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RICHARD T. NAUGHAN  
DAVIS COUNTY, UTAH RECORDER  
11/21/2014 02:03 PM  
FEE \$73.00 Pgs: 5  
DEP RTT REC'D FOR NAYON HEIGHTS CO  
NDOMINIUMS HOA

RETIRED  
NOV 21 2014

10-042-0001  
thru 0057

**SECOND AMENDMENT TO THE  
DECLARATION OF CONDOMINIUM OF NAYON HEIGHTS CONDOMINIUM**

This amendment is made and executed on the date set forth below and shall be effective upon recording.

**RECITALS**

A. Certain real property in Davis County, Utah, known as Nayon Heights Condominium is subjected to certain covenants, conditions, and restrictions as contained in the *Declaration of Condominium of Nayon Heights Condominium*, recorded in the Recorder's Office for Davis County, Utah on June 15, 1973, as Entry No. 381846, in Book 518, at Pages 456-474 ("Declaration"), and *Amendments to Declaration of Condominium of Nayon Heights Condominium*, recorded in the Davis County Recorder's Office on October 21, 1992, as Entry No. 997330, in Book 1544, Pages 886-889 ("First Amendment");

B. This second amendment shall be binding against the property described in "Exhibit A" and the Declaration, the First Amendment, and any annexation or supplements thereto;

C. This second amendment is intended to establish certain rental restrictions within the Association to prevent higher mortgage and insurance rates, lower property values, higher crime, a higher rate of governing document violations, and the inability to obtain a mortgage, all of which are associated with communities with a high level of investor owned Units;

D. The Association deems a rental restriction in the best interest of the owners, their health, safety, and welfare and also deems a rental restriction necessary to preserve the pool of prospective buyers by ensuring the qualification of the Project for financing, preserving the aesthetic appeal of the community, and ensuring competitive appreciation of the Units.

E. Pursuant to Section 12 of the Declaration, owners representing not less than two-thirds (2/3) interest in the Common Areas have approved this Amendment;

NOW, THEREFORE, the Association by and through the Management Committee, hereby amends the Declaration and First Amendment as follows:

**Section 22 is hereby added to the Declaration, to read as follows:**

Section 22. Leases. Notwithstanding anything to the contrary contained in the Declaration, the leasing or renting of any Unit within the Project shall be governed by this Section.

22.1. Definition of "Lease" and "Rent". As used in this Second Amendment, the terms "Lease" or "Rent" shall mean allowing another the right to occupy the Unit, whether or not there has been an exchange for something of value.

22.2 Restrictions on Rentals and Leases. A Unit eligible to be rented is subject to the following restrictions:

(a) No Unit may be rented if the rental or lease results in more than thirty-eight percent (38%) of the Units ("Rental-Lease Limit"), or twenty-one (21) units, being rented or leased at the same time (including Grandfathered Units).

(b) The Declaration, and Section 1(b) of the First Amendment is hereby edited and amended as follows: no Unit may be rented or leased for a period of less than twelve (12) consecutive months, and an Owner may not rent or lease less than the entire Unit.

(c) A Unit may not be rented or leased without the consent of the Board of Trustees.

### 22.3 Owner Occupancy and Rental-Lease Limit Exceptions.

(a) Immediate Family Exception. Occupancy by the immediate family members of an Owner is not to be counted as a rental or lease. As used in this Section 22, "immediate family members" means an Owner's spouse, child, parent, or sibling.

(b) Grandfather Exception. As of the date of recording this amendment, any Owner currently renting or leasing a Unit ("Grandfathered Owner") may continue to rent or lease their Unit until such time as the Grandfathered Owner no longer has an interest in the Unit, or when the Grandfathered Owner occupies the Unit. The successor in interest to the Unit has no rights under this Section and is subject to the restrictions of Sections 22.1 and 22.2 above. This Grandfather Exception applies to each and every provision within this Second Amendment.

(c) Military Deployment Exception. An Owner of a Unit who is deployed with the military. Military personnel, not deployed, are otherwise subject to the requirements and restrictions of this Section 22.

(d) Employment Relocation Exception. An Owner of a Unit whose employer has relocated the Owner for no less than two (2) years.

(e) Trust or Entity for Estate Planning Exception. If the trust or estate planning entity was created for (a) the estate of a current resident of the Unit; or (b) the parent, child, or sibling of a current resident of the Unit, the entity or trust will be allowed to continue renting until an officer, owner, member, trustee, beneficiary, director, or other person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the Lot, occupies the Unit.

(f) Hardship Exception. If an Owners application to lease their Unit is denied by the Management Committee, to avoid undue hardships or practical difficulties such as the Owner's death, job relocation, charitable service, extended vacation, disability, or difficulty in selling the Unit due to market conditions in the area or other similar circumstances, the Management Committee has discretion to approve an Owner's hardship application to temporarily rent or lease the Owner's Unit. However, the Management Committee may not approve a hardship application to rent or lease a Unit under this Section for a time period of more than two (2) years.

