

MATHESON & PESHELL, LLC  
5783 SOUTH 900 EAST #205  
SALT LAKE CITY, UTAH 84117

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MARY ANN TRUSSELL, SUMMIT COUNTY RECORDER

FEE 220.00 BY MATHESON & PESHELL LLC



**SECOND AMENDMENT AND RESTATEMENT  
OF  
THE DECLARATION OF COVENANTS, CONDITIONS,  
EASEMENTS AND RESTRICTIONS  
OF  
PINE PLATEAU ESTATES SUBDIVISION**

THIS SECOND AMENDED AND RESTATED DECLARATION is made and executed this 4th day of March, 2013, by Pine Plateau Estates Property Owners Association, Inc., a Utah non-profit corporation ("Declarant"), and its Members who make up the Lot Owners of Pine Plateau Estates No. 1, Pine Plateau Estates No. 2, Pine Plateau Estates No. 3, and Pine Plateau Estates No. 4. (hereinafter "Pine Plateau Estates")

**RECITALS**

A. Pine Plateau Estates consists of those certain Lots and parcels of real property located in the County of Summit, State of Utah, which property is described in Exhibit "A," which is attached hereto and incorporated herein by this reference (the "Property").

B. Presently, Pine Plateau Estates is subject to certain Declarations of Covenants, Conditions, and Restrictions ("CC&R"s), all of which have been Recorded in the Office of the Summit County Recorder as follows: (1) Pine Plateau Estates No. 1, recorded on October 4, 1960 as Entry No.: 92238 in Book 4A beginning at Page 39; (2) Pine Plateau Estates No. 2, recorded on July 13, 1961 as Entry No.: 93654 in Book 4A beginning at Page 303; (3) Pine Plateau Estates No. 3, recorded on September 19, 1961 as Entry No.: 94102 in Book 4A beginning at Page 370; and, (4) Pine Plateau Estates No. 4, recorded on June 11, 1962 as Entry No.: 95321 in Book 4A beginning at Page 543. By Utah Third District Court Order filed August 1, 2011, Pine Plateau Estates is exempted from that certain document entitled Declaration of Amended Restrictive Covenants, recorded on January 26, 2004 as Entry No.: 687013 in Book 1595 beginning at Page 1324, all according to the records of the Wasatch County Recorder, State of Utah.

C. With this Second Amendment and Restatement of the Declaration of Covenants, Conditions, Easements and Restrictions, the Declarant hereby intends to amend and restate in their entirety the Declarations for Pine Plateau Estates No.1 through No. 4 and any and all prior Declarations.

D. Declarant desires, by filing this Declaration, to submit the Members of Pine Plateau Estates Subdivision to those certain covenants, conditions, restrictions, reservations, assessments, charges and liens as hereinafter set forth in order to facilitate the management and possible further residential development of Pine Plateau Estates on the Property (the "Project"), which consists of those Lots shown of record according to the records of the offices of the Summit County Recorder and/or Assessor, presently shown as: (1) 5 residential lots in Pine

Plateau Estates No. 1; (2) 38 residential lots in Pine Plateau Estates No. 2; (3) 36 residential lots in Pine Plateau Estates No. 3; and (4) 48 residential lots in Pine Plateau No. 4, totaling 127 Lots.

E. The Project possesses great natural beauty that Declarant intends to preserve and protect and manage the Project pursuant to the terms of this through the use of this Second Amended Declaration, which is designed to comply with and complement state and local governmental regulations, and where conflicts occur, the more restrictive requirements shall prevail.

F. Declarant exists to provide for the efficient management and preservation of the value and appearance of the Project, and it is desirable that Declarant be assigned the powers and delegated the duties of managing certain aspects of the Project; including, but not limited to, the maintaining and administering the Common Areas; administering, collecting and disbursing funds pursuant to the provisions regarding assessments and charges hereinafter created and referred to; and to perform such other acts as shall generally benefit the Project and the Owners. Declarant (herein sometimes referred to as "the Association") is a Utah non-profit corporation, which was incorporated on October 19, 1999 under the laws of the State of Utah for the purpose of exercising the powers and functions aforesaid.

G. Each Owner(s) shall receive fee title to his/her/their Residential Lot and one Association Membership in the Association as provided herein.

H. By this Declaration, Declarant intends to establish a common scheme and plan for the possession, transfer, use, enjoyment, repair, maintenance, restoration and improvement of the Project and the interests therein conveyed.

NOW, THEREFORE, Declarant hereby declares, covenants and agrees as follows:

#### **Article I DEFINITIONS**

Recitals A through H are incorporated into and made apart of this Declaration for all purposes. Unless the context clearly indicates otherwise, the following capitalized words, phrases or terms used in this Neighborhood Declaration shall have the meanings set forth in this Article 1. (Certain terms not defined in this section are defined elsewhere in this Declaration.)

**1.1 "Annual Assessments"** means the Assessments levied pursuant to Section 6 of this Declaration.

**1.2 "Articles"** means the Articles of Incorporation of the Association, as amended from time to time.

**1.3 "Assessable Property"** means each Residential Lot.

1.4 "Assessment" includes Annual Assessments, Special Assessments and fees, costs and fines.

1.5 "Assessment Lien" means the lien created and imposed by Section 6.8.

1.6 "Board" means the Board of Trustees of the Association.

1.7 "Bylaws" means the bylaws of the Association, as amended, from time to time.

1.8 "Common Area" means those areas of land, devoted to the common use and enjoyment of the Lot Owners, including the perimeter fencing around the Project, as well as roads, easements, and/or right-of-ways, as set forth in Exhibit "A", which are to be used by more than one Lot Owner. However, private driveways, and/or parking areas within a Residential Lot contained within and used only by that Lot Owner are not Common Areas.

1.9 "Common Expenses" means expenditures made by or financial liabilities of the Association together with any allocations to reserves as further described in 6.2.1. Common Expenses shall not include those certain charges levied by a Special Service District.

1.10 "Declarant" means Pine Plateau Estates Property Owners Association, Inc., a Utah non-profit corporation, its successors, and any Person to whom it may expressly assign any or all of its rights under this Declaration.

1.11 " Dwelling Unit" means each of the single family residential structures constructed, together with its (1 /127th) undivided interest in the Common Areas and facilities associated with said Unit.

1.12 "Improvement(s)" means any improvement now or hereafter constructed at the Project, including but not limited to any (a) home, building, guest house, other accessory building, fence or wall; (b) any walkway, garage, road, driveway, or parking area; (c) any mailbox, sign, shed, covered patio, stairs, or deck, (whether or not affixed to a structure or permanently attached to a Residential Lot); (d) any radio or television antenna or receiving dish; (e) any paving, exterior lights, trees, shrubs, hedges, grass, windbreak or other landscaping improvements of every type and kind; (f) any excavation, fill, retaining wall or other thing or device which affects the natural flow of surface water or the flow of water in a natural or artificial stream, wash, or drainage channel, and related fixtures and equipment and (g) any other structure of any kind or nature.

1.13 "Lot" means and refers to any numbered plat of land shown upon any Recorded subdivision map of Pine Plateau Estates.

1.14 "Mortgage" means a deed of trust or a mortgage Recorded against a Residential Lot, or any part thereof or interest therein. A "First Mortgage" means a Mortgage having priority as to all other Mortgages encumbering a Residential Lot, or any part thereof or interest therein.

**1.15 "Mortgagee"** means a beneficiary under a deed of trust, or a mortgagee under a mortgage Recorded against a Residential Lot. A **"First Mortgagee"** means any Person or entity holding a First Mortgage including any insurer or guarantor of a First Mortgage.

**1.16 "Municipal Authority"** means any applicable governmental entity or municipality which has jurisdiction over all or some part of the Project including without limitation Summit County, Utah.

**1.17 "Association"** means the Pine Plateau Estates Property Owners Association, Inc. a Utah nonprofit corporation, and its successors and assigns.

**1.18 "Association Membership"** means a membership in the Association and the rights granted to the Association Members, pursuant to Article 5 to participate in the Association.

**1.19 "Association Rules"** means the rules and regulations adopted by the Board pursuant to Section 5.3, as amended from time to time.

**1.20 "Owner"** means the Person or Persons who individually or collectively own fee title to a Residential Lot, and purchasers under installment purchase contracts. "Owner" shall not include Persons who hold an interest in a Residential Lot merely as security for the performance of an obligation.

**1.21 "Person"** means a natural person, corporation business trust, estate, trust, partnership, association, limited liability company, limited liability partnership, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

**1.22 "Plat"** means those plats entitled Pine Plateau Estates No. 1, Pine Plateau Estates No. 2, Pine Plateau Estates No. 3, and Pine Plateau Estates No. 4, all of which have been duly Recorded in the Office of the Summit County Recorder, as the same may be amended from time to time, and which are incorporated herein by this reference.

**1.23 "Project"** means such term as described and set forth in Recital A.

**1.24 "Project Documents"** means this Second Amended Declaration, the Association's Articles, its Bylaws, and the Association Rules, as each document may be amended from time to time.

**1.25 "Property"** means such term as described and set forth in Exhibit A. The term "Property" shall also include any of the additional land that is made subject to this Declaration by the Recordation of a Supplemental Declaration and an amendment to the Plat, which inclusion shall be effective from and after the date of Recordation of such Supplemental Declaration and amended Plat.

**1.26 "Record," "Recording," "Recorded" and "Recordation"** means placing or having placed an instrument of public Record in the official Records of Summit County, Utah.

**1.27 "Special Assessment"** means any Assessment levied pursuant to Section 6.4.

## **Article II DECLARANT'S RIGHTS AND OWNERS' OBLIGATIONS**

**2.1 Property Subject to this Declaration.** This Second Amended Declaration is being recorded to establish a general plan for the management, development and use of the Project in order to maintain, protect, and enhance the value and desirability of the Project. All of the property within the Project shall be held, sold and conveyed subject to this Declaration, including any of the Additional Land hereafter made subject to this Declaration by the Recordation of a Supplemental Declaration. By acceptance of a deed or by acquiring any interest in any of the property subject to this Declaration, each Person, for himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, binds himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Second Amended Declaration. In addition, each such Person by so doing acknowledges that this Declaration sets forth a general scheme for the maintenance, development and use of the Property and evidences his, her or its agreement that all the restrictions, condition covenants, rules and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, and transferees thereof. Furthermore, each such Person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the Association and all Owners.

**2.2 No Condominium or Cooperative.** Declarant and each Owner hereby agree and understand that the Property is not, by execution and Recording of this Declaration, being submitted to the provisions of the Utah Condominium Ownership Act, §§57-8-1, et seq., Utah Code Ann. (the "Act"). This Declaration does not constitute a declaration as provided for in the Act and the provisions of the Act shall not be applicable to the Project or any portion thereof, including without limitation all or a portion of the Additional Land made subject to this Declaration by the Recordation of one or more Supplemental Declarations. Declarant and each Owner hereby agree and understand that the Project is not a cooperative.

