

**AMENDED AND RESTATED  
DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS  
FOR  
JORDAN WILLOWS**

**A Planned Residential Development  
in  
Lehi, Utah County, Utah**

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This AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR JORDAN WILLOWS (“Declaration”) is adopted by the Jordan Willows Homeowners Association, Inc., (“Association”) and is effective as of the date it is recorded in the office of the Utah County Recorder.

## RECITALS

- A. The *Declaration of Restrictive Covenants for Jordan Willows Communities* was recorded in the Office of the Utah County Recorder on November 21, 2003 as Entry No. 184944:2003 (the “Original Declaration”).
- B. The Original Declaration covered Plat A for Jordan Willows, recorded in the Office of the Utah County Recorder.
- C. Twelve (12) supplemental declarations were subsequently recorded in the Office of the Utah County Recorder between 2004 and 2007 to subject Plats B-P to the Original Declaration.
- D. The *Amendment to the Declaration of Restrictive Covenants for Jordan Willows Communities* was recorded in the Office of the Utah County Recorder on November 25, 2013 as Entry No. 108347:2013.
- E. A second *Amendment to the Declaration of Restrictive Covenants for Jordan Willows Communities* was recorded in the Office of the Utah County Recorder on May 8, 2014 as Entry No. 30897:2014 (the “Second Amendment”).
- F. The *Bylaws of the Jordan Willows Homeowners Association, Inc.* were recorded in the Office of the Utah County Recorder on May 15, 2014 as Entry No. 32708:2014.
- G. A third *Amendment to the Declaration of Restrictive Covenants for Jordan Willows Communities* was recorded in the Office of the Utah County Recorder on January 28, 2020 as Entry No. 11033:2020.
- H. This Declaration, which (along with and subject to any future amendments) shall be the sole declaration for the Project and shall completely replace and supersede in all respects the Original Declaration and amendments thereto, and all prior declarations and amendments thereto, (whether recorded or not, properly adopted or not, or referenced in this Declaration or not), prior to the date of the recording of this Declaration.
- I. This Declaration affects the real property situated in Utah County, Utah, described with particularity on Exhibit A, which exhibit is attached hereto and incorporated in this Declaration by reference (the “Project”) and shall be binding on all parties having or acquiring any right, title, or interest to the Project or any part thereof.
- J. The Bylaws of the Association attached hereto as Exhibit B supersede and replace any previous bylaws of the Association and any amendments thereto, whether recorded or not.

- K. Pursuant to Section C4 of the Declaration (as amended by the Second Amendment) at least sixty-seven percent (67%) of the total votes of the Association have approved this Declaration. The signature hereinafter of the president of the Association certifies and attests that such vote was obtained.

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

## ARTICLE I. DEFINITIONS

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

1.2. **Architectural Control Committee** or **ACC** shall mean and refer to the Board or, if so appointed by the Board, a committee having architectural control powers as further described in Article X.

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

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

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

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

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

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

1.9. **Common Areas** shall mean all land, and the improvements situated thereon, within the Project that are designated as open space or Common Areas on the Plat or other recorded instrument and other real property which the Association now or hereafter owns in fee for the benefit of Owners for as long as the Association is the owner of the fee, which may include without obligation or limitation: greenspace and other improvements, and any real property or improvements within the Project that the Board determines in its sole and exclusive discretion, including, without limitation, utility and service lines, systems and similar improvements, whether public or private-company owned, intended to serve more than one

Lot, whether located on a Lot or within the Common Area. **At the time of recording of this Declaration, there are no Common Areas in the Project.**

1.10. **Common Expenses** shall mean all sums lawfully assessed against Owners for the purpose of promoting the health, safety, and welfare of residents of the Project, including, but not limited to: expenses necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under the Governing Documents; expenses agreed upon as common expenses by the Association or its Board of Directors; expenses authorized by the Governing Documents or the Act as common expenses; and any other expenses necessary for the common benefit of the Owners.

1.11. **Declaration** shall mean and refer to this *Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Jordan Willows*, as may be amended from time to time.

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

1.13. **Governing Documents** shall mean and refer to the Declaration, Plat, Articles, Bylaws, and any Rules adopted by the Board.

1.14. **Lot** shall mean and refer to each of the individual lots within the Project, as shown on the Plat.

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

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

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

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

1.19. **Occupant** shall mean and refer to any Person, other than an Owner living or staying in a Residence. This includes, but is not limited to, all lessees, tenants, and the family members, guests, and representatives visiting, living, or staying in a Residence.

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

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

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

1.23. **Project** shall mean Jordan Willows and shall include the real property legally described in Exhibit A, together with the buildings, improvements, and permanent fixtures located thereon, and all easements and rights appurtenant thereto.

1.24. **Residence** shall mean a detached structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on the Lot which are used in connection with such Residence. The Residence shall include, without limitation, the garage, any mechanical equipment located outside said Residence but designed to serve only that Residence, and all utility lines or installations serving the Residence.

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

1.26. **Rules** shall mean the rules, resolutions, regulations, policies, architectural guidelines, etc. adopted by the Board.

## **ARTICLE II. PROJECT DESCRIPTION**

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

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

2.3. **Description of Improvements**. The improvements contained in the Project will be located upon the real property described in Exhibit A. The major improvements contained in the Project include 635 Lots, Residences, and appurtenant structures on the Lots. Streets are detailed on the Plat and are public streets. All improvements have been and shall continue to be constructed in a style and of materials architecturally compatible with the other improvements on the Project. The Lots, their locations, and approximate dimensions are indicated on the respective Plats.

2.4. **Common Areas**. As of the date this Declaration is recorded, there are no Common Areas in the Project.

2.5. **Lot**. Each Lot consists of: the single family Residence constructed on the Lot and all components thereof; all garages, driveways, sheds, or other approved structures and improvements located within the boundaries of the Lot; and all pipes, wires, conduits, chutes, flues, ducts, shafts, public utility, water or sewer lines, or any other similar fixtures serving that Lot and the Residence.

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

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

3.1. **Membership**. Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to the Lot in which the Owner has the

necessary interest, and shall not be separated from the Lot to which it appertains. Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the transfer of ownership of the Lot, and then only to the new Owner. Any attempt to make a prohibited transfer is void. In the event the Owner of any Lot should fail or refuse to transfer the membership registered in his name to the purchaser of his Lot, the Association shall have the right to record the transfer upon its books and thereupon the old membership outstanding in the name of the seller shall be null and void.

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

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

3.4. **Record of Ownership.** Every Owner shall promptly file the conveyance document (or in the case of contract buyer, a copy of the sales contract) for his Lot with a Board Member or the Manager of the Association who shall maintain a record of ownership of the Lots. In addition, every Owner shall register his/her contact information with a Board Member or the Manager, which may include phone numbers, email addresses, and other information so required by the Association for Association notice purposes. Any cost incurred by the Association in obtaining the information about an Owner as specified herein which is not furnished by such Owner shall nevertheless be at the expense of such Owner and shall be reimbursed to the Association as an "Individual Assessment" in accordance with the provisions of Article V.

