

**AMENDED BYLAWS OF**  
**OF**  
**KINESAVA HOMEOWNERS ASSOCIATION, INC.**

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**AMENDED BYLAWS**  
**OF**  
**KINESAVA HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE I - GENERAL**

1.1 Purpose of Amended Bylaws.

These Amended Bylaws are adopted for the regulation and management of the affairs of Kinesava Homeowners Association, Inc., a Utah nonprofit corporation (the "Association"), organized to be the association to which reference is made in the Amended Declaration of Covenants, Conditions, and Restrictions of Kinesava Residential Planned Unit Development, as amended or supplemented from time to time (the "Declaration"), to perform the functions as provided in the Declaration and to further the interests of Owners of Lots within the Development.

1.2 Terms Defined in Declaration.

Unless otherwise specifically provided herein, capitalized terms in these Amended Bylaws shall have the same meaning as given to such terms in the Declaration.

- 1.2.1 "Association" shall mean and refer to Kinesava Homeowners Association, Inc., its successors and assigns.
- 1.2.2 "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.
- 1.2.3 "Declarant" shall mean and refer to Kinesava Development Corporation, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.
- 1.2.4 "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of the Washington County Recorder.
- 1.2.5 "Interest" shall mean and refer to an undivided interest in any Lot resulting from ownership in a condominium dwelling unit thereon.
- 1.2.6 "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.
- 1.2.7 "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

1.2.8 “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Interest which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.2.9 “Properties” shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

### 1.3 Controlling Laws and Instruments.

These Amended Bylaws are controlled by and shall always be consistent with the provisions of the Utah Revised Nonprofit Corporation Act (the “Act”), the Declaration, and the Articles of Incorporation of the Association filed with the Division of Corporations and Commercial Code of the Utah Department of Commerce (the “Division”), as any of the foregoing may be amended from time to time. These Amended Bylaws replace and supercede any and all prior Bylaws.

## ARTICLE II - OFFICES

### 2.1 Principal Office.

The principal office of the Corporation shall be at 1942 South Zion Park Boulevard, Springdale, Utah 84767. The Board of Directors, in its discretion, may change from time to time the location of the principal office.

### 2.2 Registered Office and Agent.

The Act requires that the Association have and continuously maintain in the State of Utah a registered office and a registered agent. The registered agent must be an individual who resides in the State of Utah and whose business office is identical with the registered office. The initial registered office and the initial registered agent are specified in the Articles of Incorporation and may be changed by the Association at any time, without amendment to the Articles of Incorporation, by filing a statement as specified by law with the Division.

## ARTICLE III - MEMBERS

### 3.1 Members.

A “Member,” as provided in the Declaration, is the person or, if more than one, all persons collectively, who constitute the Owner of a Lot within the Development.

### 3.2 Memberships Appurtenant to Lots.

Each Membership shall be appurtenant to the fee simple title to a Lot. The person or persons who constitute the owner of fee simple title to a Lot shall automatically be the holder of the Membership appurtenant to that Lot and the Membership shall automatically pass with fee simple title to the Lot.

### 3.3 Members' Voting Rights.

Subject to the provisions in the Declaration and the Articles of Incorporation, a Class A Member shall be entitled to one (1) vote for each Lot which he or it owns within the Development, and a Class B Member, if any, shall be entitled to the number of votes accorded to such Member as provided in the Declaration.

### 3.4 Voting by Joint Owners.

In the event there is more than one (1) Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves. A vote cast at any Association meeting by any of such Owners, whether in person or by proxy or through 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, the vote involved shall not be counted for any purpose whatsoever, other than to determine whether a quorum exists.

### 3.5 Resolution of Voting Disputes.

In the event of any dispute as to the entitlement of any Member to vote or as to the results of any vote of Members at a meeting, the Board of Directors of the Association shall act as arbitrators and the decision of a disinterested majority of the Board of Directors shall, when rendered in writing, be final and binding as an arbitration award and may be acted upon in accordance with Utah law.

### 3.6 Suspension of Voting Rights.

The Board of Directors may suspend the voting rights of a Member for any period during which an assessment remains unpaid. The Board of Directors may also, after Notice and Hearing, suspend the voting rights of a Member and the right of the Member to use the Common Area and Facilities during and for up to sixty (60) days following any breach by such Member or Occupant of any provision of the Declaration or of any Rule or Regulation adopted by the Association unless such breach is a continuing breach, in which case such suspension shall continue for so long as such breach continues and up to sixty (60) days thereafter.

### 3.7 Transfer of Memberships on Association Books.

Transfer of Membership shall be made on the books of the Association only upon presentation of evidence, satisfactory to the Association, of the transfer of ownership of the Lot to which the Membership is appurtenant. Prior to presentation of such evidence, the Association may treat the previous owner of the Membership as the owner of the Membership entitled to all rights in connection therewith, including the right to vote and to receive notice.

### 3.8 Assignment of Voting Rights to Tenants and Mortgagees.

A Member may assign his right to vote to a tenant occupying his Unit or to a mortgagee of his Unit for the term of the lease or the mortgage and any sale, transfer or conveyance of the Unit and the Lot upon which it is situated shall, unless otherwise provided in the document of sale, transfer or conveyance, be subject to any such assignment of voting rights to any tenant or mortgagee. Any such assignment of voting rights and any revocation or termination of any assignment of voting rights shall be in writing and shall be filed with the Secretary of the Association.

## ARTICLE IV - MEETING OF MEMBERS

### 4.1 Place of Members' Meetings.

Meetings of Members shall be held at the principal office of the Association or at such other place, within or convenient to the Development, as may be fixed by the Board of Directors and specified in the notice of the meeting.

### 4.2 Annual Meetings of Members.

Annual Meetings of the Members shall be held at such time of day as is fixed by the Board of Directors and specified in the notice of meeting. The Annual Meetings shall be held to elect Directors of the Association and to transact such other business as may properly come before the meeting.

### 4.3 Special Meetings of Members.

Special Meetings of the Members may be called by the President or the Board of Directors or by Members holding not less than twenty-five percent (25%) of the total votes of all Members, excluding votes of Declarant, or by Declarant if it holds at least ten percent (10%) of the total votes of all Members. No business shall be transacted at a Special Meeting of Members except as indicated in the notice thereof.

#### 4.4 Record Date/Members List.

- 4.4.1. The record date for the purpose of determining Members entitled to notice of, or to vote at, any meeting of Members or in order to make a determination of such Members for any other proper purpose for the taking of any other lawful action shall be as set forth in Subsection 4.4.2 below, unless the Board of Directors, in advance of sending notice, set a date by resolution as the record date for any such determination of Members. Such record date shall not be more than sixty (60) days prior to the meeting of Members or the event requiring a determination of Members.
- 4.4.2. Members entitled to notice of a meeting of the Members are the Members of the Association at the close of business on the business day preceding the day on which notice is given, or, if notice is waived, at the close of business on the business day preceding the day on which the meeting is held. Members entitled to vote at a meeting of the Members are the Members of the Association on the date of the meeting, and who are otherwise eligible to vote. The record date for the purpose of determining the Members entitled to exercise any rights in respect of any other lawful action are Members of the Association at the later of (i) the close of business on the day on which the Board of Directors adopts the resolution relating to the exercise of the right; or (ii) the close of business on the sixtieth (60th) day before the date of the exercise of the right. A record date fixed under this Section may not be more than seventy (70) days before the meeting or action requiring a determination of Members occurs. A determination of members entitled to notice of or to vote at a meeting of Members is effective for any adjournment of the meeting unless the Board of Directors fixes a new date for determining the right to notice or the right to vote.
- 4.4.3. The Association shall only be required to prepare a list of the names of the Members as provided for in Section 9.3.3.

