

**AMENDED & RESTATED BYLAWS OF  
SKY MOUNTAIN GOLF ESTATES HOMEOWNERS ASSOCIATION**

**ARTICLE I**

**NAME AND LOCATION**

The name of the nonprofit corporation is SKY MOUNTAIN GOLF ESTATES HOMEOWNERS ASSOCIATION ("Association"). The principal office of the Association shall be located at 985 N 2600 West, Hurricane, Utah 84737, but meetings of members and the Board of Trustees may be held at such places within or without the State of Utah, County of Washington, as may be designated from time to time by the Board of Trustees. The Board of Trustees may also change the location of the principal office of the Association.

**ARTICLE II**

**DEFINITIONS**

Section 2.01. "Association" means and refers to SKY MOUNTAIN GOLF ESTATES HOMEOWNERS ASSOCIATION, its successors and assigns, a Utah nonprofit corporation.

Section 2.02. "Board" or "Board of Trustees" means and refers to the governing Board of the Association.

Section 2.03. "Common Areas" means and refers to that portion of the Property which is designated as Common Areas on each Plat Map and which is owned or to be owned by the Association as designated on each Single Family Plat Map, together with all Improvements constructed or to be constructed thereon, including, but not limited to, any recreational facilities and facilities within the Property (exclusive of Units) which have not been accepted for dedication by the applicable governmental entity having jurisdiction. In addition, the Common Areas shall include the Association's rights in and to the "Landscape Easements" as granted pursuant to the terms and provisions of Section 2 of the Declaration.

Section 2.04. "Conveyance" means and refers to actual conveyance of fee title to any Unit to any Owner by a warranty deed or other document of title and shall not mean the mere execution of an installment sales contract.

Section 2.05. "Declaration" means and refers to the Declaration of Covenants, Conditions and Restrictions for SKY MOUNTAIN GOLF ESTATES and any and all amendments thereto.

Section 2.06. "Eligible Mortgage Holder" means and refers to the holder of a First Deed of Trust which has requested notification pursuant to the provisions of the Declaration.

Section 2.07. "Lot" means and refers to any portion of the Property designated as a Lot on any recorded Plat Map thereof and intended for improvement with a single family residence, whether or not the Lot is so improved. The boundaries of each Lot and the number identifying the Lot are set forth on the Plat Map.

Section 2.08. "Member" means and refers to every person or entity, holding a membership in the Association pursuant to the provisions of the Declaration, the Articles, and these Bylaws.

Section 2.09. "Owner" means and refers to any person, entity, or group of persons, holding a fee simple interest in a Unit, or who is the buyer of a Unit under a recorded contract of sale, in which case the seller under such recorded contract of sale shall cease to be an Owner unless and until such contract is terminated.

Section 2.10. "Plat" or "Plat Map" means and refers to each final plat map for SKY MOUNTAIN GOLF ESTATES recorded with the Washington County Recorder's Office, and any and all amendments thereto.

Section 2.11. "Project" means and refers to the residential planned unit development known as 'SKY MOUNTAIN GOLF ESTATES.'

Section 2.12. "Property" means and refers to the certain real property encumbered by the Declaration from time to time, together with all Improvements now or hereafter located thereon, and together with all easements, rights and appurtenances belonging thereto.

Section 2.13. "Single Family Residence" means and refers to a single family residence constructed on a Lot, whether attached to another residence or not.

Section 2.14. "Unit" means a Lot.

Terms used herein and not defined herein shall have the meanings given to them in the Declaration and the Articles of Incorporation which are incorporated herein and made a part hereof by reference.

### **ARTICLE III**

#### **MEMBERS**

Section 3.01. Membership. Each Owner by virtue of being an Owner and only for so long as an Owner shall be a Member of the Association. Membership in the Association shall be subject to the Declaration, the Articles of Incorporation, and these Bylaws of the Association.

Section 3.02. Voting.

