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**DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS
FOR
JOHNSON'S GROVE CONDOMINIUM
Utah County, Utah**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR JOHNSON'S GROVE CONDOMINIUM (this "Declaration") is made and executed as of the last date set forth in the notarized signature below, by SUMMIT CONSTRUCTION SERVICES, LLC, a Utah limited liability company ("Declarant").

RECITALS:

(A) This Declaration will take effect on the date recorded at the office of the Utah County Recorder's Office (the "Effective Date").

(B) The Declarant is the record owners of certain real property located in Utah County, Utah and more particularly set forth in **Exhibit A** (the "Property").

(C) Declarant desires to subject the Property to the terms of this Declaration. Declarant intends to develop a residential condominium project on the Property pursuant to the Utah Condominium Ownership Act, Utah Code Sections 57-8-101, *et. seq.* Declarant will develop and convey all of the Units within the Project subject to a general plan of development, and subject to certain protective covenants, conditions, restrictions, and easements, as set forth in this Declaration, as amended from time to time, which are deemed to be covenants running with the land mutually burdening and benefitting each of the Units within the Project. Common Areas and Limited Common Areas are those areas that are depicted in the recorded Plat(s), as amended, and as described in this Declaration. The Project does not constitute a cooperative.

(D) Declarant have deemed it desirable, for the efficient preservation of the values and amenities of the Property, to create an entity which possesses the powers to maintain and administer the Common Areas and Limited Common Areas (where applicable) and otherwise administer and enforce the provisions of this Declaration. For such purposes, Declarant will cause to be registered with the Utah Department of Commerce Johnson's Grove Homeowners Association, Inc. (the "Association").

(E) The Association is governed by the terms of this Declaration, the Articles of Incorporation for Johnson's Grove Homeowners Association, Inc. ("Articles"), and the Bylaws for Johnson's Grove Homeowners Association, Inc. ("Bylaws"), which Bylaws are attached hereto as **Exhibit "B"** and shall be recorded in Utah County Recorder's Office contemporaneously with the recording of this Declaration.

(F) Declarant declares that the Property shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved, subject to the following easements, restrictions, covenants, conditions and equitable servitudes, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Property, in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of the Property or any portion thereof. The covenants, conditions, restrictions, reservations, easements and equitable servitudes set forth herein shall run with each Unit located on the Property, including any additions thereto, and shall be binding upon all persons having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of every portion of the Property and any interest therein; and shall inure to the benefit of and be binding upon Declarant, and its successors in interest; and may be enforced by the Association and the Declarant and their successors in interest.

(G) Notwithstanding the foregoing, no provision of this Declaration shall prevent the Declarant from doing any of the following, which shall be deemed to be among Declarant' reserved rights in addition to such rights as may be described elsewhere in this Declaration: (1) installation and completion of the Project Improvements; (2) use of any Unit owned by the Declarant as a model home, or for the placement of a temporary construction or sales office; (3) installation and maintenance of signs incidental to sales or construction which are in compliance with applicable City or County ordinances; (4) assignment of Declarant' rights under this Declaration in whole or part; and (5) development of any future phases.

(H) These Recitals are made a part of this Declaration.

COVENANTS, CONDITIONS AND RESTRICTIONS

ARTICLE I DEFINITIONS

1.0 Unless the context clearly requires the application of a more general meaning, the following terms, when used in the Declaration, shall have the following meanings:

(A) "Act" means the Utah Condominium Act, Utah Code Ann. Sections 57-8-101 *et seq.*

(B) "Allocated Interest" shall mean the undivided interest of an Owner (expressed in **Exhibit "C"** to this Declaration) in the Common Areas and facilities, which is also utilized for purposes of calculating Assessments and voting rights in the Association.

(C) "Architectural Control Committee" or "ACC" shall mean the Architectural Control Committee created by Board in accordance with the Governing Documents. If no ACC is created, the Board shall assume all duties and authority of the ACC.

(D) "Assessment" shall mean any monetary charge, fine or fee imposed or levied against an Owner by the Association, as provided in the Governing Documents, regardless of whether said assessment is identified as a regular assessment, special assessment, individual assessment, reserve assessment, capital improvement assessment, fine, late fee or other charge.

(E) "Articles" shall mean the Articles of the Association, as amended from time to time.

(F) "Association" shall mean Johnson's Grove Homeowners Association, Inc. and as the context requires, the officers or directors of that Association.

(G) "Board" or "Board of Directors" shall mean the duly elected and acting Board of Directors of Johnson's Grove Homeowners Association, Inc. (which shall also be synonymous with "Management Committee" as utilized in the Act.)

(H) "Bylaws" shall mean the Bylaws of the Association, as amended from time to time, a copy of which is attached hereto as **Exhibit "B"**. No amendment to the Bylaws shall be effective until it is duly approved and recorded.

(I) "City" shall mean Santaquin, Utah and its appropriate departments, officials and committees.

(J) "County" shall mean Utah County, Utah and its appropriate departments, officials and committees.

(K) "Common Areas" or Common Areas and Facilities shall mean and refer to all property in the Project and Improvements owned in common by the Owners including, but not limited to, the following items:

- i) All Common Areas and facilities designated as such in the Plat or in this Declaration, (which were actually installed in the Project);
- ii) All property and Improvements within the Project that are not part of a Unit or Limited Common Areas;
- iii) All foundations, columns, girders, guides, beams, supports, stairs, stairways, breezeway, bearing structures of party walls, main walls, exterior walls, floor structures, roofs, gutters and downspouts, exterior walkways, fire escapes, lobby, halls, corridors, curbs, sidewalks, and unassigned parking areas;
- iv) Pavement, yard, exterior air vents
- v) All utility installations and all equipment connected with or in any way related to the furnishing of utilities to the Project and intended for the common use of all Unit Owners (provided, however, that certain utility installations may be dedicated to the City and, if so, this definition shall

- not be construed to exclude the City from the ownership, maintenance, and control of such utilities).
- vi) Community space;
- vii) All utility installations and all equipment connected with or in any way related to the furnishing of utilities to two or more Units;
- viii) The Project's outdoor facilities, grounds, courtyards, benches, open space, sprinkling systems, entry, monuments;
- ix) All other parts of the Project normally in common use or necessary or convenient to the use, existence, maintenance, safety, operation or management of the Property owned by the Association for the common benefit of the Owners.

(L) "Common Expenses" means any and all costs, expenses and liabilities incurred by or on behalf of the Association, including, without limitation, costs, expenses and liabilities for (A) managing, operating, insuring, improving, repairing, replacing and maintaining the Common Areas; (B) providing facilities, services and other benefits to Owners as set forth in this Declaration; (C) administering and enforcing the covenants, conditions, restrictions, reservations and easements created hereby; (D) levying, collecting and enforcing the assessments, charges, fines, penalties and liens imposed pursuant hereto; (E) operating the Association; and (F) creating reserves for any such costs, expenses and liability as required by this Declaration or the Act.

(M) "Declarant" shall mean and refer to SUMMIT CONSTRUCTION SERVICES, LLC, and its successors and assigns.

(N) "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions for Johnson's Grove Condominium, together with any subsequent amendments or additions through subsequent recording amendments or supplements.

(O) "Governing Documents" shall mean this Declaration, Bylaws, Articles, Plat, Rules, and any other documents or agreements binding upon an Owner.

(P) "Improvement" shall mean all structures and appurtenances of every type and kind, including but not limited to buildings, facilities, Unit, walkways, retaining walls, fences, landscaping, decks/patios, stairs, poles, lighting, signs, satellite dishes or other antennas, and any mechanical equipment.

(Q) "Limited Common Areas" shall mean all property designated on the recorded Plat or as described in this Declaration as Limited Common Area, being intended ultimately to be owned by the Association but for the exclusive use and enjoyment of one or more appurtenant Units but fewer than all of the Units, which include assigned parking spaces and related carports, if any.

(R) "Manager" shall mean any entity or person engaged by the Board of Directors to manage the Project.

(S) "Member" shall mean and refer to every person who holds membership in the Association, including an Owner and the Declarant, as set forth herein.

(T) "Owner" shall mean the person or persons having title to any Unit. Owner shall mean the person holding fee simple title and buyers under any contract for deed, but shall exclude any person or entity holding title for purposes of securing performance of any obligations, including the trustee and/or beneficiary under a deed of trust or mortgagee under a mortgage.

(U) "Person" shall mean a natural person or any legal entity with a right to hold title to real property in its own name in the State of Utah.

(V) "Plat(s)" shall mean an official and recorded plat of University Place, including all subsequent phases when recorded, as approved by the City and recorded in the office of the Utah County Recorder, as it may be amended from time to time.

(W) "Property" shall have the meaning set forth in the recitals.

(X) "Rules" mean any instrument adopted by the Board for the regulation and management of the Association as provided in the Governing Documents.

(Y) "Subdivision" or "Project" shall mean all phases of Johnson's Grove Condominium and all Units, Common Areas, Limited Common Area, and other property within the Project, as shown on the Plat(s) and any future Plat(s) covering the Property.

(Z) "Unit" shall mean any numbered Unit shown on any official and recorded Plat(s), whether or not it contains an Improvement, and shall include all mechanical equipment and appurtenances located within any Unit or located without said Unit but designated and designed to serve only that Unit, such as appliances, electrical receptacles and outlets, electrical panels, air conditioning apparatus, furnaces, stoves, fixtures and the like, shall be considered part of the Unit, as shall all windows, window frames, window wells, skylights, exterior glass, patio doors, doors, door frames, locks, and similar components. All pipes, wires, conduits, or other public utility lines or installations contained within a Unit or serving only the Unit, and any other property of any kind, including fixtures and appliances within any Unit, which are within the Unit but are removable without jeopardizing the soundness, safety or usefulness of the remainder of the building within which the Unit is situated shall be considered part of the Unit. In addition, all drywall, insulation, decorated interiors, surfaces of interior walls, floors and ceilings, trim, wallpaper, paint, flooring, carpeting and tile, outlets, and any other material constituting any part of the finished surfaces shall constitute part of a Unit.

ARTICLE II EASEMENTS

2.1 Easement Concerning Common Area. Each Owner shall have a nonexclusive 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 Unit and in no event shall be separated therefrom, or encumbered, pledged, assigned or otherwise alienated by an Owner. Any Owner may temporarily delegate the right and easement of use and enjoyment described herein to any family member, household guest, tenant, lessee, contract purchaser, or other person who resides on such Owner's Unit. Notwithstanding the foregoing, no Owner shall have any right or interest in any easements forming a portion of the Common Area except for the necessary parking, access, and utility easements for use in common with others.