3.5. **Proxies.** An Owner may give his proxy, either specific or general, to another Owner, a third person, or to a contract purchaser of his Lot to vote on all matters coming before the Association for vote provided the same is in writing, including electronic form as allowed by the Utah Revised Nonprofit Corporation Act at §16-6a-712, as amended from time to time, signed by the Owner, and is presented to those Association officers conducting such vote or as may be further provided in the Bylaws. Proxies shall only be valid for a specific meeting; open-ended or perpetual proxies are not allowed.

## **ARTICLE IV. PROPERTY RIGHTS IN COMMON AREAS**

4.1. **Easement of Enjoyment.** If any Common Areas are added to the Project in the future, each Member shall have a right and easement of use and enjoyment in and to the Common Areas. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom. Any Member may delegate the right and easement of use and enjoyment described herein to any family member, tenant, lessee, or contract purchaser who resides on such Member's Lot.

4.2. **Government Access.** Utah County and any other governmental or quasi-governmental body having jurisdiction over the Project shall have access to and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within

the Project for purposes of providing police and fire protection, transporting school children, and providing any other governmental or municipal service.

4.3. **Association Easement.** The Association, its Board, the Manager, employees, agents, and contractors shall have non-exclusive easements to use the Common Areas, if any, and access Lots as needed to perform their duties as assigned by the Governing Documents.

4.4. **Easement for Utility Services.** The Project is subject to a blanket easement over, across, above, and under it for ingress, egress, installation, maintenance, repair, and replacement of roads and utilities. Utilities include, without limitation, water, sewer, gas, telephone, electricity, data, video, and cable.

4.5. **Compliance with Restrictions and Rules.** Each Owner and Occupant shall comply with the Restrictions imposed by this Declaration. Further, each Owner, Occupant and guest shall fully and faithfully comply with the Association's Rules and Restrictions.

## **ARTICLE V. BUDGET AND ASSESSMENTS**

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

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

5.3. **Purpose of Assessments.** Assessments levied by the Association shall be used for the purpose of promoting the health, safety, and welfare of residents of the Project. The use made by the Association of funds obtained from Assessments may include, but is not limited to: expenses necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under the Governing Documents.

5.4. **Annual Assessments.** Annual Assessments shall be made on a calendar year basis based on the budget. Each Annual Assessment shall be due and payable in yearly installments, unless a different payment arrangement is made by the Board. At least fifteen (15) days prior to the effective date of any change in the amount of the Annual Assessment, the Association shall give each Owner written notice of the amount.

5.5. **Special Assessments.** The Board may levy a Special Assessment payable over such a period as the Board may determine for the purpose of defraying, in whole or in part any expense or expenses not reasonably capable of being fully paid with funds generated by Annual Assessments or for any other expense incurred or to be incurred as provided in this Declaration. Special Assessments over fifty dollars (\$50) per Lot in a calendar year must be approved and assented to by a majority of the Members present in person or by proxy at a meeting duly called for such purpose. Notice in writing of the amount of any Special Assessments and the time for their payment shall be given as soon as is reasonably possible



to the Owners. Payment shall be due on the dates and in the manner determined by the Board and provided in the notice.

5.6. **Individual Assessments.** In addition to Annual and Special Assessments authorized above, the Board may levy Individual Assessments against a Lot and its Owner for: (a) administrative costs and expenses incurred by the Board in enforcing the Governing Documents against the Owner or his/her Occupants; (b) any charge, fine, fee, expense, or cost designated as an Individual Assessment in the Governing Documents or by the Board, including, without limitation, action taken to bring a Lot and its Owner into compliance with the Governing Documents; (c) nonpayment of a "Reinvestment Fee" as provided under Section 5.16 herein; (e) costs of providing services to the Lot upon request of the Owner; and (f) attorney fees, court or collection costs, fines, and other charges relating thereto as provided in this Declaration.

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

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

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

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

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

Association, of the Assessment or installment and of the amount owing. Such notice may be given at any time prior to or after delinquency of such payment. A copy of such notice may also be provided to the Occupant(s) of the Lot if the Owner is not a resident at the Project.

5.12. **Due Date and Delinquency.** Assessments shall be paid in a timely manner. Payments are delinquent if received more than fourteen (14) days from the date that they became due. Whenever an Assessment is delinquent, the Board may at its option invoke any one or more options or all of the sanctions granted in this Article or the Act.

5.13. **Collection Charge.** If the Association does not otherwise adopt or establish billing and collection procedures in the Rules, the following shall apply. Delinquent accounts may be charged a twenty-five dollar (\$25) late fee each month until the Owner's account (including all collection charges, costs, and attorney fees) is paid in full. Interest may also accrue on all unpaid balances at the rate of eighteen percent (18%) per annum. Collection charges, interest, and late fees shall constitute part of the Assessment lien provided above until paid.

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

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

5.15. **Power of Sale.** The Association shall have all rights of foreclosure granted by the Act, both judicially and non-judicially. Pursuant to Utah Code §57-1-20 and §57-8a-302,

an Owner's acceptance of an interest in a Lot constitutes a simultaneous conveyance of the Lot in trust, with power of sale, to the Association's attorney of record, as trustee, for the benefit of the Association, for the purpose of securing payment of Assessments under the terms of this Declaration. The Association may appoint a qualified successor trustee by executing and recording a substitution of trustee form.

5.16. **Reinvestment Fee.** The Board, by resolution, shall have the right to establish from time to time (but shall not be required to establish) a "Reinvestment Fee" assessment in accordance with this Section and Utah Code §57-1-46. If established by the Board, the following terms and conditions shall govern Reinvestment Fees.

1) Upon the occurrence of any sale, transfer, or conveyance of any Lot as reflected in the office of the Utah County recorder, regardless of whether it is pursuant to the sale of the Lot or not (as applicable, a "Transfer"), the party receiving title to the Lot (the "Transferee") shall pay to the Association a Reinvestment Fee in an amount established by the Board, provided that in no event shall the Reinvestment Fee exceed the maximum rate permitted by law.

2) Reinvestment Fees shall belong to the Association. The purpose of the Reinvestment Fee is to benefit the Project, including, but not limited to, payment for common planning, facilities and infrastructure; obligations arising from an environmental covenant; community programming; resort facilities; open space; recreation amenities; charitable purposes; or Association expenses.

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

4) The Reinvestment Fee shall be due and payable by the Transferee to the Association at the time of the Transfer giving rise to the payment of such Reinvestment Fee and shall be treated as an Individual Assessment for collection purposes.

5.17. **Account Payoff Information.** The Association may charge a fee for providing account payoff information in connection with the closing of an Owner's financing, refinancing, or sale of a Lot as provided for in Utah Code §57-8a-106. The Board may set forth the amount of the fee in the Rules, but such fee shall not exceed the maximum amount allowed pursuant to Utah law. If not otherwise set forth in the Rules, the account payoff fee shall be fifty dollars (\$50.00).

