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**THIRD AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**

**FOR MAYFLOWER CONDOMINIUM**

A Utah Condominium Project

As adopted by the Mayflower homeowners on February 16, 2022

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**THIRD AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR MAYFLOWER CONDOMINIUM**

A Utah Condominium Project This [Proposed] Third Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Mayflower Condominium (herein this "Declaration") is made effective when recorded with the Salt Lake County Recorder's Office by the Mayflower Condominium Association, Inc. ("Association").

**ARTICLE I  
RECITALS**

A. The Utah condominium project known as Mayflower Condominium ("Project") was originally made subject to that certain instrument entitled, "Declaration and Bylaws of the Mayflower Condominium", and recorded with the Salt Lake County Recorder on March 18, 1976 as Entry Number 2795771 (herein the "Original Declaration").

B. The Original Declaration was first amended by the "Second Amendment to the Declaration and Bylaws of the Mayflower Condominium Association", which was recorded with the Salt Lake County Recorder on August 2, 1995 as Entry Number 6133076, which amended and restated in its entirety the Original Declaration ("Amended Declaration").

C. The Amended Declaration was first amended by the "Amendment to the Declaration and Bylaws of the Mayflower Condominium Association", which was recorded with the Salt Lake County Recorder on July 6, 1998 as Entry Number 7017043.

D. The Amended Declaration was next amended by the "Amendment to the Declaration and Bylaws of the Mayflower Condominium Association", which was recorded with the Salt Lake County Recorder on July 6, 1998 as Entry Number 7017044.

E. The Amended Declaration was next amended by the "Second Amendment to the Amended and Restated Declaration and Bylaws of Mayflower Condominium", which was recorded with the Salt Lake County Recorder on February 8, 2006 as Entry Number 9632210.

F. The Amended Declaration was next amended, superseded, and replaced by the "2011 Revised Declaration and Bylaws of the Mayflower Condominium", which was recorded with the Salt Lake County Recorder on September 23, 2011 as Entry Number 11248660 ("Second Amended Declaration").

G. The Second Amended Declaration was first amended by the "First Amendment to the 2011 Revised Declaration and Bylaws of the Mayflower Condominium", which was recorded with the Salt Lake County Recorder on September 5, 2017 as Entry Number 12610524.

H. The Owners hereby desire to amend and restate the Second Amended Declaration to make updates to changes in condominium laws, to better protect and enhance property values, and to more effectively and efficiently govern the Project and operations of the Association.

I. The real property subject to this Declaration is described in Section 4.1 below and is located in Salt Lake City, Salt Lake County, Utah.

J. Section 19.1 of the Second Amended Declaration provides that it may be amended upon the approval of Owners holding at least two-thirds (2/3) of the Association's voting power.

K. At least 2/3 of the Association's voting power has approved this Declaration.

L. This Declaration shall amend and replace the Second Amended Declaration, and any and all supplements and amendments thereto recorded prior to the date of this Declaration, regardless of whether they are listed above.

NOW THEREFORE, the Second Amended Declaration is hereby amended and restated in its entirety as follows:

**ARTICLE II**  
**DEFINITIONS**

2.1 "Act" shall mean the Utah Condominium Ownership Act, codified beginning at Section 57-8-1, Utah Code Annotated, as the same may be amended from time to time.

2.2 "Allocated Interest" shall mean the undivided Interest (expressed as a percentage in this Declaration) in the Common Areas, the Common Expense liability, and votes in the Association allocated to each Unit. The Allocated Interest for each Unit is shown on Exhibit B.

2.3 "Articles" shall mean the Articles of Incorporation of the Association, as amended from time to time.

2.4 "Assessments" shall mean any charge imposed or levied by the Association against Units including but not limited to annual assessments, special assessments, individual assessments, and all corresponding late fees, fines, and interest, as provided in this Declaration.

2.5 "Association" shall refer to the Mayflower Condominium Association, Inc. whose membership shall include each Owner of a Unit in the Condominium Project, as required by the Act. The Association is incorporated as a Utah nonprofit corporation, which if invalidated for any reason, may be reincorporated at the discretion of the Board of Directors who may utilize such name that the Board shall select in any such reincorporation or reorganization. In case of the formation of any such entity, "Association" as used in this Declaration shall refer to that entity.

2.6 "Bylaws" shall mean the Bylaws adopted by the Association pursuant to Section §57-8-15 of the Act for the purpose of regulating the affairs of the Association, as the same may be amended from time to time.

2.7 "Board Member" shall mean a duly qualified and elected or appointed member of the Board of Directors.

2.8 "Board of Directors" or "Board" shall mean the Board of Directors of the Association elected pursuant to the Bylaws and serving as the managing body of the Association. It shall have the same meaning as "Management Committee" does in the Act.

2.9 "Common Areas" shall mean and refer to: (1) the land described on Exhibit A; (2) the portions of the Project not specifically included in the respective Units as herein defined or shown on the Plat; (3) all foundations, columns, girders, beams, supports; roofs, hall corridors, lobbies, stairs, stairways, and entrances to and exits from the building; (4) all exterior or supporting walls of the building and walls and partitions separating Units from corridors, elevators, stairs, and other mechanical equipment spaces, excepting therefrom the sheetrock and plaster on the interior portion of the Unit, which shall be part of the Unit; (5) concrete floors and ceilings; (6) pipes, ducts, flues, chutes, conduits, wires, and other utility installations servicing more than a single Unit; (7) all spaces devoted to the lodging or use of the superintendent or other person employed in connection with the operation of the Project; (8) all central and appurtenant installations for services in common use such as power, light, telephone, gas, hot and cold water, heat, refrigeration, air conditioning and incinerating (including all pipes, ducts, wires, cables, and conduits used in connection therewith, whether located in common areas or Units, unless such services a single Unit in which case it is part of the Unit) and all other mechanical equipment spaces; (9) all elevators, tanks, pumps, motors, fans, compressors and control equipment in common use; (10) all terraces or patios; (11) those areas specifically set forth and designated in the Plat as "Common Area" or as "Limited Common Area", and those areas and facilities described as such elsewhere in this Declaration; and (12) all other parts of the Condominium Project necessary or convenient to its existence, maintenance, and safety, or normally in common use.

2.10 "Common Expenses" shall mean (a) all sums lawfully assessed against Owners; (b) expenses of administration, maintenance, management, operation, repair and replacement of the Common Areas which are maintained by the Association; (c) expenses allocated by the Association among the Owners; (d) expenses agreed upon as common expenses by the Association or its Board of Directors; (e) expenses declared common expenses by the Declaration; and (f) other miscellaneous charges incurred by the Association or the Board of Directors pursuant to the Act or Project Documents.

2.11 "Condominium Project" or "Project" shall mean and refer to the entire Parcel, as defined below, together with all rights, obligations, easements, and organizations established by this Declaration.

2.12 "Declaration" shall mean this Third Amended and Restated Declaration, including all attached exhibits which are incorporated by reference, and any and all future amendments and supplements to this Declaration.

- 2.13 "Eligible Mortgagee" shall mean and refer to a first mortgagee which has requested notice of certain matters from the Association in accordance with this Declaration.
- 2.14 "Insurance Trustee" shall mean any trustee with which the Association may enter into an Insurance Trust Agreement, and which shall have exclusive authority to negotiate losses under the policies of insurance in accordance with such agreement.
- 2.15 "Lender" shall mean a first or second holder of a mortgage or deed of trust on a Unit.
- 2.16 "Limited Common Areas" shall mean and refer to those portions of the Common Areas reserved for the exclusive use of certain Units, as specified herein or on the Plat. Limited Common Areas include the Parking Spaces and Storage Spaces. The use and occupancy of the Limited Common Areas shall be reserved to the applicable Units, and each applicable Unit Owner is hereby granted an irrevocable license to use and occupy the same so long as such Owner owns the Unit associated with such Limited Common Area. Conveyance of a Unit includes the use of the Limited Common Area appurtenant to the Unit.
- 2.17 "Manager" shall mean a person, persons, or entity, if any, selected by the Board of Directors to manage the affairs of the Condominium Project.
- 2.18 "Occupant" shall mean any Person, other than an Owner, in possession of, using, visiting, entering into, or living in a Unit, including, without limitation, family members, hardship tenants, guests, or invitees.
- 2.19 "Owner" or "Unit Owner" shall mean the Person(s) owning a Unit in the Condominium Project and an undivided interest in the Common Areas as shown in the records of the Salt Lake County Recorder. The term Unit Owner or Owner shall not mean or include a Lender or beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof. If a Unit is subject to an executory purchase contract, the contract purchaser shall be considered the Owner unless the seller and buyer otherwise agree, in which event they shall inform the Board in writing of the alternative arrangement.
- 2.20 "Parcel" shall mean and include the land described in Section 4.1 below and incorporated herein by this reference, and the buildings, all improvements and structures thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.
- 2.21 "Parking Space(s)" shall mean one or more separately designated parking stalls or spaces shown on the Plat that may be assigned to a Unit in accordance with Section 10.23 below. Parking Spaces are Limited Common Area. Parking Space assignments are shown on Exhibit "B".
- 2.22 "Person" shall mean a natural individual, corporation, business entity, estate, partnership, trustee, association, joint venture, government, governmental subdivision, or agency or other legal entity capable of holding title to real property.
- 2.23 "Plat" shall mean the Record of Survey Map of Mayflower Condominium recorded in the office of the Salt Lake County Recorder on March 18, 1976 as Entry No. 2795770, Book 76-3 and Page 57 and any recorded amended plats, including the amendment to the Plat originally recorded as "Exhibit B" to the Second Amended Declaration that was recorded with the Salt Lake County Recorder on September 23, 2011 as Entry Number 11248660, at Book 9952 and Page 2933, a copy of which is attached hereto as Exhibit "C".
- 2.24 "Project Documents" shall mean and refer collectively to the Declaration, Articles, Bylaws, and Rules.
- 2.25 "Restrictions" shall mean the covenants, conditions, assessments, easements, liens, and restrictions set forth in this Declaration.
- 2.26 "Rules" shall mean and refer to the rules, regulations, policies, and/or resolutions adopted by the Board of Directors.
- 2.27 "Storage Space(s)" shall mean one or more separately designated storage stalls or spaces shown on the Plat that may be assigned to a Unit in accordance with Section 10.24 below. Storage Spaces are Limited Common Area. Storage Space assignments are shown on Exhibit "B".
- 2.28 "Supplemental Declaration" shall mean a written instrument recorded in the records of the Salt Lake County Recorder, which refers to this Declaration and which amends, modifies, or supplements this Declaration in accordance with its terms.
- 2.29 "Unit" shall mean and refer to a separate physical part of the Property intended for independent use, consisting of rooms or spaces located in a building. Units are shown on the Plat. Mechanical equipment, ducts, pipes, and appurtenances located within any one Unit or located without said Unit but designated and

designed to serve only the Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus, fixtures and the like, shall be considered part of the Unit. Unit includes all decorated interiors, wallboard sheetrock, plaster or drywall, surfaces of interior structural walls, floors and ceilings except those made of concrete, windows and window frames, doors and door frames, and trim, consisting of inter alia and as appropriate, wallpaper, paint, flooring, carpeting, and tile. All pipes, wires, conduits, or other public utility lines or installations constituting a part of the Unit and serving only the Unit (whether within or without the boundaries of the Unit), and any structural members or any other property of any kind, including fixtures and appliances within any Unit, which are removable without jeopardizing the soundness, safety, or usefulness of the remainder of the building within which the Unit is situated shall be considered part of the Unit. Except where the context specifically requires otherwise, reference to a Unit shall include reference to the Allocated Interest in the Common Area appurtenant to such Unit.

2.30 "Unit Number" shall mean the number, symbol, or address that identifies one Unit in the Condominium Project.

2.31 "Relative" shall mean and refer to an Owner's spouse, domestic partner, daughter, son, granddaughter, grandson, parent, grandparent or sibling.

### ARTICLE III THE CONDOMINIUM PROJECT

3.1 Submission. The Association hereby confirms that the Parcel is a Condominium Project pursuant to the Act and the Association hereby declares and agrees that the Condominium Project and all of the Units shall be held, conveyed, transferred, sold, mortgaged, encumbered, occupied, used, and improved subject to the Restrictions, which Restrictions shall constitute covenants and conditions running with the land and shall be binding upon and inure to the benefit of the Association, and each Owner, including their respective heirs, executors, administrators, personal representatives, successors, and assigns.

3.2 Name and Location. The Condominium Project shall be named and known as MAYFLOWER CONDOMINIUM. The Condominium Project is located in Salt Lake City, Salt Lake County, Utah, and the legal description of the real estate included in the Condominium Project is the Parcel set forth in Section 4.1 below. The name of the Association is MAYFLOWER CONDOMINIUM ASSOCIATION, INC.

3.3 Interpretation of Declaration and Applicability of the Act. The Association intends that the Condominium Project shall be governed by the Act, except where the Association has included specific provisions in this Declaration that legally vary, supersede, or supplement the Act, in which event such specific provisions of this Declaration that are contrary to the Act shall govern the Condominium Project to the extent allowed by the Act.

3.4 Agent for Service of Process. The registered agent, as 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 pursuant to §57-8-10(2)(d)(iii) of the Act, until such time as the Board duly appoints a new agent. The Board of Directors 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 any procedure otherwise required for a Supplemental Declaration.

### ARTICLE IV DESCRIPTION, IMPROVEMENTS, ALLOCATED INTEREST, AND CONVEYANCE

4.1 Description of the Land. The land is located at 1283 E. South Temple in Salt Lake City, Salt Lake County, Utah; more specifically, on Lot 1 and a part of Lot 4, Block 2, Plat "G", Salt Lake City Survey, as shown on the official plats thereof as set forth on the Plat and being more particularly described as follows:

Commencing at the southeast corner of said Lot 1, thence S. 89° 58' 36" West along the North line of South Temple St.,  
165.0 feet, thence North 0° 19' 09" West, 214.5 feet, thence North 89° 58' 36" East, 165.0 feet to the West line of U Street,  
thence South 0° 19' 09" East with the West line of U Street, 214.5 feet to the point of beginning.

4.2 Description of Building. The Project consists of one (1) building which has a basement that includes a bike

storage room, multipurpose room, parking garage, one (1) individually owned Unit, a manager's apartment, and storage areas for the use of Owners and Occupants. Above the basement are five (5) full floors each containing four (4) Units for a total of twenty-one (21) individually owned Units. The main entrance to the building leads to a lobby, elevator, and hallways. The entrance to the parking garage is from South Temple at the west side of the building. The building is constructed of brick and concrete. The exterior consists of brick walls, a tiled mansard roof line and covered entrance porch with stone columns. The interior floors are constructed of concrete with hardwood, carpet, or tiled floor coverings. Interior partitions are plaster with steel studs. The building is supplied with electricity, water, and sewage service and a central garbage collection service. The building is centrally heated. The building is more fully depicted on the Plat.

4.3 Description and Legal Status of Units. The Plat shows the Unit Number of each Unit, its location, and the Common Areas and Limited Common Areas to which it has access. All Units shall be capable of being independently owned, encumbered, and conveyed. Each Unit shall include that part of the building which lies within the boundaries of the Unit, which boundary shall be determined in the following manner:

- (a) The upper boundary shall be the place of the lower surface of the ceiling;
- (b) the lower boundary shall be the place of the upper surface of the floor; and
- (c) the vertical boundaries of the Unit shall be: (i) the interior surface of the outside walls of the building bounding a Unit; (ii) the center line of any non-bearing interior walls bounding a Unit; and (iii) the interior surface of any interior bearing walls bounding a Unit.

4.4 Description of Parking Spaces. There are 31 Parking Spaces, numbered 1 through 31 as set forth on the Plat and Exhibit "C" hereto. Parking Spaces have no appurtenant percentage of undivided interest, as further provided in Section 10.23 hereof.

4.5 Description of Storage Spaces. There are 24 Storage Spaces, numbered 1 through 24 as set forth on the Plat and Exhibit "C" hereto. Storage Spaces have no appurtenant percentage of undivided interest, as further provided in Section 10.24 hereof.

4.6 Allocated Interest of Each Unit. The Allocated Interest in the Common Areas which is appurtenant to each Unit has been determined on the basis of par value points assigned by the Project's original developer as a percentage of the total par value of all Units. The percentage applicable to each Unit is as set forth in Exhibit "B" attached hereto and incorporated herein by reference. A Unit Owner's Allocated Interest shall be used for all purposes, including voting and the allocation of Common Expenses in the Condominium Project.