**2.3 Residential Lots.** The Project consists of those Lots shown of record according to the records of the offices of the Summit County Recorder and/or Assessor, which are presently shown as: (1) 5 residential lots in Pine Plateau Estates No. 1; (2) 38 residential lots in Pine Plateau Estates No. 2; (3) 36 residential lots in Pine Plateau Estates No. 3; and (4) 48 residential lots in Pine Plateau No. 4, for a total of 127 Lots

**2.4 The Association.** The Association shall maintain the Common Areas and all Improvements thereon, in a safe, sanitary and attractive condition. No part of a Lot and/or any of the improvements thereon shall constitute Common Areas, except as set forth in paragraph 2.5.

The Association shall have no obligation to repair, replace and maintain Residential Lots. The Association shall assess and collect fees from the Association Members, for the common areas in accordance with the provisions hereof and the Association's Bylaws. (See Exhibit "B" which is attached hereto and incorporated herein by this reference).

**2.5 Incidents of Ownership.** Every Lot shall have appurtenant to it one nonexclusive easement for each Owner for use, enjoyment, ingress and egress over the Common Areas subject to such restrictions and limitations as are contained in the Project Documents and subject to other reasonable regulation by the Association. Each Membership shall be appurtenant to and inseparable from ownership of the Lot. Any sale, conveyance, hypothecation, encumbrance or other transfer of a Lot shall automatically transfer the Association Membership to the same extent, notwithstanding, any term or provision to the contrary in the documents affecting such transfer.

**2.6 Owner's Obligation to Maintain his/her/its Lot.** Except where otherwise expressly provided for herein, each Owner shall maintain his, her or its Lot, and any Improvements thereon, in a safe, sanitary and attractive condition. In the event that an Owner fails to maintain his, her or its Lot, and/or such other Improvements as provided herein, in a manner which the Board reasonably deems necessary to preserve the appearance and/or value of the Project, the Board may notify the Owner of the work required and demand that it be done within a reasonable and specified period. In the event that the Owner fails to carry out such maintenance within said period, the Board shall have the right, but not the obligation, to enter upon the Lot, to cause such work to be done to the Lot, or Improvement, and individually charge the cost thereof to such Owner. Notwithstanding the foregoing, in the event of an emergency arising out of the failure of an Owner to maintain his, her or its Lot, or Improvements thereon, the Board shall have the right to immediately enter upon the Lot to abate the emergency and individually charge the cost thereof to such Owner.

**2.7 Responsibility for Common Areas Damage.** The cost of repair or replacement of any portion of the Common Areas resulting from the willful or negligent act of an Owner, and/or Owner's family, guests or invitees shall be, in addition to the party at fault, the joint responsibility of such Owner. The Association shall cause such repairs and replacements to be made and the cost thereof may be levied as an individual charge against such Owner.

**2.8 Declarant's Disclaimer of Representations.** Nothing which may be represented to a purchaser by real estate brokers or salespersons representing an Owner shall be deemed to create any covenants or restrictions, implied or express, with respect to the use of any property subject to this Declaration.

**2.9 Security.** The Association may, but shall not be obligated to, maintain or support certain activities within the Project designed to make the Project safer than it otherwise might be. NEITHER THE ASSOCIATION ITS BOARD, (COLLECTIVELY, THE "PROJECT'S GOVERNING BODIES") SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROJECT. THE PROJECT GOVERNING

FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN.

**Article III  
LAND USES, PERMITTED USES AND RESTRICTIONS**

**3.1 Land Uses.** The purposes for which property within the Project may be used shall be residential uses consistent with this Declaration, as well as ancillary, complementary or subsidiary uses such as (without limitation), open space, Common Areas, and the like.

**3.2 Use Restrictions.** Each Owner agrees, understands and acknowledges that his, her or its Lot is subject to certain use restrictions that may limit such Owner's use of the Lot and ability to construct various Improvements thereon as specifically described in the Project Documents. In this regard, the following restrictions are adopted or restated as restrictions on use imposed by authority of this Declaration. There may be additional restrictions as set forth in other of the Project Documents, which include the Association Articles, Bylaws, and Rules, and which may be amended from time to time by a majority vote of the Board.

**3.2.1 Zoning Regulations.** No lands within the Property shall be occupied or used by or for any building or purpose or in any manner which is contrary to the Project Documents, applicable regulations or any other governing documents.

**3.2.2 No Mining, Drilling or Quarrying.** No Owner shall conduct mining, quarrying, tunneling, excavating or drilling for any substances within the earth, including oil, gas, minerals, gravel, sand, rock, and earth on the surface of the Property.

**3.2.3 Residential Use Only.** The Lots within the Project shall be used exclusively for residential and/or recreational purposes. No commercial, industrial, business or enterprise of any kind or nature is permitted within the confines and boundaries of the Project. No corporate lodge shall be allowed. No farm animals may be kept indefinitely or permanently housed on any Lot without the prior written consent of the Association, upon written application to the Board.

**3.2.4 No Leasing.** No residence, structure, and/or Improvement on a Lot may be leased, rented, or used for time share activities.

**3.2.5 Underground Lines.** All water and gas lines within the limits of the Property must be buried underground and may not be exposed above the surface of the ground. Notwithstanding the forgoing, certain ancillary utility improvements such as service facilities may be constructed above ground as Declarant and the appropriate utility service provider may reasonably determine. This Declaration shall in no way alter any easements Recorded with the Summit County Recorder's Office.

**3.2.6 Natural Condition of Lots.** All Lots shall be kept, maintained, and preserved in said lot's natural condition, so far as possible. All trees, timber, natural vegetation and soil shall

be left in place except when removal is necessary for the construction of a dwelling or other improvements or the removal of fire hazards. No trees, vegetation or soil may be sold.

**3.2.7 Sewage.** No new individual sewage disposal system shall be permitted on any lot unless the system has been designed, located, and constructed in accordance with the applicable requirements, standards, and recommendations of the Summit County Health Department authorities. Approval shall be obtained from the Health Department prior to installation of a new system. A sewer disposal system must be installed when water is connected to a residence (constructed or moved onto any lot). Existing systems must be kept and maintained in proper working order.

**3.2.8 Lot Restrictions.** Each lot may have one residence and two out buildings. Out buildings must be set in at least ten (10') feet from the Lot boundaries, and at least twenty (20') feet from any existing road.

**3.2.9 Rules.** No Member or Owner shall violate the Rules adopted from time to time by a majority vote of the Board, or by a majority vote of the Association, as the case may be.

**3.2.10 No Excavation.** No significant excavation or earth movement (meaning that which requires the use of a back hoe or larger excavation equipment) shall be made on any Residential Lot or Common Area without the approval of the Board and the appropriate Municipal Authority.

**3.2.11 Construction.** The following provisions shall apply to any new construction, renovation, maintenance or other work authorized by this Declaration and performed by persons and/or entities upon a Lot.

**3.2.11.1** Once commenced, the work shall be diligently prosecuted to completion.

**3.2.11.2** All work shall be performed in a good and workmanlike manner and shall minimize any inconvenience to the Association or other Owners.

**3.2.11.3** If, as a result of any work, any part of the impacted property is altered or disturbed (other than any area to be permanently altered as a result of such work) the disturbed area shall be promptly restored to as near its original condition as possible.

### **3.3 Water Supply.**

**3.3.1 Wells.** As of 1995, Summit County requires a well to be drilled on the building lot in order to receive a building permit. These wells can only be drilled on lots that have water rights assigned to them. Wells must be drilled by a certified well driller and in accordance with the rules and regulations set by the State of Utah, Division of Natural Resources.



**3.3.2 Shared Wells.** If two Lot Owners are going to share a well, he/she/they must first:

**3.3.2.1** Comply with the rules and regulations of the State of Utah, Division of Natural Resources; the Utah State Board of Health, Coalville Division; and the Summit County Building Inspections Division.

**3.3.2.2** Complete a contract between the owner of the well and the owner of the Lot that will be sharing the well on any new well. This contract must indicate the lot numbers and that the water is to be used for residential use only, and must specify the terms for the maintenance as between the two parties. This contract must be filed with the Summit County Recorders' Office, the Board, and the Board of Health in Coalville, Utah.

**3.3.2.3** A copy of the well drillers log must be filed with the Board of Health in Coalville, Utah.

**3.3.2.4** There must be sufficient water right assigned to the lot where the well is to be located to accommodate all of the lots and residences which will be using water from the well.

**3.3.2.4** A "Proof of Beneficial Use" form must be completed and filed with the State of Utah Division of Natural Resources for each additional lot.

**3.4 Road Regulations.** The Association shall be responsible for the maintenance and repair of the Common Areas roadways, within the boundaries of the Project, including at the points of ingress and egress.

**3.5 Perimeter Fencing.** The Association shall be responsible for the maintenance and repair of the Perimeter Fencing, including the gates at the points of ingress and egress.

**3.6 Required Approvals for Further Property Restrictions.** The Property is subject to the following additional approvals:

**3.6.1 No Subdividing.** No Lot, or portion thereof, shall be further subdivided, and no portion less than all of any such Lot, or any easement or other interest therein, shall be conveyed or transferred by any Owner without the prior written approval of the Association. Unless otherwise permitted in writing by the Association, no Lot Owner shall offer or sell any interest in a Lot and/or the improvements on said lot, under a timesharing, interval ownership, fractional, club or similar program.

**3.6.2 Approval by the Association.** No site plan, subdivision plat, declaration or further covenants, conditions, restrictions or easements, and no application for rezoning, variances or use permits shall be Recorded, or submitted to any Municipal authority, unless the same has first been approved in writing by the Association. Further, no changes or modifications

shall be made in any such documents, instruments or applications once the same have been approved by the Association hereunder, unless such changes or modifications have first been approved by the Association in writing.

#### **Article IV EASEMENTS**

**4.1 Owners' Easements of Enjoyment.** Subject to the rights and easements granted pursuant to Section 4.4, each Owner shall have a non-exclusive right and easement of enjoyment in, to and over the Common Areas, which right and easement shall be appurtenant to and shall pass with the title to each Lot subject to the provisions of the Project Documents including, without limitation, the following:

**4.1.1 Transfer of Common Areas.** Except as otherwise provided in this Declaration, no dedication, transfer, mortgage or encumbrance of all or any portion of the Common Areas shall be effective unless approved by Owners representing fifty-one (51%) percent of the votes, one vote per Lot of the Association Lot Owners.

**4.1.2 Regulation of Common Areas.** The Association shall have the right to further regulate the use of the Common Areas and Lots through the Association Rules, as promulgated by the Board or the Association Members from time to time.

**4.1.3 Easement of Common Areas.** The Board shall each have the right to grant easements or licenses to Persons for the construction of Improvements on the Common Areas, and the Association shall have the right to grant ingress and egress easements, over the Common Areas in the Project, to Persons who are not Association Members.

**4.2 Utility Easement.** There is hereby created an easement upon, across, over and under the Common Areas, certain portions of the Lots, and other property as depicted on the Plat for reasonable ingress, egress, installation, replacement, repair or maintenance of all utilities, including, but not limited to, gas, water, sewer, telephone, cable television and electricity. By virtue of this easement, it shall be expressly permissible for the providing utility company to install and maintain the necessary equipment on the Common Areas, certain portions of the Lots and other property as depicted on the Plat. If any utility company requests that a more specific easement be granted in its favor in substitution for the easement hereby established with respect to the Common Areas, the Board shall have the power and authority, without the need for any consent by the Owners or any other Person, to grant the more specific easement on such terms and conditions as the Board deems appropriate.