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

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

6.1. **Organization of Association.** The Association shall serve as the governing body for all Owners. The Association shall make provisions for the administration and operation of the Common Expenses, and other matters as provided in the Act, this Declaration, and the Bylaws.

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

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

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

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

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

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

- 1) **Insurance.** The Association, through the Board, shall obtain and maintain in force policies of insurance as provided in this Declaration, the Act, or the Bylaws of the Association. The Association shall have no obligation to obtain or maintain any insurance covering the personal and real property of any Owner(s), and each Owner shall be responsible for obtaining and maintaining such personal and real property insurance.
- 2) **Rulemaking.** The Association, through the Board, shall make, establish, promulgate, amend, and repeal Rules governing the conduct of persons and the operation and use of the Project as it may deem necessary or appropriate in order to assure a clean, aesthetically pleasing, peaceful, and orderly use and enjoyment of the Project.
- 3) **Assessments.** The Association, through the Board, shall adopt budgets and impose and collect Assessments as provided in Article V of this Declaration.

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

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

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

7) **Loans.** Subject to approval of a majority of Owners in attendance, whether by person or by proxy, at a duly held Member meeting, the Association, through the Board, may obtain lender financing for Association improvements or obligations.

8) **Annexation.** The Association, through the Board and in its sole discretion, shall have the right to annex additional property into the Project. Such annexation shall be accomplished by recording a supplement to this Declaration and no vote of the Owners shall be required.

9) **Financial Records.** The Association, through the Board, shall maintain corporate and financial records as required by the Act and the Bylaws.

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

6.6. **Board of Directors.** The governing body of the Association shall be the Board of Directors. Except where a matter or vote is specifically reserved to the Owners, the Board shall act in all instances on behalf of the Association. Board Members shall be elected pursuant to the provisions set forth in the Bylaws which may set forth requirements for serving on the Board. Without limiting the generality of the foregoing, the Board may appoint one or more "Committees", and such Committees (which may consist of one or more members, as determined by the Board) shall have such authority and duties as may be determined from time to time by the Board relating to the budgeting, operation, financial management and administration of the Project. While any Committee established by the Board shall report to the Board regularly regarding its activities, the Board may by express directive relinquish and transfer all authority and responsibility with respect to such prior delegated duties.

6.7. **Management.** The Project may be managed by a Manager selected by the Board to assist in the management and operation of the Project. The Board may delegate such of its powers and duties to the Manager as it deems appropriate; reserving the right, however, to

control and oversee the administration thereof. Any powers and duties delegated to any Manager may be revoked by the Board at any time, with or without cause.

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

## **ARTICLE VII. MAINTENANCE**

7.1. **Association Maintenance**. The Association shall have no maintenance responsibilities for the Project as no Common Areas exist in the Project. Should Common Areas exist in the Project in the future, the Association shall maintain, repair, and replace those Common Areas.

7.2 **Entry Monument**. The entry monument into the Project shall be maintained by the city. If the Association becomes required in the future to maintain the entry monument, the Association shall keep the entry monument in good repair and/or take other actions regarding the entry monument that are in the best interests of the Association as a whole.

7.3. **Lot Maintenance**. Each Owner shall have the obligation to provide exterior and interior maintenance of their Lot and Residence, including but not limited to painting, repair, replacement, and care of all Residence components, driveways, and utility lines servicing the Lot or Residence. Owners shall be responsible to maintain, repair, and replace any fences located within or on the boundaries of their Lot. When such fences serve, benefit, or otherwise mark a boundary of two or more Lots, the responsibility and cost to maintain, repair, and replace the shared portion of such fences shall be borne equally by all Lot Owners bounded thereby. These maintenance obligations shall be fulfilled so each Lot and Residence is clean, tidy, and in good repair as determined by the ACC, subject to any Design Guidelines and other Rules. Each Owner shall also be responsible for the maintenance, care, repair, and/or replacement of all landscaping on his or her Lot. All Lots shall have at least two (2) trees. No diseased trees shall be allowed to remain on a Lot; such trees shall be remedied or removed promptly by the Owner.

7.4. **Owner Maintenance Neglect**. An Owner who fails to maintain his/her Lot or Residence as required by the Governing Documents and Design Guidelines is subject to enforcement action by the Association as provided in this Declaration or applicable law.

## **ARTICLE VIII. INSURANCE**

**NOTICE:** The Association's insurance policy does not cover the Residences, Owner or Occupants' real or personal property, and the contents of their Residence, nor the personal liability of Owners or their Occupants.

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

8.2. **Property Insurance.** The Association shall not be required to obtain property insurance as there is no Common Area in the Project. If the Association acquires Common Area in the future, the Association shall be required to obtain property insurance on the Common Areas compliant with the insurance provisions of the Utah Community Association Act.

8.3. **Comprehensive General Liability (CGL) Insurance.** The Association shall obtain CGL insurance insuring the Association, the agents and employees of the Association, and the Owners, against liability incident to use of the Project or membership in the Association. The coverage limits under such policy shall not be less than One Million Dollars (\$1,000,000.00) covering all claims for death of or injury to any one person or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which would preclude the insurer from denying the claim of an Owner because of the negligence acts of the Association or another Owner.

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

8.5. **Insurance Coverage for Theft and Embezzlement of Association Funds.** The Association shall obtain insurance covering the theft or embezzlement of funds that shall: (1) provide coverage for an amount of not less than the sum of one (1) years' regular Assessments in addition to the prior calendar year's highest monthly balance on all operating and reserve funds, and (2) provide coverage for theft or embezzlement of funds by: (a) Officers and Board Members of the Association, (b) employees and volunteers of the Association, (c) any Manager, and (d) officers, directors, and employees of any Manager.

8.6. **Certificates.** Any insurer that has issued an insurance policy to the Association shall issue a certificate of insurance to the Association, and upon written request, to any Owner or Mortgagee.

8.7. **Named Insured.** The named insured under any policy of insurance shall be the Association. Each Owner shall also be an insured under all CGL insurance policies.

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

8.9. **Waiver of Subrogation against Owners and Association.** All CGL policies must contain a waiver of subrogation by the insurer as to any claims against the Association and the Owners and their respective agents and employees.

## ARTICLE IX. USE RESTRICTIONS

9.1. **Single Family.** Each Residence shall be used only as a single family dwelling.

9.2. **Business Activities.** Business activities that comply with the following requirements are permitted to take place on a Lot or Residence without Board approval: (1) only normal residential activities would be observable outside of the Residence; (2) the business activity does not involve persons coming on to the Project who do not reside in the Project in a manner and/or amount that would constitute a nuisance; (3) the business activity does not involve the solicitation of Occupants or Owners; (4) the business will not result in the increase of the cost of the Association's insurance; and (5) the activities would not be in violation of applicable local ordinances. All other gainful occupation, business, trade, or other nonresidential use conducted on any Lot or Residence shall require the prior written consent of the Board.

