

When Recorded Return To:  
VIAL FOTHERINGHAM, LLP  
515 South 400 East #200  
Salt Lake City, Utah 84111

12495995  
3/15/2017 3:01:00 PM \$44.00  
Book - 10538 Pg - 3508-3525  
Gary W. Ott  
Recorder, Salt Lake County, UT  
VIAL FOTHERINGHAM LLP  
BY: eCASH, DEPUTY - EF 18 P.

**SECOND AMENDMENT TO  
DECLARATION OF CONDOMINIUM  
OF MARMALADE PARK CONDOMINIUM**

This Second Amendment to the Declaration of Condominium of Marmalade Park Condominium (hereinafter "Second Amendment") hereby amends that certain Declaration of Condominium of Marmalade Park Condominium, recorded in the Salt Lake County Recorder's Office on May 19, 2008, as Entry No. 10431383 ("Enabling Declaration") as amended, and is hereby adopted by the Board of Directors for Marmalade Park Condominium Association ("Association"), for and on behalf of its members, and made effective as of the date recorded in the Salt Lake Recorder's Office.

**RECITALS:**

A. On or about May 19, 2008, a Plat map of Marmalade Park Condominium depicting the project was recorded in the Salt Lake County Recorder's Office as Entry No. 10431382.

B. On or about May 19, 2008, a Declaration of Condominium of Marmalade Park Condominium was recorded in the Salt Lake County Recorder's Office as Entry No. 10431383 (hereinafter the "Enabling Declaration").

C. On or about December 1, 2008, an Amendment to Covenants, Conditions and Restrictions of Marmalade Park Condominium was recorded in the Salt Lake County Recorder's Office as Entry No. 10570508 (hereinafter "First Amendment").

**CERTIFICATION**

As evidenced by this instrument, the Association has obtained the approval or written consent of Owners of Units holding at least sixty-seven percent (67%) of the undivided interest in the Common Areas as required by Article VII of the Enabling Declaration approving and consenting to the recording of this Second Amendment.

Dave Vogt and TAMRA Jones, of the Board, hereby certify and swear that the above requisite approval was obtained accepting and approving of the recording of this Second Amendment

DAVE VOGT

Tamra Jones

Dave Vogt

Board Member

Tamra Jones

Board Member

NOW, THEREFORE, pursuant to the foregoing, the Board of Directors of the Association hereby makes and executes this Second Amendment to the Declaration, which shall be effective as of its recording date.

### **COVENANTS, CONDITIONS AND RESTRICTIONS**

1. **Recitals.** The above Recitals are incorporated herein by reference and made a part hereof.

2. **No Other Changes.** Except as otherwise expressly provided in this Second Amendment, the Enabling Declaration and subsequent amendments remain in full force and effect without modification.

3. **Authorization.** The individuals signing for the respective entities make the following representations: (i) he/she has read the Second Amendment, (ii) he/she has authority to act for the entity designated below, and (iii) he/she shall execute the Second Amendment acting in said capacity.

4. **Conflicts.** In the case of any conflict between the provisions of this Second Amendment and the provisions of the Enabling Declaration or any prior amendments, the provisions of this Second Amendment shall in all respects govern and control. In the case of any existing provision with the Enabling Declaration, or prior amendments that could be interpreted as prohibiting the modifications set forth in this Second Amendment, such provision is hereby modified in order to accomplish the purpose and intent of this First Amendment.

### **AMENDMENTS**

5. Article IV, Section 4.04 on Pages 8-9 of the Enabling Declaration is deleted in its entirety and hereby replaced by the following Article:

4.04 **Declaration and Rules Governing Non-Owner Occupied Units.** Notwithstanding anything to the contrary in the Governing Documents, any leasing and non-owner occupancy of a Unit shall be governed by this section, Rules consistent with this section, and procedures adopted as allowed in this section.