4.7 Form for Unit Conveyance. Any deed, lease, mortgage, deed of trust or other instrument conveying or encumbering title to a Unit may describe the interest or estate involved substantially as follows:

Unit \_\_\_\_ of MAYFLOWER CONDOMINIUM, together with all improvements located thereon, as said Unit is identified in the Plat of said development recorded \_\_\_\_\_, \_\_\_\_\_ as Entry Number \_\_\_\_\_, in Book \_\_\_\_\_, at Page \_\_\_\_\_ of the official records of the Salt Lake County Recorder, State of Utah, and as identified and described in the DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR MAYFLOWER CONDOMINIUM, a Utah Condominium Project, recorded \_\_\_\_\_, \_\_\_\_\_ as Entry Number \_\_\_\_\_, in Book \_\_\_\_\_, at Page \_\_\_\_\_, of the official records of the Salt Lake County Recorder, State of Utah. TOGETHER WITH an undivided interest, and a right and easement of use and enjoyment in and to the Common Area described, as provided for and in the percentage shown, in said Declaration. This conveyance is subject to the provisions of said Declaration, including any amendments thereto. The undivided interest in the Common Area conveyed hereby is subject to modification, from time to time, as provided in the Declaration for expansion of the Condominium Project.

Whether or not the description employed in any such instrument is in the above specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Unit.

## ARTICLE V MAINTENANCE

5.1 Maintenance Responsibilities of Owners. Each Owner of a Unit shall ensure that the interior of his Unit and its equipment and appurtenances are kept in good order, condition, and repair, are safe, are in a clean and sanitary condition, and that all redecorating and painting which may at any time be necessary to maintain the good appearance of such Unit gets done. All such repairs, redecorating, and painting shall be of a quality and kind at least equal to the standards set by the Board and shall be in compliance with applicable

building codes. In addition to maintaining the interior of a Unit in good repair, the Unit Owner shall be responsible for ensuring proper maintenance and replacement of doors (including but not limited to, sliding doors, interior side of the Unit entrance door, and the interior doors), door locks, any heating or ventilating equipment, electrical equipment, hot water equipment, fireplaces, plumbing fixtures, lighting fixtures, or any other equipment or fixtures that may be in or used exclusively by the Unit. Unit Owners shall also be responsible to maintain, repair, and replace windows, window frames, and glass surfaces serving their Units, in accordance with Utah Historic Society rules and regulations. The Association will paint the exterior portion of the window frames. The Unit Owner shall be responsible for the maintenance and repair of any utility pipe or line or system that solely services his/her Unit, and all ducts, wires, conduits, and other accessories solely used therewith. Each Unit Owner shall be entitled to the exclusive use and possession of the Limited Common Areas appurtenant to his Unit and shall be responsible to maintain them in a clean and tidy condition. An Owner may make nonstructural alterations within the Owner's Unit, but an Owner shall not make any structural alterations or other alterations to any part of the Unit or the exterior of a building (such as windows, light fixtures, skylights, patios, balconies, decks, railings, and exterior doors), the Common Areas, or the Limited Common Areas without the prior written approval of the Board of Directors. Unit remodeling projects shall also require prior written approval from the Board and necessary permits. The Board may, in its discretion, require that such repairs, remodeling, or modifications, if allowed, be made in a particular manner, by a particular person/contractor, during certain hours, over a certain limited timeframe, or that they comply with particular material requirements or standards. Any Unit maintenance, repair, or remodeling project involving any of the following scenarios shall require written pre-approval from the Board: (1) any use of the Common Areas for staging, storage, assembly, or construction, (2) any nuisance, (3) any blocking of the Common Areas by vehicles, materials, or persons, or (4) any use of the Association's garbage and disposal facilities for the disposal of debris, materials, or other items related to the remodeling. All obligations set forth herein shall be fulfilled to the standards set by the Board of Directors.

An Owner shall be liable for any and all injury, damage, and/or liability associated with or resulting from any remodeling or maintenance work including damage to the Unit, another Unit, or any Common Area or Limited Common Area. The Board may require a refundable deposit or bond be made to secure the Association before any work is commenced, and create other Rules governing Unit Owner remodeling or maintenance work, including the establishment of an application process.

If an Owner fails to maintain a Unit or Limited Common Area, as provided in this Article V or make repairs thereto in such a manner as may be deemed reasonably necessary in the discretion of the Board of Directors to preserve and protect the attractive appearance, safety, and value of the Condominium Project, following written notice from the Association, the Association shall have the right, but not the obligation, at the expense of the Owner and without liability to the Owner for trespass or otherwise, to take the corrective action that the Board deems necessary. Expenses incurred by the Association in taking the corrective action shall be levied against the Unit and treated as an Individual Assessment as outlined in Section 7.6. The Individual Assessment shall be due and payable immediately and shall be secured by the Assessment lien created in Article VII.

**5.2 Common Area Maintenance.** Except as otherwise provided in this Article V, the Association shall provide for such maintenance, repair, replacement, and operation of the Common Areas as may be reasonably necessary to keep them clean, functional, attractive, and generally in good condition and repair. The Association shall do all such other and further acts that the Board of Directors deems necessary to preserve and protect the Common Area and the beauty thereof, in accordance with the general purposes specified in this Declaration. If the need for maintenance, repair, or replacement is caused through the willful or negligent act of an Owner or an Occupant, the Board may cause the maintenance, repair, or replacement to be made. In such a case, the Association shall individually assess the Owner the reasonable costs of such maintenance, repair, or replacement work.

**5.3 Limited Common Area Maintenance.** All Limited Common Areas upkeep, maintenance, repairs, and replacement shall be performed as necessary to keep them clean, safe, up to building code standards, functional, attractive, and generally in good condition and repair as determined by the Board.

(a) **Owner Responsibility.** As provided in Section 5.1, each Unit Owner shall be responsible to keep the Limited Common Area appurtenant to his Unit in a clean and tidy condition. If an Owner fails to do such, the Association shall inform the respective Owner of the violation and either notify the Owner that they are required to perform such work as detailed by the Board or notify the Owner that the Association will perform such work and levy the costs resulting from the work as an Individual Assessment against the respective Owner. In any event, if an Owner fails to perform the work in the timeframe required by the Board of Directors, the Association may perform the required Limited Common Area work and individually assess the



Owner the resulting costs. Without liability for trespass or otherwise, the Association is expressly permitted (1) to inspect the Limited Common Areas even if required to enter through a Unit to access them; and (2) to perform maintenance, repair, or replacement work upon said items as provided in this Article V.

(b) Association Responsibility. The Association shall be responsible for the repairs and replacement of the Limited Common Areas, except the interior portion of the Storage Spaces, including any shelving therein, which shall be the responsibility of the Owner of the Unit assigned such Storage Space. The Association shall maintain the Unit identification signage upon and paint the exterior portion of all Unit entry doors located off of Common Area hallways and walkways. If the need for upkeep, maintenance, repair, or replacement of these Limited Common Areas is caused through the willful or negligent act of an Owner or an Occupant, the Board may cause the maintenance or repair to be made. In such a case, the Association shall also individually assess the Owner the costs of such work.

## ARTICLE VI MANAGEMENT

6.1. Organization of Association. The Association shall serve as the governing body for all Owners. The Association shall make provisions for the maintenance, repair, replacement, administration and operation of the Common Areas, payment of Common Expenses, payment of losses, division of profits, acquisition of hazard insurance and disposition of such hazard insurance proceeds, and other matters as provided in the Act, this Declaration, and the Bylaws. The Association shall have all rights and powers granted to it under the Act, the Project Documents, and the Utah Revised Nonprofit Corporation Act. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Owners in accordance with the Project Documents. Except as specifically authorized in this Declaration, the Articles, or the Bylaws, no Owner or group of Owners shall have authority to take any action on behalf of the Owners, the Association, or the Board of Directors.

6.2. Legal Organization. The Association is registered as a nonprofit corporation under the laws of the State of Utah. In the event the nonprofit corporate status expires or is invalidated in any manner, the Board of Directors, in its sole discretion, may renew and/or reincorporate the Association. Any such expiration or invalidation shall not relieve any Owner from paying Assessments and abiding by all Restrictions contained in this Declaration.

6.3. Membership. Membership in the Association shall at all times consist exclusively of the Owners. Each Owner shall be a member of the Association so long as such Owner owns a Unit and such membership shall automatically terminate when the Owner ceases to own a Unit. Upon the transfer of an ownership interest in a Unit, the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association. If title to a Unit is held by more than one Person, the membership appurtenant to that Unit shall be shared by all such Persons in the same proportional interest in which title to the Unit is held.

6.4. Voting. Except as otherwise disallowed or provided in this Declaration or the Bylaws, Owners shall be entitled to vote their Allocated Interest pertaining to the Unit owned by that Owner at any meeting of the Owners. Only a single vote may be cast per Unit. In the event of conflicting votes from the same Unit, such votes shall be disregarded except for the purpose of establishing the quorum. In addition, any voting among Owners shall be weighted according to the Allocated Interests. Electronic voting and other forms of voting may be utilized by the Association, as determined by the Board, so long as (i) such voting form is not prohibited by the Act or the Utah Revised Nonprofit Corporation Act, and (ii) the Board can reasonably determine, in its discretion, the authenticity of the vote cast on behalf of a Unit.

6.5. Board of Directors. The governing body of the Association shall be the Board of Directors. The Board of Directors shall consist of three (3) individuals who shall be an Owner, a spouse of an Owner, or a designee of a Unit owned by a trust, LLC, or other legal entity owning a Unit. Except as otherwise provided in this Declaration or the Bylaws, the Board of Directors may act in all instances on behalf of the Association. The Board of Directors may also, as it deems appropriate, recommend amendments to the Bylaws and Declaration and the House Rules.

6.6. Qualification of Board Members. Except as otherwise provided herein, Board Members shall serve for two (2) year terms, which terms shall be staggered beginning at the first election of the Board that is held following the recording of this Declaration so that at the annual Owner meetings one (1) or two (2) (depending on the year) of the three (3) Board Members shall be elected. No two (2) Board Members may reside in the same Unit, be the spouse of one another, or be the business partners if the business is related to

their ownership of a Unit(s). Board members must utilize their Unit as their primary residence and must have owned their Unit for at least one (1) year immediately preceding their joining the Board. If a Board Member ceases to meet any required qualifications during the Board member's term, such person's membership on the Board of Directors shall automatically terminate. In the case of there not being three (3) available and willing-to-serve Owners who meet the eligibility requirements described herein then the Owners may vote to waive one or more of these requirements by a majority vote at the annual meeting. An Owner is not eligible for election to the Board if he/she is delinquent in the payment of any Assessment/Dues. If a Board Member becomes delinquent in the payment of any Assessment/Dues for more than sixty (60) days, he/she may be removed by the majority vote of the other Board Members.

6.7 Election of Board Members. At the annual meeting, the Owner of each Unit shall be entitled to vote the Allocated Interest appurtenant to the Unit for each Board Member seat to be filled. There shall not be any cumulative or fractional voting.

6.8 Action by Board of Directors and Owners. Except as specifically provided herein, the Board of Directors and any individual Owner have no authority to and may not act on behalf of the Association to amend or terminate this Declaration, to elect or remove members of the Board of Directors (except as provided in the Bylaws for filling vacancies in its membership for the unexpired portion of any term for which a Board Member has resigned or been removed), or to establish or change the qualifications, powers and duties, or terms of the Board of Directors.

6.9 Status and General Authority of Board. Any instrument executed by the Board of Directors that recites facts which, if true, would establish the Board of Directors' power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument. The Association shall, in connection with its exercise of any of the powers delineated below, constitute a legal entity capable of dealing in its Board of Directors name. The Board of Directors shall have, and is hereby granted, the following authority and powers:

(a) The authority to execute and record, on behalf of all Owners, any amendment to the Declaration or Condominium Plat which has been approved by the vote or consent necessary to authorize such amendment.

(b) The power to sue or be sued.

(c) The authority to enter into contracts which in any way concern the Project, so long as any vote or consent necessitated by the subject matter of the agreement has been obtained.

(d) The power and authority to borrow money and pledge collateral up to \$10,000 (greater than \$10,000 requires the approval of a majority of Owners present in person or by proxy at a meeting duly called for such purpose).

(e) The authority to promulgate such reasonable Rules, guidelines, policies, and procedures as may be necessary or desirable to aid the Board in carrying out any of its functions or to ensure that the Project is maintained and used in a manner consistent with the Act and this Declaration.

(f) The authority to establish procedures for the conduct of its meetings, including, but not limited to the power to decide what portion of the meeting shall be closed for executive session, to regulate record keeping, and to allow, control, or prohibit the electronic reproduction (video or audio) of Board meetings.

(g) The authority to contract for discretionary utility services such as telephone, cable, and internet, and allocate the usage fees as an individual assessment (see Section 7.6) to Unit Owners who use such services, or to allocate them as a Common Expense to all Unit Owners. If utility usage fees are allocated as a Common Expense, the utility services must be capable of providing the customary uninterrupted and secure level of services that is appropriate and necessary for Owners.

(h) The power and authority to delegate its responsibilities over management and control of the Common Area and regulation of the Project to a Manager, reserving the right, power, and authority however, to control and oversee the administration thereof.

(i) The power and authority to create advisory committees.

(j) The power and authority to: (1) construct, erect, install, place or maintain a radio, television, cable, or satellite antenna, or other aerial, dish, transmitting device or reception structure for a master satellite, television, cable, internet, or radio system should any such master system or systems be utilized by the Association or Owners and require such fixtures; and (2) enter into an easement, lease, or license agreement or any combination thereof, with a communications company to provide space and access for communication holders for antenna facilities and related equipment in the Common Areas.

(k) Any powers and authority provided elsewhere in this Declaration or the Bylaws.

(l) The powers and authority to assign and/or lease Storage Spaces and/or Parking Spaces to Owners, which are unassigned to Units, if any.

(m) The powers and authority to select, hire, and fire employees and/or independent contractors for the Association.

(n) The power and authority to perform any and all other acts not reserved specifically to the Owners, and to enter into any other transactions which may be reasonably necessary for the Board of Directors to perform its functions on behalf of the Owners.

(o) The power and authority to collect a reasonable moving deposit for moving in or out of a Unit not in excess of five hundred dollars (\$500) or such amount as may in the future be determined to be reasonable by the Association. Management could assess costs against the deposit that occur during the move including but not limited to cleaning costs, administrative costs, and repair costs due to damage caused to common areas. Any unallocated monies will be refunded within thirty (30) days after completion of the move.

6.10 Annual Meeting. There shall be an Annual Meeting of the Association on the first Thursday in February at 7:00 pm at the Property or at such other reasonable place or time (not more than thirty (30) days before or after such date) as may be designated by written notice by the Board delivered to the Owners not less than fifteen (15) days prior to the fixed date for said meeting. No less than fifteen (15) days prior to the Annual Meeting the Board shall furnish to the Owners: a proposed annual budget that shall itemize the estimated common expenses of the calendar year with the estimated allocation thereof to each Owner; and, an audited statement of the common expenses itemizing receipts and disbursements for the previous calendar year. An audit may be waived by the majority of Owners at the Annual Meeting both present and by proxy. Within ten (10) days following the Annual Meeting, that budget statement shall be delivered to the Owners who were nor present at the Annual Meeting.

6.11 Remedies Available to the Board of Directors. In addition to any other remedies allowed or provided in this Declaration for any violation of the Project Documents, the Board of Directors may: (1) impose and levy fines for violation of the Declaration, Bylaws, or Rules; (2) terminate an Owner's rights to receive utility services paid as a Common Expense; (3) terminate an Owner's rights to access and use recreational facilities and other Common Areas, except that access to one's Unit shall not be restricted; (4) take any other action or seek any other remedy allowed by the Act or other applicable Utah law.

6.12 Reserve Fund. The Association shall maintain a reserve fund, in accordance with the Utah Condo Act, for maintenance, repair and replacement of common areas, the amount of which shall be determined by the discretion of the Board of Directors, or as otherwise required by the Act and approved by the Association. Reserved funds may be collected as part of the annual Assessments. To the extent the Board of Directors deems necessary, surplus monies of the Association may be retained as additional reserves rather than refunded to the Owners or credited to future Assessments. Conversely, the Board of Directors may allocate from the Reserve Fund to satisfy annual budget shortfalls. The proportionate interest of any member of the Association in any reserve fund established under this Section shall be considered an appurtenance of such Owner's Unit and shall not be separated from the Unit to which it appertains and shall be deemed to be transferred with the Unit.