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

9.4. **Pets and Animals.** Animals kept on any Lot shall meet the requirements of Lehi City Development Code, as it may be amended from time to time. Animals shall be properly fenced, sheltered, and cared for. Each Owner shall clean facilities for their animals as needed to maintain them free from objectionable odors, pests, insects, etc. No animal shall, in the opinion of the Board, be dangerous to other Owners or Occupants or their animals. Animals may not create a nuisance. The following acts of an animal may constitute a nuisance: (a) it causes damage to property of anyone other than its owner; (b) it causes unreasonable fouling of the air by odors; (c) it causes unsanitary conditions; (d) it barks, whines, or howls, or makes other disturbing noises in an excessive, continuous, or untimely fashion; or (e) it harasses a passersby by lunging at them or chasing passing vehicles. All dogs shall be kept on a hand-held leash except when on an Owner's Lot. Owners are solely responsible for the actions and behavior of the pets and animals staying or visiting at the Residence, and shall hold the Association harmless from any damage or injury caused by such pets and animals. All Owners shall be responsible for the immediate pickup and disposal of any excrement deposited in any area of the Project (including, but not limited to, sidewalks and Lots of other Owners) by his or her pets and animals. Owners shall follow all city ordinances relating to animals. The Board may adopt additional Rules regarding pets and animals in the community.

9.5. **Nuisances.** No Owner or Occupant shall create, maintain or permit a nuisance in, on or about the Project. For purposes of this Section a "nuisance" includes any behavior which annoys, disturbs or interferes with other Owners and Occupants and interferes with their right to the quiet and peaceful enjoyment of their property. A nuisance includes, but is not limited to, the following:



- 1) The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot;
- 2) The storage of any item, property or thing that will cause any Lot to appear to be in an unclean or untidy condition or that will be noxious to the senses;
- 3) The accumulation or storage of rubbish, unsightly debris, garbage, equipment, inoperable or abandoned vehicles, or other things or materials that constitute an eyesore as reasonably determined by the Board;
- 4) The storage of any substance, thing or material upon any Lot that will emit any foul, unpleasant or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other Owners and Occupants at the Project;
- 5) Exterior lighting that is excessive, too bright, or creates a disturbance to other Owners or Occupants in the Project;
- 6) Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other Owners and Occupants, their guests or invitees, particularly if the police or sheriff must be called to restore order;
- 7) Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature that diminishes or destroys the enjoyment of the Association by other Owners and Occupants, their guests or invitees;
- 8) Too much noise or traffic in, on or about any Lot, especially after 10:00 p.m. and before 7:00 a.m., or excessive use of outside speakers or amplifiers; or
- 9) Other sights, sounds, smells, activities, or behaviors deemed a nuisance by the Board.

9.6. **Signs.** The Association may adopt rules regarding the placement of signs on Lots and in the Project.

9.7. **Garbage and Refuse Disposal.** All rubbish, trash, and garbage shall be regularly removed from Lots and shall not be allowed to accumulate thereon. All garbage, trash, or other waste shall be kept in sanitary receptacles, including recyclable containers, which shall be stored neat and tidy next to Residences or out of sight from the road, except on trash collection days. No equipment or storage piles may be kept outside of the Residence. The Board may adopt additional Rules for the storage and concealment of trash containers.

9.8. **Parking.** Vehicles may not be parked on the streets for longer than forty-eight (48) hours at a time. At no time shall any vehicle be parked in a manner that would block an entrance to a Lot or at any other location within the Project, which would impair vehicular or pedestrian access, or would interfere with snow removal. The Board may adopt additional Rules relating to the parking of vehicles within the Project, including, without limitation: the size and dimensions of the vehicles parked within the Project; the admission and temporary parking of vehicles within the Project; the right to remove or cause to be removed any vehicles that are improperly parked; and the levying of fines to Owners and Occupants who violate, or whose invitees violate, such Rules.

9.9. **Recreational, Commercial, and Motorized Vehicles.** No boats, trailers, recreational vehicles, trucks exceeding the 1-ton class, or vending or commercial vehicles shall be parked on public streets within the Project, except for temporary parking not to exceed 48 hours. No vehicles shall be parked in an undesignated area such as the lawn of the front yard. Junk, unlicensed, inoperable, or unsightly vehicles shall not be parked or stored on any Lot. All vehicles must be operated in strict compliance with speed and safety regulations. The Association reserves the right to prosecute complaints against those who create ongoing safety or environmental concerns.

9.10. **Leases.** The leasing of Residences is permitted. All leases shall provide that the tenant is subject to and shall abide by the Governing Documents and the tenant's failure to do so shall constitute a breach of the lease agreement. All leases shall be in writing. Owners who lease their Residences shall provide the Board with the name and contact information for all adult tenants, vehicle information of the tenants, and any other information deemed necessary by the Board. Owners shall also provide the Board a copy of the lease upon request of the Board. Within 10 days after delivery of written notice of the creation of a nuisance or violation of the Governing Documents, the Owner shall proceed promptly to either abate or terminate the nuisance, or cure the default, and notify the Board in writing of his or her intentions.

9.11. **Holiday Decorations.** The Board may adopt additional Rules to regulate holiday decorations in the Project, to the extent permitted by law.

9.12. **American Flags.** One reasonably sized American flag may be displayed on the exterior of a Residence consistent with the Freedom to Display the American Flag Act of 2005, the Utah Display of Flag Act, and Utah Code § 57-8a-219. American flags, if displayed, must be displayed in accordance with United States Code Title 4, Chapter 1.

9.13. **Energy Conservation Equipment.** Solar energy collector panels and attendant hardware or other energy conservation equipment (collectively "Energy Equipment") are only allowed in the Project as approved by the ACC. The Energy Equipment shall be an integral and harmonious part of the architectural design of the Lot or Residence. The Board may adopt Rules for the installation of Energy Equipment.

9.14. **Temporary Structures.** No structure of a temporary character, such as trailers, shacks, barns, sheds, or other outbuildings shall be used on any Lot at any time as a residence or dwelling, either permanently or temporarily. No modular homes are permitted to be placed upon a Lot for permanent use.

9.15. **Variances.** The Board may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this Article if a majority of the Board determines in its discretion: (1) either that the restriction would create an unreasonable hardship or burden on an Owner or Occupant, or that a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete and unreasonable to enforce; and (2) that the activity permitted under the variance will not have any financial affect or any other substantial adverse effect on the other Owners or Occupants of the Project and is consistent with the high quality of life intended for residents of the Project. Any such variance shall be unenforceable and without any effect whatsoever unless reduced to writing and signed by a duly authorized Board Member. A variance granted in one situation shall not require a variance to be granted in another similar situation. No variance may be granted that is inconsistent with the Act.

## ARTICLE X. ARCHITECTURAL CONTROLS

10.1. **Architectural Control Committee.** The Board may appoint an Architectural Control Committee (herein the "ACC"), the function of which shall be to ensure that all improvements and landscaping within the Project harmonize with existing surroundings and structures. The ACC shall be composed of Owners. If such a committee is not appointed, the Board shall perform the duties required of the ACC. The ACC's responsibilities include but are not limited to: 1) Review and approve all structures and improvements within the Project; and 2) Ensure Lot Owners maintain their Lot appearance and conditions in accordance with the terms of the Governing Documents.

