

DECLARATION
OF
COVENANTS, CONDITIONS AND
RESTRICTIONS
FOR
RBH SOUND CONDOMINIUMS

10-309-0001
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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

RBH SOUND CONDOMINIUMS

This Declaration of Covenants, Conditions and Restrictions for RBH Sound Condominiums ("Declaration") is made and executed pursuant to the provisions of the Utah Condominium Ownership Act this 8 day of November, 2016 by Hassing Properties, LLC, a Utah limited liability company ("Declarant"). This Declaration shall amend and replace the declaration recorded in the Davis County Recorder's Office against the property identified in the attached Exhibit "A" on September 30, 2016 as entry number 2970028. At the time this Declaration is recorded Declarant is the owner of all Units that are part of the Association and thus meets the Amendment requirements found in Article 20.1 of the September 30, 2016 Declaration.

ARTICLE I GENERAL

- 1.1 **Property.** The Declarant is the owner of certain real property located in Davis County, Utah, and more particularly described as set forth in Exhibit "A."
- 1.2 **Purposes of Declaration.**
 - (a) The Declarant is the owner of a professional office building/warehouse and certain other improvements heretofore constructed or hereafter to be constructed upon the aforesaid premises which property constitutes a condominium under the terms and provisions of the Utah Condominium Ownership Act ("Act") and it is the desire and intention of Declarant to divide the project into condominiums and to sell and convey the same to various purchasers subject to the covenants, conditions and restrictions herein reserved to be kept and observed, and
 - (b) Declarant desires and intends by filing this Declaration and a map of the aforesaid property to submit the above described property and professional office building/warehouse and other improvements constructed thereon together with all appurtenances thereto of the provisions of the aforesaid Act as a condominium project, and to impose upon said property mutually beneficial restrictions under the general plan of improvement for the benefit of all said condominiums and the owners thereof.
- 1.3 **Declaration as Condominium.** The Declarant hereby declares that all of the property described above is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the following covenants, conditions, restrictions, uses, limitations and obligations, all of which are declared and agreed to be in

furtherance of a plan for the improvement of said property and the division thereof into condominiums. The terms of this Declaration shall be deemed to run with the land and shall be a burden and benefit to Declarant, their successors and assigns and any person hiring or owning an interest in the real property and improvements and guarantees, successors, heirs, executors, administrators and assigns.

ARTICLE II DEFINITIONS

- 2.1 All applicable portions of the definitions as contained in the Utah Code Annotated, 1953, Section 57-8-3, as amended shall apply to this Declaration and the property, except as particularly modified or changed by individual definitions hereinafter contained.
- 2.2 “Act” shall mean and refer to the Condominium Ownership Act, Title 57, Chapter 8, Utah Code (1953), as the same may be amended from time to time, including any successor statutory provisions thereof.
- 2.3 “Association” means the RBH Sound Condominiums Owners Association, a Utah nonprofit corporation, the creation of which and the articles of incorporation of which (attached as Exhibit “B”) are approved upon the adoption of this Declaration. The Association is formed for the purpose of managing, maintaining, repairing and administering the property and all buildings and improvements and Common Areas on a part of the property; of assessing, collecting and applying Common Expenses, for enforcing this Declaration, for acting as attorney-in-fact or trustee for Condominium Unit Owners as hereafter set forth, and generally for administering the property. Its only members shall be Owners of Condominium Units; provided, however, that the rights of membership may be assigned to the holder of a mortgage, deed of trust or other security instrument on a Condominium Unit as further security for a loan secured by a lien on such Condominium Unit. A person who, for any reason, ceases to be such Owner shall cease to be such member, which membership provisions shall be included in the Association's Bylaws, attached as Exhibit “C,” and made a part hereof by this reference.
- 2.4 “Board of Directors” or “Board” shall mean and refer to the board of directors of the Association and shall be charged with and have the responsibility and authority to administer the Project and to make and to enforce reasonable rules and regulations covering the operation and maintenance thereof.
- 2.5 “Building” means a single building containing Units as shown on the Map.
- 2.6 “Common Area” shall mean, refer to and include:
- (a) The real property and interests in real property which this Declaration submits to the provisions of the Act, including the entirety of the Project and all lawns, landscaping, fences, outdoor lighting, sidewalks, stairways, walkways, parking lots and private ways

located thereon, but excluding all individual Units and any walls separating Units (which shall be considered party walls and governed by the Article 12 herein);

- (b) All Common Areas, as above defined, which may be designated as such on the Map, and all Common Areas as defined in the Act, except party walls separating Units, whether or not expressly listed herein or on the Map;
- (c) All foundations, columns, beams, interior load bearing walls, and supports of the Buildings;
- (d) Any stairs, stairways, entrances, exits, and landings which are designed for the use of more than one Unit and which are not contained within a Unit;
- (e) Those portions of the exterior walls of the Buildings (excluding glass in windows) beyond the exposed face of the dry wall on the Unit side of such walls; and the roof;
- (f) All installations and equipment designed and intended to provide utility services for common use, including (but not limited to) telephone, electricity, gas, water, sewer, heat, ventilation and air conditioning (including all pipes, ducts, vents, wires, cables, and conduits designed and intended for common use in connection therewith), whether or not located within the horizontal and vertical boundaries of a Unit, but excluding from such installations and equipment all parts thereof, and all items affixed or connected thereto, located within the exterior boundaries of a Unit and designed and intended for the sole use of such Unit;
- (g) All apparatus and equipment designed and intended for common use such as (but not limited to) pumps, motors, fans, clocks, compressors and control apparatus and equipment, whether or not located within the horizontal and vertical boundaries of a Unit, but excluding from such apparatus or equipment all parts thereof, and all items affixed or connected thereto, located within the exterior boundaries of a Unit and designed and intended for the sole use of such Unit;
- (h) All cleaning and maintenance equipment and other personal property at any time leased, acquired, owned, or held by the Association for the common use or benefit of all Owners; and,
- (i) All other parts of the Project designed and intended for, or normally in, common use or necessary or convenient to the existence, maintenance, safety, or management of the Project.

The term "Common use", as used in this definition, includes without limitation, use by or for any two or more Units.

- 2.7 **“Common Expenses”** means the expenses of administration; of maintenance and repair of the parking lot and grounds, including, but not limited to, landscaping, snow removal, garbage removal, signs and all other Common Areas located outside of any building constructed or to be constructed upon the property; of repair and maintenance of the Common Areas associated with the Building, including, but not limited to, caring for roofs, walls and supports of buildings (except party walls), and those portions of the building that are not part of the Limited Common Area; reserve for repair, maintenance, taxes and other charges including fire and other hazard insurance premiums, and a liability insurance policy which policy, in addition to public liability, shall cover repair and construction work to all Common Area property, Limited Common Area and the assets and property owned or to be maintained by the Association. Such Common Expenses shall be paid according to the proportions listed in the attached Exhibit “D” and in amounts and at times determined reasonable and necessary by the Association for the best good and convenience of all condominium Owners. Maintenance and repair of Limited Common Area shall not be a Common Expense even though the insurance coverage shall be purchased and paid for as a Common Expense to cover repair of Limited Common Area, the intent being that Unit Owners shall repair and maintain the Limited Common Area associated with their Unit unless the insurance coverage shall otherwise cover the cost of repair.

Fixtures or appliances that exist separately to serve only one Unit, such as air conditioning units, shall be maintained and repaired at the sole cost of the Unit Owner for whose benefit the fixture or appliance exists. Other items, such as the electrical service, natural gas service, and any other utility that is separately billed or assessed, shall be paid for by the Unit Owner receiving the service, but the cost for any physical maintenance or repair shall be the responsibility of the Unit Owner only from the point the utility service exits the wall and enters the Unit. Unless metered separately, the water and sewer connections shall be part of the Common Area and expense and the cost for any physical maintenance or repair of the water or sewer system shall be the responsibility of the Unit Owner only from the point the pipes exit the wall and enter the Unit.

- 2.8 **“Condominium Project”** or **“Project”** means all of the land and improvements initially submitted by this Declaration.
- 2.9 **“Condominium Unit”** or **“Unit”** shall mean and refer shall mean and refer to a separate physical part of the Project intended for independent use, including one or more rooms or spaces located in one or more floors or part or parts of floors in a Building. Mechanical equipment and appurtenances located within any one Unit, or located without said Unit but designated and designed to serve only that Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors, furnaces, water heaters, apparatus, systems or equipment, fixtures and the like, shall be considered part of the Unit; so shall all decorated surfaces of interior walls, floors and ceilings, including but not limited to all paint, wallpaper, wall coverings, windows (including glass) and window frames, doors and door frames, trim, cabinets, carpeting, tile and linoleum; The concrete slab located beneath the finished flooring of each Unit shall also be part of a Unit; All pipes, wires, conduits, or other utility lines or

installations constituting a part of the Unit or serving only the Unit, and any structural members, parts, components or any other property of any kind, including fixtures or appliances within any Unit, which are removable without jeopardizing the integrity, soundness, safety or usefulness of the remainder of the Building within which the Unit is located shall be deemed to be part of the Unit. Walls separating Units shall be party walls and any costs to repair, maintain or replace a party wall shall be a shared expense according to the language in Article 12 below. The following are part of a Unit:

- (a) lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, flooring (including the concrete slab); and any other material constituting part of the finished surface of a wall, floor, or ceiling.
- (b) Any portion of a ceiling or wall (except a party wall) not listed in Subsection (a) is part of the Common Area.

Two or more Units combined to form one enlarged Unit for an Owner is, for voting purposes, considered to be two or more Units and the number of votes remain as if it were two or more Units.

- 2.10 **“Limited Common Area”** means those parts of the Common Area which are either limited to or reserved for the exclusive use of the Owner of a Condominium Unit or are limited to and reserved for the common use of more than one but fewer than all of the Condominium Unit Owners.
- 2.11 **“Map”** or **“Record of Survey Map”** or **“Condominium Map”** means a plat showing a survey of the property and of all Units on the property submitted by this Declaration which consists of a horizontal and vertical delineation of all such Units.
- 2.12 **“Member”** shall mean and refer to an Owner as a member of the Association.
- 2.13 **“Owner”** shall mean and refer to the recorded Owner whether one or more persons or entities of a fee simple title to any condominium which is a part of the properties, including contract sellers or contract purchasers if so determined by written contract between seller and purchaser, but excluding those having such interest merely as security for the performance of an obligation.

ARTICLE III MAP

- 3.1 **“Map.”** A **“Record of Survey Map”** herein referred to as **“the Map”** or **“Maps”** has or will be recorded in the office of the County Recorder, Davis County, Utah. The Map shall be made by a registered Utah land surveyor and shall depict and show the following: (1) a description of the surface of the land included within the Project, including all angular and linear data along the exterior boundaries of the property; (2) the linear measurement and

location, with references to the exterior boundaries of the buildings located on said property; and (3) diagrammatic floor plans of the buildings built thereon in sufficient detail to identify each Unit, including its identifying number or symbol, the official datum elevations of the finished or unfinished interior surfaces of the floors and ceilings and the linear measurements of the finished or unfinished interior surfaces of the perimeter walls and lateral extensions of every Unit in the building. Every Unit shall be identified on the Record of Survey Map by a distinguishing number or other symbol. In interpreting the Condominium Map or any deed, the boundaries of each Unit as constructed shall be conclusively presumed to be its actual boundaries. Declarant reserves the right to amend the Map from time to time to conform to the actual physical location of the constructed improvements and to any changes, additions, modifications or alterations.

ARTICLE IV DIVISION OF PROPERTY INTO CONDOMINIUM UNITS

- 4.1. **Condominium Units.** The improvements located on the subject property are hereby divided into five (5) Condominium Units, each consisting of one Unit and an undivided interest in and to the Common Area. The Condominium Units shall be numbered as shown on the Map.

The Condominium Units are located in a building which has been constructed principally of reinforced concrete, wood, brick and glass. Each Unit contains the area set forth in Exhibit "D". Each Unit is designed to be used only as a professional office and/or warehouse, and each Owner shall have the authority to construct rooms or add additional floors inside a Unit as desired as long as the structural integrity of the Common Area or any Unit is not effected. Any changes made to the interior of a Unit shall continue to be part of a Unit and will not become part of the Common Area.

ARTICLE V LIMITED COMMON AREA

- 5.1 **Limited Common Area.** The Limited Common Area shall be identified on the Map and shall include the loading dock located directly behind each Unit. Although the Map shows the entire area behind the Building as "Limited Common Area," each Owner shall only have the exclusive right to use the Limited Common Area directly and immediately behind the Owner's Unit. All Limited Common Area shall be reserved for use of the Unit to the exclusion of the other Units. Each Unit Owner shall pay all costs and expenses associated with the maintenance, repair and replacement of the Limited Common Area located directly behind the Owner's Unit.

ARTICLE VI DESCRIPTION OF CONDOMINIUM UNITS

- 6.1 **Description of Condominium Units.** Any option, contract, deed, lease, mortgage, deed of trust, will, or similar instrument, may legally describe a Condominium Unit by its identifying

Unit number and building letter or symbol, followed by the name of this condominium with further reference to the recorded Map thereof and the recorded Condominium Declaration. Every such description shall be deemed good and sufficient for all purposes to convey, transfer, encumber or otherwise affect not only the Unit but also the Common Area and the Limited Common Area appurtenant thereto. Each such description shall be construed to include a non-exclusive easement of ingress and egress to an Owner's Unit and use of the Common Area appurtenant thereto to the exclusion of all third parties not lawfully entitled to the use of the same.

- 6.2 **Single Indivisible Units.** Each Unit, the appurtenant undivided interest in the Common Area, and the appurtenant Limited Common Area shall together comprise one Condominium Unit, shall be inseparable, and may be conveyed, leased, devised or encumbered only as a Condominium Unit.

ARTICLE VII DUTIES OF ASSOCIATION

- 7.1 **Determination of Common Expenses.** The Association shall have the duty of determining by estimate or otherwise the amount of Common Expenses necessary to properly maintain, repair and administer the condominium property. At the time of the first conveyance of each Condominium Unit and from time to time thereafter, the Association shall notify the Owner or Owners of each Condominium Unit regarding the amount of the estimated annual assessment and shall collect Common Expenses from each Unit Owner in proportion to each Owner's interest in the Common Area as shown on the attached Exhibit "D". After assessment of the Common Expenses, each Unit Owner shall pay one-twelfth (1/12) of the amount thereof each month, or a pro-rata proportion for a period beginning after the first day of a month.
- 7.2 **Common Expenses.** Common expenses shall include but not be limited to expenses set forth in Section 2.7. Costs for sewer, water and other utilities which are not separately assessed, metered or otherwise separately allocated to a Unit or to Limited Common Area shall be Common Expenses.
- 7.3 **Utilities Serving Common Areas.** Costs for sewer and water mains, electrical lines and other matters serving the Common Areas shall be charged to each Owner on the basis of the percentages shown on the attached Exhibit "D". The amounts may be determined by estimate, and changed from time to time as actual bills or experience require. Each Condominium Unit Owner shall pay for all utilities applicable to its individual Condominium Unit, directly and not through the Association, when the utilities are separately metered and thus allow for separate billing in accordance with actual usage. Utilities that are not metered separately shall be paid by the Association on the basis of the percentages shown on the attached Exhibit "D".
- 7.4 **Additional Common Expenses.** In the event a Unit uses an excessive amount of water on a regular basis that is paid for as a Common Expense, the additional water expense shall be

paid for by the Owner of the Unit using the excessive water. If the Board believes that one Unit is using an excessive amount of water, the Board will attempt to come to an agreement with the owner of the Unit regarding how the water bill should be divided. If the parties are unable to come to an agreement, a new water meter may be installed and the Owner of the Unit using the excessive amount of water shall be responsible for their own water costs.

- 7.5 **Reserves.** The Association shall maintain and establish a reserve of such funds for maintenance, repair, replacement, administration, management services (if necessary), insurance premiums and other matters deemed by the Association appropriate for reserves. Reserves may be established and maintained for appropriate periods including multiple year reserves for repair or replacement of parking lots, Common Area furniture, fixtures and equipment and heating, ventilation and air conditioning equipment.
- 7.6 **Special Assessments.** The Association shall have authority to make special assessments in addition to the annual assessments described above whenever the Association determines that such an assessment is necessary to prevent insolvency of the Association, to make emergency repairs to the Common Areas or Limited Common Areas, or for any other purpose.

ARTICLE VIII LIEN FOR NONPAYMENT OF COMMON EXPENSES

- 8.1 **Obligation for Payment.** It shall be the duty of the Owner of each Condominium Unit to pay the Owner's proportionate share of the Common Expenses allocated or assessed to such Unit monthly or at such times as may be determined by the Association.
- 8.2 **Liens Priority.** All sums assessed to any Unit pursuant to this Declaration, together with interest thereon as provided herein, and all costs and expenses incurred, with or without suit or before or after judgment, in collecting delinquent accounts or foreclosing against the Condominium Units concerned, shall be secured by a lien on such Unit in favor of the Association and, upon recording of a notice of lien by the Board of Directors, shall be a lien upon the Unit prior to all other liens and encumbrances, recorded or unrecorded, except:
- (a) Tax and special assessment liens on the Unit in favor of any assessing agency or special improvement district; and
 - (b) Liens of Mortgagees; and
 - (c) Any other encumbrances on the interest of the Unit Owner recorded prior to the date notice of the lien provided for herein is recorded, which by law would be a lien prior to subsequently recorded encumbrances.
- 8.3 **Lien Foreclosure; Nonjudicial.** To evidence a lien for sums assessed pursuant to this Article, the Board of Directors shall caused to be prepared a written notice of lien setting forth the amount of the assessment, the name of the Owner of the Unit, and a description of

the Unit. Such notice shall be signed by or on behalf of the Board and may be recorded in the Office of the County Recorder of Davis County, Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by foreclosure by the Board of Directors in the same manner in which a mortgage or trust deed on real property may be foreclosed in Utah. In any such foreclosure, the Owner shall be required to pay the cost and expenses of such proceeding, the cost and expenses of filing the notice of lien, and all reasonable attorney fees. If the Association elects to foreclose the lien in the same manner as foreclosures in deeds of trust, then the Owner by accepting a deed to the Lot hereby irrevocably appoints the attorney of the Association, provided he is a member of the Utah State Bar, as Trustee, and hereby confers upon said Trustee the power of sale set forth with particularity in Utah Code Annotated, Section 57-1-23 (1953), as amended. In addition, Owner hereby transfers in trust to said Trustee all of his right, title, and interest in and to the real property for the purpose of securing his performance of the obligations set forth herein. Declarant hereby conveys and warrants pursuant to U.C.A. Sections 57-1-20 and 57-8a-302 to Taylor R. Jones, as trustee, an attorney licensed in the State of Utah, with power of sale, the Lot and all improvements to the Lot for the purpose of securing payment of assessments under the terms of the Declaration. The Association may appoint a substitute trustee by executing a substitution of trustee as authorized in Utah Code Annotated, Section 57-1-22, without amending this paragraph. All such costs, expenses and fees shall be secured by the lien being foreclosed. The lien shall also secure, and the Owner shall also be required to pay to the Board of Directors any assessments against the Unit which shall become due during the period of foreclosure. The Board of Directors shall have the right and the power to bid an amount equal to its then existing lien at the foreclosure sale or other legal sale and, if it is the purchaser, to acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the subject Condominium Unit as the Owner thereof.

- 8.4 **Release of Lien.** A release of notice of lien shall be executed by the Board of Directors and given to an Owner for recordation at such Owner's cost in the Office of the County Recorder of Davis County, Utah, upon payment of all sums owed and secured by a lien which has been made the subject of a recorded notice of lien.
- 8.5 **Payment by Encumbrancer.** Any encumbrancer holding a lien on a Unit may, but shall not be required to, pay any amounts secured by the lien created by this Article, and upon such payments such encumbrancer shall be subrogated to all rights of the Board of Directors with respect to such lien, including priority. The Board of Directors, upon written request and evidence of such encumbrance, shall report to any encumbrancer of a Unit any unpaid assessments remaining unpaid for longer than thirty (30) days after the same shall have become due.
- 8.6 **Action for Expenses.** The Association may bring a civil action to recover a money judgement for unpaid Common Expenses. Any such action is maintainable without foreclosing or waiving the lien securing the obligation.
- 8.7 **Attorneys Fees.** In any action brought to enforce payment of Common Expenses, to enforce any lien for unpaid Common Expenses, or to enforce any provision of the Declaration or

Bylaws, the prevailing party in the action is entitled to recover its cost of court and reasonable attorneys fees.

- 8.8 **Rental and Expenses in Case of Foreclosure.** In the event of a foreclosure of the lien securing payment of Common Expenses, the Owner shall pay a reasonable rental for the Unit. The Owner shall also be required to pay the Association all monthly assessments for the Condominium Unit during the period of foreclosure, and the Association shall be entitled to a Receiver to collect the same. The Association acting on behalf of the Unit Owners, shall have the power to bid in the interest so foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. The Association may subrogate its rights to such lien as may be necessary or expedient to an insurance company which will continue to give total coverage in spite on nonpayment of such defaulting Owner's portion of the premium.
- 8.9 **Joint Liability of Transferor and Transferee.** The Grantee of a Condominium Unit shall be jointly and severally liable with the Grantor for all unpaid assessments against the Grantor for Grantor's proportionate share of the Common Expenses and up to the time of the grant or conveyance. Grantee may recover from the Grantor the amounts paid by the Grantee therefore; unless said liability is limited by the contents of a Certificate issued to the Grantee, or is avoided by the non-issuance of such Certificate within the ten day period set forth in Section 8.10 of this Declaration.
- 8.10 **Certificate of Assessments.** Upon payment of a reasonable fee not to exceed Ten (\$10.00) Dollars and upon the written request of any Owner, mortgagee, prospective grantee or prospective mortgagee, of a Condominium Unit, the Association shall issue a written Certificate setting forth the amount of unpaid Common Expenses, if any, with respect to the subject Unit; the amount of the current monthly assessment and the date upon which such assessment becomes due; and credit for advanced payments or for prepaid items (including, but not limited to, insurance premiums). Such Certificate shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. Unless such request for a Certificate of Assessments be complied with within ten (10) days of the receipt of the request, then (a) in the case of a request by a mortgagee or prospective mortgagee, all unpaid Common Expenses which become due prior to the date of making such request shall be subordinate to the lien of said mortgagee or prospective mortgagee, or (b) in the case of a request by a prospective grantee, he shall not be liable for, nor shall the Unit conveyed be liable for, any unpaid assessment or Common Expenses. The provisions contained in this paragraph shall not apply upon the initial transfer of the Condominium Units by Declarant.

ARTICLE IX SIGNS

- 9.1 **Building Identification.** The Board may enact rules consistent with this Declaration regarding the maintenance, size, style, material, color, type and location of all signs located in the Common Area or placed on a Building. No banner signs shall be permitted on a Building or anywhere on the property. No signs shall be installed anywhere in the project that are, in the sole judgment and discretion of the Board, inconsistent with the appearance

and reputation of a first class office building complex as judged by the size, style, material, color, type and location of the sign relative to the existing signs in the project. Signs located on a building identifying the occupant/business located therein shall be installed by the Owner and maintained, repaired and replaced by the Owner. No sign shall be installed on a building without the prior written consent of the Board.

- 9.2 **Further Restrictions on Signs.** No signs, flags, awnings, or advertising devices of any nature, including without limitation commercial, political, informational, or directional signs or devices, shall be erected or maintained at any place on the exterior of the Building, in the windows of a Unit, or on any other part of the Project without the prior inspection and written approval of the Board of Directors, except as may be necessary temporarily to caution or warn of danger. All signage, whether original or replacement, shall be professionally made and shall be of the style and theme established by the Board for the Project as a whole.
- 9.3 **Zoning Compliance.** Notwithstanding the provisions of Sections 9.1 and 9.2 above, any sign, banner, or similar devices located in the Project shall comply with applicable zoning ordinances of Layton City.

ARTICLE X MORTGAGES AND EFFECT OF FORECLOSURE

- 10.1 **Mortgages.** Any Owner shall have the right from time to time to mortgage or encumber his interest by deed of trust, mortgage or other security instrument. A first mortgage shall be one which has first and paramount priority under applicable law. The Owner of a Condominium Unit may create junior mortgages on the following conditions: (1) that any such junior mortgages shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, lien for Common Expenses, and other obligations created by this Declaration and by the By-Laws; and (2) that the mortgagee under any junior mortgage shall release, for the purpose of restoration of any improvement upon the mortgaged premises, all of his right, title and interest in and to the proceeds under all insurance policies upon said premises, which insurance policies were effected and placed upon the mortgaged premises by the Association. Such release shall be furnished forthwith by a junior mortgagee upon written request of the Association.
- 10.2 **Foreclosure.** In the event any person shall acquire or be entitled to the issuance of a tax deed, trustee's deed, sheriff's deed or other deed or conveyance, the interest so acquired shall be subject to all the provisions of this Declaration and to the terms, provisions, covenants, conditions and limitations contained in the Declaration, the Condominium Map, the By-Laws of the Association or any restrictions or exceptions affecting such interest then in force.

ARTICLE XI INSURANCE

- 11.1 **Insurance and Bond.** The Board shall secure or cause to be secured and maintained at all times the following insurance and bond coverages:

- (a) **Fire and Casualty Insurance.** A policy or policies of fire and casualty insurance, with extended coverage endorsement, for the full insurable replacement value of the entire Project as set forth in the Utah Condominium Ownership Act. Such policy or policies shall name as insured the Association, as trustee for the Owners, and all persons holding an interest in the Project or any of the Units, as their interests may appear. Each policy or policies shall provide a standard, non-contributory mortgagee clause in favor of each mortgagee which from time to time shall give notice to the Association of such mortgage. Each policy also shall provide that it cannot be cancelled by either the insured or the insurance company until after ten (10) days prior written notice is first given to each Owner and to each mortgagee who has requested such notice in writing. The Association shall, upon request, furnish to each Owner a certificate of coverage.
- (b) **Fidelity Insurance or Bond.** Appropriate fidelity insurance or a bond to protect against dishonesty of members of the Board and any person or entity handling funds of the Committee, including, but not limited to, employees of the professional managers, the minimum amount of such coverage to be as required by the Federal National Mortgage Association and/or the Federal Home Loan Mortgage Corporation.
- (c) **Public Liability and Property Damage Insurance.** A policy or policies insuring the Association, the Manager, and each Owner against any liability incident to the ownership, operation, maintenance, or other use of the Project or of any Unit which may arise among themselves, to the public, and to any invitees, guests, or tenants of the Project or of the Unit Owners. Limits of liability under such insurance shall be not less than \$300,000.00 for any person injured, \$1,000,000.00 for all persons injured in any one accident, and \$100,000.00 for property damage resulting from one occurrence. Such policies shall be issued on a comprehensive liability basis and shall provide a cross liability endorsement to which the rights of the named insureds as between themselves are not prejudiced. Each such policy shall provide that it cannot be cancelled either by the insured or the insurance company until after ten (10) days written notice to each and all of the insureds.
- (d) **Workmen's Compensation Insurance.** The Association shall obtain workmen's compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by law.
- (e) **Additional Insurance Provisions.** The following additional provisions shall apply with respect to insurance:
 - i. In addition to the insurance described above, the Association shall secure and at all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with condominium projects similar to the Project in construction, nature and use. The provisions of this Restated Declaration shall not be construed to limit the power or authority of the

Association to obtain and maintain insurance coverage in addition to any insurance coverage required by this Restated Declaration, in such amounts and in such forms as the Association may deem appropriate from time to time.

- ii. The Association shall have the authority to adjust losses.
- iii. In no event shall the insurance coverage secured and maintained by the Association be brought into contribution with insurance held by individual Unit Owners or their mortgagees.
- iv. Each policy of insurance obtained by the Association shall, if possible, provide: a waiver of the insurer's subrogation rights with respect to the Association, the Board members, the Manager, the Unit Owners, and their respective servants, agents, and guests that it cannot be cancelled, suspended, or invalidated due to the conduct of any member, officer, or employee of the Association or of the Manager without a prior written demand that the defect be cured; and that any "no other insurance" clause therein shall not apply with respect to insurance held individually by Unit Owners.
- v. The Association shall review annually the coverage and policy limits of all insurance on the Project and adjust the same at its discretion. Such annual review shall include an appraisal of the improvements in the Project by a representative of the insurance carrier or carriers providing the policy or policies on the Project, or such other qualified appraisers as the Association may select.
- vi. Each Unit Owner may (and should) obtain additional insurance at his own expense in the form of an HO-6 policy, so long as such additional insurance does not have the effect of decreasing the amount which may be realized under any policy maintained by the Association.
- vii. Notwithstanding anything herein contained to the contrary, insurance coverages must be in such amounts and meet other requirements of the Federal National Mortgage Association and/or the Federal Home Loan Mortgage Corporation, and the Utah Condominium Ownership Act.

ARTICLE XII PARTY WALLS

- 12.1 **General Rules of Law to Apply.** Each wall which has been built or will be built on the dividing line between two Units as shown on the Map shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Party walls shall not be part of the Common Area.

- 12.2 **Party Wall Construction.** At the time this Declaration is recorded party walls have not been constructed between all Units. When Owner(s) of two adjacent Units desire to construct a party wall, the cost of constructing the party wall shall be a joint expense of the two Unit Owners and shall not be a Common Expense. Party walls shall not become part of the Common Area.
- 12.3 **Destruction of Party Wall, Common Roof or Exterior.** If a party wall is damaged or destroyed by the fault or negligence of one of the Owners, such damage shall be repaired by the Owner (unless the damage is covered by the Association's or Owner's insurance) to a condition equal to or better than immediately prior to the damage, and the negligent Owner or Owner at fault shall pay for any and all costs incurred to cure the damage. Should a party wall be damaged or destroyed by any cause other than by default or by an act of negligence of an Owner of the adjacent Unit, the damage shall be rebuilt or repaired to a condition equal to or better than immediately prior to the damage, at the joint expense of the Owners of the two affected Units, provided that any amount received from an insurance company for such damage shall first be applied to the restoration of the party wall.

ARTICLE XIII DISPOSITION OF PROPERTY

- 13.1 **Insufficient Insurance for Reconstruction.** In the event the insurance proceeds are insufficient to reconstruct the building, damage to or destruction of the building shall be repaired and restored by the Association using proceeds of insurance, if any, on the building for that purpose. The Unit Owners shall be liable for assessment for any deficiency. If three-fourths or more of the building is destroyed or substantially damaged and if the Unit Owners, by a vote of at least three-fourths of the Unit Owners, do not voluntarily, within one hundred days after such destruction or damage, make provision for reconstruction, the Association shall comply with the requirements of Utah Code Annotated § 57-8-31.

ARTICLE XIV POWER OF ATTORNEY

- 14.1 **Irrevocable Power of Attorney.** This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact to deal with the property upon its destruction or obsolescence.
- 14.2 **Appointment of Association.** Title to any Condominium Unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute appointment of the attorney-in-fact herein provided. All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney in their name, place and stead for the purpose of dealing with the property upon its destruction or obsolescence as is hereafter provided. As attorney-in-fact, the Association, by its president and secretary, shall have full and complete authorization, right and power to make, execute and deliver to itself or a third person any contract, deed or any other instrument with respect to the interest of a Condominium Unit Owner which are necessary and appropriate to exercise the powers herein granted.

- 14.3 **Authority to Subordinate Interest.** Such power of attorney includes a power to subject a Unit Owner's condominium interest and/or percentage Ownership to whatever rights are necessary (including entry of a Unit in an emergency) to permit proper maintenance, repair and improvement to each and all condominium buildings and Common Areas by the Association.

ARTICLE XV EASEMENTS

- 15.1 **Easement for Minor Encroachments.** The Owners of the respective Condominium Units agree that if any portion of the Common Areas and facilities encroaches upon the Condominium Units, or if any portion of a Unit encroaches upon the Common Area, or upon an adjoining Unit or Units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. In the event a structure is partially or totally destroyed, and then rebuilt, the Owners of the Condominium Units therein agree that minor encroachment of parts of the Common Areas and facilities due to construction shall be permitted and that valid easement for said encroachment and the maintenance thereof shall exist. None of such encroachments or easements shall be considered or determined to be encumbrances either on the Common Area or on the Units.
- 15.2 **Easement for Utilities.** There is hereby created a blanket easement upon, across, over and under the above-described premises for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones and electricity. By virtue of this easement, it shall be expressly permissible for the providing electrical and/or telephone company to erect and maintain necessary equipment on said property and to affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across, and under the roofs and exterior walls of said Condominium Units. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said premises except as initially programmed and approved by Declarant or thereafter approved by Declarant or the Association's Board. This easement shall in no way affect any other recorded easement on said premises.
- 15.3 **Easement for Association.** An easement is also reserved in, on and over each Condominium Unit to permit the Association or its designees to effect any desired or necessary maintenance or repairs to the Common Area.

ARTICLE XVI USE AND OCCUPANCY RESTRICTIONS

- 16.1 **Business Offices and Warehouses.** The property is intended to be used for business office and/or warehouse building purposes. Any use permitted under applicable zoning laws shall be permitted as long as the use does not violate the terms of this Declaration.
- 16.2 **Use of Exterior Property.** The Owners of Condominium Units are hereby prohibited and restricted from using any land or all space outside the exterior building lines, except for use as Common Area as may be allowed by the Association or as provided in this Declaration.

An owner may, after receiving Board approval and in accordance with rules adopted by the Board, place storage containers or other business related items in the portion of the Limited Common Area reserved for that Unit's use. The Board may, at any time, require an Owner to remove any item from the Limited Common Area. It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all Owners of Condominium Units and is necessary for the protection of said Owners.

- 16.3 **Cooperative Action.** Any cooperative action necessary or appropriate to the proper maintenance and upkeep of the Common Areas and all exteriors and roofs of the Condominium Units, including but not limited to, recreation and parking areas and walks, shall be taken by the Association.
- 16.4 **Association Management of Exterior.** The Association, or its duly delegated representative, shall maintain and otherwise manage all property up to the exterior building lines and including, but not limited to the landscaping, parking areas, streets, roofs, Common Areas and exteriors of the building located upon the above-described property, and shall maintain and otherwise manage and be responsible for the rubbish removal of all area within the above-described property.
- 16.5 **Damage by Owner.** In the event any common element, including part of a building is damaged or destroyed through the negligent or culpable act of an Owner or any of his invitees or agents, such Owner does hereby irrevocably authorize the Association, its attorney-in-fact, to repair said damaged element, building, or storage facility and the Association shall so repair said damaged element or building. The Owner shall then repay the Association in the amount actually expended for said repairs, together with all other expenses reasonably and necessarily incurred by the Association in connection therewith, less any amounts paid by insurance. Each Condominium Unit Owner further agrees that these charges for repairs, if not paid with ten (10) days after the completion of the work, shall become a lien upon said Owner's condominium interest as set forth above, and shall continue to be such lien until fully paid.
- 16.6 **Antennas and Other Communication Equipment.** No exterior television or radio antennas or similar equipment of any sort shall be placed, allowed or maintained upon any portion of the improvements to be located upon the premises, nor upon any structure situated upon said real property, other than an aerial for a master antenna system, should any such master system or systems be utilized and required any such exterior antenna, without the consent of the Board.
- 16.7 **No Pets or Animals.** Except for any animals the Association is required to allow on the premises by law, no pets or animals of any kind or nature whatsoever shall be permitted in any Unit, in the Common Areas, or in any other part of the Project unless the Owner of the Unit the animal is visiting first receives written permission from the Board.
- 16.8 **Interior Maintenance.** An Owner shall maintain and keep in repair the interior of his own Unit, including the fixtures thereof, including the furnaces and air conditioning systems which serve only his Unit. All fixtures and equipment installed within a Condominium Unit commencing at a point where the utility lines, pipes, wires, conduits or systems (which for

brevity are hereafter referred to as “utilities”) enter the office Unit shall be maintained, replaced, and kept in repair by the Owner thereof.

- 16.9 **Structural Soundness.** An Owner shall not do any act or any work that will impair the structural soundness or integrity of the building or impair any easement.

ARTICLE XVII SUBDIVIDE

- 17.1 **Subdivide.** Nothing in this Declaration shall limit an Owners right to subdivide or partition a Unit for the purpose of creating two or more Units within the existing Building, as permitted under applicable city ordinances. If an Owner desires to subdivide or partition a Unit, the Association and the Owners will not oppose the subdivision if it will not have a negative impact on the use of the adjoining Units, and will assist the Owner of the Unit being subdivided by agreeing to the amendments necessary to this Declaration and the Bylaws. Voting and assessment percentages shall be adjusted within the subdivided Unit in such a manner to reflect the Common Expenses to be paid by the newly created Unit and so as not to not modify the total square footage reflected on Exhibit "D"

ARTICLE XVIII DISPUTE RESOLUTION

- 18.1 **Introduction.** It is in the best interest of the Members, the Association, the Board, and the officers (the “Parties”) to encourage the amicable resolution of disputes arising out of the legal rights and obligations described in this Declaration without the emotional and financial costs of litigation. Each Member and the Association agrees that before filing suit in any court it will first submit to the Alternative Dispute Resolution Procedures set forth below, (the “ADR Procedures”), with respect to any claim, grievance or dispute arising out of or relating to the Declaration, Bylaws, or Rules and Regulations (the “Claims”); provided, that a Party may demand arbitration prior to complying with the ADR Procedures if demanding arbitration is required to satisfy the statute of limitations for the Party's Claim. In such an event, the Party demanding arbitration shall simultaneously stay the arbitration until the ADR Procedures have been satisfied.
- 18.2 **Exceptions.** Notwithstanding the foregoing, the ADR Procedures shall not be required for the following Claims unless all Parties to the matter agree to submit the matter to the ADR Procedures:
- (a) any suit between Members which does not include the Association as a party, if such suit asserts a claim which would constitute a cause of action independent of the Association;
 - (b) any suit in which any indispensable party is not bound by this Article 18;
 - (c) any collection activity, action or suit brought by the Association against an Owner involving the collection of delinquent Assessments, Fines or Common Expenses;

- (d) actions by the Association to collect Assessments or other amounts due from any Owner; and
- (e) actions brought by the Association to obtain a temporary restraining order, preliminary injunctive relief, or other preliminary equitable relief and such ancillary relief as the Association may deem necessary in order to enforce the provisions of this Declaration (an "Enforcement Action").

18.3 Procedure for Disputes Between Members.

- (a) **Good-Faith Discussion.** The aggrieved Party ("Complainant") shall attempt to resolve the Claim with the other Party ("Respondent") through good-faith discussion.
- (b) **Submission of Complaint.** If the Claim is not resolved through good-faith discussion, Complainant shall provide the Board and each Respondent with a written statement of the material facts of the Claim (the "Complaint"). The Complaint shall include the following:
 - i. the nature of the Claim, including the parties involved and the Respondent's role in the Claim;
 - ii. a brief description of the discussions of the parties and their attempts to resolve the Claim informally;
 - iii. Copies of relevant documents supportive of Complainant's position; and
 - iv. Complainant's proposed resolution or remedy.

The Complaint must include all Claims that exist between the Parties at that time. Any Claim not included in the Complaint is expressly waived by the Complainant. Respondent shall have fifteen (15) days from receipt of the Complaint to file a response (the "Response") with the Complainant and the Board. The Response must include any Claim that the Respondent has concerning the Complainant at the time that the Response is submitted to the Board. Any Claim that is not included in the Response is expressly waived by the Respondent. The Response shall include any documents, descriptions, explanations or other material supporting the Response.

- 18.4 **Review by Board.** The Board shall undertake a reasonable review of the Complaint and the Response and shall issue a written decision, including an explanation of the reasons for the decision, within thirty (30) days of receipt of the Response. A copy of the decision shall be sent to the Parties promptly via first class mail. The Board's decision shall be the final and binding resolution of the Claims submitted in the Complaint and the Response unless within thirty (30) days from the date that the decision is mailed either Party delivers to the Board and all other Parties a Notice of Objection to the Board's Decision and Intent to Submit to Mediation.

18.5 Mediation.

- (a) Within thirty (30) days of receipt of the Notice of Objection to the Board's Decision and Intent to Submit to Mediation, the Board shall contact the Parties with proposed mediation dates and a list of potential mediators. A neutral third-party or professional mediator that has been agreed to by the Parties shall conduct the mediation.
- (b) The mediation shall be held in the State of Utah at a location agreed upon by the Parties. Unless otherwise agreed by the Parties, the mediation shall take place no later than three (3) months from the date of the Board's decision. If the Parties do not agree to extend this period and mediation does not occur within this time period, then this requirement is deemed to be satisfied.
- (c) Unless otherwise agreed by the Parties, all fees and costs of the mediation shall be borne by the Party submitting the Notice of Objection to the Board's Decision and Intent to Submit to Mediation.

18.6 Arbitration.

- (a) All Claims between the Parties not otherwise resolved shall be submitted to binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Unless otherwise agreed upon by the Parties in writing, demand for arbitration must be made within thirty (30) days of the mediation or the expiration of the period for holding the mediation as set forth above. Failure to demand arbitration within 30 days is an express waiver of the Notice of Objection to the Board's Decision and Intent to Submit to Mediation, and upon such waiver the Board's decision becomes the final and binding resolution of the Claims.
- (b) In no event shall a Party be entitled to demand arbitration of a Claim after the time for taking legal action on the Claim has expired.
- (c) The arbitration shall be held in the State of Utah at a location agreed upon by the Parties or determined by the arbitrator.
- (d) The prevailing Party in the arbitration shall be awarded its reasonable attorneys fees and costs associated with the dispute. Punitive damages, however, shall not be awarded in any dispute. Judgment upon the award rendered by the arbitrator may be entered in any court within the State of Utah.

18.7 Procedure Subject to Change by Board. The procedures outlined in this Article 18 may be amended from time to time by the Board without the consent of the Owners, as the Board deems necessary, in light of experience, to better accomplish the amicable resolution of disputes arising out of the legal rights and obligations described in the Governing Documents; provided, such modifications shall not take effect until three months after a copy of the new procedures is delivered to the Owners.

18.8 Procedure for Disputes Between the Association and Members. Subject to the provisions of Section 18.2, any Member who has a dispute with the Association, the Board, or an

officer, or any officer of member representing one of these groups, and who is not satisfied with the decision of the Association or the Board, shall follow the procedures outlined in Section 18.3 above.

ARTICLE XIX ACCOUNTING RECORDS

- 19.1 **Records.** The Association shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Common Areas, specifying and itemizing the maintenance and repair expenses of the Common Areas and any other Common Expenses incurred. Such records and vouchers authorizing the payments shall be available for examination by the Condominium Unit Owners and others with an interest such as encumbrances or prospective lenders at convenient business hours.

ARTICLE XX REVOCATION OF OR AMENDMENT TO DECLARATION

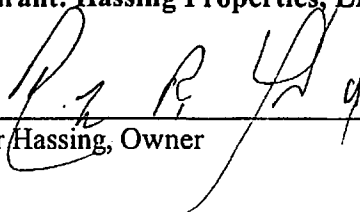
- 20.1 **Revocation or Amendment.** Except as provided elsewhere in this Declaration, any amendment to this Declaration shall require the affirmative vote of at least fifty percent (50%) of the total votes of the Association. Any amendment authorized pursuant to this Section shall be accomplished through the recordation in the office of the Davis County Recorder of an instrument executed by the Association. In such instrument an officer of the Association shall certify that the vote required by this Section for amendment has occurred.

ARTICLE XXI MISCELLANEOUS PROVISIONS

- 21.1 **Agent for Service of Process.** Roger Hassing, 382 N. Marshall Way, Layton, Utah, is designated initially as the person to receive service of process in cases authorized by the Act; provided, however, that the Board of Directors shall have the right to appoint a successor agent for service of process who shall be a resident of Utah. Such successor and his address shall be specified by an appropriate amendment filed in the Office of the Recorder of Davis County, Utah.
- 21.2 **Severability.** If any provisions in this Declaration or any section, sentence, clause, phrase or word or the application thereof in any circumstance, is held invalid, the validity of the remainder of the Declaration and of any such provision, section, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.
- 21.3 **Language Variations.** The use of pronouns or of singular or plural as used herein shall be deemed to be changed as necessary to conform to actual facts.
- 21.4 **Headings.** Headings are for identification purposes. Headings shall not be used to interpret or enforce this Declaration.

DATED this 8 day of November, 2016

Declarant: Hassing Properties, LLC



Roger Hassing, Owner

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

On the 8th day of November, 2016, personally appeared before me Roger Hassing and did acknowledge that he is the signer of the foregoing instrument and signed the foregoing instrument in his capacity as owner of Hassing Properties, LLC.



NOTARY PUBLIC

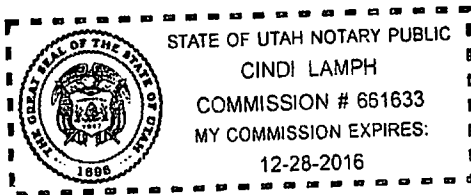


EXHIBIT "A"

LEGAL DESCRIPTION OF LAND

All Units in RBH Sound A Condominium Project, Layton City, Davis County, Utah.

[10-309-0001 through 10-309-0006]

EXHIBIT "B"

Articles of Incorporation

ARTICLES OF INCORPORATION

for

THE RBH SOUND CONDOMINIUMS OWNERS ASSOCIATION

The undersigned adult natural persons, acting as incorporators, hereby establish a nonprofit corporation pursuant to the Utah Revised Nonprofit Corporation Act (the "Act") and adopt the following articles of incorporation for such corporation.

ARTICLE I NAME

The name of the corporation is the RBH Sound Condominiums Owners Association (hereinafter the "Association").

ARTICLE II DURATION

The Association shall have perpetual existence.

ARTICLE III PURPOSES AND POWERS

1. **Purposes** The Association is organized as a nonprofit corporation and shall be operated to promote the health, safety and welfare of all members of the Association in connection with RBH Sound Condominiums and to establish, provide, and maintain a desirable community and environment for all member Owners.
2. **Powers** In furtherance of the foregoing purposes, and subject to the restriction set forth in Section 3 of this Article, the Association shall have and may exercise all of the powers now or hereafter conferred upon nonprofit corporations organized under the laws of Utah and may do everything necessary or convenient for the accomplishment of any of the corporate purposes, either alone or in connection with other organizations, entities or individuals, and either as principal or agent, subject to such limitations as may be prescribed by law.
3. **Restrictions Upon Purposes and Powers** The foregoing purposes and powers of the Association are subject to the following limitations:
 - a. **Earnings of Association** No part of the net earnings of the Association (if any) shall inure to the personal benefit of any member of the Association; however, this restriction

shall not limit or impair the Association's right to compensate Members for services rendered or for goods sold or leased to the Association;

- b. **Nonprofit Organization** The Association shall be organized and operated exclusively for non-profitable purposes as set forth in Section 528 of the Internal Revenue Code as it is now or may hereafter be amended, or in any corresponding provision of any future law of the United State of America providing for exemption of similar organizations from income taxation; and

ARTICLE IV DIVIDENDS & DISTRIBUTIONS

The Association shall not pay any dividends. No distribution of the corporate assets to Members (as such) shall be made except as permitted by the Internal Revenue Code and the Utah Code sections governing condominiums and community associations. Upon dissolutions of the Association, the assets shall be distributed as provided in Article X herein.

ARTICLE V MEMBERSHIP AND VOTING

1. **Members.** The Association shall have Members. Every Owner of a Unit which is subject to assessment shall be a Member of the Association. Each membership shall be pertinent to and may not be separated from ownership of the Unit to which the membership is attributable.
2. **Stock.** No stock in the Association shall be issued. The Board may, in its discretion, issue certificates evidencing a Member's membership in the Association. A person's membership, however, is not affected by the holding of such a certificate and a Member is entitled to all the benefits and subject to all obligation of membership whether or not the Member holds a membership certificated.
3. **Voting.** The Association shall have one class of voting membership. Each Unit shall be entitled to one vote on any given matter, regardless of the number of Members owing an interest in such Unit. The Members owning a particular Unit are authorized to cast the vote attributable to the Unit. The Board may suspend the voting rights of Members for a particular Unit if the Members are in violation of the Declaration.
4. **Right to Vote.** No change in the ownership of a membership shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof thereof. The vote for each Unit must be cast as a Unit, and factional votes shall not be allowed. If a Unit is owned by more than one person or entity and such Owners are unable to agree among themselves as to show their vote or votes shall be cast, they shall not be entitled to vote on the matter in question. If any Member casts a vote representing a certain Unit, it will thereafter be conclusively presumed for all purposes

that he was acting with the authority and consent of all other Owners of the same Unit unless objection thereto is made at the time the vote is cast. If more than one vote is cast for a particular Unit, none of the said votes shall be counted and all said votes shall be deemed void. Voting by proxy is allowed as set forth in the Association's Bylaws.

5. **No Cumulative Voting.** In any election of the members of the Board, the Owner(s) of a given Unit shall collectively have one vote for each Director position to be elected. The candidate receiving the highest number of votes for a given Director position shall be deemed elected to such position. Cumulative voting shall not be allowed in the election of members of the Board or for any other purpose.
6. **Transfer of Membership.** The rights and obligations of memberships in the Association shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership to an Owner's Unit and then only to the new Owner of the Unit. A transfer of ownership to a Unit may be effected by deed, intestate succession, testamentary disposition, foreclosure of a mortgage of record, or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Utah. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Unit shall automatically transfer the membership appurtenant to said Unit to the new Owner thereof.

ARTICLE VI SHARE OF STOCK

The Association shall not issue any shares of stock.

ARTICLE VII DIRECTORS

The management of the affairs of the Association shall be vested in a Board of Directors, except as otherwise provided in the Act, these Articles of Incorporation or the Bylaws of the Association. The number of Directors, their classification, if any, their terms of office and the manner of their election or appointment shall be determined according to the Bylaws of the Association from time to time in force.

Three Directors shall constitute the Board of Directors. Their names and addresses are as follows:

	<u>Name</u>	<u>Address</u>
1.	Roger Hassing	382 North Marshall Way, Layton, UT 84041
2.	Darren Egan	382 North Marshall Way, Layton, UT 84041
3.	Shane Rich	382 North Marshall Way, Layton, UT 84041

**ARTICLE VIII
BYLAWS**

The initial Bylaws of the Association shall be those adopted as the Bylaws of the Association in connection with the Declaration. The Bylaws of the Association may contain any provisions for the regulation or management of the affairs of the Association which are not inconsistent with law or these articles of incorporation, as these articles may from time to time be amended.

**ARTICLE IX
INITIAL PRINCIPAL OFFICE, REGISTERED OFFICE AND AGENT**

The address of the initial principal office of the Association is RBH Sound Condominiums Owners Association, 382 North Marshall Way, Layton, UT 84041. The address of the initial registered office is 382 North Marshall Way, Layton, UT 84041. The name of the Association's registered agent at such address is Roger Hassing.

**ARTICLE X
DISSOLUTION**

The Association may be dissolved only upon termination of the Declaration of Covenants, Conditions and Restrictions for RBH Sound Condominiums . Written notice of a proposal to dissolve, setting forth the reasons therefore and the disposition to be made of the assets, as set forth below, shall be mailed to every Member at least 30 days in advance of any action taken. Upon dissolution of the Association, the assets both real and personal of the Association, shall be distributed to the Members according to the provisions of the Act and the Utah Code sections governing community associations.

**ARTICLE XI
INCORPORATOR**

The name and address of the incorporator of this Association is:

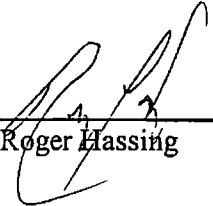
Roger Hassing, 382 North Marshall Way, Layton, UT 84041.

**ARTICLE XII
AMENDMENT**

The Association may amend these Articles of Incorporation by a vote of not less than 51% of the members.

[Signatures on Next Page]

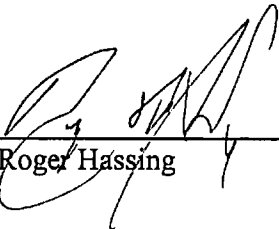
IN WITNESS WHEREOF, I, Roger Hassing, have executed these Articles of Incorporation this 8 day of Nov, 2016, and say that I am the incorporator herein and have read the above and foregoing Articles of Incorporation and know the contents thereof and that the same is true to the best of my knowledge and belief.



Roger Hassing

ACKNOWLEDGMENT OF ACCEPTANCE BY REGISTERED AGENT

The undersigned hereby accepts and acknowledges appointment as the initial registered agent of the Association named above.



Roger Hassing

EXHIBIT "C"

BYLAWS

BYLAWS

OF

RBH SOUND CONDOMINIUMS OWNERS ASSOCIATION

The following are adopted as the administrative Bylaws of RBH Sound Condominiums Owners Association ("RBH Sound Condominiums" or "Association").

ARTICLE I PLAN OF OWNERSHIP AND INCORPORATION

- 1.1 **Submission.** These Bylaws have adopted by the Owners of Units and Sites in RBH Sound Condominiums and shall govern the administration of RBH Sound Condominiums Owners Association.
- 1.2 **Definitions.** The words defined in Article II of the Declaration of Covenants, Conditions and Restrictions for RBH Sound Condominiums ("Declaration"), shall have the same meaning when used herein unless the context clearly requires another meaning.
- 1.3 **Conflict.** In the event of any conflict, incongruity or inconsistency between the provisions of these Bylaws and the provisions of the Declaration or any amendments thereto, the latter shall in all instances govern and control.
- 1.4 **Office and Registered Agent.** The Registered Agent of the Association shall be the President or Secretary of the Association and the Registered Office of the Association shall be the office of the President or such other place as shall be designated by him.
- 1.5 **Bylaws Applicability.** All present and future Owners, residents, tenants, renters, lessees, and their guests, licensees, invitees, servants, agents or employees, and any other person or persons who shall be permitted at RBH Sound Condominiums shall be subject to and abide by these Bylaws.

ARTICLE II BOARD OF DIRECTORS

- 2.1 **Status and General Authority.** Except as otherwise herein provided, the Condominium Project shall be managed, operated, and maintained by the Board of Directors as agent for the Association of Owners. The Board shall, in connection with its exercise of any of the powers hereinafter provided, constitute a legal entity capable of dealing in the Association's

name. The Board of Directors shall have, and is hereby granted, the following authority and powers:

- (a) The authority without the vote or consent of the Owners or of any other person, except for Mortgagees if required by the terms of their Mortgage, to grant or create on such reasonable terms as it deems advisable, utility and similar easements over, under, across, and through the Common Areas and Facilities;
- (b) The authority to execute and record, on behalf of all Owners, any amendments to the Declaration or the Map which have been approved by the vote or consent of Owners necessary to authorize such amendments as set forth in the Declaration;
- (c) The power to sue and be sued;
- (d) The authority to enter into contracts relating to the Common Areas and other matters over which it has jurisdiction, so long as any vote or consent of the Owners necessitated by the subject matter of the agreement has been obtained;
- (e) The power and authority to convey or transfer any interest in real property, so long as the vote or consent necessary under the circumstances has been obtained, including that of any Mortgagee if required by the terms of its Mortgage;
- (f) The power and authority to purchase, or otherwise acquire, and accept title to, any interest in real property so long as such action has been authorized by any vote or consent which is necessary under the circumstances;
- (g) The authority to promulgate such reasonable rules, regulations, and procedures as may be necessary or desirable to aid the Board in carrying out its functions or to insure that the Project is maintained and used in a manner consistent with the interests of the Owners; and
- (h) The power and authority to perform any other acts and to enter into any other transactions, subject to the rights of the Board of Directors, which may be reasonably necessary for the Board of Directors to perform its functions as agent for the Owners. Any instrument executed by the Board of Directors relating to the Common Areas of the Project that recites facts which, if true, would establish the Board's power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument.

2.2 Indemnification of Board of Directors. Each member of the Board of Directors shall be indemnified and held harmless by the Owners against all costs, expenses, and liabilities whatsoever (excluding fraudulent and/or criminal actions, intentional misconduct, and gross negligence) including, without limitation, attorney fees reasonably incurred by him in

connection with any proceeding to which he may become involved by reason of his being or having been a member of said Board.

- 2.3 **Board of Directors: Composition, Election, Vacancies.** The Board shall be composed of three (3) members, one to be elected to a three year term, one to a two year term and one to a one-year term. As members terms expire, new members shall be elected for three-year terms. Members shall serve on the Board until their successors are elected. Board members must be individual Owners, or officers, directors, agents or employees of non-individual owners. Vacancies in the Board membership may be filled by appointment by the remaining members or member of the Board and said appointees shall serve until the next annual meeting when their successors shall be elected for the unexpired term of the member they were appointed to replace.
- 2.4 **Rights and Duties.** The Board of Directors, subject to the rights and duties of the Owners, this Declaration, and the Bylaws, shall be responsible for the general management, and administration of the Association. It is understood that the Board has the obligation to provide for maintenance of the Common Areas.
- 2.5 **Personal Property Ownership and Use.** The Board of Directors may acquire and hold for the use and the benefit of all of the Owners tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners in the same proportion as their respective interests in and to the Common Areas and transferable only with the transfer of a Unit.
- 2.6 **Rules and Regulations.** The Board of Directors may make reasonable rules and regulations governing the operation and use of the Common Areas and of other matters over which it has jurisdiction, which rules and regulations shall be consistent with the rights and duties established in this Declaration. The Board of Directors may suspend any Owner's voting rights at any meeting of Owners or for periods during which such Owner fails to comply with such rules and regulations, or with any other obligations under this Declaration. The Board of Directors may also take judicial action against any Owner to enforce compliance with such rules and regulations or other obligations or to obtain damages for noncompliance, all to the extent provided by law.
- 2.7 **Capital Improvements.** There shall be no structural alterations or capital additions to the Buildings, or capital improvements of the Common Areas, without the prior approval of the Board and the approval of a majority of the Voting Interest of the Owners.
- 2.8 **Extended Rights.** The Board of Directors may exercise any other right or privilege given to it expressly by this Declaration or by law and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.
- 2.9 **Architectural Control.** The Board shall act in all matters pertaining to architectural control of the project and shall establish rules and procedures for submitting plans for approval of

any proposed construction, alteration, remodeling, etc., involving the exterior of any Building.

- 2.10 **Board Meetings, Quorum, Board Action.** The Board may establish its rules for meetings, whether regular or special. A majority of current Board members shall constitute a quorum and the action of a majority of those attending a meeting at which a quorum is present shall be sufficient to constitute the action of the Board. Action by consent shall require the unanimous consent of all current Board members.

ARTICLE III ASSOCIATION VOTING, MEETINGS AND OFFICERS

- 3.1 **Voting.** Each Unit Owner and Site Owner shall be entitled to vote the percentage of the Voting Interest set forth in Exhibit "D" attached to the Declaration. As used in these Bylaws, the phrases "Vote of the owners", "approval of the Owners", "Owners vote", "consent of the Owners" or words of similar import, shall be deemed to require a majority of the Voting Interest of all Owners in and to the Common Area as allocated in Exhibit "D".
- 3.2 **Multiple Ownership.** In the event there is more than one Owner of a particular Unit, the vote relating to such Unit shall be exercised as such Owners may determine between or among themselves, but in no event shall more than the total number of votes appurtenant to such Unit be cast with respect to any issue. A vote cast at any Association meeting or by written consent by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the entire vote attributable to the Unit concerned unless an objection is made at the meeting or in writing by another Owner of the same Unit, in which event no vote will be counted with respect to such Unit except to determine the presence or absence of a quorum.
- 3.3 **Multiple Unit Ownership.** In the event an Owner owns more than one Unit, whether contiguous, combined or separate from each other Unit, the Owner's vote shall be the Voting Interest set forth in Exhibit "B" times the number of Units or Sites owned. In no event shall more than the total number of votes appurtenant to any one Unit be cast with respect to any issue.
- 3.4 **Place of Meeting.** Meetings of the Association shall be held at such suitable place convenient to the Owners as may be designated by the Board of Directors in its notice.
- 3.5 **Annual Meetings.** Annual meetings of Members of the Association shall be held in the each year on such day and time as is set forth in the notice therefor. At such annual meetings there shall be elected members of the Board of Directors, as needed, pursuant to the provisions of this Declaration. Financial and budget reports shall also be presented at such meetings as well as other business of the Association properly placed before each meeting.
- 3.6 **Special Meetings.** The President shall call a special meeting of the Owners as directed by a resolution of the Board of Directors or upon the request of any two Owners. No business

shall be transacted at a special meeting except as stated in the notice therefor unless consented to by all of the Owners, either in person or by proxy.

- 3.7 **Notice of Meetings.** The Secretary shall serve notice of each annual meeting stating the purpose thereof as well as the time and place of the meeting to each Owner of record at least ten (10), but not more than twenty (20), days prior to such meeting. The Secretary shall serve a notice of each special meeting stating the purpose thereof as well as the time and place of the meeting to each Owner of record at least three (3), but not more than twenty (20), days prior to such meeting. The mailing of notice by prepaid U. S. Mail, by electronic notice, or by delivery in person shall be considered notice served.
- 3.8 **Quorum.** Fifty percent (50%) of the Voting Interest of Owners, in person or by proxy, present at any meeting of Members duly called pursuant to notice shall constitute a quorum at all meetings, both annual and special.
- 3.9 **Officers.** The Association shall have a President, a Vice President and a Secretary/Treasurer each of whom shall be elected by and from the Board of Directors. Only the offices of Secretary and Treasurer may be filled by the same person. The officers shall be elected by the Board of Directors in an organizational meeting of the Board immediately following each annual meeting of Members at which the new Board of Directors has been elected.
- (a) **President:** The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board of Directors. He shall have all of the general powers and duties that are usually vested in the office of president of a similar type association.
- (b) **Vice President:** The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. The Vice President shall also perform such other duties as shall from time to time be imposed on him by the Board.
- (c) **Secretary/Treasurer:** The Secretary/Treasurer shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Association. He shall have charge of such books and records as the Board of Directors may direct and he shall, in general, perform all duties incident to the office of secretary of a similar type association. He shall have responsibility for Association funds and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all money and any other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board of Directors.

**ARTICLE IV
ELECTRONIC NOTICE OF MEETINGS**

- 4.1 **Notification by Website and Email.** The Association desires to communicate electronically with Members to the fullest extent possible. Any notice sent to Members under the provisions of the Declaration or these Bylaws may be sent by electronic means, including text message, email, or the Association's website. The Association shall maintain records of all notices sent to Members by electronic means, including the electronic address or other address to which notice was sent. A member may, by written demand, require the Association to provide notice to the Owner by mail.
- 4.2 **Notices.** Any notice permitted or required to be delivered by the Board or from the Association to the Owners may be delivered either personally, by U.S. mail, or by electronic means.
- (a) If notice is by mail, it shall be deemed to have been delivered 24 hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to each Owner at the address given by such person to the Board of Directors for the purpose of service of such notice or to the Unit of such person if no address has been given. Such addresses may be changed by Owners from time to time by notice in writing to the Board of Directors.
- (b) If notice is by electronic means, any notice delivered by the Association to Owners under the provisions of the Declaration or these Bylaws may be sent by electronic means, including but not limited to text message, Facebook, Twitter, email, or the Association's website. The Association shall maintain records of all notices sent to Members by electronic means, including the electronic address to which notice was sent. When a notice is sent electronically, the Association shall first compile a list of Owners' current electronic addresses (such as email or text messaging addresses or other types of well-known electronic forms, such as Facebook) and the Association shall send notification of all Association meetings, proposals, documents, amendments and business to the electronic address of the Owners. The Association secretary shall thereafter send an electronic notice, via email or a comparable electronic means of all Association meetings and business to those Owners who do not object to electronic notification in this manner. A member may, by written demand, require the Association to provide notice to the Unit Owner by mail.
- (c) If notice is by personal means, notice may be delivered to Owners by hand delivery directly to the Owner or a responsible occupant of an Owner's Unit, or by securely attaching a copy of the notice to the front entry door of the Owner's Unit.
- 4.3 **Waiver.** Members who (a) receive electronic notice, and (b) confirm they have received electronic notice from the Association of any Association business or meeting, are deemed to have waived any defense to or claim against the Association that the Association's electronic notice was not adequate or proper, and may not thereafter challenge or assert that

the notice they received was not adequate, proper, or in compliance with the Declaration, the Association's Bylaws, or Utah law.

**ARTICLE V
AMENDMENTS**

- 5.1 **Amendment Procedure.** These Bylaws may be amended, with or without a meeting of the members, by a vote of a Majority of the Voting Interest of the Owners.
- 5.2 **Conflict.** In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

EXHIBIT "D"

**Interest in Common Area
Voting Interest**

<u>UNIT</u>	<u>SQUARE FOOTAGE</u>	<u>% INTEREST IN COMMON AREA</u>
A	18,876	50.24%
B	4,687	12.47%
C	4,687	12.47%
D	4,687	12.47%
E	4,637	<u>12.35%</u>
TOTAL		100.00 %*

*Numbers rounded to equal 100%