#### 4.5 Notice of Members' Meetings.

Written notice stating the place, day and hour of any meeting shall be delivered not less than ten (10) nor more than sixty (60) days before the date of the meeting, either personally or by first class or registered mail, by or at the direction of any of the Officers of the Association, or the Officers or persons calling the meeting, to each Member entitled to vote at such meeting. Notwithstanding the foregoing, notice given by other means shall be deemed fair and reasonable if given in accordance with the Act. The notice of an Annual, Regular or Special Meeting shall include (a) the names of any known candidate for Director and shall identify any other matter which it is known may come before the meeting; (b) potential conflicting interest transactions of a Director,



party related to a Director, or an entity in which the Director is a director or has a financial interest, if any; (c) notice of any indemnification or advance of expenses to a director in connection with a legal “proceeding” as defined in the Act; (d) notice of any amendment to these Amended Bylaws proposed by the Members and a copy, summary or general statement of the proposed amendment; (e) notice of a proposed plan of merger; (f) notice of a proposed sale of the properties by the Association other than in the regular course of activities; (g) notice of a proposed dissolution of the Association; and (h) any matter a Member intends to raise at the meeting if requested in writing to do so by a person entitled to call a Special Meeting and the request is received by the Secretary or President at least ten (10) days before the Association gives notice of the meeting. The notice of a Special Meeting shall state the purpose or purposes for which the meeting is called. If mailed, such notice shall be deemed to be delivered three (3) business days after a copy of the same has been deposited in the United States mail addressed to the Member at the street address given by the Member to the Association, or to the residence of such Member if no address has been given to the Association.

#### 4.6 Proxies and Ballots Used at Meetings.

A Member entitled to vote at a meeting may vote in person, by proxy, or by ballot executed in writing by the Member or his duly authorized attorney-in-fact and filed with the Secretary of the meeting prior to the time the proxy is exercised or the ballot counted. Any proxy or ballot may be revoked, prior to the time the proxy is exercised or the ballot counted, by (a) the Member attending the meeting and voting in person, or (b) the Member signing and delivering to the Secretary or other person authorized to tabulate proxy or ballot votes (i) a writing stating that the appointment of proxy or ballot is revoked, or (ii) a subsequent proxy form or ballot. A proxy or ballot shall automatically cease upon the conveyance by a Member of the Lot of the Member and the transfer of the Membership on the books of the Association. No proxy shall be valid after eleven (11) months from the date of its execution unless otherwise provided in the proxy. The death or incapacity of the Member appointing a proxy or issuing a ballot does not affect the right of the Association to accept the proxy’s authority or count the ballot unless notice of the death or incapacity is received by the Secretary or other Officer or agent authorized to tabulate votes before the proxy exercises the proxy’s authority or the ballot is counted.

A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. All solicitations for votes by written ballot shall: (a) indicate the number of responses needed to meet the quorum requirements; (b) state the percentage of approvals necessary to approve each matter other than election of Directors; (c) specify the time by which a ballot must be received by the Association in order to be counted; and (d) be accompanied by written information sufficient to permit each person casting the ballot to reach an informed decision on the matter. A written ballot delivered to every Member entitled to vote on the matter or matters therein, as described in this Section, may be used in connection with any Annual, Regular, or Special Meeting of Members, thereby allowing Members the choice of either voting in person, through proxy, or by written ballot delivered by a Member to the Association in lieu of attendance at such meeting. 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.

#### 4.7 Telecommunications.

Any or all of the Members may participate in an Annual, Regular, or Special Meeting of the Members by, or the meeting may be conducted through the use of, any means of communication by which all persons participating in the meeting may hear each other during the meeting. A member participating in a meeting by a means permitted under this Section is considered to be present in person at the meeting.

#### 4.8 Quorum at Members' Meetings.

Except as may be otherwise provided in the Declaration, the Articles of Incorporation, or these Amended 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 ten percent (10%) 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 Directors 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 Amended 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.

#### 4.9 Adjournment of Members' Meetings.

Members present in person or by proxy at any meeting at which a quorum or reduced quorum, as the case may be, was present may adjourn the meeting from time to time, without notice other than announcement at the meeting, for a total period or periods not to exceed forty-five (45) days after the date set for the original meeting. At any adjourned meeting which is held without notice other than announcement at the meeting, the quorum requirement shall be the same as the quorum requirement of the meeting so adjourned, and any business may be transacted which might have been transacted at the adjourned meeting.

#### 4.10 Vote Required at Members' Meetings.

At any meeting where a quorum is present, a majority of the votes present in person, ballot or by proxy and entitled to be cast on a matter shall be necessary for the adoption of the matter, unless a greater proportion is required by law, the Declaration, the Articles of Incorporation, or these Amended Bylaws, except that, in the case of elections in which

there are more than two (2) candidates, the persons receiving the highest number of votes shall be elected.

#### 4.11 Cumulative Voting Not Permitted.

Cumulative voting by Members in the election of Directors shall not be permitted.

#### 4.12 Order of Business.

The order of business at any meeting of Members shall be as follows: (a) roll call to determine the voting power represented at the meeting; (b) proof of notice of meeting or waiver of notice; (c) election of Directors, if applicable; (d) report of finances; and (e) any other Association business.

#### 4.13 Expenses of Meetings.

The Association shall bear the expenses of all Regular and Annual Meetings of Members and of Special Meetings of Members.

#### 4.14 Waiver of Notice.

A Member may waive any notice required by the Act or by these Amended Bylaws, whether before or after the date or time stated in the notice as the date or time when any action will occur or has occurred. A waiver shall be in writing, signed by the Member entitled to the notice, and delivered to the Association for inclusion in the minutes; or filing with the corporate records. The delivery and filing required above may not be conditions of the effectiveness of the waiver. A Member's attendance at a meeting (a) waives objection to lack of notice or defective notice of the meeting, unless the Member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting because of lack of notice or defective notice, and (b) waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the Member objects to considering the matter when it is presented.

#### 4.15 Action of Members Without a Meeting.

Any action required to be taken or which may be taken at a meeting of Members may be taken without a meeting and without prior notice if a consent, in writing, setting forth the action so taken, shall be signed by all of the Members entitled to vote with respect to the subject matter thereof. Directors may not be elected by written consent except by unanimous written consent of all Members entitled to vote for the election of Directors. Any action taken under this Section is not effective unless all written consents are received within a sixty (60) day period and have not been revoked. A written consent may be given by electronically transmitted facsimile or other form of communication providing the Association with a complete copy of the written consent, including a copy of the signature to the written consent.

