

**DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS OF  
CANYON SHADOW HOA**

This Declaration of Covenants, Conditions, and Restrictions ("Declaration") is made and executed this 26th day of October, 2020, by Lloyd Lee Wilson and Andria L. Wilson, as Members, of Canyon Shadow LLC, a Utah limited liability company ("Declarant").

**RECITALS**

**WHEREAS**, Declarant holds legal title to a certain tract of real property located in San Juan County, Utah, more particularly described as follows:

Beginning at a corner on the East right-of-way of U.S. Highway 191, said point being North 559.4 feet and East 766.5 feet from the Southwest Corner of Section 1, Township 27 South, Range 22 East, Salt Lake Base and Meridian, and running thence North 15°31'30" West 443.4 feet along said right-of-way; thence East 643.1 feet; thence South 00°02' West 427.2 feet; thence West 524.2 feet to the point of beginning, having an area of 249,330 square feet, 5.72 acres.

(the "Property");

**WHEREAS**, Declarant desires to develop the Property with lots, common area(s), and other improvements;

**WHEREAS**, by this Declaration, Declarant intends to establish a common plan for the development, possession, use, enjoyment, maintenance, operation, restoration, and improvement of the Property and the interests therein conveyed, and to establish thereon a planned unit development in accordance with the terms contained herein;

**WHEREAS**, by this Declaration, Declarant intends that the one (1) single-family home lot comprising 1.046 acres, located on the Property and depicted on the Plat as Lot 1 shall not be part of the planned unit development of the Canyon Shadow HOA, or subject to the following covenants, conditions, and restrictions, subject to a Lot 1 owner's limited right to use the pool in the Common Area, as set forth more fully below;

**NOW THEREFORE**, it is hereby declared that the Property, excluding Lot 1, shall be subject to the following covenants, conditions, and restrictions, which shall attach to the Property and Project, and shall constitute binding covenants running with the land:

**ARTICLE 1**  
**VISION AND PURPOSE**

The Canyon Shadow HOA, as defined and provided herein, shall maintain and develop the Property as a desirable residential area; administer and maintain the Common Area for the benefit of the Members; promote the health, safety, and welfare of the Members, their guests and invitees; ensure that all Lots and the Improvements located therein are high quality and of suitable architectural design; and take those actions deemed necessary, conducive, incidental or advisable to accomplish and promote said purpose and intent.

**ARTICLE 2**  
**DEFINITIONS**

Unless otherwise expressly provided herein, the following words and phrases, when used in this Declaration shall be deemed to have the following meanings.

2.1 **Act**: the Utah Community Association Act, codified at Utah Code §§ 57-8a-101, *et seq.*, as amended.

2.2 **Allocated Interests**: the Common Expenses liability and the votes in the Association allocated to each Lot, as further described in Article 5.

2.3 **Articles**: the Articles of Incorporation of the Association, as amended.

2.4 **Assessment or Common Expense Assessment**: all common expense assessments, insurance assessments, utility assessments, and any other expense levied to Lots pursuant to the Declaration or the Act, including interest, late fees, attorney fees, fines, and costs.

2.5 **Association**: Canyon Shadow HOA, Inc., a Utah non-profit corporation, its successors and assigns, and excluding the private property designated as Lot 1 on the Plat.

2.6 **Board**: the Board of Directors elected to manage the Association.

2.7 **Bylaws**: the Bylaws of the Association, as amended.

2.8 **Common Area**: that part of the Property owned by the Association which is not included within the lots and which is designated on the Plat, together with all common improvements (other than utility lines owned by utility suppliers) now or hereafter constructed thereon.

2.9 **Common Expenses**: all expenditures made and liabilities incurred by or on behalf of the Association to maintain the Common Area and manage the Association, including interest, late fees, attorney fees, fines, and costs charged to any Member.

2.10 **County**: San Juan County, Utah

2.11 Declaration: this Declaration of Covenants, Conditions, and Restrictions, as amended.

2.12 Dwelling: that portion of any building (including garage, deck, patio, and other Improvements) located on a Lot, designed and intended for use and occupancy as a single-family residence, and owned by an Owner, excluding Lot 1 as designated on the Plat.