(a) **Restriction on Leasing and Non-Owner Occupancy.** As of the date of this recording, there are 4 Non-Owner occupied Units: Unit 1, and Units 2, 6 and 10 ("Existing Rental Units"). With the exception of those Units that are exempt pursuant to Article 4.04(b) below, only the Existing Rental Units and 0 additional Units in the Project may be rented or leased at any one time for a maximum of four (4) non-exempt

qualifying Units. Further, the ability to lease an Existing Rental Units expires upon the sale or transfer of ownership of the Unit, or if an Owner re-occupies an Existing Rental Unit. The Association may develop and maintain a waiting list for those Units that desire to be approved to lease their Unit.

In addition, any qualifying Unit, or exempted Unit pursuant to Article 4.04(b), must comply with the following restrictions:

(i) Any Lease or agreement for otherwise allowable Non-Owner Occupancy must be in writing, must be for an initial term of at least ninety (90) days, and shall provide as a term of the agreement that the resident shall comply with the Governing Documents, and that any failure to comply shall be a default under the lease or agreement. If a lease or agreement for Non-Owner Occupancy (whether in writing or not) does not include these provisions, they shall nonetheless be deemed to be part of the lease or agreement and binding on the Owner and the resident;

(ii) A copy of any lease or other agreement for non-owner occupancy shall be delivered to the Association at least ten (10) days prior to occupation of the Unit by the non-owner occupant.

(iii) Daily, weekly or monthly occupation by non-owner occupants is prohibited (whether pay or not); and

(iv) The Owner(s) of a Unit shall be responsible for the occupant's or any guest's compliance with the Governing Documents. In addition to any other remedy for noncompliance with this Declaration, the Association, following notice to the Owner, shall have the right to initiate a forcible entry and unlawful detainer action, or similar such action, with the purpose of removing the offending non-owner occupant. The Association, the Board of Directors, and the Manger shall not have any liability for any action taken pursuant to this subparagraph and the Owner shall indemnify and pay the defense costs of the Association, the Board of Directors, and the Manager arising from any claim related to any action taken in good faith by any of them pursuant to this subparagraph. For purposes of this subparagraph, each Owner in accepting the deed to a Unit expressly consents to such authority and authorizes and appoints the Association as attorney-in-fact for such Owner to execute any and all instruments and pursue any and all remedies available to remove the offending Non-Owner occupant.

(b) Non-Owner Occupied Units. In addition to the Existing Rental Units, the following Units may be Non-Owner Occupied Units:

(i) An Owner in the military for the period of the Owner's deployment.

(ii) A Unit occupied by an Owner's parent, child, or sibling.

(iii) An Owner whose employer has relocated the Owner for no less than two years.

(iv) A Unit owned by a trust or other entity created for the estate planning purposes if the trust or other estate planning entity was created for:

- a. The estate of a current resident of the Unit; or
- b. The parent, child, or sibling of the current resident of the Unit.

(v) A Unit whose Owner (i) moves due to temporary (three years or less) humanitarian, religious, or charitable activity or service, and (ii) has the intent to return to occupy the Unit when the service has concluded.

(c) Permitted Rules. The Board of Directors may adopt Rules requiring:

- (i) Reporting and procedural requirement related to non-owner occupied Units and the occupants of those Units, including requiring informational forms to be filled out by Owners and/or residents identifying non-owner occupants, vehicles, phone numbers, etc.; and
- (ii) Other reasonable administrative provisions consistent with, and as it deems appropriate to enforce, the requirements of this Declaration.

(d) Tenant Selection. It shall be landlord's sole responsible to properly screen tenants, which shall include, at a minimum, the below listed categories. The landlord shall attest to the Board that the following criteria were completed by landlord prior to commencement of any lease.

- Occupancy. No Owner shall occupy or lease his Unit to more than four (4) unrelated individuals in a two (2) bedroom Unit or as allowed by Salt Lake City Zoning Code. No Owner may lease individual rooms to separate persons, or less than his entire Unit.
- False Information. Provides false information to the landlord on the Application or otherwise.
- Convictions. Have been convicted of multiple (more than one) drug or alcohol related crimes in the past four years. (Landlord may deny rental at their discretion for a single conviction); any crime related property damage, prostitution, violence of any kind, assault, or crimes that involve weaponry of any kind in the past four years.
- Sex Offender Registry. Appear on the sex offender registry and it is within four years of the date of conviction. Landlords leasing to a sex offender(s) whose conviction is over 4 years old must comply with UCA 77-27-21.7 related to "Protected Areas."
- Controlled Substance. Have been convicted of distribution of a controlled substance within the past four years.