2.2 Easement Concerning Limited Common Area. The Association shall have a non-exclusive drainage and public utility easement and an easement for maintenance in and to the Limited Common Area. With the exception of the rights and easements granted to the Association, the Owner(s) of a Unit shall have the exclusive use of all Limited Common Area appurtenant to their Unit.

2.3 Limitation on Easement. An Owner's right and easement of use and enjoyment concerning the Common Area shall be subject to the following:

(a) The right of the Association to govern by Rules the use of the Common Area for the Owners so as to provide for the enjoyment of said Common Areas by every Owner in a manner consistent with the preservation of quiet enjoyment of the Units by every Owner, including the right of the Association to impose reasonable limitations on the number of guests per Owner who at any given time are permitted to use the Common Area.

(b) The right of the Association to suspend an Owner's right to the use of the Common Areas, or any amenities included therein, for any period during which an Owner is in violation of the terms and conditions of the Governing Documents or delinquent in the payment of a levied assessment or fee.

(c) The right of the City, County, and any other governmental or quasi-governmental body having jurisdiction over the Property, to enjoy access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Common Areas for the purpose of providing police and fire protection, utility access/installation, and providing any other governmental or municipal service.

2.4 Reservation of Access and Utility Easements. The Declarant hereby reserves an easement for access and utilities (including but not limited to: electrical, gas, communication, phone, internet, cable, sewer, drainage and water facilities) over, under, along, across and

through the Property, together with the right to grant to a City and County, or any other appropriate governmental agency, public utility or other utility corporation or association, easements for such purposes over, under, across, along and through the Property upon the usual terms and conditions required by the grantee thereof for such easement rights, provided, however, that such easement rights must be exercised in such manner as not to interfere unreasonably with the use of the Property by the Owners and the Association and those claiming by, through or under the Owners or the Association; and in connection with the installation, maintenance or repair of any facilities as provided for in any of such easements, the Property shall be promptly restored by and at the expense of the person owning and exercising such easement rights to the approximate condition of the Property immediately prior to the exercise thereof.

2.5 Easements for Encroachments. If any part of the Common Area, Limited Common Area or Unit now existing encroaches upon the other, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall exist. If any Common Area, Limited Common Area or Unit shall be partially or totally destroyed and then rebuilt in a manner intended to duplicate the structure so destroyed, equal encroachments upon any portion of the Common Area, Limited Common Area or Unit due to such reconstruction shall be permitted; and valid easements for such encroachments and the maintenance thereof, so long as they continue, shall exist.

2.6 Easement in Favor of Association. The Units, Common Area and Limited Common Area are hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees and independent contractors:

- (a) For inspection during reasonable hours of the Units, Common Area and Limited Common Area in order to verify the performance by Owners or other persons of all items of maintenance and repair for which they are responsible;
- (b) For inspection, maintenance, repair and replacement of portions of the Common Area and Limited Common Area;
- (c) For correction of emergency conditions on one or more Units or on portions of the Common Area and Limited Common Area;
- (d) For the purpose of enabling the Association, the Architectural Control Committee or any other committees appointed by the Association to exercise and discharge during reasonable hours their respective rights, powers and duties;
- (e) For inspection during reasonable hours of the Units, Common Area and Limited Common Area in order to verify that the Owners and occupants, and their guests, tenants and invitees, are complying with the provisions of the Governing Documents.

2.7 Easements for Construction and Development Activities. Declarant reserve

easements and rights of ingress and egress over, under, along, across and through the Property and the right to make such noise, dust and other disturbance as may be reasonably incident to or necessary for the (a) construction Units, (b) to maintain sales or leasing offices, management offices and models throughout the Project and to maintain one or more advertising signs on the Common Area with respect to the sales of Units, or other property in the Project, (c) improvement of the Common Area, and construction, installation and maintenance thereon of roadways, walkways, buildings, structures, landscaping, and other facilities designed for the use and enjoyment of some or all of the Owners, and (d) construction, installation and maintenance on lands within, adjacent to, or serving the Property of roadways, walkways, and other facilities, planned for dedication to appropriate governmental authorities.

2.8 Income Generated from Service Providers. Declarant, as owner of the real property at the time it is annexed into the Subdivision through recordation of a plat, which includes the dedication of certain utility easements to the City or County, may negotiate terms with service providers that desire to install infrastructure to provide services to owners in the Subdivision. During the Declarant's Control Period, any income gained from these negotiations with service providers by Declarant may be retained by the Declarant.

ARTICLE III UNITS & COMMON AREAS

3.1 Units.

(a) The Project consists of two buildings – Building A and Building B, with a total of 23 Units and a community space.

(b) All Units shall be capable of being independently owned, encumbered and conveyed. The Owner or Owners of each Unit shall be entitled to the exclusive possession and control of such Unit, subject to the rights of the Association set forth in the Governing Documents.

3.2 Use of Units. All Units shall be used only for single-family residential purposes.

(a) No Owner shall cause, allow or permit any person over whom he/she has or may exercise supervision or control to cause or allow any foyer, hallway, stairway, exit, entrance, breezeway, fire escape, elevator, roadway, driveway or sidewalk in or on the property to be obstructed or to be used for any purpose other than for ingress to or egress from said units or the Property.

3.3 Description of Units. The Units are described in the Plat(s) and this Declaration.

3.4 Separate Taxation of Units. Each Unit constitutes a separate parcel of real estate and will be separately assessed and taxed.

3.5 Modification to Units. Without prior, written approval from the ACC, an Owner may not make any repairs, modifications or alterations to any part of the exterior of a Unit or building. Similarly, without prior, written approval from the ACC, an Owner may not conduct any interior remodels of the Unit that impact existing walls, structures or other items that may impact the integrity of the Unit, such as: walls, shared walls, shared roofing and similar structures. The ACC may require that such modification or repairs be made in a particular manner and with qualified persons to maintain conformity within the Project. (This provision is not intended to prevent an Owner from performing interior decorating, painting, or conducting similar activities without the prior written permission.)

(a) Without prior approval of the ACC, none of the following shall occur at any time: (1) any use of the Common Areas or Limited Common Areas for staging, storage, assembly, or construction, (2) any nuisance as established by law or by the Governing Documents, (3) any blocking of the Common Area or Limited Common Areas by vehicles, materials, or persons, or (4) any use of the Association's garbage and disposal facilities for the disposal of debris, materials, or other items related to remodeling.

(b) The ACC shall have no authority to approve of any remodeling inconsistent with the Governing Documents or that would cause unsafe conditions.

(c) All remodeling and other repairs and modifications to Units must be completed in compliance with all applicable building codes, laws, and the manufacturer's specifications for any materials, equipment, and fixtures.

(d) The Association may require indemnification agreements from an Owner with respect to any approved modification that impacts shared components.

(e) All remodeling, Improvements and structures within the community shall be consistent with the existing character, architectural style, colors, and theme as other Improvements in the community so as to not detract from the theme and character of the community or neighboring property values and should not draw attention as being a deviation from the existing Improvements. The Board may adopt Rules with regard to allowed construction colors, materials, appearance etc. and policies with regard to submission and review of proposed Improvements and remodeling.

(f) Declarant shall be exempt from these requirements.

3.6 Ownership of Common Areas. The Common Areas shall be owned by the Owners of all of the Units as tenants in common. A percentage of undivided interest in the Common Areas shall attach to each Unit, as set forth in **Exhibit "C"**. Upon any conveyance or transfer of a Unit, the undivided interest in Common Areas attributable to such Unit shall automatically be conveyed or transferred with the Unit. No undivided interest in Common Areas may be transferred or conveyed separate or apart from the Unit to which the undivided interest is

attributable. Each Owner shall have a license to use all of the Common Areas, subject to the terms and conditions of the Governing Documents.

3.7 Shares of Common Expenses. Except as otherwise set forth in this Declaration, all Common Expenses shall be allocated among all Units as set forth in **Exhibit "C"**.

3.8 Limited Common Areas. The Limited Common Areas are depicted on the recorded Plats, as well as described in this Declaration. Limited Common Area shall be used exclusively by the Owner of the Unit to which such Limited Common is appurtenant. The right to the exclusive use of the Limited Common Area shall be appurtenant to each respective Unit where so identified and may not be severed from the ownership of the Unit.

(a) Assigned Parking Stalls. The Board may maintain a record of assigned parking and adopt necessary policies and procedures with regard to assigned parking stalls.

ARTICLE IV

MAINTENANCE OF COMMON AREAS, LIMITED COMMON AREAS AND UNITS

4.1 Maintenance of Common Areas. The Association, or its duly designated agent, shall maintain all Common Areas, including, without limitation, the Improvements and landscaping located thereon in good order and repair and shall otherwise manage and operate all Common Areas as it deems necessary and appropriate, which generally include the following:

- (a) Private roadways, curbing, and unassigned parking areas;
- (b) Entrances, signs, and gates, if any;
- (c) Roofs, rain gutters, and down spouts;
- (d) Outside exterior surfaces of the building and Units;
- (e) Chimneys and chimney caps (if any);
- (f) Foundations;
- (g) Structural components, including, but not limited to: exterior or bearing walls or walls that are common to two or more Units;
- (h) Infrastructure, pipes, water, and utility lines that are contained within the roadways in the Project serving more than one Unit and not the responsibility of the City/County;
- (i) Utilities that serve the general community or more than one Unit and are not operated by the City/County.
- (j) Light poles;
- (k) Community mailboxes;
- (l) Walkways, sidewalks and breezeways;
- (m) Landscaping. General landscape and sprinkler maintenance, including the repair, maintenance and replacement of existing sprinkler systems and landscaping within the Project, which shall generally include mowing, edging, blowing of grass, raking and disposal of leaves.
- (n) Snow Removal. The Association shall make reasonable and prudent efforts to for

the removal of snow from sidewalks, driveways and other relevant Common Areas within the Project. Owners shall be responsible and take reasonable precautions with respect to ice and ice accumulation. The work of removing snow may be delegated to a third party. To the extent permitted by law, the Association shall not be responsible or liable for said third party's removal of snow.