2.13 Effective Date: the date last executed below.

2.14 Governing Documents: the Articles of Incorporation, Bylaws, this Declaration, the Plats, and any Rules and Regulations adopted by the Association, as amended.

2.15 Improvement: the installation, construction, repair, maintenance, painting, or staining a structure, including homes, garages, patios, decks, and any exterior surface; landscaping, including vegetation, trees, hedges, shrubs, bushes, and rock work; fencing; solar collectors, panels, and equipment; radio and TV antennas and equipment; lighting; pools, spas, and hot tubs; excavation, fill, ditch, diversion dam or any other device which affects or alters the natural flow of surface or subsurface water from upon, under, or across any portion of the Property; or any utility line, conduit, pipe, or other related facility or equipment.

2.16 Lot: a separately numbered lot, parcel, plot, or other division of land designated for separate ownership or occupancy and shown on the Plat. A Lot does not include Lot 1 as designated on the Plat or any portion of the Common Area. "Units" and "Lots" may be used interchangeably herein.

2.17 Majority Vote: the approval by fifty-one percent (51%) or more of the Members represented at a Members' meeting, or Directors represented at a Board meeting, in person or by proxy, at which a quorum is present.

2.18 Member: a person entitled to membership in the Association as provided herein. Member and Owner may be used interchangeably herein.

2.19 Notice: except as provided elsewhere herein, written correspondence transmitted by U.S. mail or electronically via email, Dropbox or the equivalent, or posting to a website, to the Owner's mailing address or email address, as appropriate and as it appears in the records of the Association. All notices to the Association or the Board shall be delivered to the Association's Registered Agent, on record with Utah's Division of Corporations.

2.20 Notice and Hearing: written notice delivered to an Owner at the last known address of record via certified U.S. Mail, return receipt requested, and an opportunity to be heard at a Special Meeting of the Board of Directors, to be held no more than fourteen (14) business days after notice is given. The Notice shall include the Hearing date, location, time, and agenda.

2.21 Ordinance: Ordinance shall mean the San Juan County Zoning Ordinance, as amended.

2.22 Owner(s): Owner shall mean the owner of record title, whether one or more persons or entities, to any Lot which is a part of the Property but excluding an owner of the one (1) single-family home lot comprising 1.046 acres, located on the Property and depicted on the Plat as Lot 1, and excluding those having an interest merely as security for the performance of an obligation. The terms "Member" and "Owner" may be used interchangeably herein.

2.23 Plat: the Plat of Canyon Shadow recorded in the real property records of San Juan County, Utah, and all amendments, modifications, and additions thereto.

2.24 Project: Project shall mean and refer to the Property and the plan of development and ownership of the Property created and governed by this Declaration, the Articles, and the Bylaws. The Project shall not include the one (1) single-family home lot comprising 1.046 acres, located on the Property and depicted on the Plat as Lot 1, subject to one limited exception set forth in this Declaration.

2.25 Property: the real property restricted by this Declaration, including all easements, rights, and appurtenances belonging thereto, and all Improvements erected or to be erected thereon.

2.26 Rules and Regulations: those Architectural Guidelines, Schedules of Fines, and other policies and procedures adopted by the Association, as required under the Act and as otherwise provided herein, concerning: (a) Collection of unpaid assessments; (b) Handling of conflicts of interest involving board members; (c) Conduct of meetings, which may refer to applicable provisions of the nonprofit code or other recognized rules and principles; (d) Enforcement of this Declaration and said Rules, including a Schedule of Fines as allowed by the Act; (e) Inspection and copying of association records by Owners; (f) Investment of reserve funds; and (g) Resolution of disputes arising between the Association and Owners; provided, however, that said Rules and Regulations do not conflict with the covenants contained herein.

2.27 Reserve Fund: the account used by the Association for the purpose of paying for the perpetual use, operation, maintenance, and supervision of the Common Area as well as the management and administration of the Association, as otherwise defined and required by the Act.