**4.3 Easements for Ingress and Egress.** There are hereby created easements for ingress and egress for pedestrian traffic over, through and across paths, walks and lanes that from time to time may exist upon the Common Areas. There is also created an easement for ingress and egress for pedestrian and vehicular traffic over, through and across roads and parking areas as from time to time may be paved and intended for such purposes. Such easements shall run in

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favor of and be for the benefit of the Owners and their guests, families, tenants and invitees. There is also hereby created an easement upon, across and over Common Areas within the Project for vehicular and pedestrian ingress and egress for police, fire, medical and other emergency vehicles and personnel.

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**Article V**  
**THE ASSOCIATION; ORGANIZATION; ASSOCIATION**  
**MEMBERSHIP AND VOTING RIGHTS**

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**5.1 Formation of Association.** The Association is a nonprofit Utah corporation charged with the duties and vested with the powers prescribed by law and set forth in the Project Documents. In the event of any conflict or inconsistency between this Declaration and the other Project Documents, priority shall be given to the Project Documents in the following order: this Declaration, the Articles of Incorporation of the Association, the Bylaws of the Association, and Association Rules, as each respective document may be amended from time to time.

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**5.2 Governing Board and Officers.** The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws, which presently provide for five (5) Board members. The Board shall annually elect a President, Secretary and Treasurer from among the Board membership. Unless the Project Documents specifically require the vote or written consent of the Association Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board. The Board may appoint various committees at its discretion. Members of such committees shall be considered Officers of the Association.

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**5.3 Association Rules.** The Board may, in accordance with §57-8a-217 and §57-8a-218, Utah Code Annotated, as amended from time to time, and subject to the provisions of this Declaration, adopt, amend and repeal Association Rules which generally pertain to: (a) the management, operation and use of the Common Areas; (b) traffic and parking restrictions including speed limits on the private streets within the Project; (c) minimum standards for any maintenance and regulations of use of Common Areas, Lots, and Improvements within the Project; or (d) any other subject within the jurisdiction of the Association. In the event of any conflict or inconsistency between the provisions of this Declaration and the Association Rules, the provisions of this Declaration shall prevail.

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**5.4 Personal Liability.** No member of the Board, or any other committee of the Association, and no officer of the Association shall be personally liable to any Association Member, or to any other Person including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Association, the Board or any member thereof, the manager, any representative or employee of the Association, any officer of the Association or any member of any other committee of the Association; provided, however, the limitations set forth in this Section shall not afford protection to employees and agents of the Association or any person who has engaged in intentional misconduct.

**5.5 Authority and Rights.** The Association and/or its Board may exercise any authority, right or privilege, expressed or implied, granted to the Association and/or its Board, by law or the Project Documents, together with any other authority, right or privilege reasonably necessary to effectuate the same.

**5.6 Membership in the Association.** Every Owner shall be a member of the Association.

**5.7 Voting Procedures.** A change in the ownership of a Lot shall be effective for voting purposes from the time the deed or other instrument effecting such change is Recorded. Thereafter, the new fee Owner shall give the Board written notice of such change of ownership and provide satisfactory evidence thereof. A vote for each Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that a Lot is owned by more than one Person, said Owners are entitled, as a combined unit, to only one vote. In the event that such Owners are unable to agree among themselves as to how their vote should be cast, they shall lose their right to vote on the matter in question. If any Association Member casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he, she or it was acting with the authority and consent of all other Owners of the same Lot unless objection thereto is made at the time the vote is cast. In the event more than one Owner attempts to cast the vote for a particular Lot, the vote for that Lot shall be deemed void and shall not be counted.

**5.8 Transfer of Association Membership.** The voting rights and assessment obligations of any Association Member shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of a Lot; and then only to the transferee of ownership of the Lot. A transfer of ownership of a Lot may be affected by deed, intestate succession, testamentary disposition, foreclosure, or such other legal process as is now in effect, or as may hereafter be established, under or pursuant to applicable law. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership of a Lot shall operate to transfer the Association Membership appurtenant to said Lot.

**5.9 Availability of Project Documents and Financial Statements.** The Association shall maintain current copies of the Project Documents, membership register books, records kept in the normal course, and annual financial statements available for inspection by Association Members or by an Eligible Mortgagee. These documents shall be available upon reasonable written request of a Member or eligible Mortgagee at the location where the same may be kept by the Board, from time to time. Member's access to these documents is strictly conditioned upon the Members and Mortgagee's agreement not to use, or allow the use of, information from these documents for commercial or other purposes, not reasonably related to the regular business of the Association and the Association Member's interest in the Association.

## Article VI

### COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

**6.1 Creation of Lien and Personal Obligation of Assessments.** Each Lot Owner is deemed to covenant and agree to pay Assessments to the Association in accordance with the Project

Documents. All Assessments shall be established and collected as provided in this Declaration. The Assessments, together with interest, late charges and all costs, including but not limited to reasonable attorneys fees, incurred by the Association, in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall be a charge on the effected Lot and shall be a continuing lien upon the Lot against which each such Assessment is made, and shall also be the personal obligation of each Owner, regardless of when the Assessment became due, and each person who was an Owner at the time the Assessment became due. The personal obligation for delinquent Assessments shall also pass to and become an obligation of the successors in title to the Owner, and the lien created by this Declaration against the delinquent Lot shall continue to secure payment of such delinquent Assessment (including, but not limited to, any and all interests and late charges) until the same are fully paid, except as the same may be effected by the foreclosure of a First Mortgagee.

**6.2 Annual Assessment.** In order to provide for the operation and management of the Neighborhood Association and to provide funds for the Association to pay all Common Expenses and to perform its duties and obligations under the Project Documents, including, without limitation, the establishment of reasonable reserves for replacements, maintenance and contingencies, the Board, for each calendar year shall assess an equal Annual Assessment against each Lot.

**6.2.1 Annual Assessments for Common Expenses.** The Board shall prepare an operating budget for the upcoming year and furnish the same to each Owner at the time of the Annual Meeting. The budget shall itemize the estimated Common Expenses for such upcoming year, anticipated receipts (if any) and any deficit or surplus from the prior operating calendar year. The budget shall serve as the supporting document for the Annual Assessment for the upcoming year and as the major guideline under which the Project shall be operated during such upcoming year. Pursuant to Utah law, a Reserve Analysis shall be conducted and renewed and reviewed consistent with the statutory deadlines and schedules. The Association Annual Budget and Assessments may be based upon the Reserve Analysis.

**6.2.2 Apportionment of Common Expenses.** Beginning with the 2013 calendar year, the Board shall give fair and reasonable notice of the annual Assessment to each Owner, but the failure to give prior notice shall not affect the validity of the Annual Assessment established by the Board nor relieve any Owner from its obligation to pay the Annual Assessment. If the Board determines during any Assessment Period that the funds budgeted for that year are, or will become, inadequate to meet all Common Expenses for any reason, including, without limitation, nonpayment of Assessments by Association Members, it may increase the Annual Assessment for that said year, and the revised Annual Assessment shall commence on the date designated by the Board.

**6.3 Special Assessments.** The Association may levy against each Lot, in any calendar year, a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of Improvements upon the Common Areas, including fixtures and personal property related thereto, provided that any Special Assessment

shall have the assent of fifty-one (51%) percent of the votes, one vote for each Lot, entitled to be cast by the Association Members who are voting in person or by proxy at a meeting duly called for such purpose. All written notices of any meeting called for the purpose of approving the establishment of any Special Assessment shall be sent to all Association Members in accordance with the time periods and provisions set forth in the Bylaws.

**6.4 Uniform Rate of Assessment.** The amount of any Assessment against each Lot shall be same for each Lot, except as it pertains to delinquency, fines, and/or penalties assessed against a given Lot.

**6.5 Rules Regarding Billing and Collection Procedures.** Annual and Special Assessments shall be collected with frequency as specified by the Board. The Board shall have the right to adopt rules and regulations setting forth procedures for the purpose of making Assessments and for the billing and collection of the Assessments provided that the procedures are not inconsistent with the provisions of the Project Documents. The failure of the Association to send a bill to a Association Member shall not relieve any Association Member of his, her or its liability for any Assessment or charge under this Declaration. However, no Assessment Lien shall be foreclosed or otherwise enforced until the Association Member has been given not less than thirty (30) days written notice prior to such foreclosure or enforcement that the Assessment or any installment thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after delinquency of such payment. The Association shall be under no duty to refund any payments received by it even though the ownership of a Lot changes during the Assessment period year. Successor Owners of Lots shall be given credit for prepayments, on a prorated basis, made by prior Owners.

**6.6 Effect of Nonpayment of Assessments; Remedies of the Association.**

**6.6.1 Interest on Assessments.** Any Assessment, or any installment of an Assessment, not paid within thirty (30) days after the Assessment, or the installment of the Assessment, first became due shall bear interest from the due date at the rate established from time to time by the Board. In addition, the Board may establish a late fee to be charged to any Owner who has not paid any Assessment, or any installment of an Assessment, within thirty (30) days after such payment was due.

**6.6.2 Liens on Residential Lots.** The Association shall have a lien on each Lot for all Assessments levied against the Lot, and for all other fees, costs, fines, reimbursements and charges payable to the Association by the Owner of the Lot pursuant to this Declaration and/or the Association Rules. Recording of this Declaration constitutes record notice and perfection of the Assessment Lien. The Association may, at its option, Record a notice of lien setting forth the name of the delinquent Owner(s) as shown in the records of the Association, the legal description of the Lot against which the notice of lien is Recorded, and the amount claimed to be past due as of the date of the Recording of the notice, including interest, lien Recording fees and reasonable attorneys fees. Each Owner of a given Lot shall be jointly and severally liable for all Assessment levied against a Lot.

**6.6.3 Priority of Assessment Liens.** The Assessment Lien shall have priority over all liens or claims except for (a) tax liens for real property taxes; (b) assessments in favor of any Municipal Authority or assessment district; and (c) the lien of any First Mortgage.

**6.6.4 Release of Liens.** The Association shall not be obligated to release any Recorded notice of lien until all delinquent Assessments, interest, lien fees, reasonable attorneys' fees, court costs, collection costs and all other sums payable to the Association by the Owner of the Lot have been paid in full.

**6.6.5 Collection of Delinquent Assessments.** The Association shall have the right, at its option, to enforce collection of any delinquent Assessments together with interest, lien fees, reasonable attorney's fees and any other sums due to the Association in any manner allowed by law, including but not limited to, taking either or all of the following actions, concurrently or separately.

By exercising one of the remedies hereinafter set forth, the Association does not prejudice or waive its right to exercise any other remedy available at law or in equity.

**6.6.5.1** Bringing an action at law against the Owner personally obligated to pay the delinquent Assessments and such action may be brought without waiving the Assessment Lien securing the delinquent Assessments;

**6.6.5.2** Enforce the Assessment Lien against the applicable Lot by sale or foreclosure conducted in accordance with the then prevailing Utah law relating to the foreclosure of realty mortgages or deeds of trust (including the right to recover any deficiency), the method recognized under Utah law for the enforcement of a mechanic's lien which has been established in accordance with Chapter I, Title 38, Utah Code Ann., as amended from time to time, or any other manner permitted by law, and the Lot may be redeemed after foreclosure sale if provided by law.

