prevent personal injury or property damage in an emergency, the Association shall first provide reasonable notice and an opportunity to cure before exercising the power granted herein. All costs incurred by the Association in remedying Owner maintenance neglect shall be an Individual Assessment against the Owner's Lot.

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

7.5. **Maintenance Caused by Owner Negligence**. If the need for maintenance or repair of Common Areas (or any other area which the Association is required to maintain) is caused through the willful or negligent acts of an Owner, or through the willful or negligent acts of the Owner's Occupants, Guests, or invitees, the Board may cause such repairs to be made by the Association and the cost of such maintenance or repair work shall be added to and become an Individual Assessment to which such Lot is subject.

ARTICLE VIII. INSURANCE

NOTICE: The Association's Insurance Policy does not cover the personal property or personal liability of the Owners or their Occupants. Owners and Occupants are required to obtain adequate insurance to cover their personal property and personal liability.

8.1. **Insurance**. The Board shall obtain insurance as required in this Declaration, the Act, or other applicable laws. The Association may obtain insurance that provides more or additional coverage than the insurance required in this Declaration. Different policies may be obtained from different insurance carriers and standalone policies may be

purchased instead of, or in addition to, embedded, included coverage, or endorsements to other policies. Insurance premiums shall be a Common Expense.

8.2. **Property Insurance.**

1) The Association shall maintain a blanket policy of property insurance covering the entire Community, including the Common Areas and all buildings with attached Living Units, fixtures, and building services equipment as provided in the Act. The Association may maintain broader coverage if afforded by the insurance contract.

a) The blanket policy may exclude land and other items not normally and reasonably covered by such policies. The blanket policy shall be an “all in” or “all inclusive” insurance as those terms are used in the insurance industry and shall include insurance for any fixture, improvement, or betterment installed in or to the Living Unit or any areas or otherwise permanently part of or affixed to Living Units, including but not limited to floor coverings, cabinets, light fixtures, electrical fixtures, heating and plumbing fixtures, paint, wall coverings, windows.

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

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

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

e) Each property policy that the Association is required to maintain shall also contain or provide for the following: (i) “Inflation Guard Endorsement,” if available, (ii) “Building Ordinance or Law Endorsement,” (the endorsement must provide for contingent liability from the operation of building laws, demolition costs, and increased costs of reconstruction), and (iii) “Equipment Breakdown,” if the Community has central heating or cooling or other equipment or other applicable fixtures, equipment, or installation, which shall provide that the insurer’s minimum liability per accident at least equals the lesser of two million dollars (\$2,000,000) or the insurable value of the building containing the equipment.

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

2) **Owner Responsibility for Payment of Deductible.** If a loss occurs that is covered by a property insurance policy in the name of the Association and another property insurance policy in the name of an Owner:

- a) The Association's policy provides primary insurance coverage, and:
 - i) the Owner is responsible for the Association's policy deductible; and
 - ii) the Owner's policy, if any, applies to that portion of the loss attributable to the Association's policy deductible.

b) An Owner that has suffered damage to any combination of a Living Unit ("Living Unit Damage") as part of a loss, resulting from a single event or occurrence, that is covered by the Association's property insurance policy ("a Covered Loss") is responsible for an amount calculated by applying the percentage of total damage resulting in a Covered Loss that is attributable to Living Unit Damage ("Living Unit Damage Percentage") for that Living Unit to the amount of the deductible under the Association's property insurance policy; and

c) If an Owner does not pay the amount required under Subsection b) above within 30 days after substantial completion of the repairs to, as applicable, the Living Unit, the Association may levy an assessment against the Owner for that amount.

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

4) **Deductible Notice.** The Association shall provide notice to each Owner of the Owner's obligation under Subsection 8.2.2(b) above for the Association's policy deductible and of any change in the amount of the deductible. If the Association fails to provide notice of the initial deductible, it shall be responsible for the entire deductible in case of any loss. If the Association fails to provide notice of any increase in the deductible, it shall be responsible for paying any increased amount that would otherwise have been assessed to the Owner. The failure to provide notice shall not invalidate or affect any other provision in this Declaration.

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

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

should preclude the insurer from denying the claim of an Owner because of the negligence acts of the Association or another Owner.

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

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

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

8.7. **Earthquake Insurance**. The Association may purchase earthquake insurance. If the Board of Directors elects not to purchase earthquake insurance, a vote of a majority of all Owners may veto the decision of the Board. If the Owners veto the decision to not purchase earthquake insurance, the Board of Directors shall purchase earthquake insurance within (60) days of the vote.

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

8.9. **Named Insured**. The named insured under any policy of insurance shall be the Association. Each Owner shall be insured under the Association's property and CGL insurance policies as required by law.