- Probation and / or Parole. Are on court or Board of Pardons-ordered probation or parole for one of the disqualifying offenses listed above.

6. Article IV, Section 4.25 on page 13 of the Enabling Declaration is deleted in its entirety and is hereby replaced by the following Section 4.25:

4.25 Sale of Unit. At the time of any sale of a Unit, and in order to provide for ongoing and continuing financial health of the Association, a .5% (1/2 percent) of the sales price shall be charged at closing and paid to the Association, unless a lesser amount is approved by the Association.

7. Article III, Section 3.09 is hereby amended as follows:

3.09 Costs Related to Natural Gas a Common Expense, with the Amount Varying per Unit.

- (a) Natural gas utilized for heating of the Units and the provision of hot water to the Units is supplied by a central boiler. The gas company (currently Questar Gas) charges one bill to the Association for all Units. Accordingly, the natural gas costs incurred to heat the Units shall be assessed equally against all Units as a Common Expense.
- (b) The Association also incurs natural gas costs related to the provision of hot water to the Units. Accordingly, while the costs related to this service are assessed as a Common Expense, the amount charged per Unit may be in proportion to the number of person occupying such Unit. Thus, the amount may vary per Unit based upon the Unit's occupancy number.
- (c) The Association shall pay the natural gas costs as a Common Expense, as provided above. The Association may assess the individual Unit Owners accordingly to the number of people occupying the Unit. Should an Owner fail to pay these Common Expenses, the Association, among other remedies, may turn off the gas to that particular Unit. The Association must provide any delinquent Owner with written notice that their gas will be shut off and provide the Owner with at least 48 hours to bring their delinquent balance current, including all incurred costs, interest, charges and attorney fees. Further, prior to shutting off any Units' gas, the Association must post a shut off notice on the Unit's door 48 hours prior to shutting off a Unit's gas. The Association may charge an Owner a fee to turn on the gas by a qualified contractor or representative. Any unpaid balance shall be an assessment on that Unit and shall be subject to enforcement and nonpayment sections herein.

MARMALADE PARK CONDOMINIUM

By:

[Signature]  
\_\_\_\_\_  
DAVE VOGT  
Its: Board Member

STATE OF UTAH )

: ss

COUNTY OF )

The foregoing instrument was acknowledged before me this 9 day of March, 2017, DAVE VOGT, who by me being duly sworn, did say that he is a Board Member of Marmalade Park Condominium Association.

[Signature]  
\_\_\_\_\_  
Notary Public

JAN C. ROKICH  
Notary Public State of Utah  
My Commission Expires on:  
July 30, 2017  
Comm. Number: 669063

MARMALADE PARK CONDOMINIUM

By:

Tamra Jones  
\_\_\_\_\_  
Tamra Jones  
Its: Board Member

STATE OF UTAH )

: ss

COUNTY OF )

The foregoing instrument was acknowledged before me this 9 day of March, 2017, TAMRA JONES, who by me being duly sworn, did say that he is a Board Member of Marmalade Park Condominium Association.

[Signature]  
\_\_\_\_\_  
Notary Public

JAN C. ROKICH  
Notary Public State of Utah  
My Commission Expires on:  
July 30, 2017  
Comm. Number: 669063

**EXHIBIT "A"**  
**(Legal Description)**

Beginning at a Southwest Corner of Lot 4, Block 156, Plat "A", Salt Lake City Survey, and running thence North  $89^{\circ}59'35''$  East along the South line of said Lot 4, 168.05 feet; thence North  $00^{\circ}00'33''$  West 138.91 feet; thence North  $53^{\circ}12'57''$  West 48.54 feet; thence South  $89^{\circ}59'35''$  West 129.18 feet to the West line of said Lot 4; thence South  $00^{\circ}00'59''$  East along the said West line 167.98 feet to the point of beginning.