(a) General. Except as otherwise provided in subparagraph (b) of this paragraph 3.02, each Member shall be entitled to one (1) vote for each Unit owned by such Member; provided, however, that the Association may not cast any vote otherwise allocated to it for any Unit it may own. No vote allocated to a Unit owned by the Association may be cast.

(b) Members shall be all Owners, and shall be entitled to one (1) vote for each Unit owned, and in no event shall more than one (1) vote be cast with respect to any Unit. In the event that fee simple title to a Unit is held by multiple Owners, the multiple Owners shall, prior to each meeting of the Association, provide the Association with a written statement, signed by all such multiple Owners, designating one person who shall have the right to cast the single vote assigned to the Unit owned by such multiple Owners.

Section 3.03. Transfer of Voting Rights. The right to vote may not be severed or separated from any Unit, and any sale, transfer or conveyance of fee interest in any Unit to a new Owner or Owners shall operate to transfer the appurtenant membership and voting rights without the requirement of any express reference thereto.

## ARTICLE IV

### MEETINGS OF MEMBERS

Section 4.01. Annual Meeting of Members. The annual meeting of the Members shall be held not later than the anniversary of the prior year's annual meeting, or the next business day thereafter if such anniversary falls on a weekend or holiday.

Section 4.02. Special Meetings. A special meeting of the Members in the Property may be called at any reasonable time and place by written request (i) by the President of the Association, (ii) by a majority of the Board of Trustees, or (iii) by Members representing at least twenty-five percent (25%) of the voting power of the Association. The demand by the Members must state the purpose for the meeting. Notice of special meetings shall be given by the Secretary of the Association in the form and manner provided in Section 4.03 below.

Section 4.03. Notice and Place of Meetings. Meetings of the Members shall be held at such place, within or without the State of Utah, as may be designated in the notice of the meeting. Any notice permitted or required to be delivered by the terms of these Bylaws may be delivered either by hand delivery or by mail or electronic mail. If delivery is by mail, it must be directed to the Member at the mailing address of each Unit or to any other mailing address designated in writing by a Member, and upon the mailing of any notice, the service thereof is complete and the time of the notice begins to run from the date on which such notice is deposited in the mail for transmission to the Member. The address of any Member may be changed on the records of the Association from time to time by notice in writing to the Secretary. The notice of any meeting shall be in writing and shall be signed by the President or the Secretary of the Association or by such other persons as may be designated by the Board of Trustees. The notice of any meeting of Members must state the time and place of the meeting and the items on the agenda including the general nature of any proposed amendment to the Declaration or these Bylaws, any budgetary changes or any proposal to remove an officer of the Association or any member of the Board.

Section 4.04. Waiver of Notice. Whenever any notice is required to be given under the provisions of the statutes or of the Articles of Incorporation or of these Bylaws, a waiver thereof in writing, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

Section 4.05. Record Date. The Board shall have the power to fix in advance a date as a record date for the purpose of determining Members entitled to notice of or to vote at any meeting or to be furnished with any budget or other information or material, or in order to make a determination of Members for any purpose. Notwithstanding any provisions hereof to the contrary, the Members of record on any such record date shall be deemed the Members for such

notice, vote, meeting, furnishing of information or material or other purpose and for any supplementary notice, or information or material with respect to the same matter .and for an adjournment of the same meeting. A record date shall not be more than sixty (60) days nor less than ten (10) days prior to the date on which the particular action requiring determination of Members is proposed or expected to be taken or to occur.

Section 4.06. Quorum at Members' Meetings. Except as may be otherwise provided in the Declaration, the Articles of Incorporation, or these Bylaws, and except as hereinafter provided with respect to the calling of another meeting, the representation in person, by proxy or by ballot, of Members entitled to cast at least twenty-five percent (25%) of the votes of all Members shall constitute a quorum at any meeting of such Members. Members present in person or by proxy or represented by ballot at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of Members so as to leave less than a quorum.