2.28 Twin Home: Twin Home shall mean and refer to a structure or portion of a structure designed and intended for use and occupancy as a single-family residence, specifically designated as Lots 2A through 9B on the Plat, together with all improvements located on a Lot which are used in conjunction with such Twin Home.

2.29 Unit: a separately numbered parcel, plot, or other division of land designated for separate ownership or occupancy and shown on the Plat. A Unit does not include Lot 1 as designated on the Plat or any portion of the Common Area. "Units" and "Lots" may be used interchangeably herein.

**ARTICLE 3**  
**DESCRIPTION OF THE PROJECT**

3.1 Description of the Project. The Canyon Shadow HOA is a Twin Home subdivision development comprised of sixteen (16) Twin Home Lots and a Common Area, as shown and depicted on the Plat. The Project shall not include the one (1) single-family home lot comprising 1.046 acres, located on the Property and depicted on the Plat as Lot 1.

3.2 Owners' Easement of Access and Enjoyment. The Owners shall have a right and easement of access and enjoyment in and to the Common Area, which easement shall be appurtenant to and shall pass with the title to the Lots, subject to the right of the Association to:

- a. Promulgate and publish Rules and Regulations, with which each Owner shall strictly comply;
- b. Suspend the voting and use rights for the Common Area, during any period of violation of the Governing Documents, after Notice and Hearing if required by this Declaration and the Bylaws;
- c. Grant any easement, right-of-way, license, lease, dedication, transfer or conveyance or grant of any similar interest affecting the Common Area for any purpose consistent with the intent of this Declaration;
- d. Consent to or otherwise cause the construction of additional improvements on the Common Area, and to consent to or otherwise cause the alteration or removal or any existing improvements on the Common Area for the benefit of the Members; and
- e. Close or limit the use of the Common Area while maintaining, repairing and improving the Common Area.

3.3 Association Easements

a. *General Access and Use.* The Association shall have a perpetual, non-exclusive easement of access and use over and across each Lot only as necessary to the performance of obligations in the Governing Documents; provided, however, that this easement and use thereof shall not unreasonably interfere with or impair the use of any Improvements constructed on any Lot and shall be exercised only after reasonable notice to an Owner.

b. *Utilities.* The Association shall have perpetual, non-exclusive easements for public utilities, including water, sewer, gas, electrical, internet, cable, and telephone utilities, over, across, and through the Property, together with the right of ingress and egress to install, construct, operate, maintain, and operate, repair said public utilities, in those locations shown and described on the Plat.

c. Drainage. The Association shall have perpetual, non-exclusive easements for drainage over, across, and through the Property, together with the right of ingress and egress to install, construct, operate, maintain, and operate, repair drainage and associated facilities, as shown on the Plat.

3.4 General Emergency Easements. The Association, the County, and all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons, now or hereafter servicing the Property, shall have a nonexclusive easement for ingress and egress to enter upon any part of the Property in the performance of their duties.

#### **ARTICLE 4** **USE RESTRICTIONS**

4.1 Residential Use Only. The Lots shall be occupied and used for single-family residential purposes only. Timeshare or fractional interests as defined in Utah Code § 57-19-1 *et seq.* are expressly prohibited. An Owner may lease their Lot or residence on a long-term basis provided that such lease is written and expressly subject to this Declaration. An Owner may lease their Lot or residence on an overnight or short-term basis provided that such overnight or short-term rental is expressly subject to the Governing Documents and is appropriately licensed by local and/or State authorities.

4.2 Home Business. The pursuit of a trade, business, or profession within a Lot shall be permitted, so long as the use is clearly secondary to the residential use of the premises; the use does not use pesticides or excessive amounts of water; the use does not cause excessive traffic, disruption, odor, noise or nuisance, to be determined in the sole discretion of the Association; and the use is compliant with the Code, this Declaration, and the Association's Rules and Regulations, if any.

4.3 No Subdivision. The Lots may not be further subdivided or partitioned from the Lot configurations shown on the Plat.

4.4 Nuisances. No Lot or Improvement thereon shall be used, occupied, or altered in a manner which creates a nuisance, interferes with the rights of any other Owner, increases the rate of insurance for the Property, or causes any insurance policy to be canceled or to cause a refusal to renew the same. Overnight/short-term rentals are hereby deemed a nuisance.