10.2. **Architectural Controls.** To maintain a degree of protection to the investment which Owners have made, all changes to a Lot, except interior changes to a Residence that do not affect the exterior appearance of a Residence, shall require prior approval by the ACC. Such changes include, but are not limited to, the commencement, construction, improvement, alteration, or removal of landscaping, grading, excavation, buildings, fences, walls, exterior colors, exterior changes, Residences, cement pads, sheds, animal enclosures, awnings, car ports, gazebos, porticos, patio covers, solar installations, or other structures. Once approved by the ACC, no changes or deviations in or from the project and the plans and specifications shall be made without the prior written approval of the ACC. Prior to the commencement of construction, each Owner will be responsible for obtaining a building permit from the city when required. Approval of any improvements by the Architectural Control Committee does not constitute approval by any governmental entity and shall not excuse or waive compliance with any requirement of such entity. By approving plans, the Architectural Control Committee assumes no responsibility for plan conformity to any other criteria other than the requirements of this Declaration. Plans and specifications submitted to the ACC shall give complete descriptions and color samples of materials to be used. The ACC will base its approval of plans, specifications, landscaping plans, alterations, and other projects upon compliance with the Design Guidelines, and any other guidelines adopted by the Association. The Board or the ACC may adopt additional Rules that exempt minor alterations or certain types of décor from being subject to this section and ACC approval.

10.3. **Fencing.** All fencing shall be approved by the ACC. Fencing materials must be vinyl, ornamental metal, or masonry. Fencing colors shall be neutral and complementary to the colors of the Residence. Front yard fencing may not exceed 3 ½ feet in height. Front yards begin with the plane of the Residence, which includes the front main entry and extends to the street. Fencing must be compliant with city codes and regulations, including the placement of fencing on the Lot.

10.4. **Design Guidelines.** The Board may adopt Design Guidelines for the purpose of maintaining a consistent character and quality of appearance of the improvements within the Project.

1) The Design Guidelines may designate the design, style, model, and manufacturer of any materials to be used for an exterior improvement or alteration that is acceptable to the Board and ACC. The Design Guidelines may also designate landscaping requirements. Such designations shall be for the purpose of achieving uniformity of appearance and preservation of property values.

2) Amendments to the Design Guidelines shall apply prospectively only. They shall not require modifications to or removal of any structures previously approved once the

approved construction or modification has begun. However, any new work on such structures must comply with the Design Guidelines as amended.

10.5. **Variances**. The Board may authorize variances from compliance with any of the architectural provisions of this Declaration or Design Guidelines when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration may require. Such variances must be in writing and must be signed by a duly authorized Board Member, acknowledging that the Board has approved the variance. If a variance is granted, no violation of the Governing Documents shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of a variance shall not operate to waive any Restrictions of the Governing Documents, other than those specifically identified in the variance, nor shall it affect an Owner's obligation to comply with all governmental laws and regulations. A variance granted in one situation shall not require a variance to be granted in another similar situation.

10.6. **Liability for Damages**. The ACC shall not be held liable for damages because of any action, inaction, approval, or disapproval by it made pursuant to this Article.

## **ARTICLE XI. ENFORCEMENT**

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

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

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

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

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

13.1 **Right to Enter Lots.** The Association acting through the Board or its duly authorized agent shall have the right at all times and upon reasonable notice of at least 48 hours to enter upon any Lot on the areas located outside the exterior boundaries of a Residence, without trespass, and regardless of whether or not the Lot Owner or Occupant thereof is present at the time, to abate any infractions, to fulfill its responsibilities, to exercise its rights, to make repairs, and to correct any violation of any of the Governing Documents. The notice set forth in this Section shall not be necessary in case of an emergency threatening other Residences, Occupants, or other parts of the Project. Nothing in this Section shall be construed to authorize the entry of the Association into the interior of a Residence without the consent of the Lot Owner unless there is an emergency threatening another Residence or the Occupants of another Residence. Owners shall maintain up-to-date emergency contact information records with the Association, including any local representative an Owner may have for notice purposes.

## **ARTICLE XIV. AMENDMENTS**

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

## **ARTICLE XV. MISCELLANEOUS**

15.1. **Notices.** Any notice required or permitted to be given to any Owner or Member according to the provisions of this Declaration shall be deemed to have been properly furnished if personally delivered, emailed, or if mailed, postage prepaid, to the Person who appears as an Owner, at the latest email or mailing address for such Person appearing in the records of the Association at the time notice is sent. If no email or mailing address has been provided, the physical address of the Lot owned by said Owner shall be used for notice purposes. Notices may also be sent as allowed by the Act.

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

15.3. **Interpretation and Severability.** The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is constructed. Whenever the context so requires, the singular shall

include the plural, the plural shall include the singular, the whole shall include any party thereof, and any gender shall include the other gender. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

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

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

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

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

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**CERTIFICATION**

IN WITNESS WHEREOF, this Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Jordan Willows was duly approved by at least 67% of the total voting power of the Association.

DATED as of the \_\_\_ day of \_\_\_\_\_, 2020.

Jordan Willows Homeowners Association, Inc.  
A Utah Nonprofit Corporation

By: \_\_\_\_\_

Its: President

State of Utah            )  
                                  ) ss.  
County of \_\_\_\_\_ )

On the \_\_\_ day of \_\_\_\_\_2020, personally appeared before me \_\_\_\_\_ who by me being duly sworn, did say that she/he is the President of the Jordan Willows Homeowners Association, Inc., and that the foregoing instrument is signed and executed by authority of the consent of its members.

Notary Public \_\_\_\_\_

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

ALL LOTS IN PLAT A, JORDAN WILLOWS AS SHOWN ON THE OFFICIAL MAP THEREOF ON RECORD IN THE UTAH COUNTY RECORDER'S OFFICE.

**Parcel ID Nos.: 43:131:0001 through 43:131:0016**  
**43:131:0024 through 43:131:0051**  
**43:131:0057 through 43:131:0058**

ALL LOTS IN PLAT B, JORDAN WILLOWS AS SHOWN ON THE OFFICIAL MAP THEREOF ON RECORD IN THE UTAH COUNTY RECORDER'S OFFICE.

**Parcel ID Nos.: 43:133:0052 through 43:133:0058**

ALL LOTS IN PLAT C JORDAN WILLOWS AS SHOWN ON THE OFFICIAL MAP THEREOF ON RECORD IN THE UTAH COUNTY RECORDER'S OFFICE.

**Parcel ID Nos.: 43:137:0059 through 43:137:0088**

ALL LOTS IN PLAT D JORDAN WILLOWS AS SHOWN ON THE OFFICIAL MAP THEREOF ON RECORD IN THE UTAH COUNTY RECORDER'S OFFICE.

**Parcel ID Nos.: 43:138:0089 through 43:138:0101**

ALL LOTS IN PLAT E JORDAN WILLOWS AS SHOWN ON THE OFFICIAL MAP THEREOF ON RECORD IN THE UTAH COUNTY RECORDER'S OFFICE.