6.13 Availability of Condominium Project Documents. The Association shall maintain current copies of the Project Documents and the Association's own books, records, and financial statements (as required by the Act and further prescribed by the Bylaws) available for inspection, upon written request, at a mutually convenient time during normal business hours by any Owner or Lender (or any insurer or guarantor of a Lender). The Association may charge a fee for the preparation, photo copying, mailing, or emailing of such documents to an Owner, Lender, title company, real estate agent, or other

requesting party.

6.14 Managing Agent. The Board of Directors may contract with or hire a Manager, including an onsite Manager, to assist the Board of Directors in the management and operation of the Condominium Project. The Board may delegate such of its powers and duties to the Manager as it deems appropriate; provided, however, that only the Board of Directors shall have the right to approve Association budgets and make Assessments. Any powers and duties delegated to any Manager may be revoked by the Board of Directors at any time, with or without cause. Any Manager must be terminable upon sixty (60) days' notice and have a term not to exceed three (3) years, which may be renewed by the Board of Directors.

- (a) The management committee may delegate to a manager or a managing company all of its foregoing powers, duties, and responsibilities referred to in paragraph 6.14 above, except the following: (i) the final determination of common expenses, budgets and assessment based thereon; (ii) the promulgation of house rules and administrative rules and regulations; (iii) the power to enter into any contract involving more than \$5,000 in any one fiscal year; (iv) the opening of bank accounts; (v) the power to purchase, hold, convey, mortgage or lease any units in the name of the Association; or (vi) to bring, prosecute and settle litigation

6.15 Hearing before Board of Directors. As required by the Act, the Board of Directors shall have the authority to create a reasonable hearing process applicable in case the Board or Association shall take adverse action related to any particular Owner. The Board shall have the absolute authority to designate the procedure related to any such hearing and to make any and all final determinations of issues subject to the hearing process.

## ARTICLE VII BUDGETS, EXPENSES, AND ASSESSMENTS

7.1 Annual Budget. The Board shall prepare or cause the preparation of an annual budget, to be adopted by a majority of the Allocated Interest present in person or by proxy at the meeting at which the budget is presented. The annual budget shall provide, without limitation, for the maintenance of the Common Areas and for the administration, management, and operation of the Association. If the Association fails to adopt an annual budget, the last adopted budget shall continue in effect until the new annual budget is adopted.

7.2 Covenant to Pay Assessments/Assessment Lien. Each Owner is deemed to covenant and agree with each other Owner and with the Association to pay to the Association such Assessments fixed, established, and collected from time to time as provided in this Declaration. The Assessments, together with interest thereon, late fees, collection charges, attorneys' fees, court costs, and other costs of collection as hereinafter provided shall be secured by a continuing lien upon the Unit against which each such Assessment is made in favor of the Association. Each such Assessment, together with interest, late fees, collection charges, costs and attorneys' fees, shall also be the personal obligation of the Owner of such Unit at the time the Assessment becomes due secured by the interest of the Owner in the Unit.

(a) In a voluntary conveyance, the grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid Assessments, together with interest, costs, and reasonable attorneys' fees, if any, against the latter for his share of any Assessments levied by the Association up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee.

(b) A lien to secure unpaid Assessments shall not be affected, canceled, or otherwise eliminated by the sale or transfer of the Unit unless foreclosure by a higher priority encumbrance is involved, in which case the foreclosure will extinguish the lien as required by law for any Assessments that were payable before the foreclosure sale, but shall not relieve any subsequent or successor Owner from paying further Assessments or from the lien of any future Assessments.

7.3 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the

purposes of the following: promoting the safety and welfare of the Owners; affecting the management, maintenance, care, preservation, and protection of the Condominium Project; enhancing the quality of life in the Condominium Project; and maintaining and enhancing the value of the Condominium Project including, without limitation, the improvement and maintenance of the services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area; or in furtherance of any other duty or power of the Association.

**7.4 Annual Assessments.** The Board shall fix the sum of Annual Assessments, commonly known as HOA Dues, to be prorated over a twelve (12) month period against each Unit based on the annual budget as presented by the Board at the Annual Meeting of the Association and approved by the majority vote of Owners both present and by proxy. The Board shall provide each Owner with written notice of the proposed annual budget and consequent Annual Assessments not less than fifteen (15) days prior to the Annual Meeting. Within fifteen (15) days following the adoption of the annual budget the Board shall present a schedule of the calculation of Dues for the current year based on each Owner's allocated interest. Annual Assessments/HOA Dues shall be due and payable in monthly installments on dates established by the Board. The Board shall deem Annual Assessments as retroactive to the beginning of the calendar year for which the annual budget is presented and approved.

**7.5 Special Assessments.** In addition to the Annual Assessments, the Board may levy a Special Assessment for the Association in any calendar year, payable over such a period as the Board may determine, for the purpose of defraying, in whole or in part any expense or expenses not reasonably capable of being fully paid with funds generated by Annual Assessments; the cost of any construction, reconstruction, or unexpected repair or replacement of the Common Areas; or for any other expense incurred or to be incurred as provided in this Declaration. Any Special Assessments in a calendar year shall be levied if approved by two-thirds, (2/3) of the Allocated Interest that is present in person or by proxy at a meeting duly called for such purpose. Notice in writing of the amount of any Special Assessment and the time for their payment shall be given as soon as is reasonably possible to the Owners. Payment shall be due on the dates and in the manner provided in the notice.

**7.6 Individual Assessments.** In addition to Annual and Special Assessments authorized above, the Board may levy Individual Assessments against a Unit and its Owner to reimburse the Association for: (a) administrative costs and expenses incurred by the Association in enforcing the Project Documents against that Unit and Owner; (b) costs associated with the maintenance, repair, or replacement of Common Areas caused by the neglect or actions of an Owner or his/her Occupants; (c) any other charge, fine, fee, expense, or cost designated as an Individual Assessment in the Project Documents or by the Board, including, without limitation, action taken to bring a Unit and its Owner into compliance with the Project Documents (d) nonpayment of a reinvestment fee as provided in Article XI below; and (e) attorneys' fees, court or collection costs, fines, and other charges relating thereto as provided in this Declaration.

**7.7 Allocation of Assessments.** Except as otherwise provided herein, Assessments (other than Individual Assessments) shall be imposed upon all Units according to their Allocated Interest.

**7.8 Rules Regarding Billing and Collection Procedures.** The Board of Directors may adopt Rules setting forth procedures for the purpose of levying the Assessments provided for in this Declaration and for the billing and collection of those Assessments, provided that such procedures are not inconsistent with the provisions hereof. The failure of the Association to send an invoice to an Owner shall not relieve any Owner of liability for any Assessment or charge under this Declaration, but the Assessment lien therefore shall not be foreclosed until the Owner has been given not less than thirty (30) days written notice prior to such foreclosure, at the address of the Owner on the records of the Association, of the Assessment or installment and of the amount owing. A copy of such notice may also be provided to the Occupant(s) of the Owner's Unit if the Owner is not a resident of the Unit.

**7.9 Certificate of Payment.** The Association shall, within ten (10) business days after written demand for payment to the Association, furnish to any Owner liable for Assessments or to the Lender or a potential Lender for such Unit, a recordable written statement or certificate signed by an officer or authorized agent of the Association setting forth whether the Assessments relating to a specified Unit have been paid and the amount of delinquency, if any. A reasonable charge of \$25 (unless the Act allows for a greater amount, in which event the greater amount may be charged) may be collected by the

Association for the issuance of each such certificate. Each certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

7.10 Acceptance of Materials or Services. In the event the Association undertakes to provide materials or services that are not otherwise required in the maintenance of the Condominium Project, which benefit individual Units, and which can be accepted or not by individual Owners, such Owners, in accepting such materials or services, agree that the costs thereof shall be an Individual Assessment at the discretion of the Board of Directors.

7.11 Application of Excess Assessments. In the event the amount assessed to meet Common Expenses for a particular fiscal year proves to be excessive in light of the actual Common Expenses, the Board of Directors in its discretion may apply the excess to reserves, credit the excess against future Assessments, or pay the excess to the Owners of each Unit, as the Board deems appropriate. The decision of the Board of Directors shall be binding and conclusive. In addition, the Association shall not be obligated to reduce the amount of Assessments in succeeding years if an excess exists for a prior year.

7.12 No Offsets. All Assessments shall be payable in the amount specified by the Association and no offsets against such amount or the withholding of any amount shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in this Declaration.

7.13 There shall be no single capital improvement or expenditure exceeding the sum of fifteen thousand dollars (\$15,000.00) made by the management committee without the same having been first voted on and approved by two-thirds (2/3) of votes cast, either in person or by proxy, in a meeting duly called for that purpose.

#### **ARTICLE VIII EFFECT OF NONPAYMENT OF ASSESSMENTS AND REMEDIES**

8.1 Due Date and Delinquency. Assessments shall be paid in a timely manner. Payments are due in advance on the first day of the month or the first day of such other period established for the payment of Assessments. Payments are delinquent if received more than ten (10) days from the date that they first became due. Whenever an Assessment is delinquent, the Board of Directors may at its option invoke any one or more or all of the sanctions granted in this Article.

8.2 Collection Charge. If any Assessment is delinquent, the Owner may be obligated to pay interest at the rate of eighteen percent (18%) per annum, in addition to a collection charge and/or such other late fee penalty established by the Board. Until paid, such collection charges, interest, and/or late fees shall constitute part of the Assessment lien as provided for in Article VII. Payments shall first be applied to collection charges, interest, and/or late fees and then unpaid Assessments. Late fees may be assessed each month until the delinquent Assessment is paid in full.

8.3 Action at Law. The Association may bring an action to recover a delinquent Assessment either personally against the Owner obligated to pay the same or by foreclosure of the Assessment lien on the Unit of the Owner. In addition, the Association's choice of one remedy shall not prejudice or constitute a waiver of the Association's right to exercise any other remedy. Any attorneys' fees and costs incurred in this effort shall be assessed against the delinquent Owner and the Owner's Unit, and reasonable attorneys' fees and court costs will thereafter be added to the amount in delinquency (plus interest, late fees, and collection charges). Each Owner vests in the Association and its successors and assigns the right and power to bring actions at law against such Owner(s), or to advance lien foreclosures against the Unit of such Owner(s), for the collection of delinquent Assessments.

8.4 Foreclosure Sale. Any foreclosure provided for in this Declaration may be conducted pursuant to a judicial foreclosure or in compliance with applicable provisions relating to the foreclosure of deeds of trust or realty mortgages in the State of Utah. In any foreclosure and subsequent sale, the Owner of the affected Unit shall pay the costs and expenses of all related proceedings including a reasonable attorney's fee incurred by the Association. The Association may, through its duly authorized agents

including the Board of Directors, have and exercise the power of the trustee and the power to bid on a Unit at the foreclosure or other sale thereof, and to acquire, hold, lease, rent, mortgage, and convey such Unit.

**8.5 Trust Deed Provisions.** Each Owner by accepting a deed to a Unit hereby conveys and warrants the Unit in trust with power of sale to the Association's attorney as trustee to secure performance of the Owner's obligations, to the Association, under the Project Documents. All notices of default and other communications material to an exercise of the power of sale shall be sent to the street address of the Owner's Unit or the last known address of the Owner as shown on the books and records of the Association, if different from the street address of the Unit.

**8.6 Suspension of Votes.** The Board of Directors may suspend an Owner's right to vote on any matter at regular and special meetings of the Association for the entire period during which an Assessment or other amount due under any of the provisions of the Project Documents remains delinquent.

**8.7 Termination of Services.** If an Owner fails or refuses to pay any Assessment when due, the Board of Directors may terminate the Owner's right to receive utility services paid as a Common Expense and access to and use of the Common Areas (except an Owner's right to access his/her Unit may not be restricted). Before limiting, restricting, or terminating any utility or other service provided by the Association or restricting access to or use of the Common Areas, the Association shall notify the Owner and give such Owner at least three (3) business days to pay the past due balance.

**8.8 Unpaid Assessments and Future Lease Proceeds.** If an Owner who is leasing a Unit fails to pay any Assessment for more than sixty (60) days after the Assessment is due, the Board of Directors may demand that the tenant pay to the Association all future lease proceeds due to the Owner beginning with the next monthly payment until the amount due is paid to the Association.

## ARTICLE IX PROPERTY RIGHTS IN COMMON AREA

### **9.1 General Easements to Common Area and Units.**

(a) Subject to this Declaration and the Rules, each Owner shall have an equal right and easement of use and enjoyment in and to the Common Area. Each Owner shall have an unrestricted right of ingress or egress to and from the Owner's Unit over and across such Common Area (exclusive of the Limited Common Area unless stated otherwise). Each Owner shall also have the exclusive right to use and enjoy any Limited Common Area that may be designated for exclusive use by such Owner. Such rights and easements shall be appurtenant to and shall pass with title to each Unit and in no event shall such appurtenant rights be separated therefrom. Any Owner may delegate the right and easement of use and enjoyment described herein to any family member, household guest, contract purchaser, Occupant, or Person who resides in such Owner's Unit.

(b) The Association, acting through the Board of Directors or its authorized agent, shall have nonexclusive easements with the right of access to each Unit, without trespass, to make inspections and to maintain, repair, replace, or effectuate the restoration of the Common Area accessible from such Unit. Such rights shall be exercised in a reasonable manner and at reasonable times with prior notification of at least 48 hours, unless emergency situations demand immediate access. The Association, acting through the Board of Directors or its authorized agent, shall have a nonexclusive right to grant permits, licenses, and easements upon, across, over, under and through the Common Area for purposes necessary for the proper operation of the Condominium Project; provided, however, such rights shall be exercised in a reasonable manner and at reasonable times, with reasonable notification, unless emergency situations demand immediate access.

**9.2 Easements for Encroachments.** In the event that, by reason of the construction, reconstruction, settlement, movement, or shifting of any part of a building, any part of the Common Areas encroaches or shall hereafter encroach upon any part of any Unit or any part of any Unit encroaches or shall hereafter encroach upon any part of the Common Areas or any other Unit, valid easements for such encroachment and the maintenance of such encroachment are hereby established and shall exist for

the benefit of such Unit and the Common Areas, as the case may be, so long as all or any part of the building containing any such Unit shall remain standing; provided, however, that in no event shall a valid easement for any encroachment be created in favor of any Unit Owner in the Common Areas if such encroachment occurred due to the willful conduct of such Unit Owner occurring after the date on which this Declaration is recorded.

9.3 Utilities. Easements and rights-of-way over the Condominium Project for the installation and maintenance of electricity lines, telephone lines, cable television, air conditioners, internet services, water lines, gas lines, sanitary sewer lines, drainage facilities, and such other public utilities needed to serve the Condominium Project are hereby reserved to the Association, together with the right to grant and transfer the same; provided, however, such easements and rights-of-way shall not unreasonably interfere with the use of the Common Area and the Units by the Owners or Occupants. The Association, through the Board, shall have the power to grant and convey, in the name of all of the Owners as their attorney-in-fact, to any other person easements and rights-of-way in, on, over or under the Common Area for the purpose of constructing, erecting, operating or maintaining lines, cables, wires, conduits, or other devices for electricity, cable television, air conditioning, internet, power, telephone, public sewers, storm water drains and pipes, water systems, sprinkling systems, water heating and gas lines or pipes and any similar public or quasi-public improvements or facilities, and each Owner in accepting the deed to a Unit expressly consents to such easements and rights-of-way and authorizes and appoints the Association as attorney-in-fact for such Owner to execute any and all instruments conveying or creating such easements or rights-of-way. Such Owner and those claiming by, through or under an Owner agree to execute promptly all such documents and instruments and to do such other things as may be necessary or convenient to effect the same at the request of the Association. However, no such easement can be granted if it would permanently or significantly interfere with the use, occupancy, or enjoyment by any Owner or such Owner's Unit.

9.4 Limitation on Easement - Suspension of Owner's Rights. An Owner's equal right and easement of use and enjoyment concerning the Common Area shall be subject to the following:

(a) The right of the Association to suspend the Owner's voting right in the Association and the Owner's right to the use of any recreational facilities included in the Common Area: (i) for any period during which an Assessment on such Owner's Unit remains unpaid; (ii) for a period not exceeding sixty (60) days for any infraction by such Owner of the provisions of this Declaration or any Rule; and (iii) for successive 60-day periods if any such infraction is not corrected during any prior 60-day suspension period;

(b) The right of the Association to impose reasonable limitations on the number of guests per Owner or Occupant who at any given time are permitted to use the Common Areas; and

(c) The right of any governmental or quasi-governmental body having jurisdiction over the Property to access and to have rights of ingress and egress over and across any street, parking areas, walkway or open areas contained within the Common Areas for purposes of providing police and fire protection, transporting school children, and providing other governmental or municipal services.

