

**AMENDED AND RESTATED DECLARATION
OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
PEREGRINE POINTE**

**A Planned Development
in
Washington County**

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EXHIBIT A - LEGAL DESCRIPTION

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This AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR PEREGRINE POINTE ("Declaration") is adopted by the Peregrine Pointe Owners Association, a Utah nonprofit corporation ("Association") and is effective when recorded in the office of the Washington County Recorder.

RECITALS

- A. The *Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Peregrine Pointe Subdivision* was recorded in the office of the Washington County Recorder on April 7, 2006 as Entry Number 20060013216 (the "Original Declaration").
- B. The *First Amendment to the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Peregrine Pointe Subdivision* was recorded in the office of the Washington County Recorder on December 31, 2013 as Entry Number 20130047644.
- C. The *Second Amendment to the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Peregrine Pointe Subdivision* was recorded in the office of the Washington County Recorder on June 2, 2015 as Entry Number 20150018709.
- D. The *Third Amendment to the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Peregrine Pointe Subdivision* was recorded in the office of the Washington County Recorder on June 2, 2015 as Entry Number 20150018709.
- E. The *Fourth Amendment to the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Peregrine Pointe Subdivision* was recorded in the office of the Washington County Recorder on January 30, 2017 as Entry Number 20170004267.
- F. The *Fifth Amendment to the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Peregrine Pointe Subdivision* was recorded in the office of the Washington County Recorder on September 12, 2017 as Entry Number 20170037033.
- G. The *Bylaws of Peregrine Pointe Owners Association* were recorded in the office of the Washington County Recorder on May 9, 2022 as Entry Number 20220025417 ("2022 Bylaws").
- H. This *Amended and Restated Declaration of Covenants, Conditions and Restrictions for Peregrine Pointe* is adopted to: (1) clarify and define the rights of the Association and the Owners, in and to the Project, (2) conform to changes to the Utah Community Association Act and other Utah law, (3) provide for a general plan for managing the Project, and (4) in furtherance of the effort to provide a quality living environment and protect and maintain the value of the Project.
- I. This Declaration, which (along with and subject to any future amendments) shall be the sole declaration for the Project and shall completely replace and supersede in all respects the Original Declaration and all prior declarations and amendments thereto, (whether recorded or not, properly adopted or not, or referenced in this Declaration or not), prior to the date of the recording of this Declaration.
- J. This Declaration affects the real property situated in Washington County, Utah, described with particularity on Exhibit A, which exhibit is attached hereto and incorporated in this Declaration by reference (the "Project") and shall be binding on all parties having or acquiring any right, title, or interest to the Project or any part thereof.

- K. The Bylaws of the Association attached hereto as Exhibit B supersede and replace all previous bylaws of the Association and any amendments thereto.
- L. Pursuant to Article XIV, Section 14.5 of the Original Declaration and Article IX, Section 9.1 of the 2022 Bylaws, the undersigned hereby certify that this Declaration and Bylaws were approved by Owners holding at least two-thirds (2/3) of all Class A Membership votes and by affirmative vote of the majority of the Board of Directors.

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

ARTICLE I. DEFINITIONS

The capitalized terms used in this Declaration shall have the meanings set forth in this Article. Unless the context clearly requires otherwise, the masculine, feminine and neuter genders and the singular and the plural shall be deemed to include one another, as appropriate.

- 1.1. **Act** shall mean the Utah Community Association Act, codified at Utah Code § 57-8a-101, *et seq.*, as the same may be amended from time to time.
- 1.2. **Architectural Review Committee** or **ARC** shall mean and refer to the Board or, if so appointed by the Board, a committee having architectural control powers as further described in Article X.
- 1.3. **Articles** shall mean and refer to the Articles of Incorporation for the Association, as amended and restated from time to time.
- 1.4. **Assessments** shall mean any monetary charge or fee imposed or levied by the Association against Owners as provided in this Declaration or other Governing Documents.
- 1.5. **Association** shall mean the Peregrine Pointe Owners Association, a Utah non-profit corporation. Failure of the Association to maintain its corporate status will not result in the dissolution of the Association.
- 1.6. **Benefitted Area** shall mean a geographical area in the Project in which the Lots within that area receive special benefits or services from the Association that the Association does not provide to all Lots within the Project.
- 1.7. **Board** or **Board of Directors** shall mean and refer to the Board of Directors of the Association as duly elected in accordance with the terms and conditions of the Articles of Incorporation and Bylaws. The Board is the governing body of the Association.
- 1.8. **Board Member** shall mean a duly qualified and elected or appointed individual member of the Board of Directors of the Association.
- 1.9. **Bylaws** shall mean the Bylaws of the Association that are attached hereto as Exhibit B, as the same may be amended from time to time.
- 1.10. **Common Areas** shall mean all land, and the improvements situated thereon, within the Project that the Association now or hereafter owns in fee for the benefit of Owners for as long as the Association is the owner of the fee, which may include without obligation or limitation: private roads, common sidewalks, Association signs or monuments, open space,

landscaped areas, utility facilities, and any real property or improvements within the Project that the Association has the obligation to maintain, repair, or replace for the common benefit of the Owners, as the Board shall determine in its sole and exclusive discretion, including, without limitation, all utility and service lines and similar improvements, whether public or private-company owned, intended to serve more than one Residence, whether located on a Lot or lying inside of the exterior boundaries of the Residence.

1.11. **Common Expenses** shall mean (a) all sums lawfully assessed against Owners; (b) expenses of administration, maintenance, management, operation, repair and replacement of the Common Areas which are maintained by the Association; (c) expenses allocated by the Association among the Owners; (d) expenses agreed upon as common expenses by the Association or its Board of Directors; (e) expenses declared common expenses by the Declaration; and (f) other miscellaneous charges incurred by the Association or the Board pursuant to the Act, this Declaration, the Bylaws, or the Rules.

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

1.13. **Design Guidelines** shall mean the requirements governing the location, color, materials, and architectural design of Residences, structures, and improvements within the Project as adopted by the Board as provided herein.

1.14. **Governing Documents** shall mean collectively, the Declaration, Articles of Incorporation, Bylaws, Plat, and any Rules adopted by the Board.

1.15. **Home Based Business** means a commercial or other nonresidential use conducted within a Residence that is incidental and secondary to the use of the Residence for single family residential purposes as provided in chapter 42 of the Code of Ordinances Hurricane City, Utah.

1.16. **Lot** shall mean each of the individual Lots within the Project, as shown on the Plat, with the exception of the Common Areas. A Lot shall include any Residence or other improvement constructed thereon. Each Lot consists generally of all structures on or within the boundary of the Lot.

1.17. **Manager** shall mean a person, persons, or entity, if any, selected by the Board to manage the affairs of the Association and Project.

1.18. **Member** shall mean and refer to a Lot Owner.

1.19. **Mortgage** shall mean any mortgage, deed of trust, or trust deed or the act of encumbering any Lot or any property by a mortgage, trust deed, or deed of trust.

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

1.21. **Occupant** shall mean any Person, living, dwelling, visiting, or staying in a Residence. This includes, but is not limited to, all lessees, tenants, and the family members, agents, and representatives living, dwelling, visiting, or staying in a Residence. Occupants shall be bound by the Restrictions in this Declaration and shall be liable for any fines that are assessed for violations of the Governing Documents.

1.22. **Owner** shall mean the record owner, whether one or more Persons of fee simple title to any Lot which is a part of the Project, including contract sellers, but excluding those

having an interest merely as security for the performance of an obligation.

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

1.24. **Plat** shall mean all of the official subdivision plats of the Peregrine Pointe Subdivisions filed and recorded in the official records of the Washington County Recorder. The term Plat shall specifically include any additional, amended, or supplemental plat(s) that may be recorded in the future. The Plat is hereby incorporated into and made an integral part of this Declaration, and all requirements and specifications set forth on the Plat and required by the Act are deemed included in this Declaration. If any conflict exists between the Plat and this Declaration, the Declaration shall control.

1.25. **Project** shall include the real property described in Exhibit A, together with the buildings, improvements, and permanent fixtures located thereon, and all easements and rights appurtenant thereto and shall at any point in time mean and refer to the entire Peregrine Pointe Subdivision. The Project shall also include any additional land annexed into the Association and made subject to this Declaration.

1.26. **Residence** shall mean a structure intended for use and occupancy as a single-family residence, together with the garage and all improvements located on or with respect to the Lot concerned which are used in connection with such residential structure. The Residence shall include, without limitation, the roofs and all exterior surfaces, exterior trim, gutters, downspouts, structural members, and foundations. The Residence shall also include any mechanical equipment and appurtenances located within any one Residence or located without said Residence but designed to serve only that Residence, such as appliances, air conditioning compressors, sprinkler systems, antennas, fixtures and the like. All pipes, wires, conduits, or other utility lines or installations constituting a part of the Residence or serving only the Residence shall be deemed to be a part of the Residence.

1.27. **Recreational Vehicles** shall mean a vehicular unit designed as temporary living quarters for travel, recreation, and vacation use, which is either self-propelled or is mounted on or pulled by another vehicle, including, but not limited to, a camping trailer, travel trailer, fifth wheel trailer, truck camper, or motor home. A recreational vehicle is self-contained, not requiring outside connection to water, sewer, or power, though connection may be possible. Examples of Recreational Vehicles are as follows:

Travel trailer means a vehicular unit without motive power which: (i) In the travelling mode, is eight body feet or less in width and 40 body feet or less in length, or when erected on site, is not more than 320 square feet; and (ii) Is designed as temporary living quarters for travel, recreation, and vacation use.

Motor home means a motor vehicle built on a truck or bus chassis and designed to serve as self-contained living quarters for recreational travel and use.

Off highway vehicle means:

1) All-terrain type I vehicle means any motor vehicle 52 inches or less in width, having an unladen dry weight of 1,500 pounds or less, traveling on three or more low pressure tires, having a seat designed to be straddled by the operator, and designed for or capable of travel over unimproved terrain;

2) All-terrain type II vehicle means any motor vehicle 80 inches or less in width, traveling on four or more low pressure tires, having a steering wheel, non-straddle seating,

a rollover protection system, and designed for or capable of travel over unimproved terrain and is: (a) an electric-powered vehicle; or (b) a vehicle powered by an internal combustion engine and has an unladen dry weight of 3,500 lbs. or less. Does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed for recreational use, or farm tractors as defined under Utah Code § 41- 1a-102;

3) All-terrain type III vehicle means any other all-terrain motor vehicle, not defined herein as an all-terrain type I vehicle, an all-terrain type II vehicle, a Motorcycle, or Snowmobile, designed for or capable of travel over unimproved terrain. Does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed for recreational use, or farm tractors as defined under Utah Code § 41-1a-102.

A Golf cart means a device that:

- 4) is designed for transportation by players on a golf course;
- 5) has not less than three wheels in contact with the ground;
- 6) has an unladen weight of less than 1,800 pounds;
- 7) is designed to operate at low speeds; and
- 8) is designed to carry not more than six persons including the driver. Does not include: (a) a low-speed vehicle or an off- highway vehicle; (b) a motorized wheelchair; (c) an electric personal assistive mobility device; (d) an electric assisted bicycle or tricycle; (e) a motor assisted scooter; (f) a personal delivery device, as defined in Utah Code § 41-6a-1119; or (g) a mobile carrier, as defined in Utah Code

§ 41-6a-1120.

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

1.29. **Rules** shall mean and refer to the rules, resolutions, regulations, policies, architectural guidelines, etc. adopted by the Board.

1.30. **Vehicle** shall mean a properly licensed automobile, truck, trailer, boat or other motorized device in which a person or thing is or can be transported from one place to another.

ARTICLE II. PROJECT DESCRIPTION

2.1. **Submission.** The real property described with particularity on Exhibit A attached hereto and incorporated herein by this reference is hereby submitted to the Act. The Project and all of the Lots shall be held, conveyed, transferred, sold, mortgaged, encumbered, occupied, used, and improved subject to the Restrictions, which Restrictions shall constitute covenants and conditions running with the land and shall be binding upon and inure to the benefit of the Association, and each Owner, including their respective heirs, successors, and assigns.

