Recorded at the Request of:
The Palms of St. George Homeowners Association

**Record against the Property described in Exhibit A**

After Recording mail to:
Jenkins Bagley, PLLC
Attn: Bruce C. Jenkins
285 W. Tabernacle, Ste. 301
St. George, UT 84770

# Second Amended and Restated Declaration of Covenants, Conditions, and Restrictions of The Palms of St. George Recreational Vehicle Park at 150 N. 3050 E. St. George, Utah 84790

Prepared by:

JENKINSBAGLEY PLLC

Attn: Bruce C. Jenkins
285 W. Tabernacle, Ste. 301
St. George, UT 84770

**NOTICE OF AGE RESTRICTED COMMUNITY: THE PALMS OF ST. GEORGE RECREATIONAL VEHICLE PARK IS INTENDED, AND SHALL BE MANAGED, TO PROVIDE HOUSING FOR PERSONS 55 YEARS OF AGE OR OLDER, AND SHALL PROHIBIT OCCUPANCY BY PERSONS UNDER THE AGE OF 18 YEARS, AS WELL AS ALL OTHERS FALLING WITHIN THE DEFINED TERM OF FAMILIAL STATUS UNDER FEDERAL LAW, EXCEPT THAT PERSONS UNDER AGE 18 MAY VISIT ANY DWELLING UNIT FOR LESS THAN FOURTEEN (14) CONSECUTIVE DAYS WITHOUT VIOLATING THIS DECLARATION, BUT UNDER NO CIRCUMSTANCES SHALL SUCH UNDERAGE PERSON'S VISIT EXCEED A TOTAL OF THIRTY (30) DAYS IN ANY CALENDAR YEAR. FURTHER, EXCEPT AS PROVIDED IN THE POLICIES AND PROCEDURES CONCERNING HOUSING FOR PERSONS 55 YEARS OF AGE OR OLDER, EACH AND EVERY LIVING UNIT WITHIN THE PROPERTY, IF OCCUPIED, SHALL BE OCCUPIED BY AT LEAST ONE PERSON 55 YEARS OF AGE OR OLDER. WITHOUT LIMITING THE FOREGOING, AT NO TIME SHALL LESS THAN EIGHTY PERCENT (80%) OF THE OCCUPIED LIVING UNITS SUBJECT TO THIS DECLARATION BE OCCUPIED BY AT LEAST ONE PERSON 55 YEARS OF AGE OR OLDER.**

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# SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF THE PALMS OF ST. GEORGE

This Second Amended and Restated Declaration of Covenants, Conditions, and Restrictions of The Palms of St. George ("Declaration") was approved by the affirmative vote of at least two-thirds (2/3) of the Association membership after a quorum was established, pursuant to Article XII, Section 12.3 of the 2008 Declaration (defined below). This second amended and restated instrument hereby restates in its entirety and substitutes for the following:

- Amended and Restated Declaration of Covenants, Conditions and Restrictions of The Palms of St. George Recreational Vehicles Park Homeowners Association, recorded with the Washington County Recorder on July 27, 2008, as Doc. No. 20080026273 "2008 Declaration"); and

- any other amendments, supplements, or annexing documents to the covenants, conditions, and restrictions of The Palms of St. George, whether or not recorded with the Washington County Recorder.

The Community Association Act, Utah Code § 57-8a-101, et. seq. (the "Association Act"), as amended from time to time, shall supplement this Declaration. If an amendment to this Declaration adopts a specific section of the Association Act, such amendment shall grant a right, power, and privilege permitted by such section of the Association Act, together with all correlative obligations, liabilities and restrictions of that section. The remedies in the Association Act and this Declaration -- provided by law or in equity -- are cumulative and not mutually exclusive.

## RECITALS

A. Exhibit A of this Declaration defines the property subject to this Declaration. All Lots therein are part of the Association and each Owner of a Lot is a Member thereof. The Association was created as a planned development for recreational vehicles and contains certain Common Areas for the benefit of the Owners of Lots therein.

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

C. The Association deems it necessary, desirable, and in the best interests of all Owners to amend this Declaration in its entirety to update the provisions herein to more fully comply with current laws and trends in community association management and operation.

D. The Association deems it desirable to better define and clarify the managing entity that possesses the power to maintain and administer the Common Areas, to collect and disburse the assessments and charges hereinafter provided for, and otherwise to administer and enforce the provisions of this Declaration. The Association shall be incorporated under the laws of the State of Utah as a nonprofit corporation, known as **The Palms of St. George Homeowners Association** (the "Association").

E. All additional land has been annexed into the Association and such annexed land is subject in all respects to this amended Declaration.

F. The Association is intended for occupancy of residents 55 years of age and older as defined in the Fair Housing Act, 42, §§U.S.C. 3601, *et seq.*

G. The Palms of St. George Homeowners Association (the "Association") shall be governed by Federal, State, and Local Government Rules and Regulations. In addition, the Association shall be governed by the following documents created and approved by the membership.

1. Articles of Incorporation
2. Declaration of Covenants, Conditions, and Restrictions
3. Bylaws
4. Rules and Regulations

NOW, THEREFORE, for the foregoing purposes, the Association declares that the Property is and shall be held, transferred, sold, and conveyed, and occupied subject to the covenants, conditions, restrictions, easements, charges, and liens hereinafter set forth, and as set forth in the plats recorded with the Washington County Recorder.

## ARTICLE I
## DEFINITIONS

The definitions in this Declaration are supplemented by the definitions in the Association Act. In the event of any conflict, the more specific and restrictive definition shall apply.

1.1 "**Act**" shall mean and refer to the provisions of Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C §§3601, et seq.

1.2 "**Architectural Review Committee**" **or** "**ARC**" means that committee constituted and acting pursuant to Article IX below.

1.3 "**Articles and Bylaws**" shall mean and refer to the Articles of Incorporation and the Bylaws of the Association.

1.4 "**Assessment**" means any charge imposed or levied by the Association on or against an Owner or Lot pursuant to the terms of this Declaration, the Bylaws, or applicable law.

1.5 "**Association**" shall mean and refer to The Palms of St. George Homeowners Association, a Utah nonprofit corporation.

1.6 "**Board of Directors**" or "**Board**" shall mean and refer to the Board of Directors of The Palms of St. George Homeowners Association.

1.7 "**Common Properties**" or "**Common Areas**" shall mean and refer to that portion of the property which is not included within the Lots, including all improvements other than utility lines now or hereafter constructed or located thereon.

1.8 "**Community**" means all of the land described in Article II hereof and identified in Exhibit A.

1.9 "**Community Wide Standard**" means the standard of conduct, aesthetics, maintenance, or other activity generally prevailing in the community, as defined by the Board from time to time.

1.10 "**Declaration**" shall mean and refer to this Second Amended and Restated Declaration of Covenants, Conditions, and Restrictions of The Palms of St. George Recreational Vehicle Park, as the same may hereafter be further modified, amended, or supplemented from time to time.

1.11 "**Development**" shall mean and refer to The Palms of St. George Recreational Vehicle Park Development as it exists at any given time.

1.12 "**Familial Status**" means and refers to

(a) One (1) or more individuals who have not attained the age of 18 years being domiciled with:

(i) a parent or another person having legal custody of the individual or individuals; and

(ii) the designee of the parent of other person having custody, with the permission of the parent or other person;

(b) a parent or other person in the process of acquiring legal custody of one (1) or more individuals who have not attained the age of 18 years; or

(c) a person who is pregnant.

1.13 "**Improvements**" means every structure or improvement of any kind, including but not limited to landscaping required herein, and any Living Unit, deck, porch, awning, fence, garage, carport, driveway, storage shelter, or other product of construction efforts on or in respect to the Property (but does not include any exterior antenna or satellite dish, authorized in accordance with this Declaration).

1.14 "**Living Unit**" or "**Unit**" shall mean and refer to any portion of a building situated upon the Properties designed and intended for the use and occupancy of a manager or residence by a single family.

1.15 "**Lot**" shall mean and refer to any plot of land or unit containing not less than one thousand four hundred (1,400) square feet and upon which is located a concrete pad and drive way with utility hookups for water, sewer, and electricity, which is intended for the location of a Recreational Vehicle and/or Living Unit and recorded on any subdivision map of the properties with the exception of Common Properties hereafter defined.

1.16 "**Manager**" shall mean and refer to an agent or employee of the Association whose duties are to fulfill certain obligations as set forth in this Declaration and defined by the Board from time to time.

1.17 "**Member**" shall mean and refer to every person who holds membership in the Association.

1.18 "**Mortgagee**" shall mean any person named as a first mortgagee or beneficiary under or holder of a first deed of trust. First Mortgagee shall refer to the mortgagee who holds first lien priority.