## ARTICLE X USE RESTRICTIONS

10.1 Rules and Regulations. The Board of Directors shall have authority to enforce and revise such Rules and procedures as may aid the Association in carrying out any of its functions or to ensure that the Condominium Project is maintained and used in a manner consistent with the Project Documents. The Association will vote and pass changes to House Rules by majority vote of owners present (in person or by proxy). Unit Owners and Occupants shall at all times obey the Rules and see that they are faithfully observed by those persons over whom they have or may exercise control and supervision, it being understood that such Rules shall apply and be binding upon all Owners and Occupants of the Units. The Rules may address any issues including those addressed in this Declaration and the Bylaws. The Rules may supplement, clarify, and add detail to issues otherwise addressed in this Declaration and the Bylaws so long as they do not contradict the same. The Board of Directors determination as to whether a



particular activity being conducted or to be conducted violates or will violate the Rules shall be conclusive. Violations of Rules may result in fines levied by the Board. Fines may be levied pursuant to a schedule of fines the Board adopts for the Association.

10.2 Occupancy Use. Units shall be occupied and used only as a private single-family residence. Occupancy shall be limited to no more than two (2) persons per bedroom. The Common Areas shall be used for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the Unit Owners.

10.3 Signs. No signs of any kind shall be displayed to the public view on or from any Unit or the Common Areas without the prior written approval of the Board of Directors. If the Board allows the sign, the Board may dictate the size, shape, design, location, text, style, and other features of the sign, as well as time periods for allowance.

10.4 Nuisance. No noxious or offensive activity shall be carried on or upon the Condominium Project, nor shall any activity that might be or become an annoyance or nuisance to the Owners or Occupants be permitted to interfere with their rights of quiet enjoyment, or increase the rate of any insurance or decrease the value of the Units. No Owner or Occupant shall engage in activity within the Condominium Project in violation of any Restrictions or Rules adopted by the Board, or any laws, ordinances, statutes, rules, or regulations of any local, county, state, or federal body. Any such violations shall be deemed a nuisance under this Section.

10.5 Temporary Structures. No structure or building of a temporary character, including a garbage container, tent, or shack, shall be placed upon the Condominium Project or used therein unless the same and its proposed use are approved by the Board of Directors.

10.6 External Fixtures. No external items such as, but not limited to, deck or patio furniture, television and radio antennas, satellite dishes, flags and flag poles, clotheslines, wiring, insulation, air conditioning equipment, water softening equipment, fences, awnings, ornamental screens, exterior doors, screen doors, porch or patio or balcony enclosures, sunshades, lighting fixtures, walls, windows, skylights, landscaping and planting, other than those approved by the Board of Directors, and any replacements thereof, shall be constructed, erected, or maintained on the Condominium Project without the prior written approval of the Board of Directors or as allowed by the Rules. The Board of Directors may adopt Rules regulating the location, type, color, and design of these external fixtures in compliance with the Utah State Historic Preservation Society. An Owner or Occupant may place up to three (3) decorative personal items outside the front door of their Unit in the Common Area hallway, but only if such items and their locations are approved by the Board who is under no obligation to approve them.

10.7 Window Covers. Only curtains, drapes, shades, shutters, and blinds may be installed as window covers, and all such window covers shall be approved in advance by the Board of Directors. No window shall be covered by paint, blankets, rugs, foil, sheets, and the like. The Board of Directors may adopt Rules regulating the type, color, and design of any window coverings that can be viewed from outside of the Units.

10.8 Outside Speakers and Amplifiers. No radio, stereo, broadcast, or loudspeaker units shall be placed upon or outside, or be directed to the outside of any Unit without the prior written approval of the Board of Directors.

10.9 Repairs. No repairs of any detached machinery, equipment or fixtures, including without limitation, motor vehicles, shall be made upon the Condominium Project, except for emergency repairs.

10.10 Unightly Items. All rubbish, debris or unsightly materials or objects of any kind shall be regularly removed from Units and Limited Common Areas and shall not be allowed to accumulate therein or thereon. Refuse containers and machinery and equipment not a part of the Units, shall be prohibited in any Unit unless obscured from view of adjoining Units and Common Area. Trash and garbage shall be properly disposed in accordance with the Rules applicable thereto adopted by the Board of Directors.

10.11 Animals and Pets. No more than (1) domestic dog or two (2) cats is allowed per Unit so long a such pet weighs no more than 20 pounds and is no taller than 20 inches in height. Only dogs and cats will be considered pets within the meaning of these rules. No animals of any kind shall be bred or raised for

commercial purposes. All pets must be properly licensed and registered with the appropriate governmental agency. Pets may not be tied or tethered in the common/limited common areas. Owners must abide by all pet rules and regulations adopted by the Management Committee which may adopt rules adding further restrictions not inconsistent with this Declaration including but not limited to:

- (a) Allowed animals and breed types
- (b) Leash requirements in common/limited common areas
- (c) Damages to property of anyone other than owner
- (d) Aggressive behavior
- (e) Other nuisance behaviors

If a pet is deemed to have created a nuisance by the Board, the owner will be notified. Following the third nuisance notification, the Board may require the owner to remove the pet from the premises.

The Association will comply with all Federal and State laws in regard to service animals, as defined by the Americans Disability Act.

10.12 Unit Leasing. In order to protect the value of the Units; carry out the purpose for which the Project was formed by preserving its character as a residential community of predominantly Owner-occupied Units and to prevent the Project from assuming the character of an apartment, and renter-occupied complex.

(a) Leasing Prohibition. The leasing of any Unit is prohibited, except as otherwise provided in (b) or (c) below.

(b) Statutory Exemptions.

1) Immediate Family Exemption: Occupancy by the immediate family members of an Owner shall be deemed as occupancy by the Owner. As used in this Section, "immediate family members" means an Owner's spouse, live-in partner, child, grandchild, parent, grandparent, or sibling.

2) Unit Entity Ownership Exemption. A Unit owned by an entity that is occupied by an individual who (i) has voting rights under the entity's organizing documents; and (ii) has a 25% or greater share of ownership, control, and rights to profits and losses of the entity.

3) Trust or Entity for Estate Planning Exemption. A Unit owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for the estate of: (i) a current resident of the Unit; or (b) the parent, child, or sibling of the current resident of the Unit;

(c) Hardship Exemption. The Board, in its sole discretion, shall be empowered to allow the reasonable leasing of a Unit to avoid undue hardship on an Owner. By way of illustration and not by limitation, examples of circumstances which may constitute undue hardship are those in which: (i) an Owner must relocate his residence and cannot, within one (1) year from the date the Unit was placed on the market, sell the Unit while offering it for sale at a reasonable price no greater than its current appraised market value; (ii) an Owner dies and the Unit is being administered by his estate; or (iii) an Owner takes a leave of absence or temporarily relocates and intends to return to reside in the Unit. Those Owners who have obtained the requisite hardship exemption approval from the Board may lease their Units for such duration as the Board reasonably determines is necessary to prevent undue hardship, but in no event shall a hardship be granted by the Board for a period longer than two (2) years. Hardship exemptions are not available for Owners who have owned their Unit for less than two (2) years.

1) Hardship Application. Any Owner who believes that he must lease his Unit to avoid undue hardship shall submit a written application to the Board setting forth the circumstances necessitating the leasing, a copy of the proposed lease, and such other information as the Board may reasonably require. Leasing in the case of an undue hardship shall be permitted only upon the Board's written approval of the Owner's application.

(d) Restrictions on Permitted Rentals. Unless otherwise provided herein, a Unit permitted to be leased is

subject to the following restrictions:

1) An Owner may not lease less than the entire Unit, unless the Unit is occupied simultaneously by the Owner.

2) A Unit may not be leased unless the initial lease term is for at least six (6) months. Short-term leasing is strictly prohibited.

3) A Unit may not be leased to more than two (2) unrelated adults.

4) A Unit may not be leased except by written agreement.

5) A Unit may not be leased for corporate or commercial purposes.

6) Third-party leases and the sub-leasing of Units are prohibited.

(e) Lease Information. If a lease is approved, a copy of the lease signed by the Owner and tenant shall be submitted to the Board along with the names and contact information of all adult tenants, vehicle information of tenants, and any other information deemed necessary by the Board within ten (10) days after it has been signed by the parties. A completed background check of any and all adult tenants, must be conducted and paid for by the Owner, and submitted to the Board prior to the occupancy of tenants.

(f) Rules on Leasing. The Board has the power to make and enforce Rules and fine in accordance with the Project Documents in order to enforce the provisions of this Section. Any transaction which does not comply with this Section shall be voidable at the option of the Board. The Board shall ensure consistent administration and enforcement of the rental restrictions set forth herein.

10.13 Landscape Maintenance. The Association shall have the right and duty to maintain all landscaping in the Common Areas. If a Gardening Committee exists the Board shall discuss alterations and changes with the Gardening Committee and the Gardening Committee shall discuss alterations and changes with the Board. When proposing major changes, examples of which might be tree removal, adding or removing bushes, and adding, moving or removing walls, a meeting to discuss major changes with the Owners must be called. A majority vote of Owners attending, either in person or by proxy, would approve major changes.

10.14 Commercial Use Prohibition. No business use and trade may be conducted in or from any residential Unit unless: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (b) the business activity conforms to all zoning requirements for the Condominium Project; (c) the business activity does not involve persons coming onto the Condominium Project who do not reside in the Condominium Project or door-to-door solicitation of residents of the Condominium Project; and (d) the business activity is consistent with the residential character of the Condominium Project and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents, as may be determined in the sole discretion of the Board of Directors. Notwithstanding the above, the leasing of a Unit shall not be considered a trade or business within the meaning of this Section.

10.15 No Subdivision of Units or Further Restrictions. No Unit shall be split, subdivided, or separated into two (2) or more Units. No Owner of a Unit shall sell part of a Unit. No subdivision plat or covenants, conditions, or restrictions shall be recorded by any Owner or other Person with respect to any Unit unless the Board of Directors has first approved the plat or the proposed covenants, conditions or restrictions, such approval to be evidenced by the Association's signature on the final recorded plat or instrument imposing the covenants, conditions or restrictions. Any plat or covenants, conditions, or restrictions recorded in violation of this Section shall be absolutely null and void. The Board of Directors review shall be for the purpose of assuring, in the sole and absolute discretion of the Board of Directors, that the plat or covenants, conditions and restrictions are consistent and compatible with the overall plan of development of the Project. However, in no event shall the approval of the Board of Directors of any plat or covenant, condition or restriction be an abandonment or waiver of any provision of this Declaration. The provisions of this Declaration shall be and remain superior to any such plat or covenants, conditions or restrictions except to the extent they defer to the Plat.

10.16 Architectural Control. Consistent with the designation of the Project as an historical property, no exterior changes shall be commenced, erected, maintained, made or done without the prior written approval of the Board of Directors or any committee established by the Board for that purpose. By way

of illustration, but not of limitation, the following are considered exterior changes: painting, landscaping, lighting, repairs, excavation, patio covers, screens, doors, evaporative coolers, window air conditioners, fireplaces, skylights, storage buildings, solar collectors, decks, balconies, shade screens, awnings, window replacement, window coating or tinting, furniture, decorative alterations or other work that in any way alters the exterior appearance of the Project. The Board, or committee established by the Board for that purpose, may designate the design, color, style, model, and manufacturer of any exterior improvement or alteration. Such designations shall be for the purpose of achieving uniformity of appearance and preservation of property values. No interior structural changes whatsoever shall be commenced, erected, maintained, made or done without the prior written approval of the Board of Directors, or any committee established by the Board of the Directors for that purpose. By way of illustration, but not of limitation, the following are considered interior structural changes: moving, removing, adding, or altering walls, ceilings, doorways, windows, skylights, electrical, mechanical, plumbing or ventilation systems, air conditioning, and the like. When deemed reasonable and prudent by the Board, Unit (exterior and interior) construction activity, including, without limitation, renovations, remodels, and repairs, shall be performed by a contractor that is properly licensed and insured. The Board may establish other Rules or procedures in carrying out its responsibilities under this Section, including the creation of an application process, establishing completion deadlines and the hours of the day when construction activity is prohibited, and other items deemed necessary by the Board in its sole discretion.

10.17 Exterior Lighting. Exterior lighting fixtures and walkway and landscaping lights shall be allowed only to the extent approved by the Board of Directors.

10.18 Variations. The Board of Directors may, in its sole discretion, upon a showing of extenuating circumstances, grant variations from the Restrictions set forth in this Article X if the Board determines in its discretion: (a) either (i) that a Restriction would create an unreasonable hardship or burden on an Owner or Occupant, or (ii) that a change of circumstances since the recordation of this Declaration has rendered such Restriction obsolete; and (b) that the activity permitted under the variance will not have any substantial adverse effect on other Owners or Occupants and is consistent with the high quality of life intended for residents. Any such variance shall be unenforceable and without any effect whatsoever unless reduced to writing and signed by every member of the then existing Board of Directors. The Board shall not have any right or authority to deviate from this Declaration except as specifically provided for in this Section. No Owner or any other person may rely upon any permission to deviate from this Declaration by anyone including any Board Member or the entire Board, unless it is reduced to writing and signed as required in this Section.

10.19 Hazardous Substances.

(a) The Owners shall comply with applicable environmental laws (as defined below), and shall not cause or permit the presence, use, disposal, storage or release of any hazardous substances (as defined below), on or within the Condominium Project that are not properly controlled, safeguarded, and disposed of. The preceding two sentences shall not apply to the presence, use, or storage on the Condominium Project of small quantities of hazardous substances that are generally recognized to be appropriate to the maintenance of a Unit or the Condominium Project.

(b) As used in this Section, "hazardous substances" are those substances defined as toxic or hazardous substances by environmental law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde and radioactive materials. As used in this Section, "environmental law" means federal laws and laws of the jurisdiction where the Project is located that relate to health, safety, or environmental protection.

10.20 Smoke and Carbon Monoxide Detectors. Each Unit shall have an operable Carbon Monoxide Detector and Smoke Detectors as required by building code. The Association may, but is not required to, enter a Unit, upon advanced notice of at least 48 hours, to ensure that the Unit is in compliance with this Section and Section 10.21 below.

10.21 Unit Heating. Owners shall heat Units to no less than fifty-degrees (50° F) at all times to prevent pipes from freezing.

10.22 No Smoking. The Condominium Project is a smoke-free community. Smoking shall be prohibited

everywhere throughout the Project, including, without limitation, inside individual Units, and indoor and outdoor Common Areas and Limited Common Areas, except in outside Common Areas locations more than 25 feet away from the building. 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, electronic cigarette, 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 Project.