4.5 Signs. Signs identifying the address or owner or advertising Lots for sale or rent as well as political or campaign signs are permissible on each Lot without prior specific approval of the Board, provided that such signs shall be of reasonable and customary size and comply with all local sign ordinances. Except as expressly permitted by this Section, no other signs shall be placed on any portion of a Lot unless first approved by the Board.

4.6 Animals. Without the express written consent of the Association, no more than three (3) ordinary household pets such as a dog, cat, or bird may be kept on a Lot, subject to the following provisions:

- a. Dogs at large are prohibited and must be leashed at all times outside.
- b. Animal breeding of any kind is prohibited.
- c. Farm animals, fighting dogs, roosters, and commercial animals are prohibited. Pets which make an unreasonable amount of noise, including incessant barking, constitute a nuisance and are prohibited.
- d. Each Owner shall be responsible for and pick up all animal waste from the Common Area, including the roadways within the Property.
- e. The Board may enact reasonable rules respecting the keeping of animals within the Property and may designate certain areas in which animals may or may not be taken or kept. If, in the opinion of the Association, a specific pet, or a group of pets, becomes a general annoyance or nuisance to other Owners, the Association may prohibit the keeping of that animal in the Property.

4.7 Parking/Storage. Owner's vehicles, trailers, campers, RVs, and recreational equipment of all types shall be parked or stored in the Owner's garage. There shall be no on-street parking. Owner's vehicles, trailers, campers, RVs, and recreational equipment of all types may not encroach onto the Common Area, and must be screened from public view when not in use. All titled vehicles parked or stored in the Property must be licensed, operational, and in good condition. Trucks in excess of two (2) tons shall be stored off-sight and may not be parked in the Property, except as necessary for construction and deliveries.

4.8 Garbage, Refuse, and Recycling Disposal. All rubbish, trash, garbage, and recycling shall be regularly removed from the Property and shall not be allowed to accumulate thereon. Trash, garbage, recycling, and other waste shall not be kept except in sanitary containers. All equipment, clothes lines, dog runs, garbage and recycling bins, woodpiles, or storage piles shall be kept screened and concealed from view. If an Owner elects to use the County's trash or recycling service, trash and recycling bins shall be removed from the roadway and brought back to a screened and concealed location on the same day the County picks up trash or recycling.

4.9 Maintenance. Each Owner shall keep and maintain his or her Lot and the Improvements erected thereon, including the driveways and walkways, in a proper, neat and orderly manner which protects and maintains the high-quality integrity of the Property. Further, each Owner shall use and enjoy his or her Lot in a manner that promotes common sense and respect for other Owners, including the exterior maintenance of all Improvements. The Association may adopt Rules and Regulations regarding the regularity of required exterior maintenance and deck/patio areas, which may include reasonable restrictions on the type of exterior patio furnishings placed on the decks/patio.

4.10 Weeds. Owner shall not permit weeds and invasive plants to grow or reproduce on his or her Lot. Each Owner shall, to the extent possible, eradicate weeds and invasive plants with mechanical and natural (non-chemical) means.

4.11 No Temporary Structures. No temporary structures, recreational vehicles (“RV”), trailers, tents, garages or any other outbuildings shall be used as a residence, including temporary camping, on any Lot or Common Area within the Property, whether short-term or long-term by the Owner, or its guests and invitees.

4.12 Power Equipment and Car Maintenance. No power equipment or vehicle repairs, other than minor repairs requiring no more that twenty-four (24) hours work, shall be permitted on any Lot except with prior written approval of the Board. In deciding whether to grant approval, the Board shall consider the effects of noise, air pollution, dirt or grease, fire hazard, interference with radio or television reception, and similar objections.

4.13 Improvements/Modifications. An Owner shall not make, install, or construct any Improvements, as defined in Article 2, without application to and the prior written approval of the Board.