#### 4.16 Signature of Members.

Except as otherwise provided in the Act, all votes, consents, written ballots, waivers, proxy appointments, and proxy or ballot revocations shall be in the name of the Member and signed by the Member with a designation of the Member's capacity; i.e., owner, partner, president, director, member, trustee, conservator, guardian, etc.

### ARTICLE V - BOARD OF DIRECTORS

#### 5.1 General Powers and Duties of the Board of Directors.

The Board of Directors shall have the duty to manage and supervise the affairs of the Association and shall have all powers necessary or desirable to permit it to do so. Without limiting the generality of the foregoing, the Board of Directors shall have the power to exercise or cause to be exercised for the Association all of the powers, rights and authority of the Association not reserved to Members in the Declaration, the Articles of Incorporation, these Amended Bylaws, or the Act.

#### 5.2 Special Powers and Duties of the Board of Directors.

Without limiting the foregoing statement of general powers and duties of the Board of Directors or the powers and duties of the Board of Directors as set forth in the Declaration, the Board of Directors shall be vested with the following specific powers and duties:

- 5.2.1 Assessments. The duty to fix and levy from time to time assessments, special assessments, and all other assessments upon the Members of the Association as provided in the Declaration; and to enforce the payment of such delinquent assessments as provided in the Declaration.
- 5.2.2 Insurance. The duty to contract and pay premiums for fire and casualty and liability and other insurance in accordance with the provisions of the Declaration.
- 5.2.3 Common Area. The duty to manage and care for the Common Area, and to employ personnel necessary for the care and operation of the Common Area, and to contract and pay for necessary or desirable Improvements on property acquired by the Association in accordance with the Declaration.
- 5.2.4 Agents and Employees. The power to select, appoint, and remove all Officers, agents, and employees of the Association and to prescribe such powers and duties for them as may be consistent with law, with the Declaration, the Articles of Incorporation, and these Amended Bylaws.

- 5.2.5 Borrowing. The power, with the approval of the Members representing at least two-thirds (2/3) of the voting power of the Association, to borrow money and to incur indebtedness for the purpose of the Association, and to cause to be executed and delivered therefor, in the Association's name, promissory notes, bonds, debentures, mortgages, pledges, hypothecations or other evidences of debt, and securities therefor.
- 5.2.6 Enforcement. The power to enforce the provisions of the Declaration, the Rules and Regulations of the Association, these Amended Bylaws, or other agreements of the Association.
- 5.2.7 Delegation of Powers. The power to delegate its powers according to law.
- 5.2.8 Rules and Regulations. The power to adopt such rules and regulations with respect to the interpretation and implementation of the Declaration, use of Common Area, and use of any property within the Development including Dwelling Units and to levy fines and penalties for infractions and violations thereof; provided, however, that such rules and regulations shall be enforceable only to the extent that they are consistent with the Declaration, the Articles of Incorporation, and these Amended Bylaws.
- 5.2.9 Emergency Powers. The right to exercise such emergency powers as provided for in the Act.
- 5.2.10 Voting Rights. The power to suspend the voting rights and right to use of the recreational facilities of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations.
- 5.2.11 Vacancy on Board. The power to declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors.
- 5.2.12 Manager. The right to employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.
- 5.2.13 Records. The duty to cause to be kept a complete record of all Association acts and corporate affairs and to present a statement thereof to the Members at the Annual Meeting of the Members, or at any Special Meeting when such statement is requested in writing by ten percent (10%) of the Class A Members who are entitled to vote.

5.2.14 Supervision. The duty to supervise all officers, agents and employees of the Association, and to see that their duties are properly performed.

5.2.15 Assessments. As more fully provided in the Declaration, the duty to:

(a) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period; and

(b) send written notice of each assessment to every owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(c) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same.

5.2.16 Certificate. The duty to issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.

5.2.17 Insurance. The duty to procure and maintain adequate liability and hazard insurance on property owned by the Association.

5.2.18 Bonding. The duty to cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate.

5.2.19 Maintenance. The duty to cause the streets, Common Area amenities, and facilities to be maintained.

### 5.3 Qualifications of Directors.

A Director must be a natural person 18 years of age or over and an Owner of a Lot within the Development or, if the Owner of any such Lot is a partnership, corporation, or limited liability company, must be a designated representative of such partnership, corporation, or limited liability company. If a Director conveys or transfers title to his Lot, or if a Director who is a designated representative of a partnership, corporation, or limited liability company ceases to be such designated representative, or if the partnership, corporation, or limited liability company of which a Director is a designated representative transfers title to its Lot, such Director's term as Director shall immediately terminate and a new Director shall be selected as promptly as possible to take such Director's place. Notwithstanding anything in this Section to the contrary, none of the initial Directors, as designated in the Articles of Incorporation, shall be required to have

any ownership interest in any Lot in order to qualify to serve as a Director until the first election of Directors by the Members. Any Director no longer qualified to serve under the standards provided for in this Section 5.3 may be removed by a majority vote of the Directors then in office.

#### 5.4 Number of Directors.

The number of Directors of the Association shall be not less than three (3) and not more than nine (9), who need not be members of the Association. The number of Directors can be increased beyond three (3) Directors to nine (9) by the majority vote of the Board of Directors.

#### 5.5 Term of Office of Directors and Elections.

The affairs of the Association shall initially be managed by a Board of Directors composed of three (3) individuals, unless changed pursuant to Section 5.4. Except as provided in Section 4.15, the Board of Directors shall be elected by secret ballot at a meeting of the Members to serve as follows:

At the first annual meeting, the Members shall elect up to three (3) Directors for a term of one year, up to three (3) Directors for a term of two (2) years, and up to three (3) Directors for a term of three (3) years; and at each annual meeting thereafter, the Members shall elect up to three (3) Directors for a term of three (3) years.

Directors newly elected at the Annual Meeting shall take office on the first day of the month following the Annual Meeting. Said newly elected Directors are invited to attend Board of Directors meetings to familiarize them with the Association procedures prior to taking office. Only Members who are not in violation of the Declaration, these Amended Bylaws, Association Rules and Regulations, or Architectural Rules and Regulations shall be eligible to run for a position on the Board of Directors.

In an election of multiple Directors, that number of candidates equaling the number of Directors to be elected, having the highest number of votes cast in favor of their election, are elected to the Board of Directors. When only one (1) Director is being voted upon, the candidate having the highest number of votes cast in his or her favor is elected to the Board of Directors.

#### 5.6 Removal of Directors by the Members.

At any meeting of the Members, the notice of which indicates such purpose, any or all of the Directors may be removed, with or without cause, by the affirmative vote of Members holding a majority of the voting interests of all Members; and a successor may be then and there elected to fill the vacancy thus created.

### 5.7 Resignation of Directors.

Any Director may resign at any time by giving written notice to the President, to the Secretary, or to the Board of Directors stating the effective date of such resignation. Acceptance of such resignation shall not be necessary to make the resignation effective. A Director who resigns may deliver to the Utah Department of Commerce, Division of Corporations and Commercial Code a statement setting forth (a) that person's name; (b) the name of this Association; (c) information sufficient to identify the report or other document in which the person is named as a Director or Officer; and (d) the date on which the person ceased to be a Director or Officer or a statement that the person did not hold the position for which the person was named in the corporate report or other document.