**10.23 Parking.** Parking Spaces may be used and occupied for parking purposes only. Parking Spaces have been assigned to Units as Limited Common Areas as shown on Exhibit "B". No Parking Space may be transferred or reassigned to a Person who is not also an Owner. The Association shall maintain an ownership list of the Parking Spaces. The use and occupancy of Parking Spaces shall be for the parking of automobiles, motorcycles, and other wheeled vehicles as allowed by the Rules. Parking Spaces shall further be subject to and governed by Association Rules, which may govern, without limitation, the size, dimensions, and types of vehicles allowed to be parked within the Project; the admission and temporary parking of vehicles within the Project; the right to remove or cause to be removed any vehicles that are improperly parked; the levying of fines against Owners and Occupants who violate, or whose invitees violate, such Rules; and any other parking Rules the Board deems necessary. Every Unit must be assigned at least one (1) Parking Space but may not have more than three (3) Parking Spaces. Units that have more than three (3) assigned Parking Spaces at the time this Declaration is recorded shall be grandfathered but may not be assigned additional Parking Spaces. Nothing herein contained shall prevent the Owner of an assigned Parking Space from conveying the same to another Owner upon satisfaction of the following: (a) a written request is made to the Board by the "Transferring Owner" prior to reassignment to the "Transferee Owner"; (b) the reassignment of a Parking Space shall be made only to the Association, for the benefit of the Transferring Owner until it is reassigned to the Transferee Unit and upon such reassignment, the Parking Space shall become appurtenant to such Unit; (c) at the time of reassignment, the Transferee Unit shall have no more than three (3) Parking Spaces; and (d) all costs incurred by the Association, including the recording of applicable documents necessary to evidence the reassignment are paid by the Transferring Owner or the Transferee Owner, as they shall agree. Upon satisfaction of the foregoing conditions, the Association shall record an amendment to the Declaration to evidence such reassignment of the applicable Parking Space. Any consideration exchanged between the Transferring Owner and Transferee Owner shall be a matter of contract between them. The Association shall be no responsibility for the security of any Parking Space

**10.24 Storage.** Storage Spaces may be used and occupied for storage purposes only. Storage Spaces have been assigned to Units as Limited Common Areas as shown on Exhibit "B". No Storage Space may be transferred or reassigned to a Person who is not also an Owner. Every Unit must be assigned at least one (1) Storage Space but may not have more than two (2) Storage Spaces. The Association shall maintain an ownership list of the Storage Spaces. Storage Spaces shall further be subject to and governed by Association Rules. Nothing herein contained shall prevent the Owner of an assigned Storage Space from conveying the same to another Owner upon satisfaction of the following: (a) a written request is made to the Board by the "Transferring Owner" prior to reassignment to the "Transferee Owner"; (b) the reassignment of a Storage Space shall be made only to the Association, for the benefit of the Transferring Owner until it is reassigned to the Transferee Unit and upon such reassignment, the Storage Space shall become appurtenant to such Unit; (c) at the time of reassignment, the Transferee Unit shall have no more than two (2) Storage Spaces; and (d) all costs incurred by the Association, including the recording of applicable documents necessary to evidence the reassignment are paid by the Transferring Owner, or the Transferee Owner, as they shall agree. Upon satisfaction of the foregoing conditions, the Association shall record an amendment to the Declaration to evidence such reassignment of the applicable Storage Space. Any consideration exchanged between the Transferring Owner and Transferee Owner shall be a matter of contract between them. The Association shall have no responsibility for the security of any Storage Space.

**10.25 Unit Ownership.** Without the approval of seventy-five percent (75%) of the Allocated Interests, no Person nor his affiliate may own more than one (1) Unit. For purposes of this Section, the term "affiliate" means:

(a) Any officer, director, trustee, general partner, member, employee, or current holder of ten percent (10%) or more of any class of the outstanding voting securities of, or equity or profits interest in, such

Person;

(b) any organization controlling, controlled by, or under common control with such Person;

(c) any officer, director, trustee, general partner, member, employee or current holder of ten percent (10%) or more of any class of the outstanding voting securities of, or equity or profits interest in, any organization controlling, controlled by, or under common control of such Person; or

(d) any relative or spouse (or any relative of such spouse of any individual included in (a) or (b) above.

#### **ARTICLE XI CHANGE IN OWNERSHIP**

The Board of Directors shall maintain up-to-date records showing the name of each Owner, the address of such Owner, and the Unit which is owned by it. In the event of any transfer of an interest in a Unit, within fourteen (14) days after the date of such transfer, the transferee shall furnish the Board with written notice containing evidence establishing that the transfer has occurred and that the deed or contract accomplishing the transfer is of record in the office of the Salt Lake County Recorder. The written notice shall set forth the name of the transferee and the transferor, the street address of the Unit purchased or acquired by the transferee, the transferee's mailing address, the date of the sale or transfer and the name and address of the transferee's Lender, if any. The Board may for all purposes act and rely on the information concerning Owners and Unit ownership which is thus acquired by it or, at its option, the Board may act and rely on current ownership information respecting any Unit or Units which is obtained from the office of the Salt Lake County Recorder. Prior to the receipt of the written notice, all notices required or permitted to be given by the Association to the Owner shall be deemed to be duly made or given to the transferee if duly and timely made and given to the transferee's predecessor in interest. The address of an Owner shall be deemed to be the address of the Unit owned by such Owner unless the Board is otherwise advised. Except when prohibited by law, each time a Unit is transferred to a new Owner, the new Owner shall pay the Association a reinvestment fee in an amount determined by the Board.

#### **ARTICLE XII DESTRUCTION OR DAMAGE**

In the event of destruction or damage of part or all of the improvements in the Condominium Project, the procedures of this Section shall apply.

(a) If the proceeds of the insurance maintained by the Association are alone sufficient to repair or reconstruct the damaged or destroyed improvement, such repair or reconstruction shall be carried out.

(b) If less than 75% of the Project's improvements are destroyed or substantially damaged, and if proceeds of the insurance maintained by the Association are not alone sufficient to accomplish repair or reconstruction, restoration shall be carried out and all of the Unit Owners shall be assessed for any deficiency on the basis of their respective appurtenant percentages of the Allocated Interest, said assessment becoming a lien on the Units as provided in the Act.

(c) If 75% or more of the Project's improvements are destroyed or substantially damaged, and if proceeds of the insurance maintained by the Association are not alone sufficient to accomplish restoration, and if the Unit Owners within 100 days after the destruction or damage by a vote of at least two-thirds (2/3) of the entire Allocated Interest of the Project elect to repair or reconstruct the affected improvements, restoration shall be accomplished in the manner directed under subsection (b) above.

(d) If 75% or more of the Project's improvements are destroyed or substantially damaged, if proceeds of the insurance maintained by the Association are not sufficient to accomplish restoration, and if the Unit Owners do not, within 100 days after destruction or damage and by a vote of at least two-thirds (2/3) of

the entire Allocated Interest of the Project, elect to repair or reconstruct the affected improvements, the Association shall promptly record with the Salt Lake County Recorder a notice setting forth such facts. Upon the recording of such notice the provisions of subsections (1) through (4) of the Act at §57-8-31, Utah Code Annotated (1963), shall apply and shall govern the rights of all parties having an interest in the Project or any of the Units.

(e) Any reconstruction or repair which is required to be carried out by this Section shall be accomplished at the instance and direction of the Board of Directors. Any determination which is required to be made by this Section regarding the extent of damage to or destruction of the Project improvements shall be made as follows:

1) The Board of Directors shall select three M.A.I. (Members of the Appraisal Institute) appraisers; each appraiser shall independently estimate the percentage of Project improvements which have been destroyed or substantially damaged; the percentage which governs the application of the provisions of this Section shall be the median of the three estimates.

#### **ARTICLE XIII TAXES**

It is understood that under the Act, each Unit, together with its Allocated Interest in the Common Areas in the Project, is deemed a parcel and subject to separate assessment and taxation by each assessing unit and special district for all types of taxes authorized by law. Each Unit Owner will, accordingly, pay and discharge any and all taxes which may be assessed against such Owner's Unit.

#### **ARTICLE XIV INSURANCE**

14.1 Insurance. The Board of Directors shall obtain insurance as required in this Declaration, the Act, 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, included coverage, or endorsements to other policies. Insurance premiums shall be a Common Expense.

#### 14.2 Property Insurance.

(a) Hazard Insurance. The Association shall maintain a blanket policy of property insurance covering the entire Project, including the Common Area and all buildings including all Units, permanent fixtures, and building services equipment as provided in the Act. The Association may maintain broader coverage if afforded by the insurance contract.

1) 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 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, windows.

2) 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.

3) 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.

4) 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 Project'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.

5) 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 Project 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.

(b) 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:

1) Except as provided in Subsection (d) below, the Association's policy provides primary insurance coverage;

2) notwithstanding Subsection 1) above, and subject to Subsection 3) below:

i. the Owner is responsible for the Association's policy deductible; and

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

3) 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

4) If an Owner does not pay the amount required under Subsection

(b) 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 individual assessment against the Owner for that amount.

(c) Association's Obligation to Segregate Property Insurance Deductible. The Association shall keep in a segregated bank account 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.

(d) Association's Right to Not Tender Claims that are Under the Deductible. If, in the exercise of its business judgment, the Board of Directors 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.

(e) Notice Requirement for Deductible. The Association shall provide notice to each Owner of the Owner's obligation under Subsection (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.

(f) Flood Insurance. If any part of the Project 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 Project, or, at a minimum, that portion of the Project 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 Project ("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 Project located within a designated flood hazard area; or (ii) one hundred percent (100%) of the insurable value of the Insurable Property. If the Project is not situated in a Special Flood Hazard Area, the Association may nonetheless, in the discretion of the Board of Directors, purchase flood insurance to cover water and flooding perils not otherwise covered by blanket property insurance.

(g) Earthquake Insurance. The Association may purchase earthquake insurance as the Board of Directors deems appropriate. If the Board of Directors elects not to purchase earthquake insurance, a vote of a majority of the Allocated Interest present at the annual meeting, with a proper quorum, may veto the decision of the Board. If the Owners at the annual meeting veto the decision to not purchase earthquake insurance, the Board of Directors shall purchase earthquake insurance within (60) days of the vote.

14.3 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 (\$2,000,000.00) 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.

14.4 Director's and Officer's Insurance. The Association shall obtain Directors' and Officers' liability insurance protecting the Board of Directors, 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 Project's 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 on 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. In the discretion of the Board of Directors, 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.

14.5 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 Board Members of the Association, (b) employees and volunteers of the Association, (c) any Manager of the Association, and (d) officers, directors, and employees of any Manager of the Association.

14.6 Worker's Compensation Insurance. If the Board hires an employee, the Board of Directors shall purchase and maintain in effect workers' compensation insurance to the extent that such insurance is required by law and as the Board deems appropriate.

14.7 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.

14.8 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.

14.9 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.

14.10 Insurance Trustee. In the discretion of the Board of Directors or upon written request executed by Owners holding at least 50% of the Allocated Interest, the Board of Directors shall hire and appoint an insurance trustee ("Insurance Trustee"), with whom the Association shall enter into an insurance trust agreement, for the purpose of exercising such rights under this Article as the Owners or Board of Directors (as the case may be) shall require.

14.11 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.

14.12 Waiver of Subrogation against Owners and Association. All property and CGL policies must contain a waiver of subrogation by the insurer as to any claims against the Association and the Owners and their respective agents and employees.

14.13 Annual Insurance Report. Not later than thirty (30 days) prior to the beginning of each Annual Meeting, Board of Directors may obtain a written report by a reputable insurance broker, agent, or consultant (who may be the insurance provider/agent/broker used by the Association) setting forth the existing insurance obtained pursuant to the Declaration and stating whether in the opinion of such broker or consultant, the insurance complies with the requirements of the Declaration and the Act. Such report may also set forth recommendations regarding current policy provisions and for additional insurance reasonably required for the protection of the Owners and Lenders in light of the insurance then available and the prevailing practice with respect to other similar condominium projects. The Board shall be protected in relying on the written report furnished pursuant to this Section provided reasonable care and prudence were exercised in selecting such insurance broker, agent, or consultant. The most recent annual insurance report shall be made available to all Lenders and Owners upon request.

14.14 Applicable Law. This Declaration is specifically subjecting the Association to the insurance requirements required by U.C.A. §57-8-43 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 condominium associations shall apply to this Association.

#### ARTICLE XV EMINENT DOMAIN

15.1 Total Taking of a Unit. If a Unit is taken by eminent domain, or sold under threat thereof, or if part of a Unit is taken by eminent domain, or sold under threat thereof, leaving the Owner with a remnant that may not be practically or lawfully used for any purpose permitted by this Declaration, the award must compensate the Owner for the Owner's Unit and Allocated Interest in the Common Area, regardless of whether any Common Area is taken. Upon such a taking, unless the decree otherwise provides, that Unit's Allocated Interest in the Common Area shall automatically be reallocated to the remaining Units in proportion to their respective interests immediately before the taking. Upon such a taking, the Association

shall prepare, execute and record an amendment to the Declaration in compliance with the Act. Any remnant of a Unit remaining after part of a Unit is taken shall become part of the Common Area.

15.2 Partial Taking of a Unit. Except as provided in Section 15.1, if part of a Unit is taken by eminent domain, or sold under threat thereof, so that such Unit may still be practically and lawfully used under this Declaration, the award must compensate the Owner for the reduction in the value of the Owner's Unit and Allocated Interest in the Common Area, regardless of whether any Common Area is taken. Upon such a taking, unless the decree otherwise provides, that Unit's Allocated Interest in the Common Area shall remain the same, but if the decree provides for a reduction of the Allocated Interest for such Unit, the reduced amount shall automatically be reallocated to that Unit and the remaining Units in proportion to their respective Allocated Interests immediately before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced Allocated Interest.

15.3 Taking of Limited Common Area. If the portion of the Condominium Project taken by eminent domain, or sold under threat thereof, is comprised of or includes any Limited Common Area or portion thereof, the portion of the award attributable to the Limited Common Area so taken shall be divided among the Owners of the Units to which such Limited Common Area was allocated at the time of the acquisition.

15.4 Taking of Common Area. If the portion of the Condominium Project taken by eminent domain, or sold under threat thereof, is not comprised of or includes any Unit or Limited Common Area, the Board of Directors shall, as soon as practicable, cause the award attributable to the Common Area so taken to be utilized for the purpose of repairing or restoring the remaining Common Area, and the portion of the award not used for such restoration shall be divided among the Owners in proportion to their Allocated Interest in the Common Area before the taking.

15.5 Taking of Entire Condominium Project. In the event the Condominium Project, in its entirety, is taken by eminent domain; or sold under threat thereof, the Condominium Project is terminated, and the provisions of the Act apply.

15.6 Priority and Power of Attorney. Nothing contained in this Article XV shall entitle an Owner to priority over any Lender under a lien encumbering the Owner's Unit as to any portion of any condemnation award allocated to such Unit. Each Owner hereby appoints the Association as attorney-in-fact for the purpose of negotiations and settlement with the condemning authority for the acquisition of the Common Area, or any part thereof.

#### **ARTICLE XVI RIGHTS OF LENDERS**

16.1 Notice of Lenders. A Lender shall not be entitled to receive any notice that this Declaration requires the Association to provide Lenders for notice, approval, or consent regarding a proposed action or otherwise, unless and until such Lender or its mortgage servicing contractor has delivered to the Association a written notice stating that such Lender is the holder of a loan encumbering a Unit within the Condominium Project, in accordance with Section 16.6. Notwithstanding the foregoing, if any right of a Lender under this Declaration is conditioned on a specific written request to the Association, in addition to the above, a Lender must also make such request in writing delivered to the Association. Except as provided in this Section, a Lender's rights pursuant to this Declaration, including, without limitation, the priority of any mortgage lien over the lien of Assessments levied by the Association hereunder shall not be affected by the failure to deliver a notice or request to the Association. The provisions of this Section shall not apply to the Department of Veterans Affairs or the Department of Housing and Urban Development.

16.2 Priority of Lenders. No breach of the Restrictions herein contained, nor the enforcement of any lien provision herein, shall affect, impair, defeat or render invalid the lien or charge of any Lender made in good faith and for value encumbering any Unit, but all of such Restrictions shall be binding upon and effective against any Owner whose title to a Unit is derived through foreclosure or trustee's sale, or otherwise.

#### 16.3 Relationship with Assessment Liens.

(a) The lien provided for in Article VII for the payment of Assessments shall be subordinate to the lien of any Lender that was recorded prior to the date any such Assessment becomes due.

(b) If any Unit that is subject to a monetary lien created by this Declaration is also subject to the lien of a Lender, then: (i) the foreclosure of any lien created by this Declaration shall not operate to affect or impair the lien of such Lender; and (ii) the foreclosure of the lien of a Lender or the sale under a power of sale included in a mortgage or deed of trust shall not operate to affect or impair the lien hereof, except that any Person who obtains an interest thereafter shall take title free of any lien created by this Declaration for any Assessments that became due after the recordation of the mortgage or deed of trust, or any personal obligation for such charges, but such Person shall remain subject to the lien hereof for all charges that shall accrue subsequent to

such foreclosure.

(c) Without limiting the provisions of Section 16.3(b), any Lender who obtains title to a Unit by reason of any foreclosure, or deed or assignment in lieu of foreclosure, or any Person who obtains title at a private or judicial foreclosure sale, shall take title to such Unit free of any lien or claim for unpaid Assessments against such Unit that accrued prior to the time such Lender or purchaser takes title to such Unit, except for liens or claims for a share of such Assessments resulting from a pro rata reallocation of such Assessments to all Units within the Condominium Project.

(d) Nothing in this Section 16.3 shall be construed as releasing any Person from the personal obligation to pay for any Assessments levied pursuant to this Declaration during the period such Person is an Owner.

16.4 Required Lender Approval. Except upon the prior written approval of all Lenders neither the Association nor the Board of Directors shall be entitled to abandon or terminate by an act or omission the legal status of the Condominium Project.