8.10. **Right to Negotiate Claims & Losses & Receive Proceeds**. Insurance proceeds for a loss under the Association's property insurance policy are payable to an Insurance Trustee if one is designated, or to the Association, and shall not be payable to a holder of a security interest. An Insurance Trustee, if any is appointed, or the Association shall hold any insurance proceeds in trust for the Association, Owners, and lien holders. Insurance proceeds shall be disbursed first for the repair or restoration of the damaged property, if the property is to be repaired and restored as provided for in this Declaration. After any repair or restoration is complete and if the damaged property has been completely repaired or restored, any remaining proceeds shall be paid to the Association. If the property is not to be repaired or restored, then any remaining proceeds after such action as is necessary related to the property has been paid for, shall be distributed to the Owners and lien holders, as their interests remain with regard to the Living Units. Each Owner

hereby appoints the Association, or any Insurance Trustee, as attorney-in-fact for negotiating all losses related thereto, including the collection, receipt of, and appropriate disposition of all insurance proceeds; the execution of releases of liability; and the execution of all documents and the performance of all other acts necessary to administer such insurance and any claim. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors, or assigns of the Owner.

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

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

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

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

ARTICLE IX. USE RESTRICTIONS

9.1. **Use of Common Areas**. The Common Areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to Lots and Living Units. The Board may adopt Rules limiting the use of Common Areas, including the clubhouse and pool.

9.2. **Age Restrictions – Housing for Older Persons**. The Community is an age restricted community as allowed by HOPA. The Community shall be managed and operated in compliance with this Section, HOPA, and the Fair Housing Act.

(1) **Approved Occupancy**. A minimum of ninety percent (90%) of the Living Units shall be occupied by at least one person 55 years of age or older. The Board shall have the authority to adopt Rules that increase the minimum number of Living Units that must be occupied by a person 55 years of age or older, but the Board shall have no power to decrease the minimum level below the ninety percent (90%) requirement set forth in this Section. Unless approved in advance by the Board in writing, all rented Living Units must be occupied by **at least one person 55 years of age or older**.

(2) Age Verification. Upon request of the Board, each Occupant or prospective Occupant of a Living Unit shall promptly complete a survey form with age verification, in such form as required by the Board, attesting to the individual's qualifications to reside in a Living Unit pursuant to the provisions of this Section. Furthermore, upon request, each Occupant shall produce reliable documentation (which may include a birth certificate, passport, immigration card, and/or other reliable governmental issued identification containing a birth date) required by the Board to establish that the Association qualifies as housing for older persons under federal and state laws. Such age verifications shall be conducted in the Community at least every two (2) years. Prior to selling or renting a Living Unit, Owners must notify prospective purchasers and Occupants of the prospective purchaser's/Occupant's duty to provide to the Association proof of age verification.

(3) Advertising and Marketing. All advertising and marketing materials or displays of any kind shall reflect that the Community is intended for housing for older persons. All advertisements shall contain the following or similar language: "Strawberry Creek Villas is intended for residents 55 years of age or older as defined in the Housing for Older Persons Act ("HOPA")."

(4) Purchase Agreements. Any purchase agreement for a Living Unit shall (1) provide that occupancy of each Living Unit shall be subject to the provisions of the Declaration, and other Governing Documents, and (2) generally state the following: "Strawberry Creek Villas is intended for residents 55 years of age or older as defined in the Housing for Older Persons Act ("HOPA")."

(5) Rental Agreements. Any rental agreement for a Living Unit shall (1) provide that occupancy of each Living Unit shall be subject to the provisions of the Declaration, and other Governing Documents, and (2) generally state the following: "Strawberry Creek Villas is intended and operated for residents 55 years of age or older as defined in the Housing for Older Persons Act ("HOPA")." Unless approved in advance by the Board in writing, all rented Living Units must be occupied by at least one person 55 years of age or older. See Section 9.3, below, for additional information on rentals.

(6) Compliance with Laws. The provisions of this Section are intended to comply with the requirements of the Federal Fair Housing Act, HOPA, and the Utah Fair Housing Act (collectively, "the Housing Acts"), as amended. To the extent that any provision herein is inconsistent with the provisions of the Housing Acts, the provisions of the Housing Acts shall supersede these provisions as necessary to comply with such Housing Acts and maintain the Association as restricted age housing.

(7) Amendments to Comply with Law. Notwithstanding any other provision of this Declaration, the Board, upon unanimous consent, shall have the authority to amend this Section and such other provisions of the Governing Documents as may be necessary to comply with and conform to such provisions of **Federal and State** laws as will permit the Community to retain its status as **Housing for Older Persons**, without the approval of the Owners.