### 5.8 Vacancies in the Board of Directors.

Any vacancy occurring in the Board of Directors shall be filled by the affirmative vote of a majority of the remaining Directors, though less than a quorum of the Board of Directors. A Director elected or appointed to fill a vacancy shall be elected or appointed for the unexpired term of his predecessor in office. A directorship to be filled by reason of an increase in the number of Directors shall be filled only by vote of the Members. A Director elected by the Board of Directors to fill the vacancy of a Director elected by the voting Members may be removed without cause by the voting Members, but not the Board of Directors. Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining Directors though less than a quorum of the Board of Directors. Should any vacancy of the Board of Directors remain unfilled for a period of two (2) months, the Members may, at a Special Meeting of the Members called for that purpose, elect a Director to fill such vacancy by a majority of the votes which Members present at such meeting, or represented by proxy or ballot, are entitled to cast.

### 5.9 Appointment of Committees.

The Board of Directors, by resolution adopted by a majority of the Directors in office, may designate and appoint one or more committees which shall consist of two or more Directors and which, unless otherwise provided in such resolution, shall have and may exercise the authority to make recommendations (but not final decisions) to the Board of Directors in the management of the Association, except authority with respect to those matters specified in the Act as matters which such committee may not have and exercise the authority of the Board of Directors.

### 5.10 General Provisions Applicable to Committees.

The designation and appointment of any committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any individual Director, of any responsibility imposed upon it or him by law. The provision of these Amended Bylaws with respect to notice of meeting, waiver of notice, quorums, adjournments, vote



required and action by consent applicable to meetings of the Board of Directors shall be applicable to meetings of committees of the Board of Directors.

#### 5.11 Nomination Committee.

Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the Annual Meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each Annual Meeting of the Members, to serve from the close of such Annual Meeting until the close of the next Annual Meeting and such appointment shall be announced at each Annual Meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or non-Members.

#### 5.12 Architectural Control Committee.

The Board of Directors shall appoint an Architectural Control Committee as provided, in the Declaration of Covenants, Conditions and Restrictions. The Architectural Control Committee may act independently to assure compliance with the Architectural Control provision of the Declaration and the Architectural Standards of these bylaws.

## ARTICLE VI - MEETING OF DIRECTORS

#### 6.1 Place of Directors' Meetings.

Meetings of the Board of Directors shall be held at the principal office of the Association or at such other place, within or convenient to the Development, as may be fixed by the Board of Directors and specified in the notice of the meeting.

#### 6.2 Annual Meeting of Directors.

The Annual Meeting of the Board of Directors shall be held on the same date as, or within ten (10) days following, the Annual Meeting of Members and also on the date that newly elected Directors take office. The Business to be conducted at the Annual Meeting of the Board of Directors shall consist of the appointment of Officers of the Association and the transaction of such other business as may properly come before the meeting. No prior notice of the Annual Meeting of the Board of Directors shall be necessary if the meeting is held on the same day and at the same place as the Annual Meeting of Members at which the Board of Directors is elected or if the time and place of the Annual Meeting of the Board of Directors is announced at the Annual Meeting of Members.

### 6.3 Other Regular Meetings of Directors.

The Board of Directors may hold other regular meetings and may, by resolution, establish in advance the times and places for such regular meetings. No prior notice of any regular meeting need be given after establishment of the time and place thereof by such resolution.

### 6.4 Special Meetings of Directors.

Special Meetings of the Board of Directors may be called by the President or any two (2) members of the Board of Directors other than the President.

### 6.5 Notice of Directors' Meetings.

In the case of all meetings of the Board of Directors for which notice is required by these Amended Bylaws, notice stating the place, day and hour of the meeting shall be delivered not less than three (3) nor more than thirty (30) days before the date of the meeting, by mail, fax, telephone or personally, by or at the direction of the persons calling the meeting, to each member of the Board of Directors. If mailed, such notice shall be deemed to be delivered three (3) business days after a copy of the same has been deposited in the United States mail addressed to the Director at his home or business address as either appears on the records of the Association, with postage thereon prepaid. If faxed, such notice shall be deemed delivered when the transmission is complete. If by telephone such notice shall be deemed to be delivered when given by telephone to the Director. If given personally, such notice shall be deemed to be delivered upon delivery of a copy of a written notice to, or upon verbally advising, the Director or some person who appears competent and mature at his home or business address as either appears on the records of the Association.

Neither the business to be transacted at, nor the purpose of, any Regular or Special Meeting of the Board of Directors need be specified in the notice or waiver of such meeting.

### 6.6 Proxies.

For purposes of determining a quorum with respect to a particular proposal, and for purposes of casting a vote for or against a particular proposal, a Director may be considered to be present at a meeting and to vote if the Director has granted a signed written proxy: (i) to another Director who is present at the meeting; and (ii) authorizing the other Director to cast the vote that is directed to be cast by the written proxy with respect to the particular proposal that is described with reasonable specificity in the proxy. Except as provided in this Section 6.6 and as permitted by Section 6.13, Directors may not vote or otherwise act by proxy.

#### 6.7 Telecommunications.

The Board of Directors may permit any Director to participate in a Regular or Special Meeting by, or conduct the meeting through the use of, any means of communication by which all Directors participating may hear each other during the meeting. A Director so participating in such a meeting is considered to be present in person at the meeting.

#### 6.8 Quorum of Directors.

A majority of the number of Directors fixed in these Amended Bylaws shall constitute a quorum for the transaction of business. For the purpose of determining the presence of a quorum, Directors will be counted if represented in person or by proxy, if applicable.

#### 6.9 Adjournment of Directors' Meeting.

Directors present at any meeting of the Board of Directors may adjourn the meeting from time to time, whether or not a quorum shall be present, without notice other than announcement at the meeting, for a total period or periods of not to exceed thirty (30) days after the date set for the original meeting. At any adjourned meeting which is held without notice other than announcement at the meeting, the quorum requirement shall not be reduced or changed, but if the originally required quorum is present, any business may be transacted which might have been transacted at the meeting as originally called.

#### 6.10 Vote Required at Directors' Meeting.

At any meeting of the Board of Directors, if a quorum is present, a majority of the votes present in person or by proxy, if applicable, and entitled to be cast on a matter shall be necessary for the adoption of the matter, unless a greater proportion is required by law, the Declaration, the Articles of Incorporation, or these Amended Bylaws.

#### 6.11 Officers at Meetings.

The President shall act as chairman and the Board of Directors shall appoint a secretary to act at all meetings of the Board of Directors.

#### 6.12 Waiver of Notice.

A waiver of notice of any meeting of the Board of Directors, signed by a Director, whether before or after the meeting, shall be equivalent to the giving of notice of the meeting to such Director. Attendance of a Director at a meeting in person shall constitute waiver of notice of such meeting unless (a) at the beginning of the meeting or promptly upon the Director's later arrival the Director objects to holding the meeting or transacting business at the meeting because of lack of notice or defective notice and, after objecting, the Director does not vote for or assent to action taken at the meeting, or (b) the Director contemporaneously requests that the Director's dissent or abstention as to any specific action taken be entered in the minutes of the meeting; or (c) the Director causes written

notice of the Director's dissent or abstention as to any specific action to be received by (i) the presiding officer of the meeting before adjournment of the meeting; or (ii) the Association promptly after adjournment of the meeting.