1.19 "**Owner**" shall mean and refer to the person who is the owner of record (in the office of the County Recorder of Washington County, Utah) of a fee or an undivided fee interest in the Lot. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term Owner shall not mean or include a Mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

1.20 "**Person**" shall mean and refer to one (1) or more individuals, corporations, limited liability companies, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, and trustees in cases under the United States Bankruptcy Code, receivers and fiduciaries.

1.21 "**Plat**" means the plat for The Palms of St. George Recreational Vehicle Park recorded with the Recorder's Office of Washington County, State of Utah, and any plats recorded with the Recorder's Office in substitution therefor or amendment thereof.

1.22 "**Property**" shall mean and refer to all of the real property which is covered by this Declaration and is described in Exhibit A of this Declaration.

## ARTICLE II
## DESCRIPTION OF PROPERTY

The Property which is and shall be held, transferred, sold, conveyed and occupied subject to the provisions of this Amended Declaration, consists of the real property, including any permanent Living Unit located upon any Lot, situated in Washington County, State of Utah, and more particularly described in Exhibit A attached hereto and incorporated by this reference. TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described parcel of real property.

ALL OF THE FOREGOING IS SUBJECT TO: all liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all patent reservations and exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described land or any portion thereof, including, without limitation, any mortgage or deed of trusts; all visible easements and rights-of-way; all easements and rights-of-way of record; any easements, rights-of-way, an easement for each and every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the above-described land at such time as construction of all Project improvements is complete; and all easement necessary for ingress to , egress, from, maintenance of, and replacement of all such pipes, lines, cables, wires, utility lines, and similar facilities. The Association shall also have all

necessary easements to repair, improve, maintain the Property and enforce the provisions of this Declaration.

## ARTICLE III
## HOUSING FOR OLDER PERSONS

***The policies and procedures governing the Property as stated herein demonstrate (i) the intent to provide housing for persons 55 years of age or older per Living Unit and (ii) that all of the Living Units shall be occupied by at least one (1) person 55 years of age or older. The policies and procedures of the Property are intended to make the Property housing for older persons and exempt the Property from regulation under the Act as provided by Section 3607 thereof. Thus, to this end, all Owners shall be bound by, and the Association shall manage the Property in compliance with, this Article III.***

3.1 **Advertising, Marketing, and Sales**. All advertising, marketing, and sales materials or displays of any kind shall reflect that the Property is intended for occupancy by at least one person age 55 or older per Unit as per the Housing for Older Person Act of 1995 (rule L. 104-76 109 Stat. 787).

3.2 **Approved Occupancy**. The project is intended to be managed for occupancy by persons 55 years of age or older, as set forth in the Act and regulations relation thereto. See 24 C.F.R. §§100.304 (as may be amended from time to time). The Act (providing housing for older persons) exempts the project from the prohibition against discrimination on the basis of familial status and thus permits the following restriction:

**"NO LIVING UNIT MAY BE OCCUPIED BY ANY PERSON UNDER EIGHTEEN YEARS OF AGE, EXCEPT THAT SUCH PERSONS UNDER EIGHTEEN MAY BE PERMITTED TO VISIT FOR REASONABLE PERIODS NOT TO EXCEED TWO (2) CONSECUTIVE WEEKS ON ANY ONE (1) OCCASION OR THIRTY (30) DAYS IN ANY CALENDAR YEAR."**

In order to assure that the Property meets the age requirements for occupants set forth in the Act, the Association shall have on file Age Verification information for the Members of the Association and shall be responsible for enforcing and carrying out the terms of Article III. As indicated in 3.1 above, it is the policy of this Association that all of the Living Units shall be occupied by at least one (1) occupant 55 or older and by no occupant under the age of 18, with limited exceptions, as set forth in Section 3.4.

(a) Approved Occupant Status. No person shall be permitted to occupy a Living Unit in the project unless such person is an "Approved Occupant" in accordance with the terms and provisions hereinafter set forth. If it is determined that an occupant has not obtained "Approved Occupant" status, the Association may pursue any remedies available to it under this Declaration, including imposition of fines against a violator, said fines to be set by the Board. However, the Board's remedies are not limited to fines and may include any and all legal remedies to ensure compliance with this Declaration.

(b) Visitors. Persons who are not "Approved Occupants" shall not be permitted to occupy any Living Unit within the project; however, visitors do not have to be approved as

occupants and shall be permitted to visit for such reasonable periods of time, and upon such reasonable conditions, as provided for from time to time by the majority of the Board, subject to the specific limitations regarding visits by person under eighteen years of age as hereinabove set forth.

(c) Procedure for Approving Occupants. Persons may become "Approved Occupants" based on the following terms and conditions:

(i) A person desiring to become an "Approved Occupant" shall submit to the Association a written Age Verification Form with documents giving proof of age 55 or older.

(ii) The Association will review the application to ensure the applicant meets the requirements of the Act.

(iii) An Age Verification Form will be completed by each new Association Member and documentation will be maintained as a permanent record in the Association Office.

(iv) The Age Verification Forms filed will be logged so as to determine, when needed, the percentage of Association Members qualifying as 55 years and older. The percent of Association Members qualifying as 55 years and older will be determined on a continuing basis. A complete status check will be conducted annually.

3.3 **Resale or Rental**.

(a) **Obligation of Owner: Contents of Agreements**. Should a current resident wish to sell or rent his or her Living Unit, the same procedures described above in Section 3.2 shall be followed.

Any sale or rental agreement shall be in writing and shall (1) provide that occupancy of the property shall be subject to the provisions of this Declaration, the Articles of Incorporation, Bylaws, and Rules and Regulations of the Association and (2) state the following: **"The Palms of St. George Recreational Vehicle Park is intended and operated for residents 55 years of age or older as defined in the Fair Housing Act. As such, it is the policy of The Palms of St. George Homeowners Association to prohibit permanent residence of person under 18 years of age as is permitted under an exemption of the Act."**

In addition, rental agreements and deeds of trust shall provide that failure by the lessee or trustor to comply with the terms of this Declaration, the Articles of Incorporation, Bylaws, and Rules and Regulations of the Association shall put the lessee in default under this agreement. A standard State lease or rental form may be used for all leases and or rentals. Such forms shall be supplied by the Owner, and a copy of the Rental Agreement Form, Age Verification Form, and proof of age shall be supplied to and maintained in the Association Office.

(b) Records. The Association shall maintain the following:

(i) For all persons who execute a purchase or lease agreement with an owner, the name of each such person(s), their current address and prospective address in the project, the age of each proposed occupant of the dwelling together with a copy of the documents provided to verify their ages, and the date of the agreement will be included in the Age Verification Form.

(ii) A current log or other record of all persons occupying a rental Living Unit or pad shall be maintained by the Manager.

(iii) For each subsequent transfer of a Living Unit, a log or other record will be maintained identifying the transferor, the transferee, the address of the dwelling, the names and ages of the new occupants, the documentation provided to verify those ages, the method of transfer and the date of the transfer.

3.4 **Occupancy by at Least One Person 55 years of Age or Older per Living Unit**. The Association will not approve any applicant if the granting of "Approved Occupant" status will defeat the primary purpose of the Property which is to provide housing for older persons within the meaning of the Act. Therefore, the Association will not approve any applicant unless his or her Living Unit shall be occupied by at least one (1) occupant age 55 or older and by no occupant under the age of 18, with limited exception, as set forth as follows:

Occupancy of a Living Unit can be approved, in the following situations, where there is no occupant over age 55: (1) the individual has relatives in the project who would benefit from their residence nearby (relative caretaker); (2) the individual inherited the property from a former occupant (inheritance); (3) the individual is the surviving spouse or cohabitant of a former occupant (surviving spouse); (4) the individual is a nurse or other medical professional whose presence would be beneficial to a resident (professional caretaker).

It is expressly provided that the Association shall not set aside a certain number of Living Units for person under 55 years of age. To maintain the exemption under the Act for housing of older persons, at least eighty percent (80%) of the Living Units must be occupied by at least one (1) person 55 years of age or older. The primary purpose for permitting twenty percent (20%) of the Units to be occupied by persons younger than 55 is to prevent the disruption of the lives of surviving spouses and cohabitants under age 55 when the over age 55 member of the household dies or otherwise leaves the Living Unit.

3.5 **Applicability**. The provisions of this Article shall not apply to prohibit the occupancy of any person presently occupying a Living Unit in the project before the date of this Amended Declaration or prohibit the occupancy by any child born to such occupant while that occupant is a resident of the project, so long as the 80% rule is not violated. Any sale or rental of the Living Unit by such occupant, however, must be in accordance with the provisions of this Declaration, specifically including this Article.