9.3. **Rentals.** The renting of Living Units is permitted, However, unless approved in advance by the Board in writing, all rented Living Units must be occupied by at least one person 55 years of age or older. **Any Owner who rents a Living Unit within the Community shall disclose in any advertisements that the Community is a 55 year and older age restricted community under HOPA. Any failure to disclose the 55 year and older age restriction shall not prevent the Association from enforcing the age restriction policies against any Owner or tenant for non-compliance.** Any rental agreement shall be in writing, a copy of which shall be provided to the Board within fourteen (14) days of executing the rental agreement, along with the name and contact information for all tenants, vehicle information of the tenants, and any other information deemed necessary by the Board. No Owner shall be permitted to rent his/her Living Unit for transient, hotel, or seasonal purposes. All rental agreements shall be for an initial term of no less than six (6) months. Daily, weekly, or other short-term rentals, including Airbnb or other similar rental practices, are prohibited. No Owner may rent individual rooms to separate persons or less than his or her entire Living Unit. All rental agreements shall provide that the tenants are subject to and shall abide by the Governing Documents and a tenant's failure to do so shall constitute a breach of the rental agreement. Within 10 days after delivery of written notice of the creation of a nuisance or violation of the Governing Documents by a tenant, the Owner shall proceed promptly to either abate or terminate the nuisance, or cure the default, and notify the Board in writing of his or her intentions. If the Owner fails to act accordingly, the Board may initiate eviction proceedings on behalf of the Owner, and through this Declaration the Owner hereby assigns the Association the authority to do so.

9.4. **Business Activities.** Business activities that comply with the following requirements are permitted to take place on a Lot or Living Unit without Board approval: (1) only normal residential activities would be observable outside of the Living Unit; (2) the business activity does not involve persons coming on to the Community who do not reside in the Community in a manner and/or amount that would constitute a nuisance; (3) the business activity does not involve the solicitation of Occupants or Owners; (4) the business will not result in the increase of the cost of the Association's insurance; and (5) the activities would not be in violation of applicable local ordinances. All other gainful occupation, business, trade, or other nonresidential use conducted on any Lot or Living Unit shall require the prior written consent of the Board.

9.5. **Offensive or Unlawful Activities.** No noxious or offensive activities shall be carried on upon any Lot or Common Area, nor shall anything be done or placed on any Lot or Common Area which interferes with or jeopardizes the quiet enjoyment of other Lots or the Common Areas. No unlawful use shall be made of a Lot or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. No use shall be made of any Lot which would result in an increase in the cost of the Association's insurance or which would cause the improvements within the Community or any part thereof to be uninsurable against loss by fire or other perils included in insurance contracts, or cause such insurance to be canceled or suspended, or cause any company issuing such insurance to refuse renewal thereof.

9.6. **Recreational, Commercial, and Motorized Vehicles.** No boats, trailers, campers, recreational vehicles, trucks exceeding the 1-ton class, or vending or commercial vehicles (collectively "Recreational Vehicles") shall be parked or stored in or upon the

Community except in a closed garage. Recreational Vehicles may not be parked on the streets in the Community, with the exception of active loading, unloading, cleaning, etc. for a time period not to exceed twenty-four (24) hours.

9.7. **Pets and Animals.** Pets are limited to domesticated dogs and cats not bred or maintained for commercial purposes. Other animals are not permitted in the Community. No more than one pet may be kept in a Living Unit. With written approval of the Board, a two-pet exception may be made at the time an Owner or Occupant moves into the Community. However, upon the death of one of the pets, the one-pet limit will go into effect. Owners may be required to remove pets that become a nuisance. Owners are solely responsible for the actions and behavior of pets staying or visiting in their Living Unit and shall hold the Association harmless from any damage or injury caused by such pets. All pets when outdoors shall be on a leash and the person supervising the pet shall immediately clean up all pet litter. Owners shall follow all city ordinances relating to animals. The Board may adopt additional Rules regarding pets and animals in the community, including the prohibition of certain types of breeds of dogs that are commonly considered dangerous.

9.8. **Nuisances.** No Owner, Occupant, or Guest shall create, maintain or permit a nuisance in, on or about the Community. For purposes of this Section a “nuisance” includes any behavior which annoys, disturbs or interferes with other Owners, Occupants, or Guests and interferes with their right to the quiet and peaceful enjoyment of their property. A nuisance includes, but is not limited to, the following:

- 1) The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot or the Common Areas;
- 2) The storage of any item, property or thing that will cause any Lot or the Common Area to appear to be in an unclean or untidy condition or that will be noxious to the senses;
- 3) The accumulation of rubbish, unsightly debris, garbage, equipment, unregistered or abandoned vehicles, or other things or materials that constitute an eyesore as reasonably determined by the Board;
- 4) The storage of any substance, thing or material upon any Lot or in the Common Areas that will emit any foul, unpleasant or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the Owners, Occupants, or Guests in the Community;
- 5) Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any Owner, Occupant, or their Guests or invitees, particularly if the police or sheriff must be called to restore order;
- 6) Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature that diminishes or destroys the enjoyment of the Association by Owners, Occupants, or their Guests or invitees;