**Parcel ID Nos.: 43:139:0102 through 43:139:0108**

ALL LOTS IN PLAT F JORDAN WILLOWS AS SHOWN ON THE OFFICIAL MAP THEREOF ON RECORD IN THE UTAH COUNTY RECORDER'S OFFICE.

**Parcel ID Nos.: 43:141:0109 through 43:141:0135**

ALL LOTS IN PLAT G JORDAN WILLOWS AS SHOWN ON THE OFFICIAL MAP THEREOF ON RECORD IN THE UTAH COUNTY RECORDER'S OFFICE.

**Parcel ID Nos.: 43:142:0136 through 43:142:0147**



ALL LOTS IN PLAT H JORDAN WILLOWS AS SHOWN ON THE OFFICIAL MAP THEREOF ON RECORD IN THE UTAH COUNTY RECORDER'S OFFICE.

**Parcel ID Nos.: 43:144:0148 through 43:144:0166**

ALL LOTS IN PLAT I JORDAN WILLOWS AS SHOWN ON THE OFFICIAL MAP THEREOF ON RECORD IN THE UTAH COUNTY RECORDER'S OFFICE.

**Parcel ID Nos.: 43:186:0167 through 43:186:0173**

ALL LOTS IN PLAT J JORDAN WILLOWS II PRD AS SHOWN ON THE OFFICIAL MAP THEREOF ON RECORD IN THE UTAH COUNTY RECORDER'S OFFICE.

**Parcel ID Nos.: 43:146:0201 through 43:146:0288  
43:146:0291 through 43:146:0296  
43:146:0306 through 43:146:0307**

ALL LOTS IN PLAT K JORDAN WILLOWS II PRD AS SHOWN ON THE OFFICIAL MAP THEREOF ON RECORD IN THE UTAH COUNTY RECORDER'S OFFICE.

**Parcel ID Nos.: 43:156:0301 through 43:156:0320**

ALL LOTS IN PLAT L JORDAN WILLOWS II PRD AS SHOWN ON THE OFFICIAL MAP THEREOF ON RECORD IN THE UTAH COUNTY RECORDER'S OFFICE.

**Parcel ID Nos.: 43:161:0323 through 43:161:0371**

ALL LOTS IN PLAT M JORDAN WILLOWS II PRD AS SHOWN ON THE OFFICIAL MAP THEREOF ON RECORD IN THE UTAH COUNTY RECORDER'S OFFICE.

**Parcel ID Nos.: 43:165:0377 through 43:165:0446**

ALL LOTS IN PLAT N JORDAN WILLOWS II PRD AS SHOWN ON THE OFFICIAL MAP THEREOF ON RECORD IN THE UTAH COUNTY RECORDER'S OFFICE.

**Parcel ID Nos.: 43:179:0607 through 43:179:0680  
43:179:0687**

ALL LOTS IN PLAT O JORDAN WILLOWS II PRD AS SHOWN ON THE OFFICIAL MAP THEREOF ON RECORD IN THE UTAH COUNTY RECORDER'S OFFICE.

**Parcel ID Nos.: 43:166:0447 through 43:166:0533**

ALL LOTS IN PLAT P JORDAN WILLOWS II PRD AS SHOWN ON THE OFFICIAL MAP THEREOF ON RECORD IN THE UTAH COUNTY RECORDER'S OFFICE.

**Parcel ID Nos.: 43:175:0534 through 43:175:0605**

**EXHIBIT B**

**BYLAWS  
OF  
JORDAN WILLOWS HOMEOWNERS ASSOCIATION, INC.**

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

**RECITALS**

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

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

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

**ARTICLE I  
DEFINITIONS**

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

**ARTICLE II  
APPLICATION**

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

## **ARTICLE III OWNERS**

3.1 **Annual Meetings**. The Annual Meeting of the Owners shall be held each year on a day and time established by the Board. The purposes of the Annual Meeting may include the election of Board Members, the distribution of financial reports and budget, distributing the most recent reserve study, and to transact such other business as may come before the meeting. The Board may from time to time by resolution change the month, date, and time for the Annual Meeting.

3.2 **Special Meetings**. Special Meetings of the Owners may be called by a majority of the Board, the President, or upon the written request of Owners holding not less than thirty-five percent (35%) of the voting interests of the Association. Any written request for a Special Meeting presented by the Owners shall be delivered to the President and shall include the original signature of each Owner affirmatively supporting such request along with a complete statement of the purpose of the meeting on each page containing signatures. The President shall then call, provide notice of, and conduct a Special Meeting within 45 days of receipt of the Owner request.

3.3 **Place of Meetings**. The Board may designate any place in Utah County that is reasonably convenient for the Owners as the place of meeting for any Annual or Special Meeting. If no designation is made, the place of the meeting shall be held at the office of the Association or its Manager. Meetings may also be held (partially or wholly) through any electronic means, so long as all persons participating in the meeting may hear each other during the meeting.

3.4 **Notice of Meetings**. The Board shall cause written or printed notice of the date, time, and place (and in the case of a Special Meeting, the purpose or purposes) for all Owner meetings. Such written or printed notice shall be delivered to each Owner of record entitled to vote at such meeting not more than ninety (90) nor less than ten (10) days prior to the meeting. Such notice may be sent via email, text, hand-delivery, regular mail, or as otherwise allowed by the Act. If sent by email or text, such notice shall be deemed delivered and effective on the date transmitted to the Owner's email address or telephone number registered with the Association. If mailed, such notice shall be deemed to be delivered and effective on the date deposited in the U.S. mail if addressed to the Owner's address registered with the Association. Each Owner may register with the Association such Owner's current email address, phone number, and mailing address for purposes of notice hereunder. Such registered email, phone number, and mailing address may be changed from time to time by notice in writing to the Association. If no address is registered with the Association, an Owner's Residence shall be deemed to be the Owner's registered address and notice to the Residence address may be made by first-class mail or by posting the meeting notice on the front door. An Owner may opt out of receiving notices from the Association via email or text by giving written notice to the Board stating that the Owner will not accept notices by way of email or text.

3.5 **Qualified Voters**. An Owner is deemed to be in "good standing" and "entitled to vote" at any meeting of the Association if he or she is not delinquent in the payment of Assessments.

3.6 **Record Date for Notice Purposes**. The Board may designate a record date, which shall not be more than ninety (90) nor less than ten (10) days prior to the meeting, for the purpose of determining Owners entitled to notice of any meeting of the Owners. If no record date

is designated, the last date on which a notice of the meeting is mailed or delivered shall be deemed to be the record date for determining Owners entitled to notice. The persons or entities appearing in the records of the Association on such record date as the Owner(s) of record of Lots in the Project shall be deemed to be the Owners of record entitled to notice of the Owner meeting.

3.7 **Quorum.** At any Owner meeting, the presence of at least ten percent (10%) of the Owners, either in person or by proxy, shall constitute a quorum for the transaction of business.