6.12.1 Dissent or Abstention. The right of dissent or abstention pursuant to Section 6.12 is not available to a Director who votes in favor of the action taken. .

### 6.13 Action of Directors Without a Meeting.

Any action required to be taken or which may be taken at a meeting of the Board of Directors may be taken without a meeting and without prior notice if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors. Any action taken under this Section 6.13 is not effective unless all written consents are received within a sixty (60) day period and have not been revoked.

## ARTICLE VII - OFFICERS

### 7.1 Officers, Employees and Agents.

The officers of the Association shall be natural persons 18 years of age or over and shall consist of a President, a Secretary, a Treasurer, and such other Officers, assistant Officers, employees, and agents as may be deemed necessary by the Board of Directors. Officers other than the President need not be Directors. The same person may simultaneously hold more than one office.

### 7.2 Appointment and Term of Office of Officers.

The Officers shall be appointed by the Board of Directors at the Annual Meeting of the Board of Directors and shall hold office, subject to the pleasure of the Board of Directors, until the next Annual Meeting of the Board of Directors or until their successors are appointed, whichever is later, unless the Officer resigns, or is removed earlier.

### 7.3 Resignation and Removal of Officers.

An Officer may resign at any time by giving written notice of resignation to the Association. A resignation of an Officer is effective when the notice is received by the Association unless the notice specifies a later effective date. If a resignation is made effective at a later date, the Board of Directors may: (a) (i) permit the Officer to remain in office until the effective date; and (ii) fill the pending vacancy before the effective date if the successor does not take office until the effective date; or (b) (i) remove the Officer at any time before the effective date; and (ii) fill the vacancy created by the removal. The Board of Directors may remove any Officer at any time with or without cause. An Officer who resigns, is removed, or whose appointment has expired may file a statement in the same form as provided in Section 5.7.

#### 7.4 Vacancies in Officers.

Any vacancy occurring in any position as an Officer may be filled by the Board of Directors. An Officer appointed to fill a vacancy shall be appointed for the unexpired term of his predecessor in office.

#### 7.5 President.

The President shall be a Member of the Board of Directors and shall be the principal executive officer of the Association and, subject to the control of the Board of Directors, shall direct, supervise, coordinate and have general control over the affairs of the Association, and shall have the powers generally attributable to the chief executive officer of a corporation. The President shall preside at all meetings of the Board of Directors and of the Members of the Association.

#### 7.6 Vice President.

The Vice President, if any, may act in place of the President in case of his death, absence or inability to act, and shall perform such other duties and have such authority as is from time to time delegated by the Board of Directors or by the President.

#### 7.7 Secretary.

The Secretary shall be the custodian of the records and the seal, if any, of the Association and shall affix the seal to all documents requiring the same; shall see that all notices are duly given in accordance with the provisions of these Amended Bylaws and as required by law and that the books, reports and other documents and records of the Association set forth in Section 9.3 are properly kept and filed; shall take or cause to be taken and shall keep minutes of the meetings of Members, of the Board of Directors, and of committees of the Board of Directors; shall keep at the principal office of the Association a record of the names and addresses of the Members; and, in general, shall perform all duties incident to the office of Secretary and such other duties as may, from time to time, be assigned to him by the Board of Directors or by the President. The Board of Directors may appoint one or more Assistant Secretaries who may act in place of the Secretary in case of his death, absence or inability to act. The duties of the Secretary may be delegated to a property management company.

#### 7.8 Treasurer.

The Treasurer shall have charge and custody of, and be responsible for, all funds and securities of the Association; shall deposit all such funds in the name of the Association in such depositories as shall be designated by the Board of Directors; shall keep correct and complete financial records and books of account and records of financial transactions and condition of the Association and shall submit such reports thereof as the Board of Directors may, from time to time, require; shall arrange for the annual report required

under Section 9.6 of these Amended Bylaws; and, in general, shall perform all the duties incident to the office of Treasurer and such other duties as may from time to time be assigned to him by the Board of Directors or by the President. The Board of Directors may appoint one or more Assistant Treasurers who may act in place of the Treasurer in case of his death, absence or inability to act. The duties of the Treasurer may be delegated to a property management company.

#### 7.9 Bonds.

The Association shall require and pay for fidelity bonds covering Officers or other persons handling funds of the Association as required in the Declaration. The Association shall pay the premiums for such bonds.

### ARTICLE VIII - INDEMNIFICATION OF OFFICIALS AND AGENTS

#### 8.1 Right of Indemnification.

The Association shall indemnify any Director, Officer, employee, fiduciary and agent (including without limitation the property manager) to the fullest extent allowed under Sections 16-6a-901 through 16-6a-910 of the Act, or any replacement Sections thereof.

#### 8.2 Authority to Insure.

The Association may purchase and maintain liability insurance on behalf of any Director, Officer, employee, fiduciary and agent against any liability asserted against him and incurred by him in such capacity or arising out of his status as such, including liabilities for which he might not be entitled to indemnification hereunder.

### ARTICLE IX - MISCELLANEOUS

#### 9.1 Amendment/Conflict.

These Amended Bylaws may be amended, at any Regular, Annual, or Special Meeting of the Board of Directors, by a vote of the majority of the Board of Directors, except if it would result in a change of the rights, privileges, preferences, restrictions, or conditions of a Membership class as to voting, dissolution, redemption, or transfer by changing the rights, privileges, preferences, restrictions, or conditions of another class. The Members may amend the Bylaws even though the Bylaws may also be amended by the Board of Directors. Amendments to the Bylaws by Members shall be made in accordance with the Act. In the case of any conflict between the Articles and these Amended Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Amended Bylaws, the Declaration will control.

## 9.2 Compensation of Officers, Directors and Members.

No Director shall have the right to receive any compensation from the Association for serving as a Director except for reimbursement of expenses as may be approved by resolution of disinterested Members of the Board of Directors and except as may otherwise be approved by the Members. Officers, agents and employees shall receive such reasonable compensation as may be approved by the Board of Directors. Appointment of a person as an Officer, agent or employee shall not, of itself, create any right to compensation.

## 9.3 Books and Records.

- 9.3.1 The Association shall keep as permanent records: (a) minutes of all meetings of its Members and Board of Directors; (b) a record of all actions taken by the Members or Board of Directors without a meeting; (c) a record of all actions taken by a committee of the Board of Directors in place of the Board of Directors on behalf of the Association; (d) a record of all waivers of notices of meetings of Members and of the Board of Directors or any committee of the Board of Directors; and (e) a copy of the Declaration, as the same may be amended.
- 9.3.2 The Association shall maintain appropriate accounting records.
- 9.3.3 The Association or its agent shall maintain a record of its Members in a form that permits preparation of a list of the name and address of all Members: (a) in alphabetical order, by class, and (b) showing the number of votes each Member is entitled to vote.
- 9.3.4 The Association shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.
- 9.3.5 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; (e) records of all actions taken by Members without a meeting; (f) all written communications to Members generally as Members for a period of three years; (g) a list of the names and business or home addresses of its current Directors and Officers; (h) a copy of its most recent annual report; and (i) all financial statements prepared for periods ending during the last three (3) years.

