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When Recorded Mail to
Marie McKinley
2402 East 4500 South
Holladay, Utah 84117

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08/18/2017 03:10 PM \$53.00
Book - 10589 Pg - 9865-9882
ADAM GARDINER
RECORDER, SALT LAKE COUNTY, UTAH
MARIE MCKINLEY
2402 E 4500 S
HOLLADAY UT 84117
BY: SRP, DEPUTY - WI 18 P.

**AMENDED & RESTATED
DECLARATION of COVENANTS, CONDITIONS & RESTRICTIONS
for
BRIARCREEK HOMEOWNERS ASSOCIATION
A Utah Non-Profit Corporation**

THIS AMENDED & RESTATED DECLARATION of COVENANTS, CONDITIONS & RESTRICTIONS for BRIARCREEK HOMEOWNERS ASSOCIATION this "Declaration" is hereby adopted by the Briarcreek Homeowners Association ("Association"), for and on behalf of its Members by a unanimous vote of the members (present and represented by proxy) at the Annual Homeowners Meeting held on April 5, 2017 and made effective May 1, 2017.

RECITALS

WHEREAS, this Declaration affects and concerns the real property located and recorded in the Recorder's Office of the County of Salt Lake, State of Utah, and more particularly described as follows (the Property):

**Legal Description
See Attached Exhibit "A"**

WHEREAS, on or about August 22, 1979 a Plat Map depicting Briarcreek Condominiums was recorded in the Salt Lake County Recorder's Office as Entry No. 3326192, Book 79-8, page 287 ("Dedicated Plat").

WHEREAS, on or about August 22, 1979, an Enabling Declaration of Briarcreek Condominiums ("Enabling Declaration") was recorded in the Recorder's Office of the County of Salt Lake, State of Utah as Entry No. 3326193, Book 4928, page 798-809,

WHEREAS, The Association and its Members, consistent with the Enabling Declaration and any subsequent amendments (including any not referenced herein), hereby adopt this Declaration. This Declaration hereby amends, replaces and supersedes all prior declarations and amendments, rendering the prior declaration and amendments of no further force and effect. This Declaration, along with any future amendment(s), shall be the sole Declaration for the Property.

WHEREAS, it is the desire to provide for the non-exclusive common usage of the Common Areas and Limited Common Areas of the Briarcreek Condominiums by the Association consisting of the exterior landscaping areas and any other common areas so identified on the plat filed herewith, and

WHEREAS, it is the desire to provide for the preservation of the values of the respective properties and to provide for the common areas, limited common areas, common parking, driveways and easements and for the maintenance of such common areas, limited common areas, common parking, driveways and easements so identified on the plat filed herewith.

WHEREAS, Owners of record, holding not less than sixty-seven percent (67%) of the total voting power of the Association provided their consent approving and consenting to the recording of this Declaration and the attached Bylaws.

NOW, THEREFORE, for the forgoing purposes, HOA hereby makes the following Condominium Declaration:

DECLARATION

NOW, THEREFORE, for the forgoing purposes, the Association and Its Members by agreement of not less than sixty-seven percent (67%) majority vote of all property owners does hereby make the following Condominium Declaration:

DEFINITIONS

When used in this document, the following terms shall have the meanings indicated and those ascribed by the Act.

1. Declaration – shall mean and refer to this Declaration
2. Record of Survey Map/Survey Map/Plat Map – shall mean and refer to the record of Survey Map filed herewith, dated the 18 day of July, 1979 prepared and certified by Aposhian Consulting Engineers, Inc., a duly registered Utah Surveyor and recorded in the Office of the Salt Lake County Recorder.
3. Common Areas, Limited Common Areas and Facilities – shall mean and refer to:
 - a. The real property and the interest in real property which by Declaration have been submitted to the terms of the Act.
 - b. All Common Areas, Limited Common Areas and facilities designated as such in the Survey Map.
 - c. Limited Common Area shall mean and refer to that portion of the property which is to be used exclusively by the individual Unit Owners. Such areas include landscaped area contained within the fenced area surrounding each unit, and as designated in the survey map. The Owner shall be responsible to maintain all that property that is contained within the fence line boundary.
 - d. All foundations, columns, girders, beams, supports, perimeter walls and roofs.