## ARTICLE IV
## MEMBERSHIP AND VOTING RIGHTS

4.1 **Membership**. Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to the Lot in which the Owner has the necessary interest, and shall not be separated from the Lot to which it appertains. Persons or entities holding such an interest merely as security for the performance of an obligation shall not be a Member.

4.2 **Voting Rights**. There shall be one (1) vote for each Lot. Members shall be entitled to one (1) vote for each Lot in which the interest required for membership in the Association is held.

4.3 **Multiple Ownership Interests**. In the event there is more than one (1) Owner of a particular Lot, the vote relating to such a Lot shall be exercised as such Owners may determine among themselves, but in no event shall more than one (1) vote be cast with respect to any Lot. In the event such persons fail to agree then their vote shall be cast on a pro rata basis among their respective interests. A vote cast at any Association meeting or by mail-in ballot by any of such Owners, whether in person, by ballot, or by proxy, shall be conclusively presumed to be the vote

attributable to the Lot concerned unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made, and not timely remedied by the joint owners themselves, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

4.4 **Board Acts for Association**. Except as limited in this Declaration or the Association Bylaws, the Board acts in all instances on behalf of the Association.

## ARTICLE V
## PROPERTY RIGHTS IN COMMON AREAS

5.1 **Easement of Enjoyment**. Each Member shall have a right and easement of use and enjoyment including, but not limited to, the right of ingress and egress to and from his Lot and in and to the Common Areas. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom. Any Member may designate, in accordance with the policies of the Association, their right of enjoyment to the Common Area and facilities to the members of their family, their tenants, or contract purchasers who reside on the Property. Any and all use of the Lots, the Common Areas and facilities by family members, guests, tenants, invitees, and contract purchasers shall be subject to all of the terms, conditions, and restrictions of this Declaration, the Bylaws, and the Rules and Regulations of the Association.

5.2 **Easement for Recreational Areas**. All Owners are hereby granted a permanent easement for the right of use of all facilities for the laundry/recreational use of the Owners. The use of this easement may be limited by reasonable rules and regulations and regular hours of operation. The easement itself shall be deem Common Area and subject to reasonable use assessments to pay the cost of maintenance and repair of the laundry/recreational facilities, together with a reserve for future replacements.

5.3 **Form of Conveyancing**. Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering title, to a Lot shall describe the interest or estate involved.

5.4 **Ownership of Common Areas**. The Association shall hold title to all Common Areas of the Development.

5.5 **Limitation on Easement**. A Member's right and easement of use and enjoyment concerning the Common Areas shall be subject to the following:

(a) The right of the Association to impose reasonable limitations on the number of guests per Member who at any given time are permitted to use the Common Areas;

(b) The right of the County of Washington and any other governmental or quasi-governmental body having jurisdiction over the property to access and rights of ingress and egress over and across any street, parking area, walkway, or open spaces contained within the Property for purposes of providing police and fire protection and providing any other governmental or municipal service;

(c) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association. Any such dedication or transfer must, however, be assented to by

two-thirds (2/3) of the vote of membership, which Members present in person, by ballot, or by proxy are entitled to cast at a meeting duly called for the purpose. Written or printed notice setting forth the purpose of the meeting and the action proposed shall be sent to all Members at least twenty (20) days but not more than sixty (60) days prior to the meeting date;

(d) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage said properties;

(e) The right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosure;

(f) The right of the Association, as provided in its Articles and Bylaws, to suspend the enjoyment rights of any Member for any period during which any assessment remains unpaid, and for any period, not to exceed sixty (60) days, for an infraction of its published rules and regulations; and

(g) The right of the Association to charge reasonable admission and other fees for the use of the Common Properties.

5.6 **Encroachments**. If any portion of an improvement on a Lot encroaches upon the Common Areas or other Lots, as a result of the construction, reconstruction, repair, shifting, settlement, or movement of any portion of the development, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists. However, nothing in this section shall prohibit or limit an Owner, whose Lot is being encroached upon, from requiring that the encroachment cease and taking further action if compliance is not voluntarily made.

5.7 **Alienation of Common Areas**. The Common properties may not be alienated, encumbered or transferred without the approval of at least eighty percent (80%) of the total votes of the Association and the approval of all holders of first mortgages upon any of the properties subject to assessment. An approval of a mortgagee required in this Section 5.7 will be deemed to be obtained upon failure by such mortgagee to respond in writing within the time allotted in a request for approval made by the Association under this Section 5.7.

## ARTICLE VI
## ASSESSMENTS

6.1 **Tax Collection from Lot Owners by Washington County Authorized**. It is recognized that, under this Declaration, the Association will own the Common Areas and that it will be obligated to pay property taxes to Washington County. It is further recognized that each Owner of a Lot as a Member of the Association and as part of his monthly common assessment will be required to pay the Association his pro rata share of such taxes. Notwithstanding anything to the contrary contained in this Declaration or otherwise, Washington County shall be, and is, authorized to collect such pro rata share (on equal basis) of taxes directly from each Owner by inclusion of said share with the tax levied on each Lot. To the extent allowable, Washington County is hereby directed so to do. In the event that the assessor shall separately assess Common Areas to the Association, the Board may require the Owners to pay a special assessment, on a pro rata basis, for property taxes.

6.2 **Covenant for Assessment**.

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

(1) Annual assessments ("Annual Assessment" commonly referred to as Monthly Dues) as provided in Section 6.3 below;

(2) Special assessments ("Special Assessments") as provided in Section 6.8 below;

(3) Individual assessments ("Individual Assessments") as provided in Section 6.11 below.

(b) Assessments shall be established and collected as provided in this Article.

(c) No Member may exempt itself from the liability for Assessments by abandonment of any Lot Owner by such Member.

(d) The Association may elect from time to time any remedy with regards to the defaults by Owners without regard to any rule of law concerning the election of remedies.

6.3 **Annual Budget and Assessment**. The Board shall fix the amount of the Annual Assessment against each Lot for each assessment period at least thirty (30) days in advance of the beginning of the period. Written notice of any proposed increase to the annual assessment must be sent to each Member at least thirty (30) days prior to a meeting called for the purpose of voting on such proposal. For this purpose a quorum shall consist of thirty percent (30%) of the membership. The proposed change shall be approved by a majority vote of those in attendance at such meeting, after a quorum is established.

At least annually the Board shall prepare and adopt a budget for the Association and the Board shall present the budget at a meeting of the Members. A budget presented by the Board is only disapproved if Member action to disapprove the budget is taken in accordance with the limitations under Section 215 of the Association Act.

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

(a) Annual and Special Assessments. All Lots, as originally platted, shall pay a pro rata share of the Annual Assessment and Special Assessments. The pro rate share shall be based upon the total amount of each such assessment divided by the total number of Lots. In the event that two (2) Lots have been combined into one (1) Lot, then two (2) distinct assessments shall be paid, one (1) for each Lot so platted.

(b) Individual Assessments. Individual Assessments shall be apportioned exclusively against the Lots benefited or to which the expenses are attributable as provided in Section 6.11 below or elsewhere in this Declaration or the Bylaws.

(c) Payment of Assessments. Any Member may prepay one (1) or more installments of any Assessment levied by the Association, without premium or penalty.

6.5 **Lien**. The Annual Assessment and all other Assessments imposed shall be a charge and continuing lien upon each of the Lots against which the assessment is made in accordance with the terms and provisions of this Article, and shall be constructed as a real covenant running with the land.

6.6 **Personal Obligation and Costs of Collection**.

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

(b) The personal obligation for any delinquent Assessment, together with interest, costs, and reasonable attorneys' fees, however, shall not pass to the Owner's successor or successors in title unless expressly assumed by such successor or successors.

(c) The Association shall have the right to collect assessments through a lawsuit, judicial foreclosure, non-judicial foreclosure or other means as provided in Sections 301 through 311 of the Association Act. Such remedies shall be cumulative and not exclusive.

6.7 **Purpose of Assessments**. The Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents of the Community, and including, but not limited to:

(a) The improvement, maintenance, operation, care, and services related to the Common Areas and facilities;

(b) The improvement, maintenance, operation, care, and services related to the perimeter subdivision fences;

(c) The payment of insurance premiums;

(d) The payment of water fees for the Properties as they become due, and costs of other utilities, services, equipment, materials, or property taxes which may be provided by the Association for the Community and as may be approved from time to time by a majority of the Members;

(e) The cost of labor, equipment, insurance, materials, management, legal, and administrative fees incurred or expended in performing the duties under this Declaration or the Bylaws;

(f) The cost of funding all reserves established by the Association, including a general operating excess and a reserve for replacements in accordance with Section 6.17 below; and

(g) Any other items properly chargeable as an expense of the Association.

