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WASATCH COUNTY CORPORATION  
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**AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS, AND  
RESTRICTIONS  
FOR  
TURNBERRY WOODS**

**A Planned Unit Subdivision  
in  
Midway, Wasatch County, Utah**

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**AMENDED AND RESTATED**  
**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**  
**FOR**  
**TURNBERRY WOODS**

This AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND RESERVATIONS OF EASEMENT FOR TURNBERRY WOODS ("Declaration") is adopted by Turnberry Woods Homeowners Association, Inc. ("Association") and is effective as of the date it is recorded in the office of the Wasatch County Recorder.

**RECITALS**

- A. The Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Turnberry Woods was recorded in the Wasatch County Recorder's Office on April 28, 2005 as Entry No. 282429.
- B. The First Amendment to the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Turnberry Woods was recorded in the Wasatch County Recorder's Office on October 24, 2007 as Entry No. 327651.
- C. The Second Amendment to the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Turnberry Woods was recorded in the Wasatch County Recorder's Office on March 9, 2015 as Entry No. 409724.
- D. The Third Amendment to the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Turnberry Woods was recorded in the Wasatch County Recorder's Office on June 9, 2017 as Entry No. 439119.
- E. The Fourth Amendment to the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Turnberry Woods was recorded in the Wasatch County Recorder's Office on May 17, 2022 as Entry No. 519678.
- F. 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 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.
- G. This Declaration affects the real property situated in Wasatch 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.
- H. The Bylaws of the Association attached hereto as Exhibit B supersede and replace any previous bylaws of the Association and any amendments thereto, whether recorded or not.
- I. Pursuant to Utah Code §57-8a-104(1)(a)(i)(A), at least sixty-seven percent (67%) of the total votes of the Association have approved this Declaration. The signatures hereinafter of the President and Secretary of the Association certify and attest that such approval was obtained.

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

## ARTICLE I. DEFINITIONS

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

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

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

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

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

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

1.7. **Building Lot** shall mean a Lot on which a Residence has not been constructed. A Building Lot shall convert to a Constructed Lot on the date a certificate of occupancy is issued for the Residence constructed on the Building Lot.

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

1.9. **Common Areas** shall mean all areas of the Project, excluding Lots and Residences. Common Areas may include without obligation or limitation, all Common Areas shown on the Plat, private roads and curbs, common walkways, Association signs or monuments, open space, common landscaped areas, street signage, 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.

1.10. **Common Expenses** shall mean all sums lawfully assessed against Owners including expenses of administration, maintenance, management, operation, repair and replacement of the Common Areas which are maintained by the Association, unless otherwise provided herein; expenses agreed upon as common expenses by the Association or its Board; expenses authorized by the Governing Documents or the Act as common expenses; and any other expenses necessary for the common benefit of the Owners.

1.11. **Constructed Lot** shall mean a Lot on which a Residence has been constructed.

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

1.13. **Design Criteria** shall mean the requirements governing the location, color, materials, and architectural design of Residences, structures, landscaping, and improvements within the Project.

1.14. **Extended Lots** shall collectively mean the following eight (8) larger Lots in the Project:

Lot 8 (1344 W Lime Canyon Road)

Lot 9 (1320 W Lime Canyon Road)

Lot 27 (1106 W Links Drive)

Lot 28 (1104 W Links Drive)

Lot 36 (991 W Links Drive)

Lot 37 (971 W Links Drive)

Lot 38 (961 W Links Drive)

Lot 39 (951 W Links Drive)

1.15. **Extended Constructed Lots** shall mean Extended Lots on which a Residence is constructed.

1.16. **Governing Documents** shall mean and refer to the Declaration, Plat, Articles, Bylaws, and any Rules (including Design Criteria) adopted by the Board.

1.17. **Limited Common Areas** shall mean those portions of the Common Areas reserved for the exclusive use of certain Lots, as specified herein, on the Plat, or as determined by the Board. Limited Common Areas shall include the driveways appurtenant to Lots 1-7, 10-26, and Lots 32-34. The use and occupancy of the Limited Common Areas shall be reserved to the applicable Lots, and each applicable Owner is hereby granted an irrevocable license to use and occupy the same so long as such Owner owns the Lot associated with such Limited Common Area. Conveyance of a Lot includes the use of the Limited Common Area appurtenant to the Lot.

1.18. **Lot** shall mean each of the individual Lots within the Project, as shown on the Plat. The term "Lot" shall refer to both Building Lots and Constructed Lots. A Lot includes the Residence or other improvements or structures constructed thereon, if any. Each Lot consists generally of all structures on or within the boundary of the Lot.

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

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

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

1.22. **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.

1.23. **Non-Extended Lots** shall mean all Lots that are not Extended Lots.

1.24. **Non-Extended Constructed Lots** shall mean Non-Extended Lots on which a Residence is constructed.

1.25. **Occupant** shall mean any Person, living, dwelling, visiting, or staying in a Residence. This includes, but is not limited to, all lessees, tenants, guests, 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.

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

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

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

1.29. **Project** shall mean Turnberry Woods, which is a planned unit subdivision, and shall include the real property described in Exhibit A, together with the buildings, improvements, and permanent fixtures located thereon, and all easements and rights appurtenant thereto.

1.30. **Residence** shall mean the single-family detached dwelling constructed on a Constructed Lot which is designed and intended for use and occupancy as a residence, together with all improvements located on a Lot which are used in connection with such residential structure. Each Residence shall include, without limitation, roofs, exterior surfaces, exterior and interior doors, windows, porches, patios, decks, gutters, downspouts, foundations, and garages. Each Residence shall also include all mechanical equipment and appurtenances located outside the Residence but designed to serve only that Residence, such as appliances, electrical receptacles and outlets, air conditioning compressors, equipment, fixtures and the like. All pipes, wires, conduits, utility lines, or other similar installations serving only the Residence, and any structural members, parts, components or any other property of any kind, including fixtures or appliances within any Residence, which are removable without jeopardizing the integrity, soundness, safety or usefulness of the remainder of the building within which the Residence is located shall be deemed part of the Residence.

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

1.32. **Rules** shall mean the rules, resolutions, regulations, policies, architectural guidelines (i.e., Design Guidelines), etc. adopted by the Board.

## ARTICLE II. PROJECT DESCRIPTION

2.1. **Submission.** The Project and all real property described with particularity on Exhibit A attached hereto and incorporated herein by this reference is hereby submitted to the Act. The 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 Turnberry Woods. The Project is not a cooperative.