4.14 Reconstruction after Damage. In the event of destruction to a Dwelling, the Owner shall, as promptly as practical, restore and repair the Dwelling to its former condition, upon re-application for approval of said re-construction or repair from the Board. An Owner shall use the proceeds of any property insurance for re-construction or repair of a Dwelling for that purpose.

4.15 Burning. Burning of brush and debris on any Lot is prohibited except as allowed by San Juan County ordinance.

4.16 Color of Units. All units shall be of a uniform color scheme.

4.17 Fencing Between Lots. All fencing between Lots shall be co-owned by the respective Lot Owners on either side of the fence. No improvements to said fencing shall be made without prior written approval by the Board.

4.18 Enforcement/Fines. To enforce this Article 4, the Board may adopt Rules and Regulations regarding enforcement, including a Schedule of Fines. Further, if the Board determines that an Owner has violated this Article 4, it shall provide to the Owner a written Notice of Violation. The Owner shall have thirty (30) days from receipt of the Notice of Violation to cure the same (“Cure Period”). If the Owner fails to remedy the violation within the Cure Period, the Board shall levy a Fine against such Owner in the amount established by the Schedule of Fines or the actual cost of removing or remedying the violation, whichever is greater, and may lien the Owner’s Lot pursuant to procedures set forth in this Declaration and the Act.

## **ARTICLE 5**

### **ASSOCIATION: MEMBERSHIP**

5.1 Organization of the Association. The Association was incorporated in accordance with the requirements of the Utah Revised Nonprofit Corporation Act, §§ 16-6a-101, *et seq.*



5.2 Duties and Powers. The duties and powers of the Association are those set forth in this Declaration, the Articles and Bylaws, together with its general and implied powers of a nonprofit corporation, generally to do any and all things that a corporation organized under the laws of the State of Utah may lawfully do which are necessary or proper to ensure the peace, health, comfort, safety, and general welfare of the Members, subject only to the limitations upon the exercise of such powers as are expressly set forth in the Declaration, the Articles, and Bylaws.

5.3 Membership. Every record Owner of a fee interest in any Lot subject to this Declaration shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of such Lot shall be the sole qualification for such membership.

5.4 Allocated Interests. Each Lot shall have an Allocated Interest of 1/16. The Allocated Interests shall not be reduced, even in the event of merger of the Lots. Each Allocated Interest shall be entitled one (1) vote, which shall be cast as a single vote and shall not be subject to fractional voting.

5.5 Transferred Membership. Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the transfer of ownership of the Lot to which it is appurtenant, and then only to the new Owner. Any attempt to make a prohibited transfer shall be void *ab initio*.

5.6 Meetings of the Members. Regular and special meetings of Members of the Association shall be held with the frequency, at the time and place, and in accordance with the provisions of the Bylaws.

5.7 Board of Directors. The affairs of the Association shall be managed by the Board of Directors, which shall conduct meetings according to the provisions of the Bylaws.

## **ARTICLE 7** **COMMON AREA**

6.1 Association Management of Common Area. The Association shall own, operate, maintain, and repair the Common Area, as defined in Article 2, for the common benefit of Owners of the Property and in a condition which minimizes flooding, soil erosion, fire, and weed infestation. The Association shall landscape, restore, or revegetate with weed free seed and mulch all excavations, fills and other construction which disturb the existing vegetation. Further, the Association shall not intentionally introduce weeds or invasive plants to the Common Area and shall control noxious weeds and invasive plants on said property in accordance with federal, state and local laws and regulations. The Association shall, to the extent possible, eradicate weeds and invasive plants with non-mechanical means. The Association shall own, operate, maintain, and repair the pool and pool grounds located within the Common Area.

6.2 Private Road. The private road, called Wilson Lane, and cul-de-sac shown on the Plat shall be the responsibility of the Association and all costs to maintain, repair or improve the

road and cul-de-sac shall constitute a Common Expense.