## 9.4 Inspection of Records.

- 9.4.1 A Director or Member is entitled to inspect and copy any of the records of the nonprofit corporation described in Subsection 9.3.5: (a) during regular business hours; (b) at the Association's principal office; and (c) if the Director or Member gives the Association written demand, at least five (5) business days before the date on which the Member wishes to inspect and copy the records.
- 9.4.2 In addition to the rights set forth in Subsection 9.4.1, a Director or Member is entitled to inspect and copy any of the other records of the Association: (a) during regular business hours; (b) at a reasonable location specified by the Association; and (c) at least five (5) business days before the date on which the Member wishes to inspect and copy the records, if the Director or Member: (i) meets the requirements of Subsection 9.4.3; and (ii) gives the Association written demand.
- 9.4.3 A Director or Member may inspect and copy the records described in Subsection 9.4.2 only if: (a) the demand is made: (i) in good faith; and (ii) for a proper purpose; (b) the Director or Member describes with reasonable particularity the purpose and the records the Director or Member desires to inspect; and (c) the records are directly connected with the described purpose.
- 9.4.4 Notwithstanding any other provision in these Amended Bylaws, for purposes of this Section: (a) "Member" includes: (i) a beneficial owner whose membership interest is held in a voting trust; and (ii) any other beneficial owner of a membership interest who establishes beneficial ownership; and (b) "proper purpose" means a purpose reasonably related to the demanding Member's or Director's interest as a Member or Director.
- 9.4.5 The right of inspection granted by this Section may not be abolished or limited by the Articles of Incorporation or these Amended Bylaws.
- 9.4.6 This Section does not affect: (a) the right of a Director or Member to inspect records relating to ballots; (b) the right of a Member to inspect records to the same extent as any other litigant if the Member is in litigation with the Association; or (c) the power of a court, independent of this Article, to compel the production of corporate records for examination.
- 9.4.7 A Director or Member may not use any information obtained through the inspection or copying of records permitted by 9.4.2 for any purposes other than those set forth in the demand made under 9.4.3.



## 9.5 Scope of Inspection Right.

A Director or Member's agent or attorney has the same inspection and copying rights as the Director or Member. The right to copy records under Section 9.4 includes, if reasonable, the right to receive copies made by photographic, xerographic, electronic, or other means. Except for requests for financial statements, the Association may impose a reasonable charge covering the costs of labor and material for copies of any documents provided to the Director or Member. The charge may not exceed the estimated cost of production and reproduction of the records. The nonprofit corporation may comply with a Director's or Member's demand to inspect the record of Members under Subsection 9.3.3 by furnishing to the Director or Member a list of Directors or Members that: (a) complies with Subsection 9.3.3; and (b) is compiled no earlier than the date of the Director's or Member's demand. Concerning financial statements, by no later than fifteen (15) days after the day on which the Association receives a written request of any Member, the Association shall mail to the Member the following that show in reasonable detail the assets and liabilities and results of the operations of the Association: (a) the Association's most recent annual financial statements, if any; and (b) the Association's most recently published financial statements, if any. Without consent of the Board of Directors, a membership list or any part thereof may not be obtained or used by any person for any purpose unrelated to a Member's interest as a Member.

## 9.6 Annual Report.

The Board of Directors shall cause to be prepared and distributed to each Member and any First Mortgagee of a Member who has filed a written request therefor, not later than ninety (90) days after the close of each fiscal year of the Association, an annual report containing (a) an income statement reflecting income and expenditures of the Association for such fiscal year; (b) a balance sheet as of the end of such fiscal year, (c) a statement of changes in financial position for such fiscal year, and (d) a statement of the place of the principal office of the Association where the books and records of the Association, including a list of names and addresses of current Members, may be found.

## 9.7 Statement of Account.

Upon payment of a reasonable fee to be determined by the Association and upon written request of an Owner of a Lot or any person with any right, title or interest in a Lot or intending to acquire any right, title or interest in a Lot, the Association shall furnish, within ten (10) days after the receipt of such request, a written statement of account setting forth the amount of unpaid assessments, or other amounts, if any, due or accrued and then unpaid with respect to the Lot and the Unit thereon, and the amount of the assessments for the current fiscal period of the Association payable with respect to the Lot and the Unit thereon. Such statement shall, with respect to the party to whom it is issued, be conclusive against the Association and all parties, for all purposes, that no greater or other amounts were then due or accrued and unpaid and that no other assessments have been levied.

#### 9.8 Annual Corporation Reports.

The Association shall file with the Division of Corporations and Commercial Code for the Utah Department of Commerce, within the time prescribed by law, annual corporate reports in such form and containing the information required by law and shall pay the fee for such filing as prescribed by law.

#### 9.9 Fiscal Year.

The fiscal year of the Association shall be the calendar year, and shall begin on January 1 and end the succeeding December 31. The fiscal year may be changed by the Board of Directors without amending these Amended Bylaws.

#### 9.10 Seal.

The Board of Directors may adopt a seal which shall have inscribed thereon the name of the Association and the words "SEAL" and "UTAH".

#### 9.11 Shares of Stock and Dividends Prohibited.

The Association shall not have or issue shares of stock and no dividends shall be paid and no part of the income or profit of the Association shall be distributed to its Members, Directors or Officers. Notwithstanding the foregoing paragraph, the Association may issue certificates evidencing Membership therein, may confer benefits upon its Members in conformity with its purposes and, upon dissolution or final liquidation, may make distributions as permitted by law, and no such payment, benefit or distribution shall be deemed to be a dividend or distribution of income or profit.

#### 9.12 Loans to Directors, Officers and Members Prohibited.

No loan shall be made by the Association to its Members, Directors or Officers, and any Director, Officer or Member who assents to or participates in the making of any such loan shall be liable to the Association for the amount of such loan until the repayment thereof.

#### 9.13 Limited Liability.

The Association, the Board of Directors, the Architectural Control Committee, and Declarant, and any agent or employee of any of the same shall not be liable to any person for any actions or for any failure to act in connection with the affairs of the Association if the action taken or failure to act was in good faith and without malice.

#### 9.14 Minutes and Presumptions Thereunder.

Minutes or any similar record of the meetings of Members or of the Board of Directors, when signed by the Secretary or acting Secretary of the meeting, shall be presumed to

truthfully evidence the matters set forth therein. A recitation in any such minutes that notice of the meeting was properly given shall be prima facie evidence that the notice was given.

#### 9.15 Checks, Drafts and Documents.

All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to the Association, shall be signed or endorsed by such person or persons, and in such manner as, from time to time, shall be determined by resolution of the Board of Directors.

#### 9.16 Execution of Documents.

The Board of Directors, except as these Amended Bylaws otherwise provide, may authorize any officer or Officers, agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances; and unless so authorized by the Board of Directors, no Officer, agent or employee shall have any power or authority to bind the Association by any contract or engagement or to pledge its credit or to render it liable for any purpose or in any amount.

#### 9.17 Right to Inspect.

Notwithstanding the other provisions of this Article, unless otherwise provided in these Amended Bylaws, a right of a Member to inspect or receive information from the Association applies only to a voting Member of the Association.