2.3. **Description of Improvements.** The major improvements contained in the Project are thirty-nine (39) residential Lots, some with a detached dwelling constructed thereon and some with no dwelling constructed thereon. The Lots, their locations, types of dwellings constructed, and approximate dimensions are indicated on the Plat. The Project includes open space and private roads.

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

### **ARTICLE III. MEMBERSHIP AND VOTING RIGHTS**

3.1. **Membership.** Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to the Lot in which the Owner has the necessary interest, and shall not be separated from the Lot to which it appertains. Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the transfer of ownership of the Lot, and then only to the new Owner. Any attempt to make a prohibited transfer is void.

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

3.3. **Total Votes of the Association.** There shall be thirty-nine (39) total votes of the Association.

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

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

### **ARTICLE IV. DUTIES AND POWERS OF THE ASSOCIATION**

4.1. **Organization of Association.** The Association, through the Board, 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 Areas and Common Expenses, and other matters as provided in the Act, this Declaration, and the Bylaws. The Association shall have all rights and powers granted to it under the Act and in this Declaration,

the Articles, and the Bylaws. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Owners in accordance with this Declaration, the Articles, and the Bylaws. Except as specifically authorized in this Declaration, the Articles, or the Bylaws, no Owner or group of Owners shall have authority to take any action on behalf of the Owners, the Association, or the Board.

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

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

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

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

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

- 1) **Maintenance and Services.** The Association shall provide maintenance and services for the 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. The Association shall have no obligation to obtain or maintain any insurance covering the Residences, personal property, and personal liability of any Owner(s), and each Owner shall be responsible for obtaining and maintaining property insurance covering the Owner's Residence, personal property insurance, and personal liability insurance.
- 3) **Rulemaking.** The Association, through its Board, shall make, establish, promulgate, amend, and repeal Rules governing the conduct of persons and the operation and use of the 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.

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

5) **Enforcement.** The Association shall perform such acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce the provisions of the Governing Documents of the Association. Owners, Occupants, guests, and family members shall be jointly and severally liable for any fines incurred for violations of the Governing Documents.

6) **New Capital Improvements.** New capital improvements to the Project that do not exceed twenty-five percent (25%) of the Annual Budget may be authorized by the Board alone. New capital improvements equal to or in excess of twenty-five percent (25%) of the Annual Budget shall be approved and assented to by at least fifty-one percent (51%) of the Owners present in person or by proxy at a duly called meeting. The maintenance, repair, and replacement of existing Common Areas is not considered a new capital improvement. If the capital improvement is included or considered in an Association reserve analysis, it is not a new capital improvement.

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

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

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

10) **Shared Use of Common Areas.** An easement for recreational use of the Association's Common Areas shall be granted by the Association as a benefit and right appurtenant to Owners and their successors, heirs, assigns, lessees, and tenants subject to provisions of this Declaration or other Governing Documents.

11) **Bulk Service Agreements.** The Association shall have the right, but not the obligation, to enter agreements for the provision of cable, television, internet, telephone, or other similar services for all of the Lots or groups of Lots provided such agreements are approved and assented to by at least fifty-one percent (51%) of the Owners present in person or by proxy at a duly called meeting. Such services shall be assessed to the Owners pursuant to the provisions of this Declaration and may be broken out as a separate line item on invoices, statements, or notices of Assessment.

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

13) **Leasing/Sale of Common Areas.** The Association may enter into leases for portions of the Common Area as may be beneficial to the Association and the Owners. The Association may sell Common Area, provided the affirmative vote of Owners holding at least sixty-seven percent (67%) of the total votes of the Association is obtained.

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

**15) Conflicts of Interest.** Members of the Board shall avoid conflicts of interest in making decisions on behalf of the Association. Any member of the Board with a conflict of interest in a decision shall recuse himself or herself from voting on the issue.

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

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

**4.7. Management.** The Project shall be managed by a 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.

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

## ARTICLE V. PROPERTY RIGHTS IN COMMON AREAS

**5.1. Easement of Enjoyment.** Each Owner shall have a right and easement of use and enjoyment in and to the Common Areas (excluding the Limited Common Areas of other Lots) and to the Limited Common Areas appurtenant to the Owner's Lot. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom.

**5.2. Title to Common Areas.** The Association may hold the title to the various Common Areas within the Project.

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

- 1) The right of the Association to impose reasonable limitations on the number of guests per Owner who are permitted to use the Common Areas at any given time;
- 2) The right of Wasatch County and any other 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;

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

4) The right of the Association to dedicate or transfer all or any part of the Common Areas, and any sewer, water and storm drain lines to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association. Any such dedication or transfer must, however, be approved by Owners holding at least sixty-seven percent (67%) of the total votes of the Association.

5.4. **Delegation of Use**. Any Owner may delegate the Owner's right of use and enjoyment to the Common Areas to his or her Occupants who reside in the Project. The rights and privileges of such donee or assignee shall be subject to suspension in the same manner and to the same degree as those of an Owner.

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

5.6. **Easement for Utility Services**. Easements for installations and maintenance of drainage facilities and public utilities are generally reserved over all Common Areas, along the front of all Lots, along the rear of all Lots, and along the sides of Lots as shown on the Plat.

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

## ARTICLE VI. BUDGET AND ASSESSMENTS

6.1. **Annual Budget**. The Board shall prepare and adopt an annual budget for the Association based on the anticipated Common Expenses. The annual budget shall provide, without limitation, for the maintenance of the Common Areas, and for the administration, management, and operation of the Association. If the Board fails to adopt an annual budget, the last adopted budget shall continue in effect until a new annual budget is adopted. The budget shall be made available to Owners within thirty (30) days after adoption.

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

6.3. **Purpose of Assessments**. Assessments levied by the Association shall be used for the purpose of promoting the health, safety, and welfare of residents of the 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; and any expenses necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under the Governing Documents.

6.4. **Annual Assessments.** Annual Assessments shall be made on a calendar year basis based on the budget. Each Annual Assessment shall be due and payable in monthly installments on the first day of each month, unless a different payment arrangement is made by the Board. At least fifteen (15) days prior to the effective date of any change in the amount of the Annual Assessment, the Association shall give each Owner written notice of the amount. Annual Assessments shall be assessed equally against each Constructed Lot. Annual Assessments shall be assessed equally against each Building Lot, but the assessed amount shall only be sixty-five percent (65%) of the Annual Assessments assessed against each Constructed Lot.