4.2 Maintenance of Limited Common Areas. Owners are responsible to keep Limited Common Areas clean and free from all items except those expressly permitted by the Association. Owners shall be responsible for the costs required for the repair, maintenance and replacement of Limited Common Areas. Notwithstanding, the Association may determine whether such work will be performed by the Association or individual Owners.

4.3 Owner's Responsibility for Maintenance of Units. Each Owner, at such Owner's sole cost and expense, shall maintain and/or replace such Owner's Unit and related Improvements constituting a part thereof, in good order and repair, which generally includes:

- (a) Unit;
- (c) All interior and exterior doors, including frames, locks, hinges, door jams;
- (d) Finished interior of the Unit, including: flooring, tiles, wallpaper, paint, carpet, wood, fireplaces, fixtures other material comprising finished interior;
- (e) Drywall, insulation, wallboard, and similar materials within a Unit;
- (f) Skylights, windows, windowsills, window frames, glass, screens, and patio doors;
- (g) Individual mailbox locks and keys, including their repair and replacement;
- (h) Sewer and drainage pipes, wiring, power, water and other utility lines within a Unit and serving that Unit;
- (i) Enclosed Limited Common Areas that become private areas;
- (j) Plumbing fixtures, fans, stoves, refrigerators, appliances, heaters, furnaces, fireplaces, vents, chimneys, HVAC systems, compressors, condensers, ducting, air conditioning, water spigots, lighting fixtures, pipes, and similar appliances, fixtures and pipes that exclusively serve an Owner's Unit(s);
- (k) The Owner shall be responsible for keeping the Unit and Improvements thereon in a clean and sanitary condition, free of pests and rodents, and uncluttered. The Board of Directors may set forth in the Rules any limits, restrictions, or guidelines on what may or may not be left, stored, or installed in any Unit, which may include a prohibition on leaving, installing or storing any items in such places.

ARTICLE V
MEMBERSHIP

5.1 Membership in the Association shall at all times consist exclusively of the Owners. Each Owner shall be a member of the Association so long as such Owner has an ownership interest in a Unit and such membership shall automatically terminate when the Owner cease to have an ownership interest in the Unit. Upon the transfer of an ownership interest in a Unit the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association. If titled ownership to a Unit is held by more than one Person, the membership appurtenant to that Unit shall be shared by all such Person in the same proportional interest and by the same type of tenancy in which title to the Unit is held.

ARTICLE VI
VOTING & DECLARANT CONTROL PERIOD

6.1 Voting. The Association shall have two (2) classes of voting membership, Class "A" and Class "B", as follows:

(a) Class "A". Class "A" Members shall be all Owners with the exception of Class "B" membership, if any. Class "A" membership shall be entitled to vote in accordance with their Allocated Interest. In order to be eligible to vote, an Owner must be current on all Assessments and charges at least 30 days in advance of the meeting, ballot or vote.

(b) Class "B". The Class "B" Member shall be Declarant. In all matters requiring a vote, the Class "B" membership shall receive one hundred (100) votes for each Unit owned by Declarant.

6.2 The Class "B" Control Period runs until later of the following to occur:

- (a) Three years following the recording of this Declaration; or
- (b) When, at its discretion, the Class B Member so determines.

6.3 Notwithstanding anything to the contrary in this Declaration, Declarant may exercise its discretionary termination of control in whole or in part as to any portion of the Project at its sole election and determination. In doing so as to a portion of the Project, it does not waive any reversionary or remaining control as to all other portions of the Project, the control of which is not expressly terminated by Declarant.

ARTICLE VII
HOMEOWNER ASSOCIATION

7.1 **Organization.** The Association has been created to effectively enforce the Governing Documents and shall operate as a non-profit corporation. The Association shall be comprised of the Owners within the Project, and is established for the benefit of the Owners and the enforcement of the Governing Documents. Membership in the Association is deemed an appurtenance to the Unit, and is transferable only in conjunction with the transfer of the title to the Unit. The Association shall serve as the organizational body for all Owners.

7.2 **Enforcement Powers.** The Association shall have all powers granted to it by the Governing Documents and the Act to enforce these covenants and restrictions by actions in law or equity brought in the name of the Association, and the power to retain professional services needed to the enforcement of the Governing Documents and to incur expenses for that purpose, including but not limited to: (1) record, lien, foreclose and other enforcement and collection actions against an Owner and their Unit; (2) initiate legal or similar proceedings; (3) impose fines; (4) collect any rents directly from tenant for past due assessments; (5) terminate an Owners' right to receive utility service paid as a common expense; (6) terminate an Owner's right to utilize Common Area and/or amenities; and (7) any other action or remedy allowed by the Governing Documents or Utah law.

(a) The Association shall have the exclusive right to initiate enforcement actions in the name of the Association. The Association may appear and represent the interest of the Project at all public meetings concerning zoning, variances, or other matters of general application and interest to the Owners.

(b) The Association shall have the authority to initiate and compromise claims and litigation on behalf of the Association resulting from the enforcement of the Governing Documents. In the event that the Association initiates legal action against a specific Owner or Owners to enforce these Governing Document, whether or not such action results in the commencement of a formal legal proceeding, the Association shall have the right to assess the costs of such litigation, dispute, or enforcement action, including reasonable attorney fees, against the Owner(s) or Unit(s) in question and collect those assessment in any manner authorized in the Governing Documents or Utah law.

(c) The Board shall be afforded discretion to utilize its reasonable judgment to determine whether and how to: impose fines, record liens, pursue legal action; otherwise enforce the Governing Documents; or when and how to settle or compromise claims.

7.3 **Assessments.** Assessments will be made to meet the anticipated and recurring costs, expenses and Common Expenses of the Association. The Association has the power to levy assessments against each Unit as necessary to carry out its functions. Assessments shall be levied against all Units in the Property, whether vacant or improved in accordance with its Allocated Interest. Assessments shall not be discounted for individual Units for service on the

Board, volunteering, cost of utilities, or any other reason. Each Owner shall by acquiring or in any way becoming vested with his/her interest in a Unit, be deemed to covenant and agree to pay to the Association the assessments described in these covenants, together with late payment fees, interest and costs of collection (including reasonable attorney fees), if and when applicable.

(a) All such amounts shall be, constitute and remain: (a) a charge and continuing lien upon the Unit with respect to which such assessment is made until fully paid; and (b) the personal, joint and several obligations of the Owner or Owners of such Unit at the time the assessment falls due. No Owner may exempt himself or his Unit from liability for payment of assessments by waiver of his rights in the Common Areas or by abandonment of his Unit. In a voluntary conveyance of a Unit, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments, late payment fees, interest and costs of collection (including reasonable attorney fees) which shall be a charge on the Unit at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

(b) **Special Assessment.** The Association may levy special assessments for the purpose of defraying, in whole or in part: (a) any expense or expenses not reasonably capable of being fully paid with funds generated by monthly assessments; or (b) the cost of any construction, reconstruction, or unexpectedly required repairs or replacement of the Common Areas. Absent an emergency situation, special Assessments for expenditures in excess of \$5,000 shall first be approved by 51% of the Allocated Interest.

(c) **Individual Assessment.** The Association may levy individual assessments on every Unit, Owner or occupant that shall cause any damage to the Project or otherwise causes the Association to incur any individual expense for maintenance, repairs, or enforcement action taken under the provisions of the Governing Documents. The amount of any such individual assessments shall be determined by the cost of such repairs, maintenance or enforcement action, including all overhead and administrative costs (including reasonable attorney fees), and shall be allocated among the affected Owner(s) or Unit(s) according to the cause of damage, maintenance, repair work or enforcement action, as the case may be, which individual assessment may be levied in advance of the performance of work.

(d) The Association may levy a reserve fund assessment, as set forth in this article.

(e) The Association may levy other assessments or fees, as authorized by the Governing Documents.

7.4 Budget. The Board is authorized and required to adopt a budget annually, which shall be presented to the Owners at a meeting of members.

(a) The Board may revise the approved budget from time to time as necessary

to accurately reflect actual and/or anticipated expenses that are materially greater than previously budget.

(b) The budget shall estimate and include the total amount for the Common Expenses, shall contain an appropriate amount for reserves, and may include an amount for other contingencies. The budget shall also be broken down into reasonably detailed expense and income categories.

(c) Unless otherwise established by the Board, regular Assessments shall be paid in equal monthly installments.

7.5 Reserve Fund Analysis. Following the Class B Period, the Board shall cause a reserve analysis to be conducted no less frequently than every six (6) years to analyze the cost of repairing, replacing or restoring Common Area that have a useful life of three years or more and a remaining useful life of less than 30 years. This reserve analysis should be reviewed no less frequently than every three (3) years and updated if necessary. The Board may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the Board, to conduct the reserve analysis.

7.6 Reserve Fund Account Creation. The Board shall create a reserve fund account that is separate and distinct from the Association's general account, which account shall be funded from the reserve fund assessments. The amount of the reserve fund assessment shall be a separate line item in the approved budget. The Board shall cause an assessment to be made against all Owners in an amount sufficient, within the Board's discretion, to fund the reserve account.

7.7 Reinvestment Fee. The Board shall have power to levy a one-time reinvestment fee when a change in ownership of a Unit occurs in the amount of one half of one percent (1/2%) of the sales price, unless a lesser amount is determined by the Board. Declarant shall be exempt from this fee.

7.8 Date of Commencement of Assessments. Assessments provided for herein shall commence as to each Unit on the first day of the first month following the effective date of the first budget. Assessments shall be due and payable in a manner and on a schedule, as the Board may provide. Notwithstanding, Assessments for those Units owned by Declarant or their assigns, successors, subsidiaries, related construction entities, or other entities established by Declarant, or Declarant's members, for the purpose of constructing Units (collectively "Declarant's Related Entities") shall not commence until the completed Unit is conveyed to an Owner that is not the Declarant or a Declarant's Related Entity. No amendment of this Declaration changing the allocation assessments with regard to Declarant or Declarant's Related Entities shall be valid without the consent of the Declarant.

7.9 Fines. Following notice as required by the Act, the Association shall have the power to assess a fine against an Owner (or their Unit) for a violation of the terms and conditions of the Governing Documents in an amount set by the Board.

7.10 Hearing Process. The Board shall have authority to create a reasonable hearing process, consistent with the Act, applicable when the Association takes an adverse action related to any particular Owner(s).