### Article X - Architectural Standards

#### 10.1 Required Plans and Disclaimers.

The Association and/or any of its members or assigns or any other person, group or corporation desiring to construct any building, fence or other structure within or upon lands included as Lots or Interests in any plot of the Kinesava Residential Planned Unit Development, must first submit plans, including exterior elevations, to the Board of Directors, or its designated committee or agent, sitting as the Architectural Committee, to demonstrate compliance with the general architectural standards set forth below.

The Architectural Committee shall not approve any plans for the construction of any structure which are not sufficiently descriptive or detailed enough to show total compliance with the KHAI standards for construction. Building plans submitted to KHAI shall be identical in scope and content to those submitted to the Town of Springdale Planning Commission for approval. (February 2011)

The Architectural Committee and/or the Board of Directors shall not be liable in damages to any person submitting any architectural plans for approval or to any owner or owners of land within the RPUD, by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove, with regard to such architectural plans.

Any person acquiring the title to any property in the RPUD or any person submitting plans to the Architectural Committee for approval, by doing so shall be deemed to have agreed and covenanted that he or it will not bring any action or suit to recover damages against the Architectural Committee and/or the Board of Directors, its members as individuals, or its advisors, employees, or agents, by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove with regard to such architectural plans.

No owner or owners of land, or person acquiring title to any property in the RPUD, shall have any independent right to enforce the terms of this Article X and are deemed to have agreed and covenanted that he, she, or it will not bring any action or suit to recover damages against any other person for action or failure to act with respect to such architectural plans.

#### 10.2 Environmental Disruption.

Environmental disruption must be kept to a minimum. Native trees and plants should be left undisturbed wherever possible or replaced when removed.

#### 10.3 Water Use.

Water use should be conserved insofar as possible. Small lawns may be sprinkler irrigated, drip irrigation is recommended for every appropriate application.

#### 10.4 Excavations, trenches, etc.

Excavations, trenches, etc., must be restored to natural pre-existing state or attractively landscaped with indigenous topsoil and plant species or other approved plantings. No raw cut or fill areas will be allowed without reseeding, reforestation or finished landscaping.

#### 10.5 Facing of Structures.

Structures will be faced with naturally colored rock, stucco, adobe soft red brick, or lightly stained natural woods. No painted sidings or fences will be permitted. Perimeter fences on properties will not be permitted to preserve the open character of Kinesava except in circumstances where a compelling need can be demonstrated. Such need must be approved by the Architectural Committee. (February 7, 2008)

#### 10.6 Pavings.

Red gravel pavings are recommended. Concrete or asphalt parking pads are permitted.

#### 10.7 Carports.

Carports will be enclosed on three sides with walls or visual screens.

#### 10.8 Outbuildings.

The construction of outbuildings separate from the principal house and garage is discouraged, and will be allowed only when buildings, grounds, fences, etc., are properly integrated into a consistent visual system.

#### 10.9 Satellite Dishes.

Small satellite dishes for TV and internet use will be allowed. They must be placed in an unobtrusive location as much as possible.

#### 10.10 Solar Power Collectors.

Rooftop solar power collectors must be non-reflective, lie flat in the plane of the roof and be colored to match the roof. It is recommended that solar power collectors be mounted on the ground and screened from view.

#### 10.11 Recreational Vehicles.

Recreational vehicles, recreational trailers and fifth wheel trailers will not be stored in the open or on the street. If located on an individual lot, they will be masked from view from all other lots by fences, structures or landscaping. Vehicle parking and recreational vehicle storage on platted Common Areas are specifically disallowed.

#### 10.12 Type of Roof. Flat raked tile roofs are encouraged.

Composition shingles and non-reflective materials on flat roofs will be allowed if appropriately colored and textured. Spanish tile and metal roofs are not allowed.

#### 10.13 Dwelling Size.

Dwelling size for homes shall be between 1400 and 3000 square feet of finished living space. Two or more contiguous lots may be combined into one common building lot. However, once combined they cannot be separated for the purpose of building another home or structure.

#### 10.14 Multi-unit Homes.

Multi-unit homes are not allowed.

#### 10.15 Garages.

A single car garage is required for each new home. Any conversion of garage space exceeding the minimum required to habitable living space shall not result in the total living space to exceed 3000 square feet as measured from the outside face of an exterior wall to the outside face of an exterior wall. (March 3011)

#### 10.16 Lighting.

All exterior lights shall be of a type and installed in a location such that no unshielded light extends outward from the fixtures at an angle greater than 30 degrees from the vertical. All interior and exterior fluorescent lamps are to be shielded from direct exterior view.

#### 10.17 Time Limit for Review of Plans.

All plans submitted by the Association and/or any of its members to the Board of Directors or to its designated committee or agent to demonstrate compliance with the general architectural standards set forth in this Article X shall be deemed approved and this article fully complied with if the Board or its designated agent fails to approve or disapprove such plans within 30 days after submission.

The Board of Directors has the right to ask for clarification or additional information to be used in the approval process without jeopardy of the 30 day limit.

#### 10.18 Submission of Plans.

All notices, including submission of plans to or approval or disapproval of plans by the Architectural Control Committee or the Board of Directors shall be sent by mail. The lot owner is to submit copies of site plans and elevations of proposed structures to all the members of the Architectural Control Committee. Notices shall be deemed sent and plans shall be deemed submitted as of the date posted.

#### 10.19 Zoning Variances.

Nothing contained herein shall be deemed to affect the right of the Association and/or any member to seek zoning variances from Springdale or other municipal authorities of competent jurisdiction as long as the variance is not in conflict with the provisions of this Article X.

#### 10.20 Exceptions to Standards.

The Board of Directors, its designated committee or agents, sitting as the Architectural Committee, may approve plans which contain exceptions to the general architectural standards set forth in this Article X. The owner must show hardship, need, special circumstances or unique site conditions for exceptions to be approved.

#### 10.21 Standards To Compliment Ordinances.

These conditions are meant to be complimentary to any laws, ordinances or policies of any governmental body of appropriate jurisdiction. In the case of a conflict, the more stringent requirement shall apply.

#### 10.22 Fine for non-compliance.

Non-compliance of Article X – Architectural Standards, Amended Bylaws of KHAI would incur a \$500 fine. (March 1, 2008)

### ARTICLE XI - NOTICE AND HEARING PROCEDURE

#### 11.1 Association's Enforcement Rights.

In the event of an alleged violation by a Member or Occupant ("Respondent") of the Declaration, these Amended Bylaws, or the Rules and Regulations of the Association, the Board of Directors shall have the right, upon an affirmative vote of a majority of all Directors on the Board of Directors, to take any one or more of the actions and to pursue one or more of the remedies permitted under the provisions of the Declaration, these Amended Bylaws, or the Rules and Regulations of the Association. If, under the provisions of the Declaration, these Amended Bylaws, or the Rules and Regulations, a Notice of Noncompliance and Right to Hearing is required prior to taking action or pursuing remedies, the following provisions of Article X of these Amended Bylaws shall be applicable. The failure of the Board of Directors or the Architectural Control Committee to enforce the Rules and Regulations of the Association, these Amended Bylaws, or the Declaration shall not constitute waiver of the right to enforce the same thereafter. The remedies set forth and provided in the Declaration, the Rules and Regulations of the Association or these Amended Bylaws shall be cumulative and none shall be exclusive. However, any individual Member must exhaust all available internal remedies of the Association prescribed by the Declaration, these Amended Bylaws, and the Architectural Control Committee Rules and Regulations, and other Rules and Regulations of the Association before that Member may resort to a court of law for relief with respect to any alleged violation by another Member of the Declaration, these Amended Bylaws, or the Rules and Regulations of the Association, provided that the foregoing limitation pertaining to exhausting administrative remedies shall not apply (i) to the Board of Directors or to any Member where the complaint alleges nonpayment of assessments, special assessments or other assessments, or (ii) to matters the Board of

Directors determines in its discretion will (a) affect the safety of the Common Area or Facilities or the Owners or their property or (b) will result in irreparable harm to the Association if not quickly remedied. In such cases, the Board of Directors may immediately file suit.