6.3 Use Restrictions:

a. *Development.* The Common Area may not be further subdivided or partitioned or used or developed for purposes other than open space and recreation for the Members.

b. *Improvement.* Without the prior approval of the Association, no vegetation, landscaping, structure or other improvement within the Common Area shall be removed, constructed, enlarged, demolished or altered.

c. *Motorized Vehicles.* Except as to the driveway, motorized vehicles are allowed in the Common Area only as needed for maintenance and repair of infrastructure or other improvements and only after express authorization from the Association.

d. *Fireworks and Firearms.* No fireworks or firearms may be discharged within the Common Area.

e. *Burning.* Burning of brush and debris, or fires of any kind, within the Common Area is prohibited except as expressly authorized by the Board for the purposes of general maintenance and weed control.

6.4 Lot 1 Owner's Access to Common Area. Notwithstanding the Project's exclusion of Lot 1 and its owner from the Association, an owner of Lot 1 has an exercisable option to use and enjoy the Common Area, including the pool and pool grounds located thereon. In order to exercise this option, the owner of Lot 1 must first agree in writing to (a) pay to the Association a pro-rata share for the use, operation, maintenance, supervision, and insurance of the Common Area for a minimum of one year and (b) abide by rules prescribed by the Governing Documents as they apply to the pool, pool grounds, and Common Area. The Lot 1 owner's pro-rata share payment shall be determined at the Board's discretion and shall in no way be deemed an Assessment as defined in Article 7.

6.5 Damage to Common Area. Except as otherwise provided in this Declaration, in the event of any destruction of any portion of the Common Area, the repair or replacement of which is the responsibility of the Association, it shall be the duty of the Association to restore and repair the same to its former condition, as promptly as practical. The proceeds of any insurance maintained pursuant to Article 8 and the Bylaws for reconstruction or repair of the Common Area shall be used for such purpose, unless the Board unanimously votes to alternatively apply the proceeds. The Board shall be authorized to have prepared the necessary documents to effect such reconstruction as promptly as practical. The Common Area shall be reconstructed or rebuilt substantially in accordance with the original construction plans. If the amount available from the proceeds of such insurance policies for such restoration and repair is inadequate to complete the restoration and repair, the Board shall levy an extraordinary Assessment for the deficiency and proceed with such restoration and repair.

6.6 Condemnation. If at any time or times, the Common Area, or any part thereof shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be payable to the Association and shall be used promptly by the Association to the extent necessary for restoring or replacing any Improvements on the remainder of the Common Area, unless the Board unanimously votes to alternatively apply the proceeds. Upon completion of such work and payment in full therefore, any remaining proceeds of condemnation shall be deposited into the Reserve Fund.

6.7 Rules and Regulations regarding Common Area. The Association may create Rules and Regulations regarding management of the Common Area, including the pool and pool grounds thereon, as necessary.

## **ARTICLE 7**

### **ASSESSMENTS**

7.1 Creation of Association Lien. The Association shall charge Assessments on an annual basis against all Lots. Assessments shall be based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during such Assessment year. The Association may also charge Assessments for future anticipated costs and expenses. The budget shall be submitted to the Owners for ratification pursuant to the Act and as set forth in the Bylaws, as amended. Assessments, apportioned based on the Allocated Interests, shall be due and payable in monthly, quarterly, or annual installments, or in any other manner, as determined by the Board. The omission or failure of the Board to levy the Assessment for any period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay.

7.2 Personal Obligation to Pay Assessments for Common Expenses. Each Lot, and each Owner, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association Assessments for Common Expenses and such other Assessments as imposed by the Association. Such Assessments, including fees, charges, late charges, attorney fees, fines and interest charged by the Association shall be the personal obligation of the Owner of such Lot at the time when the Assessment or other charges became due.

7.3 Unpaid Assessments Constitute Lien. Assessments for Common Expenses as imposed by the Association, including fees, charges, late charges, attorney fees, fines and interest charged by the Association, shall be a charge on each Lot and shall be a continuing lien upon the Lot against which each such Assessment or charge is made. If any Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment becomes due. The personal obligation to pay any past due sums due the Association shall not pass to a successor in title unless expressly assumed by them. No Owner may become exempt from liability for payment of the Assessments by waiver of the use or enjoyment of the Common Areas or by abandonment the Lot against which the Assessments are made. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted by any reason including, without limitation, any claim that the Association or the Board is not properly exercising its duties and powers under this Declaration.