- e. All installations for and all equipment connected with the furnishing of central services to the property such as water, gas and electricity.
 - f. All private roadways necessary for ingress and egress to deeded units as shown on the Survey Map.
 - g. All portions of the property not specifically included within the individual Units.
 - h. All other parts of the property normally in common use or necessary or convenient to its use, existence, maintenance, safety or management.
4. Officers – shall mean and refer to the duly elected officers of the Association.
5. Unit – shall mean and refer to one of the home units and its adjacent garage, which is designated as a Unit by a number, on the record of Survey Map. Unless a wall on the perimeter of a Unit separates and is common to two units, such perimeter wall shall, except for the finished surface thereof which is on the interior of a Unit, constitute a part of the Common Area and Facilities. A wall on the perimeter of a Unit which separates such Unit from, and is common to, another Unit shall, from and to the surface of such wall to its center, constitute a part of the Unit to which it relates. A Unit shall include any walls or partitions which are wholly contained within its perimeters and the surfaces of any floors and ceilings which bound it. A Unit shall not include pipes, wires, conduits and other utility lines running through it which are utilized for or which serve more than one Unit.
6. Unit Number – shall mean and refer to the number, letter or combination thereof which designates a Unit in the Record of Survey Map.
7. Unit Owner or Owner – shall mean and refer to the owner of the fee in a Unit and the percentage of undivided interest in the Common Areas, Limited Common Area and Facilities which is appurtenant thereto. In the event a Unit is the subject of an executor contract of sale, the contract purchaser shall be considered the Unit Owner for purposes of voting.
8. Common Expenses – shall mean and refer to all sums which are expended on behalf of all the Unit Owners and all sums which are required by the Officers to perform or exercise their functions, duties or rights under the Act, this Declaration, any Management Agreement for the operation of the Association, and such rules and regulations as may from time to time be made and adopted.

COVENANTS, CONDITIONS & RESTRICTIONS

1. The Project is located upon the parcel described above and as described in Exhibit "C", Recorded Survey Map. The buildings are constructed principally of masonry brick exterior walls

with load-bearing and non-bearing walls studded with wood and wooden joist floors and roofs, shingles and interior walls surfaced with gypsum sheets.

2. The Record of Survey Map shows the unit number for each unit, its location and dimensions and also the Common Areas which are reserved for use and for immediate access. Each unit has an adjacent garage and each unit is capable of being independently owned, encumbered and conveyed.

3. The Common Areas and Limited Common Areas contained in this Project are described in the Record of Survey Map. The percentage of undivided interest in the Common Areas and Limited Common Areas shall not be separated from the unit to which it appertains; and such percentage shall automatically accompany the transfer of the unit to which it relates.

4. For purposes of determining the percentage of the undivided interests in the Common Areas which are appurtenant to the various units, such have been fixed up on the basis that the floor space of each unit is identical there are eight such units hence the percentage is 12.5% for each unit.

5. Units are home units intended solely to be used for residential housing, and each is restricted to such use. No unit shall be used or occupied in violation of law, so as to create a nuisance or interfere with the rights of a unit owner or in such a way as to cause an increase in the costs of insurance coverage.

6. The Condominiums shall be managed, operated and maintained by the Officers as agent for all unit owners. The officers shall in the exercise of their powers including those stated below, constitute a legal entity capable of dealing in its name and have the following authority and powers.

a. The power to sue and be sued.

b. The power and authority to convey or to transfer any interest in real property and to record any necessary amendment so long as the vote or consent of the unit owners necessitated by the agreement has been obtained.

c. The power to promulgate such reasonable rules and regulations and procedures as may be necessary or desirable to aid the Officers in carrying out any of their functions or to insure that the property is maintained and used in a manner consistent with the interests of the Unit owners.

d. The power and authority to perform any other acts and to enter into any other transactions which may be reasonably necessary for the Officers to perform their functions as agent for the owners of the units.

7. At all times the Officers shall carry out all of their functions and shall act for the benefit of the unit owners and shall, to the extent permitted by law, be authorized to perform the functions and acts required of them.

8. The Officers will perform their functions by election from the members and by agents duly appointed by them. Committee, officers, agents and employees may be removed at any time by a majority vote of the members/owners. Officers shall be elected by majority vote at each yearly annual meeting to serve a term of one-year or until their successor is duly elected. The designated officers shall be:

a. **President:** This person shall be the chief executive of the Association and shall preside over all meetings and exercise general supervision over the property of the Project.

b. **Vice President.** This person shall act in the place and stead of the President in the event of his/her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him/her by the Board.

c. **Secretary/Treasurer:** This person shall keep minutes of all meetings of the Association and record all items in and keep all records essential under the Act and these Declarations. This person shall have custody and control of the funds available to the Association. The offices of Secretary/Treasurer may be held by the same owner or by two individual owners.