6.5. **Special Assessments.** The Board may levy a Special Assessment against each Lot payable over such a period as the Board may determine for the purpose of defraying, in whole or in part any expense or expenses not reasonably capable of being fully paid with funds generated by Annual Assessments; the cost of any reconstruction or unexpected repair or replacement of the Common Areas; or for any other expense incurred or to be incurred as provided in this Declaration. The Board, in its sole discretion, may levy Special Assessments each calendar year in the aggregate of up to ten percent (10%) of the annual budget. Special Assessments each calendar year in the aggregate of over ten (10%) of the annual budget must be approved and assented to by at least fifty-one percent (51%) of the Owners present in person or by proxy at a meeting duly called for such purpose. Special Assessments shall be assessed equally against each Constructed Lot. Special Assessments shall be assessed equally against each Building Lot, but the assessed amount shall only be sixty-five percent (65%) of the Special Assessments assessed against each Constructed Lot. Notice in writing of the amount of any Special Assessments and the time for their payment shall be given as soon as is reasonably possible to the Owners. Payment shall be due on the dates and in the manner determined by the Board and provided in the notice.

6.6. **Benefited Assessments.** In addition to Annual Assessments and Special Assessments authorized above, the Board may levy Benefited Assessments against particular Lots to cover the costs of the Association in providing ongoing special benefits, items, or services to the particular Lots. Benefited Assessments may be levied in advance of the Association providing such special benefits, items, or services to particular Lots and shall be imposed equally upon all benefited Lots, or shall be imposed based on the 100% Constructed Lot / 65% Building Lot split outlined in Section 6.4 and 6.5 above, whichever the Board determines is most appropriate.

6.7. **Individual Assessments.** In addition to Annual, Special, and Benefited Assessments authorized above, the Board may levy Individual Assessments against a Lot and its Owner for: (a) administrative costs and expenses incurred by the Board in enforcing the Governing Documents against the Owner or his or her Occupants; (b) costs associated with the maintenance, repair, or replacement of Common Areas caused by the neglect or actions of an Owner or his or her 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 Lot and its Owner into compliance with the Governing Documents; (d) nonpayment of a "Reinvestment Fee"; (e) costs of providing services to the Lot upon request of the Owner; and (f) attorney fees, court or collection costs, fines, and other charges relating thereto as provided in this Declaration. In addition, Individual Assessments may be levied against a Lot and its Owner specifically benefited by any improvements to adjacent roads or other portions of the Common Areas made on the written request of the Owner of the Lot to be charged.

6.8. **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, retain a prudent amount in the operating account, credit the excess against future Assessments, or pay the excess to the Owners, as the Board deems appropriate. The decision of the Board shall be binding and conclusive. In addition, the Association shall not be obligated to reduce the amount of Assessments in succeeding years if an excess exists for a prior year.

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

6.10. **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 of up to twenty-five dollars (\$25) or an amount greater if so provided in the Act. This certificate is not the same as a payoff statement, which is addressed in Section 6.20 below.

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

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

time prior to or after delinquency of such payment. A copy of such notice may also be provided to the Occupant(s) of the Owner if the Owner is not a resident at the Project.

6.13. **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 fifteen (15) days from the date that they became due. Whenever an Assessment is delinquent, the Board may at its option invoke any one or more options or all of the sanctions granted in this Article or the Act.

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

6.15. **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 this Declaration or the Bylaws against the Owner of the Lot from the date on which the Assessment, fine, or charge is due. This lien shall arise and be perfected as of the date of the recording of this Declaration. At any time, any Assessment or installment thereof is delinquent, the Association, by and through its Board or any Manager, may file a notice of lien in the deed records of Wasatch County, Utah against the Lot with respect to which the delinquency pertains. Once filed, such lien shall accumulate all future Assessments or installments, interest, late fees, penalties, fines, attorney fees, and other appropriate costs properly chargeable to an Owner by the Association, until such amounts are fully paid. Said lien may be foreclosed at any time as allowed by law. The lien of the Association shall be superior to all other liens and encumbrances except: a lien or encumbrance recorded before the original Declaration was recorded; a first or second security interest on the Lot secured by a mortgage or trust deed that is recorded before the Association's notice of lien; or a lien for real estate taxes or other governmental assessments against the Lot. The Association through its duly authorized agents, may bid on the Lot at any foreclosure sale, and may acquire and hold, lease, mortgage, and convey the Lot.

3) The Association may bring an action to recover a money judgment for unpaid Assessments, fines, and charges under this Declaration against the Owner without foreclosing or waiving the lien described above. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

4) If a delinquent Owner is leasing his or her Lot, the Board may, at its option, so long as such default shall continue, demand and receive from any tenant of the Owner the rent due or becoming due and the payment of such rent to the Board shall discharge such tenant for rent due, and shall discharge the Owner for such Assessments to the extent of the amount so paid.

5) The Association may terminate utilities paid out of the Common Expense, and the right to use the Common Areas.

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

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

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

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

6.18. **Reimbursement of Tax Collection by County Authorized.** It is recognized that under the Declaration that the Association will be responsible for the Common Areas, which may obligate it to pay property taxes or other fees to Wasatch County. Each Owner shall be required to reimburse the Association for its pro rata share of such taxes paid.

6.19. **Reinvestment Fee.** The Association shall have the right to collect a "Reinvestment Fee" assessment in accordance with this Section and Utah Code §57-1-46. 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 Wasatch 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.

2) The Board shall have the power to set the amount of the Reinvestment Fee, in the Board's sole discretion, provided that in no event shall amount of the Reinvestment Fee exceed the maximum rate permitted by law. If no amount is otherwise set by the Board, the amount of the Reinvestment Fee shall be the maximum rate permitted by law. As of the date this Declaration is recorded, the maximum rate permitted by law is 0.5% of the value of the Lot.

3) The Association shall not levy or collect a Reinvestment Fee for any Transfer exempted by Utah Code § 57-1-46.

4) 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 an Individual Assessment against the Lot and may be collected as such.

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

Utah law. If not otherwise set forth in the Rules, the account payoff fee shall be fifty dollars (\$50.00).

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

## **ARTICLE VII. MAINTENANCE**

**7.1. Association Maintenance.** The Association shall maintain, repair, and replace the Common Areas (but not the Limited Common Areas) together with all improvements thereon and all easements appurtenant to the Common Areas. The Association shall also perform, or cause to be performed, snow removal on the private roads in the Project. The Board, in its sole discretion, shall determine the maintenance standard of the Common Areas and for other areas for which it has maintenance responsibilities.

**7.2. Owner Maintenance.**

1) **Constructed Lots.** Each Owner of a Constructed Lot shall have the obligation to maintain, repair, and replace the Owner's Constructed Lot and Residence and shall keep the same in good order and repair. Each Owner of a Constructed Lot shall also maintain, repair, and replace the Owner's driveway, including performance of snow removal. For Constructed Lots that share a driveway, the expenses related to the maintenance, repair, and replacement of the driveway, including snow removal, shall be shared equally between the affected Owners, unless otherwise agreed by the affected Owners.