If a quorum is not present at any meeting, another meeting may be called by the Board of Trustees issuing a Notice of Members Meeting at which meeting the members that are present in person or by proxy or represented by ballot shall constitute a quorum, except as otherwise provided in the Declaration, the Articles of Incorporation, or these Bylaws. No such subsequent meeting shall be held more than forty-five (45) days following such preceding meeting at which a quorum was not present.

Section 4.07. Proxies. Every Member entitled to vote or execute statements or consents shall have the right to do so either in person or by an agent or agents authorized by a written proxy executed by such person or his or her duly authorized agent; provided, however that no such proxy shall be valid after the expiration of one (1) year after the date of its execution.

Section 4.08. Actions. If a quorum is present, the affirmative vote on any matter of the majority of the votes represented at the meeting (or, in the case of elections in which there are more than two (2) candidates, a plurality of the votes cast) shall be the act of the Members, unless the vote of a greater number is required by law or by the Declaration.

Section 4.09 .. Consent of Absentees. The proceedings and transactions of any meeting of Members, either annual or special, however called and noticed and wherever held, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum be present either in person or by proxy and if, either before or after the meeting, each of the Members not present in person or by proxy signs a written waiver of notice, a consent to the holding of such meeting or an approval of the minutes thereof. Neither the business to be transacted at, nor the purpose of any regular or special meeting of Members, need be specified in any written waiver of notice. All such waivers, consents or approvals shall be filed with the Association records or made a part of the minutes of the meeting.

Attendance of a Member at a meeting shall constitute a waiver of notice of such meeting, except when the Member objects at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened, and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by law to be included in the notice but not so included, if such objection is expressly made at the meeting.

Section 4.10. Action Without Meeting; Any action which may be taken at any annual or special meeting of the Members may be taken without a meeting and without prior notice, if authorized

by a written consent setting forth the action so taken, signed by members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all Members were present and voted, and filed with the Secretary of the Association; provided, however, that Trustees may not be elected by written consent except by unanimous written consent of all Members. Any Member giving a written consent, or such Member's proxy holder, may revoke any such consent by a writing received by the Association prior to the time that written consents of the number of Members required to authorize the proposed action have been filed with the Secretary of the Association, but may not do so thereafter. Such revocation shall be effective upon its receipt by the Secretary of the Association.

Section 4.11. Adjourned Meetings and Notice Thereof. Any meeting of the Members, annual or special, whether or not a quorum is present, may be adjourned from time to time by a vote of a majority of the Members present either in person or by proxy, but in the absence of a quorum, no other business may be transacted at any such meeting except as provided in Section 4.09 hereof.

When any meeting of the Members, either annual or special, is adjourned for seven (7) days or less, the time and place of the reconvened meeting shall be announced at the meeting at which the adjournment is taken. When any Member's meeting, either annual or special, is adjourned for more than seven (7) days, notice of the reconvened meeting shall be given to each Member as in the case of an original meeting. Except as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at a reconvened meeting, and at the reconvened meeting the Members may transact any business that might have been transacted at the original meeting.

## ARTICLE V

### **BOARD OF TRUSTEES: SELECTION. TERM OF OFFICE**

Section 5.01. Board of Trustees. The affairs of the Association shall be managed by a Board of not less than three (3) nor more than five (5) Trustees. The Board of Trustees shall consist of no less than three (3) members and no more than five (5) members except during the first year following the amendment of this declaration which shall require there to be five (5) members to allow for alternating terms to commence. The election of Trustees shall take place at the annual meeting. Trustees shall be elected for a term of two years except in the first year following this amendment during which three Trustees shall be elected for a one year term and two Trustees shall be elected for a two year term to allow for alternating terms. Officers shall be elected by the Trustees at the first regular Board meeting following the annual meeting. Officers shall be elected every year. The first regular Board meeting shall occur within 10 days of the annual meeting. Each Trustee must either be (i) the Owner of a Unit in the Property, (ii) an officer, employee, agent or Trustee of a corporate Owner, (iii) a trustee or designated beneficiary of an Owner which is a trust, (iv) a partner in a partnership which is an Owner, (v) Managing Member of a limited liability company, (vi) a fiduciary of an estate which is an Owner.