9. Regular meetings of the unit owners shall be held at a time and place to be determined. At least 10 days before such meeting, written notice of the time and place shall be personally delivered or emailed, mailed, postage prepaid, to each Unit owner at their last known address. Special meetings of the owners may be called by the Officers or a majority of the unit owners by giving notice of the time, place and purpose of such meetings at least four days prior to such meetings in the manner set forth above. A majority of the Unit Owners shall constitute a quorum for the conducting of business.

10. Additional or capital improvements to the Project which cost no more than \$5,000.00 may be authorized by the Officers alone. Those improvements which will exceed such amount must, prior to being constructed, be authorized by a majority of the owners.

11. The Officers shall provide for such maintenance of the common areas and facilities as may be reasonably necessary to keep them clean, functional, and attractive and generally in good condition and repair. The officers may permit installation of individual items to the units which may intrude partially into portions of the common areas. The Association shall have no obligation regarding maintenance or care of home units or garages.

12. Each calendar year the Officers shall prepare a budget which sets forth an itemization of the anticipated common expenses for the coming year. The total of such expenses shall be

apportioned among the units on the basis of their appurtenant percentages of undivided ownership interest. Prior to the first day of each month during the year covered by the budget, each unit owner shall pay to the Association as their share of the common expenses one-twelfth of the amount as apportions to their unit. Payments not received by the tenth day of each month will be considered "Delinquent" and late charges may be assessed as per Utah State Statute.

13. Should any unit owner fail to pay, when due, their share of the common expenses, the Officers may enforce any remedy provided in the Act or otherwise available for collection of delinquent Common Expense Assessments. The liability shall be joint and several as may be enforced against any party holding such interest in a Unit including both a seller and purchaser under an executor contract of sale of unit. A delinquent unit owner shall pay all costs of enforcement or collection, including reasonable attorney's fees, and if necessary, cost of foreclosure.

14. The Officers shall secure and at all times maintain insurance coverage by a policy or by policies of fire and casualty insurance, with extended coverage, for the full insurable replacement value of the entire Project. The payee may be the Association and all persons holding an interest in the project and the units. Also a public liability policy shall be maintained to protect the unit owners, the Association, and officers against any legally enforceable liability. The Officers shall have authority to adjust losses and any such insurance shall not be brought into contribution with insurance held by the individual unit owners or their mortgagees.

15. No use shall be made of any unit which shall cause the improvement within the Project or any part thereof to be uninsurable against loss by fire, or other peril included in insurance contracts, or cause such insurance to be cancelled or suspended, or cause any company issuing such insurance to refuse renewal thereof. Each Owner shall be responsible for securing insurance presently known as condominium owner's coverage on each Unit.

16. In those situations, in which the Act or this Declaration requires the vote of a stated percentage of the project's undivided ownership interest for the authorization or approval of a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from unit owners who collectively hold at least a sixty-seven percentage (67%) of undivided ownership interest.

17. At any time while this Declaration is in effect the covenants herein contained can only be modified by a vote of at least sixty-seven percentage (67%) of the undivided ownership interest in the common areas shall be required to amend this Declaration or the Record of Survey Map. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the Association. Such instrument shall certify the vote required by this paragraph.

18. Every person who owns, occupies or acquires any right, title or interest in any Unit in the Project is conclusively deemed to have notice of this Declaration and its contents, and to

have consented to the application and enforcement of each of the provisions of this Declaration against her/her Unit, whether or not, there is any reference to Declaration in the instruction by which he/she acquires interest in any Unit.

19. In the case of any conflict between the Governing Documents, the order of priority from the highest to the lowest shall be the Declaration, the Plat, the Articles, Bylaws and then the Rules.

20. Neither the Board, the Officers, its individual members or any Owner shall have personal liability to any other Owner for action or inactions take under these covenants, provided that any such actions or in actions are the result of the good faith exercise of their judgment or authority, under these covenants and without malice.

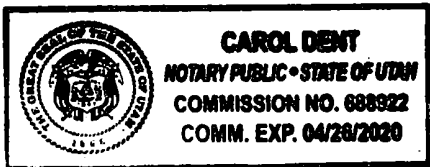
21. The provisions of this Declaration shall be interpreted liberally to further the goal of creating a uniform plan for the development of the Project. Headings are inserted for convenience only and shall not be considered in interpretation of the provisions. Singular will include plural, and gender is intended to include masculine, feminine and neuter as well.