2) **Building Lots.** Each Owner of a Building Lot shall keep such Building Lot free from debris and unsightly materials, shall regularly spray for weeds, and shall perform any needed snow removal on the Building Lot.

**7.3. Maintenance of Landscaping in the Project.** Notwithstanding anything to the contrary herein, the following shall apply: Each Owner of an Extended Constructed Lot shall maintain, repair, and replace the landscaping located on the Owner's Extended Constructed Lot. Each Owner of a Non-Extended Constructed Lot shall maintain, repair, and repair the landscaping located underneath the deck(s) and underneath the roofline of the Owner's Residence. The Association shall maintain, repair, and replace all other landscaping in the Project.

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

Association in remedying Owner maintenance neglect shall be an Individual Assessment against the Owner's Lot.

7.5. **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. **Association Maintenance Caused by Owner Negligence.** If the need for maintenance or repair of Common Areas (or other areas for which the Association has a maintenance responsibility) is caused through the willful or negligent acts of an Owner, 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.

7.7. **Board Approval Required.** Owners are required to seek prior written Board approval before performing any Owner maintenance obligation contained in this Article VII or contained in the Governing Documents if such performance will modify the appearance of the exterior of a Residence or if approval is otherwise required under Section 10.1 (Architectural Controls) below.

7.8. **Midway City.** Midway City shall have the right, but not the duty, to require, and if necessary, perform, at the Association's expense, landscaping, maintenance, and snow removal within the Common Areas if the Association fails adequately to perform such. In the event Midway City exercises this right, the City shall be entitled to recover any associated costs and attorney fees from the Association. This Section shall not be amended or deleted without the approval of Midway City.

## ARTICLE VIII. INSURANCE

**NOTICE: The Association's insurance policies do not cover Residences, the personal property of the Owners or their Occupants, or the personal liability of the Owners or their Occupants. Owners and Occupants are required to obtain adequate insurance to cover their Residences, personal property, and personal liability.**

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

8.2. **Property Insurance.** The Association shall maintain a blanket policy of property insurance covering any insurable improvements on the Common Areas in the amount of not less than one hundred percent (100%) of the full replacement cost of the insured property. The Association may maintain broader coverage if afforded by the insurance contract.

8.3. **Comprehensive General Liability (CGL) Insurance.** The Association shall obtain CGL insurance insuring the Association, the agents and employees of the Association, and the Owners, against liability incident to the use, ownership or maintenance of the Common

Area or membership in the Association. The coverage limits under such policy shall not be less than One Million Dollars (\$1,000,000.00) covering all claims for death of or injury to any one person or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which should preclude the insurer from denying the claim of an Owner because of the negligence acts of the Association or another Owner.

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

8.5. **Theft and Embezzlement Insurance.** The Association shall obtain insurance in an amount deemed reasonable by the Board covering the theft or embezzlement of funds by Board Members, officers, employees, Manager, and contractors of the Association.

8.6. **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.

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

8.8. **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.

8.9. **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. **Rules.** The Board shall have authority to promulgate and enforce such Rules and procedures as may aid the Association in carrying out any of its functions or to ensure that the Project is maintained and used in a manner consistent with the Governing Documents. Owners and Occupants shall at all times obey the Rules and see that they are faithfully observed by those persons over whom they have or may exercise control and supervision, it being understood that such Rules shall apply and be binding upon all Owners and Occupants of the Lots. The Rules may address any issues, including those addressed in this Declaration and the Bylaws. The Rules may supplement, clarify, and add detail to issues otherwise addressed in this Declaration and the Bylaws so long as they do not contradict the same. The Board's

determination as to whether a particular activity being conducted or to be conducted violates or will violate the Rules shall be conclusive. Violations of Rules may result in fines levied by the Board. Fines may be levied pursuant to a schedule of fines the Board adopts for the Association.

9.2. **Single Family.** Each Residence shall be used only as a single-family dwelling, as defined by city code.

9.3. **Leasing.** The leasing of Lots is permitted, subject to the restrictions contained herein and any Rules adopted by the Board. Any agreement for the leasing, rental, or occupancy of a Lot (hereinafter in this Section referred to as a "lease") shall be in writing, a copy of which shall be provided to the Board or Manager upon request, along with the name and contact information for all adult tenants and any other information deemed necessary by the Board. Tenants shall be provided with copies of the Governing Documents. All leases shall be for an initial term of no less than twenty-one (21) days. Daily, weekly, or other short-term rentals are prohibited. Subleasing is prohibited. All leases 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. No Owner may advertise a lease that, if entered into, would violate this Section. Within ten (10) days after delivery of written notice from the Association to the Owner 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 the Owner's 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. The Owner of a Lot shall be responsible for the tenant's or any guest's compliance with the Governing Documents and the Owner and tenant shall be jointly and severally liable for any fines for violations thereof. Fines, charges, and expenses incurred in enforcing the Governing Documents with respect to a tenant, and for any costs incurred by the Association in connection with any action under this Section, including reasonable attorney fees (regardless of whether any lawsuit or other action is commenced), are Individual Assessments against the Owner and Lot which may be collected and foreclosed on by the Association.

9.4. **Business Activities.** No gainful occupation, business, trade, or other nonresidential use shall be conducted on any Lot or Residence except with the prior written consent of the Board. Notwithstanding the foregoing, activities otherwise prohibited by this Section are permitted without Board approval if (1) only normal residential activities would be observable outside of the Residence; (2) the business activity does not involve persons coming on to the Project who do not reside in the Project in a manner and/or amount that would constitute a nuisance; (3) the business activity does not involve the solicitation of Occupants or Owners; (4) the business will not result in the increase of the cost of the Association's insurance; and (5) the activities would not be in violation of applicable local ordinances.

9.5. **Offensive or Unlawful Activities.** No noxious or offensive activities shall be carried on upon any Lot or Common Area, nor shall anything be done or placed on any Lot or Common Area which interferes with or jeopardizes the quiet enjoyment of other Lots or the Common Areas. No unlawful use shall be made of a Lot or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. No use shall be made of any Lot which would result in an increase in the cost of the Association's insurance or which would cause the improvements within the 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.