Trustees shall not receive compensation for their services as Trustees in excess of the annual assess dues, but may be reimbursed for actual expenses incurred in performance of their duties as Trustees.

Section 5.02. Powers and Duties of Trustees. The Board shall have:

(a) The power to exercise for the Association all powers, duties and authority vested in the Association and not reserved to the Members by other provisions of these Bylaws, the Articles, the Declaration, or Utah Code Ann. § 16-6a-101 et seq. as amended from time to time.

(b) All other powers and duties necessary for the administration of the affairs of the Association and for the enforcement of the provisions of the Articles, these Bylaws, and the Declaration.

Section 5.03. Nomination and Election of Trustees. Subject to the right of Declarant to appoint the Board in accordance with these Bylaws, the Declaration, and the Articles, nominations for election to the Board shall be made by a nominating committee. Nominations may also be made from the floor at the annual meeting or special meeting, as the case may be. The nominating committee shall consist of two (2) or more members of the Association. The nominating committee shall be appointed by the Board prior to each annual meeting to serve from the close of such annual meeting until the close of the next annual meeting. The nominating committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies there are to be filled. In the absence of the appointment of a nominating committee as above provided, the Board may act as same.

Section 5.04. Election. The Trustees of the Association shall be elected at the annual meeting of the Members, except as provided in Section 5.06 hereof and Article VIII of the Articles of Incorporation, and each Trustee elected shall hold office until his successor shall have been elected and qualified. The Trustees shall be chosen by a plurality of the votes cast at the election for such Trustees to be held in accordance with the Articles and these Bylaws. If for any reason a Trustee shall not be elected at the annual meeting of Members, they may be elected at any special meeting of the Members called and held for that purpose.

Section 5.05. Removal of Trustees. The Members, upon a two-thirds (2/3) affirmative vote of all persons present and entitled to vote at any meeting of the Members at which a quorum is present, may remove any Trustee with or without cause.

Section 5.06. Vacancies. Any vacancy occurring in the Board, including those caused by an increase in the number of trustees or the removal of a trustee, may be filled by the affirmative vote of the majority of the remaining Trustees. A Trustee elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor, subject to removal as aforesaid.

Section 5.07. Place of Meeting. Meetings of the Board, whether annual or special, may be held within or without the State of Utah as designated in the notice thereof.

Section 5.08. Annual Meetings. Within ten (10) days after each annual meeting of the Members, the Board shall meet each year for the purpose of organization, election of officers and consideration of any other business that may be properly brought before the meeting.

Section 5.09. Other Meetings. The meetings of the Board of Trustees shall be held at least quarterly at such times and places within the Project, or some other reasonable and suitable

location in Washington County, as the Board shall determine. The Board of Trustees shall annually elect all of the officers of the Association. The election of officers shall be conducted at the first meeting of the Board of Trustees immediately following the annual meeting of the Association. Written notice of the time and place of Board of Trustees meetings shall be posted at a prominent place within the Project.

Section 5.10. Quorum. A majority of the number of Trustees holding office shall constitute a quorum for the transaction of business. The act of the majority of the Trustees present at a meeting at which a quorum has been achieved shall be the act of the Board, unless a greater number is required by law. If a quorum shall not be present at any meeting of the Board, the Trustees present may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

Section 5.11. Action Without a Meeting. Any action which may be taken at a meeting of the Board may be taken without a meeting if consent in writing, setting forth the action so taken, shall be signed by all of the Trustees.

Section 5.12 Ballots Without a Meeting. In addition to utilizing a ballot in connection with a meeting, the Association may utilize ballots without a meeting to take any action that may be taken at any annual, regular or special meeting of the Members provided the Association delivers a written ballot to every member entitled to vote. Any ballot utilized without a meeting shall be valid only when (1) the time by which all ballots must be received has passed so that a quorum can be determined and (2) the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

All solicitations for votes by written ballot shall: (a) set forth each proposed action, (b) provide for an opportunity to vote for or against each proposed action, (c) indicate the number of responses needed to meet the quorum requirements, (d) state the percentage of approvals necessary to approve each matter other than election of Directors, (e) specify the time by which a ballot must be received by the Association in order to be counted, and (f) be accompanied by written information sufficient to permit each person casting the ballot to reach an informed decision on the matter.