- 7) Too much noise or traffic in, on or about any Lot or the Common Area, especially after 8:00 p.m. and before 8:00 a.m., or excessive use of outside speakers or amplifiers; or
- 8) Activities or conditions defined as a nuisance by the City of Pleasant Grove or other governmental entity with jurisdiction over the Community; or
- 9) Use of illegal fireworks of any kind; or
- 10) Other sights, sounds, smells, activities, or behaviors deemed a nuisance by the Board.

9.9. **Visible Areas.** Nothing shall be caused or permitted to be hung or displayed on the outside or inside of windows of Living Units or placed on the outside walls of a Living Unit or otherwise outside of a Living Unit, or any part thereof, except interior inoffensive drapes, curtains, plantation shutters, or louvered blinds which, from exterior observation, must be white, beige, gray, off-white, light earth tones, or light to medium natural wood colors, or as otherwise authorized by the Board. No awning, screen door, storm door, canopy, shutter, or antenna or transmitter, or any other device or ornament, shall be affixed to or placed upon an exterior wall or roof or any part thereof of a Living Unit, or the exterior of any door or window of a Living Unit, or in, on, or over a patio, or porch of a Living Unit, visible to the exterior, unless authorized by the Board. Notwithstanding the foregoing, nothing in this Declaration shall be deemed to prohibit the unobtrusive placement of reasonably small satellite dishes on the roofs of individual Living Units by the Owner of those Living Units, as such unobtrusive placement may be determined by the Board in its sole and exclusive discretion.

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

9.11. **Garbage and Refuse Disposal.** All rubbish, trash, and garbage shall be regularly removed from the Community or Lots and shall not be allowed to accumulate thereon. All garbage, trash, or other waste shall be kept in sanitary receptacles, including recyclable containers. No equipment or storage piles may be kept outside of the Living Unit. The Board may adopt additional Rules for the storage and concealment of trash containers.

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

9.13. **Holiday Decorations.** Holiday decorations within a Living Unit, except for such displays that are visible from outside the Living Unit, may be displayed without limitation. The Board may adopt Rules, to the extent permitted by law, to regulate holiday decorations displayed inside Living Units that are visible from the outside and also those

displayed outside Living Units. Holiday decorations shall mean any object relating to a national or religious holiday, or used to convey a religious message, idea, or symbol, or for any other purpose for which holiday decorations are typically displayed, and which are displayed with the apparent purpose of making them visible to people outside the Living Unit.

9.14. **Parking.** Owners shall park vehicles in the Owners' garages or Driveways. Parking on the Alleyways or the streets in the Community is prohibited, except for commercial vehicles when in the Community to perform service or deliveries. At no time shall any vehicle be parked in a manner which would impair vehicular or pedestrian access, or snow removal. The Board may adopt additional Rules relating to the parking of vehicles within the Community, including, without limitation: the size and dimensions of the vehicles parked within the Community; the admission and temporary parking of vehicles within the Community; the length of time vehicles may be parked in Common Areas; the right to remove or cause to be removed any vehicles that are improperly parked; and the levying of fines to Owners who violate, or whose Occupants or Guests violate, such Rules.

9.15. **Smoking.** Smoking is prohibited in the Community, including the Living Units and Common Areas, and shall constitute a nuisance under Section 9.8 herein. Smoking shall include the inhaling, exhaling, breathing, carrying, or possession of any lighted cigarette, cigar, pipe, electronic cigarette, vaping device, other product containing any amount of tobacco, or other similar heated, smoldering, or lit product. The Board may adopt additional Rules to address smoking within the Community.

9.16. **Energy Conservation Equipment.** Solar energy collector panels and attendant hardware or other energy conservation equipment is prohibited from being constructed or installed in the Community unless authorized by a vote of at least two-thirds of all Owners. If such Owners approve of the installation of such equipment, the Board shall adopt Rules governing the installation of solar panels or other energy conservation equipment. Any such Rules may require that the installation be an integral and harmonious part of the architectural design of the buildings.

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

ARTICLE X. ARCHITECTURAL CONTROLS

10.1. **Architectural Controls**. The designs of all structures and Living Units in the Community shall be limited to those approved by the Board. In the event of any reconstruction of an improvement or Living Unit due to a casualty, the design, quality, and appearance of the reconstructed improvement shall be substantially the same as the structure initially built, unless otherwise approved by the Board. No landscaping, grading, excavation, building, fence, wall, residence, or other structure, or alteration of any kind, shall be commenced, erected, maintained, improved, altered, or made until the construction plans and specifications, have been approved in writing by the Board.