BRIARCREEK HOMEOWERS ASSOCIATION

Ashley Jensen
By: Ashley Jensen
Its: Board Member and President

STATE OF UTAH)
 : SS
COUNTY OF Salt Lake)

On this 7th day of August, 2017, personally appeared before me **Ashley Jensen**, who being by me duly sworn, did say that she is President and a Member of the Board of Briarcreek Homeowners Association, a Utah non-profit corporation and that the with and foregoing instrument was signed on behalf of said corporation by authority and said individual duly acknowledged to me that said corporation approved the same.



Carol Dent
Notary Public

BRIARCREEK HOMEOWERS ASSOCIATION

Becky Harding
By: Becky Harding
Its: Board Member and Vice President

STATE OF UTAH)
 : SS
COUNTY OF Salt Lake)

On this 20th day of July, 2017, personally appeared before me **Becky Harding**, who being by me duly sworn, did say that she is Vice President and a Member of the Board of Briarcreek Homeowners Association, a Utah non-profit corporation and that the with and foregoing instrument was signed on behalf of said corporation by authority and said individual duly acknowledged to me that said corporation approved the same.



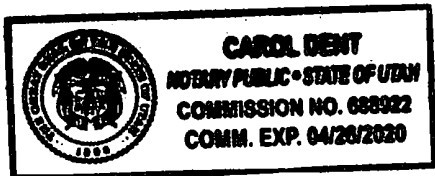
Carol Dent
Notary Public

BRIARCREEK HOMEOWNERS ASSOCIATION

Marie McKinley
By: Marie McKinley
Its: Board Member and Secretary/Treasurer

STATE OF UTAH)
 : SS
COUNTY OF Salt Lake)

On this 17th day of July, 2017, personally appeared before me **Marie McKinley**, who being by me duly sworn, did say that she is the Secretary/Treasurer and a Member of the Board of Briarcreek Homeowners Association, a Utah non-profit corporation and that the with and foregoing instrument was signed on behalf of said corporation by authority and said individual duly acknowledged to me that said corporation approved the same.



Carol Dent
Notary Public

Exhibit A
(Legal Description)

Beginning at a point which is North 89° 56' 59" west along the quarter section line 2055.47 feet and South 159.57 feet from the East Quarter Corner of Section 3, Township 2 South, Range 1 East, Salt Lake Base and Meridian; said point also being on the South Right of Way line of 4500 Street; thence North 66° 08' 30" east along said Right of Way line 148.96 feet to the point of curve of a 1106.30 Foot Radius Curve to the right, the radius point of which bears South 23° 51' 30" east; thence along the arc of said curve 188.41 feet through a central angle 9° 45' 28" west; thence South 12° 20' 00" east 139.69 feet; thence South 70° 45' 13" West 160.11 feet; thence South 66° 08' 30" West 188.07 feet; and thence North 8° 15' 00" West 145.36 feet to the point of beginning. Containing 1.109 acres (48,323 sq. ft.).

Less a parcel of land being part of the above described parcel, The boundaries of said parcel of land are described as follows"

Beginning at the Northeast corner of said entire tract, which point is 1,741.23 feet North 89°56'59" West, along the North line of said Northwest ¼ of the Southeast ¼, and 37.84 feet, South 00°03'01" West, from the East Quarter corner of said Section 3, said point also being the intersection of the westerly right of way line of Butternut Road and the southerly right of way line of 4500 South Street, being 35.00 feet westerly of the monument line of said Butternut Road and 40.00 feet southerly of the center line of said 4500 South Street; and running thence along the East line of said entire tract and said westerly line of Butternut Road South 12°20'00" East 10.68 feet; thence North 68°27'46" West 18.16 feet to the North line of said entire tract and point of curvature; thence northeasterly 15.09 feet along the arc of a 1106.30 feet radius non tangent curve to the right (Note: Center bears South 14°51'20" East) through a central angle of 00°46'53" (Chord to said curve bears North 75°32'06" East for a distance of 15.09 feet) to the point of beginning.