6.8 **Special Assessments**. In addition to the Annual Assessments authorized in this Article, the Association may levy, in any assessment year, a Special Assessment, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of the Commons Areas or capital improvement, including fixtures and personal property related thereto; provided that such assessment shall first be approved by two-thirds (2/3) of the votes which are cast by Members qualified to vote, in person or by proxy or written ballot, at a meeting or by vote duly called or held for such purpose, after establishing a quorum as provided in Section 6.9 below. The Board may select any voting method which is provided for in this Declaration or the Bylaws for the purpose of obtaining the approval necessary under this Section (e.g., by mail-in ballot).

Any capital improvement which is estimated to cost over Three Thousand Dollars ($3,000.00) shall also first be approved in the same manner as a Special Assessment. A capital improvement is any repair, replacement, construction, or reconstruction of the Common Area, including any of the facilities, structures, improvements, fixtures, or personal property related

thereto. Any PROJECT whose total cost exceeds Three Thousand Dollars ($3,000.00) shall be considered a capital cost and must be approved as stated in the preceding paragraph.

6.9 **Notice and Quorum for any Action Authorized Under Section 6.8 & 6.11.**

(a) Written notice of any meetings of Members called for the purpose of taking any action authorized under Sections 6.8 and 6.11 of this Article shall be sent to all Members not less than ten (10) days, nor more than sixty (60) days, in advance of the meeting. At the first such meeting called, the presence at the meeting of Members, either in person, by ballot, or by proxy, entitled to cast forty percent (40%) of all of the votes of Members entitled to be cast at such a meeting shall be necessary and sufficient to constitute a quorum.

(b) If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at any subsequent meeting shall be twenty-five percent (25%) of the voting membership, provided that no subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

6.10 **Commencement and Due Date of Assessments**. All Lots subject to this Declaration shall be subject to assessment as provided in Section 6.1 above. The Annual Assessments shall be due and payable on a monthly basis on the first (1st) calendar day of each month, unless otherwise provided by resolution of the Board and shall be delinquent if not paid within thirty (30) days after the due date. The due date of any Special Assessment shall be fixed in the resolution authorizing the Assessment and may be made payable over such period of time and under such terms as set forth in the resolution.

6.11 **Individual Assessments**.

(a) Any expenses benefiting or attributable to fewer than all of the Lots may be assessed exclusively against the Lots affected or benefited ("Individual Assessment"). Individual Assessments shall include, but are not limited to:

(1) Assessments levied against any Lot to reimburse the Association for costs incurred in bringing the Lot of its Owner into compliance with the provisions of this Declaration or Rules and Regulations and for fines or other charges imposed pursuant to this Declaration for violation of this Declaration, the Bylaws, or any Rules and Regulations.

(2) Any reasonable services provided to an abandoned Lot by the Association due to an Owner's failure to maintain the same in order to protect the aesthetic, health, safety, and welfare interests of adjoining Lot Owners and the Association in general.

6.12 **Duties of the Board**. The Board shall fix the date of commencement and the amount of the assessment against each Lot to each assessment period, and shall, at that time, prepare a roster of the Lots and assessments applicable thereto and keep books of account showing receipts and disbursements which shall be kept in the office of the Association and shall be open to inspection by the Owner at reasonable times.

6.13 **Nonpayment of Assessments**. Any assessment or portion thereof not paid within thirty (30) days after the due date:

(a) Shall be delinquent and shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, or such rate established by resolution of the Board, not to exceed the maximum rate permitted by law; and

(b) Shall be subject to a late charge of Twenty-Five Dollars ($25.00) per month until paid, and;

(c) If paid by installments, may, in the discretion of the Board, be accelerated (including interest as provided for above) and the entire balance declared due and payable upon not less than ten (10) days' written notice to the Owner.

(d) Liens may be filed, recorded, and foreclosed as provided for below.

6.14 **Subordination of Lien to Mortgages**.

(a) The lien of the Assessments provided for in this Article shall be subordinate to the lien of any first mortgagees or deeds of trust now or hereafter placed upon the Lot subject to assessment, except as provided in Subsection 6.14 (b).

(b) The sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. Such sale or transfer shall not relieve the Lot from liability for any Assessments thereafter becoming due, or from the lien of any future assessment.

6.15 **Enforcement of Lien**. The Association may establish and enforce the lien for any Assessment, including Annual, Special, Individual or otherwise, pursuant to the provisions of this Declaration. The lien is imposed upon the Lot against which the Assessment is made. The lien may be established and enforced for damages, interest, costs of collection, late charges permitted by law, and attorneys' fees provided for in this Declaration or by law or awarded by a court for breach of any provisions of this Declaration, the Bylaws, or any Rules and Regulations. Liens may be foreclosed in the same manner of mortgages or in the same non-judicial manner of deeds of trusts. The Association may bid at a sale or foreclosure and hold, lease, mortgage, or convey the Lot that is subject to the assessment lien.

6.16 **Trust Deed for Assessments**. By acceptance of a deed for a Lot, each Owner as trustor, conveys and warrants to trustee in trust for the Association as beneficiary, with power of sale, the Owner's Lot and all improvements thereon for the purpose of securing payment of all assessments (including basis of collection) provided for in this Declaration. The Association and each Owner hereby conveys and warrants, pursuant to Sections 212 and 302 of the Association Act, and Utah Code §57-1-20, to attorney Bruce C. Jenkins, or any other attorney that the Association engages to act on its behalf to substitute for Bruce C. Jenkins, with power of sale, the Lot and all improvements to the Lot for the purpose of securing payment of assessments under the terms of this Declaration.

6.17 **Delinquent Owner**. As used in this section, "Delinquent Owner" means a Lot Owner who fails to pay an assessment when due.

(a) The Board may terminate a Delinquent Owner's right:

(i) to receive a utility service for which the Owner pays as a common expense; or

(ii) of access to and use of recreational facilities.

(b) (i) Before terminating a utility service or right of access to and use of recreational facilities under Subsection 6.17(a) the Manager or Board shall give the Delinquent Owner notice. Such notice shall state:

(A) that the Association will terminate the Owner's utility service or right of access to and use of recreational facilities, or both, if the Association does not receive payment of the assessment within fourteen (14) calendar days;

(B) the amount of the assessment due, including any interest or late payment fee; and

(C) the Owner's right to request a hearing under Subsection 6.17(c).

(ii) A notice under Subsection 6.17(b)(i) may include the estimated cost to reinstate a utility service if service is terminated.

(c) (i) The Delinquent Owner may submit a written request to the Board for an informal hearing to dispute the assessment.

(ii) A request under Subsection 6.17(c)(i) shall be submitted within fourteen (14) days after the date the Delinquent Owner receives the notice under Subsection 6.17(b)(i).

(d) The Board shall conduct an informal hearing requested under Subsection 6.17 (c)(i) in accordance with the hearing procedures of the Association.

(e) If the Delinquent Owner requests a hearing, the Association may not terminate a utility service or right of access to and use of recreational facilities until after the Board:

(i) conducts the hearing; and

(ii) enters a final decision.

(f) If the Association terminates a utility service or a right of access to and use of recreational facilities, the Association shall take immediate action to reinstate the service or right following the Owner's payment of the assessment, including any interest and late payment fee.

(g) The Association may:

(i) levy an assessment against the Delinquent Owner for the cost associated with reinstating a utility service that the Association terminates as provided in this section; and

(ii) demand that the estimated cost to reinstate the utility service be paid before the service is reinstated, if the estimated cost is included in a notice under Subsection 6.17(b)(ii).

6.18 **Tenant Payment of Assessments**.

(a) The Board may require a tenant under a lease with a Lot Owner to pay the Association all future lease payments due to the Lot Owner if the Lot Owner fails to pay an assessment for a period of more than sixty (60) days after the assessment is due and payable, beginning with the next monthly or periodic payment due from the tenant and until the Association is paid the amount owing. Before requiring a tenant to pay lease payments to the Association, the Association's Manager or Board shall give the Lot Owner notice, which notice shall state: (i) the amount of the assessment due, including any interest, late fee, collection cost, and attorney fees; (ii) that any costs of collection, including attorney fees, and other assessments that become due may be added to the total amount due and be paid through the collection of lease payments; and (iii) that the Association intends to demand payment of future lease payments from the Lot Owner's tenant if the Lot Owner does not pay the amount owing within fifteen (15) days.

(b) If a Lot Owner fails to pay the amount owing within fifteen (15) days after the Association's Manager or Board gives the Lot Owner notice, the Association's Manager or Board may exercise the Association's rights by delivering a written notice to the tenant. The notice to the tenant shall state that: (i) due to the Lot Owner's failure to pay an assessment within the required time, the Board has notified the Lot Owner of the Board's intent to collect all lease payments until the amount owing is paid; (ii) the law requires the tenant to make all future lease payments, beginning with the next monthly or other periodic payment, to the Association, until the amount

owing is paid; and (iii) the tenant's payment of lease payments to the Association does not constitute a default under the terms of the lease with the Lot Owner. The Manager or Board shall mail a copy of this notice to the Lot Owner.