Contains 27,662 Sq. Ft.(0.635 acres)

Tax I.D. No. 08-25-330-013-0000

Exhibit "B"

**AMENDED & RESTATED BYLAWS  
OF  
MARMALADE PARK CONDO HOA**

---

The following are the Amended & Restated Bylaws of Marmalade Park Condo HOA ("Bylaws"), a Utah nonprofit corporation (the "Association"). These Bylaws shall replace any prior bylaws, whether or not recorded, and any amendments thereto, through the date these Bylaws are recorded. Upon recordation of these Bylaws, they are binding upon the Association and all present and future Owners and/or occupants.

**RECITALS**

(A) The Bylaws of Marmalade Park Condominium Association were recorded with the Enabling Declaration on May 19, 2008.

(B) Article 6.05 of the Bylaws provides that the Board of Trustees ("Board") may amend the bylaws by written resolution.

(C) Consistent with Article 6.05, the Board adopted a written resolution on March 9, 2017 hereby accepting and approving of these Amended & Restated Bylaws to be recorded in Salt Lake County Recorder's Office.

(D) These Bylaws affect and concern certain real property located in Salt Lake County Utah, as more particularly described in **Exhibit A**.

**ARTICLE I  
DEFINITIONS**

**Section 1.1 Definitions.** All terms used but not defined herein shall have the meanings given them under that certain Declaration of Covenants, Conditions & Restrictions for Marmalade Park Condominium Entry No. 10431383 in Official Records of the Salt Lake County Recorder's Office, as amended (hereinafter referred to as the "Declaration"), and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein, as if set forth herein at length. The term "Owner" shall mean and refer to those persons entitled to membership in the Association, as provided in the Declaration and Articles of Incorporation of the Association.

**ARTICLE II  
MEETINGS OF OWNERS**

**Section 2.1 Annual Meetings.** An annual meeting of the Owners shall be held no less than once each calendar year at a location and time designated by the Board. The Board may set the date, time and location of the annual meeting in accordance with Section 2.3 below.



**Section 2.2 Special Meetings.** Special meetings of the Owners may be called at the request of the Board, or upon written request of the Owners holding at least thirty-three percent (33%) of the total membership, as defined in the Declaration. Notwithstanding, the Board remains the only authorized body to act for and in behalf of the Association.

**Section 2.3 Notice of Meetings.** Unless an Owner requests in writing that all notices be provided to said Owner by U.S. mail, all notices shall be given by, or at the direction of, the Board via email or other approved electronic communication. Notice shall be provided at least ten (10) days before a meeting, but no more than sixty (60) days, to each Owner entitled to vote at the email or electronic address provided by the Owner to the Board. Said notice is effective upon sending the email or electronic communication. Notices provided by U.S. mail shall be sent via regular U.S. Mail and effective upon depositing in the mail. Notices shall specify the location, day and time of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Upon becoming a Member of the Association or upon the written request by the Association, Owners shall provide a valid email address for purpose of notification related to the Association unless the Owner has opted out by providing a written request to the Association for notice by U.S. mail.

**Section 2.4 Quorum.** The quorum required for any action by the Owners hereunder, unless otherwise specifically set forth in the Declaration, shall be as follows: at each scheduled meeting called, the presence of Owners holding, or holders of proxies entitled to cast, at least twenty-five percent (25%) of all outstanding votes shall constitute a quorum for the transaction of business. If a quorum is not met, the meeting shall be postponed to a date of not more than thirty (30) days and not less than twenty-four (24) hours at which time the Owners and proxies present shall constitute a quorum for transacting business. In the case of any postponement, no notice of such rescheduled meeting shall be required except an announcement thereof at the original meeting and an electronic notification with the new meeting time, date and location to those Owners who have previously provided an email or other electronic means to the Association for notice purposes.