10.2. **Design Guidelines**. The Board may adopt Design Guidelines for the purpose of maintaining a consistent character and quality of appearance of the improvements within the Community. The Design Guidelines may designate the design, style, model, and manufacturer of any materials to be used for an exterior improvement or alteration that is acceptable to the Board. The Design Guidelines may also designate landscaping requirements. Such designations shall be for the purpose of achieving uniformity of appearance and preservation of property values. Amendments to the Design Guidelines shall apply prospectively only. They shall not require modifications to or removal of any structures previously approved once the approved construction or modification has begun. However, any new work on such structures must comply with the Design Guidelines as amended.

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

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

ARTICLE XI. ENFORCEMENT

11.1. **Enforcement of Governing Documents**. The Association, through the Board, shall have the power and authority in its own name, on its own behalf, or in the name and behalf of any Owner(s) who consents thereto, to enforce, by fine or proceedings at law or in equity, each provision of the Governing Documents and Design Guidelines, including the right to prevent any violation of such, and the right to recover damages and other sums for such violation(s). Owners may also enforce the Governing Documents and Design Guidelines as allowed by law through proceedings at law or in equity. **The prevailing party** in any action for the enforcement of any provisions of the Governing Documents and Design Guidelines (including but not limited to litigation and the appeal thereof) shall be entitled to collect court costs and reasonable attorney fees. Reasonable attorney fees incurred by the Association in enforcing the Governing Documents and Design Guidelines may be levied

against the offending Owner as an Individual Assessment, regardless of whether a lawsuit or other action is commenced. Each Owner shall be liable for any fine assessed as a result of the Owner's action, or the action of the Owner's Occupants or Guests, in violation of the provisions of the Governing Documents.

ARTICLE XII. RIGHTS OF FIRST MORTGAGEE

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

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

ARTICLE XIII. RIGHT OF ENTRY

13.1. **Right to Enter Lots**. The Association acting through the Board or its duly authorized agent may, upon reasonable notice of at least 48 hours, enter upon any Lot on the areas located outside the exterior boundaries of a Living Unit, regardless of whether or not the Owner or Occupant thereof is present at the time, to abate any infractions, to fulfill its responsibilities, to exercise its rights, and to correct any violation of any of the Governing Documents. The notice set forth in this Section shall not be necessary in case of an emergency threatening other Living Units, Occupants, or other parts of the Community. Nothing in this Section shall be construed to authorize the entry of the Association into the interior of a Living Unit without the consent of the Owner unless there is an emergency threatening another Living Unit or the Occupants of another Living Unit. Owners shall maintain up-to-date emergency contact information records with the Association, including any local representative an Owner may have for notice purposes.

ARTICLE XIV. AMENDMENTS

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

ARTICLE XV. MISCELLANEOUS

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

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

15.3. **Dissolution.** The Association may be dissolved by the affirmative assent in writing from 100% of the Owners. Upon dissolution, the Association's assets shall be transferred to a nonprofit corporation, trust, or other entity to be used for purposes similar to those provided herein, and each Owner shall continue to be obligated to make assessment payments for the maintenance and upkeep of the Common Areas and facilities on a pro rata basis which conforms substantially with the assessments procedure, terms and conditions set forth in Article VI.

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

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

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

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

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

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

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CERTIFICATION

IN WITNESS WHEREOF, this Amended and Restated Declaration of Covenants, Conditions, Easements, and Restrictions for Strawberry Creek Villas was duly approved by at least two-thirds (2/3) of the total voting power of the Association.

DATED as of the 1st day of June, 2022.

Strawberry Creek Villas Homeowners Association, Inc.,
A Utah Nonprofit Corporation

By: Carl W. Byers

Its: President

State of Utah)
) ss.
County of Utah)

On the 1 day of June 2022, personally appeared before me Megan Christensen who by me being duly sworn, did say that she (he) is the President of the Strawberry Creek Villas Homeowners Association, Inc., and that the foregoing instrument is signed and executed by authority of the consent of its Owners.

Notary Public megan christensen



EXHIBIT A
LEGAL DESCRIPTION AND PARCEL NUMBERS

All of Strawberry Creek Villas, Plat A Amd, on file and of record in the office of the Utah County Recorder, including Common Area and Lots 1-76.

Parcel Numbers: **66:481:0001 through 66:481:0076**
 66:481:0077 (Common Area)

EXHIBIT B
BYLAWS
OF
STRAWBERRY CREEK VILLAS HOMEOWNERS ASSOCIATION, INC.