16.5 Other Rights of Lenders. Any Lender (and such Lender's insurer or guarantor) shall, upon written request to the Association, be entitled:

(a) To inspect current copies of the Project Documents and other books and records of the Association during normal business hours; and

(b) To receive an annual financial statement of the Association within ninety (90) days following the end of the Association's fiscal year.

16.6 Notices of Action. Upon written request to the Association identifying the name and address of the Lender (and the name and address of the Lender's insurer or guarantor, if desired) and the Unit Number or address, any such Lender (or any such insurer or guarantor) will be entitled to timely written notice of:

(a) Any condemnation or casualty loss that affects a material portion of the Condominium Project or any Unit on which there is a First Mortgage held by such Lender; and

(b) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

## **ARTICLE XVII TERMINATION**

17.1 Required Vote. Except as otherwise provided in Articles XII and XV, the Condominium Project may be terminated only by unanimous agreement of Owners of all Units.

17.2 Termination Agreement. An agreement to terminate shall be evidenced by the execution or ratification of a termination agreement, in the same manner as a deed, by the requisite number of Owners. Such an agreement to terminate shall also be approved by unanimous consent of all Lenders with a loan secured by a Unit. The termination agreement shall specify a date after which the agreement will be void unless it is recorded before that date. A termination agreement, including all ratifications of such termination agreement, shall be recorded in the records of the Salt Lake County Recorder and is effective only upon recordation.

17.3 Sale of Condominium Project. A termination agreement may provide that the entire Condominium Project shall be sold following termination. If, pursuant to such agreement, any real estate in the Condominium Project is to be sold following termination, the termination agreement shall set forth the minimum terms of the sale.

17.4 Association Duties. The Association, on behalf of the Owners, may contract for the sale of real estate in the Condominium Project, but the contract is not binding on the Owners until approved pursuant to Sections 17.1 and 17.2 of this Declaration. If any real estate in the Condominium Project is to be sold following termination, title to that real estate on termination vests in the Association as trustee for all Owners. Thereafter, the Association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds of the sale distributed, the Association continues in existence with all powers it had before termination. Proceeds of the sale shall be distributed to Owners and Lenders as their interests may appear, based on the relative value of each Unit and the Condominium Project. Unless otherwise specified in the termination agreement, as long as the Association holds title to the real estate, each Owner and his or her successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted their Unit in accordance with the terms of this Declaration. During the period of that occupancy right, each Owner and his or her successors in interest remain liable for all Assessments and other obligations imposed on Owners by this Declaration.

17.5 Allocation upon Termination. Unless provided otherwise herein, upon any liquidation or termination of all or part of the Condominium Project, the Association shall represent the Owners in any proceedings, negotiations, settlements or agreements related thereto. Each Owner hereby appoints the Association as attorney-in-fact for such purpose, including the allocation of any losses, awards or proceeds resulting from such termination or liquidation. Any proceeds generated by such a termination or liquidation shall be made payable to the Association, which will hold such proceeds for the benefit of the Owners and their Lenders. Owners shall share in the proceeds of such termination or liquidation in the same proportion as their Allocated Interest in the Common Area (or as otherwise provided by the Act), but in such event, the liens and provisions of all Lenders or Assessment liens encumbering Units within the Condominium Project shall extend to each applicable Owner's interest in such proceeds. The interest of an Owner in such proceeds shall not be distributed to such Owner except upon the prior payment in full of any Assessment lien or lien of a Lender encumbering such proceeds.

**ARTICLE XVIII  
RIGHT OF ENTRY**

The Association acting through the Board of Directors or its duly authorized agent shall have the right at all times upon reasonable notice of at least 48 hours to enter upon or into any Unit, without trespass, as needed to review and investigate insurance claims or losses, to access property for which the Association is responsible to maintain, repair, or replace, to abate any unclean or unsanitary condition, or to fulfill its obligations. Notice shall not be necessary in case of an emergency originating in or threatening such Unit or any other part of the Project, including the sound or sight of running water in a Unit reasonably believed to be causing damage, the smell or sight of smoke in a Unit, abnormal or excessive noises; and foul smell. Owners shall also maintain up-to-date emergency contact information records with the Association, including any local representative an Owner may have. Any repair costs incurred by the Association in addressing an emergency or abating a nuisance or violation shall be assessed against the Owner as an individual assessment as set forth in Section 7.6 above.

**ARTICLE XIX  
OBLIGATION TO COMPLY HEREWITH**

Each Unit Owner and Occupant shall comply with the provisions of the Act, the Project Documents and all agreements and determinations lawfully made and/or entered into by the Board or the Association acting in accordance with their authority. Any failure to comply with any of the provisions thereof shall be grounds for an action by the Board of Directors or other aggrieved party for injunctive relief or to recover any loss or damage resulting therefrom, including costs and reasonable attorneys' fees.

**ARTICLE XX  
INDEMNIFICATION OF BOARD OF DIRECTORS**

Each Board Member shall be indemnified and held harmless by the Association against all costs, expenses, and liabilities whatsoever, including, without limitation, attorneys' fees reasonably incurred by him in connection with any proceeding in which he may become involved by reason of his being or having been a Board Member; provided, however, the foregoing indemnification shall not apply if the loss, expense, or liability involved resulted from the willful or intentional misconduct of the Board Member.

**ARTICLE XXI  
CONSENT IN LIEU OF VOTE**

In any case in which the Act or the Project Documents require the vote of a stated percentage of the Project's Allocated Interest for 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 the stated percentage of the Allocated Interest. The following additional provisions shall govern any application of this Section:

(a) all necessary consents must be obtained prior to the expiration of sixty (60) days after the first consent is given by any Owner; and

(b) any change in ownership of a Unit which occurs after consent has been obtained from the Owner having an interest therein shall not be considered or taken into account for any purpose.

## ARTICLE XXII AMENDMENTS

22.1 General Amendment Requirements. Except as otherwise provided herein, this Declaration and/or the Plat may be amended only upon the affirmative vote of at least two-thirds (2/3) of the Allocated Interest of the Association. Amendments to the Declaration shall be proposed by either a majority of the Board of Directors or by Owners holding at least thirty-five percent (35%) of the Allocated Interest of the Association. The proposed amendment must be reduced to writing and must be included in the notice of any meeting at which action is to be taken thereon. Any amendment(s) shall be effective upon recordation in the office of the recorder of Salt Lake County, State of Utah. In such instrument the Board of Directors shall certify that the vote required by this Section for amendment has occurred. If a Unit is owned by more than one Owner, the signature of any one Owner shall be sufficient to constitute approval for that Unit under this Section. If a Unit is owned by an entity or trust, the signature of any one officer, trustee, or agent of the entity shall be sufficient to constitute approval for that Unit under this Section. No acknowledgment of any signature shall be required.

22.2 Lender Approval for Association Amendment or Action. Assuming a Lender has given notice as provided in Section 15.1 above, if a Lender's consent is a condition for amending this Declaration or the Bylaws, or for any other action, such Lender's consent is presumed if:

- (a) Written request of the proposed amendment or action is sent by certified or registered mail to the Lender's address listed with the Association;
- (b) Sixty (60) days have passed after the day on which notice was mailed; and
- (c) The Association has not received a written response from the Lender consenting to or refusing to accept the amendment or action.

## ARTICLE XXIII GENERAL PROVISIONS

23.1 Enforcement. The Association or any Owner shall have the right to enforce, by proceedings at law or in equity, all Restrictions and other provisions now or hereafter imposed by the Declaration, including the right to prevent the violation of any such Restrictions, and the right to recover damages and other sums for such violation. The Association or any Owner shall also have the right to enforce by proceedings at law or in equity the provisions of the Bylaws and the Rules.

23.2 No Waiver. Failure by the Association or by any Owner to enforce any Restriction or provision herein contained, or contained in the Bylaws or the Rules, in any certain instance or on any particular occasion shall not be deemed a waiver of such right of enforcement as to any such future breach of the same or any other Restriction or provision.

23.3 Cumulative Remedies. All rights, options, and remedies of the Association, the Owners or the Lenders under this Declaration are cumulative, and no one of them shall be exclusive of any other, and the Association, the Owners and the Lenders shall have the right to pursue any one or all of such rights, options and remedies or any other remedy or relief that may be provided by law, whether or not stated in this Declaration.

23.4 Severability. Invalidation of any one or a portion of the Restrictions or provisions set forth in this Declaration or in the Bylaws or the Rules by judgment or court order shall in no way affect any other Restrictions or provisions contained herein or therein, which shall remain in full force and effect.

23.5 Covenants to Run with the Land. The Restrictions and other provisions of this Declaration shall run with and bind the Condominium Project as equitable servitudes and also as covenants running with the land and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, and successors. By acquiring any interest in a Unit, such Owner consents to, and agrees to be bound by, each and every provision of this Declaration.

23.6 Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a plan for the development of a residential condominium community and for the maintenance of the Condominium Project. The Article and Section headings have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction. References in this Declaration to Articles and Section numbers, unless otherwise expressly provided, are to the Articles and Sections of this Declaration.

23.7 Gender and Number. Whenever the context of this Declaration requires, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and the neuter, and vice versa.

23.8 Nuisance. The result of every act or omission whereby any provision or Restriction contained in this Declaration or any provision contained in the Rules is violated in whole or in part is hereby declared to be and shall constitute a nuisance, and every remedy allowed at law or in equity against a nuisance, either public or private, shall be applicable with respect to the abatement thereof and may be exercised by the Association or any Owner. Such remedy shall be deemed cumulative to all other remedies set forth in this Declaration and shall not be deemed exclusive.

23.9 Attorneys' Fees. If the Association obtains legal counsel to enforce or defend any of the provisions or requirements of the Project Documents, or for a purpose the Board reasonably believes will involve litigation, the Association may assess its reasonable attorneys' fees and costs to the party against whom enforcement is sought or against the party making the request or demand, regardless of whether a lawsuit is ultimately initiated or not when reasonably certain that the Association would prevail in the outcome. In the event litigation is pursued under the terms of the Project Documents, the prevailing party shall be entitled to its reasonable attorneys' fees and costs.

23.10 Notices. Any notice to be given to an Owner, a Lender, or the Association under the provisions of this Declaration shall be in writing and shall be delivered as follows:

(a) Notice to an Owner shall be delivered personally, by email, or by mailing the notice, 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 with the courier service company. Any notice delivered by email must be recorded as received from the Owner to the sender of the notice. In the case of co-Owners, 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.

(b) Notice to a Lender 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 Lender. Any address for a Lender 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.

(c) 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 Lender or Lenders, in any manner that this Section 23.10 allows, shall be deemed conclusive proof of such mailing or delivery.

(d) Notice to the Association shall be delivered personally or by first-class mail, postage prepaid, to the office of the Manager of the Association (if any) or if there is no Manager, the Registered Agent with the Utah Department of Commerce (if any) or if there is none, to 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 of Directors. Notice to the Association may also be delivered by e-mail if the Association designates an email address for such purpose.

23.11 Effect of Declaration. This Declaration is made for the purposes set forth in the recitals in this Declaration and the Association makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration, or as to the compliance of any of these provisions with public laws, ordinances, regulations and the like applicable thereto. The Association shall have no liability whatsoever if any of the provisions of this Declaration, the Bylaws or the Rules are determined to be unenforceable in whole or in part or under certain circumstances.

23.12 Nonliability of Officials. To the fullest extent permitted by law, neither the Board of Directors nor any officer of the Association shall be liable to any Owner or the Association for any damage, loss, or prejudice suffered or claimed on account of any decision, approval or disapproval, course of action, act, omission, error, or negligence if such Board Member or officer acted in good faith within the scope of such person's duties.

23.13 Changes to Plat or Boundaries of the Association. The Association may adopt an amended Plat, supplemental Plat, correction to the Plat, or boundary agreement related to any boundary in or around the Association, including any boundary to any Unit or Units upon the approval of the number of Owners required to amend this Declaration. Any such Plat may make material changes to the existing or prior Plat including the addition or removal of amenities, increase the size of Units, deleting or modifying Common Area or Limited Common Area, or other changes in the layout of the Association. If any such document or action is approved by the consent of at least two-thirds (2/3) of the Allocated Interest obtained in the manner required to amend this Declaration. So long as the document or action does not materially reduce the size of that Owner's Unit, each and every Owner (if needed) shall sign, consent to, and execute any further documents required for the finalization, recording, and/or governmental approval of any such document regardless of whether they approved of or consented to the change in the Plat.

23.14 Use of Funds Collected by the Association. All funds collected by the Association, including Assessments and contributions to the Association paid by the Owners, if any, shall be held by the Association in a fiduciary capacity to be expended in their entirety for nonprofit purposes of the Association in managing, maintaining, caring for, and preserving the Common Area and for other permitted purposes as set forth in this Declaration. No part of said funds shall inure to the benefit of any Owner (other than as a result of the Association managing, maintaining, caring for and preserving the Common Area, and other than as a result of expenditures made for other permitted purposes as set forth in this Declaration).

23.15 Owner Liability and Indemnification. Each Owner shall be liable to the remaining Owners and to the Association for any damage to the Common Area that may be sustained by reason of the negligence of that Owner or such Owner's family members or Occupants. Each Owner, by acceptance of a deed for a Unit, agrees personally and for family members and Occupants to indemnify each and every other Owner, and to hold such other Owners harmless from, and to defend such Owners against, any claim of any person for personal injury or property damage occurring within the Unit of that particular Owner, including Limited Common Area, if any, except to the extent that: (a) such injury or damage is covered by liability insurance in favor of the Association or any other Owner, or (b) the injury or damage occurred by reason of the willful or negligent act or omission of the Association or other Owner or other Person temporarily visiting such Unit.

23.16 Conflicting Provisions. In the case of any conflict between this Declaration and the Bylaws, or the Rules, this Declaration shall control. In the case of any conflict between this Declaration and the Act, to the extent the Act does not legally allow this Declaration to contain provisions contrary to the Act, the Act shall control, and this Declaration shall be deemed modified accordingly. Notwithstanding the above, this Declaration shall be deemed modified only to the extent necessary to come into compliance with the Act.

23.17 Consent, Power of Attorney, Waiver. By acceptance of a deed, lease or other conveyance of an interest in Unit, each Owner or Occupant of such Owner's Unit consents to the rights reserved to the Association in this Declaration, including but not limited to, the right to prepare, execute, file, process and record necessary and appropriate documents and other items to establish and grant easements and to make necessary and appropriate amendments of this Declaration, the Plat, and the Bylaws. By such acceptance, each Owner or Occupant agrees to execute all documents and to do all other things as may be necessary or convenient to effect the same; and such acceptance shall be deemed an appointment of the Association, with full right of substitution, as the attorney-in-fact of such Owner or Occupant to execute such documents and to do such things on such Owner's or Occupant's behalf; and such appointment, being coupled with an interest, shall be irrevocable for the specific period of the Association's reserved rights as set forth in this Declaration and shall not be affected by the disability of any such Owner or Occupant.

23.18 Security. The Association shall in no way be considered an insurer or guarantor of security within or relating to the Condominium Project, including any Common Area in which the Association may have an obligation to maintain, and the Association shall not be held liable for any loss or damage by reason of any failure to provide adequate security or any ineffectiveness of security measures undertaken. Owner or Occupant agree by purchasing a Unit in this Association that Association, and the Board of Directors, are not insurers of the safety or well-being of Owners or Occupants or of their personal property, and that each Owner or Occupant assumes all risks for loss or damage to persons, the Units, the Common Area, and to the contents of improvements located thereon to the extent not insured by the Association pursuant to Article XIV above. EACH OWNER AND OCCUPANT UNDERSTANDS AND ACKNOWLEDGES THAT THE ASSOCIATION AND THE BOARD HAVE NOT MADE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND AND THAT EACH OWNER OR OCCUPANT HAS NOT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO THE SECURITY OF THE CONDOMINIUM PROJECT.



IN WITNESS WHEREOF, the Association has executed this instrument the day and year set forth below.

MAYFLOWER CONDOMINIUM ASSOCIATION, INC.

By: Richard Killman

Its: President

State of Utah )  
 ):ss  
County of Salt Lake )

On this 7th day of April, 2022 personally appeared before me Richard Killman who being by me duly sworn, did say that he/she is the President of the Mayflower Condominium Association, Inc.; that said instrument was signed by him/her on behalf of said Association after receiving approval from owners representing at least 2/3 of the Association's voting power; and that the foregoing information is true and accurate to the best of his/her knowledge.