**Section 2.5 Proxies.** At all meetings of Owners, each Owner may vote in person or by proxy. All proxies shall be in writing, signed by the Owner, and filed with the Board on or before said meeting. Notwithstanding, any proxy delivered to the Board at the meeting must be provided no later than any point in the meeting announced as the final time to deliver proxies. The notice of meeting and/or the proxy form provided with any notice of meeting may also provide a deadline to return proxies, after which time further proxies will not be received. Every proxy shall be revocable and shall automatically terminate upon conveyance by the Owner of his Lot. If conflicting proxy votes for an Owner or Lot exist, said proxy votes will not be counted.

**Section 2.6 Conduct of Meetings.** The President, or in his absence the Vice President, shall preside over all meetings. The Secretary or other authorized person shall keep minutes of all meetings and maintain a record of the minutes including, but not limited to:

election of directors, adopted resolutions, adopted Rules and other matters coming before the Owners.

**Section 2.7 Action Taken Without a Meeting.** Any action that may be taken at any annual or special meeting of members may be taken without a meeting and without prior notice, if one or more consents in writing, setting forth the action taken, are signed by the members having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all members entitled to vote on the action were present and voted.

In addition, the Board may obtain approvals and conduct business through mail or email/electronic ballots. The ballot must set forth each proposed action and provide the option of voting for or against each proposed action with the requisite number of members approving the action that would be necessary to authorize or take the action at a meeting at which all members entitled to vote on the action were present and voted. The ballot must specify the period during which the Association shall accept written ballots for counting. Following this period, the Association shall provide notice of whether such action was or was not approved.

**Section 2.8 Voting.** Only an Owner that is current on all assessments and charges due and owing shall be deemed in good standing and entitled to vote at any annual or special meeting. The number of votes for each Unit shall be in accordance with an Owner's percentage interest in the Common Areas, as set forth in the Declaration.

Since an Owner may be more than one Person, if only one of such Person(s) is present at the meeting of the Association, that Person shall be entitled to cast the vote appertaining to that Unit. But if more than one of such Person(s) is present, the vote appertaining to that Unit shall be cast only in accordance with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to cast the vote appertaining to that Unit without protest being made forthwith by any of the others to the person presiding over the meeting. The vote appurtenant to any one Unit may not be divided between Owners of such Unit. If the vote of a majority of the Owners of a Unit cannot be determined, no vote shall be cast in relation to such Unit.

The Association shall honor the vote of a trustee or successor trustee of any trust that is an Owner and shall honor the vote of an individual that is a holder of a Limited or General Durable Power of Attorney with respect to an Owner who is disabled or unavailable as though such vote were the vote of the Owner.

### **ARTICLE III BOARD, SELECTION AND TERM OF OFFICE**

**Section 3.1 Number & Tenure.** The affairs of the Association shall be managed by a Board of Directors composed of three (3) individuals ("Board"). Members of the Board of Directors shall serve for a term of two years; provided, however, that initially, the Board shall identify one of the three members of the Board to serve for a one-year term.

The other two members shall serve for a two-year term. Thereafter, all members elected each year shall serve for a two-year term. The members of the Board of Directors shall serve until their respective successors are elected, or until their death, resignation or removal. Any change in the number of Directors may be made only by amendment of these Bylaws.

Directors may replace another Director through appointment if a Director has two consecutive unexcused absences from Board Meetings.

**Section 3.2 Eligibility.** All members of the Board shall be Owners or an Owners' spouse or legal partner that resides with Owner in the Unit. Notwithstanding, only one member of a single household can be a member of the Board at any one time.

**Section 3.3 Resignation & Removal.** A Director may resign at any time by delivering a written resignation to either the President or the Board. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Director may be removed from the Board, with or without cause, by a vote of at least (51%) of the Owners of the Association. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining Directors and shall serve for the unexpired term of his predecessor.

**Section 3.4 Director Discount/Reimbursement.** The Board may waive up to three (3) months of regular monthly assessments for Directors in a calendar year to encourage participation on the Board. The Board may utilize its discretion in determining which months in the calendar year the regular monthly assessment may be waived. A Director may be reimbursed for his/her actual expenses incurred in the performance of his/her duties.

**Section 3.5 Action Taken Without a Meeting.** The Directors may take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of a majority of the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Board.