2.2. **Name.** The Project, as submitted to the provisions of this Declaration, shall be known as Peregrine Pointe. The Project is not a cooperative.

2.3. **Description of Improvements.** The major improvements contained in the Project includes single-family Residences that are constructed on detached home Lots. There are also landscaped park strip areas, along with other improvements detailed on the Plats. All improvements have been and shall continue to be constructed in a style and of materials architecturally compatible with the other improvements in the Project. The Lots, their locations, and approximate dimensions are indicated on the respective Plats.

2.4. **Benefitted Areas.** The Board may create and place Lots into one or more Benefitted Areas in which the Lots receive special benefits or services from the Association that it does not provide to all Lots within the Project. The creation of a Benefitted Area, the designation of Lots subject to a Benefitted Area, and the scope of services to be performed for a Benefitted Area shall be set forth in a Board resolution, or similar Association document. A Lot may be assigned to more than one Benefitted Area, depending on the number and types of special benefits or services it receives. A Benefitted Area may include Lots that are not contiguous.

ARTICLE III. MEMBERSHIP AND VOTING RIGHTS

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

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

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

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

ARTICLE IV. EASEMENTS AND RIGHTS IN COMMON AREAS

4.1. **Easement of Enjoyment.** Each Member shall have a right and easement of use and enjoyment in and to the Common Areas. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom. An Owner may delegate their easement and right of use and enjoyment described herein to any permitted Occupant(s) who reside in such Owner's Residence. The rights and privileges of such delegatee or assignee shall be subject to suspension in the same manner and to the same degree as those of an Owner. This right of easement shall not extend to the privately owned Lots of other Owners.

4.2. **Title to Common Areas.** The Association may hold title or perpetual easements to the various Common Areas within the Project identified in this Declaration.

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

- 1) The right of any governmental or quasi-governmental body having jurisdiction over the Project to access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Project for purposes of providing police and fire protection, transporting school children, and providing any other governmental or municipal service;
- 2) The right of the Association to suspend voting rights and right to use the Common Areas by an Owner for any period during which any Assessments against their Lot remain unpaid, and for a period not to exceed sixty (60) days for any infraction of the Rules or other Governing Document;
- 3) The right of the Association to limit the number of guests of Owners using the Common Areas;
- 4) The right of the Association to enter into agreements or leases which provide for use of the Common Areas and facilities by a similar association in consideration for use of the common areas and facilities of the other association, or for cash consideration;
- 5) The right of the Association to dedicate or transfer all or any part of the Common Areas, and any sewer, water and storm drain lines to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association. Any such dedication or transfer must, however, be assented to by sixty-seven percent (67%) of the Owners.

4.4. **Association Easement.** The Association, its Board, employees, agents, and contractors shall have non-exclusive easements to use the Common Areas to perform their duties as assigned by the Governing Documents.

4.5. **Easement for Utility Services.** In addition to the easements identified on the Plat, the Project is subject to a blanket easement over, across, above, and under it for ingress, egress, installation, maintenance, repair, and replacement of utilities. Utilities include, without limitation, water, sewer, gas, telephone, electricity, data, video, and cable. If any utility company or municipal authority requests that a more specific easement be granted in its favor in substitution for the easement hereby established with respect to the Common Areas, the Board shall have the power and authority, without the need for any consent by the Owners to grant the more specific easement on such terms and conditions as the Board deems appropriate. It is intended that this utility easement be construed broadly.

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

4.7. **Right to Enter.** The Association, acting through the Board or its duly authorized agent, shall have the right at all times and upon reasonable notice of at least 48 hours, and the homeowner shall provide a safe environment in which to enter upon any Lot on the areas located outside the exterior boundaries of a Residence, without trespass, and regardless of whether or not the Lot Owner or Occupant thereof is present at the time, to abate any infractions, to fulfill its responsibilities, to exercise its rights, to make repairs, and to correct any violation of any of the Governing Documents. The notice set forth in this Section shall not be necessary in case of an emergency threatening other Residences, Occupants, or other parts of the Project. Nothing in this Section shall be construed to authorize the entry of the Association into the interior of a Residence without the consent of the Lot Owner unless there is an emergency threatening another Residence, the Occupants of another Residence, or the structural integrity of a townhome building. Owners shall maintain up-to-date emergency contact information records with the Association, including any local representative an Owner may have for notice purposes. Owners shall be responsible for any costs incurred by the Association as a result of entering a Lot or Residence under this Section and shall defend, indemnify, and hold harmless the Association for all damages related to such entry, except for such damages resulting from intentional or willful misconduct.

4.8. **Association Not Guarantor of Geotechnical Risk.** Soils in Utah, including those in the Project, under Lots, and under Common Area, may shift, expand, erode, or collapse, resulting in movement of all or portions of a Residence or damage to Lots, Common Areas, improvements, or persons. Soils in the Project may be adversely affected by moisture contacting those soils from, by way of example and not of limitation, rain, surface waters or runoff, landscape sprinklers, downspouts, and changes to grading. The Association has not performed any soils investigation or testing, however, the nature of the slopes and soils in the Project were open and obvious to all Owners prior to purchasing a Lot in the Project and to all residents prior to occupying any Residence within the Project. By purchasing a Lot in the Project, each Owner was/is on notice of potential soils issues and is in the best position to obtain insurance for their Lot, person, family, guests, tenants, and personal property against risks of damage or loss resulting from soils or geotechnical damages. Thus, the Association cannot act as a guarantor against damages or losses arising out of geotechnical or soils risks and occurrences. The Association shall not be liable to any Owner or resident within the boundaries of the Project for any damages resulting from or in any way related to earth movement, instability, erosion, expansion, contraction, earth or rockslides, flooding, or any other geotechnical phenomenon, whether caused by natural or man-made factors. Each Owner and Occupant assumes all risk associated with the use and enjoyment of their Lot, a Residence, and the Project, and the Association shall not be responsible for any loss, injury, or damage arising from such use or enjoyment. The foregoing is intended for the benefit of the Association only and is not intended to preclude any private cause of action between Owners, should liability exist between Owners.

ARTICLE V. BUDGET AND ASSESSMENTS

5.1. **Annual Budget.** The Board shall prepare and adopt an annual budget for the Association that estimates the Common Expenses to be incurred in the upcoming calendar year. The annual budget shall provide, without limitation, for the maintenance of the Common Areas and for the administration, management, and operation of the Association. The Board may revise the budget from time to time as the Board deems appropriate. If the Board fails to adopt an annual budget, the last adopted budget shall continue in effect until a new annual budget is adopted. The budget shall be made available to requesting Owners within thirty (30) days after adoption.

5.2. **Benefitted Area Expenses.** If one or more Benefitted Areas are designated, then the budget shall track and estimate the expenses associated with each Benefitted Area separately from Common Expenses in order to allocate these expenses as set forth in Section 5.6. "Benefitted Area Expenses" shall include the actual and estimated expenses incurred or to be incurred by the Association for the benefit of the Lots within each Benefitted Area which may include landscaping, construction, insurance, maintenance, and repair and replacement of Common Area facilities appurtenant to the Benefitted Area, structures, and adjacent areas. If the Benefitted Area responsibilities require the maintenance or repair of long-term Common Area facilities, then the Benefitted Area Expenses shall include contributions to a reserve fund for the repair and replacement of such facilities. Benefitted Area reserves shall be accounted for and kept separate from the Association's other reserve funds.

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

5.4. **Purpose of Assessments.** Assessments levied by the Association shall be used for the purpose of promoting the health, safety, and welfare of residents of the Project, including but not limited to the appearance and aesthetics of the Project. The use made by the Association of funds obtained from Assessments may include, but is not limited to: payment of the cost of taxes and insurance on the Common Areas; maintenance, repair, and improvement of the Common Areas; establishing and funding a reserve to cover major repair or replacement of improvements within the Common Areas; shared utility and bulk service fees; and any expenses necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under the Governing Documents.

5.5. **Annual Assessments.** Annual Assessments shall be made on a calendar year basis based on each Owner's equally allocated portion of the upcoming annual budget. The Board shall give written notice of each Annual Assessment not less than fifteen (15) days prior to the beginning of the next calendar year. Each Annual Assessment shall be due and payable in monthly or quarterly installments on dates established by the Board. At least fifteen (15) days prior to the effective date of any change in the amount of the Annual Assessment, the Association shall give each Owner written notice of the new amount.

5.6. **Benefitted Area Assessment.** Benefitted Area Assessments shall be paid by all Lots within a designated Benefitted Area that are subject to assessment in addition to the Annual Assessment. The amount of the Benefitted Area Assessment shall be determined by equally allocating the budgeted Benefitted Area Expenses to all Lots within the Benefitted Area. At no

time shall a Benefitted Area Assessment be charged or assessed to Lots outside of the designated Benefitted Area. The amounts the Association collects as Benefitted Area Assessments shall be held in trust for and expended solely for the benefit of the Lots from which they were collected.

5.7. **Special Assessments.** The Board may levy a Special Assessment payable over such a period as the Board may determine for the purpose of defraying, in whole or in part any expense or expenses not reasonably capable of being fully paid with funds generated by Annual Assessments; the cost of any construction, reconstruction, or unexpected repair or replacement of the Common Areas; or for any other expense incurred or to be incurred as provided in this Declaration. Special Assessments over one thousand five-hundred dollars (\$1,500) in a calendar year must be approved and assented to by a majority of the Members present in person or by proxy at a meeting duly called for such purpose. Notice in writing of the amount of any Special Assessments and the time for their payment shall be given as soon as is reasonably possible to the Owners. Payment shall be due on the dates and in the manner determined by the Board and provided in the notice.

5.8. **Individual Assessments.** The Board may levy Individual Assessments against a Lot and its Owner for: (a) administrative costs and expenses incurred by the Board in enforcing the Governing Documents against the Owner or its Occupants; (b) costs associated with the maintenance, repair, or replacement of Common Areas caused by the neglect or actions of an Owner or its Occupants; (c) any other charge, fine, fee, expense, or cost designated as an Individual Assessment in the Governing Documents or by the Board, including, without limitation, action taken to bring a Residence and its Owner into compliance with the Governing Documents; (d) nonpayment of a Reinvestment Fee; (e) costs of providing services to the Lot upon request of the Owner; and (f) attorney fees, court or collection costs, fines, and other charges relating to any of the foregoing, regardless of whether a lawsuit is filed. In addition, Individual Assessments may be levied against a Lot and its Owner specifically benefited by any improvements to adjacent roads, sidewalks, planting areas or other portions of the Common Areas made on the written request of the Owner of the Lot to be charged. The aggregate amount of any such Individual Assessments shall be determined by the cost of such improvements, repairs, maintenance, or enforcement action, including all overhead and administrative costs and attorney fees, and shall be allocated among the affected Lots according to the special benefit or cause of damage or maintenance or repair work or enforcement action, as the case may be. Individual Assessments may be levied in advance of the performance of the work. If a special benefit arises from any improvement which is part of the general maintenance obligations of the Association, it shall not give rise to an Individual Assessment against the Lot(s) benefited, unless such work was necessitated by the Owner's or its Occupants' negligence.

5.9. **Allocation of Assessments.** Annual and Special Assessments shall be fixed at an equal uniform rate for all Lots. Individual Assessments shall be allocated separately to each Lot based on the costs incurred by the Association.

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

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

5.12. **Certificate Regarding Payment.** Upon the request of an Owner, prospective purchaser, mortgagee, or encumbrancer of a Lot, the Association shall issue a certificate stating whether or not all Assessments respecting such Lot are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who in good faith rely thereon. The Association may charge the requesting Owner, prospective purchaser, mortgagee, or encumbrancer of a Lot a reasonable fee as permitted in the Act.

5.13. **Personal Obligation and Lien.** All Assessments, together with any interest, late fees, collection costs, and attorney fees shall constitute and remain: (a) a charge and continuing lien upon the Lot with respect to which such Assessment is made pursuant to Utah Code § 57-8a-301; and (b) the personal obligation of the person who is the Owner of such Lot at the time the Assessment falls due. No Owner may exempt themselves or their Lot from liability for payment of Assessments by waiver of their rights concerning the Common Areas or by abandonment of such Owner's Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all such unpaid Assessments, late payment fees, interest, and costs of collection, including reasonable attorneys' fees, which shall be a charge on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore.