Any written ballot shall comply with the requirements in this section and shall be counted equally with the votes of Members in attendance (by person or proxy) at any meeting for every purpose, including satisfaction of a quorum requirement.

Section 5.13. Indemnification. When a Trustee is sued for liability for actions taken in his/her role as a Trustee, the Association shall indemnify him/her for his/her losses or claims, and undertake all costs of defense, unless and until it is proved that he/she acted with willful or wanton misfeasance or with gross negligence. After such proof: the Association is no longer liable for the cost of defense, and may recover costs already expended from the Trustee who so acted.

Section 5.14. Transfer of Voting Rights. The right to vote may not be severed or separated from any Unit, and any sale, transfer or conveyance of fee interest in any Unit to a new Owner or Owners shall operate to transfer the appurtenant membership and voting rights without the requirement of any express reference thereto.

Section 5.15. Record. The Association shall keep a copy of each of the following records at its principal office: (a) its Articles of Incorporation; (b) its Bylaws; (c) resolutions adopted by its Board of Directors relating to the characteristics, qualifications, rights, limitations, and obligations of Members or any class or category of Members; (d) the minutes of all Members' meetings for the past five (5) years; (e) all written communications to Members for a period of three (3) years; (f) a list of names and business or home addresses of its current Directors and Officers; (g) a copy of its most recent annual report; and (h) all financial statements prepared for periods ending during the last three (3) years.

## **ARTICLE VI**

### **RIGHTS AND OBLIGATIONS OF THE ASSOCIATION**

Section 6.01. General Maintenance. The Association shall be obligated to provide for the care, management, maintenance, and repair of the Association Property and Common Areas, as further provided in the Declaration.

Section 6.02. Assessments. The Association shall levy assessments on the Owners of Units in the Property and shall be empowered to enforce payment thereof, in accordance with the provisions of the Declaration.

Section 6.03. Personnel. Subject to Section 6.10 below and the provisions of the Declaration, the Board may retain and pay for the services of a manager or such other personnel, including independent contractors, as the Association shall determine to be necessary or desirable for the proper operation and maintenance of the Association, the Common Areas or Association Property, whether such personnel are furnished or employed directly by the Association or by any person with whom or which it contracts.

Section 6.04. Other Services. The Association may undertake or contract for any lawful activity, function or service provided for under the Articles of Incorporation, the Bylaws or the Declaration for the benefit of the Owners. In addition to the assessments described in the Declaration, all costs and expenses of activities, functions or services undertaken by the Association for the benefit of fewer than all of the Owners may, at the discretion of the Board, be assessed to the Owners benefited thereby, and such assessments shall be enforced in accordance with the provisions of the Declaration. The Association shall obtain from any governmental authority any licenses necessary or appropriate to carry out its functions hereunder.

Section 6.05. Rules and Regulations. The Association may make and enforce reasonable and uniformly applied rules and regulations governing the use of Units and the Common Areas. Such rules and regulations may, without limitation: (i) regulate the use and parking of vehicles within the Property; (ii) regulate the use of the Common Areas; and (iii) prohibit noxious or offensive activities, nuisances, unsafe or hazardous activities or construction, emission of loud sounds or offensive odors and unsightliness. The Association shall furnish each Owner with a written copy of the Rules and Regulations, but failure to furnish such copy shall not be deemed to invalidate such Rules and Regulations to any extent.

The Association shall have the right but not the obligation to enforce any of the Rules and Regulations of the Association and the obligations of any Owner under the Declaration or any provision of its Articles of Incorporation or these Bylaws by assessing a reasonable fine against



such Owner or suspending the right of such Owner to vote at meetings of the Association.

Section 6.06. Taxes. Each Owner shall timely pay all taxes levied against his Unit and any personal property.