**6.6.5.3** No Assessment Lien shall be foreclosed or otherwise enforced until the Association Member has been given no less than thirty (30) days written notice prior to such foreclosure or enforcement that the Assessment or any installment thereof is or will be due and of the amount owing, and that the Association intends to pursue non-judicial foreclosure with respect to said Owner's Lot to enforce the Association's lien for the unpaid Assessment. Such notice may be given at any time prior after delinquency of such payment, and shall be by first class and certified U.S. mail, return receipt requested. The Notice to the Association Member shall be substantially as set forth in §57-8a-303, Utah Code Annotated, as amended from time to time.

**6.6.5.4** In order to facilitate the foreclosure of any such Assessment Lien in the manner provided at law for the foreclosure of deeds of trust, Declarant hereby conveys and hereby warrants, pursuant to §57-1-20 and §57-8a-302, Utah Code Annotated, as amended from

time to time, to Richard M. Matheson, attorney at law, 5383 South 900 East, Suite 205, Salt Lake City, Utah 84117, as trustee, and grants and conveys the Project, IN TRUST, to said Richard M. Matheson, as trustee with full power of sale, to foreclose any such Assessment Liens as directed by the Board. The Board may, at any time, designate one or more successor trustees, in the place of Richard M. Matheson, in accordance with provisions of Utah law for the substitution of trustees under deeds of trust. Such trustee, and any successors, shall not have any other right, title or interest in the Project beyond those rights and interests necessary and appropriate to foreclose any Assessment Liens against Lots arising pursuant hereto. In any such foreclosure, the Owner of the Lot being foreclosed shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees), and such costs and expenses shall be secured by the Assessment Lien being foreclosed. The Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Lots purchased at such sale.

**6.7 Evidence of Payment of Assessments.** Upon receipt of a written request by a Association Member or any other Person, the Association, within a reasonable period of time thereafter, shall issue to such Association Member or other Person a written certificate stating: (a) that all Assessments, interest and other fees and charges have been paid with respect to any specified Lot as of the date of such certificate; or (b) if all Assessments have not been paid, the amount of such Assessments, interest, fees and charges due and payable as of such date. The Association may make a reasonable charge, as provided by Utah law, for the issuance of such certificates, which charges must be paid at the time the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matters therein stated as against any bona fide purchaser of, or lender on, the Lot in question.

**6.8 Purposes for Which Association's Funds May be Used.** The Association shall apply all funds and property collected and received by it (including the Assessments, fees, reimbursements fines, loan proceeds, surplus funds and all property received by it from any other source) for the common good and benefit of the Project and the Lot Owners.

**6.9 Surplus Funds.** The Association shall not be obligated to spend in any year all the Assessments and other sums received by it in such year and may carry forward as surplus of balances remaining. The Association shall not be obligated to reduce the amount of the Annual Assessment in the succeeding year if a surplus exists from a prior year

**6.10 Special Service Districts.** If Project is or becomes subject to Special Service Districts within Summit County, the Association shall comply with the terms and conditions of said Special Services Districts. Each Owner will be subject to all charges levied by such Special Service Districts and will pay such charges directly to the same. All charges levied by such Special Service Districts against Owners of taxable property are and shall be the personal and individual obligation of each Owner and such charges do not constitute a Common Expense.



**Article 7**  
**MAINTENANCE**

**7.1 Common Areas and Public Right of Way.**

**7.1.1 Maintenance of Common Areas.** The Association, or its duly delegated representative, shall manage, maintain, repair and replace the Common Areas and all Improvements located thereon (subject to Section 7.1.3). The Association may, but shall not be obligated to, maintain areas which any Municipal Authority or any utility company is maintaining or is obligated to maintain.

**7.1.2 Board Determines What Maintenance is Needed.** The Board shall be the sole judge as to the appropriate maintenance of all Common Areas and other properties maintained by the Association. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of said properties shall be taken by the Board or by its duly delegated representative.

**7.1.3 Board to Determine Maintenance by Lot Owners.** The Board shall have the sole discretion to determine whether or not it would be in the best interest of the Owners of Lots for the Association or an individual Owner to be responsible for such maintenance, considering cause, cost, uniformity of appearance, location and other factors deemed relevant by the Board. The Board may cause the Association to contract to provide maintenance service to Owners of Lots having such responsibilities in exchange for the payment of such fees as the Association and Owner may agree upon.

**7.2 Maintenance of Lots.** Except as otherwise provided herein, each Owner shall be responsible for insuring, maintaining, repairing or replacing any and all Improvements located on said Owner's Lot. The Lot together with all Improvements thereon shall at all times be kept in good condition and repair by the Owner, including all landscaping, if any.

**7.3 Assessment of Certain Costs of Maintenance and Repair.** In the event that the need for maintenance or repair of the Common Areas or any other area maintained by the Association is caused through the willful or negligent act of any Lot Owner, his, her or its family, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the Assessment to which such Owner's Lot is subject and shall be secured by the Assessment Lien.

**7.4 Improper Maintenance and Use of a Lot.** In the event any portion of any Lot so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Lots or other areas of the Project which are substantially affected thereby or related thereto, or in the event any portion of a Lot is being used in a manner which violates the Project Documents, or in the event the Owner of any Lot is failing to perform any of its obligations under the Project Documents, the Board may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give thirty (30) days written notice, specifying the violating conditions and the necessary

corrective action to be taken by the offending Owner. Owner must initiate the specified corrective action prior to the expiration of said thirty day notice period. If at the expiration of the 30 day period, no corrective action has been initiated, or, if initiated, said correction has not been completed within ninety (90) days from the date of the notice, the Board may take such corrective action as it deems appropriate to be taken and the cost thereof shall be added to and become a part of the Assessment to which the offending Owner and the Owner's Lot is subject and shall be secured by an Assessment Lien. The foregoing notwithstanding, in its notice to the violating owner, the Board shall take into consideration the time and season of the year and the weather conditions when setting forth the compliance deadlines, which may be extended accordingly.

## **Article 8 INSURANCE**

**8.1 Association Insurance Obligation.** To the extent reasonably available, the Association shall obtain and maintain insurance, in accordance with and as governed by §57-8a-401 through §57-8a-407, Utah Code Annotated, as amended from time to time.

**8.1.1 Other Insurance.** The Association shall also maintain Errors and omissions insurance coverage for the benefit of those serving on the Board, and may maintain such other property, casualty and general liability insurance, and fidelity bonding as the Board shall determine, from time to time, to be appropriate to protect the Association or Lot Owners. Through its Board, the Association may require Lot Owners to carry certain types of insurance coverage, depending on the Lot Owner's use of his/her/its Lot. Rules concerning insurance shall be adopted and promulgated from time to time by the Board.

**8.2 Lot Owner Insurance Obligation.** To the extent reasonably available, each Lot Owner shall insure said Lot Owner's Lot, and any and all Improvements thereon, and personal property kept at said Owner's Lot, which insurance, if available, shall be primary and shall include a comprehensive general liability policy that covers all occurrences commonly insured against for death, bodily injury and property damages arising out of or in connection with the use, ownership or maintenance of a Lot, and the Owner's use of any Common Areas in the Project.

**8.3 Certificates of Insurance.** An insurer which has issued an insurance policy under this Article shall issue a certificate or a memorandum of insurance to the Association and, upon request, to any Owner or Mortgagee. Any insurance obtained pursuant to this Article shall not be cancelled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association and to each Owner and each Mortgagee to whom certificates of insurance have been issued.

**8.4 Payment of Premiums.** The premiums for any insurance obtained by the Association pursuant to this Declaration shall be included in the budget of the Association and shall be paid by the Association.

**8.5 Payment of Insurance Proceeds.** With respect to any loss to the Common Areas covered by property insurance obtained by the Owner or the Association, the loss shall be adjusted with the Association, and the insurance proceeds shall be payable to the Association and not to any Mortgagee. Subject to the provisions of Section 8.5, the proceeds shall be disbursed for the repair or restoration of the damage to the Common Areas.

**8.6 Repair and Replacement of Damaged or Destroyed Property.** Any portion of the Common Areas which is damaged or destroyed shall be repaired or replaced promptly by the Association unless repair or replacement would be illegal under any state or local health or safety statute or ordinance. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association.

## Article 9 MORTGAGEE REQUIREMENTS

**9.1 Subordination of Lien.** The Assessment or claim against a Lot for unpaid Assessments or charges levied by the Association pursuant to this Project Documents shall be subordinate only to the First Mortgage secured by such Lot, and the First Mortgagee thereunder which comes into possession of, or which obtains title to such Lot, shall take the same free of such lien or claim for unpaid Assessment or charges, but only to the extent of Assessments or charges which accrue prior to foreclosure of the First Mortgage, exercise of a power of sale available thereunder, or taking of a deed or assignment in lieu of foreclosure. No Assessment, charge, Assessment Lien, or claim which is described in the preceding sentence as being subordinate to a First Mortgage, or as not to burden a First Mortgagee which comes into possession or which obtains title to a Lot, shall be collected or enforced by the Association from or against a First Mortgagee, a successor in title to a First Mortgagee, or the Lot affected or previously affected by the First Mortgage concerned.

**9.2 Payment of Taxes.** In the event any taxes or other charges which may or have become a lien on the Common Areas are not timely paid, or in the event the required hazard insurance described in Section 8 lapses, is not maintained, or the premiums therefore are not paid when due, any First Mortgagee or any combination of First Mortgagees may jointly or singly, pay such taxes or premiums or secure such insurance.

**9.3 Priority.** No provision of this Declaration or the Articles gives or may give a Lot Owner, or any other party, priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution to Lot Owner's of insurance proceeds or condemnation awards for loss to or taking of all or any part of a Lot, or the Common Areas. All proceeds or awards shall be paid directly to any Mortgagees of Record, as their interests may appear.

**Article 10**  
**CONDEMNATION**

**10.1 Notice.** Whenever all or any part of the Common Areas shall be taken or conveyed in lieu of and under threat of condemnation, each Lot Owner shall be entitled to notice of the taking, but the Board shall act as attorney-in-fact for all Lot Owners in the proceedings incident to the condemnation proceeding, regarding Common Areas, unless otherwise prohibited by law.

**10.2 Partial Condemnation; Distribution of Award; Reconstruction.** The award made for such taking shall be payable to the Association as trustee for all Lot Owners to be disbursed as follows: If the taking involves a portion of the Common Areas on which improvements have been constructed, then, unless within sixty (60) days after such taking the Lot Owners representing at least sixty-seven percent (67%) of the total votes of the Association shall otherwise agree, the Board shall restore or replace such improvements so taken on the remaining land included in the Common Areas to the extent lands are available. If the taking does not involve any Improvements on the Common Areas, or if there is a decision made not to repair or restore, or if there are net funds shall be distributed in equal portions to each Lot, first to the First Mortgagee and then to the Owner.

**10.3 Complete Condemnation.** If all of the Project is taken, condemned, sold, or otherwise disposed of in lieu of or in avoidance of condemnation, then the regime created by this Declaration shall terminate, and the portion of the condemnation award attributable to the Common Areas shall be distributed in equal portion to each Lot, first to the First Mortgagee and then to the Owner.