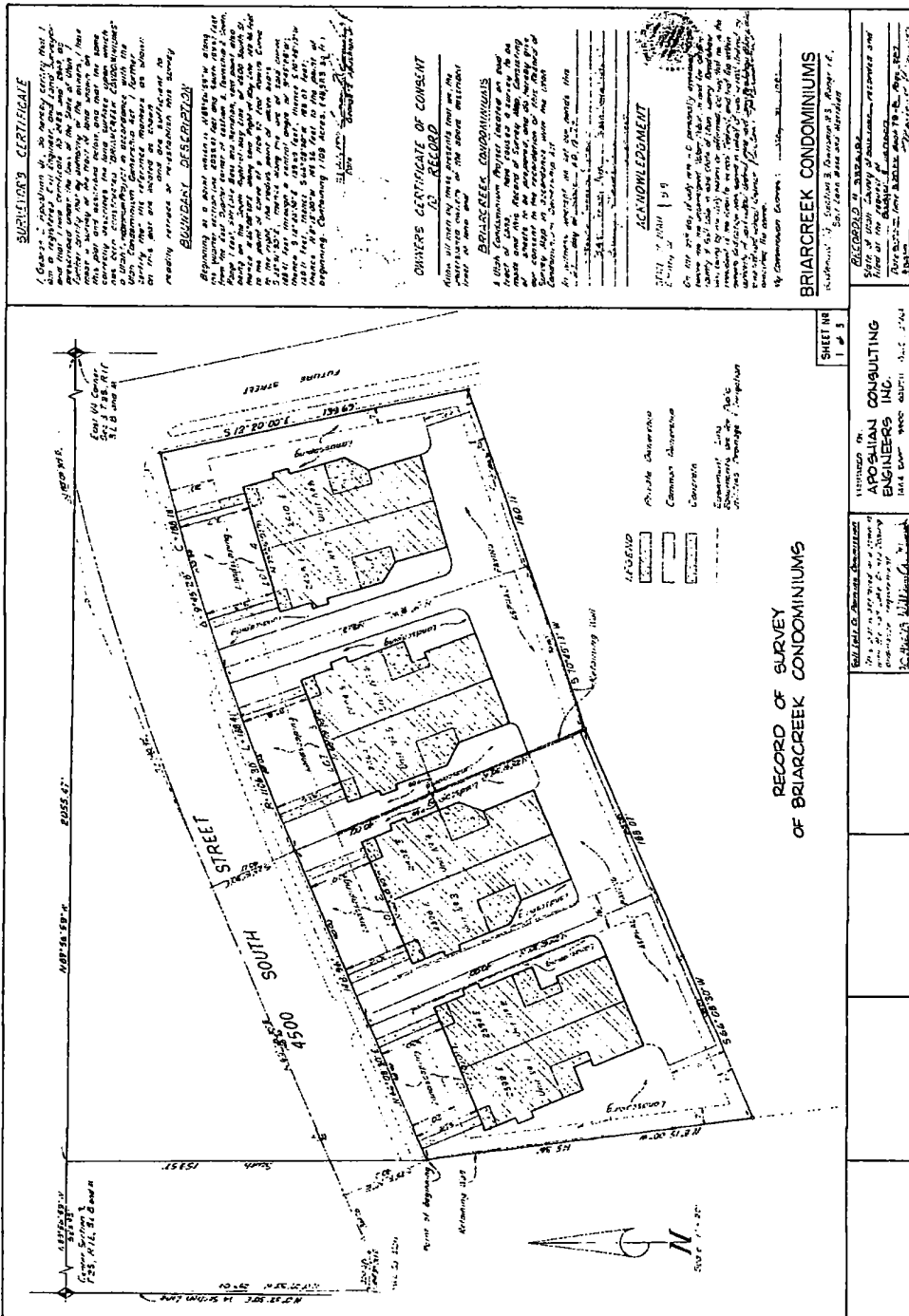
The above described parcel of land containing 81 square feet in area or 0.002 acres more or less.

(Note: Rotate above bearings 00°13'48" clockwise to equal Highway (Project) bearings.)

Exhibit B (Plat Map)

79-8-287

1 of 3



SURVAYOR'S CERTIFICATE
I, Gary A. Johnson, Surveyor, do hereby certify that the foregoing plat of the Briarcreek Condominiums, as shown on the attached sheets, was prepared by me or under my direct supervision and that I am a duly licensed Surveyor in the State of North Carolina.

OWNER'S CERTIFICATE OF CONSENT
I, the undersigned, do hereby certify that I am the owner of the property described in the foregoing plat and that I have read and approved the same.

ACKNOWLEDGMENT
I, the undersigned, do hereby certify that I am the owner of the property described in the foregoing plat and that I have read and approved the same.

RECORD OF SURVEY OF BRIARCREEK CONDOMINIUMS
This plat shows the layout of the Briarcreek Condominiums, including the location of the buildings, the streets, and the common areas. The units are numbered as follows: [List of unit numbers]

LEGEND
Private Ownership
Common Ownership
Common Areas

NOTICE
The Briarcreek Condominiums are subject to the provisions of the Declaration of Condominiums, which is attached to this plat.