Section 6.07. Right of Entry to Units. The Association shall have the right, but not the obligation, upon not less than twenty-four (24) hours prior written notice (except in emergencies), to enter onto any Unit for the purpose of enforcing the Declaration or any rules and regulations of the Association. Any damage to any Unit or improvements thereon caused by the Association or its agents during any such entry shall be repaired by and at the expense of the Association, unless such entry was necessitated by the negligence or misconduct of the Owner, Resident or guest of such Owner.

Section 6.08. Implied Rights. The Association shall also have and may exercise any right or privilege given to it expressly by the Declaration, or reasonably to be implied from the provisions of the Declaration, or which may be necessary or desirable to fulfill its duties, obligations, rights or privileges.

Section 6.09. Limitation on Rights. The Association shall not take any of the following actions except with the prior vote or written consent of a majority of the voting power of the Association:

(a) Entering into a contract with a third person wherein the third person will furnish goods or services for the Association for a term longer than one (1) year, except (i) a contract with a public utility company if the rates charged for the materials or services are regulated by the Public Service Commission of Utah (provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate), or (ii) prepaid casualty and/or liability insurance policies of no greater than three (3) years duration.

(b) Paying compensation to members of the Board or to officers of the Association in excess of the assessed annual dues, however, that the Board may cause a member or officer to be reimbursed for expenses incurred in carrying on the business of the Association.

## **ARTICLE VII** **OFFICERS**

Section 7.01. Officers. The officers of the Association shall consist of a President, Vice-President, Secretary and Treasurer, and such other officers as may be deemed necessary by the Board. Officers shall be subject to the same qualification criteria as Trustees. Officers may, but need not be, Trustees, and one person may hold multiple offices, except that the President shall not hold any other office. The Vice-President may additionally serve as Secretary or Treasurer. Each officer so elected shall hold office until his or her successor is elected by the Board, but shall be subject to removal at any time by vote of a majority of the Trustees.

Section 7.02. Vacancies. Whenever any vacancies shall occur in any office by reason of death, resignation, increase in the number of offices or otherwise, the vacancy shall be filled by the Board, and the officer(s) so elected shall hold office for the balance of the term, subject to removal as aforesaid.

Section 7.03. President. The President shall have active executive management of the operations

of the Association, subject to the control of the Board. The President shall preside at all Members meetings, discharge all other duties incumbent upon a presiding officer, and perform such other duties as the Board may prescribe. In the absence of the President, the Vice-President shall preside at Member meetings. The President shall sign all leases, deeds and other written instruments and shall co-sign all notes of the Association. The President shall have the authority to execute proxies on behalf of the Association and to execute powers of attorney appointing other individuals or entities as the agent of the Association. The President shall have the authority to prepare, execute, certify and record amendments to the Declaration on behalf of the Association, subject to the terms of the Declaration.

Section 7.04. Secretary. The Secretary shall attend all meetings of the Members and of the Board, and shall keep a true and complete record of the proceedings of such meetings. The Secretary shall be custodian of the records of the Association and shall attend to the giving of notices, and shall perform such other duties as the Board may prescribe. The Secretary shall keep at the Association's office a record of the names and addresses of all Unit Owners, as well as copies of the Declaration, the Articles, the rules and regulations of the Association and these Bylaws, all of which shall be made available for inspection by any Owner during normal business hours. The Secretary shall also have the authority to prepare, execute, certify and record amendments to the Declaration on behalf of the Association, subject to the terms of the Declaration. The duties of the Secretary may be delegated to a manager, agent or employee of the Association, however, if the aforementioned duties are delegated, the Secretary will be responsible for inspecting and overseeing the record keeping.