5.14. **Billing and Collection Procedures.** The Board shall have the right to adopt Rules or a Board resolution setting forth procedures for the billing and collection of Assessments, provided that such procedures are not inconsistent with the provisions hereof. The failure of the Association to send an invoice to an Owner shall not relieve any Owner of liability for any Assessment or charge under this Declaration, but the Assessment lien therefore shall not be foreclosed or otherwise enforced until the Owner has been given not less than thirty (30) days written notice prior to such foreclosure or enforcement, at the address of the Owner on the records of the Association, of the Assessment or installment and of the amount owing. Such notice may be given at any time prior to or after delinquency of such payment. A copy of such notice may also be provided to the Occupant(s) of the Residence if the Owner does not reside in the Project. Unless otherwise provided for in the Rules or Board resolution, all payments for Assessments shall be applied to the earliest (or oldest) charges first. Owners shall have no right to direct the application of their payments on Assessments or to require application of payments in any specific order, to specific charges, or in specific amounts. The Association may charge collection fees to Owners that are charged by the Manager.

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

5.16. **Collection Charges.** If the Association does not otherwise adopt or establish billing and collection procedures in the Rules or Board resolution, the following shall apply. Delinquent accounts shall be charged a twenty-five dollar (\$25.00) late fee each month until the

Owner's account (including all collection charges, costs, and attorneys' fees) is paid in full. Interest shall accrue on all unpaid balances at the rate of eighteen percent (18%) per annum. Collection charges, interest, and/or late fees shall constitute part of the Assessment lien provided above until paid. The Association may also assess to the Owner a collection charge, late fee, and any other reasonable fee charged by a Manager related to collections.

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

- 1) The Association may suspend such Owner's voting rights.
- 2) The Association shall have a lien against each Lot for any Assessment levied against the Lot and any fines or other charges imposed under the Governing Documents against the Owner of the Lot from the date on which the Assessment, fine, or charge is due. This lien shall arise and be perfected as of the date of the recording of this Declaration. At any time, any Assessment or installment thereof is delinquent, the Association, by and through its Board or any Manager, may file a notice of lien in the deed records of Washington County against the Lot with respect to which the delinquency pertains. Once filed, such lien shall accumulate all future Assessments or installments, interest, late fees, penalties, fines, attorney fees, and other appropriate costs properly chargeable to an Owner by the Association, until such amounts are fully paid. Said lien may be foreclosed at any time as allowed by law. The lien of the Association shall be superior to all other liens and encumbrances except: a lien or encumbrance recorded before the original Declaration was recorded; a first or second security interest on the Lot secured by a mortgage or trust deed that is recorded before the Association's notice of lien; or a lien for real estate taxes or other governmental assessments against the Lot. The Association through its duly authorized agents, may bid on the Lot at any foreclosure sale, and may acquire and hold, lease, mortgage, and convey the Lot.
- 3) The Association may bring an action to recover a money judgment for unpaid Assessments, fines, and charges under this Declaration against an Owner without foreclosing or waiving the lien described above. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.
- 4) If the delinquent Owner is leasing their Lot or any portion thereof, the Board may, at its option, so long as such default shall continue, demand and receive from any tenant of the Owner the rent due or becoming due and the payment of such rent to the Board shall discharge such tenant for rent due, and shall discharge the Owner for such Assessments to the extent of the amount so paid.
- 5) The Association may terminate utilities paid out of the Common Expense and the right to use the Common Areas.
- 6) Payments shall be credited first to collection costs (including attorney's fees), then to interest and late fees, then to the oldest assessments, then the most recent assessments.
- 7) The Association shall have any other remedy available to it whether provided in the Governing Documents, the Act, or other law or in equity.

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

and recording a substitution of trustee form.

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

5.20. **Reinvestment Fee Covenant.** A Reinvestment Fee Covenant is hereby established as permitted under Utah Code § 57-1-46. The Board shall have the right (but shall not be required) to establish a Reinvestment Fee assessment amount in accordance with this Section. If established, the following terms and conditions shall govern Reinvestment Fees:

- 1) Upon the occurrence of any sale, transfer, or conveyance of any Lot as reflected in the office of the County recorder, regardless of whether it is pursuant to the sale of the Lot or not (as applicable, a "Transfer"), the party receiving title to the Lot (the "Transferee") shall pay to the Association a Reinvestment Fee in an amount to be established by the Board in the Rules or Board resolution, provided that in no event shall the Reinvestment Fee exceed the maximum rate permitted by law.
- 2) The Association shall not levy or collect a Reinvestment Fee for any Transfer exempted by Utah Code § 57-1-46.
- 3) The Reinvestment Fee shall be due and payable by the Transferee to the Association at the time of the Transfer giving rise to the payment of such Reinvestment Fee and shall be treated as an Individual Assessment for collection purposes.

5.21. **Account Payoff Fees.** The Association may charge a fee for providing Association payoff information needed in connection with financing, refinancing, or closing of the sale of a Lot as provided for in Utah Code § 57-8a-106. The amount of such fee shall be fifty dollars (\$50.00) or as otherwise established in the Rules. Additional paperwork required in a private sale between an Owner and purchaser may be obtained from the Association but may incur additional fees.

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

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

ARTICLE VI. DUTIES AND POWERS OF THE ASSOCIATION

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

6.2. **Legal Organization.** The Association is intended to be incorporated as a nonprofit corporation. In the event the nonprofit corporate status expires or is invalidated in any manner, it shall automatically be succeeded by an unincorporated association of the same name vested with all property, powers and obligations of the nonprofit corporation and the Board of Directors, in its sole discretion, may renew and/or reincorporate the Association. Any such expiration or invalidation shall not relieve any Owner from paying Assessments and abiding by all Restrictions contained in this Declaration.

6.3. **General Powers and Obligations.** The Association shall have, exercise and perform all of the following powers, duties, and obligations:

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

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

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

- 1) **Maintenance and Services.** The Association shall provide maintenance and services for the Project as provided in Article VII and other provisions of this Declaration.
- 2) **Insurance.** The Association shall obtain and maintain in force policies of insurance as provided in this Declaration or the Act. The Association shall have no obligation to obtain or maintain any insurance covering the personal and real property of any Owner(s), and each Owner shall be responsible for obtaining and maintaining such personal and real

property insurance.

3) **Rulemaking.** The Association, through its Board of Directors, shall make, establish, promulgate, amend, and repeal Rules governing the conduct of persons and the operation and use of the Project as it may deem necessary or appropriate in order to assure a clean, aesthetically pleasing, peaceful, and orderly use and enjoyment of the Project. Pursuant to Utah Code § 57-8a-218(20), the requirements of Utah Code §§ 57-8a-218(1), (2), (6), and (8) through (14), except subsection (1)(b)(ii), are hereby modified to not apply to the Association.

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

5) **Enforcement.** The Association shall perform such acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce the provisions of the Governing Documents of the Association. The Association may adopt a schedule of fines and assess fines to Owners, Occupants, or their guests for violations of the Governing Documents in accordance with the provisions of the Governing Documents and the Act.

6) **Title to Common Areas.** The Association may hold title to Common Areas conveyed to it and pay all real property taxes and assessments levied upon any portion of the Common Areas, unless paid by the Owners, provided that the Association shall have the right to contest or compromise any such taxes or assessments. Upon approval of sixty-seven percent (67%) or more of the total voting interests, the Board shall have the authority to transfer title to Common Area real property owned by the Association to governmental entities for public use, or to individual third parties for private use.

7) **Employment of Agents, Advisers, and Contractors.** The Association may employ the services of any person or corporation as managers, hire employees to manage, conduct, and perform the business, obligations, and duties of the Association, employ professional counsel and obtain advice from such persons or firms or corporations such as, but not limited to, community association managers, landscape architects, accountants, recreational experts, architects, planners, lawyers, reserve study specialists, or what is convenient for the management, maintenance, and operation of the Project. The Board has no authority to enter into a management agreement or contract inconsistent with the terms of the Governing Documents or that provides for a termination fee or requirement for termination for cause.

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

9) **Bulk Service Agreements.** The Association shall have the right to enter agreements, as the Board deems appropriate, for the provision of cable, television, internet, telephone, or other similar services for all of the Lots or groups of Lots. Such services shall be assessed to the Owners pursuant to the provisions of this Declaration and in any Assessment, may be broken out as a separate line item on invoices, statements, or notices of Assessment.

10) **Loans.** The Association shall have the authority to obtain loans for the efficient operation of the Association and may use Common Area and other assets of the Association as collateral for financing. A majority vote of the Board shall be required prior to obtaining any loan.

11) **Joint Use/Cost Sharing/Easement Agreements.** The Association shall have the right to enter agreements and/or easements for the use, maintenance, repair, and replacement of improvements or facilities which use may be shared with other homeowners associations or other property owners, or which may be located on land outside of the Project. The shared facilities and improvements appurtenant to the agreements may be located within or outside the Project. Each Owner hereby consents and agrees that the Association shall have the authority to record any Joint Use Agreements it enters into against each Lot within the Project.

6.6. **Liability.** Board Members and officers of the Association shall not be liable to the Association or to any Member thereof for any damage, loss, or prejudice suffered or claimed on account of any action or failure to act in the performance of their duties, except for intentional or willful misconduct. If a Board Member or any officer of the Association is made a party to any proceeding because the individual is or was a Board Member or officer of the Association, the Association shall defend, indemnify, and hold harmless such individual against liability and expenses incurred to the maximum extent permitted by law, except where the Board Member or officer is found by a court of law to have engaged in willful or intentional misconduct in carrying out their duties.

6.7. **Board of Directors.** The governing body of the Association shall be the Board of Directors. Except where a matter or vote is specifically reserved to the Owners, the Board shall act in all instances on behalf of the Association. Board Members shall be elected pursuant to the provisions set forth in the Bylaws. The Bylaws may set forth requirements for serving on the Board.

6.8. **Board Indemnification.** Each past and present Board Member shall be entitled to defense and indemnification to the fullest extent permitted by the Utah Revised Nonprofit Corporation Act. The right of any Person to be indemnified shall be subject always to the right of the Association by the Board, in lieu of such indemnity, to settle any 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.

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

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

6.11. **Records.** Owners shall have the right to inspect Association Records within a reasonable time following an Owner's request. "Association Records" are limited to the following documents and information: (a) Declaration, (b) Bylaws, (c) Articles of Incorporation, (d) minutes of Owner meetings and Board meetings, (e) most recent approved budget, (f) a record of all actions taken by Owners or the Board without a meeting, (g) a record of all actions taken by a committee of the Board in place of the Board, (h) a record of all waivers of notices for Owner meetings and Board meetings, (i) a list of all Owners in alphabetical order showing their address and the number of votes each Owner is entitled, (j) all resolutions adopted by the Board currently in effect, (k) all written communications to Owners generally as Members for a period of three years, (l) a list of Board member names and addresses, (m) a copy of the most recent annual report delivered to the State, (n) all annual financial statements (balance sheet and profit and loss statement) of the Association

for the past three years, and (o) the most recent reserve analysis. Association Records shall specifically exclude emails, texts, phone calls, writings, and personal communications between Board Members or Owners. The Board shall have the power and discretion to determine what documents or information are considered Association Records if there is a dispute over the definitions or language provided in this Section. The Association shall have no duty to keep, maintain, produce, or permit inspection of any documents, draft documents, electronic files, or other information not explicitly identified in Utah Code §§ 57-8a-227(1)(a)(ii) and 16-6a-1601. The Board shall have the sole discretion to determine the format in which documents and records are kept. The Association may redact any private, privileged, or sensitive information from Association Records produced herein, in the Board's discretion. The Association may provide additional information or documents to Owners not identified as Association Records herein, in the Board's discretion. The Association may make Association Records available via a website, and if so provided, then the Association shall have met its record inspection obligations set forth in this Section or other applicable law for all such documents posted thereon.

