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DECLARATION OF CONDOMINIUM
OF
MARMALADE CONDOMINIUM

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KATIE L. DIXON
RECORDER
SALT LAKE COUNTY,
UTAH

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DECLARATION OF CONDOMINIUM
OF
MARMALADE CONDOMINIUM

THIS DECLARATION is made and executed this 23rd day of December, 1980, by KELLER-MOLEN PARTNERSHIP, hereinafter referred to as "DECLARANT," pursuant to the provisions of the Utah Condominium Ownership Act (Sections 57-8-1 through 57-8-36, Utah Code Annotated (1953), as amended.)

W I T N E S S E T H:

WHEREAS, Declarant is the owner of that certain parcel of real property (herein sometimes referred to as the "subject property"), located in Salt Lake County, Utah, and more particularly described as:

COMMENCING at the Northwest corner of Lot 5, Block 12, Plat 'E', Salt Lake City Survey and running thence S 24°02'46" E 150.54 feet along the West Boundary of Lots 4 and 5; thence N 75°25' E 151.25 feet to the Easterly Boundary of said Lot 5; thence N 24°20'46" W 108.87 feet along the Easterly Boundary of said Lot 5; thence S 89°59'13" W 163.36 feet along the Southerly line of Apricot Street to the point of beginning.

WHEREAS, Declarant has constructed, or is in the process of constructing, upon the subject property a condominium project consisting of various improvements, all of such construction having been, or is to be, performed in accordance with the Record of Survey Map; and

WHEREAS, Declarant desires, by filing this Declaration and Record of Survey Map, to submit the subject property, and all improvements now or hereafter constructed thereon, to the provisions of the act as a condominium project to be known as the Marmalade Condominium.

WHEREAS, Declarant has obtained the acknowledgement and consent to this Declaration of all record owners of the subject property, as well as the consent of all parties possessing liens affecting any portion of the subject property, which by their consents, recorded concurrently with this Declaration, said third party owners and lien holders hereby join in the submission and recording of this Declaration; and

WHEREAS, Declarant intends to sell to various purchasers the fee title to the individual units located within said project, together with the undivided ownership interest in the common areas and facilities appurtenant to the units, subject to the covenants, restrictions, reservations, assessments, charges and liens herein set forth;

NOW, THEREFORE, Declarant hereby makes the following declarations:

ARTICLE I
DEFINITIONS

When used in this Declaration, including the recitals hereto, the following terms shall have the meaning indicated. Any term used herein which is defined by the Act shall, to the extent permitted by the context hereof, have the meaning ascribed by the Act.

1.1 Act: Shall mean and refer to the Utah Condominium Ownership Act (Sections 57-8-1 through 57-8-36, Utah Code Annotated (1953), as amended).

1.2 Declaration: This Declaration and all amendments thereto.

1.3 Declarant: KELLER-MOLEN PARTNERSHIP, its successors-in-interest and specific assignees-in-interest to rights and obligations under this Declaration.

1.4 Project: The Marmalade Condominium Project.

1.5 Association: Marmalade Homeowners, Inc., a Utah Non-Profit Corporation, formed for management of the Project, which association is established and defined in this Declaration.

1.6 Management Committee and Committee: The governing body of the Association and the Project.

1.7 Manager: The person designated by the Management Committee to manage the affairs of the Project.

1.8 Record of Survey Map and Map: The Record of Survey Map recorded in the Official Records of the Salt Lake County Recorder, and which may be recorded concurrently with recording of this Declaration or hereafter.

1.9 Common Areas and Facilities:

(a) The land and interest in land which this Declaration submits to the terms of the Act.

(b) All common areas and facilities designated as such in the Map.

(c) All limited common areas and facilities.

(d) All foundations, columns, girders, beams, supports, perimeter walls, roofs and lobbies, constituting a portion of or included in the improvements which comprise a part of the Project and any stairs, stairways, entrances and exists which are designed for the use of more than one unit.

(e) All apparatus, installations, and facilities included within the Project and existing for common use.

(f) All portions of the Project not specifically included within the individual units including, but not by way of limitations, parking spaces, walk-ways, streets, garbage storage and brick walls.

(g) All other parts of the Project normally in common use or necessary or convenient to its use, existence, maintenance, safety or management.

(h) All "Common Areas and Facilities" so defined in the Act, whether or not expressly listed herein.

1.10 Limited Common Areas and Facilities: Those common areas and facilities designed herein or on the Map as reserved for the use of a certain unit or units to the exclusion of the other units. The limited common areas shall include, but not be limited to, patios, balconies, carports, garages, and parking spaces.