7.4 Apportionment of Common Expenses. Except as provided in this Declaration, all Assessments, including Special Assessments, for Common Expenses shall be assessed against all Lots in accordance with the Allocated Interests formula for the Common Expenses as set forth in Section 6.4.

7.5 Special Assessments. In addition to the annual Assessments authorized above, the Association may levy, in any Assessment year, a special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of the Common Area, including fixtures and personal property related thereto, or for any other purpose deemed necessary and appropriate by the Board; provided that any such Assessment shall have the assent of the majority vote of the Owners at a properly noticed meeting.

7.6 Default Assessments. All monetary fines assessed against an Owner pursuant to the Governing Documents, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to the Governing Documents, shall be a Default Assessment and shall become a Lien against such Owner's Lot which may be foreclosed or otherwise collected as provided in this Declaration. Notice of the amount and due date of such Default Assessment shall be submitted to the Owner subject to such Assessment at least ten (10) days after the due date.

7.7 Lot Specific Assessments. The Association shall have the right to add to any Owner's Assessment, those amounts expended by the Association for the benefit of any individual Lot and the Owner thereof, including, but not limited to: a) fines, improvement, repair, replacement and maintenance of a Lot that an Owner has failed to perform (after Notice as provided in this Declaration); b) improvement, repair, replacement and maintenance to the Common Area caused by the negligent or willful acts of any Owner, his guests, employees, licensees, lessees or invitees; and c) after Notice and Hearing, all other expenditures or charges which the Board, in its sole discretion, allocates to a Lot.

7.8 Effect of Non-Payment of Assessment. The Board may assess a reasonable late fee of not less than fifty dollars (\$50), as established by the Board in the Schedule of Fines, for any assessment, charge or fee provided for in his Declaration, or any monthly or other installment thereof, which is not fully paid within ten (10) days after its due date. If any such sums, together with the late fee, remain unpaid for more than sixty (60) days, the Board may also charge default interest at the rate of ten percent (10%) per annum, or greater as established in a Schedule of Fines, until the overdue sums are paid in full. Further, the Association may file a Notice of Lien against the Lot and bring an action at law or in equity, or both, against any Owner personally obligated to pay such overdue Assessments, charges or fees, or monthly or other installments thereof, and may also foreclose on its lien against such Owner's Lot. An action at law or in equity by the Association against a Lot Owner to recover a money judgment for unpaid Assessments, charges or fees, or monthly or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving, the Association's lien therefor. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from thereafter again foreclosing or attempting to

foreclose its lien for any subsequent Assessment, charges or fees, or monthly or other installments thereof, which are not fully paid when due. The Association shall have the power and right to bid on or purchase any Lot at a public auction or other legal sale, and to acquire and hold, lease, mortgage, convey or otherwise deal with the same. If a foreclosure action is filed to foreclose any Assessment lien, and an Owner abandons or leaves vacant his or her lot, the Board may take possession and rent said Lot or apply for the appointment of a receiver for the Lot without prior notice to the Owner. The rights of the Association shall be expressly subordinate to the rights of any holder of a first lien security interest as set forth in its deed of trust or mortgage (including any assignment of rents), to the extent permitted under the Act.

7.9 Lien Priority. The lien of the Association under this Section is prior to all other liens and encumbrances on a Lot except: (1) liens and encumbrances recorded before the recordation of the Declaration; (2) a first lien security interest on the Lot (except as allowed by the Act with regard to the limited lien priority allowed to the Association); and (3) liens for real estate taxes and other governmental assessments or charges against the Lot. This Section does not affect the priority of mechanics' or materialmen's liens. The lien of the Association under this Article is not subject to the provision of any homestead exemption as allowed under state or federal law. Sale or transfer of any Lot shall not affect the lien for said Assessments or charges except that sale or transfer of any Lot pursuant to foreclosure of any first lien Security Interest, or any proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture shall only extinguish the lien of Assessment charges as provided by applicable state law. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, nor cancellation or forfeiture shall relieve any Owner from continuing liability for any Assessment charges thereafter becoming due, nor from the lien thereof.