6.12. **Management**. The Project may be managed by a professional manager selected by the Board to assist in the management and operation of the Project. The Board may delegate such of its powers and duties to the Manager as it deems appropriate; reserving the right, however, to control and oversee the administration thereof. Any powers and duties delegated to any Manager may be revoked by the Board at any time, with or without cause.

ARTICLE VII. MAINTENANCE

7.1. **Association Maintenance.** The Association shall maintain, repair, and replace the Common Areas together with all improvements thereon and all easements appurtenant to the Common Area including, but not limited to, common landscaped areas, storm water facilities, private utility lines owned or controlled by the Association that serve more than one Residence, and personal property owned by the Association. The Association shall have no responsibility to maintain or repair the public streets within the Project or any utility lines controlled by a municipality or utility service provider. The Board, in its sole discretion, shall determine the maintenance standard of the Common Areas. The Association shall have no obligation to perform any maintenance and/or repair of any part of a Lot, Residence, or landscaping without the Association's express agreement for such maintenance.

7.2. **Owner Maintenance.** Each Owner shall have the obligation to provide exterior maintenance of their Lot and Residence including but not limited to the maintenance, repair, and replacement of driveways, structural elements of the Residence, exterior walls, foundations, roofs, gutters, down spouts, soffits, fascia, windows, doors, landscaping, and utility lines that service the Lot or Residence. Each Owner shall paint, repair, and otherwise maintain the exterior of its Residence in compliance with Association standards and shall maintain, repair, and replace all appurtenant mechanical devices, including but not limited to, electrical, plumbing, and heating, ventilating and air conditioning systems. Owners shall ensure that their Lot is maintained so no trash is on the ground or around the Residence, there is no damage or unsightly repairs or conditions (including but not limited to, weed removal, dead shrubs, tree and shrub trimming, remediation of overgrowth, pet excrement, removal of trash or debris) visible from the sidewalk in front of the Residence, and there are no unsanitary, odorous, or unsafe conditions that exist.

Owners shall be responsible to maintain, repair, and replace fences which mark the boundaries of their Lots (if any). When such non-perimeter fences serve, benefit, or otherwise mark a boundary of two or more Lots, the responsibility and cost to maintain, repair, and replace the shared portion of such fences, and as agreed by all parties, shall be borne pro rata by all Owners bounded thereby. The Association shall have the authority to adopt Rules governing the allocation of maintenance and repair responsibilities and the maintenance standards for the masonry walls in the Project.

Owners shall be required to obtain city building permits for all interior structural modifications.

7.3. **Owner Maintenance Neglect.** The Association shall have the power and authority, without liability to any Owner for trespass, damage, or otherwise, to enter upon any Lot for the purpose of maintaining and repairing such Lot or any improvement thereon; but only if the Owner fails to maintain and repair such Lot or improvement, or for the purpose of removing any improvement constructed, reconstructed, refinished, altered or maintained upon such Lot in violation of this Declaration or any Rules of the Association. The Board shall have the sole authority and discretion to decide whether an Owner has failed to meet its maintenance obligations. Except as necessary to prevent personal injury or property damage in an emergency, the Association shall first provide reasonable notice and an opportunity to cure before exercising the power granted herein. All costs incurred by the Association in remedying Owner maintenance neglect shall be an Individual Assessment against the Owner's Lot.

The Association shall also have the power and authority from time to time in its own name, on its own behalf, or in the name and behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened

breach of this Declaration or any Rules promulgated by the Board, or to enforce by mandatory injunction or otherwise all the provisions of this Declaration and such Rules.

7.4. **Maintenance Caused by Owner Negligence.** If the need for maintenance or repair of Common Areas is caused through the willful or negligent acts of an Owner, an Occupant, or through the willful or negligent acts of the family, guests, tenants, or invitees of an Owner, the Board may cause such repairs to be made by the Association and the cost of such maintenance or repair work shall be added to and become an Individual Assessment to which such Lot is subject.

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

7.6. **Utility Charges.** The charges for utilities that are metered separately to each Lot or Residence shall be the responsibility of the respective Lot Owner. In the event water, electrical, sewer, or other utilities are metered collectively for the Project, or metered separately for Common Areas, then the Association shall be responsible for paying for such utility costs as a Common Expense.

ARTICLE VIII. INSURANCE

NOTICE: The Association's Insurance Policy does not cover the Residences, personal property, or personal liability of the Owners or their Occupants.

8.1. **Insurance**. The Board shall obtain insurance as required in this Declaration, the Act, or other applicable laws. The Association may obtain insurance that provides more or additional coverage than the insurance required in this Declaration. Different policies may be obtained from different insurance carriers and standalone policies may be purchased instead of, or in addition to, embedded, included coverage, or endorsements to other policies. General insurance premiums shall be a Common Expense.

8.2. **Property Insurance**. The Association shall maintain a blanket policy of property insurance covering the Common Area and all buildings, fixtures, and equipment thereon that are the obligation of the Association to maintain (if any) in accordance with the Act. The Association may maintain broader coverage if afforded by the insurance contract. The blanket policy shall exclude land and other items not normally and reasonably covered by such policies. The blanket policy shall be an "all in" or "all inclusive" insurance as those terms are used in the insurance industry and shall include insurance for any fixture, improvement, or betterment installed in Common Areas or otherwise permanently part of or affixed to Common Areas. The Association shall keep an amount equal to the Association's property insurance policy deductible or \$10,000, whichever is less, in an operations savings account. This requirement shall not apply to any earthquake or flood insurance deductible.

8.3. **Comprehensive General Liability (CGL) Insurance**. The Association shall obtain CGL insurance insuring the Association, the agents and employees of the Association, and the Owners, against liability incident to the use, ownership or maintenance of the Common Area or membership in the Association. The coverage limits under such policy shall not be less than one million dollars (\$1,000,000) covering all claims for death of or injury to any one person or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which should preclude the insurer from denying the claim of an Owner because of the negligence acts of the Association or another Owner.

8.4. **Director's and Officer's Insurance**. The Association shall obtain Directors' and Officers' liability insurance protecting the Board, the officers, and the Association against claims of wrongful acts and mismanagement. To the extent reasonably available, this policy shall include coverage for: (1) failure to maintain adequate reserves, (2) failure to maintain books and records, (3) failure to enforce the Governing Documents, (4) breach of contract, (5) volunteers and employees, (6) monetary and non-monetary claims, (7) claims made under fair housing act or similar statutes or that are based on discrimination or civil rights claims, and (8) defamation. In the discretion of the Board, the policy may also include coverage for the Manager and its employees and may provide that such coverage is secondary to any other policy that covers the Manager or its employees.

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

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

8.7. **Certificates**. Any insurer that has issued an insurance policy to the Association

shall issue a certificate of insurance to the Association, and upon written request, to any Owner or Mortgagee.

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

8.9. **Owner Insurance.** Each Owner shall be responsible to purchase and maintain in force appropriate hazard, content, property, and liability insurance as such Owner shall determine to be appropriate to the Owner's needs, Residence, personal property, and circumstances. The Association is not required to file claims on any of its policies for any damage or liability claim that either should or would have been covered under any Owner's policy.

8.10. **Right to Negotiate Claims & Receive Proceeds.** Insurance proceeds for a loss under the Association's property insurance policy are payable to the Association and shall not be payable to a holder of a security interest. The Association shall hold any insurance proceeds in trust for the Association, Owners, and lien holders. Insurance proceeds shall be disbursed first for the repair or restoration of the damaged property. After any repair or restoration is complete, any remaining proceeds shall be paid to the Association. If the property is not to be repaired or restored, or if there are remaining proceeds after repairs have been paid for, the remaining proceeds may be distributed to the Owners as their interests remain with regard to the Residences or may be held as credits in accordance with each Owner's interest in the Association. Each Owner hereby appoints the Association as attorney-in-fact for negotiating all losses related thereto, including the collection, receipt of, and appropriate disposition of all insurance proceeds; the execution of releases of liability; and the execution of all documents and the performance of all other acts necessary to administer such insurance and any claim. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors, or assigns of the Owner.

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

8.12. **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 affiliates, agents, and employees.

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

ARTICLE IX. USE RESTRICTIONS

9.1. **Use of Lots and Residences.** Each Lot and Residence shall be used only as a single-family residential dwelling. Only Home-Based Businesses in compliance with Hurricane City Ordinances may be conducted on any Lot or Residence. Notwithstanding the foregoing, Home Based Business activities are only permitted if normal residential activities would be observable outside of the Residence; the business activity does not involve the solicitation of Occupants or Owners; the business will not result in the increase of the cost of the Association's insurance; and that the activities would not be in violation of applicable local ordinances.

9.2. **Use of Common Areas.** The Common Areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to Lots and Residences. Owners are not permitted to place anything in the Common Area without the consent of the Board.

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

9.4. **Parking.** To prevent unsafe and unsightly vehicles from being parked on the street for long periods of time, and within the project, the following applies,

- 1) No Vehicles, Recreational Vehicles (RV), OHVs, or other similar vehicles shall be parked on the street or rights of way within the Project for more than forty-eight (48) hours in a seven-day period.
- 2) Vehicles, RVs, and trailers that are inoperable shall not be allowed to be parked on the driveway or the street.
- 3) No dismantling, rebuilding, servicing, painting, repair of any vehicle, RV, trailer, or OHV unless within an enclosed garage or structure or area which screens the sight and sound of such activity from the streets and adjacent lots. The Board may enforce this provision by giving notice to the Owner of the violation, or when the Owner is not readily available, by giving notice in the form of a written notice and subsequently notifying the proper city authorities.
- 4) Unless otherwise approved by the Board, no commercial equipment is allowed in the Project, other than temporary work equipment required solely for the building or maintenance of homes and associated Lots.
- 5) All Recreational Vehicles, as defined, shall be parked/stored behind a gate or in a garage.
- 6) The area outside around any vehicles, RV, or equipment shall be maintained to provide an area that is clean and free from clutter or trash.
- 7) Commercial and non-commercial automobiles, vans, and pickup trucks with a model designation of 3500 or less, including duallys, shall be allowed to be parked on the

driveways leading to the garage, or to the side of the house if the area is prepped as a driveway. All others above that designation or description are prohibited.

8) There shall be no encroachment onto the sidewalk when any vehicle is parked on the driveway or on the street.

9) Vehicles not owned or used by the occupants (as identified by the designation above) shall not be parked on the street within the project unless they are used in support of repairs, maintenance of the Lot or Residence.

10) Vehicles used in support of moving in/out of the Residence shall be allowed to be parked on the street for no longer than 48 hours.

11) Small equipment trailers, flatbed trailers, or enclosed utility trailers shall be allowed to be parked on the side of the Residence behind a gate.

The Association reserves the right to adopt additional Rules governing the parking of Vehicles, Recreational Vehicles, and equipment if determined necessary for the proper operation of the Project that may vary or expand upon the restrictions set forth in this Section. The Association shall have the authority to assess fines and charges to Owners and Occupants who violate, or whose invitees violate such Rules and restrictions.

9.5. **Animals.** No animals, livestock or poultry of any kind shall be raised, bred, or kept on Lots, except that dogs, cats, birds, or other household pets may be kept in accordance with City of Hurricane Ordinances; if they are not kept, bred, or maintained for any commercial purpose. Pet owners will not allow any domesticated animal to be at large, meaning that the animal will not be off the premises of the Owner or custodian of the animal, and not under immediate control of the Owner or custodian. Immediate control shall mean on a leash, cord, chain, or confined within a vehicle. As a pet owner, according to the Hurricane City code, "It shall be unlawful for the owner or custodian of an animal to permit the animal to defecate upon a public street, sidewalk, park or other area, or upon the property of another unless the owner or custodian removes and properly disposes of all animal waste that results" (Title V Ch 2 Sec 5-2-3E). Also, as specified in Hurricane City Code 13-20-3-11, "no person shall own, keep, or harbor any dog which by loud, continued, or frequent barking, howling, yelping, or by noxious or offensive odors shall annoy, disturb, or endanger the health and welfare of any person or neighborhood. A violation of this subsection shall be an infraction, and such is hereby declared to be a nuisance, and each day the violation is permitted to exist or continue, shall constitute a separate offense."