(c) A tenant to whom notice is given shall pay to the Association all future lease payments as they become due and owing to the Lot Owner: (i) beginning with the next monthly or other periodic payment after the notice is delivered to the tenant; and (ii) until the Association notifies the tenant under Subsection (1) that the amount owing is paid. A Lot Owner shall credit each payment that the tenant makes to the Association under this section against any obligation that the tenant owes to the owner as though the tenant made the payment to the owner; and may not initiate a suit or other action against a tenant for failure to make a lease payment that the tenant pays to an Association as required under this section.

(d) Within five (5) business days after the amount owing is paid, the Association's Manager or Board shall notify the tenant in writing that the tenant is no longer required to pay future lease payments to the Association. The Manager or Board shall mail a copy of this notification to the Lot Owner. The Association shall deposit money paid to the Association under this section in a separate account and disburse that money to the Association until the amount owing is paid; and any cost of administration, not to exceed Twenty-Five Dollars ($25.00), is paid. The Association shall, within five (5) business days after the amount owing is paid, pay to the Lot Owner any remaining balance.

6.19 **Exempt Property**. All Common Areas owned by the Association or dedicated to and accepted by a public authority shall be exempt from the assessments created under this Declaration. Notwithstanding any provisions herein, no land or improvement devoted to dwelling use shall be exempt from said assessments, charges, or liens.

6.20 **Reinvestment Fee Assessment**. In addition to all other assessments and upon the conveyance of a Lot there shall be one (1) Reinvestment Fee charged to the buyer or seller, as the buyer and seller may determine, comprised of one or more of the following charges:

(a) an assessment determined pursuant to resolution of the Board and charged for:
  (i) common planning, facilities, and infrastructure;
  (ii) obligations arising from an environmental covenant;
  (iii) community programming;
  (iv) recreational facilities and amenities; or
  (v) Association expenses as provided for in Utah Code § 57-1-46(1)(a).

(b) No reinvestment assessment shall exceed one-half percent (0.5%) of the fair market value of the Lot, plus all improvements, and until changed by rule of the Board the reinvestment fee shall be One Hundred Dollars ($100.00). When the seller is a financial institution, the reinvestment assessment shall be limited to the costs directly related to the transfer, not to exceed Two Hundred and Fifty Dollars ($250.00). The Association may assign the charges in 6.21 (b) directly to the Association's Manager.

(c) A reinvestment fee covenant recorded on or after March 16, 2010, may not be enforced upon: (i) an involuntary transfer; (ii) a transfer that results from a court order; (iii) a bona fide transfer to a family member of the seller within three degrees of consanguinity who, before

the transfer, provides adequate proof of consanguinity; or (iv) a transfer or change of interest due to death, whether provided in a will, trust, or decree of distribution.

6.21 **Non-Liability for Tort**. The Association shall not be liable, in any civil action brought by or on behalf of an Owner, for bodily injury occurring to an Owner, or an Owner's guests, invitees, licensees or trespassers, on the Association's Common Area or limited common area. This immunity from liability shall not be effective if the Association causes bodily injury to the Member on the Common Area or limited common area by its willful, wanton, or grossly negligent act of commission or omission.

## ARTICLE VII
## OPERATION AND MAINTENANCE

7.1 **Maintenance of Lots and Living Units**.

(a) Owner Obligation. Each Lot, Living Unit and the utility systems located upon a Lot, shall be maintained by the Owner thereof so as not to detract from the appearance of the Property and so as not to adversely affect the value or use of any other Lot. In the event an Owner does not maintain his or her Lot and/or Living Unit, the Board, after notice and an opportunity for the Owner to cure the violation, may enter the Lot and maintain the premises to the generally prevailing Community Wide Standard, as defined by the Board from time to time. All costs of such maintenance and repairs shall be charged back to the Owner as an assessment.

(b) Association Access. The Board, or its authorized representative, after giving not less than twenty-four (24) hours advance notice posted to the Lot, may access a Lot, including the Living Unit, from time to time during reasonable hours, as necessary for maintenance, repair, or replacement of any of the Common Areas. If repair to a Lot, Living Unit or Common Area -- that if not made in a timely manner -- will likely result in immediate and substantial damage to a Common Area or another Lot or Living Unit, then the Board may enter the Lot or the Living Unit to make the emergency repair upon such notice as is reasonable under the circumstances.

7.1.1 It shall be the responsibility of the Lot Owner to keep his or her Lot neat and clean, and the Lot landscaped in the types of landscaping deemed reasonable, compatible, and consistent with the aesthetic qualities of the Property.

7.1.2 All electrical power for each Owner's Lot shall remain on and/or active year round (12 months per annum). A fee of no less than seventy-five dollars ($75.00) will be levied on each Lot if the Owner deactivates and/or turns off the power to such Lot.

7.2 **Operation and Maintenance by Association**. The Association, by its duly delegated representative, shall provide for such maintenance and operation of the Common Areas as may be necessary or desirable to make them appropriately usable in conjunction with the Lots and to keep them clean, functional, attractive, and generally in good condition and repair.

7.2.1 In addition to Section 7.1, in the event that special need for maintenance or repair of Lot should be necessitated through willful or negligent act of the Owner, his family or guests, or invitees, the cost of such maintenance shall be added to and become a part of assessment to which such Lot is subject.

7.2.2 The Association shall strive to provide safety and security to the Common Areas. To that end, the clubhouse shall remain locked or secured at the discretion of the Board as set forth in the Rules and Regulations. Access to the clubhouse and common facilities shall remain available

to Owners at such times through the use of an Owner's fob or other device which gives the Owner access.

7.3 **Water and Other Utilities**. The Association shall pay for all water services furnished to each Lot. Each Lot Owner shall pay for all utility services which are separately billed or metered to individual Lots by the utility or other party furnishing such service.

7.4 **Insurance**. The Association shall secure and at all ties maintain the following insurance coverage:

(a) Fire and Casualty. The Association shall obtain and maintain a policy or policies of fire and casualty insurance with an extended coverage endorsement for the full insurable replacement value of the improvements in the Common Area. The amount of coverage shall be determined by the Board, but at no time shall the amount be less than the full replacement value of the improvements that are a part of the Common Area. This insurance shall be maintained for the benefit of the Association, the Owner, and their Mortgagees, as their interests may appear as named insured, subject, however, to any loss payment requirements set forth in this Declaration. The name of the insured under each such policy shall be in for and substance similar to: **"The Palms of St. George Homeowners Association for the use and benefit of the individual Lot Owners and Mortgagees, as their interests may appear."** All Owners shall obtain and maintain adequate insurance to cover the cost of their respective Lot and all improvements.

(b) Liability. A comprehensive policy or policies insuring the Owners, the Association, and its directors, officers, agents, and employees against any liability incident to the ownership, use or operation of the Common Areas which may arise among themselves, to the public, and to any invitees or tenants of the Property or of the Owners. Limits of liability under such insurance shall not be less than One Million Dollars ($1,000,000.00) for all claims for personal injury and/or property damage arising out of a single occurrence, such coverage to include protection against water damage, liability for non-owned or hired automobile, liability for property of others, and such other risks as shall customarily be covered with respect to projects similar in construction, location, and use. Such policies shall be issued on a comprehensive liability basis, shall provide a cross-liability endorsement pursuant to which the rights of the named insureds as between themselves are not prejudiced, and shall contain "a severability of interest" clause or endorsement to preclude the insurer from denying the claim of an Owner in the Development because of negligent acts of the Association or other Owners.

(c) Fidelity Insurance. A fidelity policy insuring against dishonest acts on the part of a Manager (and employees or volunteers) responsible for handling funds belonging to or administered by the Association. The fidelity bond or insurance shall name the Association as the obligee or insured and shall be written in an amount sufficient to afford the protection reasonably necessary, but in no event less than one hundred percent (100%) of the Project's estimated annual operating expenses, including reserves. Such fidelity bond or insurance shall contain waivers of any defense based upon the exclusion of person who serve without compensation from any definition of "employee" or similar expression.

7.5 **Additional Insurance Provisions**.

The following additional provisions shall apply with respect to insurance:

(a) In addition to the insurance described above, the Association shall secure and at all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with the developments similar to the Property in construction, nature, and use.

(b) All policies shall be written, by a company holding a rating of Class IV or better from Best's Insurance Reports or other similar standard yielding this minimum quality of insurer. Each insurer must be specifically licensed in the State of Utah.

(c) The Association shall have the authority to adjust losses.