## **ARTICLE 8** **INSURANCE**

8.1 Duty to Obtain Insurance/Reserve Fund. The Board shall obtain and maintain insurance policies and limits as the Board may determine reasonable and as specified in the Bylaws. The Association shall maintain a Reserve Fund equal to the amount of the highest deductible applicable for any such policy.

8.2 Waiver of Claim Against Association. As to all policies of insurance maintained by or for the benefit of the Association and the Owners, the Association and the Owners hereby waive and release all claims against one another and the Board, to the extent of the insurance proceeds available, whether or not the insurable damage or injury is caused by the negligence of or breach of any agreement by any of said persons.

8.3 Right and Duty of Owners to Insure. It is the responsibility of each Owner to provide insurance on the Owner's personal property and upon all other property and improvements on his or her Lot. Nothing hereby shall preclude any Owner from carrying any public liability insurance the Owner deems desirable to cover the Owner's individual liability for damage to persons or property occurring inside the Owner's Dwelling or elsewhere upon the Property. Such policies shall not adversely affect or diminish any liability under any insurance obtained by or on behalf of the Association, and duplicate copies of such other policies shall be

deposited with the Board upon request. If any loss intended to be covered by insurance carried by or on behalf of the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by the Owner to the Association to the extent of such reduction, for application by the Board to the same purposes as the reduced proceeds are to be applied.

## **ARTICLE 9** **MISCELLANEOUS**

9.1 **Amendment.** This Declaration may be amended only upon Majority Vote and recording in the real property records of San Juan County, Utah.

9.2 **Severability.** Each of the covenants, conditions and resolutions contained in this Declaration shall be deemed independent and separate and the invalidation of any one provision shall not affect the validity and continued effect of any other.

9.3 **Paragraph Headings.** The paragraph headings in this instrument are for convenience only and shall not be considered in construing the restrictions, covenants and conditions contained herein.

9.4 **Singular and Plural.** Wherever utilized herein, the singular shall be deemed to include the plural, and the plural shall be deemed to include the singular. Furthermore, wherever utilized herein, the masculine shall be deemed to include the feminine, and the feminine shall be deemed to include the masculine.

9.5 **Waiver.** Waiver or failure to enforce any restriction, covenant or condition of this Declaration shall not operate as a waiver of any other restriction, covenant, or condition.

9.6 **Binding Effect.** The provisions of this Declaration, as amended, shall be deemed to be covenants running with the land benefiting and burdening all of the Property.

9.7 **Enforcement.** The Board, any Owner, or the County shall have the right, but not the obligation, to enforce, by any proceedings at law or in equity all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by this Declaration. In such action, the prevailing party shall be entitled to recover costs and reasonable attorneys' fees.

9.8 **Conflict of Governing Documents.** In the event of conflict among or between the Governing Documents, the provisions of this Declaration shall prevail; thereafter, priority shall be given to Governing Documents in the following order: Plat; Bylaws; Rules and Regulations; and Articles.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration the day and year first written above.

**DECLARANT:**

Canyon Shadow LLC

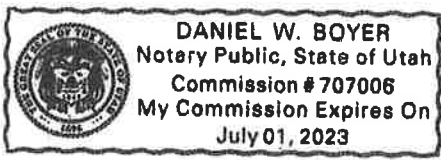
  
Lloyd Lee Wilson, Member

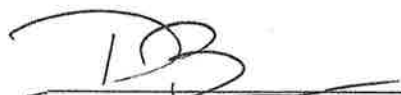
  
Andria L Wilson, Member

STATE OF UTAH            )  
  ) ss  
COUNTY OF GRAND        )

On October 26, 2020, Lloyd Lee Wilson and Andria L Wilson, as Members, of Canyon Shadow LLC (the "Company"), appeared before me and acknowledged and swore to me that the foregoing Declaration was signed on behalf of the Company by authority of its Articles of Organization and Operating Agreement.

SEAL



  
Daniel W. Boyer, Notary Public