7.11 Association Rules. The Board from time to time and subject to the provisions of the Governing Documents, may adopt, amend, repeal and enforce Rules governing: (a) the use of the Common Areas; (b) the use of any facilities owned by the Association; (c) the collection and disposal of refuse; (d) the maintenance of animals in the Project; (e) collection policies and procedures; and (f) other matters concerning the use and enjoyment of the Property and the conduct of residents, as deemed necessary by the Board. The Rules may supplement, clarify and add detail to issues addressed in Governing Documents. However, the Rules may not contradict the Governing Documents.

7.12 Statement of Account & Payoff Information. Upon a written request from an Owner that the Association provide the Owner with a statement of his/her account, the Association may charge a fee, not to exceed \$10.00, for providing such statements. In addition, when a request is made to the Association to provide payoff information needed in connection with the financing, refinancing, or closing of a Unit Owner's sale of his/her Unit, the Association may charge a fee not to exceed \$50.00.

7.13 Availability of Documents. The Association shall make appropriate documents available to Owners (and their lenders, insurers and/or authorized agents) consistent with the Act and the Utah Revised Non-Profit Act. The Board may adopt a record retention policy to govern its record retention procedures.

7.14 Indemnity of Association Board and Officers. The Association will indemnify the officers, agents and Board of the Association against any and all claims arising against them personally which are a result of the good faith exercise of the powers, duties and responsibilities of their office under the Governing Documents.

7.15 Election, Notice of Election, Notice of Meeting and Special Meetings. Election procedures and notice of any meeting shall be conducted as set forth in the Articles of Incorporation and Bylaws of the Association.

7.16 Number of Board, Term of Office. The appointment, election and term of the Members of the Board are set forth in the Bylaws and Articles. Members of the Board of Directors may serve consecutive terms, and may also serve as officers of the Association.

7.17 Independent Accountant/Bookkeeper. The Association may retain the services of an independent accountant or bookkeeper to assist the Board of Directors and officers to maintain accurate financial records of the Association.

ARTICLE VIII

NONPAYMENT OF ASSESSMENTS & THE APPOINTMENT OF TRUSTEE

8.1 Delinquent Assessment. Any assessment not timely paid shall be delinquent, and the Association may invoke any and all remedies to recover said delinquent assessments including by: suit, judgment, lien, foreclosure, or other remedy authorized by the Governing Documents or the Act.

8.2 Due Date, Charges & Interest. Unless otherwise established by the Board, the following requirements shall apply. Monthly assessments shall be due and payable on the first of each month and late if not received by the 10th of each month. The Board may charge a late fee in an amount set by the Board (not to exceed \$50) for each unpaid or late assessment. In addition to late fees, interest shall accrue on all unpaid balances at 18% per annum or 1.5% per month. The Board may also impose other reasonable charges imposed by third parties related to collections.

8.3 Lien. Upon recording of a notice of lien on any Unit, there shall exist a perfected lien for unpaid assessments prior to all other liens, except: (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto; and (2) the lien or charge of any first or second mortgage of record made in good faith and for value recorded prior to a recorded notice of lien by the Association.

8.4 Foreclosure. The Association shall have the power to bid for the Unit at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be charged or levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged had such Unit not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid assessments and attorney fees shall be maintainable without foreclosing or waiving the lien securing the same.

8.5 Other Remedies. All rights and remedies of the Association shall be cumulative and the exercise of one right or remedy shall not preclude the exercise of any other right or remedy. The "One Action Rule" shall not be a defense to the enforcement of all rights and remedies of the Association. The Association may elect to bring an action to recover for a delinquent Assessment against the Owner or other obligee personally. Any attorney fees or costs incurred in these efforts shall also be assessed against the Owner(s), their Unit(s), and/or other obligees jointly and severally.

8.6 Payment by Tenant. The Association shall be entitled to demand and collect from a tenant of any Unit, the amount of any assessment that is more than sixty (60) days past due.

8.7 Attorney Fees. In addition to the recovery of costs and attorney fees as provided herein, the Association shall be entitled to recover all reasonable attorney fees and costs incurred as a result of an Owner breach of the Governing Documents, including meetings, research, memoranda, monitoring and other legal work incurred in response to an Owner breach or violation of the Governing Documents. These fees may be collected by special or individual assessment against the subject Owner(s) or Unit(s).

8.8 Appointment of Trustee. The Declarant hereby convey and warrant pursuant to U.C.A. Sections 57-1-20 and 57-8a-402 to Burt R. Willie, Esq., a licensed member of the Utah State Bar, with power of sale, the Unit and all Improvements to the Unit for the purpose of securing payment of assessments under the terms of this Declaration.

ARTICLE IX SUBORDINATION OF LIEN TO INSTITUTIONAL FIRST AND SECOND MORTGAGES

9.1 The lien of assessments, including interest, late charges (subject to the limitations of Utah law), and costs (including attorney fees) provided for herein, shall be subordinate to the lien of any institutional first or second mortgage of record made in good faith and for value, recorded prior to a recorded notice of lien by the Association. The sale or transfer of any Unit shall not affect the assessment lien. However, the sale or transfer of any Unit pursuant to foreclosure of a prior, recorded institutional first or second mortgage shall extinguish the lien of such assessments as to payments that became due prior to such sale or transfer; provided, that to the extent there are any proceeds of the sale on foreclosure of such mortgage or by exercise of such power of sale in excess of all amounts necessary to satisfy all indebtedness secured by and owed to the holder of such mortgage, the lien shall apply to such excess. No sale or transfer shall relieve such Unit from lien rights for any assessments thereafter becoming due. Where the mortgagee holding an institutional first or second mortgage of record or other purchaser of a Unit obtains title pursuant to remedies under the mortgage, its successors and assigns shall not be liable for the share of the assessments by the Association chargeable to such Unit that became due prior to the acquisition of title to such Unit by such acquirer. No foreclosure, sale or transfer shall relieve any Owner who was the Owner prior to such foreclosure, sale or transfer from personal liability for any assessments due and owing prior to such foreclosure, sale or transfer

ARTICLE X USE LIMITATIONS & RESTRICTIONS

10.1 No pets or animals shall be kept or harbored in the Project. The Board may adopt policies and procedures with regard to service and assistance animals.

10.2 The failure on the part of the Board to insist, in one or more instances, upon a strict performance of any of the terms, covenants, conditions of the aforesaid Act or Governing Documents, or to exercise any right or option therein contained, shall not constitute, nor be construed as a waiver or relinquishment of any other right which the Board may have thereunder or which it may thereafter acquire.

10.3 Vehicle Parking.

- a. The outside parking areas are not to be used for any kind of vehicle storage. The parking of any boat, mobile home, trailer, camper or motor home anywhere in the parking areas is prohibited, except on a temporary basis. Temporary parking is limited to 48 hours.
- b. Inoperable or unregistered vehicles will not be allowed in any of the parking areas. Parking areas will not be used for repair, construction or reconstruction of any vehicle, boat, or any other item. The changing of a defective tire, minor repairs (changing spark plugs, filters, etc.) and charging of batteries is permitted.
- c. Parking areas are limited to vehicles owned and utilized by the residents living in the Project and not for storage of vehicles for family/friends.
- d. The Board may cause the removal of any vehicle which is in violation of the Governing Documents, including the towing of vehicles. Violators may also be subject to fines, as adopted by the Board. All costs of towing shall be assessed back to the Owner as a limited assessment.
- e. The Board may adopt further rules and policies regarding parking in the Project.

10.4 Nuisances. No Owner or resident shall cause, permit or suffer any act or practice, declared by the Board to be a nuisance, to be created or carried on in any Unit of which he/she is the Owner or occupant. No Owner or resident shall make or permit any loud or disturbing noises by their families, servants, employees, agents or visitors, nor shall unit owners or residents permit any activity by such persons that would be noxious, harmful, or offensive to other owners or residents, or that will interfere with the rights, comforts or convenience of other unit owners or residents. Household noise levels (such as parties, stereos, etc.) shall be maintained below levels that are audible outside their unit. Uncommonly loud noise; e.g.: from construction, renovation, the installation of flooring or new appliances, etc., is limited to the hours between 9:00A.M. and 6:00 P.M. An Owner may be fined for violations of this provisions, as well as subject to other appropriate legal action.

10.5 In accordance with the Utah Clean Air Act, smoking is prohibited in the building, Units, open porches, stairwells and all other Common Areas and not within 25 feet of the Building. In the event an Owner or Occupant violates the prohibition on smoking within the Project, the Board shall have authority to issue Fines. Any occupants repeated violations of the smoking restriction shall be grounds for, among other remedies available to the Association, eviction, and the Association shall be authorized to initiate and complete eviction and assess the costs and attorney fees incurred in said eviction to the Owner. In said event, the Association

shall be entitled to: (a) an injunction ordering the tenant to vacate the premises, or such other relief as deemed appropriate by the court, including the issuance of a writ of restitution, (b) damages against the Unit owner in the amount of \$50 per day for each day (or the maximum amount allowed by law) the tenant remains in the Unit as the result of the Owner failing to promptly initiate eviction proceedings, and (c) recovery of its costs and attorney fees from the Owner, including the recorded of a lien. The Board shall have all additional powers deemed necessary to enforce these provisions. If any of the provisions of this section or any paragraph, sentence, clause, phrase or word or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this section and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

10.6 Licensed Contractor. Unless the Architectural Control Committee gives a written waiver of approval to an Owner, no Improvement may be constructed, remodeled on any Unit except by a licensed contractor, duly qualified and licensed by the appropriate governmental authorities.

10.7 No Business or Commercial Uses. No portion of the Project may be used for any commercial business use, provided, however, that nothing in this provision is intended to prevent the use by any Owner of his Unit for a home occupation pursuant to City or County ordinance. Businesses, professions or trades may not require heavy equipment or create a nuisance within the Project, and may not noticeably increase the traffic flow to the Project.

10.8 Restriction on Signs. Owner must receive prior written approval prior to the installation of any signage within the Project.

10.9 Combination of Units. No Unit may be combined with another Unit without the consent of the Board.

10.10 Construction. No Improvement shall be permitted to remain incomplete for a period in excess of one (1) year from the date of commencement of construction, re-construction or remodeling unless any delays are approved in writing by the ACC.

10.11 Garbage. The storage, collection and disposal of garbage, rubbish and trash shall be in strict compliance with applicable laws and the Rules of the Board.