RECORD OF SURVEY OF BRIARCREEK CONDOMINIUMS
SHEET NO. 1 OF 3
DRAWN BY: [Name]
CHECKED BY: [Name]
DATE: [Date]

**Exhibit C
(BYLAWS)**

**BYLAWS
of
BRIARCREEK HOMEOWNERS ASSOCIATION
A Utah Non-Profit Corporation**

**ARTICLE I
NAME and LOCATION**

The name of this corporation is **BRIARCREEK HOMEOWNERS ASSOCIATION** hereinafter referred to as the "**Association**". The principal office of the Association shall be located at 2402 East 4500 South, Holladay, Utah 84117 (or at such other location as the Board may designate). Meetings of Owners and Board Members may be held at such places within the State of Utah as may be designated by the board.

**ARTICLE II
DEFINITIONS**

Section 1. "Act" shall mean and refer to the Condominium Act, Utah Code 57-8-101 *et. seq.*

Section 2. "Association" shall mean and refer to Briarcreek Homeowners Association, and its successors and assigns.

Section 3. "Board" shall mean and refer to the Board of Directors, with all powers as stated in the Declaration, the Articles of Incorporation of the Association, and these Bylaws.

Section 4. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions of Briarcreek Condominiums, filed of recorded in the Salt Lake County Recorder's Office in the State of Utah as the Declaration may be amended in accordance with its terms and provisions.

Section 5. "Directors" shall mean and refer to those individuals who are members of the Board. The singular Director shall refer to the singular of the Directors.

Section 6. All other capitalized terms used herein shall have the same meaning as stated in the Declaration.

**ARTICLE III
MEMBERSHIP IN ASSOCIATION; MEETING OF OWNERS; VOTING**

Section 1. Membership in Association. Every Owner of a Unit shall be a member of the Association. Membership shall be appurtenant to, and may not be separated from ownership of any Unit. Each Owner of a Unit shall be a Member of the Association and each Owner is allotted one (1) vote per Unit owned. Each Membership shall be held jointly by all Owners of such Unit. Membership will begin immediately and automatically upon becoming an Owner and shall terminate immediately and

automatically upon ceasing to be an Owner. If title to a Unit is held by more than one person, the membership appurtenant to the Unit shall be shared by all such persons in the same proportionate interest and by the same type of tenancy in which title to the Unit is held. An Owner shall be entitled to one membership for each Unit owned by said owner. Each membership shall be appurtenant to the Unit to which it relates and shall be transferred automatically by conveyance of that Unit. Ownership of a Unit cannot be separated from the Association membership appurtenant thereto, and any devise, encumbrance, conveyance or other disposition of a Lot shall constitute a devise, encumbrance, conveyance or other disposition, respectively of such Owner's membership in the Association and the rights appurtenant thereto. No person or entity other than an Owner may be a member of the Association, and membership in the Association may not be transferred except in conjunction with the transfer of a Unit.

Section 2. Voting. Unless otherwise stated herein, or in the Declaration, all voting shall be by a majority vote of all votes cast. A change in the ownership of a Unit shall be effective for voting purposes from the time the deed or other instrument effecting such change is recorded, or, in conjunction with Owners who are vendees under an installment purchase contract, upon the full execution of the installment purchase contract. Thereafter, the new Owners shall give the Board written notice of such change in ownership and provide satisfactory evidence thereof. The vote for each Unit must be cast as one vote, and fractional votes shall not be allowed. In the event, a Unit is owned by more than one Owner and such Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any association Member casts a vote representing a certain Unit, it will thereafter be conclusively presumed for all purposes that he/she/it 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. In the event, more than one Owner attempts to cast the vote for a particular Unit, the vote for that Unit shall be deemed void and shall not be counted. Only Owners paid in full on all fees and assessments may vote.

Section 3. Annual Meeting. The annual meeting of the Owners shall be held in the Spring of each year. The Board may change the date of the annual meeting provided it provides reasonable notice to all Members.

Section 4. Special Meetings. Special meetings of the Owners may be called at any time by the Board, or upon written request of any the Owner who is entitled to vote.

Section 5. Notice of Meetings. Written notice of each meeting of the Owners shall be given by, or at the direction of the secretary or person authorized to all the meeting, by mailing a copy of such notice, postage prepaid or by email at least ten (10) days before such meeting to each Owner entitled to vote, addressed to the Owner's address last appearing on the books of the Association, or supplied by such Owner to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and in the case of a special meeting, the purpose of the meeting. Those present at the meeting may vote to continue the meeting. Notice of the continued meeting will be given by mail or email and at the subsequent continued meeting, a quorum will consist of those Owners present. The President of the Association will give notice of any meetings and will chair meetings of the Owners.