**Article 11**  
**TERM, TERMINATION AND AMENDMENT**

**11.1 Term; Method of Termination.** This Declaration shall be effective upon the date of Recordation and shall continue, as amended from time to time, until such time, until terminated by the then Lot Owners in accordance with and governed by a 67% vote of Lot Owners, cast at a special meeting held for that purpose after fair and reasonable notice. Lot Owners shall be entitled to only one vote per Lot. If the necessary votes and consents are obtained, the Board shall cause to be Recorded a certificate of termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon these covenants shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles.

**11.2 Amendments.** This Declaration may be amended by a majority vote, one vote for each Lot, and memorialized by recording a certificate of amendment, duly signed and acknowledged by a member of the Board on behalf of the Association ("Certificate of Amendment"). The Certificate of Amendment shall set forth the full amendment adopted and shall certify that, at a meeting duly called and held pursuant to the provisions of the Articles and Bylaws, or by separate written ballot without a meeting, at least fifty-one (51%) of those entitled to vote

adopted the amendment, and that the vote was based upon one vote for each Lot as set forth in this Declaration.

**11.3 Unilateral Amendments.** The Board alone may amend this Declaration unilaterally at any time and from time to time (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; or (b) if such amendment is reasonably necessary to facilitate conventional or governmental backed lending or to enable any reputable title insurance company to issue title insurance coverage with respect to a Lot subject to this Declaration.

## **Article 12 GENERAL PROVISIONS**

**12.1 Enforcement.** Violation of any provision of the Project Documents may be enforced by the Board or any Owner as a private nuisance. The prevailing party in any court action shall be entitled to an award of costs and reasonable attorneys' fees.

**12.2 Interpretation.** Except for judicial construction, the Association shall have the exclusive right to construe and interpret the provisions of this Project Documents. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions of the Project Documents shall be final, conclusive and binding as to all Persons and property benefited or bound by the Project Documents.

**12.3 Severability.** Any determination by any court of competent jurisdiction that any provision of Project Documents is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof,

**12.4 Change of Circumstances.** Except as otherwise expressly provided in the Project Documents, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of said Project Documents.

**12.5 Rules and Regulations.** In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Board shall have the right to adopt, as part of the Association Rules, additional rules and regulations with respect to any other aspects of the Association's rights, activities and duties, provided said additional rules and regulations are not inconsistent with the provisions of other Project Documents.

**12.6 Laws, Ordinances and Regulations.**

**12.6.1 Board Approval Covenants are Independent of Government Approvals.** The covenants, conditions and restrictions set forth in the Project Documents are independent of the obligation of the Owners and other Persons to comply with all applicable laws, ordinances and

regulations, and compliance with the Project Documents shall not relieve an Owner or any other Person from the obligation also to comply with all applicable laws, ordinances and regulations.

**12.6.2 Violation of Law is a Violation of these Articles.** Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Project is hereby declared to be in violation of the Project Documents and subject to any or all of the enforcement proceedings set forth therein.

**12.7 References to this Declaration in Deeds.** Deeds to, and instruments affecting, any Lot, or any other part of the Project, may contain the covenants, conditions and restrictions herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any deed or instrument, each and all of the provisions of the Project Documents shall be binding upon the grantee Owner or other Person claiming through any instrument and his, her or its heirs, executors, administrators, successors and assigns.

**12.8 Notices.** Any Notice required to be given to any Owner shall be deemed satisfied if notice is: (a) sent by United States mail to the last known mailing address of the Owner, as shown in the records of the Association; or (b) if no such mailing address is reflected on the records of the Association, then sent by United States mail to the mailing address of the Lot Owner on file with the Summit County Assessor's Office; or (c) by electronic notice, including by text message, e-mail, or by website posting to such electronic address provided by the Owner. This Section shall not be construed to require that any notice be given if not otherwise required and shall not prohibit satisfaction of any notice requirement in any other reasonable and appropriate manner. However, in regard to the receiving of any such notice, the Owner of a Lot may demand in writing that all notices be provided by mail, which demand shall include a valid physical address.

**12.9 Indemnification.** The Association shall indemnify each and every Board Member and officer of the Association, (including, for purposes of this Section, former officers and directors of the Association, collectively "Association Officials" and individually an "Association Official") against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon an Association Official in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the Board serving at the time of such settlement) to which he or she may be a party by reason of being or having been an Association Official, unless the liability for such expenses arises out of his or her own intentional misconduct. No Association Official shall have any personal liability with respect to any contract or other commitment made by them or action taken by them, in good faith, on behalf of the Association (except indirectly to the extent that such Association Official may also be a Association Member and therefore subject to Assessments hereunder to fund a liability of the Association), and the Association shall indemnify and forever hold each such Association Official free and harmless from and against any and all liability to others on account of any such contract, commitment or action. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any Association Official may be entitled. If the Board deems it appropriate, at its sole discretion; the Association may advance funds to or for the

benefit of any Association Official who may be entitled to indemnification hereunder to enable such Association Official to meet on-going costs and expenses of defending himself or herself in any action or proceeding brought against such Association Official by reason of his or her being, or having been, an Association Official. In the event it is ultimately determined that an Association Official to whom, or for whose benefit, funds were advanced pursuant to the preceding sentence does not qualify for indemnification pursuant to this Section or otherwise under the Articles, Bylaws or applicable law, such Association Official shall promptly upon demand repay to the Association the total of such funds advanced by the Association to him or her, or for his or her benefit, with interest (should the Board so elect) at a rate as exclusively determined by the Board from the date(s) advanced until paid.

**12.10 No Partition.** No Person acquiring any interest in the Project, or any part thereof, shall have a right to, nor shall any person seek any judicial partition of the Common Areas, nor shall any Owner sell, convey, transfer, assign, hypothecate or otherwise alienate any funds or other assets of the Association except in connection with the sale, conveyance or hypothecation of such Owner's Lot (and only appurtenant thereto). This Section shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring or disposing of title to real property (other than disposition of title to the Common Areas, which shall be subject to Article 4) which may or may not be subject to this Declaration.

**12.11 Number of Days.** In computing the number of days for purposes of any provision of this Project Documents, all days shall be counted including Saturdays, Sundays and holidays; provided however, that if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day shall be deemed to be the next day which is not a Saturday, Sunday or legal holiday.

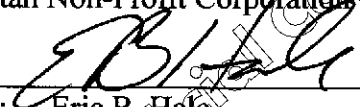
**12.12 Notice of Violation Lien.** The Neighborhood Association shall have the right to Record a written Notice of a Violation Lien by any Owner or of any restriction or provision of the Project Documents. The notice shall be executed and acknowledged by an officer of the Association and shall contain substantially the following information: (a) the name of the Owner; (b) the legal description of the Lot against which the notice is being Recorded; (c) a brief description of the nature of the violation; (d) a statement that the notice is being Recorded by the Association pursuant to this Declaration; and (e) a statement of the specific steps which must be taken by the Owner to cure the violation. Recordation of a notice of violation shall serve as a notice to the Owner and to any subsequent purchaser of a Lot, that there is such a violation. If after the Recordation, it is determined by the Board that the violation referred to in the notice does not exist or that the violation referred to in the notice has been cured, the Board shall Record a Release of the Violation Lien which release need only reference by the book and page number of the prior Violation Lien, stating that the same has been released or withdrawn. Notwithstanding the foregoing, failure by the Association to Record a Notice of Violation shall not constitute a waiver of any existing violation or evidence that no violation exists.

**12.13 Disclaimer of Representations.** The Recordation of this Declaration does not constitute any warranty or representation as to the present or future validity or enforceability of any

restrictive covenant contained in this Declaration or in any of the other Project Documents. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and by accepting a deed to a Lot agrees to hold the Association and Board harmless therefrom.

IN WITNESS WHEREOF, Declarant hereby certifies that, by the written consent of a majority of the Owners of the Residential Lots in Pine Plateau Property Owners Association, this Second Amendment and Restatement of the Declaration of Covenants, Conditions, Easements and Restrictions of Pine Plateau Estates are approved as of the date first stated above.

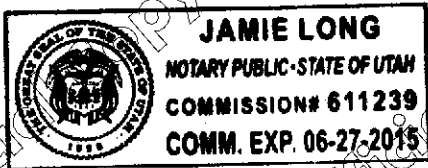
PINE PLATEAU ESTATES PROPERTY OWNERS ASSOCIATION, INC.  
a Utah Non-Profit Corporation

  
BY: Eric B. Hale  
ITS: President

STATE OF UTAH                    )  
  ):SS.  
County of Salt Lake            )

The foregoing instrument was acknowledged before me this 4th day of March, 2013, by Eric B. Hale, the President of Pine Plateau Estates Property Owners Association, a Utah Non-Profit Corporation, on behalf of such entity.

My Commission Expires:



  
Notary Public  
Residing in Salt Lake County, Utah



# CERTIFICATE OF AMENDMENT

Pursuant to those certain Declarations of Covenants, Conditions, and Restrictions (“CC&R’s”) of Pine Plateau Estates, as described in Paragraph B of the Recitals set forth above, for and governing the Pine Plateau Estates subdivisions No. 1, 2,3 and 4, and in accordance with the Utah Third District Court Order of August 1, 2011, in Civil No. 100500532, the undersigned hereby certifies that as of July 19, 2013, upon their respective individual written consent, a majority of the owners of record of the Lots shown of record according to the records of the offices of the Summit County Recorder and/or Assessor, approved the foregoing **SECOND AMENDMENT AND RESTATEMENT OF THE DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS OF PINE PLATEAU ESTATES SUBDIVISION** (the “Amended CCRs”).

The Undersigned further certifies that a majority of owners for each of the four subdivisions at Pine Plateau Estates consented in writing to Amend the CCRs based on the following count: 6 of the 7 owners of 5 residential lots in Pine Plateau Estates No. 1 (86%); 41 of the 69 owners of 38 residential lots in Pine Plateau Estates No. 2 (59%); 34 of the 57 owners of 36 residential lots in Pine Plateau Estates No. 3 (60%); and, 48 of the 93 owners of 48 residential lots in Pine Plateau No. 4 (51.6%). The number of Lots and the total of those owners of record of each Lot was derived from the real property and tax property records of Summit County as of May 17, 2012.

Dated this 4<sup>th</sup> day of August, 2013.

PINE PLATEAU ESTATES PROPERTY OWNERS ASSOCIATION, INC., a Utah Non-Profit Corporation



BY: Eric B. Hale  
ITS: President

STATE OF UTAH )  
                                  : ss  
County of Salt Lake )

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of August 2013, by Eric B. Hale, the President of Pine Plateau Estates Property Owners Association, a Utah Non-Profit Corporation, on behalf of such entity.