Sarah Guymon  
NOTARY PUBLIC



**EXHIBIT A**  
**Legal Description and Parcel Numbers**

Legal Description:

Lot 1 and a part of Lot 4, Block 2, Plat "G", Salt Lake City Survey, as shown on the official plats thereof as set forth on the Plat and being more particularly described as follows:

Commencing at the southeast corner of said Lot 1, thence S. 89° 58' 36" West along the North line of South Temple St., 165.0 feet, thence North 0° 19' 09" West, 214.5 feet, thence North 89° 58' 36" East, 165.0 feet to the West line of U Street, thence South 0° 19' 09" East with the West line of U Street, 214.5 feet to the point of beginning.

Project Parcel Numbers (21 Units + Common Areas):

All Units and Common Areas as shown on the record of survey maps for the Mayflower Condominium.

09324880010000 (Common Area)  
09324880020000  
09324880030000  
09324880040000  
09324880050000  
09324880060000  
09324880070000  
09324880080000  
09324880090000  
09324880100000  
09324880110000  
09324880120000  
09324880130000  
09324880140000  
09324880150000  
09324880160000  
09324880170000  
09324880180000  
09324880190000  
09324880200000  
09324880210000  
09324880220000

**EXHIBIT B  
UNIT ALLOCATED INTERESTS IN COMMON AREAS**

Assigned Limited Common Areas Unit Par Value  
Number Points Allocated Interests Parking Spaces Storage Spaces

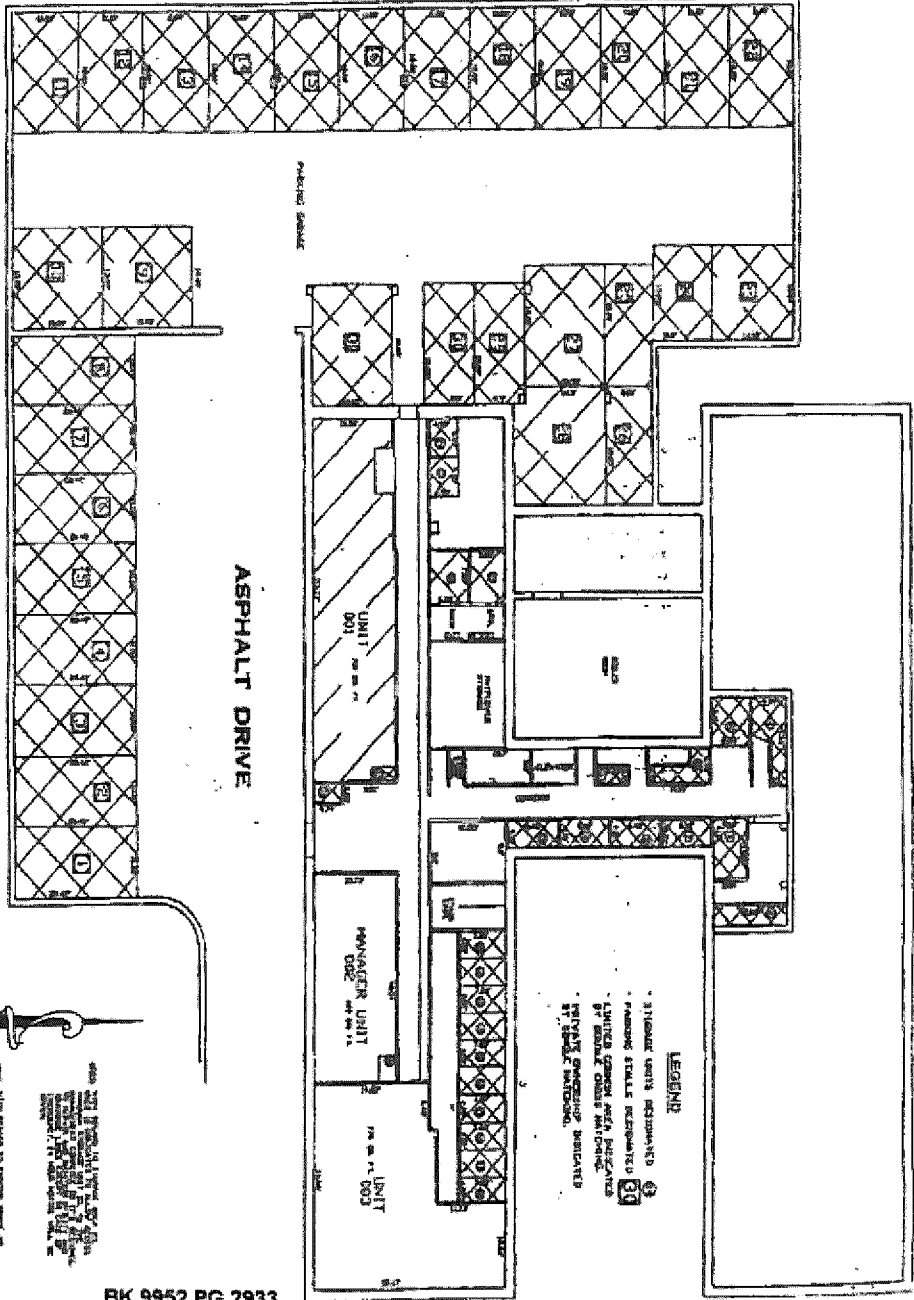
Unit #	Par Value Points	% of Undivided Interest In the Common Areas and Facilities	Assigned Limited Common Areas and Facilities	
			Parking Spaces	Storage Spaces
101	6590	5.02%	15	9
102	6590	5.02%	10	11
103	5950	4.53%	17, 18	5, 7
104	5950	4.53%	20	20
201	6690	5.09%	1, 11, 12	2, 3
202	6690	5.09%	2, 24	15
203	6050	4.60%	14	14
204	6050	4.60%	3	13
301	6790	5.17%	6, 19	19
302	6790	5.17%	13	18, 22
303	6150	4.68%	16	10
304	6150	4.68%	5	24
401	6890	5.24%	23	4
402	6890	5.24%	4	16
403	6250	4.76%	7, 8	8
404	6250	4.76%	30	12
501	6990	5.32%	21, 22	6
502	6990	5.32%	25, 26, 27, 28	26, 27
503	6350	4.83%	31	25
504	6350	4.83%	29	17
001	2000	1.52%	9	23
002	0	Common	None	21
003	0	Common	None	1

**EXHIBIT C  
PLAT AMENDMENT**

**BASEMENT LEVEL FLOOR PLAN**



SHEET NO. 201  
 PROJECT NO. 11326  
 DATE 04/07/2022  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]  
 APPROVED BY: [Name]  
 SCALE: AS SHOWN  
 ALL DIMENSIONS IN FEET AND INCHES  
 UNLESS OTHERWISE SPECIFIED



BK 9952 PG 2933

**EXHIBIT D**

**AMENDED BYLAWS OF MAYFLOWER CONDOMINIUM ASSOCIATION, INC.**

**SALT LAKE CITY**

**SALT LAKE COUNTY, UTAH**

THESE AMENDED BYLAWS OF MAYFLOWER CONDOMINIUM ASSOCIATION, INC. ("Bylaws") are effective upon recording in the Salt Lake County Recorder's Office pursuant to the Utah Condominium Ownership Act and the Utah Revised Nonprofit Corporation Act.

**RECITALS**

1. These Bylaws shall amend and completely replace all bylaws, and any amendments thereto, effective prior to the date of these Bylaws, whether such were recorded or not.
2. These Bylaws are adopted in order to complement the Declaration and to eliminate ambiguity, to further define the rights of the Association and the Unit Owners, to provide for the ability to more easily govern and operate the Association, and, to further the Association's efforts to safely, efficiently, and economically provide a quality living environment.

**ARTICLE I  
DEFINITIONS**

Except as otherwise provided herein or as may be required by the context, capitalized terms in these Bylaws are defined in the Declaration and shall have the same meanings when used in these Bylaws.

**ARTICLE II  
APPLICATION**

All present and future Unit Owners, Occupants, and any other persons who may use the facilities of Mayflower Condominium in any manner are subject to these Bylaws. The mere acquisition or rental of any of the Units or parts thereof, or the mere act of occupancy or use of any said Units or part thereof or the Common Areas will signify that these Bylaws are accepted, ratified, and will be complied with by said persons.

**ARTICLE III  
OWNERS**

3.1 **Annual Meetings.** The annual meeting of the Owners shall be held each year on the first Thursday in February at 7pm

established by the Board of Directors. The purpose of the annual meeting shall be electing Board Members and transacting such other business as may come before the meeting. If the election of Board Members cannot be held on the day designated herein for the annual meeting of the Owners, or at any adjournment thereof, the Board of Directors shall cause the election to be held either at a special meeting of the Owners to be convened as soon thereafter as may be convenient or at the next annual meeting of the Owners. The Board of Directors may from time to time by resolution change the month, date, and time for the annual meeting of the Owners.

3.2 **Special Meetings.** Special meetings of the Owners may be called by a majority of the Board of Directors, the President, or upon the written request of Owners holding not less than Thirty-three percent (33%) of the

Allocated Interest of the Association. Any written request for a special meeting presented by the Owners shall be delivered to the President and shall include the original signature of each Owner affirmatively supporting such request along with a complete statement of the purpose of the meeting on each page containing signatures. The President shall then call, provide notice of, and conduct a special meeting within 30 days of receipt of the request.

**3.3 Place of Meetings.** The Board of Directors may designate any place in the Salt Lake County limits reasonably convenient for the Owners of the Association as the place of meeting for any annual or special meeting.

**3.4 Notice of Meetings.** The Board of Directors shall cause written or printed notice of the date, time, and place (and in the case of a special meeting, the purpose or purposes) for all meetings of the Owners. Such written or printed notice shall be delivered to each Owner of record entitled to vote at such meeting not more than sixty (60) nor less than fifteen (15) days prior to the meeting. Such notice may be emailed, hand-delivered, or mailed. If emailed, such notice shall be deemed delivered when sent to the Owner's email address registered with the Association. If mailed, such notice shall be deemed to be delivered when deposited in the mail addressed to the Owner at the Owner's address registered with the Association, with first-class postage thereon prepaid. Each Owner shall register with the Association such Owner's current email address and mailing address for purposes of notice hereunder. Such registered email and mailing addresses may be changed from time to time by notice in writing to the Association. If no mailing address is registered with the Association, an Owner's Unit shall be deemed to be the Owner's registered address and notice to the Unit address may be made by first-class mail or by posting the meeting notice on the front door.

**3.5 Qualified Voters.** An Owner shall be deemed to be in "good standing" and "entitled to vote" at any meeting of the Association if he or she has fully paid his or her share of any Assessment (together with any interest and/or late fees) at least 24 hours prior to the commencement of the meeting.

**3.6 Record Date for Notice Purposes.** The Board of Directors may designate a record date, which shall not be more than sixty (60) nor less than fifteen (15) days prior to the meeting, for the purpose of determining Owners entitled to notice of any meeting of the Owners. If no record date is designated, the last date on which a notice of the meeting is mailed or delivered shall be deemed to be the record date for determining Owners entitled to notice. The persons or entities appearing in the records of the Association on such record date as the Owner(s) of record of Units in the Condominium Project shall be deemed to be the Owners of record entitled to notice of the meeting of the Owners.

**3.7 Quorum.** At any meeting of the Owners, the presence of Owners and holders of proxies entitled to cast more than fifty percent (50%) of the Allocated Interest of the Association shall constitute a quorum for the transaction of business. If, however, such quorum shall not be present or represented at any meeting, the Board of Directors shall have power to adjourn the meeting and reschedule for a time not earlier than twenty-four (24) hours, nor later than thirty (30) days after the set time for the original meeting. Notice of such rescheduled meeting shall not be required except an oral announcement at the meeting to be rescheduled, and, at least twelve (12) hours prior to the rescheduled meeting, an email sent to Owners who have registered an email address with the Association. No other type of notice shall be required for the rescheduled meeting.

**3.8 Proxies.** At each meeting of the Owners, each Owner entitled to vote shall be entitled to vote in person or by proxy provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the Owner or by the Owner's attorney when duly authorized in writing. If a Unit is jointly owned, the instrument authorizing a proxy to act may be executed by any one (1) Owner of such Unit or the Owner's attorneys when duly authorized in writing. A proxy given by an Owner to any person who represents the Owner at meetings of the Association shall be in writing, dated, and signed by such Owner. Such instrument authorizing a proxy to act shall set forth the specific matters or issues upon which the proxy is authorized to act, and may allow the proxy to vote on any issue arising at any particular meeting or meetings. Proxies shall be filed with the Secretary (or with such other officer or person who may be acting as secretary of the meeting) before the meeting is called to order. The secretary of the meeting shall enter a record of all such proxies in the minutes of the meeting.

**3.9 Votes.** With respect to each matter submitted to a vote of the Owners, each Owner entitled to vote at the meeting shall have the right to cast, in person or by proxy, the number of votes appertaining to the Unit of such Owner (Allocated Interest), as shown in the Declaration. The affirmative vote of a majority of the voting

interests entitled to be cast by the Owners present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by the Owner, unless a greater proportion is required by the Articles, these Bylaws, the Declaration, or the Act. When more than one (1) Person owns an interest in a Unit, any Person who is the owner may exercise the vote for such Unit on behalf of all Co-Owners of the Unit. In the event of two (2) conflicting votes by Co-Owners of one (1) Unit, no vote shall be counted for that Unit. In no event shall fractional or cumulative votes be exercised with respect to any Unit.

**3.10 Waiver of Irregularities.** All inaccuracies and irregularities in calls or notices of meetings and in the manner of voting, in the form of proxies and the method of ascertaining Owners present, and in the decision and votes of the Board of Directors or of the Owners shall be deemed waived if no objection is made either at the meeting or within thirty (30) days of the date of the meeting, or within 30 days of notice of any decision by the Board of Directors. The presence of a Unit Owner in person at any meeting of the Unit Owners shall be deemed a waiver of any notice requirements.

**3.11 Informal Action by Owners.** Any action that is required or permitted to be taken at a meeting of the Owners may be taken without a meeting, if a consent in writing, setting forth the action so taken, shall be signed by enough Owners such that the vote would have passed if all of Association Owners had been in attendance at a regularly called meeting.

#### **ARTICLE IV BOARD OF DIRECTORS**

**E.1 General Powers.** The property, affairs and business of the Association shall be managed by the Board of Directors. The Board of Directors may exercise business judgment and all of the powers of the Association, whether derived from the Act, the Declaration or these Bylaws, except such powers that the Articles, these Bylaws, the Declaration, or the Act vest solely in the Owners.

**4.2 Number, Tenure, and Qualifications.** The property, business, and affairs of the Association shall be governed and managed by a Board of Directors composed of three (3) persons who meet the qualifications provided in the Declaration. At the first annual meeting following the recording of these Bylaws, two (2) Board Members shall be elected for a two (2) year term and one (1) Board Member for a one (1) year term so that at least one (1) Board Member is up for election each year. At each annual meeting thereafter, each Board Member shall serve for two (2) year terms.

**4.3 Election to the Board of Directors.** Election to the Board of Directors shall be by written ballot unless there are the same number of candidates as there are vacancies in which event voting by written ballot shall not be required. At such election the Owners or their proxies may cast, with respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest percentage of voting interests shall be elected. Cumulative voting is not permitted.

**4.4 Regular Meetings.** The Board of Directors shall hold meetings at least quarterly at the discretion of the Board of Directors. Owners to be notified of Board meetings as well as place and time. Minutes to be posted to the Association website and distributed to each owner within 15 days of the meetings.

**4.5 Special Meetings.** Special meetings of the Board of Directors may be called by the President or a majority of the Board Members on at least three (3) business days prior notice to each Board Member. The person or persons authorized to call special meetings of the Board of Directors may fix any place, within Salt Lake County, as the place for holding the meeting and shall provide a conference call-in number for Board Members not able to attend in person. Notice shall be given personally, by regular U.S. Mail at such Board Member's registered address, by email, or by telephone. If mailed, such notice shall be deemed to be delivered when deposited in the U.S. mail so addressed, with first-class postage thereon prepaid. By unanimous consent of the Board of Directors, special meetings may be held without call or notice to the Board Members.

**4.6 Quorum and Manner of Action.** A majority of the then authorized number of Board Members shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. The act of a majority of the Board Members present at any meeting at which a quorum is present and for which proper notice was provided to the Board Members shall be the act of the Board of Directors. The Board Members shall act only as the Board of Directors, and individual Board Members shall have no powers as such.