Section 6. Quorum. The presence at the meeting of Owners entitled to cast, or of proxies entitled to cast, fifty-one percent (51%) of the total votes of the Membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the Owners entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented. Unless otherwise stated in the Declaration, the Articles of Incorporation, or these Bylaws, a majority vote cast at any meeting where a quorum is present shall be the action of the Owners.

Section 7. Proxies. At all meetings of Owners, each Owner may vote in persons or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Owner of his/her Unit.

Section 8. Telephonic Meetings. Members may participate in a meeting by means of conference telephone or similar communication equipment by which all persons participating in the meeting can hear each other and participation in a meeting by such means under this Section shall constitute presence in person at the meeting.

Section 9. Action by Members. Any action required to be taken at a meeting of the Members, or any action which may be taken at a meeting of the Members, may be taken without a meeting by consent, in writing, setting forth the action so taken, and signed by a majority of the Members of the Association.

Section 10. Compensation. Members shall not receive any stated salary for their services as such, but by resolution of the Membership a fixed reasonable sum for actual out-of-pocket expenses. The Membership shall have power in its discretion to contract for and to pay to members rendering unusual or exceptional services to the Association special compensation appropriate and reasonable to the value of such services.

ARTICLE IV

BOARD; SELECTION; TERM OF OFFICE; MEETINGS OF DIRECTORS

Section 1. Nomination and Tenure. The Directors will serve a term of one (1) year. At each successive annual meeting, the Owners will elect Directors to serve for that year. Nomination for election to the Board shall be made by the Owners. If any Director resigns, is removed, dies, or is otherwise unwilling or unable to serve during his or her term, the remaining Directors may appoint another Owner to fill the remainder of such term.

Section 2. Election. Election to the Board may be by secret written ballot. The Owners present or represented by proxies may elect, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. There shall be no cumulative voting.

Section 3. Number of Directors. The Board shall consist of not less than three (3) Owners. An odd number of Directors shall be required. The number of Directors may be increased by resolution of the Owners so long as the number is not less than three (3).

Section 4. Meetings of Directors. Regular meetings of the Board may be held in person or by telephone and may be held as frequently as the Board deems appropriate.

Section 5. Quorum. A majority number of the Directors shall constitute a quorum for the transaction of business. Every act or decision by a majority vote of the Directors shall be regarded as the act of the Board.

ARTICLE V
POWERS AND DUTIES OF THE BOARD; APPLICABILITY OF THE ACT

Section 1. Powers. The Board shall have power to:

- A. Adopt and publish rules and regulations governing the use of the Common Areas and facilities and the personal conduct of the Owners and their guest(s) thereon and to establish penalties for the infraction thereof.
- B. Exercise for the Association all powers, duties and authority vested in or delegated to this association and not reserved to the Owners by other provisions of these Bylaws, the Articles of Incorporation or the Declaration.
- C. Employ a manager, an independent contractor, or such other employees as they deem necessary, and to describe their duties, and to carry out through the Manager those of its functions which are properly the subject of delegation

Section 2. Duties. It shall be the duty of the Board to:

- A. Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Owners at the annual meeting of the Owners or at any special meeting when such statement is requested in writing by the Owners who are entitled to vote.
- B. Supervise all officers, agents and employees of this Association, and to see that their duties are properly performed.
- C. As more fully provided in the Declaration to:
 1. Fix the amount of the Regular Common Assessment against each Unit and to fix the amount of any Special Common Assessments against each Unit
 2. Send written notice of each Regular Common Assessment to every Owners in advance of each annual assessment period and similar notice for imposition of each special Common Assessment.
 3. Foreclose the lien (at the option of the Board) against any property for which assessments are not paid within ninety (90) days after due date or to bring the action at law (at the option of the Board) again the Owner personally obligated to pay the same.

- D. Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.
- E. Procure and maintain insurance in accordance with the provision relating to insurance in the Declaration
- F. Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate
- G. Cause the Common Area to be properly maintained.

Section 3. Applicability of the Act. The provisions of the Act shall apply and govern the Association's rights with respect to levying of assessments, collection of assessments, and remedies that apply in the event of non-payment of assessments

ARTICLE VI **OFFICERS AND THEIR DUTIES**

Section 1. Enumeration of Officers. The officers of this Association shall be a President, a Vice President, a Secretary/Treasurer, and such other offices as the Board may from time to time by resolution create. All officers of the Association must be Owners of Units in this Project.