9.6. **Pets.** Up to two (2) domestic pets may be kept in each Residence. No pets, animals, livestock, or poultry of any kind shall be bred in, on, or about the Project. The Board may adopt Rules that vary or expand upon the restrictions in this Section including, but not limited to, restrictions on the types of pets, requirements for registration with the Association, and noise limitations. All pets must be properly licensed and registered with the appropriate governmental agency. Pet owners must abide by all Midway City ordinances related to pets and must abide by all pet Rules adopted by the Board from time to time. Pets may not create a nuisance. The following acts of an animal may constitute a nuisance: (a) it causes damage to property of anyone other than its owner; (b) it causes unreasonable fouling of the air by odors; (c) it causes unsanitary conditions; (d) it defecates on any Common Area or Limited Common Area of another Owner and the feces are not immediately cleaned up by the responsible party; (e) it barks, whines, or howls, or makes other disturbing noises in an excessive, continuous, or untimely fashion; or (f) it harasses passersby by lunging at them or chasing passing vehicles. Pets may not be tied or tethered in the Common Area or the Limited Common Area of another Owner and shall be leashed or otherwise restrained whenever outside a Residence or Limited Common Area appurtenant to the Lot. The Association may levy Individual Assessments to Owners for any damages to the Common Areas and landscaping caused by a pet.

9.7. **Clothes Lines.** No exterior clothes lines shall be erected or maintained on a Lot and no outside laundering or drying of clothes is permitted.

9.8. **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. A nuisance includes, but is not limited to, the following:

- 1) The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot or the Common Areas;
- 2) The storage of any item, property or thing that will cause any Lot or the Common Area to appear to be in an unclean or untidy condition or that will be noxious to the senses;
- 3) The accumulation of rubbish, unsightly debris, garbage, equipment, unregistered or abandoned vehicles, or other things or materials that constitute an eyesore as reasonably determined by the Board;
- 4) The storage of any substance, thing or material upon any Lot or in the Common Areas that will emit any foul, unpleasant or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;
- 5) 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;
- 6) Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature that diminishes or destroys the enjoyment of the Association by other residents, their guests or invitees;

- 7) Too much noise or traffic in, on or about any Lot or the Common Area or excessive use of outside speakers or amplifiers; or
- 8) Activities or conditions defined as a nuisance by the City of Midway or other governmental entity with jurisdiction over the Project; or
- 9) Use of fireworks of any kind; or
- 10) Other sights, sounds, smells, activities, or behaviors deemed a nuisance by the Board.

9.9. **Signs.** Except as may be permitted by law, signs may only be erected or maintained in the Project with the prior approval of the Board or as allowed under adopted Rules.

9.10. **Garbage and Refuse Disposal.** All rubbish, trash, and garbage shall be regularly removed from the Project or Lots and shall not be allowed to accumulate thereon. No equipment or storage piles may be kept outside of the Residence. The Board may adopt additional Rules for the storage and concealment of trash and receptables. Unless otherwise stated in an adopted Rule, all trash receptables shall be returned to the garage or other area screened from view within twenty-four (24) hours of collection.

9.11. **Temporary Structures.** No Owner or Occupant shall place upon any part of the Project any temporary structures, including but not limited to, storage units, tents, trailers and sheds or their equivalent, without the prior written consent of the Board.

9.12. **Equipment and Automobile Maintenance.** No equipment or car maintenance or repairs of any nature shall be permitted in the Project except periodic car washing on a Lot or actions taken in a closed garage. Emergency repairs that do not exceed 24-hours are permitted.

9.13. **No Combining/Subdividing.** No Lot may be combined with another Lot (or portion of a Lot) or may be split, divided, further subdivided without the prior written approval of the Board.

9.14. **Vehicles and Parking.** At no time shall any vehicle be parked in a manner which would impair vehicular or pedestrian access, or snow removal. No boats, trailers, campers, recreational vehicles, trucks exceeding the 1-ton class, or vending or commercial vehicles shall be parked or stored in the Project, unless in a closed garage, except during active loading/unloading or the receiving of deliveries or services. Such vehicles may be temporarily kept or stored in a driveway for no more than forty-eight (48) hours total during any seven (7) day period unless prior written approval from the Board is obtained. No parking shall be allowed on the private streets in front of Residences and no permanent parking shall be allowed in front of the garages of Residences. Only temporary (defined as not more than forty-eight (48) hours total in any seven (7) day period) guest parking shall be allowed in designated guest parking locations and in front of the garages of the Residences unless prior written approval from the Board is obtained. The Board may adopt additional Rules relating to the parking of vehicles within the Project, including, without limitation: the size and dimensions of the vehicles parked within the Project; the location of vehicles parked within the Project; the admission and temporary parking of vehicles within the Project; the right to remove or cause to be removed any vehicles that are improperly parked; and the levying of fines to Owners and Occupants who violate such Rules. The Association shall have the right to remove any vehicles from the Project that are in violation of this Section or of any Rules adopted by the Board.

9.15. **Window Covers.** Only curtains, drapes, shades, shutters, and blinds of a neutral color may be installed as window covers. No window shall be covered by paint, blankets, rugs,

foil, flags, sheets, and the like. No window tinting or mullions are permitted with the prior written approval of the Board.

9.16. **Sculptures.** No outdoor sculptures are permitted on a Lot without written approval of the Board.

9.17. **Flags.** As permitted by law, the Board may adopt Rules regarding flags in the Project.

9.18. **Fences.** Perimeter fencing (such as fences along or near Lot boundary lines or fencing not connected with a building or structure) is not permitted. Interior fencing, screens, or walls which are associated or connected with a building are permitted subject to prior written approval of the Board.

9.19. **No Patio/Deck Storage.** No storage of any kind is permitted on decks or patios. Patio furniture and portable barbecue grills in good condition are permitted on decks and patios.

9.20. **Energy Conservation Equipment.** Solar energy collector panels and attendant hardware or other energy conservation equipment shall be prohibited from being constructed or installed in the Project unless authorized by the Board. If the Board elects to allow energy conservation equipment in the Project, then the Board may adopt Rules for the installation of solar panels or other energy conservation equipment. Any such Rules must require that the installation be an integral and harmonious part of the architectural design of the buildings. To the requesting Owner(s) or benefitted Owner(s) in the Board's sole discretion.

9.21. **Wildfires.** The Project is located on a mountain hillside. The Association and Owners shall be responsible to follow any governmentally required wildfire mitigation plans. The Association, the Board, and the Manager shall not be responsible for any damage sustained to the Project stemming from a wildfire.

9.22. **Variances.** The Board may, in extenuating circumstances, grant variances from the restrictions set forth in this Article if the Board unanimously determines in its discretion: (1) either that the restriction would create an unreasonable hardship or burden on an Owner or Occupant, or that a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete and unreasonable to enforce; and (2) that the activity permitted under the variance will not have any financial affect or any other substantial adverse effect on the other Owners or Occupants of the 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 a duly authorized Board Member, acknowledging that such variance is unanimously approved by the Board. No variance may be granted that is inconsistent with the Act.