For the preceding offenses, Owners may report violations by contacting Animal Control at 435.635.8314. The Association reserves the right to adopt Rules expanding or clarifying pet and animal restrictions if determined necessary for the proper operation of the Project.

9.6. **Nuisances.** No resident shall create, maintain, or permit a nuisance in, on or about the Project. For purposes of this Section a "nuisance" includes any behavior which annoys, disturbs, or interferes with other residents and interferes with their right to the quiet and peaceful enjoyment of their property. The Board shall have the sole and absolute discretion and authority to determine if an activity or condition constitutes a nuisance. A nuisance includes, but is not limited to, the following:

1) The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot or the Common Areas;

2) The storage of any item, property or thing that will cause any Lot or the Common

Area to appear to be in an unclean or untidy condition or that will be noxious to the senses;

- 3) The accumulation of rubbish, unsightly debris, garbage, equipment, or other things or materials that constitute an eyesore as reasonably determined by the Board;
- 4) The storage of any substance, thing or material upon any Lot or in the Common Areas that will emit any foul, unpleasant or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;
- 5) The creation or maintenance of any noxious or offensive condition or activity in or about any Lot or the Common Areas;
- 6) Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents, their guests or invitees, particularly if the police or sheriff must be called to restore order;
- 7) Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature that diminishes or destroys the enjoyment of the Association by other residents, their guests or invitees;
- 8) Excessive and continuous noise or traffic in, on or about any Lot or the Common Area, especially after 10:00 p.m. and before 7:00 a.m.;
- 9) Allowing a pet to be unleashed while outside of the Residence; urinate or defecate in the Common Areas; failing to immediately clean up feces deposited by a pet in the Common Area; make continuous barking, meowing, or other animal noises; and
- 10) Any other activity or condition the Board determines is a nuisance.

9.7. **Signs.** Except for one professional quality "For Rent" or "For Sale" sign of not more than four (4) square feet, no advertising signs, billboards, objects of unsightly appearance, or nuisances shall be erected, placed, or permitted to remain on any Lot. A smaller 12x12 inch "For Rent" or "For Sale" sign, may also be used, and shall be placed in a front window of the Residence. During an election period, starting four months prior to the election day, at most two signs of up to three (3) square feet are permitted on a single Lot and will be promptly removed the day following the election day. The Association reserves the right to adopt Rules expanding sign restrictions that alter or add to the restrictions in this Section if determined necessary for the proper operation of the Project.

9.8. **Leases.** The leasing of Residences is permitted as set forth in this Section. The Board may adopt Rules to regulate the leasing of Residences which may include but are not limited to: requiring a copy of each lease to be provided to the Board, reporting of name and contact information for all adult tenants, reporting of vehicle information of the tenants, and any other information deemed necessary by the Board. All lease agreements shall provide that the tenant is subject to and shall abide by the Governing Documents and the tenant's failure to do so shall constitute a breach of the lease agreement. Within 10 days after delivery of written notice of the creation of a nuisance or violation of the Governing Documents by a tenant, the Owner shall proceed promptly to either abate or terminate the nuisance, or cure the default, and notify the Board in writing of his or her intentions. If the Owner fails to act accordingly, the Board may initiate eviction proceedings on behalf of the Owner, and through this Declaration the Owner hereby assigns the Association the authority to do so. All costs incurred by the Association to enforce the terms of the Governing Documents against a tenant shall be assessed to the Owner as an Individual Assessment. The leasing restrictions set forth in this

Section shall not apply to the Declarant or a Declarant affiliated entity.

(a) Long-Term Leasing. For the purposes of this section, "Long-Term" shall mean any occupancy of a Residence for six (6) months or more. Long-Term occupants of a Residence shall be considered residents and shall have access and use privileges to the Common Areas in the same manner as occupying Owners. The Long-Term leasing of Residences is permitted if conducted in compliance with all City and County requirements and zoning restrictions.

(b) Short-Term Leasing. Owners that are currently leasing their Residence on a Short-Term basis as of the date of recording of this Declaration shall be grandfathered and may continue to lease their Residence for Short-Term periods until the title to the Lot is transferred to another Person; after which, such Residence shall be prohibited from being leased on a Short-Term basis. For Residences that are grandfathered and operating as Short-Term rentals, the following terms apply:

(i) For the purposes of this section, "Short-Term Leasing" shall mean any occupancy of a Residence by someone other than an Owner or the Owner's immediate family members for less than six (6) consecutive months, whether for pay or not.

(ii) Residences leased Short-Term shall be continuously managed by a third-party professional management company licensed or permitted to manage short-term vacation rental units which shall ensure as a part of such management that all occupants comply with the requirements and provisions of the Declaration and any rules promulgated that govern the Association and the Project.

(iii) Recreational Vehicles, boats, or non-standard vehicles parked by any Occupant of a Short-Term rented Residence shall adhere to all applicable Rules and Declaration requirements.

(iv) The Association shall be reasonably empowered to establish additional Rules and regulations relating to the maintenance, operation and conduct of occupants of or at any Residence that is rented as a Short-Term vacation rental within the Project. The Owner of any Residence occupied in violation of the Short-Term Leasing provisions shall be subject to a daily fine as set forth in the Rules.

(v) Short-Term Leasing requirements apply to all occupancy types, including occupancy pursuant to rental agreements, management agreements, and any short-term occupancy by the Owner's guests without pay.

9.9. Appearance. Owners are responsible for maintaining appearance of their Lot and Residence. Trash and debris should be cleaned from all front yards and areas viewable from the Common Areas. Garbage cans should be placed behind the front fence or gate, or if no fence/gate, to the side of the house behind the front line of the house. The area around the garbage cans shall be maintained so no trash is lying around or on the garbage can. Garbage cans should be placed at the curb the day prior to pick-up and removed from the curb by the close of the day of pick-up. Outdoor cooking equipment, bikes, toys, scooters, etc. must not be stored or kept in any Common Area or resident front yards, except within those patios with an opaque enclosed fenced area. The Association reserves the right to adopt additional Rules governing trash, and appearance of Lots if determined necessary for the proper operation of the Project that may vary or expand upon the restrictions set forth in this Section.

9.10. Variances. The Board may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this Declaration if the Board determines in its

discretion: (i) that the restriction would create an unreasonable hardship or burden on an Owner or Occupant, (ii) that a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete and unreasonable to enforce, or (iii) that the activity permitted under the variance will not have any adverse financial affect or any other substantial adverse effect on the Association or other Owners and Occupants of the Project and is consistent with the high quality of life intended for residents of the Project. Any such variance shall be unenforceable and without any effect whatsoever unless reduced to writing and signed by every member of the then-existing Board. No variance may be granted that is inconsistent with the Act.

ARTICLE X. ARCHITECTURAL CONTROLS

10.1. **Architectural Controls.** The designs of all structures and Residences in the Project shall be limited to those approved by the Board or an Architectural Review Committee ("ARC") if established. The Board shall act to ensure that all improvements and landscaping within the Project harmonize with existing surroundings and structures. No landscaping, grading, excavation, building, fence, wall, residence, or other structure, or alteration of any kind, shall be commenced, erected, maintained, improved, altered, or made until the construction plans and specifications, have been approved in writing by the Board or ARC as applicable.

10.2. **Architectural Review Committee.** The Board may appoint a three (3) member Architectural Review Committee, the function of which shall be to ensure that all improvements and landscaping within the Project harmonize with existing surroundings and structures (herein the "ARC"). The ARC shall be composed of Owners. If such a committee is not appointed, the Board shall perform the duties required of the ARC. If an ARC is appointed, then all references to the Board's power and duties throughout this Article 10 shall apply to the ARC. The ARC's responsibilities include but are not limited to: 1) review and approve all structures and improvements within the Project; 2) ensure Lot Owners maintain their Lot and Residence appearance and conditions in accordance with the terms of the Design Guidelines and Governing Documents; 3) jurisdiction over any enforcement of landscaping requirements; and any other powers delegated to it by the Board.

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

10.4. **Architectural Review Procedures & Enforcement.** The Board may adopt Rules and policies to govern architectural review procedures. If no Rules or policies are adopted, then the following provisions shall apply:

(a) Complete plans and specifications must be submitted to the Board for review. Plans shall give complete descriptions and color samples of materials to be used. The Board will base its approval of plans, specifications, landscaping plans, and other alterations upon compliance with the Design Guidelines, and any other guidelines adopted by the Association.

(b) The Board shall have the sole discretion to determine compliance of plans and may withhold approval of any proposal if the Board finds the proposal would be inappropriate for a particular Lot or incompatible with the Design Guidelines or other Association standards. The Board shall also have the right to refuse to approve any plans or specifications, including grading and location plans, which are not suitable or desirable in its opinion, for aesthetic or other considerations.

(c) Once approved by the Board, no changes or deviations in or from the plans and specifications shall be made without the prior written approval of the Board. The Board's approval of any proposal shall automatically be revoked within three (3) months after issuance unless construction or other work relating to the proposal has been commenced

or the Owner has applied for and received an extension of time from the Board.

(d) Subsequent to receiving approval of the Board and prior to the commencement of construction, each Owner will be responsible for obtaining a building permit from the County or City when required.

(e) If any structure is altered, erected, placed or maintained on any Lot other than in accordance with approved plans and specifications therefor and applicable law, such action shall be deemed to be a violation of the provisions of this Declaration and, promptly after the Association gives written notice to its Owner, such structure shall be removed or restored to its condition prior to such action, and such use shall cease, so as to terminate such violation. If within thirty (30) days after having been given such notice, such Owner has not taken reasonable steps to terminate such violation, any agent of the Association may enter upon such Lot and take such steps as are reasonably necessary to terminate such violation. Such Owner shall be personally liable to the Association for the cost thereof, to the same extent as he is liable for an Assessment levied against such Lot.

(f) Any member of the Board, upon the occurrence of a violation of the provisions of this Declaration, and after the Association or the Board gives written notice thereof to the Owner of the applicable Lot, at any reasonable time, may enter upon and inspect any Lot and any structure or improvement thereon to ascertain whether the maintenance, construction or alteration of such structure or improvement is in accordance with the provisions of the Governing Documents.

(g) The Board's architectural and Design Guideline decisions may be based on purely aesthetic considerations.

(h) The Board shall have the right to charge a reasonable processing fee for the review of construction or alteration requests as set forth in the Rules or Design Guidelines.

(i) Accessory buildings must conform in design and construction materials with the Residence.

(j) When an owner undertakes construction of a Residence or other structure, the exterior must proceed to essential completion without undue interruption. The entire building process must proceed to essential completion as rapidly as is practical in reasonable time.

10.5. Obligations of Owners. If an ARC request is approved, the Owner has the responsibility for determining whether their plans must be submitted to the City of Hurricane for either a site-plan review or to obtain a building permit and submit those (approved building permit or approved site plan review), if required, to the ARC before work begins. The Owner and contractors indemnify (secure against legal liability) the Association and adjacent property Owners against any damages or claims for damages caused either by excavation, building or planting activities, including damage that is not discovered until after the work is complete. If there is to be any excavation or digging including for footings, for anchoring structures, and for planting, the Owner and any contractors have the requirement to contact and work with Blue Stakes Utah to get all properties that may be affected by any work done at or around the property where the work is being done marked and agree to abide by all rules and requirements of Blue Stakes Utah during the duration of their construction or planting activities. The Owner and any contractors involved in excavation, construction, or planting associated with an ARC request will provide names, contractor's license numbers, and proof of insurance or bonding of said contractors or any others involved in said work. The Owner has 120 days from date of ARC approval to complete all work associated with an ARC request. An Owner may request an extension for extenuating circumstances (supplies and labor issues, etc.). If work is not

completed within 120 days of ARC approval, a new ARC (or extension) request is required. Any and all work must follow all Peregrine Point CC&Rs and any Hurricane City building permits and building codes.

10.6. Restrictions.

(a) Fire Pits. Owners must get ARC approval and secure city building permits and inspections from Hurricane City for any new or modifications to gas plumbing and electrical lines required to operate requested fire pit as an appliance. The requested fire pit must be placed so that there will be no fire, smoke, or heat damage to any buildings on the property, or on adjacent properties, including the Residence, plantings, block walls, fences, and gates.