10.12 Exterior Improvements. Prior, written approval from the ACC is required for any Improvement, antenna, dish, decoration or similar item attached to the exterior of the Unit or Building.

10.13 Firearms and Incendiary Devices. The use of firearms or incendiary devices within the Project is prohibited. The term firearms includes, but is not limited to: all guns, pistols, handguns, rifles, bows, cross-bows, automatic weapons, semi-automatic weapons, BB guns, air-soft guns, pellet guns, sling shots, wrist-rockets, blow-dart guns, and other firearms of

all types, regardless of size. Notwithstanding, this provision is not intended to regulate the ownership of firearms, or the carrying of a firearm to and from an Owner's Unit, as otherwise authorized by Utah law.

ARTICLE XI

REPAIRS BY THE ASSOCIATION

11.1 Repairs by Association. In the event that an Owner permits his Unit or Improvements to fall into a state of disrepair that is dangerous, unsafe, unsanitary or unsightly condition or fails to comply with any other covenant or restriction in violation of this Declaration, the Association may give written notice to the Owner describing the condition complained of and demand that the Owner correct the condition within 15 days. If the Owner fails to take corrective action, the Association shall have the right, but not the obligation, to enter upon the offending Owner's Unit and take corrective action to abate the condition. All costs of abatement shall be charged to the Owner, who agrees to promptly pay the reasonable costs of any work performed under this provision, plus 15%. In addition, each Owner hereby grants to the Association a lien on the Unit and any Improvements to secure repayment of any sums advanced pursuant to this section, which lien may be foreclosed at any time by the Association in the manner prescribed in Utah for the foreclosure of mortgages. Alternatively, without requiring foreclosure, the Association may seek collection of sums advanced directly from the Owner of the Unit in question. Unpaid amounts will bear interest from the date advanced at the lawful judgment rate under applicable state law.

11.2 Alterations of Exterior Appearance. The Owners will maintain their Units and Improvements in substantially the same condition and appearance as that approved by the Board. No subsequent exterior alterations, improvements or remodeling, whether structural or changes in landscaping, paint color or materials will be made without the advance consent of the Board.

11.3 Repair Following Damage. In the event of casualty loss or damage to the improvements, the Owner will be entitled to reconstruct the Improvements as they existed prior to the damage or loss without review by the Board, provided however that alterations or deviations from the original approved plans will require review. Nothing in this Declaration is intended to prevent an Owner who has suffered property damage or loss from taking temporary measures to secure the property and prevent injury or dangerous conditions following loss or damage, before re-construction begins. Such temporary measures may be taken without the consent or approval of the Board, provided that any such measure must be of a temporary nature, and repair or reconstruction must begin as soon as circumstances will permit. Unless delayed by City/County approval or insurance carrier approval, no damaged structure will be permitted to remain on any Unit for more than 90 days without repairs commencing and any damaged structure which does remain unrepaired after 90 days following the occurrence of damage is deemed a nuisance which may be abated by the Association.

ARTICLE XII INSURANCE

12.1 Insurance Requirement. The Association shall obtain insurance as required in this Declaration and as required by the Act. 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.

As used in this Article:

- (1) "Covered Loss" means a loss, resulting from a single event or occurrence that is covered by the Association's property insurance policy.
- (2) "Unit Damage" means damage to a Unit.
- (3) "Unit Damage Percentage" means the percentage of total damage resulting in covered loss that is attributable to Unit Damage.

In the event of a covered loss, Owner(s) shall pay their portion of any Association deductible in accordance with that Unit's Unit Damage Percentage.

12.2 Property Insurance.

(a) Hazard Insurance.

- (i) Blanket Policy of Property Insurance. The Association shall maintain a blanket policy of property insurance covering all Common Areas, Limited Common Areas Units, buildings and other facilities.

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

(b) Flood Insurance. If the property insured by the Association is not situated in a Special Flood Hazard Area, the Association may nonetheless, if approved by a majority of Owners, purchase flood insurance to cover water and flooding perils not otherwise covered by blanket property insurance.

(c) Earthquake Insurance. The Association may nonetheless, if approved by a majority of Owners, purchase earthquake insurance to cover earthquakes not otherwise covered by blanket property insurance.

(d) Associations Obligation to Segregate Property Insurance Deductible. The Association shall keep an amount equal to the Association's property insurance policy

deductible or \$10,000, whichever is less. This requirement shall not apply to any earthquake or flood insurance deductible.

(e) Association's Right to Not Tender Claims that are Under the Deductible. If, in the exercise of its business judgment, the Board of Directors determines that a claim is likely not to exceed the Association's property insurance policy deductible the Association need not tender the claim to the Association's insurer.

12.3 Comprehensive General Liability (CGL) Insurance. The Association shall obtain CGL Insurance insuring the Association, the agents and employees of the Association, and the Owner, 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) covering all claims for death of or injury to any one person or property damage in any single occurrence.

12.4 Director's and Officer's Insurance. The Association shall obtain Directors' and Officers' liability insurance protecting the Board of Directors, 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). The policy shall:

- (a) Include coverage for volunteers and employees;
- (b) Include coverage for monetary and non-monetary claims;
- (c) 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
- (d) Provide coverage for defamation. In the discretion of the Board of Directors, 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.

12.5 Insurance Coverage for Theft and Embezzlement of Association Funds. The Association may obtain insurance covering the theft or embezzlement of funds that shall:

- (a) Provide coverage for an amount of not less than the sum of three months regular assessment in addition to the prior calendar year's highest monthly balance on all operating and reserve funds; and
- (b) Provide coverage for theft or embezzlement of funds by:
 - (i) Officers and Board of Directors member of the Association;
 - (ii) Employees and volunteers of the Association;
 - (iii) Any manager of the Association; and

(iv) Officers, directors, and employees of any manager of the Association.

12.6 Association's Right to Negotiate All Claims and Losses and Receive Proceeds. Insurance proceeds for a loss under the Association's property insurance policy shall be payable to the Association; and shall not be payable to a holder of a security interest. 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 proceeds remaining 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 Units. Each Owner hereby appoints the Association, as attorney-in-fact for the purpose of negotiating all losses related thereto, including: the collection, receipt of, and 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 representative, successors or assigns of an Owner.

12.7 Owner Act Cannot Void Coverage under Any Policy. An Owner's act or omission may not void an insurance policy or be a condition to recovery under a policy.

12.8 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.

12.9 Owners' Individual Coverage. **EACH OWNER SHOULD PURCHASE INDIVIDUAL INSURANCE COVERAGE IN THE AMOUNT RECOMMENDED BY THE OWNER'S INSURANCE AGENT.**

ARTICLE XIII DAMAGE & DESTRUCTION

13.1 Immediately after damage or destruction by fire or other casualty to all or any part of the Common Areas and/or Limited Common Areas covered by insurance written in the name of the Association, the Board, or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Common Areas and/or Limited Common Areas. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Common Areas and/or Limited Common Areas to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

13.2 Any damage or destruction to the Common Areas and/or Limited Common Areas shall be repaired or reconstructed unless Owners representing at least seventy-five (75%) percent

of the total vote of the Association, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the costs of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Areas and/or Limited Common Areas shall be repaired or reconstructed; provided, however, this provision shall not apply to construction mortgagees providing construction financing for such damaged property.

13.3 In the event, that it should be determined in the manner described above that the damage or destruction to the Common Areas and/or Limited Common Areas shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Common Areas and/or Limited Common Areas shall be restored to their natural state and maintained by the Association, in a neat and attractive condition.

ARTICLE XIV **DISBURSEMENT OF PROCEEDS**

14.1 If the damage or destruction for which the proceeds of insurance policies are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction to the Common Areas and/or Limited Common Areas shall be retained by and for the benefit of the Association and placed in a capital improvement and/or reserve account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner(s) shall be retained by and for the benefit of the Association and placed in a capital improvement and/or reserve account.

ARTICLE XV **REPAIR AND RECONSTRUCTION**

15.1 If the damage or destruction to the Common Areas and/or Limited Common Areas for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the members, levy a special assessment against all Owners as provided in the Governing Documents.

ARTICLE XVI **CONDEMNATION**

16.1 Whenever all of any part of the Common Areas and/or Limited Common Areas shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of members representing at least sixty-seven percent (67%) of the total

Association vote by any authority having the power of condemnation or eminent domain), each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows: if the taking involves a portion of the Common Areas and/or Limited Common Areas on which improvements have been constructed, then, unless within sixty (60) days after such taking the Owners representing at least sixty-seven percent (67%) of the total vote of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Areas and/or Limited Common Areas to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Association. If the taking does not involve any improvements of the Common Areas and/or Limited Common Areas, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

ARTICLE XVIII **MISCELLANEOUS PROVISIONS**

16.1 **Violation Deemed a Nuisance.** Any violation of these covenants that is permitted to remain on the Property is deemed a nuisance, and is subject to abatement by the Association or by any other Owner.

(a) Any single or continuing violation of the covenants contained in this Declaration may be enjoined in an action brought by an Owner or by the Association. In any action brought to enforce these covenants, the prevailing party shall be entitled to recover as part of its judgment the reasonable costs of enforcement, including reasonable attorney fees and court costs.

(b) Nothing in this Declaration shall be construed as limiting the rights and remedies that may exist at common law or under applicable federal, state or local laws and ordinances for the abatement of nuisances, health and safety, or other matters. This Declaration is to be construed as being in addition to those remedies available at law.

(c) The remedies available under this Declaration and at law or equity generally are not to be considered as exclusive, but rather as cumulative.

(d) The failure to take enforcement action shall not be construed as a waiver of the contents contained in this Declaration in the future or against other similar violations.

16.2 **Severability.** Each of the covenants contained in this Declaration shall be independent of the others, and in the event that any one is found to be invalid, unenforceable, or illegal by a court of competent jurisdiction, the remaining covenants shall remain in full force and effect.

16.3 Consent, Power of Attorney, Waiver. By acceptance of a deed, lease, or other conveyance of an interest in Unit, each Owner or Occupant consents to the rights reserved to the Association in this Declaration, including but not limited to, the right to prepare, execute, file, process, and record necessary and appropriated documents and other items to establish and grant easements and to make necessary and appropriate amendments of this Declaration, the Plat and Bylaws. By such acceptance, each Owner or Occupant agrees to execute all documents and to do all other things as may be necessary or convenient to effect the same; and such acceptance shall be deemed an appointment of the Association, with full right of substitution, as the attorney-in-fact of such Owner or Occupant to execute such documents and to do such things on Owner's or Occupant's behalf; and such appointment, being coupled with an interest, shall be irrevocable for the specific period of the Association's reserved rights as set forth in this Declaration and shall not be affected by the disability of any such Owner or Occupant.