## **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. Residences and other structures to be built on Building Lots are subject to the requirements contained in Section 10.3, below. In the event of any reconstruction of an improvement or Residence due to a casualty, the design, quality, and appearance of the reconstructed improvement shall be substantially the same as the structure initially built, unless otherwise approved by the Board. Prior Board approval shall also be required for any construction or improvements that expand the footprint of, expand the height of, or modify the external appearance of any Residence or other structure on a Lot.

Unless otherwise stated in adopted Design Criteria, applications submitted to the Board pursuant to this Section shall be deemed denied if the Board has not provided an approval or requested additional information within forty-five (45) days of the application being submitted. Applications shall contain all plans, details, and specifications of the proposed project to allow the Board to make an informed decision. The Board may delegate some or all of its responsibilities under this Section to an appointed Architectural Review Committee.

**10.2. Design Criteria.** The Board may adopt Design Criteria for the purpose of maintaining a consistent character and quality of appearance of the improvements within the project. The Design Criteria 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 Criteria may also designate landscaping requirements. Such designations shall be for the purpose of achieving uniformity of appearance and preservation of property values. Amendments to the Design Criteria 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 Criteria as amended.

**10.3. Architectural Control for Building Lots.**

1) All improvements constructed on Building Lots shall be a of new construction and shall conform to the Design Guidelines or other architectural requirements contained in the Governing Documents. The constructed Residences shall be single family detached dwellings.

2) No de-vegetation, excavation, grading, planting, or re-vegetation work shall be performed on any Building Lot without the prior written approval of the Board.

3) No Residence or improvement may be constructed or installed on a Building Lot without the prior written approval of the Board.

4) Any Residence constructed on a Building Lot must be constructed within the building pad as depicted on the Plat.

5) The Board approvals required under this Section shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state, or local law, statute, ordinance, rule, or regulation.

6) Landscape Restrictions for Building Lots.

(a) Owners of Building Lots may landscape a maximum of ten thousand (10,000) square feet of their Building Lot. All non-landscaped portions of the Building Lot shall be maintained in an undisturbed and native state and without any fencing.

(b) No landscaping may be constructed or installed on a Building Lot without the prior written approval of the Board.

(c) All landscaping shall be constructed in accordance with any Design Guidelines or any other landscaping requirements contained in the Governing Documents.

**10.4. Variances.** The Board may authorize variances from compliance with any of the architectural provisions of this Declaration or Design Criteria. Such variances must be in writing and must be signed by a majority 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.

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

## **ARTICLE XI. ENFORCEMENT**

**11.1. Enforcement of Governing Documents.** Each Owner and Occupant shall comply with the Governing Documents. The Association, through the Board, shall have the power and authority in its own name, on its own behalf, or in the name and behalf of any Owner(s) who consents thereto, to enforce, by fine or proceedings at law or in equity, each provision of the Governing Documents, including the right to prevent any violation of such, and the right to recover damages and other sums for such violation(s). Owners may also enforce the Governing Documents as allowed by law through proceedings at law or in equity. The prevailing party in any action for the enforcement of any provisions of the Governing Documents (including but not limited to litigation and the appeal thereof) shall be entitled to collect court costs and reasonable attorney fees. Reasonable attorney fees incurred by the Association in enforcing the Governing Documents may be levied against the offending Owner as an Individual Assessment, regardless of whether a lawsuit or other action is commenced. Occupants, guests, and invitees shall be jointly and severally liable with the Owner for any fine assessed as a result of their action in violation of the provisions of the Governing Documents.

## **ARTICLE XII. RIGHTS OF FIRST MORTGAGEE**

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

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

## **ARTICLE XIII. RIGHT OF ENTRY**

**13.1 Right to Enter Lots.** The Association acting through the Board or its duly authorized agent may, upon reasonable notice of at least forty-eight (48) hours, enter upon any Lot on the areas located outside the exterior boundaries of a Residence, regardless of whether or not the Owner or Occupant thereof is present at the time, to abate any infractions, to fulfill its responsibilities, to exercise its rights, and to correct any violation of any of the Governing Documents. The notice set forth in this Section shall not be necessary in case of an emergency threatening other 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 Owner unless there is an emergency threatening another Residence or the Occupants of another Residence. Owners shall maintain up-to-date emergency contact information records with the Association, including any local representative an Owner may have for notice purposes.

## ARTICLE XIV. AMENDMENTS

14.1. **Amendments.** This Declaration may be amended upon the affirmative vote of at least sixty-seven percent (67%) of the total votes 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 Wasatch County Recorder. In such instrument the President shall certify that the vote required by this Section for amendment has occurred. If a Lot is owned by more than one Owner, the vote of any one Owner shall be sufficient to constitute approval for that Lot under this Section. If a Lot is owned by an entity or trust, the vote of any one officer, trustee, or agent of the entity shall be sufficient to constitute approval for that Lot under this Section.

## ARTICLE XV. MISCELLANEOUS

15.1. **Notices.** Any notice required or permitted to be given to any Owner or Member 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 or phone number capable of receiving text messages for such Person appearing in the records of the Association at the time notice is sent. If no email or mailing address or phone number capable of receiving text messages has been provided, the physical address of the Lot owned by said Owner shall be used for notice purposes. Notices may also be sent as allowed by the Act.

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

15.3. **Dissolution.** The Association may be dissolved by the affirmative assent in writing from eighty-five percent (85%) of the Owners. Upon dissolution, the Association's assets shall be transferred to a nonprofit corporation, trust, or other entity to be used for purposes similar to those provided herein, and each Owner shall continue to be obligated to make assessment payments for the maintenance and upkeep of the Common Areas and facilities on a pro rata basis which conforms substantially with the assessments procedure, terms and conditions set forth in Article VI.

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

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

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

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

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

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

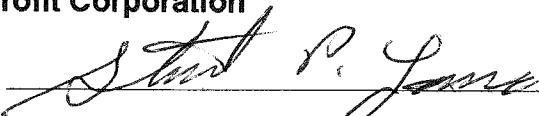
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## CERTIFICATION

IN WITNESS WHEREOF, this Amended and Restated Declaration of Covenants, Conditions, and Restrictions and Reservations of Easement for Turnberry Woods, was duly approved by at least sixty-seven percent (67%) of the total votes of the Association.

DATED as of the 3 day of July, 2025.