My Commission Expires:



  
Notary Public  
Residing in Salt Lake County, Utah

## Exhibit A

### Legal Description

All of and that which is appurtenant to Pine Plateau Estates subdivision No. 1, No. 2, No. 3, and No. 4, including all Common Areas, parcels, easements, right of ways and Residential Lots as established and depicted in those plats for Pine Plateau Estates No. 1, No. 2, No. 3, and No. 4 of record in the office of the Summit County Recorder, copies of which plats are attached and incorporated as part of this legal description; and, including the Residential Lots listed hereinbelow by parcel and account by numbers:

<u>Parcel Number</u>	<u>Account Number</u>	<u>Parcel Number</u>	<u>Account Number</u>
PE-1-1	0154009	PE-2-227	0154322
PE-1-2	0154017	PE-2-228	0154330
PE-1-3	0154025	PE-2-229	0154348
PE-1-4	0154033	PE-2-230	0154355
PE-1-5	0154041	PE-2-231	0154363
PE-2-201	0154058	PE-2-232	0154371
PE-2-202	0154066	PE-2-233	0154389
PE-2-203	0154074	PE-2-234	0154397
PE-2-204	0154082	PE-2-235	0154405
PE-2-205	0154090	PE-2-236	0154413
PE-2-206	0154108	PE-2-237	0154421
PE-2-207	0154124	PE-2-238	0154439
PE-2-208	0154132	PE-2-229-A-1	0253512
PE-2-209	0154140	PE-3-301	0154447
PE-2-210	0154157	PE-3-302	0154454
PE-2-211	0154165	PE-3-303	0154470
PE-2-212	0154173	PE-3-304	0154488
PE-2-213	0154181	PE-3-305	0154496
PE-2-214	0154199	PE-3-306	0154504
PE-2-215	0154207	PE-3-307	0154512
PE-2-216	0154215	PE-3-308	0154520
PE-2-217	0154223	PE-3-309	0154538
PE-2-218	0154231	PE-3-310	0154546
PE-2-219	0154249	PE-3-311	0154553
PE-2-220	0154256	PE-3-312	0154561
PE-2-221	0154264	PE-3-313	0154579
PE-2-222	0154272	PE-3-314	0154587
PE-2-223	0154280	PE-3-315	0154595
PE-2-224	0154298	PE-3-316	0154603
PE-2-225	0154306	PE-3-317	0154611
PE-2-226	0154314	PE-3-318	0154629

Parcel Number      Account Number

PE-3-319                      0154637  
PE-3-320                      0154645  
PE-3-321                      0154652  
PE-3-322                      0154660  
PE-3-323                      0154678  
PE-3-324                      0154686  
PE-3-325                      0154694  
PE-3-326                      0154702  
PE-3-327                      0154710  
PE-3-328                      0154728  
PE-3-329                      0154736  
PE-3-330                      0154744  
PE-3-331                      0154751  
PE-3-332                      0154769  
PE-3-333                      0154777  
PE-3-334                      0154785  
PE-3-335                      0154793  
PE-3-336                      0154801  
PE-3-302-A                    0154462  
PE-4-401                      0154819  
PE-4-402                      0154827  
PE-4-403                      0154835  
PE-4-404                      0154843  
PE-4-405                      0154850  
PE-4-406                      0154868  
PE-4-407                      0154876  
PE-4-408                      0154884  
PE-4-409                      0154892  
PE-4-410                      0154900  
PE-4-411                      0154918  
PE-4-412                      0154926  
PE-4-413                      0154942  
PE-4-414                      0154959  
PE-4-415                      0154967  
PE-4-416                      0154975  
PE-4-417                      0154983  
PE-4-418                      0154991  
PE-4-419                      0155006  
PE-4-420                      0155014  
PE-4-421                      0155022  
PE-4-422                      0155030  
PE-4-423                      0155048  
PE-4-424                      0155055

Parcel Number      Account Number

PE-4-425                      0155063  
PE-4-426                      0155071  
PE-4-427                      0155089  
PE-4-428                      0155097  
PE-4-429                      0155105  
PE-4-430                      0155113  
PE-4-431                      0155121  
PE-4-432                      0155139  
PE-4-433                      0155147  
PE-4-434                      0155154  
PE-4-435                      0155162  
PE-4-436                      0155170  
PE-4-437                      0155188  
PE-4-438                      0155196  
PE-4-439                      0155204  
PE-4-440                      0155212  
PE-4-441                      0155220  
PE-4-442                      0155238  
PE-4-443                      0155246  
PE-4-444                      0155253  
PE-4-445                      0155261  
PE-4-446                      0155279  
PE-4-447                      0155287  
PE-4-448                      0155295

**Exhibit B**

**Bylaws**

**BYLAWS  
OF  
PINE PLATEAU ESTATES PROPERTY OWNERS  
ASSOCIATION, INC.**

**ARTICLE I  
OFFICES**

**Section 1.01. Principal Office.** The principal office for the transaction of the business of Pine Plateau Property Owners Association, Inc. (the "Association") shall be located in Summit County, Utah. The Board of Trustees is hereby granted full power and authority to change, from time to time, said principal office from one location to another in said county.

**Section 1.02 Other Offices.** Branch or subordinate offices may at any time be established by the Trustees at any place or places where the Association is qualified to do business.

**ARTICLE II  
DEFINITIONS**

When used in these Bylaws the following terms shall have the meaning indicated:

**Section 2.01 Articles or Articles of Incorporation** shall mean and refer to the Articles of Incorporation of Pine Plateau Estates Property Owners Association Inc., a Utah Non-Profit Corporation, approved and filed on or about October, 1999, with the Department of Commerce, Division of Corporations and Commercial Code, State of Utah.

**Section 2.02 Association** shall mean and refer to Pine Plateau Estates Property Owners Association, Inc., the Utah Nonprofit Corporation which was created by the filing of the Articles.

**Section 2.03 Board** shall mean the Board of Trustees unless the context of the sentence in which the term is used clearly denotes another body.

**Section 2.04 Common Areas or Common Areas and Facilities** shall mean and refer to all portions of the Property owned by the Association for the common use and enjoyment of the Owners, and shall include all property described or referenced in the Declaration (defined below), excepting therefrom all Residential Lots as set forth and defined therein.

**Section 2.05 Common Expenses** shall mean and refer to all sums which are expended on behalf of all the Owners and all sums which are required by the Association to perform or exercise its functions, duties, or rights under the Declaration and these Bylaws, the Management Agreement for operation of the Common Areas, if any, and such rules and regulations as the Association may from time to time make and adopt. By way of illustration but not limitation, Common Expenses shall include: (i) expenses of administration, maintenance, operation, repair and replacement of those elements of the Common Areas that must be maintained and/or replaced on a periodic basis and reserves as may be from time to time established by the Board; (ii) the costs

of snow removal; (iii) expenses agreed upon by the Association, or the Board, and lawfully assessed against the owners in accordance with the Declaration and these Bylaws; (iv) expenses declared to be Common Expenses by the Declaration, or the Bylaws, and (v) any valid charge against the Subdivision as a whole.

**Section 2.06 Declarant** shall mean and refer to Pine Plateau Estates Property Owners Association, Inc., a Utah nonprofit corporation, or any successors or assigns of said company which either by operation of law or through a voluntary conveyance, transfer, or assignment, comes to stand in the same relation to the Properties or the Common Areas as did its predecessor.

**Section 2.07 Declaration** shall mean and refer to the instrument entitled the "Second Amendment and Restatement of the Declaration of Covenants, Conditions, Easements and Restrictions for Pine Plateau Estates Subdivision," executed March 4, 2013 and filed for record in the Office of the County Recorder of Summit County, Utah.

**Section 2.08 Dwelling Unit** shall mean any single family residence to be used for residential, rather than for commercial purposes, together with its (1/127<sup>th</sup>) undivided interest in the Common Areas and facilities associated with each Unit.

**Section 2.09 Residential Lot or Lot** shall mean and refers to any numbered plat of land shown upon any Recorded subdivision map of Pine Plateau Estates, together with its (1/127<sup>th</sup>) undivided interest in the Common Areas and facilities associated with each Lot.

**Section 2.10 Member** shall mean and refer to every person who holds membership in the Association.

**Section 2.11 Owner** shall mean and refer to the person who is the owner of record in the office of the County Recorder of Summit County, Utah, whether one or more persons or entities, of a fee title in any Lot or Dwelling Unit, including contract buyers, but excluding those having such interest merely as security for the performance of an obligation unless and until such party has required title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

**Section 2.12 Pine Plateau Estates Subdivision** shall mean and refer to Pine Plateau Estates, consisting of all Residential Lots, and/or Dwelling Units of Pine Plateau Estates, No. 1 through No. 4, and all Common Areas, and improvements thereon, including, but not limited to, parcels, appurtenances, easements, right of ways, etc., as shown on the Plat and governed by the Declaration.

**Section 2.13 Property or Properties or Project** shall mean and refer to the real property described as such in the Declaration and all Common Areas.

**Section 2.14 Trustee** shall mean the Directors of the Association with rights and duties as defined in Articles of Incorporation, the Declaration and herein.

**ARTICLE III  
STATUS OF ASSOCIATION**

**Section 3.01 Status and General Authority of Association.** The Association has been incorporated under the laws of the State of Utah as a Non-profit Corporation. The Association, subject to the rights and duties of the Owners as set forth in the Declaration and these Bylaws, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon (including Common Facilities), and shall keep the same in a good, clear, attractive, safe, and sanitary condition, order, and repair. The Association shall be responsible for the maintenance and repair of the Common Areas including, without limitation, utility lines, roads, common facilities, and all improvements and other items located within or used in connection with the Common Areas. All goods and services procured by the Association in performing its responsibilities under this Section shall be paid for with funds from the Common Expenses fund.

**ARTICLE IV  
MEMBERSHIP**

**Section 4.01 Qualifications.** Pursuant to the Articles of Incorporation and Declaration of Covenants, Conditions, Easements and Restrictions, every person who is an Owner shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to a Lot or a Dwelling Unit in which the Owner has the necessary interest, and shall not be separated from the Lot or Dwelling Unit to which it appertains.

**Section 4.02. Privileges of Members.** All Members shall be equally privileged to attend all Trustee, Committee and Membership meetings and take part in all Membership meetings, and shall be eligible to hold any office within the Association, so long as they comply with these Bylaws, including the payment of assessments to the Association.

**Section 4.03. Membership Certificates.** There shall be no certificates of membership in the Corporation.

**Section 4.04. Voting Rights.** The voting rights of Members shall be as described in the Declaration. In no event shall the owners of a Lot or Dwelling Unit, even though there may be more than one owner of a Lot or Dwelling Unit, be entitled to more than one vote (as a group) for each Lot and/or Dwelling Unit.

**Section 4.05 Lists of Owners.** The Association shall maintain up-to-date records showing the name of each person who is an Owner, the address of such person, and the Lot or Dwelling Unit which is owned by him/her/it. In the event of any transfer of a fee or undivided fee interest in a Lot or Dwelling Unit, either the transferor or transferee shall furnish the Association with evidence establishing that the transfer has occurred and that the deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Summit County, Utah. The Association may, for all purposes, act and rely upon the information concerning Owners and Unit ownership which is thus acquired by it, or, at its option, the Association may act and rely on current ownership information respecting any Lot or Dwelling Unit which is obtained from the office of the County Recorder of Summit County, Utah. The address of an Owner shall be deemed to

be the address of the Lot or Dwelling Unit owned by such person unless the Association is otherwise advised.

**Section 4.06 Obstruction of Common Areas.** There shall be no obstructions of the Common Areas by the Owners, their guests or invitees without the prior written consent of the Trustees. The Board may by Rules and Regulations prohibit or limit the use of the Common Areas as may be reasonably necessary for protecting the interests of all the Owners or protecting the Lots, Dwelling Units or the Common Areas. Nothing shall be kept or stored in or upon any part of the Common Areas without the prior written consent of the Trustees, except as specifically provided herein. No improvements temporary or permanent in nature shall be altered, constructed or removed from the Common Areas except upon the prior written consent of the Trustees and except as provided herein.