**Section 3.6 No Estoppel or Reliance.** No one may rely upon any authorization (from the Board or otherwise) contrary to the terms and conditions of the Governing Documents regardless of circumstances. No claim of estoppel, waiver or similar equitable claims or defense may be raised by anyone related to any alleged reliance.

**Section 3.7 Records Retention.** The Board shall take appropriate action to develop, implement and update procedures for record retention. The Board should maintain documents in a manner to be easily accessible and copied. The Board may budget specifically for this expense and may seek the advice of consultants in developing retention procedures.

**ARTICLE IV  
NOMINATION AND ELECTION OF DIRECTORS**

**Section 4.1 Nomination.** Nomination for election to the Board may be made by the Board or by Owners from the floor at the annual meeting.

**Section 4.2 Election.** The election of Directors may be by written ballot, which need not, but may be, secret, as determined at the discretion of the Board. The persons receiving the largest number of votes shall be elected. Cumulative voting is not authorized.

**ARTICLE V  
MEETINGS OF THE BOARD**

**Section 5.1 Regular Meetings.** Regular meetings of the Board shall be held quarterly, or more frequently as determined by the Board. All notices shall be provided by email or other electronic means. Directors are required to provide an email or electronic address for purposes of notice of board meetings. Notice shall be provided at least five (5) days before a meeting, but no more than thirty (30) days.

Owners, and Owner representatives (if designated in writing) may attend meetings and may be present for all discussion, deliberation, and decisions except when the Board is in executive session. Owners shall comply with all reasonable rules established by the presiding officer for their attendance, including a requirement that they remain silent except when comments are solicited by the Board. The Board may limit Owners' comments and/or questions to a specific period of time within the meeting. The Board shall provide email notice in accordance with the Act to Owners that have requested, in writing, to be notified of Board Meetings and have provided a valid email address.

**Section 5.2 Special Meetings.** When, in the discretion of the President or two members of the Board, circumstances require that a meeting be held sooner than the required five (5) days' notice for a regular meeting, a special meeting may be called by the President or by any two (2) Directors, after not less than twenty-four (24) hours' notice to each Director.

**Section 5.3 Quorum.** A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

**Section 5.4 Conduct of Meetings.** The President, or in his absence the Vice President, shall preside over all meetings. The Secretary or other authorized person shall keep minutes of all meetings and maintain a record of the minutes including, but not limited to: election of Officers, adopted resolutions, adopted Rules and other non-privileged matters coming before the Directors. The Board shall keep a copy of all approved minutes and

make them reasonably available to Owners upon their written request. Corrections and/or changes to the minutes shall be made at the next meeting of the Board.

## **ARTICLE VI POWERS AND DUTIES OF THE BOARD**

**Section 6.1 Powers and Duties.** The Board shall have all of the powers and duties necessary for the administration of the affairs of the Association in accordance with the provisions of the Declaration and as outlined below. The Board may delegate its authority and responsibility to a manager or managers, subject to any limitations or provisions contained in the Declaration. The Board shall be responsible for a number of activities including, but not limited to the following:

- (a) Management of the Association;
- (b) Preparation of annual assessments and budget;
- (c) Collection of assessments;
- (d) Maintenance of a bank account(s) for the Association and designating required signatories;
- (e) Maintenance of the Common Areas, Limited Common Areas and Facilities;
- (f) Maintenance of any private roadways;
- (g) Maintenance of any private water system or other private utility;
- (h) Adoption and amendment of rules and regulations;
- (i) Enforcement of the Declaration, including the retention of legal counsel;
- (j) Commencement of legal action when necessary;
- (k) Imposition of fines, sanctions and citations;
- (l) Payment of any amount necessary to discharge any mechanic's or materialman's lien or other encumbrance levied against the Common Area or Facilities;
- (m) Purchase of and maintenance of insurance;
- (n) Maintenance of books and records of the Association;
- (o) Emergency repairs;
- (p) Parking;
- (q) Adoption of reasonable pet restrictions; and
- (r) Performance of other actions and duties to enforce the terms and conditions of the Declaration and effectively manage the Association;
- (s) At the expense of the Owner or Occupant, to tow away or otherwise remove any motor vehicle parked, stored, or standing in an unauthorized area;
- (t) Designating, hiring, and dismissing the personnel necessary for the maintenance, operation, repair and replacement of the Common Areas, and providing services for the property, and, where appropriate, providing the compensation for such personnel in the performance of their duties, which supplies and equipment shall be deemed the common property of the Owners.
- (u)