Section 2. Election of Officers. The election of officers shall take place at the annual meeting of the owners.

Section 3. Term. The officers of the association shall be elected annually by the Owners and each shall hold office for one (1) year unless they shall sooner resign, or shall be removed or are otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect 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 to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the owners. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he/she replaces.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any of the other offices except in the case of special officers created pursuant to Section 4 above of this Article.

Section 8. Duties. The duties of the officers are as follows:

- A. **President.** The President shall preside at all meetings of the Board; shall see that orders and resolutions of the Board are carried out; shall sign all written instruments of the Association.
- B. **Vice President.** The Vice President shall act in the place and stead of the President in the event of his/her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him/her by the Board.
- C. **Secretary.** The Secretary shall record the votes and keep the minutes of all things and proceedings of the Board and of the Owners; serve notice of meetings of the Board 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.
- D. **Treasurer.** The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by the Board; shall keep proper books of account; and shall prepare an annual budget and a statement of income and expenditures to be presented to the Owners at the annual meeting.

Section 9. Manager. The Officers shall have the authority to delegate any and/or all duties to a Manager or Management Company.

ARTICLE VII
CONTRACTS, EXPENDITURES, DEPOSITS

Section 1. Contracts. The Officers are authorized to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the Association and such authority may be general or confined to specific instances.

Section 2. Loans. No loans or advances shall be contracted on behalf of the Association, no negotiable paper or other evidence of its obligation under any loan or advance shall be issued in its name and no property of the Association shall be mortgaged, pledged, hypothecated, or transferred as security for the payment of any loan, advance, indebtedness or liability of the Association unless and except as authorized by the Membership.

Section 3. Deposits.

All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories or investments as the Membership may select, or as may be selected by any officer or agent authorized to do so by the Membership.

Section 4. Disbursements. All notes, drafts, acceptances, checks, endorsements and evidences of indebtedness of the Association shall be signed by such officer or officers or such agent or agents of the Association in such manner as the Membership from time to time may determine. Endorsements

for deposits to the credit of the Association in any of its duly authorized depositories shall be made in such manner as the Members may from time to time determine.

ARTICLE VIII **AMENDMENTS**

Section 1. These Bylaws may be amended, at a regular or special meeting of the Owners by a vote of sixty-seven percent (67%) majority of a quorum of Owners present in person or by proxy; provided however, that no amendment to the Bylaws shall be adopted that is inconsistent with or contradicts any provision of the Declaration unless and until the Declaration is also amended (in accordance with the amendment requirements of the Declaration) to resolve such inconsistency or contradiction

Section 2. 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.

ARTICLE IX **LIMITATIONS ON LIABILITY**

The private property of the members and officers of the Association shall not be liable for the obligations of the Association. The officers and members of the Association shall be indemnified by the Association to the full extent permitted by law.

ARTICLE X **PROHIBITION AGAINST SHARING IN CORPORATE EARNINGS**

No member, officer, manager or employee of, or person connected with the Association, or any other private individual, shall receive at any time any of the net earnings or pecuniary profit from the operations of the Association, provided that this shall not prevent the payment to any such person of such reasonable compensation for services rendered to or for the Association in effecting any of its purposes as shall be fixed by the Membership; and no such person or persons shall be entitled to share in the distribution of any of the corporate assets upon the dissolution of the Association. Upon the dissolution or winding up of the affairs of the Association, whether voluntary or involuntary, the assets of the Association, after all debts have been satisfied, then remaining in the hands of the Membership shall be distributed, transferred, conveyed, delivered and paid over, in such amounts as the Membership may determine.

ARTICLE XI **SCOPE OF INVESTMENT AUTHORITY**

The Association shall have the right to retain all or any part of any securities or property acquired by it in whatever manner, and to invest and reinvest any funds held by it without being restricted to the class of investments which a member is or may hereafter be permitted by law to make or any similar restriction.

ARTICLE XII
MISCELLANEOUS

The fiscal year of the Corporation shall commence on January 1 of each year and end on December 31, unless otherwise changed or modified by the Membership.

Notwithstanding any other provision of these Bylaws, no member, officer, employee or representative of this Association shall take any action or carry on any activity by or on behalf of the Association not permitted to be taken or carried on by an organization.

In witness whereof, we, the undersigned Directors of the Association have hereunto set our hands as of the 5th day of April, 2017.

Signature Ashley Jurgens

Signature Belen B. Harding

Signature Maice McKinley