**Turnberry Woods Homeowners Association, Inc.,**  
**A Utah Nonprofit Corporation**

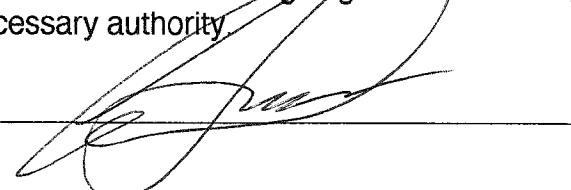
Signature: 

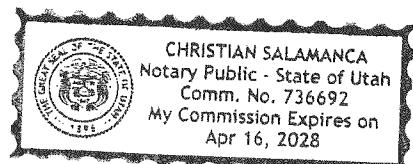
Name: 

Title: President

State of Utah )  
 County of Wasatch ) ss.

On the 3 day of July, 2025, Stuart P. Young [Name] personally appeared before me who by me being duly sworn, did say that she/he is the President of Turnberry Woods Homeowners Association, Inc. and that the foregoing instrument is signed on behalf of said entity and executed with all necessary authority.

Notary Public: 



DATED as of the 3<sup>rd</sup> day of July, 2025.

**Turnberry Woods Homeowners Association, Inc.,  
A Utah Nonprofit Corporation**

Signature:



Name:

Robin J. English

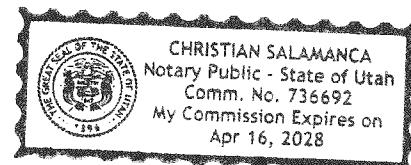
Title:

Secretary

State of Utah )  
County of Wasatch ) ss.

On the 3 day of July, 2025, Robin J. English [Name] personally appeared before me who by me being duly sworn, did say that she/he is the Secretary of Turnberry Woods Homeowners Association, Inc. and that the foregoing instrument is signed on behalf of said entity and executed with all necessary authority.

Notary Public:



## **EXHIBIT A LEGAL DESCRIPTION AND PARCEL NUMBERS**

All of Turnberry Woods PUD Phase 1 Plat A recorded in the Office of Wasatch County Recorder, including Lots 1-24 and Common Area.

**Parcel Numbers: 00-0020-2951 through 00-0020-2974**

All of Turnberry Woods PUD Phase 1 Plat B recorded in the Office of Wasatch County Recorder, including Lots 25-28 and Common Area.

**Parcel Numbers: 00-0020-5160 through 00-0020-5163**

All of Turnberry Woods PUD Phase 2 (Amended) plat recorded in the Office of Wasatch County Recorder, including Lots 29-35 and Common Area.

**Parcel Numbers: 00-0020-3469 through 00-0020-3475**

All of "The Point" at Turnberry Woods PUD Lots 36 &37 Amended also known as Turnberry Woods Phase 3 plat recorded in the Office of Wasatch County Recorder, including Lots 36-37.

**Parcel Numbers: 00-0020-5585 through 00-0020-5586**

Lots 38-39 and Common Area as shown on "The Point" at Turnberry Woods PUD also known as Turnberry Woods Phase 3 Amended plat recorded in the Office of Wasatch County Recorder.

**Parcel Numbers: 00-0020-5587  
00-0020-6401**

(39 Total Parcels)

## **EXHIBIT B**

### **BYLAWS OF TURNBERRY WOODS HOMEOWNERS ASSOCIATION, INC.**

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

#### **RECITALS**

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

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

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

#### **ARTICLE I DEFINITIONS**

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

#### **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. The purposes of the Annual Meeting may include the election of Board Members, the distribution of financial reports and budget, distributing the most recent reserve study, and to transact such other business as may come before the meeting.

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

3.3 **Place of Meetings.** The Board may designate any place that is reasonably convenient for the Owners as the place of meeting for any Annual or Special Meeting. Meetings may also be held (partially or wholly) through any electronic means, so long as all persons participating in the meeting may hear each other during the meeting.

3.4 **Notice of Meetings.** The Board shall cause written or printed notice of the date, time, and place (and in the case of a Special Meeting, the purpose or purposes) for all Owner meetings. Such written or printed notice shall be delivered to each Owner of record entitled to vote at such meeting not more than thirty (30) nor less than ten (10) days prior to the meeting. Such notice may be sent via email, text, hand-delivery, regular mail, or as otherwise allowed by the Acts. 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 of the Association if he or she is not delinquent in the payment of Assessments.

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

Lots in the Project shall be deemed to be the Owners of record entitled to notice of the Owner meeting.

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

3.8 **Proxies.** Owners shall be entitled to vote in person or by proxy at each meeting 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 to a Person who represents an Owner at Association meetings shall be in writing, dated, and signed by such Owner. Such instrument authorizing a proxy to act shall set forth the specific matters or issues upon which the proxy is authorized to act and may allow the proxy to vote on any issue arising at any particular meeting or meetings. Proxies shall be filed with the Secretary (or with such other officer or person who may be acting as secretary of the meeting) before the meeting is called to order. The Secretary shall record all proxies in the meeting minutes.

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

3.10 **Waiver of Irregularities.** All inaccuracies and/or irregularities in calls or notices of a meeting and in the manner of voting, form of proxies, and/or method of ascertaining Owners present shall be deemed waived if no objection thereto is made at the meeting.

3.11 **Action Taken Without a Meeting.** Owners have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of Owners in accordance with the requirements of Utah Code §16-6a-707 or §16-6a-709 and any other applicable section of the Acts. Any action so approved shall have the same effect as though taken at an Owner meeting. Ballots or written consents may be obtained via any

electronic or physical means including but not limited to email, facsimile, text, or paper document.

**3.12 Minutes of Meetings.** The Secretary or other assigned individual shall take minutes of all meetings of the Owners.

## ARTICLE IV BOARD OF DIRECTORS

**4.1 Powers.** The Project and the affairs and business of the Association shall be managed by the Board. 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, Tenure, and Qualifications.** The property, business, and affairs of the Association shall be governed by a Board composed of three (3) or five (5) individuals. Any increase or decrease in the number of Board Members (within the requirement to have three (3) or five (5) Board Members) must be approved by at least fifty-one percent (51%) of the Owners present in person or by proxy at a duly called meeting. 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. If an Owner is a corporation, partnership, limited liability company, or trust, an officer, partner, member, manager, agent, trustee, or beneficiary of such Owner may be a Board Member. No more than one (1) Board Member may reside in the same household. Each Board Member shall serve for three (3) year terms, which terms shall be staggered so that elections are held every year. If Board Member terms become un-staggered for any reason, the Board may provide for the re-staggering of terms in a manner the Board deems appropriate. Directors may serve consecutive terms if reelected. 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 a vote of the Owners. If the election of Board Members is not held during the Annual Meeting, or at any adjournment thereof, the Board may hold the election at a Special Meeting of the Owners. The election may also take place electronically, including online voting, so long as the Board can reasonably determine the validity of the vote. During each election, the Owners (or their proxies, if the election takes place during an Annual or Special Meeting) may cast, with respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The candidates receiving the largest percentage of votes shall be elected. Cumulative (i.e. an Owner casting all of his or her votes for the same candidate) or fractional voting is not permitted. Board Members may serve consecutive terms if reelected.