16.4 No Representations and Warranties. Each Owner and occupant understands, agrees, and acknowledges through taking title or residing in the Project that the Association and the Board have not made any representations or warranties of any kind related to the Project and that each Owner or occupant has not relied upon any reorientations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose relative to the Project.

16.5 Conflicting Provisions. In the case of any conflict between the Governing Documents, the order of priority from the highest to the lowest shall be the Declaration, the Plat, the Articles, Bylaws, and then the Rules.

16.6 Amendment. At any time while this Declaration is in effect, the covenants herein contained can only be modified by the affirmative vote of the Owners representing not less than sixty-seven (67%) percent of the eligible Allocated Interest. No meeting or voting shall be required for an amendment, if the required, written consent is obtained from the requisite number of Owners.

16.7 Constructive Notice. Every person who owns, occupies or acquires any right, title or interest in any Unit in the Project is conclusively deemed to have notice of this Declaration and its contents, and to have consented to the application and enforcement of each of the provision of this Declaration against his/her Unit, whether or not there is any reference to this Declaration in the instrument by which he/she acquires interest in any Unit.

16.8 Notices. All notices under this Declaration are provided as set forth in the Bylaws.

16.9 Liberal Interpretation. The provisions of this Declaration shall be interpreted liberally to further the goal of creating a uniform plan for the development of the Project. Headings are inserted for convenience only and shall not be considered in interpretation of the provisions. Singular will include plural, and gender is intended to include masculine, feminine and neuter as well.

16.10 Association Litigation.

(a) In recognition of the expenses and disruption associated with litigation, the Association shall not commence a judicial or administrative proceeding without the approval of the Declarant for so long as the Members govern the Association and thereafter only upon the approval of Owners representing at least 80% of the total vote of the Association.

(b) Neither the Association nor any Owner shall institute an action against any person which arises out of an alleged defect in the development of the Subdivision until: (i) Declarant and the person(s) who physically constructed the portion of the subdivision in which the alleged defect exists have been notified and given a reasonable time and opportunity in which to inspect, assess, correct, or redesign any alleged defect or other portions of the Subdivision (provided, however, that the terms of this Section shall not create an obligation of any person to effect a repair of an alleged defect); (ii) the Association or Owner(s) have pursued their remedies under any express warranty covering all or any portion of the alleged defect; (iii) the Declarant and the affected contractor(s) have been given the opportunity to be heard at a meeting of the Association regarding the alleged defect; and (iv) all proposed parties to the action have been given a reasonable opportunity to mediate any dispute or disagreement relating to the alleged defect, and have either participated or refused to participate in such mediation.

(c) Notwithstanding any other provision to the contrary in this Declaration, the Association shall not file, commence or maintain any lawsuits, actions or legal proceedings against Declarant, the individual managers, owners, members or officers of Declarant, Declarant's contractors, or any other person or entity involved in the construction of the Units unless and until all of the following requirements have been satisfied:

(i) The Association has obtained a legal opinion from an attorney licensed to practice law in Utah having at least ten (10) years of experience in litigation practice, with the legal opinion providing in substance the following: (i) a description of the factual allegations and legal claims to be asserted in the action; (ii) an analysis of the facts and legal claims explaining why it would be in the best interests of the Association to file and pursue such action, taking into account the anticipated costs and expenses of litigation, the likelihood of success on the merits of the claims, and the likelihood of recovery if a favorable judgment is obtained by the Association; and (iii) providing a budget of the estimated amounts of legal fees, costs, expert witness fees and other expenses likely to be incurred in connection with such action (the "Litigation Budget"); and

(ii) The Association has collected funds from the Owners, by special assessment or otherwise, equal to at least one-half (1/2) of the Litigation Budget.

(d) If any claims or actions falling within the scope of this Section are filed without satisfying all of the requirements set forth above, such claims/action shall be dismissed without prejudice and shall not be re-filed unless and until all such requirements have been satisfied. In any action to enforce the requirements of this Section, the prevailing party shall be entitled to an award of reasonable attorney fees and costs. Individual Owners, however, shall not be allowed to file or pursue any actions or claims belonging to other Owners or to the Association.

(e) No action affected by this Section shall be conducted utilizing legal counsel who are compensated on a contingency fee or similar means of compensation in which litigation costs and attorney's fees are not paid on a current basis or are paid out of the settlement or judgment amount recovered by the Association in such action.

(f) This Section shall not apply to: (i) actions brought by the Association to enforce the Governing Documents (including, without limitation, the foreclosure of liens); (ii) the collection of assessments; (iii) proceedings involving challenges to ad valorem taxation; (iv) counterclaims brought by the Association in proceedings instituted against it; or, (v) actions brought by the Association against any contractor, vendor, or supplier of goods or services arising out of an express contract with the Association or its manager for services or supplies. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

16.11 Repurchase Option for Construction Defect Claims. In the event any Owner shall commence action against Declarant or Declarant' Related Entities for the purpose of constructing Units (collectively "Declarant") in connection with any alleged construction defects in such

Owner's Unit, Declarant shall have the option, but not the obligation, to purchase such Unit on the following terms and conditions:

(a) The purchase price shall be an amount equal to the sum of the following, less any sums paid to such Owner under any homeowner's warranty, in connection with the alleged defect:

(i) The purchase price paid by the original Owner of the Unit when originally purchased from Declarant;

(ii) The agreed upon value of any improvements made to the Unit by anyone other than Declarant; and

(iii) The Owner's reasonable moving costs.

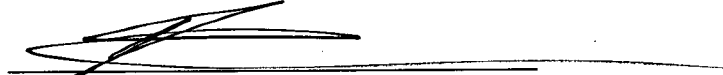
(b) Close of escrow shall occur not later than forty-five (45) days after written notice from Declarant to the Owner of Declarant's intent to exercise the option herein.

(c) Title shall be conveyed to Declarant free and clear of all monetary liens and other encumbrances other than non-delinquent real estate taxes.

(d) Exercise of the repurchase option as provided for herein above shall constitute full and final satisfaction of all claims relating to the subject Unit. The Owner shall promptly execute and deliver any notice of dismissal or other document necessary or appropriate to evidence such satisfaction.

(e) Declarant's option to repurchase granted herein with respect to any particular Unit shall automatically terminate upon the expiration of the last applicable statute of limitations applicable to any construction or warranty claim governing such Unit including all applicable tolling periods.

SUMMIT CONSTRUCTION SERVICES, LLC, the Declarant


By: Brady Jensen
Its: Authorized Member

STATE OF UTAH)
 : SS
 COUNTY OF UTAH)



On this 6 day of January, 2021, personally appeared before me Brady Jensen, who being by me duly sworn, did say that he is an authorized member of Summit Construction Services, LLC, a Utah limited liability company, and that the within and foregoing instrument was signed on behalf of said limited liability company by authority and said member duly acknowledged to me that said limited liability company approved the same.

April Houser
 Notary Public
 Residing at: Mapleton, UT 84664
 My Commission Expires: 8-7-2024

EXHIBIT "A"
LEGAL DESCRIPTION

BEGINNING AT A POINT ON THE NORTHEASTERLY RIGHT OF WAY LINE OF SANTAQUIN CITY MAIN STREET (U.S. HIGHWAY 6) WHICH POINT IS SOUTH 00°07'59" EAST ALONG THE QUARTER SECTION LINE 2157.25 FEET AND WEST 3.49 FEET FROM THE NORTH QUARTER CORNER OF SECTION 2, TOWNSHIP 10 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; THENCE NORTH 02°05'46" EAST ALONG A FENCE LINE 60.91 FEET TO A FENCE CORNER; THENCE SOUTH 88°16'09" EAST ALONG A FENCE LINE 315.23 FEET TO A FENCE CORNER; THENCE SOUTH 02°10'11" EAST ALONG A FENCE LINE 124.45 FEET TO A FENCE CORNER; THENCE NORTH 89°28'37" WEST 45.67 FEET TO A FENCE CORNER; THENCE SOUTH 00°02'28" EAST ALONG A FENCE LINE 103.84 FEET TO A POINT ON THE NORTHEASTERLY RIGHT OF WAY LINE; THENCE ALONG SAID RIGHT OF WAY THE FOLLOWING TWO (2) COURSES: (1) ALONG THE ARC OF A 1169.40 FOOT RADIUS CURVE TO THE RIGHT 134.97 FEET THROUGH A CENTRAL ANGLE OF 06°36'46", THE CHORD OF WHICH BEARS NORTH 59°25'05" WEST 134.89 FEET; (2) NORTH 56°06'40" WEST 193.35 FEET TO THE POINT OF BEGINNING.

AREA = 1.063 ACRES

EXHIBIT "B"
Bylaws

Exhibit "C"
Allocated Interest

Building A – First Floor

Unit	Square footage	% ownership
Unit 1	762	3.64
Unit 2	953	4.55
Unit 3	953	4.55

Building A – Second Floor

Unit 4	762	3.64
Unit 5	953	4.55
Unit 6	953	4.55
Unit 7	762	3.64

Building A – Third Floor

Unit 8	762	3.64
Unit 9	953	4.55
Unit 10	953	4.55
Unit 11	762	3.64

Building B – 1st Floor Plan

Unit 12	953	4.55
Unit 13	953	4.55
Unit 14	953	4.55
Unit 15	953	4.55

Building B – 2nd Floor

Unit 16	953	4.55
Unit 17	953	4.55
Unit 18	953	4.55
Unit 19	953	4.55

Building B – 3rd Floor

Unit 20	953	4.55
Unit 21	953	4.55
Unit 22	953	4.55
Unit 23	953	4.55

BYLAWS OF JOHNSON'S GROVE HOMEOWNERS ASSOCIATION, INC.

The following are the Bylaws of Johnson's Grove Homeowners Association, Inc. ("Bylaws"), a Utah non-profit corporation ("Association"). Upon recordation of these Bylaws, they are binding upon the Association and all present and future Owners and/or occupants.