These BYLAWS OF STRAWBERRY CREEK VILLAS HOMEOWNERS ASSOCIATION, INC. are effective upon recording in the Utah County Recorder's Office pursuant to the Utah Community Association Act ("Act") and the Utah Revised Nonprofit Corporation Act ("Nonprofit Act") (referred collectively herein as the "Acts").

RECITALS

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

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

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

ARTICLE I
DEFINITIONS

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

ARTICLE II
APPLICATION

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

ARTICLE III OWNERS

3.1 **Annual Meetings.** The Annual Meeting of the Owners shall be held each year on a day and time established by the Board. The purposes of the Annual Meeting may include the election of Board Members, the distribution of financial reports and budget, distributing the most recent reserve study, and to transact such other business as may come before the meeting. The Board may from time to time by resolution change the month, date, and time for the Annual Meeting.

3.2 **Special Meetings.** Special Meetings of the Owners may be called by a majority of the Board, the President, or upon the written request of Owners holding at least thirty-five percent (35%) of the voting interests of the Association. Any written request for a Special Meeting presented by the Owners shall be delivered to the President and shall include the original signature of each Owner affirmatively supporting such request along with a complete statement of the purpose of the meeting on each page containing signatures. The President shall then call, provide notice of, and conduct a Special Meeting within forty-five (45) days of receipt of the Owner request.

3.3 **Place of Meetings.** The Board may designate any place that is reasonably convenient for the Owners as the place of meeting for any Annual or Special Meeting. If no designation is made, the place of the meeting shall be held at the office of the Association or its Manager. Meetings may also be held (partially or wholly) through any electronic means, so long as all persons participating in the meeting may hear each other during the meeting.

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

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

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

3.7 **Quorum.** Those Owners present in person or by proxy at any duly called meeting that is called and held in compliance with the requirements of this Article, shall constitute a quorum for the adoption of decisions.

3.8 **Proxies.** Owners shall be entitled to vote in person or by proxy at each meeting. A proxy given to a Person who represents an Owner at an Association meeting shall be in writing, dated, and signed by such Owner or the Owner’s attorney. A proxy may be written on paper or received via email, facsimile, text, or any other electronic or physical means. If sent electronically, the Association must be able to verify the sender and that the sender is an Owner. A proxy shall set forth the matters or issues upon which the proxy holder is authorized to act during the meeting, and may allow the proxy holder to vote on any issue arising the meeting. A signature as required herein shall mean any indication that the document is from and consented to by the person who is purported to have sent it, subject to verification by the Association. If a Lot is jointly owned, the proxy may be executed by any one (1) Owner of such Lot or the Owner’s attorney. Proxies shall be filed with the Secretary (or with such other officer or person who may be acting as secretary of the meeting) before the meeting is called to order. The Secretary shall record all proxies in the meeting minutes.

3.9 **Votes.** With respect to each matter submitted to an Owner vote, each Owner entitled to vote at the meeting shall have the right to cast, in person or by proxy, one (1) vote per Lot owned. The affirmative vote of a majority of the votes entitled to be cast by the Owners present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by Owners, unless a greater proportion is required by the Articles of Incorporation, these Bylaws, or the Declaration. The election of Board Members may be by secret ballot. When a Lot is jointly owned, any Owner may exercise the vote for such Lot on behalf of all Co-Owners of the Lot. In the event of two (2) conflicting votes by Co-Owners of a Lot, no vote shall be counted for that Lot. In no event shall fractional or cumulative votes be exercised with respect to any Lot. Only those Owners who are in good standing (see Section 3.5 above) shall be entitled to vote. Voting for any Association matter, including elections, may be done electronically, including online voting, so long as the Board can reasonably determine the validity of the vote. The Board may adopt additional Rules regarding such electronic voting, including timeframes for voting and other issues.

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

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

3.12 **Minutes of Meetings.** The Secretary shall take, or cause to be taken, minutes of all meetings of the Owners. The minutes shall include, at a minimum, (1) the identification of the Persons present in person and by proxy, (2) the meeting date, (3) the identification of any issue that is voted on or decided in the meeting, (4) the number of votes cast for and against any issue decided upon, and (5) the exact wording of any resolution passed at the meeting. The failure to take appropriate minutes or otherwise comply with this section does not invalidate any action taken at a meeting.

ARTICLE IV BOARD OF DIRECTORS

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

4.2 **Number and Qualifications.** The property, business, and affairs of the Association shall be governed by a Board of Directors composed of three (3) or five (5) individuals. Board Members must be in good standing (see Section 3.5 herein), must be an Owner or the spouse of an Owner of a Lot in the Community, and must reside in the Community. If an Owner is a corporation, partnership, limited liability company, or trust, an officer, partner, member, manager, agent, trustee, or beneficiary of such Owner may be a Board Member. No more than one (1) Board Member may reside in the same household. If a Board Member ceases to meet any required qualifications during the Board Member's term, such person's membership on the Board shall automatically terminate.