**Section 4.07 Compliance with Rules and Regulations.** No owner shall violate the rules and regulations regarding use of the Common Areas as promulgated by and amended from time to time by the majority vote of the Board or by the majority vote of those Owners present at a meeting held and noticed to all Owners for the purpose of amending the Rules and Regulations of the Association.

**Section 4.08 Keys.** Membership entitles each Lot Owner to one gate key that will fit all four of the gates in the Pine Plateau Estates Subdivision. Other keys may be purchased from the Board. These keys will be numbered and assigned to the Lot Owners. The keys are not to be duplicated by anyone. The locks are the key retaining type locks which means that key cannot be released from the lock unit it is locked. Anyone found to have keys other than those assigned will be in violation of these Bylaws and will be subject to fines and penalties. Any keys found left in the locks shall be turned into the Board of Trustees. All four of the Subdivision gates are to be closed and locked at all times except when entering or exiting. Violations to the security of the Subdivision will not be tolerated and will be subject to fines and penalties.

## **ARTICLE V MEMBER ASSESSMENTS**

**Section 5.01. Agreement to Pay Assessments.** Each Owner of a Lot or Dwelling Unit, who has purchased a Lot or Dwelling Unit by deed or who has entered into a sale and purchase contract, shall be deemed to covenant and agree with each other and with the Association to pay to the Association annual assessments made by the Association for the purpose provided in the Declaration and these Bylaws, and special assessments for capital improvements and other matters as provided in the Declaration and these Bylaws. Such assessments shall be fixed, established and collected from time to time in the manner provided in this Article.

**Section 5.02 Apportionment of Annual and Special Assessments.** Expenses attributable to the Common Areas and to the Subdivision as a whole, shall be apportioned among and assessed in equal shares based on Lot or Dwelling Unit Ownership against all Owners as of January 1 of each year. Owners, who acquire a Lot or Dwelling Unit from the Declarant during the year, shall pay a prorated share of the assessments made against other Owners corresponding to the portion of the year such new Owner was an Owner.



**Section 5.03 Notice of Annual Assessments and Time for Payment Thereof.**

Annual assessment shall be made on a calendar year basis, provided the first fiscal year shall commence on the date these Bylaws are formally adopted by the Association and end the following December 31. In the event an installment payment is not made or is late, the entire unpaid balance of the annual assessment will be automatically accelerated and will be due and payable immediately.

Each assessment shall bear interest at the rate of eighteen percent (18%) per annum from the date it becomes due and payable until paid. The Board of Trustees shall have the power and authority to change this interest rate annually in accordance with the prevailing rates, though it shall not be obligated to do so. Moreover, the Association may impose a late payment service charge equal to or greater than twenty-five dollars (\$25.00) for each delinquent monthly assessment.

Each time legal title to a Lot or Dwelling Unit passes from one person to another, within thirty (30) days after the effective date of such title transaction, the new Owner shall pay to the Association, in addition to any other required amounts, the sum of one-hundred dollars (\$100.00) or such other reasonable sum as the Board deems proper. The provisions for payment of assessments shall apply to the collection of such sum.

**Section 5.04 Inadequate Funds.** In the event that the Common Expense fund proves inadequate at any time for whatever reason, including non-payment of any Owner's assessment, the Association may levy additional assessments in accordance with the procedure set forth below, except that the vote therein specified shall be unnecessary.

**Section 5.05 Special and/or Reserve Analysis Assessments.** In addition to the Annual Assessments authorized by this Article, the Association shall obtain, review and maintain a Reserve Analysis in accordance with Utah law. The Reserve Analysis may lead to a special assessment to augment the Reserve Account, as determined by the affirmative vote of a majority of the Board, which Special Assessment shall be payable over such periods as the Association may determine, by the affirmative vote of a majority of the Board, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Common Areas or any part thereof, or for any other expenses incurred or to be incurred as provided in the Declaration or these Bylaws (including, without limitation, Common Expenses). This Section shall not be construed as an independent source of authority for the Association to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections hereof. Any amounts assessed pursuant hereto shall be assessed equally to Owners. Notice in writing of the amount of such special assessments shall be given, which notice shall set forth the time for payment which shall be not less than thirty (30) days after such date.

**ARTICLE VI  
MEETINGS OF MEMBERS**

**Section 6.01 Place of Meetings.** All meetings of members shall be held either at the principal office of the Association or at any other place within Summit County, State of Utah which may be designated by the Board of Trustees pursuant to authority hereinafter granted to said Trustees.

**Section 6.02 Annual Meetings.** The annual meetings of Members shall be held on the 3<sup>rd</sup> Saturday of June each year at 12:00 o'clock noon, except as otherwise may be annually determined by the Board, provided, however, that should said day fall upon a legal holiday, then any such annual meeting of Members shall be held at the same time and place on the next Saturday thereafter ensuing which is not a legal holiday. At such meetings the Board of Trustees shall be elected, reports of the affairs of the Association shall be considered, and any other business may be transacted which is within the powers of the Members.

Written notice of each annual meeting shall be given to each Member entitled to vote, either personally or by mail or other means of written communication, charges prepaid, addressed to each such Member at his address appearing on the books of the Association or given by him to the Association for the purpose of notice. If a Member gives no address, notice shall be deemed to have been given if sent by mail or other means of written communication addressed to the place where the principal office of the Association is situated, or, if published, at least once in some newspaper of general circulation in the county in which said principal office and the Subdivision is located. All such notices shall be sent to each Member entitled thereto not less than ten (10) days before each annual meeting, and shall specify the place, the day and the hour of such meeting, and shall state such other matters, if any, as may be expressly required by statute.

**Section 6.03 Special Meetings.** Special meetings of the Members, for any purpose or purposes whatsoever may be called at any time by the President, the Board of Trustees or by one or more members holding thirty percent (30%) of the voting power of the Association. Except in special cases where other express provision is made by statute, notice of such special meetings shall be given in the same manner as for annual meetings of Members. Notices of any special meeting shall specify, in addition to the place, day and hour of such meeting, the general nature of the business to be transacted.

**Section 6.04 Adjourned Meetings and Notice Thereof.** Any Members' meeting, annual or special, whether or not a quorum is present, may be adjourned from time to time by the vote of a majority of the Members at the meeting in person by proxy, but in the absence of a quorum no other business may be transacted at such meeting.

**Section 6.05 Voting.** The majority vote of Members present, in person or by proxy, at the meeting and entitled to vote on the subject matter shall be the act of the Membership unless a greater number of votes is otherwise required by the laws of the State of Utah, or the Articles of Incorporation or Declaration of this Association and provided a quorum is initially present at the meeting.

**Section 6.06 Quorum.** The presence in person or by proxy of at least thirty percent (30%) of the Owners shall constitute a quorum at any meeting of Members.

**Section 6.07 Consent of Absentees.** The transactions of any meeting of Members, however called or noticed, or wherever held, either annual or special, shall be as valid as a meeting duly held after regular call and notice, if a quorum is present either in person or by proxy, and if: 1) either before or after the meeting, each of the Members entitled to vote, not present in person or by proxy, is given written notice of the meeting and its purpose; and, 2) after ten business days from the date of said notice, written objections from at least thirty percent (30%) of the Members entitled to vote but not present in person or by proxy have not been received by the Association. A copy of the notice sent and minutes reflecting whether sufficient objections were received shall be filed with the corporate records or made a part of the minutes of the meeting held.

**Section 6.08 Action Without Meeting.** Any action which under any provision of the Utah Non-profit Corporation and Community Association Act may be taken at a meeting of the Members, may be taken without a meeting if authorized by a writing or writings filed with the Secretary of the Association which is or are signed, in the aggregate, by at least fifty percent (50%) of the Members who would be entitled to vote upon such action at a meeting duly held after regular call and notice.

**Section 6.09 Proxies.** Members may vote in person by written proxy; provided, however, that no proxy shall be valid unless signed by the Owner or his, her or its duly authorized attorney-in-fact, dated, and filed with the Secretary of the Association prior to or at the beginning of any meeting for which it is to be effective. A proxy is valid for eleven (11) months from its date of execution, unless a different time period is expressly provided in the proxy.

## **ARTICLE VII BOARD OF TRUSTEES**

**Section 7.01 Powers.** Subject to limitations of the Articles of Incorporation, the Declaration, and the Utah Community Association Act and the Utah Revised Non-profit Corporation Act as to actions which shall be authorized or approved by the Members, all corporate powers shall be exercised by or under the authority of the Declaration of the Association of the Pine Plateau Estates Subdivision. This Association and Subdivision, including all Common Area, shall be managed by a governing body, which shall be called the Board of Trustees. Without prejudice to such general powers, but subject to the same limitations, it is hereby expressly declared that the Board of Trustees Members shall have the following powers, to wit:

**7.01.1** To select and remove all the other officers, agents and employees of the Association, prescribe such powers and duties for them as may not be inconsistent with law, or with the Articles of Incorporation, the Declaration, or the Bylaws, fix their compensation, if any, and require from them security for faithful service;

**7.01.2** To conduct, manage and control the affairs of the Association, and to make such rules and regulations therefore not inconsistent with law, or with the Articles of Incorporation, the Declaration or the Bylaws, as they may deem proper; and further to establish fines and penalties for the violation of any such rules and regulations.

**7.01.3** To change, from time to time, the principal office for the transaction of the business of the Association from one location to another within the same county as provided in Section 1.01; to fix and locate, from time to time, one or more subsidiary offices of the Association within the State of Utah as provided in Section 1.02 hereof; and; to designate any place within Summit County, State of Utah for the holding of any Members meeting or meetings;

**7.01.4** To admit new Members or terminate the membership of existing Members;

**7.01.5** To appoint a Design Review Committee and other Committees; to delegate to the Committees any of the powers and authority of the Board in the management of the affairs of the Association, except the power to adopt, amend or repeal Bylaws; and to delegate to the Design Review Committee the power and authority granted to such Design Review Committee in the Declaration and Bylaws;

**7.01.6** Without the vote or consent of the Owners or of any other person(s), to grant or create, on such terms as it deems advisable, utility and similar easements over, under; across, and through the common Area and Facilities;

**7.01.7** To execute and record, on behalf of all the Owners, any amendment to the Declaration or plat map which has been approved by the vote or consent necessary to authorize such amendment.

**7.01.8** To sue and be sued;

**7.01.9** To enter into contracts which in any way concern the Common Areas, so long as any vote or consent of the Owners necessitated by the subject matter of the agreement has been obtained;

**7.01.10** To convey or transfer any interest in real property authorized by the Owners having an interest therein;

**7.01.11** To purchase, otherwise acquire, and accept title to, any interest in real property, so long as such action has been authorized by any vote or consent which is necessary under the circumstances;

**7.01.12** To license persons not otherwise entitled to use any of the recreation Common Areas and Facilities to use the same from time to time as the Trustees deems appropriate upon payment of fees prescribed by it to help defray the cost of maintenance thereof;

**7.01.13** To borrow money, provided that no indebtedness for borrowed funds shall exceed at any given time the sum of \$10,000.00 without the prior vote or approval of the Association at a meeting duly called and convened at which a quorum is present;

**7.01.14** To promulgate such reasonable rules and regulations, and procedures as may be necessary or desirable to aid the Board in carrying out any of its functions or to insure that the Subdivision is maintained and used in a manner consistent with the interests of the Owner;

**7.01.15** To perform any other acts and to enter into any other transactions which may be reasonably necessary for the Board to perform its functions as agent of the Association; and

**7.01.16** To hire, if the Board deems it necessary, a professional manager or management company to perform those duties and obligations of the Board of Trustees that is properly delegable under the Declaration, these Bylaws and under Utah law.