**4.7 Board Meetings.** Except as provided below in (a) through (f), a Board meeting shall be open to Unit Owners. The Board may hold a closed executive session during a meeting of the Board if the purpose of the closed executive session is to:



- a. Consult with legal counsel of the Association to obtain legal advice and discuss legal matters;
- b. Discuss existing or potential litigation, mediation, arbitration, or an administrative proceeding;
- c. Discuss personnel matter;
- d. Discuss a matter relating to the initial contract negotiations, including the review of a bid or proposal; required. Discuss a matter involving a Person, if the Board determines that public knowledge of the matter would violate the Person's privacy; or
- f. Discuss a delinquent assessment.

For purposes of this Article IV, a Board meeting does not include a gathering of Board Members at which the Board does not vote on official Association business.

**4.8 Board Meeting Location.** The Board of Directors may designate any place in Salt Lake County, Utah as the place of meeting for any regular or special Board meeting. Board meetings may also be held with Board Members appearing telephonically or by Skype, Facetime, and similar live programs so long as any Board Member appearing as such consents to such appearance. If a Board meeting is held by telephone, the Association shall provide the call-in information such that Owners may call-in to access the meeting.

**4.9 Board Action.** Notwithstanding noncompliance with Sections 4.7 and 4.8, Board action is binding and valid unless set aside by a court of law. A person challenging the validity of a Board action for failure to comply with Sections 4.7 and 4.8 may not bring the challenge more than sixty (60) days after the Board has approved the minutes recording the Board action.

**4.10 Compensation.** No Board Member shall receive compensation for any services that such member may render to the Association as a Board Member; provided, however, that a Board Member may be reimbursed for expenses incurred in performance of such duties as a Board Member to the extent such expenses are approved by a majority of the other Board Members. Nothing herein contained shall be construed to preclude any Board Member from serving the Condominium Project in any other capacity and receiving compensation therefore, so long as approved in advance by a majority of disinterested Board Members.

**4.11 Resignation and Removal.** A Board Member may resign at any time by delivering a written resignation to either the President or the Secretary. Unless otherwise specified therein, such resignation shall take effect upon delivery. A Board Member may be removed at any time, with or without cause, at a special meeting of the Owners duly called for such purpose upon the affirmative vote of more than fifty percent (50%) of the Allocated Interest of the Association. A Board Member may also be removed by the affirmative vote of a majority of the other Board Members if he or she, in any twelve (12) month period, misses either two (2) consecutive or fifty percent (50%) of the regularly scheduled Board of Directors meetings.

**4.12 Vacancies and Newly Created Board Memberships.** If vacancies shall occur in the Board of Directors by reason of the death, resignation, disqualification, or removal by the other Board Members as provided in Section 4.11, the Board Members then in office shall continue to act, and such vacancies shall be filled by a majority vote of the Board Members then in office, though less than a quorum. Any vacancy in the Board of Directors occurring by reason of removal of a Board Member by the Owners may be filled by election by the Owners at the meeting at which such Board Member is removed. Any Board Member elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of his predecessor with a confirmation vote at the first annual meeting held following the board appointment. Except by reason of death, resignation, disqualification, or removal, Board Members shall continue to serve until their successors are elected.

**4.13 Informal Action by Board Members.** Any action that is required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Board Members or as otherwise allowed by the Utah Condominium Ownership Act or the Utah Revised Nonprofit Corporation Act.

**4.14 Waiver of Notice.** Before or at any meeting of the Board of Directors, any Board Member or Owner may waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Board Member or Owner at any meeting thereof shall be a waiver of notice by that Board Member or Owner of the time, place, and purpose thereof.

**4.15 Adjournment.** The Board of Directors may adjourn any meeting from day to day for such other time as may be prudent or necessary, provided that no meeting may be adjourned for longer than thirty (30) days.

**ARTICLE V  
OFFICERS**

5.1 **Officers.** The officers of the Association shall be a President, a Secretary, a Treasurer, and such other officers as may from time to time be appointed by the Board of Directors. The President, Secretary, and Treasurer shall be Board Members.

5.2 **Election Tenure and Qualifications.** The officers of the Association shall be chosen by the Board of Directors within seven (7) days following the annual meeting of the Owners. Officers may be chosen at any regular or special meeting of the Board of Directors. Each such officer (whether chosen at a regular meeting of the Board of Directors or otherwise) shall hold such office until the next ensuing regular meeting of the Board of Directors and until a successor has been chosen and qualified, or until such officer's death, or until resignation, disqualification, or removal in the manner provided in these Bylaws, whichever first occurs. Any person may hold any two (2) or more of such offices, except that the President may not also be the Secretary. No person holding two (2) or more offices shall act in or execute any instrument in the capacity of more than one (1) office.

5.3 **Subordinate Officers.** The Board of Directors may from time to time appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period, have such authority, and perform such duties as the Board of Directors may from time to time determine. Subordinate officers need not be Board Members of the Association.

5.4 **Resignation and Removal.** Any officer may resign at any time by delivering a written resignation to any Board Member or to any Manager of the Association. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed and replaced upon the affirmative vote of a majority of the Board of Directors at any time, with or without cause.

5.5 **Vacancies and Newly Created Offices.** If any vacancy shall occur in any office by reason of death, resignation, removal, disqualification or any other cause, or if a new office shall be created, such vacancies or newly created offices may be filled by the Board of Directors at any regular or special meeting.

5.6 **The President.** The President shall be the chief executive of the Association. The President shall be a Board Member and preside at meetings of the Board of Directors and at meetings of the Owners. At the meetings, the President shall have all authority typically granted to the person presiding over the meeting including but not limited to: (1) the right to control the order of the meeting, (2) the right to arrange for the removal of any disruptive Owner or person, (3) the right to impose and enforce reasonable rules and procedures related to the meeting such as those found in "Robert's Rules of Order" or "The Modern Rules of Order." The President shall sign on behalf of the Association all conveyances, mortgages, documents, and contracts, and shall do and perform all other acts and things as required by the Board of Directors.

5.7 **The Secretary.** The Secretary shall keep the minutes of the Association and shall maintain such books and records as these Bylaws, the Declaration, Rules, or any resolution the Board of Directors may require such person to keep. The Secretary shall also act in the place of the President in the event of the President's absence or inability or refusal to act. The Secretary shall also be a Board Member.

5.8 **The Treasurer.** The Treasurer shall have the custody and control of the funds of the Association, subject to the action of the Board of Directors, and when requested by the President, shall report the state of the finances of the Association at each meeting of the Owners and at any meeting of the Board of Directors. The Treasurer shall perform such other duties as required by the Board of Directors.

5.9 **Compensation.** No officer shall receive compensation for any services rendered to the Association as an officer, provided, however, that an officer may be reimbursed for expenses incurred in performance of such duties as an officer to the extent such expenses are approved by the Board of Directors.

## ARTICLE VI COMMITTEES

6.1 **Designation of Committees.** The Board of Directors may from time to time by resolution designate such committees as it may deem appropriate in carrying out its duties, responsibilities, functions, and powers. No member of such committee shall receive compensation for services rendered to the Association as a member of the committee; provided, however, that the committee member may be reimbursed for expenses incurred in performance of such duties as a committee member to the extent that such expenses are approved by the Board of Directors. A committee shall not have any powers, duties, or responsibilities beyond those specifically assigned by the Board of Directors in a written resolution. Examples include but are not limited to nominating, gardening, decorating and finance. The Board of Directors may terminate any committee at any time.

6.2 **Proceeding of Committees.** Each committee designated hereunder by the Board of Directors may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such committee may from time to time determine. Each such committee shall keep a record of its proceedings or shall regularly report such proceedings to the Board of Directors.

6.3 **Quorum and Manner of Acting.** At each meeting of any committee designated hereunder by the Board of Directors, the presence of members constituting at least a majority of the authorized membership of such committee (but in no event less than two (2) members) shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee. The members of any committee designated by the Board of Directors hereunder shall act only as a committee, and the individual members thereof shall have no powers as such. A committee may exercise the authority granted by the Board of Directors.

6.4 **Resignation and Removal.** Any member of any committee designated hereunder by the Board of Directors may resign at any time by delivering a written resignation to the President, the Board of Directors, or the presiding officer of such committee. Unless otherwise specified therein, such resignation shall take effect upon delivery. The Board of Directors may at any time, with or without cause, remove any member of any committee designated by it thereunder.

6.5 **Vacancies.** If any vacancy shall occur in any committee designated by the Board of Directors due to disqualification, death, resignation, removal, or otherwise, the remaining members shall, until the filling of such vacancy by the Board of Directors, constitute the then total authorized membership of the committee and, provided that two (2) or more members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Board of Directors.

## ARTICLE VII INDEMNIFICATION

7.1 **Indemnification.** No Board Member or officer 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 Board Member or officer 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 Board Member or officer of the Association, 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 Board Member having heretofore or hereafter been a Board Member or officer of the Association or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him as such Board Member or officer, and shall reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability; provided 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 willful or 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. The Association, its Board Members, officers, employees, and agents shall be fully protected in taking any action or making any payment or in refusing so to do in reliance upon the advice of counsel.

7.2 **Other Indemnification.** The indemnification herein provided shall not be deemed exclusive of any other right to indemnification to which any person seeking indemnification may be under any Bylaw, agreement, vote of disinterested Board Members or otherwise, both as to action taken in any official capacity and as to action taken in any other capacity while holding such office. It is the intent hereof that all Board Members and officers be and hereby are indemnified to the fullest extent permitted by the laws of the State of Utah and these Bylaws. The indemnification herein provided shall continue as to any person who has ceased to be a Board Member, officer or employee and shall inure to the benefit of the heirs, executors and administrators of any such person.

7.3 **Insurance.** The Board of Directors, in its discretion, may direct that the Association purchase and maintain insurance on behalf of any person who is or was a Board Member, officer, or employee of the Association or is or was serving at the request of the Association as a Board Member, officer, employee or agent of another association, corporation, partnership, joint venture, trust or other enterprise against any liability asserted against, and incurred by, such person in any such capacity or arising out of such person's status as such, whether or not the Association would have the power to indemnify such person against liability under the provisions of this Article VII.

7.4 **Settlement by Association.** The right of any person to be indemnified shall be subject always to the right of the Association through 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 VIII RECORDS AND AUDITS**

The Association shall maintain within the State of Utah all documents, information, and other records of the Association in accordance with the Act, Declaration, these Bylaws, and the Utah Revised Nonprofit Corporation Act in the manner prescribed by a resolution adopted by the Board of Directors.

##### **8.1 General Records.**

a. The Board of Directors or the Manager shall keep detailed records of the actions of the Board of Directors and Manager; minutes of the meetings of the Board of Directors; and minutes of the Owner meetings of the Association. The minutes shall be recorded, posted on the Associations website and filed in a binder located in the Project.

b. The Board of Directors shall maintain a book of CC&R, Bylaws and House Rules dated and posted for owner access.

c. The Board of Directors shall maintain a list of Owners with current contact information.

d. The Association shall retain within the State of Utah other records of the Association for not less than the period specified in applicable law.

##### **8.2 Financial Reports and Audits.**

The books and accounts of the Association shall be kept in accordance with generally accepted accounting procedures under the direction of the Board. An annual budget, financial statement of income and expenses, and a balance sheet showing assets and liabilities shall be rendered by the Board of Directors to all Owners and to any mortgagees of Units who request the same.

At the close of each fiscal year, the books and records of the management committee shall be audited by a certified public accountant approved by the Association and in accordance with generally accepted auditing standards.

##### **8.3 Inspection of Records by Owners.**

a. Except as provided in Section 8.5 below, all records of the Association shall be reasonably available for examination by an Owner and any Eligible Mortgagee of a Unit pursuant to Rules adopted by resolution of the Board of Directors.

- b. The Board of Directors shall maintain a copy, suitable for the purposes of duplication of the following:
  - i. The Declaration, Bylaws, and any amendments in effect or supplements thereto, and Rules of the Association.
  - ii. The most recent financial statement prepared pursuant to Section 8.2 above.
  - iii. The current operating budget of the Association.
- c. The Association shall, within a mutually agreeable time, after receipt of a written request by an Owner, furnish the requested information required to be maintained under subsection b. of this Section.
- d. The Board, by resolution, may adopt reasonable Rules governing the frequency, time, location, notice and manner of examination and duplication of Association and the imposition of a reasonable fee for furnishing copies of any documents, information or records described in this Section. The fee may include reasonable personnel costs incurred to furnish the information, including any and all fees the Association may be charged by its designee that assists the Association in furnishing this information, which may include managerial, legal, or accounting fees.

8.4 **Records Not Subject to Inspection.** Records kept by or on behalf of the Association may be withheld from examination and duplication to the extent the records concern:

- a. Personnel matters relating to a specific identified person or a person's medical records.
- b. Contracts, leases, and other business transactions that are currently under negotiation to purchase or provide goods or services.
- c. Communications with legal counsel that relate to matters specified in subsections a. and b. of this Section, or current or pending litigation.
- d. Documents concerning existing or potential litigation, mediation, arbitration, or administrative proceedings.
- e. Disclosure of information in violation of law.
- f. Documents concerning existing or potential matters involving federal, state or local administrative or other formal proceedings before a governmental tribunal for enforcement of the Declaration, Bylaws or Rules;
- g. Documents, correspondence, or management or Board of Director reports compiled for or on behalf of the Association or the Board by its agents or committees for consideration by the Board in executive session.
- h. Documents, correspondence, or other matters considered by the Board of Directors in executive session.
- i. Files of individual Owners, other than those of a requesting Owner or requesting Eligible Mortgagee of an individual Owner, including any individual Owner's file kept by or on behalf of the Association.

#### ARTICLE IX RULES AND REGULATIONS

The Board of Directors shall have the authority to adopt and establish by resolution such Condominium Project management and operational Rules as it may deem necessary for the maintenance, operation, management, and control of the Condominium Project, and the Board of Directors may from time to time, by resolution, alter, amend, and repeal such Rules and use their best efforts to see that they are strictly observed by their Occupants, it being clearly understood that such Rules shall apply and be binding upon all Unit Owners of the Condominium Project. Copies of all Rules adopted by the Board of Directors shall be sent to all Unit Owners at

least five (5) days prior to the effective date thereof. Violations of the Rules and other Project Documents may result in fines as determined by the Board. The Board shall adopt a schedule of fines to accompany the Rules, which may be amended from time to time as determined in the sole discretion of the Board.

**ARTICLE X  
AMENDMENTS**

10.1 **How Proposed.** Amendments to the Bylaws shall be proposed by either a majority of the Board of Directors or by Owners holding at least thirty-five percent (35%) of the Allocated Interest of the Association. The proposed amendment must be reduced to writing and must be included in the notice of any meeting at which action is to be taken thereon.

10.2 **Adoption.** Amendments may be approved by the Association at a duly constituted meeting or by written ballot in lieu of a meeting for such purpose. These Bylaws may be amended, altered, or repealed and new Bylaws may be adopted by the Owners upon the affirmative vote of more than two-thirds (2/3) of the Allocated Interest of the Association.

10.3 **Execution and Recording.** An amendment shall not be effective unless and until certified by the President of the Association as being adopted in accordance with these Bylaws, acknowledged, and recorded with the Salt Lake County Recorder.

**ARTICLE XI  
MISCELLANEOUS PROVISIONS**

11.1 **Waiver.** No restriction, condition, obligation, or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

11.2 **Invalidity; Number; Captions.** The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these Bylaws. As used in these Bylaws, the singular shall include the plural, and the plural the singular. The masculine and neuter shall each include the masculine, feminine, and neuter, as the context requires. All captions are intended solely for convenience of reference and shall in no way limit any of the provisions of these Bylaws.

11.3 **Conflicts.** These Bylaws are intended to comply with the Declaration. In case of any irreconcilable conflict, the Declaration shall control over these Bylaws.

11.4 **Property Management.** The current property management that the Association has procured is Treo Community Management, 1750 W 11400 S, Suite #120, South Jordan City, UT 84095

IN WITNESS WHEREOF, the Association has executed this instrument the day and year set forth below.

MAYFLOWER CONDOMINIUM ASSOCIATION, INC.

By: Richard Killian  
Its: President

State of Utah )  
):ss

County of Salt Lake )

On this 7th day of April, 2022 personally appeared before me Richard Killian who being by me duly sworn, did say that he/she is the President of the Mayflower Condominium Association, Inc.; that said instrument was signed by him/her on behalf of said Association after receiving approval from owners representing 2/3 of the Association's voting power; and that the foregoing information is true and accurate to the best of his/her knowledge.

Sarah Guymon  
NOTARY PUBLIC