(b) Swimming Pools (permanent or temporary). Owners must get ARC approval prior to pool installation. Pools must be sufficiently anchored to or placed in ground in such a way as to prevent damage to Owner's property and all other properties. If the pool is temporary and not anchored, it must be completely removed for storage when it is not full of water. If any utilities (gas, water, sewer, electrical) are attached or used for operation, a building permit from Hurricane City must be secured and presented to the Association before any work begins and associated inspections must be completed before use. Any solar structure (presumably for heating) must be structurally capable of withstanding windstorms and three (3) second wind gusts up to at least 101 mph. Any covers must be attached in such a way as to prevent damage or removal because of wind and three (3) second wind gusts up to at least 101 mph. The Owner must carry additional liability insurance for any swimming pool, permanent or temporary, including an above ground pool. The Owner must plan for proper filling and draining and build drainage facilities in such a way as to prevent damage to Owner's and adjacent properties in the event of leakage or rupture and indemnify (secure against legal liability) against damage to homeowner's and adjacent properties. Because pools are attractive nuisances, any pool, above ground or in ground, temporary or permanent, must be enclosed within secure walls, fences, and gates, of at least five (5) feet in height. All gates are to remain securely locked when not in use and supervised by a competent, trained adult.

(c) Solar Panels & Equipment. Owners must get ARC approval and all materials and services must be provided by a fully licensed electrical contractor (DIY is not an option). The solar/electrical contractor(s) is(are) to confirm that the home will withstand the additional weight of all hardware and any temporary weight associated with installation. (Structural Load Letter is required by the city for permitting.) Solar Panels have historically not been permitted on roof surfaces facing the street that the house resides on in the Project (not front facing). They are typically permitted on back and side roofs of the Residence. The solar/electrical contractor(s) is(are) to insure, certify, and indemnify their work for a period of at least 10 years. Solar Panels and all other hardware must be securely attached and certified to withstand windstorms and three (3) second wind gusts of up to 101 mph, without sustaining damage or detachment from the roof. Access to the power meter must be unobstructed (Hurricane City requirement, electrical meter must not be behind a wall or gate). There shall be NO conduit across the roof (top surface). All panels must run parallel with the roof and eaves (part of the wind rating). Everything associated with the installation of solar, except the panels themselves, including conduit, which is on the outside of the house, must be paint matched to the house. Panels are to be black-on-black, not showing white lines or trim. A city building permit must be presented to the Association before installation begins.

(d) Electrical Generators. Owners must get ARC approval and any electrical

generator connected to Gas (LNG) or connected to the house electrically (not including extension cords) require a Hurricane City Building Permit and appropriate power synchronization and isolation devices. Hurricane City Noise Ordinance prohibits running of generators in residential areas between 10:00 p.m. and 6:00 a.m. Exception for use of generators is allowed when medical equipment or extenuating health conditions exist.

(e) Flag Poles. Flag Poles must be anchored in concrete, must be able to withstand windstorms and three (3) second wind gusts of up to 101 mph, and have a maximum height of twenty (20) feet. Requests for flag poles must be presented to the ARC along with location, anchoring/footing and must be approved by the ARC before installation. The homeowner and installer must have Blue Stakes mark the property before installation begins.

(f) Security Cameras. Security cameras are permitted without submission for ARC request. However, the camera must be installed so as to primarily cover the property of the homeowner. Security cameras must NOT be installed in such a way as to encroach on the privacy of neighbors.

(g) Gazebos, Sheds, Awnings, Pergolas. External temporary/permanent storage sheds constructed of wood (similar to Tuff sheds), resin (similar to Suncast or Rubbermaid), or metal sheds shall require approval by the ARC. Gazebos, awnings, pergolas, and other structures require approval by the ARC, regardless of where situated. The requested structure must be anchored (bolted or structurally embedded in concrete) to the ground with proper footings.

(i) A requested structure that exceeds five (5) feet in height, or that extends above the height of block walls, must not block neighbor's views, or, if so, Owner must secure written waiver/approval for any such structure from all adjacent neighbors regarding visibility and submit said written approval as part of the ARC request.

(ii) The requested structure must be structurally capable of withstanding windstorms and three (3) second wind gusts to at least 101 mph and said documentation must be a part of the ARC request.

(iii) If the requested structure is to have electrical, water, mechanical, or other utility connection, the City of Hurricane must approve a building permit for those amenities and that permit attached to the ARC request before beginning work.

(iv) The requested structure should be similar in color to other like structures on the Lot and should not extend into walkways.

(v) The City of Hurricane requires certain setbacks. Owner and installers are required to be compliant with such setbacks: (a) Detached structures require setbacks of 10 ft. from the primary Residence and 3 ft. from the property line (Hurricane City Fire Code 1-7 & 4-9); (b) Per Hurricane City Code Enforcement, any structure(s) can NOT be placed against property-line block walls; (c) Variances to Hurricane City setbacks may be obtained from the City of Hurricane and may be submitted the ARC for consideration as a remedy to setback/footprint requirements.

(h) Types of Homes Prohibited. The Association prohibits Lots from having more than a single Residence. Thus, no temporary Residences (e.g., RVs, campers, tiny homes), Residences with accessory apartments, guest houses, or casitas are permitted. No solar homes can be built unless approved by the ARC. While RVs are permitted to be parked on the side of the Residence behind the RV gate, city Ordinance 10-43-2 (c)(3) allows for only a two (2) week occupation within a 90-day period. In the event the primary Residence

becomes uninhabitable, Owner's family may temporarily dwell in the RV while the primary Residence is being repaired.

(i) Exteriors of Homes. Exterior material may be used only upon the express approval of the ARC. All roofs must be built using a tile or slate roof. Stucco should be of a slightly darker earth tone color, no pastels or white are to be used.

(j) Landscaping. All landscaping shall be compatible with other Residences in the Project. Shrub and tree planting and landscaping on corner lots shall be located so as not to obstruct the view and create a hazard for the movement of vehicles or pedestrians along the street. Yards are to be free of weeds, long grass (over 4 inches), or overgrown shrubs, or plants.

(k) Driveways. Driveways shall be constructed out of concrete, inlaid brick, or other comparable materials approved by the ARC. Driveways consisting of cinders, sand gravel, asphalt or dirt shall not be permitted on any Lot. Driveways shall be limited solely to providing a connection between the street and the garage, the street and side of the house, but no private lanes or streets traversing Lots shall be allowed. All vehicles must be parked in the garage or in the driveway. However, temporary parking is allowed on the street for no longer than permitted by the city. Approved materials for vehicle parking areas, including RVs, on a lot which shall be located on the side of the Residence and to the driveway leading up to the side of the Residence, shall be limited to concrete, inlaid brick, road base, small gravel, or small-to- medium landscape rock or other hard material that blends into the front landscaped yard. No other materials shall be used unless approved by the ARC in accordance with the Declaration.

(l) Walls. No separation wall, not including the retaining wall, shall exceed seven (7) feet in height. Only masonry walls will be permitted on the exterior of the Lot (sides and rear). All walls must be substantially the same as walls built as a part of the original construction of the Project.

(m) Drainage. There shall be no interference with or alteration of the established drainage pattern over any Lot unless an adequate alternative provision is made for proper drainage and ARC approval is received. For the purposes hereof, "established drainage pattern" is defined as the drainage which existed at the time that such Lot was conveyed to a purchaser from the original developer and shall include drainage from the Lots onto the Common Area.

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

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

ARTICLE XI. ENFORCEMENT

11.1. **Compliance with Restrictions and Rules.** Each Owner and Occupant shall comply with the Restrictions imposed by this Declaration. Further, each Owner, Occupant and guest shall fully and faithfully comply with the Association's Rules and Restrictions and shall be personally jointly and severally liable for any fines for violations thereof.

11.2. **Enforcement of Governing Documents.** The Association or any Owner shall have the right to enforce, by proceedings at law or in equity, each provision of this Declaration and other Governing Documents, including the right to prevent any violation of such, and the right to recover damages and other sums for such violation(s). The prevailing party in any action for the enforcement of any provisions of the Governing Documents (including but not limited to litigation and the appeal thereof) shall be entitled to collect court costs and reasonable attorney fees. Failure to enforce any covenant or restriction within the Governing Documents shall in no event be deemed a waiver of the right to do so thereafter.

ARTICLE XII. RIGHTS OF FIRST MORTGAGEE

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

12.2. **Notice of Default by Owner.** If an Owner neglects, for a period of sixty (60) days or more, to cure any failure on his part to perform his obligations under this Declaration or other Governing Documents, the Association, upon written request from the Mortgagee, shall give written notice of such fact to the Mortgagee of such Owner's Lot.

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

ARTICLE XIII. AMENDMENTS

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

13.2. **Necessary Amendments.** The Board may unilaterally amend this Declaration without Owner vote if such amendment is necessary: (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to satisfy the requirements of any local, State, or Federal governmental agency; or (c) to correct any scrivener's error. However, any such amendment shall not adversely affect the title to any Lot unless the Owner shall consent in writing.

13.3. **Validity of Amendments.** This Declaration and any amendment thereof shall be presumed to have been validly voted upon and adopted upon recordation in the office of the Washington County Recorder. Any challenge to this Declaration or an amendment must be made within six (6) months of its recordation, after which any claim or defense based upon the alleged invalidity, or procedural irregularity regarding the adoption of the Declaration or an amendment shall be deemed waived. An Owner that takes title to a Lot subsequent to the recording of this Declaration or any amendment shall take title subject to all recorded documents and shall not have standing to challenge the validity or adoption of any prior recorded documents by way of affirmative claim or defense. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration. Owners are on notice that each and every section of this Declaration may be amended, and amendments may include topics or restrictions not contemplated in prior versions of the Declaration.

ARTICLE XIV. MISCELLANEOUS

14.1. **Notices.** Any notice required or permitted to be given to any Owner according to the provisions of this Declaration shall be deemed to have been properly furnished if personally delivered, emailed, texted, or if mailed, postage prepaid, to the Person who appears as an Owner, at the latest email or mailing address for such Person appearing in the records of the Association at the time notice is sent. If no email, phone number, or mailing address has been provided, the physical address of the Lot owned by said Owner shall be used for notice purposes. The use of the term "notice" or "written notice" in this Declaration or other Governing Document shall include notices sent via email, text, facsimile, or other electronic communication; or notices printed on paper and sent by hand-delivery, regular mail, or any notice otherwise physically received by an Owner.

Unless an Owner notifies the Association in writing that they desire to receive notices via USPS mail, each Owner shall provide to the Board, or the Association's Manager, an email address that the Association may use to effect notice as described herein, along with a telephone number that can receive texts. Any notice sent via email or text shall be deemed to be delivered once the notice has been sent to the email address or phone number on file with the Association. Any notice sent by mail shall be deemed delivered when deposited in the United States mail. In the case of co-Owners, any such notice may be delivered or sent to any one of the co-Owners on behalf of all co-Owners and shall be deemed delivered to all such co-Owners. The declaration of an officer or authorized agent of the Association declaring under penalty of perjury that a notice has been sent to any Owner or Owners, in any manner that this Section allows, shall be deemed conclusive proof of such delivery.

Notice to the Association shall be delivered by registered or certified United States mail postage prepaid, addressed to the office of the Manager of the Association (if any); or if there is no Manager, the Registered Agent with the Utah Department of Commerce (if any); or if there is none, to the President of the Association. The Association shall have the right to designate an email or USPS mailing address for receipt of notices hereunder by Rule.

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

14.3. **Dissolution.** The Association may be dissolved by a vote of at least ninety percent (90%) of the Owners. Upon dissolution, the Association shall transfer any Common Area real property it owns to a municipality, utility, or other person as permitted by law and disperse any remaining funds or assets to the Owners pro rata. In the event such dedication or transfer is not made or is not accepted, the Association's assets shall be transferred to a nonprofit corporation, trust, or other entity to be used for the benefit of all Owners in the Project, and each Owner shall continue to be obligated to make assessment payments for the maintenance and upkeep of the Common Areas on a pro rata basis which conforms substantially with the assessment procedures and terms set forth herein.