(d) Insurance secured and maintained by the Association shall not be brought into contribution with insurance held by the individual Owners or their Mortgagees.

(e) Each policy of insurance obtained by the Association shall, if reasonably possible, provide: A waiver of the insurer's subrogation rights with respect to the Association, the Owners, and their respective directors, officers, agents, employees, invitees, and tenants; that it cannot be cancelled, suspended, or invalidated due to the conduct of any particular Owner or Owners; that it cannot be cancelled, suspended, or invalidated due to the conduct of the Association or of any director, officer, agent or employee of the Association without a prior written demand that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Owners.

(f) Notwithstanding any provisions to the contrary herein, so long as the Mortgagee or its designee holds a mortgage or beneficial interest in a trust deed on a Lot in the Property or owns Lot, insurance policies shall meet all requirements and contain such other coverage and endorsements as may be required from time to time by the Mortgagee or its designee.

7.6 **Mortgagee Insurance Clause**. All policies of hazard insurance must contain or have attached the standard mortgagee clause commonly accepted by private institutional mortgage investors in the area in which the mortgaged premises are located. The mortgagee clause must provide that the insurance carrier shall notify the first Mortgagee (or trustee) named at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.

7.7 **Review of Insurance Policy**. The Board shall periodically, and whenever requested by twenty percent (20%) or more of the Owners, review the adequacy of the Association's insurance program and shall provide in writing the conclusions and action taken on such review to the Owners of each Lot and to the holder of any mortgage on any Lot who shall have requested a copy of such report. Copies of every policy of insurance procured by the Board shall be available for inspection by the Owner.

7.8 **Lots Not Insured by Association**. The Association shall have no duty or responsibility to procure or maintain any fire, liability, extended coverage, or other insurance covering any Lot or any Recreational Vehicle and/or acts and events thereon.

7.9 **Situation When Owner's Insurance is Primary**. In the event that any loss to the Common Area, a Lot, or Living Unit is attributable to the negligence or intentional misconduct of an Owner, its guests, tenants or invitees, then the "at fault" Owner's insurance policy shall be considered primary and claimed against prior to claiming and utilizing any of the Association's insurance described herein.

7.10 **Manager**. The Association may carry out through a Manager any of its functions which are properly the subject of delegation. Any Manager so engaged may be an independent contractor or an agent or employee of the Association. The Manager may be responsible for managing the Property for the benefit of the Association and the Owners, 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.

7.11 **Terms of Management Agreement**. Any agreement for professional management of the Development may not exceed one (1) year but may be reviewed towards the end of each year to determine whether a new agreement should be entered into. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on sixty (60) days or less written notice.

## ARTICLE VIII
## USE RESTRICTIONS

8.1 **Use of Common Areas**. The Common Areas shall be used only in a manner consistent with their community nature, consistent with any Community Wide Standards adopted by the Board and consistent with the use restrictions applicable to Lots.

8.2 **Use of Lots**. No more than one (1) Recreational Vehicle will be permitted or maintained upon any Lot in the Development and all Lots must be maintained in accordance with the City Code of St. George, specifically including zoning ordinances, as amended and supplemented from time to time.

8.2.1 No building, storage shed, fence, wall, accessory, canopy, cabana, or other structure shall be erected or maintained upon a Lot, and no exterior addition, change, alteration, or improvement, shall be made thereto, until a plan detailing the proposed change has been approved in writing by the Architectural Committee. A City Building Permit must be obtained and posted on site before any construction may begin. All room additions shall be structurally independent of the recreational vehicle itself, but may be attached to the recreational vehicle. See Article VIII, Section 8.8 for temporary storage cabinets.

8.2.2 No Lot leveling, planting, landscaping, or gardens shall be commenced until a plan detailing the proposed landscaping has been approved in writing by the Architectural Committee which must respond within fifteen (15) days of the plan.

8.2.3 All Lots shall be used only for commercially built Recreational Vehicles (RVs) (including Park Model RVs) no more than ten (10) years old at the time of their first use on the Lot. Exceptions to this may be granted by the Architectural Control Committee upon a showing that the RV is in a good and sightly condition, which determination shall be made in the sole discretion of said Committee. All RVs shall be parked on the designated parking pad and the total length of the R.V. and its towing vehicle shall not exceed the length of the Lot, unless otherwise approved by the Architectural Control Committee.

8.2.4 No Lot shall be used, occupied or altered in violation of law, so as to create a nuisance or interfere with the rights of any Owner or in a way that would result in an increase in the cost of insurance covering the Common Areas.

8.2.5 No Lot or Lots shall be re-subdivided except for the purpose of combining two (2) or more Lots into one (1). In the event, however, that two (2) Lots are combined into one (1) Lot, two (2) assessments shall be paid by the consolidated Lot Owner.

8.2.6 No outdoor burning of trash or other debris shall be permitted. This shall not prohibit the use of a normal residential barbecue or other similar outside grill.

8.2.7 No laundry may be dried in any location on any Lot unless completely enclosed and screened from view from any other Lot.

8.2.8 No elevated tanks of any kind shall be erected, or placed, or permitted on any Lots.

8.2.9 From and after January 1st, 2018, Members are prohibited from owning more than two (2) Lots within the Association.

8.2.10 If a Lot is owned by a limited liability company, corporation, partnership, or other business entity, the occupant of the Living Unit must own at least a majority of the ownership interest in such business entity and comply with the age restrictions.

8.3 **Vehicle Requirements**.

8.3.1 All vehicles shall be recreational vehicles. No tent trailers, tents, or outdoor overnight camping will be allowed.

8.3.2 "Park model" RVs are allowed if such RVs meet the requirements of the applicable local zoning ordinances.

8.3.3 All recreational vehicles and/or Living Units that are installed on a permanent, year round basis shall be skirted with a decorative masonry, block or brick skirting, a continuation of the facing material of the RV, or with other material as allowed by the Architectural Control Committee. No storage is permitted under any vehicle or Living Unit except for tow equipment, unless the vehicle or Living Unit is skirted.

8.3.4 The maximum allowed size of a Living Unit is eight hundred and twenty-five (825) square feet of total floor area. The maximum allowed size of an addition or enclosure is four hundred and twenty-five (425) square feet of total floor area. Plans for Living Unit placement, additions, or enclosures must be accompanied by St. George City building permits and meet all City regulations and requirements before they will be considered by the Board.

8.4 **Fences**. No fences will be allowed on the Lot. Hedges and landscaping will not be permitted except as expressly authorized in writing by the Architectural Committee.

8.5 **Non-Residential Use**. No part of the Property shall be used for any commercial, manufacturing mercantile, storing, vending, or other such non-residential purposes, except for Lots designed for such use to provide commercial and/or recreational services to the Development.

8.6 **Signs**. With the exception of the display of the name and Lot number, no unauthorized signs or billboards, including "For Rent" or "For Sale" signs, shall be displayed to the public view on any portion of the Property except "For Rent" or "For Sale" signs two (2) feet by two (2) feet or smaller placed in a window or attached flush to the exterior surface of the Living Unit if the windows have privacy/solar screens.

8.7 **Quiet Enjoyment**. No noxious or offensive trade or activity shall be carried upon any Lot or any part of the Property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood, or which shall in any way increase the rate

of insurance. No Lot shall be used in whole or in part for the storage of rubbish, trash, used or new building materials, used or new metal, trucks, automobiles, or machine in whole or in part. Toys and other similar items shall not be left on Lots when the toy is not in use but shall be placed out of sight. No personal property, substance, thing, or material shall be kept on any Lot or any part thereof that will omit foul or noxious odors, or that will cause any noise that might disturb the peace and quiet of the surrounding property owners, or will cause the Lot or any part thereof to appear in an unclean or untidy condition. Specifically, no generators or engines shall be run while parked on a Lot, except to move the vehicle or in the event of a municipal power failure.

8.8 **Temporary Structures Equipment, Motor Vehicles, Etc**. No structure of a temporary character, tent, canopy, shack, garage, or other outbuilding shall be placed or used on any Lot at any time. No motor vehicle whatsoever may be parked on any common street or common driveway overnight, except motor homes, trailers or moving vans may be so parked for the purpose of loading or unloading. Such vehicles shall not block private driveways without permission, nor shall they block the common roadways. No major repairing or overhauling of cars or trucks is permitted within the park living area. Changing of vehicle motor oil is prohibited within the park.

(a) No outside storage sheds shall be permitted. Closeable storage cabinets on attached decks or next to the Living Unit are permitted as long as they are kept in good repair.