11.2 Notice of Noncompliance and Right to Hearing.

A copy of the Complaint or Notice of Noncompliance and Right to Hearing (“Notice”) shall contain a written statement of charges which shall set forth in ordinary and concise language the acts or omissions with which the Respondent is charged and a reference to the specific provisions of the Declaration, these Amended Bylaws, or the Rules and Regulations of the Association which the Respondent is alleged to have violated. The Notice shall be served on each Respondent in accordance with the notice provisions set forth in the Declaration, together with a statement which shall be substantially in the following form:

“Unless a written request for a hearing signed by or on behalf of a person named as Respondent in the accompanying Complaint/Notice is delivered or mailed to the Board of Directors within fifteen (15) days after the Complaint/Notice is served upon you, the Board of Directors may proceed upon the Complaint/Notice without a hearing, and you will have thus waived your right to a hearing. The request for a hearing may be made by delivering or mailing the enclosed form entitled “Notice of Response” to the Board of Directors at the following address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You may, but need not, be represented by counsel at any or all stages of these proceedings. If you desire the names and addresses of witnesses or an opportunity to inspect any relevant writings or items on file in connection with this matter in the possession, custody or control of the Board of Directors, you may contact:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.”

A Respondent shall be entitled to a hearing on the merits of the matter if the Notice of Response is timely filed with the Board of Directors. A Respondent may file a separate statement by way of mitigation, even if he does not file a Notice of Response. If the charges relate to an occupant that is not a Member, both the occupant and the Member shall be considered Respondents.



11.3 Board of Directors.

The Board of Directors shall serve as the Hearing Committee. The Board of Directors shall elect a Chairman and appoint a hearing officer who shall take evidence and ensure that a proper record of all proceedings is maintained.

11.4 Notice of Hearing.

The Board of Directors shall serve a Notice of Hearing, as provided herein, on all parties at least ten (10) days prior to the hearing, if such hearing is requested by a Respondent. The hearing shall be held no later than thirty (30) days after the Notice is mailed or delivered to each Respondent. The Notice of Hearing to each Respondent shall be substantially in the following form, but may include other information:

“You are hereby notified that a hearing will be held before The Board of Directors at:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at the hour of \_\_\_\_\_, upon the charges made in the Complaint/Notice served upon you. You may be present at the hearing, may but need not be represented by counsel, may present any relevant evidence, and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to seek the attendance of witnesses and to compel the production of books, documents or other items in the possession of the Association by applying to the Board of Directors of the Association.”

11.5 Hearing.

(a) At the hearing, the Respondent must show cause, if any cause can be shown, why said Respondent is not in violation of the Declaration, the Rules and Regulations of the Association, or these Amended Bylaws as set forth in the Notice.

(b) Oral evidence shall be taken only on oath or affirmation administered by a Member of the Board of Directors. The use of affidavits and written interrogatories in lieu of oral testimony shall be encouraged by the Board of Directors.

(c) Each party shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine witnesses on any matter relevant to the issues; to impeach any witness; and to rebut the evidence against such party. If Respondent does not testify in his own behalf, he may be called and examined as if under cross-examination.

(d) The hearing need not be conducted according to technical rules relating to evidence of witnesses. Any relevant evidence shall be admitted if it is the sort of

evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil action. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

(e) Neither the Complainant nor the Respondent need be in attendance at the hearing. The hearing shall be open to attendance by any Member of the Association to the extent of the permissible capacity of the hearing room.

(f) In rendering a decision, official notice may be taken at any time of any provision of the Declaration, these Amended Bylaws, the Rules and Regulations of the Association, or any generally understood matter within the working of the Association. Persons present at the hearing shall be informed of the matters to be noticed by the Board of Directors, and these Matters shall be made a part of the record of proceedings.

(g) The Board of Directors may grant continuances on a showing of good cause.

(h) Whenever the Board of Directors has commenced to hear the matter and a member of the Board of Directors is forced to withdraw prior to a final determination by the Board of Directors, the remaining Directors shall continue to hear and decide the case.

#### 11.6 Decision.

If a Respondent fails to file a Notice of Response as provided in Section 11.2 of these Amended Bylaws, or fails to appear at a hearing, the Board of Directors may take action based upon the evidence presented to it without further notice to Respondent. However, the Respondent may make any showing by way of mitigation. After all testimony and documentary evidence has been presented to the Board of Directors, the Board of Directors may vote by secret written ballot upon the matter, with a majority of the entire Board of Directors controlling. A copy of the Notice of Adjudication of the Board of Directors may be posted by the Board of Directors at a conspicuous place in the Development, and a copy shall be served by the President of the Association on each person directly involved in the matter and his attorney, if any, in accordance with the notice provisions set forth in the Declaration. The Notice of Adjudication may include (i) the terms of any disciplinary action; (ii) the levy of a Corrective Assessment; or (iii) other such actions or remedies as the Board of Directors deems appropriate. The decision of the Board of Directors shall become effective ten (10) days after it is served upon each Respondent, unless otherwise ordered in writing by the Board of Directors. The Board of Directors may order a reconsideration at any time within fifteen (15) days following service of its decision on the involved persons, on its own motion or on petition by any party. However, no action against a Respondent arising from the alleged violation shall take effect prior to the expiration of the later of (a) fifteen (15) days after each

Respondent's receipt of the Notice of Hearing; or (b) ten (10) days after the hearing required herein.

#### 11.7 Subsequent Violations for Same Offense.

If the Board of Directors determines that an Owner violates the Notice of Adjudication, the Board of Directors may immediately issue a Notice of Noncompliance by Board of Directors and Right to Hearing or file suit to enforce the Notice of Adjudication.

CERTIFICATE OF SECRETARY

I, the undersigned, do hereby certify that:

1. I am the duly elected and acting Secretary of Kinesava Homeowners Association, Inc., a Utah nonprofit corporation (“Association”); and

2. The foregoing Amended Bylaws, comprising 30 pages, including this page, constitute the Amended Bylaws of the Association duly adopted at the meeting of the Board of Directors of the Association duly held on \_\_\_\_\_, 2004.

IN WITNESS WHEREOF, I have hereunto subscribed my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_

Secretary

March 2011 – Changes added to document and reformatted.