## **ARTICLE VII OFFICERS AND THEIR DUTIES**

**Section 7.1 Enumeration of Officers.** The officers of this Association shall be a president, vice-president, secretary/treasurer and such other office as designated by the Board, who shall at all times be members of the Board.

**Section 7.2 Election of Officers.** The election of officers shall take place at the first Board meeting following the annual meeting of the Owners. Elected officers shall serve in their office for a period of one (1) year. Notwithstanding, nothing in these Bylaws prevent an officer or directors from being re-elected to their respective positions.

**Section 7.3 Special Appointments.** The Board may appoint such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine. Appointed officers, which do not include the elected or appointed Board of Directors, must be: Owners; may not vote; and may be removed by the Board at any time, with or without cause.

**Section 7.4 Resignation and Removal.** Any officer may resign at any time by delivering a written resignation to any Director or to any Manager. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed and replaced by a majority of the Board of Directors at any time, with or without cause. In the event of death, resignation or removal of an officer, his successor shall be selected by the Board and shall serve for the unexpired term of his predecessor.

**Section 7.5 Multiple Offices.** The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices, except temporarily in the case of special offices created pursuant to Section 7.3 of this Article or the death, resignation or removal of an officer.

**Section 7.6 Duties.** Unless modified by resolution of the Board, the duties of the officers are as follows. The Board may also utilize a manager or managers to assist in these duties. The Board may also adopt rules and policies governing the signing of checks, approval of invoices, deposit of accounts, limits on spending without Board approval and other polices governing the accounts and funds of the Association.

**President:** The president shall preside at all meetings of the Board and shall see that orders and resolutions of the Board and/or the Owners are carried out.

**Vice-President:** The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

**Secretary/Treasurer:** The secretary/treasurer shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Owners; keep

appropriate current records showing the Owners of the Association together with their addresses and shall perform such other duties as required by the Board. The secretary/treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board.

**Other Officers:** Other officers shall have the duties and obligations as set by the Board.

## **ARTICLE VIII COMMITTEES**

**Section 8.1 Committees.** The Board may appoint such committees as deemed appropriate in carrying out its purposes, including appointment of an architectural review committee. A committee shall not have any powers, duties, or responsibilities beyond those specifically assigned by the Board. The Board may terminate any committee at any time.

## **ARTICLE IX CONDUCT AT ASSOCIATION MEETINGS**

**Section 9.1 Recording.** No person, whether an Owner, occupant, owner representative, or other third party is permitted to record (whether audio, video, transcription or combination) any Association or Board meeting, work session, or similar event regardless of the location of such event.

## **ARTICLE X INDEMNIFICATION**

**Section 10.1 Indemnification.** No Director, officer, or member of a committee shall be personally liable for any obligations of the Association or for any duties or obligations arising out of any acts or conduct of said Director, officer, or committee member performed for or on behalf of the Association. The Association shall and does hereby indemnify and hold harmless each person who shall serve at any time as a Director, officer of the Association, or a member of a duly formed committee, as well as such person's heirs and administrators, from and against any and all claims, judgments, and liabilities to which such persons shall become subject, by reason of that person having heretofore or hereafter been a Director, officer of the Association, or member of a committee or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him/her as such Director, officer, or committee member, and shall advance and reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability; provided that the Association shall have the right, in its sole discretion, to defend such person from all suits or claims. However, that no such person shall be indemnified against or be reimbursed for or be defended against any expense or liability incurred in connection with any claim or action arising out of such person's intentional misconduct. The rights accruing to any person under the foregoing provisions of this section shall not exclude any other right to which such person may lawfully be entitled, nor shall anything herein contained restrict

the right of the Association to indemnify or reimburse such person in any proper case, even though not specifically provided for herein or otherwise permitted.