ARTICLE I - DEFINITIONS

Section 1.1 Definitions. All terms used but not defined herein shall have the meanings given them under that certain Declaration of Covenants, Conditions & Restrictions for Johnson's Grove, a Condominium, of even date and recorded in the Official Records of the Utah County Recorder's Office (hereinafter "Declaration"), and as the same may be amended from time to time as therein provided.

ARTICLE II - MEETINGS OF OWNERS

Section 2.1 Annual Meetings. An annual meeting of the Owners shall be held no less than once each calendar year at a location and time designated by the Board of Directors ("Board"). The Board may set the date, time and location of the annual meeting in accordance with Section 2.3 below.

Section 2.2 Special Meetings. Special meetings of the Owners may be called at the request of the Board, or, following the Class B Control Period, upon written request of the Owners holding at least fifty-one percent (51%) of the total eligible votes of the membership. Notwithstanding, the Board remains the only authorized body to act for and in behalf of the Association.

Section 2.3 Notice of Meetings. Unless an Owner requests in writing that all notices be provided to said Owner by U.S. mail, all notices shall be given by, or at the direction of, the Board via email or other electronic communication. Notice shall be provided at least ten (10) days before a meeting, but no more than sixty (60) days, to each Owner at the email or electronic address provided by the Owner. Said notice is effective upon sending the email or electronic communication. Notices provided by U.S. mail shall be sent via U.S. First Class Mail and effective upon deposit in the mail. Such notice shall specify the location, day and time of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Upon becoming an Owner of the Association, or upon the written request by the Association, Owners shall provide a valid email address or other requested electronic information for purpose of notification related to the Association unless the Owner has opted out by providing a written request for notice by U.S. Mail.

Section 2.4 Quorum. Unless otherwise specifically set forth in the Declaration, at any meeting of Owners, a quorum shall be established by those Owners present, in person or by proxy, at a properly noticed meeting. Notwithstanding, the Board remains the only authorized body to act for and in behalf of the Association. Further, a majority of those Owners present in person or proxy at such meeting may vote to reschedule the meeting based upon low attendance. Otherwise, the meeting shall proceed as scheduled.

Section 2.5 Proxies. At all meetings of Owners, each Owner may vote in person or by proxy. All proxies shall be in writing, signed by the Owner, and filed with the Board at or before said meeting. Notwithstanding, any proxy delivered to the Board at the meeting must be provided no later than any point in the meeting announced as the final time to deliver proxies. The proxy form provided with any notice of meeting may also provide an additional requirements and a deadline to return proxies. Every proxy shall be revocable and shall automatically terminate upon conveyance by the Owner of his Unit. If conflicting proxy votes for an Owner or Unit exist, said proxy votes will not be counted.

Section 2.6 Conduct of Meetings. The Board, or its authorized representatives, shall preside over all meetings. The Secretary or other authorized person shall keep and maintain minutes of all meetings. The Board may adopt further policies and procedures with regard to conduct at an Association meeting.

- (a) **Recording.** No person, whether an Owner, occupant, owner representative, or other third party is permitted to record (whether audio, video, transcription or combination) any Association or Board meeting, work session, event, get-together, or similar event regardless of the location of such event.

Section 2.7 Action Taken Without a Meeting. Any action that may be taken at any annual or special meeting of Owners may be taken without a meeting and without prior notice, if one or more consents in writing, setting forth the action taken, are signed by the Owners having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all Owners eligible to vote on the action were present and voted, unless a different approval percentage for the action is specifically set forth in the Declaration. The Board may obtain such approvals and conduct business through mail or email/electronic ballots.

Ballots shall set forth each proposed action and provide the option of voting for or against each proposed action. The ballot must specify the period of time, up to 90 days, during which the Association shall accept written ballots. Following this period, the Association shall provide notice if such action was approved.

Section 2.8 Voting. Only an Owner that is current on all assessments and charges due and owing at least thirty (30) days prior a duly noticed meeting shall be deemed in good standing and eligible vote. The Association shall have two (2) classes of voting membership, Class "A" and Class "B," as set forth in the Declaration.

The votes appurtenant to any one Unit may not be divided between Owners of such Unit and all such votes appurtenant to any one Unit shall be voted in one block. If the vote of a majority of the Owners of a Unit cannot be determined, no vote shall be cast in relation to such Unit. The Association shall honor the vote of: a duly authorized trustee or successor trustee of a trust that is an Owner; the duly authorized representative of a legal entity that is an Owner; and shall honor the vote of an individual that is a holder of a Limited or General Durable Power of Attorney with respect to an Owner as though such vote were the vote of the Owner.

ARTICLE III - BOARD, SELECTION AND TERM OF OFFICE

Section 3.1 Number & Tenure. Except for the Initial Board selected by Declarant, which consists of three members and their successors, that may hold office during the Class B Control Period, the affairs of the Association shall be managed by a Board of Directors composed of three (3) individuals. At the first meeting of the Owners at which the election of Directors will take place following the Class B Control Period, the candidate who receives the most votes shall serve as a Director for three (3) years. The candidate that receives the second highest number of votes shall serve as a Director for two (2) years, and the third candidate who receives the third highest number of votes shall serve as Director for one (1) year. At each annual election, the successor to the Director whose term shall expire in that year shall be elected to hold office for the term of (3) years. Any change in the number of Directors may be made only by amendment of these Bylaws. The members of the Board of Directors shall serve until their respective successors are elected, or until their death, resignation or removal.

Section 3.2 Advisory Board Member. During the Class B Control Period and prior to turnover of the Association to Owner control, the Declarant and/or Board may identify an owner(s) to be an advisory member of the Board and participate in Board meetings and activities. This advisory member(s) shall not vote.

Section 3.3 Eligibility. Following the Class B Control Period, all members of the Board shall be Owners or an Owners' spouse or legal partner that resides with Owner in the Dwelling. Notwithstanding, only one member of a single household can be a member of the Board at any one time.

Section 3.4 Resignation & Removal. A Director may resign at any time by delivering a written resignation to either the President or the Board. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Director, except during Class B Control Period, may be removed from the Board, with or without cause, by a vote of at least (51%) of the Owners of the Association. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining Directors and shall serve for the unexpired term of his predecessor.

Section 3.5 Compensation. No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for actual and approved expenses incurred in the performance of his duties.

Section 3.6 No Estoppel or Reliance. No one may rely upon any authorization (from the Board or otherwise) contrary to the terms and conditions of the Governing Documents regardless of circumstances. No claim of estoppel, waiver or similar equitable claims or defense may be raised by anyone related to any alleged reliance.

Section 3.7 Records Retention. The Board shall take appropriate action to develop, implement and update procedures for record retention. The Board should maintain documents in a manner to be easily accessible and copied. The Board may budget specifically for this expense and may seek the advice of consultants in developing retention procedures.

ARTICLE IV - NOMINATION AND ELECTION OF DIRECTORS

Section 4.1 Nomination. Following the Class B Control Period, nomination for election to the Board may be made by the Board or by Owners from the floor at the annual meeting.

Section 4.2 Election. Following the Class B Control Period, the election of Directors shall be by vote or written ballot, as determined at the discretion of the Board. The persons receiving the largest number of votes shall be elected. Cumulative voting is not authorized.

ARTICLE V - MEETINGS OF THE BOARD

Section 5.1 Regular Meetings. Regular meetings of the Board shall be held at least annually, or more frequently as determined by the Board. All notices shall be provided by email or other electronic means. Directors are required to provide an email or electronic address for purposes of notice of Board meetings. Notice shall be provided at least five (5) days before a meeting, but no more than thirty (30) days.

Owners, and Owner representatives (if designated in writing in advance) may attend Board meetings and may be present for all discussions, deliberations, and decisions except when the Board is in executive session. Owners shall comply with all reasonable rules established by the presiding officer for their attendance. The Board may limit Owners' comments and/or questions to a specific period of time within the meeting. The Board shall provide email notice in accordance with the Act to Owners that have requested, in writing, to be notified of Board Meetings and have provided a valid email address.

Section 5.2 Special Meetings. When, in the discretion of the President or two members of the Board, circumstances require that a meeting be held sooner than the required five (5) days' notice for a regular meeting, a special meeting may be called by the President or by any two (2) Directors, after not less than twenty-four (24) hours' notice to each Director.

Section 5.3 Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 5.4 Conduct of Meetings. The Board, or its authorized representatives, shall preside over all meetings. The Secretary or other authorized person shall keep and maintain minutes of all meetings. The Board may adopt further policies and procedures with regard to conduct at a Board meeting.

- (a) **Recording.** No person, whether an Owner, occupant, owner representative, or other third party is permitted to record (whether audio, video, transcription or combination) any Association or Board meeting, work session, event, get-together, or similar event regardless of the location of such event.

Section 5.5 Action Taken Without a Meeting. The Directors may take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of a majority of the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Board.

ARTICLE VI - POWERS AND DUTIES OF THE BOARD

Section 6.1 Powers and Duties. The Board shall have all of the powers and duties necessary for the administration of the affairs of the Association in accordance with the provisions of the Governing Documents and Utah law. The Board may delegate its authority to manager(s), subject to any limitations or provisions contained in the Governing Documents.

ARTICLE VII - OFFICERS AND THEIR DUTIES

Section 7.1 Enumeration of Officers. The officers of this Association shall be a president, secretary, and treasurer, as designated by the Board.

Section 7.2 Election of Officers. The election/appointment of officers shall take place at the first Board meeting following the annual meeting of the Owners. Officers shall serve in their office for a period of one (1) year. Notwithstanding, nothing in these Bylaws prevent an officer or directors from being re-elected to their respective positions.

Section 7.3 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine. Appointed Officers may be removed by the Board with or without cause.

Section 7.4 Resignation and Removal. Any officer may resign at any time by delivering a written resignation to any Director or to any Manager. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be

removed and replaced by a majority of the Board of Directors at any time, with or without cause. In the event of death, resignation or removal of an officer, his successor shall be selected by the Board and shall serve for the unexpired term of his predecessor.

Section 7.5 Duties. The Board may adopt policies and resolutions to define the respective duties of Directors and Officers.

ARTICLE VIII - CONTRACTS, LOANS & INVESTMENT

Section 8.1. Contracts. The Board may authorize any officer(s), agent(s), to enter into any contract or execute and deliver any instrument in the name of or on behalf of the Association, and such authority may be general or confined to specific instances.

Section 8.2 Loans. Any loan entered into by the Association must be in accordance with the Declaration.