14.4. **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 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 the other. Except for judicial construction, the Board, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all Persons and property benefitted or bound by the covenants and provisions hereof.

14.5. **Severability.** The invalidity or unenforceability of any portion of the Declaration by judgment or court order shall not affect the validity or enforceability of the remainder of any other provision herein, all of which shall remain in full force and effect.

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

14.7. **Fair Housing Accommodations.** Notwithstanding anything to the contrary in this Declaration, the Association, upon receipt of a written opinion from its counsel that such action is required, may make or permit reasonable accommodations or modifications to the Project that are otherwise prohibited by the Governing Documents, as required under State or Federal Fair Housing Acts, to accommodate a Person with a disability (as defined by State or Federal law at the time the accommodation is requested). Reasonable accommodations or modifications may include modifications to a Lot, the Common Area facilities and buildings, or deviations from provision of the Governing Documents. Any such modification and accommodation made under this Section shall not act as a waiver of the provisions of the Governing Documents with regard to any other Person or Owner.

14.8. **No Waiver.** No delay or failure by the Association or by any Owner to enforce any Restriction, right, remedy, power, or provision herein contained, or contained in the Bylaws, Articles, or the Rules, in any certain instance or on any particular occasion (or partial exercise thereof) shall be deemed a waiver of such right of enforcement as to any such future breach of the same or any other Restriction, right, remedy, power, or provision. No Association delay or failure to demand strict adherence to the terms, Restrictions or provisions of the Governing Documents shall be deemed to constitute a course of conduct inconsistent with the Association's right at any time, before or after an Owner violation or breach, to demand strict adherence to the terms, Restrictions, or provisions of this Declaration or other Governing Document.

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

14.10. **Attorney Fees.** If the Association utilizes legal counsel to enforce or interpret (i.e. defending against declaratory actions) any Restriction, or after an Owner communicates or demonstrates an intent not to comply with a Restriction, the Association may assess all reasonable attorney fees and costs associated with such enforcement to the Owner as an Individual Assessment, regardless of whether a lawsuit is initiated or not. The term "costs" as used in this Section shall include all costs including but not limited to copying costs, deposition costs, expert witness fees, investigative costs, service costs, and filing fees paid to courts. "Costs" is specifically defined in this Section to be broader and to include costs that are not included in costs as the term is used in the Utah Rules of Civil Procedure.

14.11. **Noncompliance Notice.** Any construction, alteration, or other work done in violation of this Declaration shall be deemed to be in noncompliance. By acquiring title to a Lot in the Project, all Owners agree and consent that upon any act of noncompliance, the Board, at its discretion, may record a "Notice of Noncompliance" on an offending Lot or property in the records of the County Recorder. Upon receipt of a Notice of Noncompliance, Owners shall, at their own cost and expense, remove such non-conforming construction, alteration, or other work and shall restore the land to substantially the same condition as existed prior to the non-conforming construction, alteration, or other work. Should an Owner fail to act as required hereunder, the Board or their designee, without liability for trespass or nuisance, shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as existed prior to the change. All costs incurred by the Association pursuant to enforcement of this Section shall be charged as an Individual Assessment.

14.12. **Security.** The Association shall not be considered an insurer or guarantor of security within or relating to the Project, including any Common Area in which the Association may have an obligation to maintain, and the Association shall not be held liable for any loss or damage by reason of any failure to provide adequate security or any ineffectiveness of security measures undertaken. Owners agree by purchasing a Lot in this Project that the Association and the Board are not insurers of the safety or well-being of Owners or Occupants or of their personal property, and that each Owner or Occupant assumes all risks for loss or damage to persons, the Lots, the Common Areas, and to the contents of improvements located thereon to the extent not insured by the Association. EACH OWNER AND OCCUPANT UNDERSTANDS AND ACKNOWLEDGES THAT THE ASSOCIATION AND BOARD HAVE NOT MADE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND AND THAT EACH OWNER OR OCCUPANT HAS NOT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO THE SECURITY OF THE PROJECT.

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

IN WITNESS WHEREOF, the Board of Directors has executed and adopted this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Peregrine Pointe this 14th day of May, 2024 and confirms that this Declaration was adopted by the vote of at least two-thirds of the voting interests of the Lot Owners.

**PEREGRINE POINTE
OWNERS ASSOCIATION**
a Utah nonprofit corporation

By: Stephen W. Watts

Name: Stephen W. Watts

Its: President of Board

STATE OF UTAH)
) ss.
COUNTY OF Washington

On the 14th day of May, 2024, personally appeared before me Stephen W. Watts who by me being duly sworn, did say that she/he is an authorized representative of the Peregrine Pointe Owners Association, and that the foregoing instrument is signed on behalf of said company and executed with all necessary authority.

Notary Public: Emily O. Holt

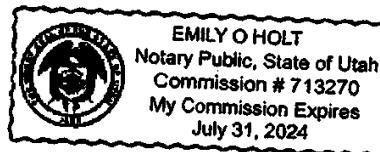


EXHIBIT A
LEGAL DESCRIPTION

All of **PEREGRINE POINTE PHASE 1-A**, according to the official plat filed in the office of the Washington County Recorder on April 7, 2006, as Entry No. 20060013215.

Parcel Numbers: **H-PERP-1-A-131** through **H-PERP-1-A-137**
H-PERP-1-A-176 through **H-PERP-1-A-177**
H-PERP-1-A-201 through **H-PERP-1-A-202**
H-PERP-1-A-213 through **H-PERP-1-A-234**

All of **PEREGRINE POINTE PHASE 1-B**, according to the official plat filed in the office of the Washington County Recorder on April 22, 2015, as Entry No. 20150013376.

Parcel Numbers: **H-PERP-1-B-190** through **H-PERP-1-B-200**
H-PERP-1-B-203 through **H-PERP-1-B-212**

All of **PEREGRINE POINTE PHASE 1-C**, according to the official plat filed in the office of the Washington County Recorder on February 4, 2008, as Entry No. 20080004548.

Parcel Numbers: **H-PERP-1-C-240**

All of **PEREGRINE POINTE PHASE 2-A**, according to the official plat filed in the office of the Washington County Recorder on August 16, 2016, as Entry No. 20160029739.

Parcel Numbers: **H-PERP-2-A-154** through **H-PERP-2-A-161**
H-PERP-2-A-170 through **H-PERP-2-A-175**
H-PERP-2-A-178 through **H-PERP-2-A-189**

All of **PEREGRINE POINTE PHASE 2-B**, according to the official plat filed in the office of the Washington County Recorder on May 1, 2017, as Entry No. 20170017581.

Parcel Numbers: **H-PERP-2-B-110** through **H-PERP-2-B-126**
H-PERP-2-B-128 through **H-PERP-2-B-130**
H-PERP-2-B-138 through **H-PERP-2-B-153**

All of **PEREGRINE POINTE PHASE 2-C**, according to the official plat filed in the office of the Washington County Recorder on September 20, 2018, as Entry No. 20180038541.

Parcel Numbers: H-PERP-2-C-241 through H-PERP-2-C-245

All of **PEREGRINE POINTE PHASE 3**, according to the official plat filed in the office of the Washington County Recorder on July 11, 2018, as Entry No. 20180028504.

Parcel Numbers: H-PERP-3-81

H-PERP-3-93 through H-PERP-3-99

H-PERP-3-127

All of **PEREGRINE POINTE - PHASE 4A**, according to the official plat filed in the office of the Washington County Recorder on January 11, 2019, as Entry No. 20190001303.

Parcel Numbers: H-PERP-4A-82 through H-PERP-4A-92

H-PERP-4A-100 through H-PERP-4A-109

All of **PEREGRINE POINTE - PHASE 4B**, according to the official plat filed in the office of the Washington County Recorder on August 19, 2019, as Entry No. 20190033006.

Parcel Numbers: H-PERP-4B-42 through H-PERP-4B-44

H-PERP-4B-52 through H-PERP-4B-61

H-PERP-4B-67 through H-PERP-4B-80

All of **PEREGRINE POINTE - PHASE 4C**, according to the official plat filed in the office of the Washington County Recorder on July 16, 2020, as Entry No. 20200036806.

Parcel Numbers: H-PERP-4C-28 through H-PERP-4C-41

H-PERP-4C-45 through H-PERP-4C-51

H-PERP-4C-62 through H-PERP-4C-66

EXHIBIT B

BYLAWS OF PEREGRINE POINTE OWNERS ASSOCIATION

These BYLAWS OF PEREGRINE POINTE OWNERS ASSOCIATION are effective upon recording in the Washington County Recorder's Office pursuant to the Utah Community Association Act and the Utah Revised Nonprofit Corporation Act (referred collectively herein as the "Acts").

RECITALS

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

B. These Bylaws are adopted to complement the Declaration, to further define the rights of the Association and the Owners, to provide for the ability to effectively govern and operate the Association and the Project known as Peregrine Pointe and, to further the Association's efforts to provide a quality living environment.

ARTICLE I DEFINITIONS

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

ARTICLE II APPLICATION

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

ARTICLE III OWNERS

3.1 **Annual Meetings.** The Annual Meeting of the Owners shall be held each year on a day and time established by the Board of Directors. The purposes of the Annual Meeting may include the election of Board Members, the distribution of financial reports and budget, a review of any revisions to the Rules, distributing the most recent reserve study, and to transact such other business as may come before the meeting. If the election of Board Members cannot be held during the Annual Meeting, or at any adjournment thereof, the Board shall cause the election to be held either at a Special Meeting of the Owners to be convened as soon thereafter

as may be convenient or at the next Annual Meeting. The Board may from time to time by resolution change the month, date, and time for the Annual Meeting.

3.2 **Special Meetings.** Special Meetings of the Owners may be called by a majority of the Board, the President, or upon the written request of Owners holding not less than forty percent (40%) of the voting interests of the Association. Any written request for a Special Meeting presented by the Owners shall be delivered to the President and shall include the original signature of each Owner affirmatively supporting such request along with a complete statement of the purpose of the meeting on each page containing signatures. The President shall then call, provide notice of, and conduct a Special Meeting within 45 days of receipt of the Owner request.

3.3 **Place of Meetings.** The Board may designate any place in Washington County that is reasonably convenient for the Owners as the place of any Owner meeting. In addition, the Association may hold and conduct Owner meetings through any type of electronic means that allows Owners to communicate orally in real time including telephone and video conferencing.

3.4 **Notice of Meetings.** The Board shall cause written or printed notice of the date, time, and location (and in the case of a Special Meeting, the purpose or purposes) for all Owner meetings. Such written or printed notice shall be delivered to each Owner of record entitled to vote at such meeting not more than sixty (60) nor less than ten (10) days prior to the meeting. Such notice may be sent via email, text, hand-delivery, or regular mail. If sent by email or text, such notice shall be deemed delivered and effective on the date transmitted to the Owner's email address or telephone number registered with the Association. If mailed, such notice shall be deemed to be delivered and effective on the date deposited in the U.S. mail if addressed to the Owner's address registered with the Association. Each Owner shall register with the Association such Owner's current email address, phone number, and mailing address for purposes of notice hereunder. Such registered email, phone number, and mailing address may be changed from time to time by notice in writing to the Association. If no address is registered with the Association, an Owner's Residence shall be deemed to be the Owner's registered address and notice to the Residence address may be made by first-class mail or by posting the meeting notice on the front door. An Owner may opt out of receiving notices from the Association via email or text by giving written notice to the Board stating that the Owner will not accept notices by way of email or text.

3.5 **Qualified Voters.** An Owner shall be deemed to be in "good standing" and "entitled to vote" at any meeting if such Owner has fully paid their Assessment account (together with any interest and/or late fees) at least 48 hours prior to the commencement of the meeting and is not in violation of any provision of the Governing Documents.

3.6 **Record Date for Notice Purposes.** The Board may designate a record date, which shall not be more than sixty (60) nor less than ten (10) days prior to the meeting, for the purpose of determining Owners entitled to notice of any meeting of the Owners. If no record date is designated, the last date on which a notice of the meeting is mailed or delivered shall be deemed to be the record date for determining Owners entitled to notice. The persons or entities appearing in the records of the Association on such record date as the Owner(s) of record of Lots in the Project shall be deemed to be the Owners of record entitled to notice of the Owner meeting.