Section 7.05 Treasurer. The Treasurer shall keep correct and complete records of account, showing accurately at all times the financial condition of the Association. The Treasurer shall sign all promissory notes of the Association: The Treasurer shall be the legal custodian of all moneys, notes, securities and other valuables which may from time to time come into the possession of the Association. The Treasurer shall immediately deposit all funds of the Association in some reliable bank or other depository designated by the Board, and shall keep the bank account in the name of the Association. The Treasurer shall furnish at meetings of the Board, or whenever requested, a statement of the financial condition of the Association, and shall perform such other duties as the Board may require. The duties of the Treasurer may be delegated to a manager, agent or employee of the Association, however, if the aforementioned duties are delegated, the Treasurer will be responsible for inspecting and overseeing the record keeping.

Section 7.06. Vice Presidents and Assistant Officers. Unless otherwise determined by resolution of the Board, any Vice President and any assistant officer shall have the powers and perform the duties of his respective superior, the President being any Vice President's superior officer, the Secretary being any Assistant Secretary's superior officer, and the Treasurer being any Assistant Treasurer's superior officer.

## **ARTICLE VIII** **NOTICE OF HEARING**

Section 8.01. Notice of Violation. In the event of any alleged violation of the Declaration, these Bylaws or the rules and regulations of the Association, and after written notice of such alleged failure is delivered to the Member or other person alleged to be in default, the Board shall have the right, after affording an opportunity for an appropriate hearing as hereinafter provided, to take any of the remedial measures available to the Board under the Declaration.

Section 8.02. Opportunity to be Heard. Unless a written request for a hearing signed by or on behalf of the person named in the notice of violation is delivered or mailed to the Board within five (5) days after the notice of violation was delivered, the Board may proceed upon the violation without a hearing, and the respondent will be deemed to have waived his right to a hearing. If the request for hearing is timely filed, the Board shall set a date for the hearing no later than thirty (30) days after receipt of the request for hearing, and shall notify the respondent in writing of the date, time and place set for such hearing.

## **ARTICLE IX**

### **GENERAL**

Section 9.01. Amendment All amendments to the Declaration shall require first, that a quorum of 50% of the total voting membership of the Association be represented in person, by proxy or by ballot, second that 67% of the votes cast approve the proposed amendment as follows:

a) A quorum must be established. A quorum is established when the time by which all ballots must be received passes so that a quorum can be determined; whereupon the President of the Board shall certify that a quorum is present.

b) Approval. Once a quorum is gathered, the Declaration shall only be amended after the affirmative vote of at least sixty-seven percent (67%) of the votes cast by Members who are voting in person, by proxy or by faxed or mailed ballot at such a meeting duly called for the purpose of amending the Declaration. By way of illustration, if the Association had 100 Members, at least 50 Members must vote in order to establish a quorum, if only those 50 Members vote, 34 affirmative votes would pass a proposed amendment, if 60 Members vote, 41 affirmative votes would be required, and so forth. All such amendments must be in writing, and prepared, executed, recorded and certified on behalf of the Association by the President of the Association. Such amendment shall be recorded in the Office of the County Recorder of Washington County, State of Utah.

Section 9.02. Indemnification. Except to the extent insurance proceeds are received therefore, the Association's officers, Trustees, agents and employees shall be indemnified by the Association against all expenses and liabilities incurred by or imposed upon any of them, by reason of or in connection with their having been such an officer, Trustee, agent or employee, except where such indemnified person is adjudged to have committed willful malfeasance or gross negligence in the performance of his duties.

Section 9.03. Inspection of Documents. The Association shall keep in its principal office a copy of the Articles of Incorporation and these Bylaws, as may be amended from time to time, which may be inspected by the Members at all reasonable times.

Section 9.04. Conflicts. In the event of any conflict between the Articles and these Bylaws, the Articles shall control. In the event of any conflict between the Declaration and the Articles or these Bylaws, the Declaration shall control.

## **ARTICLE X**

### **MISCELLANEOUS**

The fiscal year of the Association shall begin on the 1st day of January and end on the 31st day of December of every year.