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

Members provided in these Bylaws. The Board of Directors may from time to time amend this nomination procedure by resolution.

4.4 **Election.** The election of Board Members shall be made by a vote of the Owners. If the election of Board Members is not held during the Annual Meeting, or at any adjournment thereof, the Board may hold the election at a Special Meeting of the Owners. Pursuant to Section 3.9 above, the election may also take place electronically, including online voting, so long as the Board can reasonably determine the validity of the vote. During each election, Owners in good standing (see Section 3.5 above) (or their proxies, if the election takes place during an Annual or Special Meeting) may cast, with respect to each vacancy, one (1) vote. The candidates receiving the largest number of votes shall be elected. Cumulative (i.e. an Owner casting on a ballot all of his or her votes for the same candidate) or fractional voting is not permitted.

4.5 **Term of Office.** Each Board Member shall be elected for a term of three (3) years. The terms shall be staggered and overlap so that elections for Board Member positions are held each year. If the terms become un-staggered for any reason, the Board may provide for the re-staggering of terms in a manner the Board deems appropriate, including the altering of the terms of some Board Members to reestablish staggering. Board Members may serve consecutive terms if reelected.

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

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

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

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

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

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

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

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

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

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

4.15 **Resignation and Removal.** Board Members may resign at any time by delivering a written resignation to either the President or the Secretary. Unless otherwise specified therein, such resignation shall take effect upon delivery. A Board Member may be removed at any time, with or without cause, by the Owners at a special meeting duly called for such purpose upon the affirmative vote of at least fifty-one percent (51%) of the voting interests of the Association. A Board Member may also be removed with a majority vote of the Board if a Board Member misses three (3) or more consecutive Board meetings or misses more than 50% of the Board meetings in a calendar year.

4.16 **Vacancies.** If vacancies shall occur in the Board for any reason (including death, resignation, or disqualification) except removal by the Owners, the Board Members then in office shall continue to act, and such vacancies shall be filled by a majority vote of

the Board Members then in office, though less than a quorum. Any vacancy in the Board occurring by reason of removal of a Board Member by the Owners may be filled by election of the Owners at the meeting at which such Board Member is removed. Any Board Member elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of his predecessor. Except by reason of death, resignation, disqualification, or removal, Board Members shall continue to serve until their successors are elected.

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

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

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

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

ARTICLE V OFFICERS

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

5.2 **Election, Tenure, and Qualifications**. Officers shall be elected by the Board at the first Board meeting following each Annual Meeting of the Owners. Each such officer shall hold such office until the next ensuing meeting of the Board following the Annual Meeting of the Owners and until a successor has been elected and qualified, or until such officer's death, or until resignation, disqualification, or removal in the manner provided in these Bylaws, whichever first occurs. The President and Vice President shall be Members of the Board. The Secretary and/or the Treasurer may be, but are not required to be, Members of the Board. If not Members of the Board, the Secretary and/or the Treasurer shall be appointed by the Board, shall be Owners or the spouse of an Owner, and must reside in the Community. Any person may hold any two (2) or more offices, except that the President may not also be the Secretary. No person holding two (2) or more offices shall act in or execute any instrument in the capacity of more than one (1) office.

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

5.4 **Resignation and Removal**. An officer may resign at any time by delivering a written resignation to any member of the Board or to any managing agent of the

Association. Unless otherwise specified therein, such resignation shall take effect upon delivery. An officer may be removed and replaced upon the affirmative vote of a majority of the Board Members at any time, with or without cause.

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

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

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

5.8 **Secretary.** The Secretary shall keep, or cause to be kept, the minutes of the Association and shall maintain such books and records as these Bylaws, the Declaration, Rules, or any resolution the Board may require such person to keep. The Secretary shall give, or cause to be given, notices of meetings of the Members of the Association and of the Board required by these Bylaws or by law. The Secretary shall maintain a book of record Owners, listing the names, addresses, phone numbers, and email addresses of the Owners as furnished the Association. The Secretary shall perform such other duties as required by the Board.

5.9 **Treasurer.** The Treasurer shall have responsibility for Association funds and securities and shall be responsible for keeping, or causing to be kept, full and accurate accounting records, tax records, and business transactions of the Association, including accounting of all assets, liabilities, receipts, and disbursements. The Treasurer shall be responsible for the deposit of all monies and other valuables in the name of the Association in such depositories as may be designated by the Board. As directed by the Board, the Treasurer shall disburse, or cause to be disbursed, all funds of the Association and shall maintain, or cause to be maintained, records of all such disbursements. The Treasurer shall be responsible for the implementation of procedures to minimize the risk of embezzlement or improper use of Association funds and financial accounts. The Treasurer shall perform such other duties as required by the Board.