3.8 **Proxies.** Owners shall be entitled to vote in person or by proxy at each meeting. A proxy given to a Person who represents an Owner at an Association meeting shall be in writing, dated, and signed by such Owner or the Owner's attorney. A proxy may be written on paper or received via email, facsimile, text, or any other electronic or physical means. If sent electronically, the Association must be able to verify the sender and that the sender is an Owner. A proxy shall set forth the matters or issues upon which the proxy holder is authorized to act during the meeting, and may allow the proxy holder to vote on any issue arising the meeting. Proxies shall only be valid for a specific meeting; open-ended or perpetual proxies are not allowed. A signature as required herein shall mean any indication that the document is from and consented to by the person who is purported to have sent it, subject to verification by the Association. If a Lot is jointly owned, the proxy may be executed by any one (1) Owner of such Lot or the Owner's attorney. Proxies shall be filed with the Secretary (or with such other officer or person who may be acting as secretary of the meeting) before the meeting is called to order. The Secretary shall record all proxies in the meeting minutes.

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

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

3.11 **Action Taken Without a Meeting.** For Association actions that require Owner approval, such approval may be obtained in the absence of a meeting by obtaining the written approval of Owners in accordance with the requirements of Utah Code §16-6a-707 or §16-6a-

709 and any other applicable section of the Acts. Any action so approved shall have the same effect as though taken at an Owner meeting. Ballots or written consents may be obtained via any electronic or physical means including but not limited to email, facsimile, text, or paper document.

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

## **ARTICLE IV BOARD OF DIRECTORS**

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

4.2 **Number and Qualifications.** The property, business, and affairs of the Association shall be governed by a Board of Directors composed of either three (3), five (5), or seven (7) individuals, as determined by the Board. Board Members must be in good standing (see Section 3.5 herein), must be at least 18 years old and must be an Owner or the spouse of an Owner of a Lot in the Project. If an Owner is a corporation, partnership, limited liability company, or trust, an officer, partner, member, manager, agent, trustee, or beneficiary of such Owner may be a Board Member. Board membership is limited to no more than one (1) Board Member per Lot. If a Board Member ceases to meet any required qualifications during the Board Member's term, such person's membership on the Board shall automatically terminate.

4.3 **Nominations.** No more than ninety (90) or less than ten (10) days before an election to the Board of Directors is held, the Association shall notify the Owners of the election, of the number of upcoming vacancies that will be filled at the election and shall issue a call for nominations. The time period for nominations shall remain open for at least ten (10) days. Nominations for candidates may be made in writing to a current Board Member. Self-nominations are permitted. All nominees shall meet the qualifications for Board Members provided in these Bylaws. The Board of Directors may from time to time amend this nomination procedure by resolution.

4.4 **Election.** The election of Board Members shall be made by a vote of the Owners. If the election of Board Members is not held during the Annual Meeting, or at any adjournment thereof, the Board may hold the election at a Special Meeting of the Owners. Pursuant to Section 3.9 above, the election may also take place electronically, including online voting, so long as the Board can reasonably determine the validity of the vote. During each election, Owners in good standing (see Section 3.5 above) (or their proxies, if the election takes place during an Annual or Special Meeting) may cast, with respect to each vacancy, one (1) vote. The candidates receiving the largest number of votes shall be elected. Cumulative (i.e. an Owner casting on a ballot all of his or her votes for the same candidate) or fractional voting is not permitted.

4.5 **Term of Office**. Each Board Member shall be elected for a term of two (2) years. The terms shall be staggered and overlap so that elections for Board Member positions are held each year. If the terms become un-staggered for any reason, the Board may provide for the re-staggering of terms in a manner the Board deems appropriate, including the altering of the terms of some Board Members to reestablish staggering. Board Members may serve consecutive terms if reelected.

4.6 **Regular Meetings**. The Board shall hold meetings at least quarterly at the discretion of the Board.

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

4.8 **Meeting Notice**. Notices of Board meetings may be given to Board Members and Owners personally, by email, by telephone, including text message, or as otherwise allowed by the Acts. By unanimous consent of the Board, meetings may be held without call or notice to Board Members, but notice shall always be provided, as required by the Acts, to those Owners who have requested notice of Board meetings.

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

4.10 **Owner Attendance**. Any Owner may request notice of Board meetings by requesting such notice from a Board Member or Manager and providing a valid email address and phone number capable of receiving text messages which may be used by the Association in sending notice. If Owners attend a Board meeting, the Board may select a specific period of time during the meeting and limit Owner comments to such time period. The Board in its sole discretion may set a reasonable length of time that each Owner may speak.

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

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

4.12 **Board Meetings Location**. The Board may designate any place in Utah County as the place of meeting for any regular or special Board meeting. The Board may allow attendance and participation at any Board meeting by telephone, video, or any other electronic means that allows for Board Members or Owners to communicate orally in real time. If a Board meeting is held by telephone, video, or any other electronic means, the Association shall provide the meeting information such that Owners, who have requested notice, may access the meeting.

4.13 **Board Action**. Notwithstanding noncompliance with any provision within this Article, Board action is binding and valid unless set aside by a court of law. A person challenging the validity of a Board action for failure to comply with this Article may not bring the challenge more than sixty (60) days after the Board has approved the minutes recording the Board action.

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

4.15 **Resignation and Removal**. Board Members may resign at any time by delivering a written resignation to either the President or the Secretary. Unless otherwise specified therein, such resignation shall take effect upon delivery. A Board Member may be removed at any time, with or without cause, by the Owners at a special meeting duly called for such purpose upon the affirmative vote of more than fifty percent (50%) of the entire voting interests of the Association. A Board Member may also be removed with a majority vote of the Board if a Board Member misses three (3) or more consecutive Board meetings or misses more than 50% of the Board meetings in a calendar year.

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

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

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



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

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

## **ARTICLE V OFFICERS**

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

5.2 **Election, Tenure, and Qualifications.** Officers shall be elected by the Board at the first Board meeting following each Annual Meeting of the Owners. Each such officer shall hold such office until the next ensuing meeting of the Board following the Annual Meeting of the Owners and until a successor has been elected and qualified, or until such officer's death, or until resignation, disqualification, or removal in the manner provided in these Bylaws, whichever first occurs. Any person may hold any two (2) or more of such offices, except that the President may not also be the Secretary. No person holding two (2) or more offices shall act in or execute any instrument in the capacity of more than one (1) office.

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

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

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

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

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

5.8 **Secretary.** The Secretary shall keep the minutes of the Association and shall maintain such books and records as these Bylaws, the Declaration, Rules, or any resolution the

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

5.9 **Treasurer**. The Treasurer shall be responsible to maintain the financial accounting of the Association, subject to the action of the Board, and when requested by the President, shall report the state of the finances of the Association at each meeting of the Owners and at any meeting of the Board. The Treasurer is responsible for the implementation of procedures to minimize the risk of embezzlement or improper use of Association funds and financial accounts. The Treasurer shall perform such other duties as required by the Board.