**4.4 Quorum and Manner of Action.** A majority of the then authorized number of Board Members shall constitute a quorum for the transaction of business at any meeting of the Board. 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 to the Board Members shall be the act of the Board. The Board Members shall act only as the Board, and individual Board Members shall have no powers as such.

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

**4.6 Special Board Meetings.** Special meetings of the Board may be called by any member of the Board.

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

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

**4.8 Notice of Board Meetings.** At least forty-eight (48) hours before a regular or special Board meeting, notice of the meeting shall be given via email to each Board Member, and to each Owner who requests notice of such Board meetings, unless: (i) notice of the Board meeting is included in a meeting schedule that was previously provided to the Owner; or (ii) the Board meeting is to address an emergency and each Board Member receives notice of the Board meeting less than forty-eight (48) hours before the Board meeting. The notice shall be delivered to the Owner by email, hand-delivery, or text to the addresses/numbers provided to the Association by the Owner, shall state the time, date, and location of the Board meeting, and shall provide the information necessary to allow the Owner to participate by telephone or electronic communication if a Board member will be participating via telephone or the same electronic communication.

**4.9 Board Action.** Notwithstanding any noncompliance with Section 4.7 and/or Section 4.8, 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 Section 4.7 and/or 4.8 may not bring the challenge more than sixty (60) days after the Board has approved the minutes recording the Board action.

**4.10 Resignation and Removal.** A Board Member may resign at any time by delivering a written resignation to either the President or the Secretary. Unless otherwise specified therein, such resignation shall take effect upon delivery. A Board Member may be removed at any time, with or without cause, at a special meeting of the Owners duly called for such purpose upon the affirmative vote of more than fifty percent (50%) of the total votes of the Association.

**4.11 Vacancies and Newly Created Board Memberships.** If vacancies shall occur in the Board by reason of the death, resignation, or disqualification, the Board Members then in office shall continue to act, and such vacancies shall be filled by a majority vote of the Board Members then in office, though less than a quorum. Any vacancy in the Board occurring by reason of removal of a Board Member by the Owners shall be filled by election by the Owners at the meeting at which such Board Member is removed. Any Board Member elected hereunder

to fill a vacancy shall serve for the unexpired term of his or her predecessor, and any Board member appointed hereunder shall serve only until the next regularly scheduled annual meeting or special meeting held for the purpose of electing a successor. Except by reason of death, resignation, disqualification, or removal, Board Members shall continue to serve until their successors are elected.

**4.12 Informal Action by Board Members.** Any action that is required or permitted to be taken at a meeting of the Board may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Board Members or as otherwise allowed by Acts.

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

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

## ARTICLE V OFFICERS

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

**5.2 Election, Tenure, and Qualifications.** Officers shall be elected by the Board at the first Board meeting following each Annual Meeting of the Owners. Each such officer shall hold such office until the next ensuing meeting of the Board following the Annual Meeting of the Owners and until a successor has been elected and qualified, or until such officer's death, or until resignation, disqualification, or removal in the manner provided in these Bylaws, whichever first occurs. 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 Resignation and Removal.** An officer may resign at any time by delivering a written resignation to any member of the Board or to any managing agent of the Association. Unless otherwise specified therein, such resignation shall take effect upon delivery. An officer may be removed and replaced upon the affirmative vote of a majority of the Board Members at any time, with or without cause.

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

**5.5 President.** The President shall be the chief executive of the Association. The President shall preside at meetings of the Board 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.

5.6 **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.

5.7 **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 such person to keep. The Secretary shall also act in the place of the Vice President in the event of the President's and Vice President's absence or inability or refusal to act.

5.8 **Treasurer.** The Treasurer shall be responsible to maintain the financial accounting 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 is responsible to maintain procedures to minimize the risk of embezzlement or improper use of Association funds and financial accounts. The Treasurer shall perform such other duties as required by the Board.

5.9 **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.

5.10 **Delegation to Manager.** Subject to Board approval, officers may delegate such of their powers and duties to the Manager as deemed appropriate; reserving the right, however, to control and oversee the administration thereof. Any officer powers and duties delegated to the Manager may be revoked by the Board at any time, with or without cause.

## **ARTICLE VI COMMITTEES**

The Board may from time to time by resolution designate such committees as it may deem appropriate in carrying out its duties, responsibilities, functions, and powers. A committee shall not have any powers, duties, or responsibilities beyond those specifically assigned by the Board. The Board may terminate any committee at any time and shall have the final say as to any committee decision.

## **ARTICLE VII INDEMNIFICATION**

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

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

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

## **ARTICLE VIII** **RULES AND REGULATIONS**

**8.1 Rules.** The Board shall have the authority to adopt and establish by resolution such Association Rules as it may deem necessary for the maintenance, operation, management, and control of the 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.

## **ARTICLE IX** **AMENDMENTS**

**9.1 Amendments.** The Bylaws may be amended, altered, or repealed upon the affirmative vote of at least fifty-one percent (51%) of the total votes of the Association. Any amendment(s) shall be effective upon recordation in the office of the Wasatch County Recorder. In such instrument, the President shall execute the amendment and certify that the vote required by this Section has occurred. If a Lot is owned by more than one Owner, the vote of any one Owner shall be sufficient to constitute approval for that Lot under this Section. If a Lot is owned by an entity or trust, the vote of any one officer, trustee, or agent of the entity shall be sufficient to constitute approval for that Lot under this Section.

## 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 any 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 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.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]*

IN WITNESS WHEREOF, these Bylaws of Turnberry Woods Homeowners Association, Inc. were duly approved by at least sixty-seven percent (67%) of the total votes of the Association.

DATED as of the 3<sup>rd</sup> day of July, 2025.

# Turnberry Woods Homeowners Association, Inc., A Utah Nonprofit Corporation

Signature: Stuart P. Young  
Name: Stuart P. Young

Title: President

State of Utah )  
County of Wasatch ) ss.

On the 3 day of July, 2025, Stuart P Young [Name] personally appeared before me who by me being duly sworn, did say that she/he is the President of Turnberry Woods Homeowners Association, Inc. and that the foregoing instrument is signed on behalf of said entity and executed with all necessary authority.

### Notary Public:

