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SPACE ABOVE RESERVED FOR RECORDER'S USE ONLY

**THIRD AMENDMENT TO THE  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF  
ENSIGN PLACE PLANNED UNIT DEVELOPMENT**

This Third Amendment to the Declaration of Covenants, Conditions and Restrictions of Ensign Place Planned Unit Development (the "Amendment") is executed on the date set forth below, by the Ensign Place Homeowners Association, a Utah nonprofit corporation (the "Association") and shall become effective when recorded with the Salt Lake County Recorder.

**RECITALS**

A. The Ensign Place Planned Unit Development was made subject to that certain instrument called, "The Declaration of Covenants, Conditions and Restrictions of Ensign Place Planned Unit Development", which was recorded with the Salt Lake County Recorder on July 30, 1998, as Entry No. 7041002, in Book 8049, at Pages 2986-3019 (the "Declaration").

B. The Declaration was first amended by that certain instrument called the "First Amendment to the Declaration of Covenants, Conditions and Restrictions of Ensign Place Planned Unit Development", which was recorded with the Salt Lake County Recorder on June 17, 2010, as Entry No. 10972982, in Book 9833, at Pages 7512-7516.

C. The Declaration was next amended by that certain instrument called "Second Amendment to the Declaration of Covenants, Conditions and Restrictions of Ensign Place Planned Unit Development", which was recorded with the Salt Lake County Recorder on May 16, 2017, as Entry No. 12536003, in Book 10557, at Pages 9109 - 9114.

D. Section 14, Paragraph B provides that the Declaration may be amended by the affirmative vote of a majority of the Owners.

E. In consideration of the covenants contained herein, and in the interest of preserving the Property's value, quality, and enjoyment, a majority of the Owners have duly approved the amendments listed below.

F. All capitalized terms not otherwise defined herein shall have the meanings set forth in the Declaration.

## AMENDMENTS

### **Amendment One:**

Section 6, Paragraph A, Subparagraph 2b of the Declaration is hereby amended to read as follows:

- b. In the event that the need for the maintenance or repair of the Common Areas as specified above is caused through the willful or negligent acts of an owner, or through the willful or negligent acts of the family, guests, or invitees of an owner, the Board may cause such repairs to be made by the Association and the cost of such (and administrative expenses up to ten percent (10%) of such costs) shall be added to and become part of the Reimbursement Assessment (as set forth in Section 7) to which such Unit is subject. In the event of the need for maintenance or repair of the exterior of a Unit or a Limited Common Area appurtenant thereto and in the event such maintenance and/or repair is not made after thirty (30) days written notice to the owner of such Unit, the Board may cause such maintenance and repairs to be made by the Association and the cost of such exterior maintenance (and administrative expenses up to ten percent (10%) of such costs) shall be added to and become part of the Reimbursement Assessment (as set forth in Section 7) to which such Unit is subject.

### **Amendment Two:**

Section 7, Paragraph E of the Declaration is hereby amended to read as follows:

- E. Quorum Requirements. The quorum at any meeting required for any action authorized by paragraphs C or D above shall be the same quorum required in the Bylaws for the annual Owners meeting.

### **Amendment Three:**

Section 9 of the Declaration is hereby amended to insert as Paragraph P thereof the following provision:

- P. Smoking and Drugs. The Property is a smoke-free community. Smoking shall be prohibited everywhere throughout the Property, including, without limitation, inside individual Units, and indoor and outdoor Common Areas and Limited Common Areas. No Owner shall smoke, or permit smoking by any occupant, agent, tenant, invitee, guest, friend, or family member. Smoking shall include the inhaling, exhaling, breathing, carrying, or possession of any lighted cigarette, cigar, pipe, other product containing any amount of tobacco, or other similar heated, smoldering, or lit product. The use, manufacture, and/or selling of illegal drugs is also prohibited throughout the Property.

**Amendment Four:**

Section 11 of the Declaration is hereby amended to read as follows:

**Section 11. INSURANCE**

- A. Insurance. The Board shall obtain insurance as required in this Declaration or other applicable laws. The Association may obtain insurance that provides more or additional coverage than the insurance required in this Declaration. Different policies may be obtained from different insurance carriers and standalone policies may be purchased instead of or in addition to embedded polices, including coverage, or endorsements to other policies. Insurance premiums for policies purchased by the Association shall be a common expense.
- B. Property Insurance.
1. Hazard Insurance. The Association shall maintain a blanket policy of property insurance covering the entire Property, including the Common Area and all buildings including all Units, fixtures, and building services equipment as provided in the Act. The Association may maintain broader coverage if afforded by the insurance contract.
    - a. The blanket policy shall exclude land and other items not normally and reasonably covered by such policies. The blanket policy shall be an “all in” or “all inclusive” insurance policy as those terms are used in the insurance industry and shall include insurance for any fixture, improvement, or betterment installed in or to the Unit or any Limited Common Areas or otherwise permanently part of or affixed to Common Areas, Units, or Limited Common Areas, including but not limited to floor coverings, cabinets, light fixtures, electrical fixtures, heating and plumbing fixtures, paint, wall coverings, and windows.
    - b. At a minimum, the blanket policy shall afford protection against loss or damage by: (1) fire, windstorm, hail, riot, aircraft, vehicles, vandalism, smoke, and theft; and (2) all perils normally covered by “special form” property coverage.
    - c. The blanket policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all property covered by such policy (including the Units) at the time the insurance is purchased and at each renewal date. The actual replacement cost of the property shall be determined by using methods generally accepted in the insurance industry.
    - d. The blanket policy shall include either of the following endorsements to assure full insurable value replacement cost coverage: (1) a Guaranteed Replacement Cost Endorsement under which the insurer agrees to replace the insurable property regardless of the cost; and (2) a Replacement Cost Endorsement

under which the insurer agrees to pay up to one hundred percent (100%) of the Property's insurable replacement cost but not more. If the policy includes a coinsurance clause, it must include an Agreed Amount Endorsement which must waive or eliminate the requirement for coinsurance.

e. Each property policy that the Association is required to maintain shall also contain or provide for the following: (i) "Inflation Guard Endorsement", if available, (ii) "Building Ordinance or Law Endorsement", (the endorsement must provide for contingent liability from the operation of building laws, demolition costs, and increased costs of reconstruction), and (iii) "Equipment Breakdown", if the Property has central heating or cooling or other equipment or other applicable fixtures, equipment, or installation, which shall provide that the insurer's minimum liability per accident at least equals the lesser of two million dollars (\$2,000,000) or the insurable value of the building containing the equipment.

2. Owner Responsibility for Payment of Deductible. If a loss occurs that is covered by a property insurance policy in the name of the Association and another property insurance policy in the name of an Owner:

a. the Association's policy provides primary insurance coverage (unless otherwise provided in this Article 11);

b. notwithstanding Subsection a. above, and subject to Subsection c. below:

1) the Owner is responsible to pay the Association's policy deductible;  
and

2) the Owner's policy, if any, applies to that portion of the loss attributable to the Association's policy deductible.

c. An Owner that has suffered damage to any combination of a Unit or a Limited Common Area appurtenant to a Unit ("Unit Damage") as part of a loss, resulting from a single event or occurrence, that is covered by the Association's property insurance policy ("a Covered Loss") is responsible for an amount calculated by applying the percentage of total damage resulting in a Covered Loss that is attributable to Unit Damage ("Unit Damage Percentage") for that Unit to the amount of the deductible under the Association's property insurance policy; and

d. If an Owner does not pay the amount required under Subsection iii. above within 30 days after substantial completion of the repairs to, as applicable, the Unit or the Limited Common Area appurtenant to the Unit, the Association may levy an Assessment against the Owner for that amount.

3. Flood Insurance. If any part of the Property is or comes to be situated in a Special Flood Hazard Area as designated on a Flood Insurance Rate Map, a policy of flood insurance shall be maintained covering the Property, or, at a minimum, that portion

of the Property located within the Special Flood Hazard Area. That policy shall cover any machinery and equipment that are not part of a building and all Common Area within the Property ("Insurable Property") in an amount deemed appropriate, but not less than the lesser of: (i) the maximum limit of coverage available under the National Flood Insurance Program for the Insurable Property within any portion of the Property located within a designated flood hazard area; or (ii) one hundred percent (100%) of the insurable value of the Insurable Property. If the Property is not situated in a Special Flood Hazard Area, the Association may nonetheless, in the discretion of the Board, purchase flood insurance to cover water and flooding perils not otherwise covered by blanket property insurance.

4. Earthquake Insurance. The Association may purchase earthquake insurance as the Board deems appropriate. If the Board elects not to purchase earthquake insurance, a majority vote of the Owners may override the Board's decision to not purchase earthquake insurance, in which event the Board shall purchase earthquake insurance within 60 days of the vote.
  5. Association's Obligation to Segregate Property Insurance Deductible. The Association shall maintain an amount equal to the Association's property insurance policy deductible or \$10,000, whichever is less. This requirement shall not apply to any earthquake or flood insurance deductible.
  6. Association's Right to Not Tender Claims that are Under the Deductible. If, in the exercise of its business judgment, the Board determines that a claim is likely not to exceed the Association's property insurance policy deductible: (a) the Owner's policy is considered the policy for primary coverage to the amount of the Association's policy deductible; (b) an Owner who does not have a policy to cover the Association's property insurance policy deductible is responsible for the loss to the amount of the Association's policy deductible; and (c) the Association need not tender the claim to the Association's insurer.
  7. Notice Requirement for Deductible. The Association shall provide notice to each Owner of the Owner's obligation under Subsection 2(b) above for the Association's policy deductible and of any change in the amount of the deductible. If the Association fails to provide notice of the initial deductible, it shall be responsible for the entire deductible in case of any loss. If the Association fails to provide notice of any increase in the deductible, it shall be responsible for paying any increased amount that would otherwise have been assessed to the Owner. The failure to provide notice shall not invalidate or affect any other provision in this Declaration.
- C. Comprehensive General Liability (CGL) Insurance. The Association shall obtain CGL insurance insuring the Association, the agents and employees of the Association, and the Owners, against liability incident to the use, ownership or maintenance of the Common Area or membership in the Association. The coverage limits under such policy shall not be less than Two Million Dollars (\$1,000,000.00) covering all claims for death of or injury

to any one person or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which should preclude the insurer from denying the claim of an Owner because of the negligence acts of the Association or another Owner.

- D. Director's and Officer's Insurance. The Association shall obtain Directors' and Officers' liability insurance protecting the Board, the officers, and the Association against claims of wrongful acts, mismanagement, failure to maintain adequate reserves, failure to maintain books and records, failure to enforce the Property's governing documents, and breach of contract (if available). This policy shall, if reasonably available, include: (1) coverage for volunteers and employees, (2) coverage for monetary and non-monetary claims, (3) coverage of claims made under any fair housing act or similar statute or that are based on any form of discrimination or civil rights claims, and (4) coverage for defamation, so long as each is reasonably available. In the discretion of the Board, the policy may also include coverage for any manager and any employees of the manager and may provide that such coverage is secondary to any other policy that covers the manager or any employees of the manager.
- E. Insurance Coverage for Theft and Embezzlement of Association Funds. The Association shall obtain insurance covering the theft or embezzlement of funds that shall: (1) provide coverage for an amount of not less than the sum of three (3) months' regular assessments in addition to the prior calendar year's highest monthly balance on all operating and reserve funds, and (2) provide coverage for theft or embezzlement of funds by: (a) officers and members of the Board, (b) employees and volunteers of the Association, (c) any manager of the Association, (c) officers, directors, and employees of any manager of the Association, and (d) coverage for acts.
- F. Worker's Compensation Insurance. The Board shall purchase and maintain in effect workers' compensation insurance for all employees of the Association to the extent that such insurance is required by law and as the Board deems appropriate.
- G. Certificates. Any insurer that has issued an insurance policy to the Association shall issue a certificate of insurance to the Association and upon written request, to any Owner or Mortgagee.
- H. Named Insured. The named insured under any policy of insurance shall be the Association. Each Owner shall also be an insured under all property and CGL insurance policies.
- I. Association has the Right to Negotiate All Claims and Losses and Receive Proceeds. Insurance proceeds for a loss under the Association's property insurance policy are payable to an Insurance Trustee if one is designated, or to the Association, and shall not be payable to a holder of a security interest. An Insurance Trustee, if any is appointed, or the Association shall hold any insurance proceeds in trust for the Association, Owners, and lien holders. Insurance proceeds shall be disbursed first for the repair or restoration of the damaged property, if the property is to be repaired and restored as provided for in this Declaration. After any repair or restoration is complete and if the damaged property has

been completely repaired or restored, any remaining proceeds shall be paid to the Association. If the property is not to be repaired or restored, then any remaining proceeds after such action as is necessary related to the property has been paid for, shall be distributed to the Owners and lien holders, as their interests remain with regard to the Units. Each Owner hereby appoints the Association, or any Insurance Trustee, as attorney-in-fact for the purpose of negotiating all losses related thereto, including the collection, receipt of, and appropriate disposition of all insurance proceeds; the execution of releases of liability; and the execution of all documents and the performance of all other acts necessary to administer such insurance and any claim. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors, or assigns of the Owner.

- J. Insurance Trustee. In the discretion of the Board or upon written request executed by Owners holding at least 50% of the Allocated Interests, the Board shall hire and appoint an Insurance Trustee, with whom the Association shall enter into an insurance trust agreement, for the purpose of exercising such rights under this paragraph as the Owners or Board (as the case may be) shall require.
- K. Owner Act Cannot Void Coverage Under Any Policy. Unless an Owner is acting within the scope of the Owner's authority on behalf of the Association and under direct authorization of the Association, an Owner's act or omission may not void an insurance policy or be a condition to recovery under a policy.
- L. Waiver of Subrogation against Owners and Association. All property and CGL policies shall contain a waiver of subrogation by the insurer as to any claims against the Association and the Owners and their respective agents and employees.
- M. Board to Tender Claims. Any claims tendered against an Association insurance policy shall be made by the Board or its authorized agent, not an individual Owner.
- N. Applicable Law. This Declaration is specifically subjecting the Association to the insurance requirements required by U.C.A. §57-8a-405 that became law in 2011, and any amendments thereto and thereafter enacted by law. It is the intent of this provision that any future changes to the insurance laws applicable to community associations shall apply to this Association.

#### **Amendment Five:**

Section 14, Paragraph A of the Declaration is hereby amended to read as follows:

- A. Notices. Any notice to be given to an Owner, a Mortgagee, or the Association, including the Board or Architectural Control Committee under the provisions of this Declaration shall be in writing and shall be delivered as follows:
  - 1. Notice to an Owner shall be delivered personally, by email, or placed in the first class United States mail, postage prepaid, to the most recent address furnished by such Owner in writing to the Association for the purpose of giving notice, or if no such

address shall have been furnished, then to the street address of such Owner's Unit or posted on the front door of the Unit. Any notice so deposited in the mail shall be deemed delivered when deposited in the United States mail. Any notice delivered by email shall be deemed delivered when sent to the email address registered with the Association. In the case of co-Owners, any such notice may be delivered or sent to any one of the co-Owners on behalf of all co-Owners and shall be deemed delivered to all such co-Owners.

2. Notice to a Mortgagee shall be delivered by first class United States mail, postage prepaid, to the most recent address furnished by such Lender in writing to the Association for the purpose of notice or, if no such address shall have been furnished, to any office of the Mortgagee. Any address for a Mortgagee that is found on a document recorded on the title of a Unit shall be deemed an office of the Lender. Any notice so deposited in the mail shall be deemed delivered upon deposit.
3. The declaration of an officer or authorized agent of the Association declaring under penalty of perjury that a notice has been sent to any Owner or Owners, or to any Mortgagee or Mortgagees, in any manner that this Section allows, shall be deemed conclusive proof of such mailing or delivery.
4. Notice to the Association shall be delivered by registered or certified United States mail, postage prepaid, addressed to the office of the Manager of the Association (if any) or if there is no Manager, the President of the Association. The Association shall, however, have the right to designate a successor or substitute address for receipt of notices hereunder by filing a Supplemental Declaration and such Supplemental Declaration may be filed for this purpose alone upon approval of the Board.

**Amendment Six:**

Section 14, Paragraph I of the Declaration is hereby amended to read as follows:

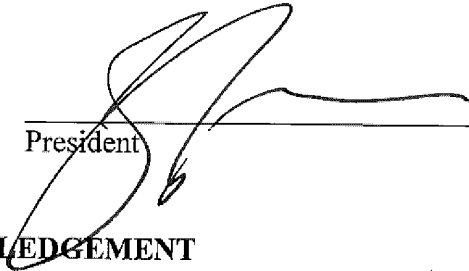
- I. Service of Process. The Registered Agent listed with the Utah State Department of Commerce, Division of Corporations and Commercial Code shall be the person to receive service of process for the Association, until such time as the Board duly appoints a new agent. The Board may execute and record a Supplemental Declaration solely for the purpose of changing the agent for Service of Process at any time and without satisfying the procedures otherwise required for a Supplemental Declaration.



**CERTIFICATION**

The foregoing amendments were duly approved by a majority of the Owners pursuant to the requirements of Section 14, Paragraph B of the Declaration.

**ENSIGN PLACE HOMEOWNERS ASSOCIATION, INC.**

  
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President

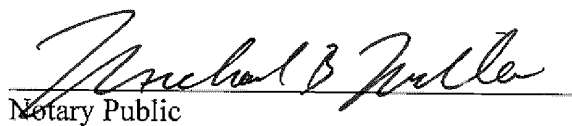
**ACKNOWLEDGEMENT**

STATE OF UTAH

COUNTY OF SALT LAKE

The foregoing instrument was acknowledged before me this 16 day of May, 2017, by A. Steven Weight, the President of Ensign Place Homeowners Association, a Utah nonprofit corporation.



  
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Notary Public

Gail F. Sanders  
Secretary

**ACKNOWLEDGEMENT**

STATE OF UTAH

COUNTY OF SALT LAKE

The foregoing instrument was acknowledged before me this 16 day of May, 2017, by Gail F. Sanders, the Secretary of Ensign Place Homeowners Association, a Utah nonprofit corporation.



Michael B. Miller  
Notary Public

**EXHIBIT A**  
**Lot Parcel Descriptions**  
**12 Lots and Common Area**

All of the Lots as shown on the Ensign Place P.U.D. plat map.

09-31-253-018-0000  
09-31-253-019-0000  
09-31-253-020-0000  
09-31-253-021-0000  
09-31-253-022-0000  
09-31-253-023-0000  
09-31-253-024-0000  
09-31-253-025-0000  
09-31-253-026-0000  
09-31-253-027-0000  
09-31-253-028-0000  
09-31-253-029-0000  
09-31-253-030-0000 (Common Area)