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

ARTICLE VI COMMITTEES

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

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

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

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

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

ARTICLE VII INDEMNIFICATION

7.1 **Indemnification.** In addition to the indemnification provisions and requirements set forth in the Declaration, no Board Member, officer, or committee member shall be personally liable for any obligations of the Association or for any duties or obligations arising out of any acts or conduct said Board Member, officer, or committee member performed for or on behalf of the Association. The Association shall and does hereby indemnify and hold harmless each person who shall serve at any time as a Board Member, officer, or committee member of the Association, as well as such person's heirs and administrators, from and against any and all claims, judgments and liabilities to which such persons shall become subject, by reason of that person having heretofore or hereafter

been a Board Member, officer, or committee member of the Association or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him as such Board Member, officer, or committee member and shall reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability; provided that no such person shall be indemnified against or be reimbursed for or be defended against any expense or liability incurred in connection with any claim or action arising out of such person's willful or intentional misconduct. The rights accruing to any person under the foregoing provisions of this Section shall not exclude any other right to which such person may lawfully be entitled, nor shall anything herein contained restrict the right of the Association to indemnify or reimburse such person in any proper case, even though not specifically provided for herein or otherwise permitted. The Association, its Board Members, officers, committee members, employees, and agents shall be fully protected in taking any action or making any payment or in refusing so to do in reliance upon the advice of counsel.

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

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

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

ARTICLE VIII

RECORDS AND AUDITS

8.1 **General Records.** The Board of Directors or the Manager for the Association shall keep detailed records of the actions of the Board of Directors and Manager; minutes of the meetings of the Board of Directors; and minutes of the Owner meetings of the Association. The Board of Directors shall also maintain a book of resolutions containing the

rules, regulations, and policies adopted by the Association and Board of Directors. The Board of Directors shall also maintain a current list of Owners.

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

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

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

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

(a) Personnel matters relating to a specific identified person or a person’s medical records.

(b) Contracts, leases, and other business transactions that are currently under negotiation to purchase or provide goods or services.

(c) Communications with legal counsel that relate to matters specified in subsections a. and b. of this Section, or current or pending litigation.

(d) Documents concerning existing or potential litigation, mediation, arbitration, or administrative proceedings.

(e) Disclosure of information in violation of law.

(f) Documents concerning existing or potential matters involving federal, state or local administrative or other formal proceedings before a governmental tribunal for enforcement of the Declaration, Bylaws or Rules;

(g) Documents, correspondence, or management or Board of Director reports compiled for or on behalf of the Association or the Board by its agents or committees for consideration by the Board in executive session.

(h) Documents, correspondence, or other matters considered by the Board of Directors in executive session.

(i) Files of individual Owners, other than those of a requesting Owner or requesting Eligible Mortgagee of an individual Owner, including any individual Owner's file kept by or on behalf of the Association.

8.6 **Retention of Records.** Unless a longer time is reasonable for certain categories of records, the Association shall keep and preserve Association records for a period of three (3) years.

ARTICLE IX RULES AND REGULATIONS

9.1 **Rules.** The Board shall have the authority to adopt and establish by resolution such Association Rules as it may deem necessary for the maintenance, operation, management, and control of the Community. The Board may from time to time, by resolution, alter, amend, and repeal such Rules and use their best efforts to see that they are strictly observed by all Owners, Occupants, and Guests. All Rulemaking shall be governed by Utah Code §57-8a-217, as may be amended from time to time. Owners are responsible to ensure that Guests and Occupants observe the Rules then in effect as well as the covenants and restrictions of the Declaration. Copies of all Rules adopted by the Board shall be sent to all Owners at least ten (10) days prior to the effective date thereof.

ARTICLE X AMENDMENTS

10.1 **Amendments.** The Bylaws may be amended, altered, or repealed upon the affirmative vote of at least fifty-one percent (51%) of the voting interest of the Association. Any amendment(s) shall be effective upon recordation in the office of the Utah County Recorder. In such instrument, the President shall execute the amendment and certify that the vote required by this Section has occurred. If a Lot is owned by more than one Owner,

the vote of any one Owner shall be sufficient to constitute approval for that Lot under this Section. If a Lot is owned by an entity or trust, the vote of any one officer, trustee, or agent of the entity shall be sufficient to constitute approval for that Lot under this Section. No acknowledgment of any Owner or Board Member signature shall be required.

**ARTICLE XI
MISCELLANEOUS PROVISIONS**

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

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

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

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