**Section 10.2 Settlement of Association.** The right of any person to be indemnified shall be subject always to the right of the Association by the Board of Directors, in lieu of such indemnity, to settle any such claim, action, suit, or proceeding at the expense of the Association by the payment of the amount of such settlement and the costs and expenses incurred in connection therewith.

## **ARTICLE XI INVESTMENT**

**Section 11.1 Investment.** Association funds may only be deposited into institutions that are federally insured. The Board may deposit Association funds into savings accounts, money market accounts, or purchase certificates of deposits. Other investment options that may pose additional risks must be approved by at least 51% of the total membership prior to the investment.

## **ARTICLE XII WAIVER OF PROCEDURAL IRREGULARITIES**

**Section 12.1 Waiver of Procedural Irregularities.** All inaccuracies and irregularities in calls or notices of meetings, in the manner of voting, in the form of proxies, in the method of asserting persons present, in the method of making decisions, or in the method of accepting or counting votes shall be deemed waived under the following circumstances:

- (a) If the objecting person was in attendance at the meeting – they are waived if the issue upon which the objection was based was perceptible and no objection to the particular procedural issue is made at the meeting; or
- (b) If the objecting person was not in attendance at the meeting but has proper notice of the meeting, they are waived; or
- (c) If the objecting person was not in attendance at a meeting, did not have proper notice of the meeting, but had actual notice of the meeting before it occurred, they are waived; or
- (d) If the objecting person was not in attendance at the meeting and did not have actual and proper notice of the meeting before it occurred, within 60 days of receiving actual notice of the occurrence of the meeting or of any decision that was made at the meeting; or
- (e) For any action, vote, or decision that occurred without a meeting, within 60 days of receiving actual notice of the occurrence of the action, vote, or decision.

**Section 12.2 Requirements for Objections.** All objections except those made at a meeting shall be in writing. Whenever made, objections must be specific and shall include identification of the specific provision of the Governing Documents or other law



that is alleged to have been violated and a brief statement of the facts supporting the claimed violation.

**Section 12.3 Irregularities that Cannot Be Waived.** Any irregularity that is the result of fraud or that was done knowingly and intentionally in violation of the applicable standards.

**ARTICLE XIII  
AMENDMENTS/ ORDER OF PRECEDENCE**

**Section 13.1 Amendments.** Amendments to these Bylaws shall be made in writing by resolution of the Board of Trustees.

**ARTICLE XIV  
FISCAL YEAR**

**Section 14.1 Fiscal Year.** The fiscal year of the Association shall begin on the first day of June and end on the 31<sup>st</sup> day of May of every year, except that the first fiscal year shall begin on the date of incorporation.

The foregoing Bylaws are adopted by the undersigned and made effective upon recordation in the Office of the Salt Lake Recorder, State of Utah.

MARMALADE PARK CONDOMINIUM  
a Utah non-profit corporation  
by:

DAVE VOGT

Its: Board Member  
MARMALADE PARK CONDOMINIUM  
a Utah non-profit corporation  
by:

T amra J ones

Its: Board Member  
MARMALADE PARK CONDOMINIUM  
a Utah non-profit corporation  
by:

\_\_\_\_\_

Its: Board Member

**EXHIBIT "A"**  
**(Legal Description)**

Beginning at a Southwest Corner of Lot 4, Block 156, Plat "A", Salt Lake City Survey, and running thence North  $89^{\circ}59'35''$  East along the South line of said Lot 4, 168.05 feet; thence North  $00^{\circ}00'33''$  West 138.91 feet; thence North  $53^{\circ}12'57''$  West 48.54 feet; thence South  $89^{\circ}59'35''$  West 129.18 feet to the West line of said Lot 4; thence South  $00^{\circ}00'59''$  East along the said West line 167.98 feet to the point of beginning.

Contains 27,662 Sq. Ft.(0.635 acres)

Tax I.D. No. 08-25-330-013-0000