8.9 **Animals**. No animals, reptiles, livestock, or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, cats, or other household pets may be kept on the Lots provided that they are not kept, bred, or maintained for any commercial purpose. The total combined number of animals shall be two (2) per residence. Notwithstanding the foregoing, no animals or fowl may be kept on the Property which results in an annoyance or a nuisance, by noise or otherwise, to Lot Owners, as determined and enforced by the Board or local municipality. All pets must be kept in the Recreational Vehicle or on a leash attended by an owner. Pets are not allowed to urinate on flowers, shrubs, plants, or lawns on private properties. All pet owners shall be responsible for the cleanup of their pet's waste. Members having more than two (2) animals on June 27, 2008, shall be exempt from the two (2) animals per residence only until the time when their current animals are sold, transferred, or no longer living. At that time, the Member will be required to adhere to the two (2) animals per residence requirement.

8.10 **Garbage Removal**. All rubbish, trash, and garbage shall be regularly removed from the Property and placed in the dumpster provided and shall not be allowed to accumulate thereon. All clotheslines, refuse containers, woodpiles, and machinery and equipment shall be prohibited upon any Lot unless completely enclosed and screened from view from any other Lot.

8.11 **Easement of Utilities**. An easement for utilities including sewer lines, water lines, telephone, power, and cable television is reserved over all private roads and rights of ingress and egress for construction and/or maintenance are reserved over all Lots.

8.12 **RV Storage Area**. A portion of the Common Area is reserved for, and designated as, the "RV Storage Area" which is used by the Association for the rental of spaces therein to its Members in accordance with guidelines established by the Board from time to time. Storage to non-members shall be month to month if space is available.

8.13 **Display of the Flag**. The Association may not prohibit an Owner from displaying the United States flag inside a dwelling or on the Owner's Lot or limited common area appurtenant to the Owner's Lot if the display complies with United States Code, Title 4, Chapter 1. The Association may, by rule of the Board, restrict the display of a United States flag on the Common Area.

8.14 **FCC Antenna and Dish Policy**. Owners are encouraged to use cable service for television and internet. Satellite dishes and antennas not regulated by the FCC are prohibited. Satellite antennas, such as Direct Broadcast Satellite ("DBS") antennas (dishes) one meter in diameter or less, and designed to receive direct broadcast satellite service, including direct-to-home satellite service, or receive or transmit fixed wireless signals via satellite, may be installed; provided the FCC regulated dish is placed in a location screened from view of the streets. Location of an FCC approved dish may not be restricted by the Association so as to cause unreasonable delay in installation; unreasonably increases the cost of the equipment or its installation, maintenance, or use; or preclude reception of an acceptable quality signal. No dish may encroach upon the Common Area or the property of another Owner. The dish must comply with all applicable city, county and state laws, regulations and codes. The Association must be provided with a copy of any applicable governmental permits. Installation must be pursuant to the manufacturer's instructions. In order to protect against personal injury and property damage, a dish may not be placed in a location where it may come into contact with a power line. In order to protect against personal injury and property damage, all dishes must be properly grounded and secured. In order to protect against personal injury, dishes may not block or obstruct any driver's view of an intersection or street. The Owner is responsible for all costs associated with the installation and maintenance of a dish. The Owner is responsible for all damage caused by or connected with the dish. The Owner must hold the Association harmless and indemnify the Association in the event that someone is injured by the dish. The Owner shall keep the dish in good repair so that it does not violate any portion of this Charter. An Owner must complete the notification form attached as Exhibit B and submit a copy of the completed form to the Association within five (5) business days after installing an antenna allowed pursuant to this Amendment.

If requested by the Association, the Owner must establish a mutually convenient time to meet with a representative of the Association to review and discuss the antenna. In the event of a violation of this Section, the Association may bring an action for declaratory relief with the FCC or the Fifth District Court, Washington County, after notice and an opportunity to be heard. If the FCC or Court determines that this Section is enforceable, the Owner shall pay a Fifty Dollar ($50.00) fine to the Association for each violation. If the violation is not corrected within a reasonable length of time, additional fines of Ten Dollars ($10.00) per day will be imposed for each day that the violation continues. If an antenna poses a serious, immediate safety hazard, the Association may seek injunctive relief to compel the removal of the antenna. The Association shall be entitled to recover its reasonable attorney's fees, costs and expenses incurred in the enforcement of this Section. If any provision of this Section is ruled invalid, the remainder of these rules shall remain in full force and effect. If the FCC modifies its rules, the modified rules shall be incorporated into this Section as if fully set forth herein.

## ARTICLE IX
## ARCHITECTURAL CONTROL

9.1 **General Architectural Objectives and Requirements**. All improvement of the Common Areas, Lots, and Living Units shall be architecturally compatible with respect to one another and consistent with the Community Wide Standard. The Board shall have the authority to establish Architectural Guidelines that further clarify the architectural requirements and the Community Wide Standard of the community.

9.2 **Architectural Control Committee**. The Board may appoint a three (3) person Architectural Control Committee comprised of Owners. The Board may fill, by majority Board vote, any vacancies that may occur on the Committee. The Board, in its own discretion, may act as the Architectural Review Committee.

9.3 **Limit on Fee for Approval of Plans**. The Association may charge a plan fee that is equivalent to the cost of reviewing and approving the plans. As used in this section, "plans" mean any plans for the construction or improvement of a Lot which are required to be approved by the Association before the construction or improvement may occur.

## ARTICLE X
## CONDEMNATION

If at any time or times the Common Areas or any part thereof shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be payable to the Association and shall be used promptly by Association to the extent necessary for restoring or replacing any improvements on the remainder of the Common Areas. Upon completion of such work and payment in full therefor, any proceeds for the taking of any portion of the Common Areas shall be disposed of in such manner as the Association shall reasonably determine provided, however, that in the event of taking in which any Lot is eliminated, the Association shall disburse the portion of the proceeds of the condemnation award allocable to the interest of the Owner of such Lot to such Owner and any first Mortgagee of such Lot, as their interests shall appear, after deducting the proportionate share of said Lot in the cost of debris removal.

## ARTICLE XI
## MANAGEMENT OF RENTAL OF LOTS

11.1 **Management by Association**. The Association shall be the sole and exclusive manager for rental of all Lots. No Owner shall rent his Lot without conforming to this Declaration, the Bylaws, and the Rules and Regulations regarding rental of Lots.

11.2 **Payment of Rent**. All rental payments shall be made in accordance with the Rental Guidelines, as such shall be promulgated by the Board from time to time, and which may require rental payments to be made directly to the Manager or the Association. The Manager shall collect a management fee equal to Forty Dollars ($40.00), which can be adjusted by rule of the Board provided such fee does not exceed ten percent (10%) of the rents received for a pad, or ten percent

(10%) of the pad fee for pads with park models, prorated for the time the pads/Units are rented. When pads or Units are vacant no fee shall be collected. The Rental Guidelines may set a minimum rental rate which shall apply for rental of all Units unless the Owner specifies a higher rate.

11.3 **Leases**. Owners shall not be permitted to lease their Lots unless and until they have occupied their Lot for one (1) or more consecutive years. All leases shall be in writing in a form approved in advance by the Board. The Association may establish such terms to be included in any lease as are consistent with this Declaration, the Bylaws, and the Rules and Regulations. Nothing herein shall restrict the right of an Owner to impose any terms not inconsistent with this Declaration, the Bylaws, or Rules and Regulations. All leases shall require the lessee(s) thereunder to abide by this Declaration, the Bylaws and the Rules and Regulations and to agree not to allow or commit any nuisance, waste, unlawful, or illegal act upon the premises. All leases shall be for a minimum term of thirty-one (31) days. See Article III subparagraph 3.3 (a) for age verification requirements.

11.4 **Creation of Lien and Personal Obligation of Owner**. The management fee shall become a charge and lien against the Owner in the same manner as assessments, as provided in this Declaration.

11.5 **Enforcement of Lease by Association**.

11.5.1 Whether expressly stated in the lease agreement or not, the Association shall be an intended third-party beneficiary to enforce the provisions of this Declaration, the Bylaws, the Rules and Regulations and the lease agreement itself. The Association may initiate eviction proceedings in its own name against a tenant in violation of the lease agreement and/or the Association's governing documents provided that the Owner has been given prior notice of the proceedings. The terms of the lease shall in all respects be subject to the provisions of this Declaration, Articles of Incorporation, Rules and Regulations, and the Bylaws, and any failure by the Lessee to Comply with the terms of such documents shall constitute a default under the lease.

11.5.2 In addition to any other remedies provided for in the lease, the Association shall be entitled to restrain by injunction the violation or attempted or threatened violation of any provision of the lease, Declaration, Articles of Incorporation, Bylaws, or Rules and Regulations and shall be entitled to a decree specifically compelling performance of any such provision. Lessee(s) shall pay all expenses and costs, including a reasonable attorney's fee, which may arise or accrue from enforcing the terms of the lease, this Declaration, Articles of Incorporation, Bylaws, or Rules and Regulations or in pursuing any remedy provided hereunder or by the law of the State of Utah whether such remedy is pursued by filing suit or otherwise.