**EXHIBIT A**

**LEGAL DESCRIPTION**

The following lots are subject to these By Laws

Sky Mountain Golf Estates Phase 1 Amended: Lots 1-55

Sky Mountain Golf Estates Map 3: Lots 93-111, 114-121, 143

Sky Mountain Golf Estates Phase 4: Lots 122, 144-154

Sky Mountain Golf Estates Phase 5: Lots 155-163, 165, 166

Sky Mountain Golf Estates Phase 6: Lots 167-174, 176, 189-198

Sky Mountain Golf Estates Phase 7: Lots 176-184

Sky Mountain Golf Estates Phase 8: Lots 185-188, 199, 200

Sky Mountain Golf Estates Phase 9: Lots 201-221

Sky Mountain Golf Estates Phase 10 Amended: Lots 222-228

Lot B Legal: S: 29 T: 41S R: 13W BEG S 89\*40'47 E ALG SEC/L 709.45 FT & N 0\* W 949.90 FT FM S1/4 COR SEC 29 T41S R13W TH N 45\*39'28 W 163.70 FT TO ELY R/W LN STONE RIDGE DR BEING PT CURV NON-TNGY CUR CNCV NW HAV RAD 205 FT CTRL ANG 60\*25'48 CHD 206.33 FT BEAR N 21\*26'48E; TH NELY ALG CUR & R/W LN 216.21 FT; TH S 58\*30'59 E 25.23 FT; TH S 21\*29'53 E 80.94 FT; TH S 03\*42'19 W 59.22 FT; TH S 02\*14'05 E 98.61 FT; TH S 09\* W 61.10 FT TO POB

Lot C Legal: S: 29 T: 41S R: 13W BEG S 89\*40'47 E ALG SEC/L 676.98 FT & N 0\* W 940.01 FT FM S1/4 COR SEC 29 T41SR13W TH N 89\*40'47 W 190.42 FT TO ELY R/W LN STONE RIDGE DR; TH ALG R/W LN N 25\*47'32 E 28.37 FT TO PT CURV TNGT CUR CNCV SE HAV RAD 205.81 FT CTRL ANG 30\*03'05 ; TH NELY ALG CUR 107.95 FT; TH N 55\*50'37 E 14.06 FT TO PT CURV TNGT CUR CNCV NW HAV RAD 205 FT CTRL ANG 04\*11'12 ; TH NELY ALG CUR 14.98 FT; TH S 45\*39'28 E 163.70 FT; TH S 09\* W 10 FT; TH N 89\*40'47 W 30.91 FT TO POB

IN WITNESS WHEREOF, we, being all the members of the Board of Trustees of SKY MOUNTAIN GOLF ESTATES HOMEOWNERS ASSOCIATION, have executed these Bylaws on this \_\_\_\_\_ day of November, 2008.

\_\_\_\_\_  
Michael E. Heins, President

\_\_\_\_\_  
Daniel J. Dwyer, Secretary

\_\_\_\_\_  
Gordon A. Russell, Treasurer

CERTIFICATION

I, the undersigned, do hereby certify:

THAT I am the duly elected and acting secretary of SKY MOUNTAIN GOLF ESTATES HOMEOWNERS ASSOCIATION, a Utah nonprofit corporation, and

THAT the foregoing Bylaws constitute the amendment of the original Bylaws of said Association, as duly adopted by a vote of the required Membership at a meeting held for that purpose on the 1<sup>st</sup> day of November, 2008.

IN WITNESS WHEREOF, I have hereunto subscribed my name of said Association on this 1<sup>st</sup> day of November, 2008.

\_\_\_\_\_  
Daniel J. Dwyer, Secretary

STATE OF UTAH            )  
  ) SS

County of Washington    )

On the 4<sup>th</sup> day of November, 2008, personally appeared before me, Michael E. Heins, Daniel J. Dwyer and Gordon a Russell, who being first duly sworn did say that they are the President, Secretary and Treasurer of the Association and that the seal affixed to the foregoing instrument is the seal of said Association and that said instrument was signed and sealed in behalf of said Association by authority of its Board of Trustees; and each of them acknowledged said instrument to be their voluntary act and deed.

\_\_\_\_\_  
Notary Public for Utah