3.7 **Quorum.** Any number of Owners present in person or by proxy at any meeting duly called and held in compliance with the requirements of these Bylaws, shall constitute a

quorum for the transaction of business and adoption of decisions.

3.8 **Proxies.** Owners shall be entitled to vote in person or by proxy at each meeting provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been signed by the Owner or by the Owner's attorney. A proxy may be written on paper or received via email, facsimile, text, or any other electronic or physical means. A signature as required herein shall mean any indication that the document is from and consented to by the person who is purported to have sent it. If a Lot is jointly owned, the instrument authorizing a proxy to act may be executed by any one (1) Owner of such Lot or the Owner's attorney when duly authorized in writing. A proxy given by an Owner to any person who represents the Owner at meetings of the Association shall be in writing, dated, and signed by such Owner. Such instrument may allow the proxy to vote on any issue arising at any particular meeting or meetings or may set forth the specific matters or issues upon which the proxy is authorized to act. Proxies shall be filed with the Secretary (or with such other officer or person who may be acting as Secretary of the meeting) before the meeting is called to order. The Secretary shall make a record of all proxies in the meeting minutes.

3.9 **Votes.** Owners shall be entitled to vote on each matter submitted to an Owner vote in person, by proxy, or by any type of written or electronic ballot. Owners shall have the number of votes appertaining to the Lot of such Owner, as set forth in the Declaration. The affirmative vote of a majority of the votes entitled to be cast by the Owners present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by Owners, unless a greater proportion is required by the Articles of Incorporation, these Bylaws, or the Declaration. When a Lot is jointly owned, any single Owner may exercise the vote for such Lot on behalf of all Co-Owners of the Lot. In the event of two (2) conflicting votes by Co-Owners of a Lot, no vote shall be counted for that Lot. If a Lot is owned by an entity or trust, the vote of any one officer, trustee, or agent of the entity shall be sufficient to cast a vote for that Lot. In no event shall fractional or cumulative votes be exercised with respect to any Lot. Only those Owners whose accounts with the Association are not delinquent and are paid in full at least 48 hours prior to the start of the meeting shall be entitled to vote.

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

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

3.12 **Meeting Minutes**. The Secretary, or the Manager, shall take minutes of all Owner meetings. The minutes shall include, at a minimum, (1) the identification of the Persons present in person and by proxy, (2) the meeting date, (3) the identification of any issue that is voted on or decided in the meeting, (4) the number of votes cast for and against any issue decided upon, and (5) the exact wording of any resolution passed at the meeting. The failure to take appropriate minutes or otherwise comply with this section does not invalidate any action taken at a meeting. Draft meeting minutes for each Owner meeting shall be made available to requesting Owners within sixty (60) days of the meeting.

ARTICLE IV **BOARD OF DIRECTORS**

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

4.2 **Number and Qualifications**. The Board of Directors shall be composed of an odd number of three (3) or five (5) persons as determined by the current Board prior to each annual meeting and Board Member elections. Board Members must be at least 18 years old and must be an Owner or the spouse of an Owner of a Lot in the Project. No two (2) Board Members may reside in the same Residence or be business partners if the business is related to their ownership of a Lot. If an Owner is a corporation, partnership, limited liability company, or trust, an officer, partner, member, manager, agent, trustee, or beneficiary of such Owner may be a Board Member. If a Board Member ceases to meet any required qualifications during the Board Member's term, such person's membership on the Board shall automatically terminate.

4.3 **Election**. The election of Board Members shall be made by the Owners. At such election, the Owners or their proxies may cast, with respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The Association may accept written ballots for Board Member election voting purposes from those Members unable to attend a meeting in which an election is held. The persons receiving the largest number of votes shall be elected. The election of Board Members may be conducted through open voting or by secret ballot. Cumulative voting is not permitted.

4.4 **Term of Office**. Board Members shall serve two (2) year terms. The terms shall be staggered and overlap so that elections for at least one Board Member position is held each year. Board Members may serve consecutive terms if elected.

4.5 **Regular Meetings**. The Board shall hold meetings at least annually or more often at the discretion of the Board.

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

4.7 **Meeting Notice**. Notice of Board Meeting date, time, and location shall be delivered personally, by email, by text, or by telephone, to all Board members and any Owners who have requested notice at least two days in advance of the meeting. Board Members may waive their right to notice of a meeting. By unanimous consent of the Board, special meetings

may be held without call or notice to the Board Members, but notice shall always be provided to those Owners who have requested notice of Board meetings.

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

4.9 **Owner Attendance.** Any Owner may request notice of Board meetings by requesting such notice from a Board Member and providing a valid email address or text messaging number at which the Owner will receive notice. Owners who have requested notice of Board meetings shall be given notice along with the Board Members and shall be provided any call-in number or other means of attendance by electronic communication that is provided to Board Members. If Owners attend a Board meeting, the Board may select a specific period of time during the meeting and limit Owner comments to such time period. The Board in its sole discretion may set a reasonable length of time that each Owner may speak.

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

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

4.11 **Board Meetings Generally.** The Board may designate any place in Washington County as the meeting place for any regular or special Board meeting. The Board may allow attendance and participation at any Board meeting by telephone, video conference, or any other electronic means that allows for Board Members to communicate orally in real time. If a Board meeting is held by telephone or video conference, the Association shall provide the call-in or internet link information such that Owners may call-in to access the meeting.

4.12 **Board Action.** Notwithstanding noncompliance with any provision within these Bylaws or other Governing Document, Board action is binding and valid unless set aside by a court of law. A Person challenging the validity of a Board action for failure to comply with these Bylaws, the Governing Documents, or any other irregularity, may not bring the challenge more than sixty (60) days after the Board has taken the action in dispute.

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

approved in advance by a majority of disinterested Board Members.

4.14 **Resignation and Removal**. Board Members may resign at any time by delivering a written resignation to another Board Member. Unless otherwise specified therein, such resignation shall take effect upon delivery. A Board Member elected by the Owners may be removed at any time, with or without cause, at a Special Meeting of the Owners duly called for such purpose upon the affirmative vote of more than fifty percent (50%) of the entire voting interests of the Association. At such a meeting, the Owners shall vote for a new Board Member to fill the remaining term of the removed Board Member. Board Members may also be removed by the majority vote of the other active Board Members upon the occurrence of any of the following: failure to attend three (3) consecutive Board meetings, failure to remain current on Assessments, or a violation of the Governing Documents. If removal occurs based on the preceding sentence, then the remaining Board Members may appoint a replacement to serve the remaining term of the removed Board Member.

4.15 **Vacancies**. If vacancies occur for any reason (including death, resignation, or disqualification) except removal by the Owners, the Board Members then in office shall continue to act, and such vacancies shall be filled by a majority vote of the Board Members then in office, though less than a quorum. Vacancies occurring by reason of removal by the Owners may be filled by election of the Owners at the meeting at which such Board Member is removed. Board Members elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of their predecessor. Except by reason of death, resignation, disqualification, or removal, Board Members shall continue to serve until their successors are elected.

4.16 **Action Without a Meeting**. Board Members have the right to take any action in the absence of a meeting which they could take at a Board meeting if a majority of the Board Members consent to the action in writing. The term "in writing" shall specifically include email and text messaging. Board Members may also take action without a meeting if the Board complies with any applicable provisions of the Acts. Any action so approved shall have the same effect as though taken at a Board meeting.

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

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

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

ARTICLE V OFFICERS

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

5.2 **Election, Tenure, and Qualifications**. Officers shall be elected by the Board at the first Board meeting following each Annual Meeting of the Owners. Each officer shall hold such office until the next ensuing meeting of the Board following the Annual Meeting of the

Owners and until a successor has been elected and qualified, or until such officer's death, resignation, disqualification, or removal in the manner provided in these Bylaws, whichever first occurs. Any person may hold any two (2) or more of such offices, except that the President may not also be the Secretary. No person holding two (2) or more offices shall act in or execute any instrument in the capacity of more than one (1) office.

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

5.4 **Resignation and Removal.** Officers may resign at any time by delivering a written resignation to any Board Member. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed and replaced upon the affirmative vote of a majority of the Board Members at any time, with or without cause.

5.5 **Vacancies.** If a vacancy occurs in an office for any reason, or if a new office is created, such vacancies or newly created offices may be filled by majority vote of the Board at any regular or special Board meeting.

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

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

5.8 **Secretary.** The Secretary shall keep the minutes of the Association and shall maintain such books and records as these Bylaws, the Declaration, Rules, or any resolution the Board may require. The Secretary shall also act in the place of the President in the event of the President's absence or inability or refusal to act. The duties of the Secretary may be delegated to the Manager.

5.9 **Treasurer.** The Treasurer shall have the custody and control of the funds and financial accounts of the Association, subject to the action of the Board, and when requested by the President, shall report the state of the finances of the Association at each meeting of the Owners and at any meeting of the Board. The Treasurer shall perform such other duties as required by the Board. The duties of the Treasurer may be delegated to the Manager.

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

ARTICLE VI COMMITTEES

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

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

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

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

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

ARTICLE VII INDEMNIFICATION

7.1 **Indemnification.** No Board Member, officer, or committee member shall be personally liable for any obligations of the Association or for any duties or obligations arising out of any acts or conduct said Board Member, officer, or committee member performed for or on behalf of the Association. The Association shall and does hereby indemnify and hold harmless each person who shall serve at any time as a Board Member, officer, or committee member of the Association, as well as such person's heirs and administrators, from and against any and all claims, judgments and liabilities to which such persons shall become subject, by reason of that person having heretofore or hereafter been a Board Member, officer, or committee member of the Association or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by such person as a Board Member, officer, or committee member and shall reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability; provided that no such person shall be indemnified against or be reimbursed for or be defended against any

expense or liability incurred in connection with any claim or action arising out of such person's willful or intentional misconduct. The rights accruing to any person under the foregoing provisions of this Section shall not exclude any other right to which such person may lawfully be entitled, nor shall anything herein contained restrict the right of the Association to defend, indemnify, or reimburse such person in any proper case, even though not specifically provided for herein or otherwise permitted. The Association, its Board Members, officers, committee members, employees, and agents shall be fully protected in taking any action or making any payment or in refusing so to do in reliance upon the advice of counsel.

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

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

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

ARTICLE VIII RULES AND REGULATIONS

8.1 **Rules.** The Board shall have the authority to adopt Rules as it deems necessary for the maintenance, operation, management, and control of the Project. The Board may from time to time, by resolution, alter, amend, and repeal such Rules and use their best efforts to see that they are strictly observed by all Owners and Occupants. Owners are responsible to ensure that their lessees, invitees, and guests strictly observe the Rules then in effect as well as the covenants and restrictions of the Declaration and shall be jointly and severally liable for their violations and resulting fines. Copies of all Rules adopted by the Board shall be sent to all Owners at least fifteen (15) days prior to the effective date thereof.

ARTICLE IX AMENDMENTS

9.1 **Amendments.** These Bylaws may be amended by the Owners upon the affirmative vote of at least sixty-seven percent (67%) of the voting interest of the Association. Any amendment(s) shall be effective upon recordation in the office of the County Recorder. In such instrument a Board Member shall execute the amendment and certify that the vote required by this Section has occurred.

ARTICLE X MISCELLANEOUS PROVISIONS

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

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

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

* * * *

IN WITNESS WHEREOF, the Board of Directors has executed and adopted these Bylaws this 14th day of May, 2024 and confirms that the Bylaws were adopted by the vote of at least two-thirds of the Lot Owners and a majority of the Board.

**PEREGRINE POINTE
OWNERS ASSOCIATION**
a Utah nonprofit corporation

By: Stephen Watis

Name: Stephen Watis

Its: Board President

STATE OF UTAH)
) ss.
COUNTY OF Washington

On the 14th day of May, 2024, personally appeared before me Stephen Watis who by me being duly sworn, did say that they are an authorized representative of the Peregrine Pointe Owners Association, and that the foregoing instrument is signed on behalf of said company and executed with all necessary authority.

Notary Public: Emily O. Holt