Section 8.3 Deposits & Investments. Association funds may only be deposited into institutions that are federally insured. The Board may deposit Association funds into savings accounts, money market accounts, or purchase certificates of deposits. Other investment options that may pose additional risks must be approved by at least 51% of the total eligible votes of the membership prior to the investment.

ARTICLE IX - COMMITTEES

Section 9.1 Committees. The Board may appoint such committees as deemed appropriate in carrying out its purposes. A committee shall not have any powers, duties, or responsibilities beyond those specifically assigned by the Board. The Board may terminate any committee at any time.

ARTICLE X - MISCELLANEOUS

Section 10.1 Waiver of Procedural Irregularities. All inaccuracies and irregularities in calls or notices of meetings, in the manner of voting, in the form of proxies, in the method of asserting persons present, in the method of making decisions, or in the method of accepting or counting votes shall be deemed waived under the following circumstances:

- (a) If the objecting person was in attendance at the meeting and the issue upon which the objection was based was perceptible and no objection to the particular procedural issue was made at the meeting.
- (b) If the objecting person was not in attendance at the meeting but had proper notice of the meeting.
- (c) If the objecting person was not in attendance at a meeting and had actual notice of the meeting before it occurred.
- (d) If the objecting person who was not in attendance at the meeting and did not have proper or actual notice fails to assert the objection within 30 days of receiving notice of the circumstances giving rise to their objection.

Section 10.2 Requirements for Objections. All objections except those made at a meeting shall be in writing. Whenever made, objections must specifically describe the circumstances giving rise to the objection and reference the specific provision of the Governing Documents or law that is alleged to have been violated, with a brief statement of the facts supporting the claimed violation.

Section 10.3 Irregularities that Cannot Be Waived. Any irregularity that is the result of fraud or that was done knowingly and intentionally in violation the Governing Documents or Utah law.

Section 10.4 Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

Section 10.5 Amendment. During the Class B Control Period, these Bylaws may be amended at any time by the Declarant. Following the Class B Control Period, these Bylaws may be amended by Owners holding at least fifty-one percent (51%) of the total eligible votes of the membership. An amendment to these Bylaws shall be effective immediately upon recordation in the Office of the Utah County Recorder, State of Utah.

The foregoing Bylaws are adopted by the undersigned and made effective upon recordation in the Office of the Utah County Recorder, State of Utah.

DATED this 6th day of January, 2021.

JOHNSON'S GROVE HOMEOWNERS ASSOCIATION, INC.

a Utah non-profit corporation

By: 

Brady Jensen
Board President

**ARTICLES OF INCORPORATION OF
JOHNSON'S GROVE HOMEOWNERS ASSOCIATION, INC.**

I, the undersigned natural person over the age of eighteen (18) years, acting as incorporator of a non-profit corporation, pursuant to the Utah Revised Nonprofit Corporation and Utah Condominium Ownership Acts, hereby adopt the following Articles of Incorporation ("Articles") of Johnson's Grove Homeowners Association, Inc. ("Association").

ARTICLE I – NAME

- 1.1 The name of the nonprofit corporation is Johnson's Grove Homeowners Association, Inc.

ARTICLE II - DURATION

- 2.1 The duration of the Association shall be perpetual unless earlier dissolved pursuant to law.

ARTICLE III - POWERS AND PURPOSES

- 3.1 Purpose. The Association is organized and shall be operated as a nonprofit corporation for the purpose of enforcing the terms and conditions of the Articles, the Bylaws, and Declaration, as amended, and otherwise administering any Common Areas and facilities and generally providing for and promoting the recreation, health, safety, and welfare of Members of the Association.
- 3.2 Powers. The Association shall have all of the powers conferred upon it by the Articles, Bylaws and Declaration, as amended, and all powers allowed by law necessary or convenient for accomplishment of any of its purposes, including all powers conferred by the Utah Revised Nonprofit Corporation and Utah Condominium Ownership Acts.
- 3.3 Non-Profit. The Association is not organized for pecuniary profit. No dividend shall be paid to, no part of the Association's funds shall be distributed to, and no part of the net income of the Association shall inure to the benefit of, any of its Members, Directors, or Officers or any other person except to reimburse approved costs.

ARTICLE IV - DEFINITIONS

- 4.1 **Definitions.** All terms used but not defined herein shall have the meanings given them under that certain Declaration of Covenants, Conditions & Restrictions for Johnson's Grove, a Condominium, recorded in the Official Records of the Utah County Recorder's Office (hereinafter referred to as the "Declaration"), applicable to the Property, and as the same may be amended from time to time as therein provided. The term "Member" shall mean and refer to those persons entitled to membership in the Association, as provided in the Declaration and these Articles.

ARTICLE V – MEMBERSHIP SHARES AND VOTING RIGHTS

- 5.1 **Membership/Shares.** Every Owner shall be a Member of the Association. Declarant shall be deemed a Member of the Association, as outlined in the Declaration. Membership in the Association shall be mandatory, shall be appurtenant to the Unit in which the Owner has the necessary interest, and shall not be separated from the Unit to which it appertains. The Association shall not issue shares of stock. Neither the issuance nor the holding of shares of stock shall be necessary to evidence membership in the Association.
- 5.2 **Voting Rights.** The Members of the Association shall have voting rights, as set forth in the Bylaws and/or Declaration.
- 5.3 **Membership List.** The Association may for all purposes act and rely on the information concerning Members and Unit ownership, which is provided by Members or, at its option, the Association may act and rely on current ownership information respecting any Unit which is obtained from the office of the Utah County Recorder. The address of a Member shall be deemed to be the address of the residence situated on such Member's Unit unless the Association is otherwise advised in writing.

ARTICLE VI - ASSESSMENTS

- 6.1 Members of the Association shall be subject to assessments and other authorized fees by the Association from time to time in accordance with the provisions of the Declaration, as amended, and shall be liable to the Association for payment of such assessments and fees.

ARTICLE VII – INITIAL REGISTERED OFFICE AND REGISTERED AGENT

7.1 The address of the initial registered agent of the Association is:

Burt R. Willie
SMITH KNOWLES, P.C.
2225 Washington Blvd., Suite 200
Ogden, Utah 84401

By signing below, the undersigned, whose address is set forth hereinabove, accepts appointment as the registered agent.

SMITH KNOWLES, P.C.

By: _____
Burt R. Willie
Its: Registered Agent

ARTICLE VIII – APPOINTMENT OF BOARD OF DIRECTORS (“Board”)

8.1 Until the Class B Control Period ceases and is automatically converted to a Class A membership pursuant to the terms of the Declaration, Declarant, and its assigns and successors in interest under the Declaration, shall have the right and option to appoint, remove and replace all of the members of the Board. In the event the Declarant fails to exercise this option or in the event the Declarant, by written notice to the Association, voluntarily turns over to the Members the responsibility for electing the Board before the termination of the Class B Control Period, the Board shall be elected by the Members of the Association in accordance with the Declaration and the Bylaws of the Association.

ARTICLE IX – INTIAL BOARD OF DIRECTORS

9.1 Initial Board. Declarant shall appoint three individuals to serve on the initial Board of Directors.

ARTICLE X – INCORPORATOR

10.1 The name and address of the incorporator of the Association is as follows:

Brady Jensen
774 South 1600 West #101
Mapleton, UT 84664

ARTICLE XI - MISCELLANEOUS

- 11.1 Transfer of Common Areas to Public Entity. Following the Class B Control Period, the Board may, in connection with dissolution of the Association or otherwise, dedicate or transfer any part of the Common Area to any public agency or authority for such purpose and subject to such conditions as may be agreed to by the Board and agency. Any such dedication or transfer must, however, be consented to by sixty-seven percent (67%) of the votes of the membership and approved by Declarant during the Class B Control Period. No such dedication or transfer, however, may take place without the Association first receiving approval from City, County or other applicable government entity pursuant to all applicable state and city laws, rules and ordinances in effect at the time of such proposed dedication or transfer.
- 11.2 Dissolution. Following the Class B Control Period, the Association may be dissolved by the affirmative vote of sixty-seven percent (67%) of the votes of the membership. Upon dissolution of the Association, all of its assets (including the Common Areas) shall be transferred to a nonprofit corporation, trust, or other public entity to be used for purposes similar to those provided for in these Articles and the Declaration.
- 11.3 Manager. The Board may carry out through a managing agent any of its functions which are properly authorized by the Articles, Bylaws or Declaration. Any managing agent shall be an independent contractor and not an employee of the Association. The managing agent shall be responsible for managing the Property for the benefit of the Association and the Members and shall, to the extent permitted by law and the terms of the agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Association itself. Retention of a managing agent shall be within the Board's discretion and the Board is authorized to enter into a contract for services with the managing agent.
- 11.4 Amendment. Following the Class B Control Period, any amendment to these Articles shall require the consent of at least fifty-one percent (51%) of all eligible votes. During the Class B Control Period, the Declarant may amend these Articles in Declarant's sole discretion.
- 11.5 Rules, Policies & Resolutions. The Board may adopt, amend and repeal rules, policies and resolutions for regulation and management of the affairs of the Association not inconsistent with these Articles, Bylaws and the Declaration, as required by the Condominium Ownership Act.
- 11.6 Interpretation. The captions which precede the various portions of these Articles are for convenience only and shall in no way affect the manner in

which any provision hereof is construed. 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 both other genders. The invalidity or unenforceability of any provision contained in these Articles shall not affect the validity or enforceability of the remainder hereof. These Articles have been prepared in conjunction with the Bylaws and Declaration and should be read and construed in light of that fact and liberally so as to affect all of the purposes of these instruments. To the extent the provisions of the Utah Revised Nonprofit Corporation and Utah Condominium Ownership Acts are consistent with these Articles, such legislation shall supplement the terms hereof.

- 11.7 Indemnification. No Director, officer, managing agent or member of a committee shall be personally liable for any obligations of the Association or for any duties or obligations arising out of any acts or conduct of said Director, officer, managing agent 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 Director, officer, managing agent 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 Director, officer, managing agent, or member of a committee or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him/her as such Director, officer, managing agent, or committee member, and the Association shall advance and reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability. However, 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 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.
- 11.8 Settlement of Association. The right of any person to be indemnified shall be subject always to the right of the Association, 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.

DATED this 6th day of January, 2021.



Brady Jensen
Incorporator