11.5.3 If there is more than one (1) party lessee, the covenants and agreements of the lease shall be joint and several obligations of each such party.

## ARTICLE XII
## MISCELLANEOUS

12.1 **Notices**. When notice is required under this Declaration, notice shall be given as provided in the Bylaws.

12.2 **Rules and Regulations**. The Board may adopt, amend, cancel, limit, create exceptions to, expand or enforce rules and design criteria of the Association that are not inconsistent with this Declaration or the Association Act. Except in the case of imminent risk of harm to a Common Area, a limited common area, an Owner, a Lot or a dwelling, the Board shall give at least fifteen (15) days advance notice of the date and time the Board will meet to consider adopting, amending, canceling, limiting, creating exceptions to, expanding or changing the procedures for enforcing rules and design criteria. The Board may provide in the notice a copy of the particulars of the rule or design criteria under consideration. A rule or design criteria adopted by the Board is only disapproved if Member action to disapprove the rule or design criteria is taken in accordance with the limitations under Section 217 of the Association Act.

12.3 **Amendment**. Any amendment to this Declaration shall require: The affirmative vote of at least two-thirds (2/3) of Association membership after a quorum is established.

If a meeting is called for the purpose of amending the Declaration, written notice setting forth the purpose of the meeting and the substance of the amendment proposed shall be sent to all Members at least ten (10) but not more than forty-five (45) days prior to the meeting date.

The quorum required for any such meeting shall be as follows: At the first meeting called, the presence of Members, either in person, by ballot, or by proxy, entitled to cast forty percent (40%) of all the votes of the membership shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirement set forth in the foregoing portion of this Article 3) at which meeting, a quorum shall be twenty-five percent (25%) of the Membership.

No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting. Any amendment authorized pursuant to this Article shall be accomplished through the recordation of an instrument executed by the Association. In such instrument an officer or director of the Association shall certify that the vote required by this Article for amendment has occurred.

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

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

12.6 **Reserved**.

12.7 **Effective Date**. This Declaration and any amendment thereof shall take effect upon its being filed for record in the office of the County Recorder of Washington County, Utah.

12.8 **Rules Against Perpetuities**. The rule against perpetuities and the rule against unreasonable restraints on alienation of real estate may not defeat or otherwise void a provision of this Declaration, the Articles, Bylaws, Plat, Rules and Regulations or other governing document of the Association. If for any reason this Declaration does not comply with the Association Act, such noncompliance does not render a Lot or Common Area unmarketable or otherwise affect the title if the failure is insubstantial.

12.9 **Fines**. The Association, through its Board, shall have the power to levy fines for violations of the Association's governing documents and fines may only be levied for violations of the governing documents. In addition to the levy of fines, the Board may also elect to pursue other enforcement remedies and/or damages permitted under the governing documents. Furthermore, pursuant to Utah Code 57-8a-218(2)(b), a tenant shall be jointly and severally liable to the Association with the Owner leasing to such tenant for any violation of the governing documents by the tenant. The Board shall adopt a rule for the procedure to enforce the governing documents and levy fines, including a schedule of fines.

12.10 **Eminent Domain**. If part of the Common Area is taken by eminent domain: (a) the entity taking part of the Common Area shall pay to the Association the portion of the compensation awarded for the taking that is attributable to the Common Area; and (b) the Association shall equally divide any portion of the award attributable to the taking of a limited common area among the Owners of the Lots to which the limited common area was allocated at the time of the taking. An Association shall also submit for recording to each county recorder the court judgment or order in an eminent domain action that results in the taking of some or all of the Common Area.

12.11 **Reserve Funds**. The Board shall cause a reserve analysis to be conducted no less frequently than every six (6) years and shall review and, if necessary, update a previously prepared reserve analysis every three (3) years. The Board may conduct the reserve analysis by itself or may engage a reliable person or organization to conduct the reserve analysis. The Board shall annually provide Owners a summary of the most recent reserve analysis or update and provide a complete copy of the reserve analysis or update to an Owner upon request. In formulating the budget each year, the Board shall include a reserve line item in an amount required by the governing documents, or, if the governing documents to not provide for an amount, the Board shall include an amount it determines, based on the reserve analysis, to be prudent. Unless a majority of the Owners vote to approve the use of reserve fund money for that purpose, the Board may not use money in a reserve fund: (i) for daily maintenance expenses; or (ii) for any purpose other than the purpose for which the reserve fund was established. A Board shall maintain a reserve fund separate from other Association funds.

12.12 **Notice of Violation/Recording**. If an Owner violates this Declaration, the Design Guidelines, or the Rules and Regulations after (i) written notice of the violation, (ii) a reasonable opportunity to be heard, and (iii) a reasonable opportunity to cure the violation, the Association may, in addition to and not in lieu of other remedies, record against the Owner's Lot

a "Notice of Covenant/Rule Violation" in the records of the Washington County Recorder. The Notice of Covenant/Rule Violation shall include the following: (i) name of the Owner, (ii) address of the Association, or its Manager, (iii) the covenant or rule violated, and (iv) any other information deemed relevant by the Board. The Notice of Covenant/Rule Violation runs with the land and shall be released when the Board determines that the violation has been cured.

IN WITNESS WHEREOF, the undersigned President of the Association hereby certifies, on this 15 day of July, 2020, that this Second Amended and Restated Declaration was approved by the affirmative vote of at least two-thirds (2/3) of the membership after a quorum was established.

**THE PALMS OF ST. GEORGE HOMEOWNERS ASSOCIATION**, a Utah nonprofit Corporation

By: Blake L. Frazier
Its: President

STATE OF UTAH, )
:ss.
County of Washington. )

On this 1 day of November, 2020, personally appeared before me Blake L. Frazier, whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who, being duly sworn (or affirmed), did say that he/she is the President of The Palms of St. George Homeowners Association, a Utah non-profit corporation, and that the foregoing document was signed by him/her on behalf of the Association by authority of its Bylaws, Declaration, or resolution of the Board, and he/she acknowledged before me that he/she executed the document on behalf of the Association and for its stated purpose.

Notary Public

ADRIANA MUNOZ
Notary Public - State of Utah
Comm. No. 709584
My Commission Expires on
Dec 14, 2023

Exhibit A
(Legal Description)

This Second Amended and Restated Declaration of Covenants, Conditions, and Restrictions of The Palms of St. George Recreational Vehicle Park affects the following real property, all located in Washington County, State of Utah:

All of Lots 1 through 37, Lot 38-A, Lots 39 through 58, Lot 59-A, Lots 60 through 84, and Lot 63-B, together with all Common Area, Palms of St. George, according to the Official Plat thereof, on file in the Office of the Recorder of Washington County, State of Utah.

PARCEL: SG-PM-1 through SG-PM-37
PARCEL: SG-PM-38-A
PARCEL: SG-PM-39 through SG-PM-58
PARCEL: SG-PM-59-A
PARCEL: SG-PM-60 through SG-PM-84
PARCEL: SG-PM-63-B

All of Lots 85 through 106, together with all Common Area, Palms of St. George 2, according to the Official Plat thereof, on file in the Office of the Recorder of Washington County, State of Utah.

PARCEL: SG-PM-2-85 through SG-PM-2-106

Exhibit B
(Notice of Installation of Antenna
on Individually Owned or Exclusive-Use Area)

Owner(s): _____

_____

Address: _____

_____

Phone: _____

Type of Antenna: _____

Direct broadcast satellite ☐ 18-inch ☐ Other ☐ Size _____
Television broadcast ☐
Multi-point distribution service ☐ Size _____
Internet ☐ Size _____

Company Performing Installation _____

Identify Installation Location: Patio ☐ Rear Deck ☐ Balcony ☐
Other ☐ Indicate "other:" _____

Date Installation Performed: _____

Please indicate the method of installation.

Will the installation be in compliance with all Association guidelines (which include manufacturers' guidelines and applicable building codes)? Yes ☐ No ☐

Please provide three days and times for which you are available to meet with us to discuss antenna installation. At this meeting, you will need to provide information supporting the necessity for non-routine installation.

Is a mast necessary for reception? Yes ☐ No ☐

If yes, is the mast required to extend more than 12 feet above the roofline or extend to a height greater than the distance from the installation to the lot line? Yes ☐ No ☐

If yes, you must complete the form for mast installation.

I will comply with all of the Association's rules for installing, maintaining, and using antennas. I assume liability for any damage to Association and other owners' property that occurs due to antenna installation, maintenance, and use.

Signed: _____ Date: _____