22.4 Multiple Lot Ownership. An Owner is not eligible to rent or lease more than one (1) Unit until the pending applications of: (1) All Owners who are not currently renting or leasing a Unit have been approved; and (2) All Owners who are currently renting or leasing fewer Units than the applicant have been approved.

22.5 No Security Deposit Required. An Owner of a Unit that is being leased is not required

to pay a security deposit to the Association.

**22.6 Application and Approval.** Prior to renting or leasing any Unit, an Owner shall apply to the Management Committee for approval. The Management Committee shall review the application and make a determination of whether the rental or lease will exceed the Rental-Lease Limit, violate the Occupancy Requirement, or violate any of the restrictions described in 22.2(a) or (b). The Management Committee shall:

(1) Approve the application if it determines that the rental or lease will not exceed the Rental-Lease Limit, violate the Occupancy Requirements, or violate the 22.2(a) or (b) restrictions.

(2) Deny the application if it determines that the rental or lease of the Lot will exceed the Rental-Lease Limit, the Owner has not complied with the Occupancy Requirements, or that the 22.2(a) or (b) restrictions will be violated.

**22.7 Rules and Regulations regarding the Application and Approval to Rent or Lease a Unit.** The Management Committee shall adopt by resolution Rules and Regulations that establish the application and approval process, a waiting list, the contents or exact form of lease agreements, and any other Rules deemed necessary by the Management Committee to implement this Section 22.

**22.8 Remedies.**

(a) If an Owner rents or leases a Unit in violation of this Section 22, or violates other Rules and Regulations imposed by the Management Committee, including leasing a Unit after the Management Committee denies such application, the Management Committee may:

- i. Assess fines against the Owner and Owner's Unit in an amount to be determined by the Management Committee pursuant to a schedule of fines adopted by the Management Committee in accordance with Utah Code Ann. §57-8-37.
- ii. Regardless of whether any fines have been imposed, proceed with any other available legal remedy, including, without limitation, an action to require the Owner to terminate the rental or lease agreement and remove the tenant.

(b) Pursuant to Rules adopted under this Section, if the Management Committee determines that a tenant has violated a provision of the Declaration, Bylaws, any amendments thereto, or Rules and Regulations, after notice and an opportunity for a hearing as provided in Utah Code Ann. §57-8-37, the Management Committee may require an Owner to terminate a lease or rental agreement.

**22.9 Costs and Attorney Fees.**

(a) Fines, charges, and expenses incurred in enforcing the Declaration, amendments thereto, the Bylaws and any Rules and Regulations with respect to the tenant, and for any costs incurred by the Association in connection with any action involving Section 22, including reasonable attorney fees, are assessments against the Owner and Unit which may be collected and foreclosed by the Association as provided in the Declaration and pursuant to Utah

Code Ann. §57-8-20.

(b) In addition to Subsection (a) of this Section 22.9 above, the Association is entitled to recover from an Owner determined in violation of this Section 22 its costs and attorney fees incurred for enforcement, regardless of whether any lawsuit or other action is commenced. The Association may assess the costs and attorney fees against the Owner and the Unit as an assessment as provided in the Declaration and pursuant to Utah Code Ann. §57-8-20.

22.10 Utah Landlord-Tenant Code Not Applicable. Nothing in this Section 22 may be construed to impose on the Association the duties, responsibilities, or liabilities of a landlord under Utah Code.

EXECUTED this 19 day of November, 2014.

Nayon Heights Condominium Association

By: Jamie Lam  
Title: HOA President

STATE OF UTAH )  
 )SS:  
COUNTY OF Davis )

On the 19 day of Nov, 2014 personally appeared before me Tawne Larsen, who by me being duly sworn, did say that he/she is the HOA president of the Nayon Heights Condominium Association and that the foregoing amendment was approved by at least 67% of the total votes of the Association.

Michelle Gallagher  
Notary Public



**EXHIBIT "A"**

Legal Description  
of Units at  
Nayon Heights Condominiums

All Units and common area in the Nayon Heights Condominiums, Davis County, Utah.

**Parcel ID Numbers** 100120001 through 100120057

Beginning at a point South 89-30'40" West 621.88 feet and North 0-27'15" West 27.43 feet from the Southeast corner of the Southwest Quarter of Section 15, Township 4 North, Range 1 West, Salt Lake Base and Meridian, U.S. survey, and running thence North 0-27'15" West 600.43 feet; thence West 219.85 feet; thence South 0-17' East 137.42" feet; thence West 171.15 feet; thence South 0-24' East 462.43 feet; thence South 89-55' East 391.85 feet to the point of beginning, containing 4.85 acres .  
EXCEPTING THEREFROM, Nayon Street therein, which is a public street.