Any instrument executed by the Board of Trustees that recites facts which, if true, would establish the Trustees' power and authority to accomplish thereby, shall conclusively establish said power and authority in favor of any person who in good faith, and for value, relies upon said instrument.

**Section 7.02 Number and Qualification of Board of Trustees Members** The authorized number of Members of the Board of Trustees of the Association shall be five (5) until changed by a Resolution amending this Section.

**Section 7.03 Election Term of Office.** The Board of Trustees Members shall be elected at each annual meeting of Members, but if any such annual meeting is not held, or the Board of Trustees Members are not elected there, the Board of Trustees may be elected at any special meeting of Members held for that purpose. All Board of Trustees Members shall hold office until their respective successors are elected.

**Section 7.04 Vacancies.** Vacancies in the Board of Trustees may be filled by a majority of the remaining Board of Trustees Members, though less than a quorum, or by a sole remaining Board of Trustees Member, and each Board of Trustees Member so elected shall hold office until his successor is elected at an annual or special meeting of the Members.

A vacancy or vacancies in the Board of Trustees shall be deemed to exist in case of the death, resignation or removal of any Board of Trustees Member, or if the authorized number of Board of Trustees Members be increased, or if the Members fail at any annual or special meeting of Members at which any Board of Trustees Member or Board of Trustees Members are elected, to elect the full authorized number of Board of Trustees Members to be voted for at that meeting.

A Trustee may be removed from the Board, either with or without cause, by unanimous vote of the remaining Trustees at any regular or special meeting of the Board.

No reduction of the authorized number of Board of Trustees Members shall have the effect of removing any Board of Trustees Member prior to the expiration of his term of office.

**Section 7.05 Place of Meeting.** Meetings of the Board of Trustees shall be held at any place within the State of Utah which has been designated from time to time by resolution of the Board of Trustees or by written consent of all Members of the Board of Trustees. In the absence of such designation, meetings shall be held at the principal office of the Association.

**Section 7.06 Organization Meetings.** Immediately following each annual meeting of Members, the Board of Trustees shall hold a regular meeting for the purpose of organization, election of officers, and the transaction of other business. Notice of such meeting is hereby dispensed with.

**Section 7.07 Other Regular Meetings.** Other regular meetings of the Board of Trustees are hereby dispensed with and all business conducted by the Board of Trustees shall be conducted at special meetings.

**Section 7.08 Special Meetings.** Special meetings of the Board of Trustees for any purpose or purposes shall be called at any time by the President or, if he is absent or unable or refuses to act, by any two Board of Trustees Members.

Written notice of the time and place of special meetings shall be delivered personally to each Board of Trustees Member, or sent to each Board of Trustees Member by mail or by other form of written documentation, charges prepaid, addressed to him at his address as it is shown upon the records of the Association, or if it is not so shown on such records or is not readily ascertainable at the place in which the meetings of Board of Trustees Members are regularly held. In case such notice is mailed or telegraphed, it shall be deposited in the United States mail or delivered to the telegraph company in the place in which the principal office of the Association is located at least forty-eight (48) hours prior to the time of the holding of the meeting. In case such notice is delivered personally as above provided, it shall be so delivered at least twenty-four (24) hours prior to the time of the holding of the meeting. Such mailing, telegraphing or delivering as above provided shall be due, legal and personal notice to such Board of Trustees Member.

**Section 7.9 Waiver of Notice.** The transactions of any meeting of the Board of Trustees, however called and noticed or wherever held, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum be present, and if, either before or after the meeting, each of the Board of Trustees Members not present signs a written waiver of notice, or a consent to holding such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the Association's records or made a part of the minutes of the meeting.

**Section 7.10 Quorum.** A majority of the authorized number of Board of Trustees Members shall be necessary to constitute a quorum for the transaction of business, except to adjourn as hereinafter provided. Every act or decision done or made by a majority of the Board of Trustees Members present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Trustees, unless a greater number be required by law or by the Articles of Incorporation.

**Section 7.11 Adjournment.** A quorum of the Board of Trustees may adjourn any Board of Trustees meeting to meet again at a stated day and hour; provided, however, that in the absence of a quorum, a majority of the Board of Trustees Members present at any Board of Trustees meeting, either regular or special, may adjourn from time to time until the time fixed for the next regular meeting of the Board of Trustees.

**Section 7.12 Fees and Compensation.** Board of Trustees Members shall not receive any stated salary for their services as Board of Trustees Members, but, by resolution of the board, a fixed fee, with or without expenses of attendance, may be allowed for

attendance at each meeting. Nothing herein contained shall be construed to preclude any Board of Trustees Member from serving the Association in any other capacity as an officer, agent, employee, or otherwise, and receiving compensation thereof.

**Section 7.13 Action Without Meeting.** Any action required or permitted to be taken by the Board of Trustees under any provision of the Utah Non-profit Association and Cooperative Association Act, the Declaration and under these Bylaws may be taken without a meeting if all of the Board of Trustees Members of the Association shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board of Trustees.

## ARTICLE VIII OFFICERS

**Section 8.01 Offices.** The officers of the Association shall be a President, a Secretary, and a Treasurer. The Association may also have, at the discretion of the Board of Trustees, such other officers as may be appointed in accordance with the provisions of section 8.03. One person may hold two or more offices, except those of President and Secretary.

**Section 8.02 Election.** The officers of the Association, except such officers as may be appointed in accordance with the provisions of Section 8.03 or section 8.05, shall be chosen annually by the Board of Trustees, and each shall hold his office until he shall die, resign or be removed or otherwise disqualified to serve, or his successor shall be elected and qualified.

**Section 8.03 Subordinate Officers.** The Board of Trustees may appoint such other officers as the business of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as are provided in the Bylaws or as the Board of Trustees may from time to time determine.

**Section 8.04 Removal and Resignation.** Any officer may be removed, either with or without cause, by a majority of the Board of Trustees at any regular or special meeting of the Board, or, by an officer upon whom such power of removal may be conferred by the Board of Trustees.

Any officer may resign at any time by giving written notice to the Board of Trustees or to the President, or to the Secretary of the Association. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 8.05 Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in the Bylaws for regular appointments to such office.

**Section 8.06 President.** The President shall be the Chief Executive Officer of the Association and shall, subject to the control of the Board of Trustees, have general supervision, direction and control of the business and officers of the Association. The President shall preside at all meetings of the Members and at all meetings of the Board of Trustees. He shall be ex officio a member of all the standing Committees, and shall

have the general powers and duties of Management usually vested in the office of the President of an Association, and shall have such other powers and duties as may be prescribed by the Board of Trustees or the Bylaws.

**Section 8.07 Secretary.** The Secretary shall, keep, or cause to be kept, a book of minutes at the principal office or such other place as the Board of Trustees may order, of all meetings of the Board of Trustees and Members, with the time and place of holding, whether regular or special, and if special, how authorized, the notice thereof given, the names of those present at Board of Trustees Members' meetings, the number of Members present or represented at Members' meetings and the proceedings thereof.

The Secretary shall keep, or cause to be kept, at the principal office a register, showing the names of the Members and their addresses,

The Secretary shall give, or cause to be given, notice of all the meetings of the Members and of the Board of Trustees required by the Bylaws or by law to be given (provided, however, that in the event of the absence or disability of the Secretary, such notice may be given by any other officer of the Association), and shall have such other powers and perform such other duties as may be prescribed by the Board of Trustees or the Bylaws.

**Section 8.08 Treasurer.** The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the Association, including accounts of its assets, liabilities, receipts, disbursements, and shall deposit all monies and other valuables in the name and to the credit of the Association with such depositories as may be designated by the Board of Trustees or, in the absence of such designation, as may be selected by the Treasurer. The Treasurer shall receive and keep account of all fees, monies and dues belonging to the Association, shall disburse the funds of the Association as may be ordered by the Board of Trustees or the President, shall make, sign and endorse in the name of the Association all checks, drafts, notes, and other orders for the payment of money and payout and dispose of such under the direction of the Board of Trustees and the President, shall render to the President and Board of Trustees, whenever they request it, an account of all of his transactions as Treasurer and of the financial condition of the Association, and shall have such other powers and perform such other duties as may be prescribed by the Board of Trustees or the Bylaws.

## ARTICLE IX MISCELLANEOUS

**Section 9.01 Inspection of Corporate Records.** The books of account, the Membership register and minutes of proceedings of the Members and the Board of Trustees shall be open to inspection upon the written demand of any Member at any reasonable time, and for a purpose reasonably related to his interests as a Member. Such inspection may be made in person or by agent or attorney, and shall include the right to make extracts. Demand of inspection shall be made in writing upon the President or Secretary.

**Section 9.02 Checks, Drafts, Etc.** All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to



the Association, shall be signed or endorsed by the Treasurer and/or by such person or persons and in such manner as, from time to time, shall be determined by resolution of the Board of Trustees.

**Section 9.03 Execution of Contracts.** The Board of Trustees, except as otherwise provided in the Bylaws, may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument in the name of, and on behalf of the Association, and such authority may be general or confined to specific instances. Unless so authorized by the Board of Trustees, no officer, agent or employee shall have any power or authority to bind the Association by any contract or engagement or to pledge its credit to render it liable for any purpose or to any amount.

**Section 9.04 Inspection of Bylaws.** The Association shall keep in its principal office for the transaction of business the original or a copy of the Bylaws as amended or otherwise altered to date, certified by the Secretary, which shall be open to inspection by the Members at all reasonable times during office hours.

#### **ARTICLE X AMENDMENTS**

**Section 10.01 Power to Amend.** New Bylaws may be adopted, or these Bylaws may be amended or repealed by the vote of a majority of the Board or by the written assent of the majority of the Board, or by the majority of the Members present, in person or by proxy, and otherwise entitled to vote, at the annual meeting, except as otherwise provided by law or by the Articles of Incorporation. A vote of the majority of the Members present, in person or by proxy, and otherwise entitled to vote at any meeting held for such purpose, or at the annual meeting, is required to approve an amendment thereof changing the authorized number of Trustees who serve on the Board of Trustees.

#### **ARTICLE XI DISSOLUTION**

**Section 11.01 Dissolution.** The Association may be dissolved with the assent given in writing and signed by not less than three-fourths (3/4) of the Members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

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CERTIFICATE OF SECRETARY

I, the undersigned, do hereby certify:

1. That I am the duly elected and acting Secretary of Pine Plateau Estates Property Owners Association, Inc., a Utah Nonprofit Corporation; and

2. That the foregoing Bylaws, consisting of fourteen (14) pages, constitute the Bylaws of said corporation as duly adopted at the Meeting of the Board of Trustees thereof, duly held on the 27<sup>th</sup> day of May, 2013.

BY: 