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

## **ARTICLE VI COMMITTEES**

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

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

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

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

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

## **ARTICLE VII INDEMNIFICATION**

7.1 **Indemnification.** In addition to the indemnification provisions and requirements set forth in the Declaration, no Board Member, officer, or committee member shall be personally liable for any obligations of the Association or for any duties or obligations arising out of any acts or conduct said Board Member, officer, or committee member performed for or on behalf of the Association. The Association shall and does hereby indemnify and hold harmless each person who shall serve at any time as a Board Member, officer, or committee member of the Association, as well as such person's heirs and administrators, from and against any and all claims, judgments and liabilities to which such persons shall become subject, by reason of that person having heretofore or hereafter been a Board Member, officer, or committee member of the Association or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him as such Board Member, officer, or committee member and shall reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability; provided that no such person shall be indemnified against or be reimbursed for or be defended against any expense or liability incurred in connection with any claim or action arising out of such person's willful or intentional misconduct. The rights accruing to any person under the foregoing provisions of this Section shall not exclude any other right to which such person may lawfully be entitled, nor shall anything herein contained restrict the right of the Association to indemnify or reimburse such person in any proper case, even though not specifically provided for herein or otherwise permitted. The Association, its Board Members, officers, committee members, employees, and agents shall be fully protected in taking any action or making any payment or in refusing so to do in reliance upon the advice of counsel.

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

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

7.4 **Settlement by Association.** The right of any person to be indemnified shall be subject always to the right of the Association through the Board, in lieu of such indemnity, to settle any such claim, action, suit or proceeding at the expense of the Association by the

payment of the amount of such settlement and the costs and expenses incurred in connection therewith.

## **ARTICLE VIII RECORDS AND AUDITS**

8.1 **General Records.** The Board of Directors or the Manager for the Association shall keep detailed records of the actions of the Board of Directors and Manager; minutes of the meetings of the Board of Directors; and minutes of the Owner meetings of the Association. The Board of Directors shall also maintain a book of resolutions containing the rules, regulations, and policies adopted by the Association and Board of Directors. The Board of Directors shall also maintain a list of Owners.

8.2 **Records of Receipts and Expenditures.** The Board of Directors or its designee shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Project, itemizing any expenses incurred.

8.3 **Financial Reports and Audits.** An annual report of the receipts and expenditures of the Association and a balance sheet showing assets and liabilities shall be rendered by the Board of Directors to all Owners and to any mortgagees of Units who request the same. From time to time the Board may also, at the expense of the Association, obtain an audit by a certified public accountant of the books and records of the Association. At any time, any Owner or Eligible Mortgagee may, at such Owner's or Eligible Mortgagee's own expense, cause an audit or inspection to be made of the books and records of the Association.

8.4 **Inspection of Records by Owners.** Except as provided in Section 8.5 below, all records of the Association shall be reasonably available for examination by an Owner and any Eligible Mortgagee of a Unit pursuant to Rules adopted by resolution of the Board of Directors. The Board of Directors shall maintain a copy, suitable for the purposes of duplication of the following: (1) The Declaration, Bylaws, and any amendments in effect or supplements thereto, and Rules of the Association; (2) The most recent financial statement prepared pursuant to Section 8.3 above; and (3) The current operating budget of the Association. The Association shall, within a mutually agreeable time, after receipt of a written request by an Owner, furnish the requested information required to be maintained under this Section 8.4. The Board, by resolution, may adopt reasonable Rules governing the frequency, time, location, notice and manner of examination and duplication of Association and the imposition of a reasonable fee for furnishing copies of any documents, information or records described in this Section. The fee may include reasonable personnel costs incurred to furnish the information, including any and all fees the Association may be charged by its designee that assists the Association in furnishing this information, which may include managerial, legal, or accounting fees.

8.5 **Records Not Subject to Inspection.** Records kept by or on behalf of the Association may be withheld from examination and duplication to the extent the records concern:

- (a) Personnel matters relating to a specific identified person or a person's medical records.

(b) Contracts, leases, and other business transactions that are currently under negotiation to purchase or provide goods or services.

(c) Communications with legal counsel that relate to matters specified in subsections a. and b. of this Section, or current or pending litigation.

(d) Documents concerning existing or potential litigation, mediation, arbitration, or administrative proceedings.

(e) Disclosure of information in violation of law.

(f) Documents concerning existing or potential matters involving federal, state or local administrative or other formal proceedings before a governmental tribunal for enforcement of the Declaration, Bylaws or Rules;

(g) Documents, correspondence, or management or Board of Director reports compiled for or on behalf of the Association or the Board by its agents or committees for consideration by the Board in executive session.

(h) Documents, correspondence, or other matters considered by the Board of Directors in executive session.

(i) Files of individual Owners, other than those of a requesting Owner or requesting Eligible Mortgagee of an individual Owner, including any individual Owner's file kept by or on behalf of the Association.

## **ARTICLE IX RULES AND REGULATIONS**

9.1 **Rules.** The Board shall have the authority to adopt and establish by resolution such Association Rules as it may deem necessary for the maintenance, operation, management, and control of the Project. The Board may from time to time, by resolution, alter, amend, and repeal such Rules and use their best efforts to see that they are strictly observed by all Owners and Occupants. Owners are responsible to ensure that their lessees, invitees, and guests strictly observe the Rules then in effect as well as the covenants and restrictions of the Declaration and shall be jointly and severally liable for their violations and resulting fines. Copies of all Rules adopted by the Board shall be sent to all Owners at least ten (10) days prior to the effective date thereof.

## **ARTICLE X AMENDMENTS**

10.1 **Amendments.** The Bylaws may be amended, altered, or repealed upon the affirmative vote of at least fifty-one percent (51%) of the voting interest of the Association. Any amendment(s) shall be effective upon recordation in the office of the Utah County Recorder. In such instrument, the President shall execute the amendment and certify that the vote required by this Section has occurred. If a Lot is owned by more than one Owner, the vote of any one Owner shall be sufficient to constitute approval for that Lot under this Section. If a Lot is owned by an entity or trust, the vote of any one officer, trustee, or agent of the entity shall be sufficient to constitute approval for that Lot under this Section. No acknowledgment of any Owner or Board Member signature shall be required.

## **ARTICLE XI MISCELLANEOUS PROVISIONS**

11.1 **Waiver.** No restriction, condition, obligation, or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce

the same, irrespective of the number of violations or breaches thereof which may occur.

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

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

IN WITNESS WHEREOF, the Board of Directors has executed these Bylaws of the Jordan Willows Homeowners Association, Inc. as of the day and year written below, after having received approval from at least 67% of the total voting power of the Association.

DATED as of the \_\_\_ day of \_\_\_\_\_, 2020.

**Jordan Willows Homeowners Association, Inc.**  
A Utah Nonprofit Corporation

By: \_\_\_\_\_

Its: President

State of Utah            )  
                                  ) ss.  
County of \_\_\_\_\_ )

On the \_\_\_ day of \_\_\_\_\_2020, personally appeared before me \_\_\_\_\_ who by me being duly sworn, did say that she/he is the President of Jordan Willows Homeowners Association, Inc., and that the foregoing instrument is signed and executed by authority of the consent of its members.

Notary Public \_\_\_\_\_