1.11 Condominium Unit and Unit: One of the residential units intended for independent use as defined in the Act and as shown in the Map. Mechanical equipment and appurtenances located within any one unit or located without said unit but designated and designed to serve only that unit, such as appliances, furnaces, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus, fixtures and the like, shall be considered part of the unit, as shall all decorated interiors, all surfaces of interior structural walls, floors and ceilings, 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 units, and any structural members or any other property of any kind, including fixtures and appliances within any units, 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.

1.12 Unit Number: The number, letter, or combination thereof which designates a unit in the attached Exhibit "A," and in the Map.

1.13 Unit Owner or Owner: The owner of the fee in a unit and the percentage of undivided interest in the common areas and facilities which is appurtenant thereto. The Declarant shall be deemed the owner of all unconstructed or unsold units. In the event a unit is the subject of any executory contract of sale, the contract purchaser shall, unless the seller and the purchaser have otherwise agreed and have informed the committee in writing of such agreement, be considered the unit owner for purposes of voting and Committee membership.

1.14 Common Expenses: All sums which are expended on behalf of all the unit owners and all sums which are required by the Management Committee to perform or exercise its functions, duties, or rights under the Act, this Declaration, the Management Agreement for operation of the Project, and such rules and regulations as the Management Committee may, from time to time, make and adopt.

1.15 Size: The square foot of each unit as shown in the Map and set forth in Exhibit "A," attached hereto.

1.16 Percentage Interest: The percentage of undivided interest of each unit in the common areas as set forth in Exhibit "A," attached hereto.

1.17 Mortgage: Any mortgage, deed of trust, or other security instrument by which a unit or any part thereof is encumbered.

1.18 Mortgagee: Beneficiary or holder under deed of trust as well as mortgagees.

1.19 Person: Legal entity as well as natural person.

ARTICLE II

SUBMISSION

Declarant hereby submits to the Act the subject property situated in Salt Lake County, Utah, and described above, and Declarant intends that all of the provisions of the Act shall apply to the subject property.

ARTICLE III

COVENANTS, CONDITIONS AND RESTRICTIONS

The foregoing submission is made upon and under the following covenants, conditions and restrictions:

3.1 Name: The Project, as submitted to the provisions of this Declaration, shall be known as Marmalade Condominium.

3.2 Description of Units: The improvements included in the project are now or will be located upon the subject property described above, and all of the improvements are intended for, and shall be utilized for: single family residential purposes. All improvements shall be constructed with good quality materials, in a workmanlike manner, and in a style and manner architecturally compatible with other improvements on the Project.

3.3 Description of Improvements: The Project consist of a project containing a total of five (5) condominium units, each containing a bottom level and two (2) additional floors. Each unit has two (2) bedrooms. The exterior of the building consists predominantly of brick veneer, and the roof is composed

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of handsplit shingles. Each unit has a patio or balcony attached , as shown on the Map. The Map shows the dimensions of the units and common areas.

3.4 Common Areas and Facilities: The common areas and facilities of the Project are defined in Article I of this Declaration and on the Map. Neither the percentage interest nor the right of exclusive use of a limited common area and facility shall be separated from the unit to which it appertains, and, even though not specifically mentioned in the instrument of transfer, such percentage of undivided interest and such right of exclusive use shall automatically accompany the transfer of the unit to which they relate. Each unit owner shall, at his own cost, keep the limited common areas designated for exclusive use in connection with his unit in a clean, sanitary and attractive condition as all times.

3.5 Voting - Common Expense - Ownership in Common Areas and Facilities: The proportionate share of the unit owners in the common areas and facilities of the Project is based upon the size (square footage) that each of the units bears to the total size of all the units. The percentage of undivided ownership in the common areas and facilities is set forth in the attached Exhibit "A," and shall be used for all purposes including, but not limited to, voting and sharing of the common expenses of the Association and of the common areas and facilities.

3.6 Unit Maintenance: Each owner shall, at his own cost and expense, maintain, repair, paint, re-paint, tile, wax, paper, or otherwise refinish and decorate the interior surfaces

of the walls, ceilings, floors, windows and doors forming the interior of his unit and all walls, ceilings, floors, windows and doors forming the boundaries of his unit. In addition to decorating and keeping the interior of his unit in good repair and in a clean and sanitary condition, he shall be responsible for the maintenance, repair and replacement of any plumbing fixtures, water heater, heating equipment, air conditioner, lighting fixtures, or other appliances or fixtures that may be in, or connected with, his unit. Each unit shall be maintained so as not to affect adversely the value or use of any other unit. In the event any owner makes any improvement or addition to any parking space constituting limited common areas reserved for the use of his unit, the owner will be solely responsible for maintenance and repair of such improvements.

3.7 Taxes on Each Unit. Each unit will be separately assessed for purposes of real property taxes, and each owner of a unit will be responsible to pay all taxes applicable to that unit.

3.8 Easements and Encroachments:

(a) If any part of the common areas encroaches or shall hereafter encroach upon a unit or units, an easement for such encroachment and for the maintenance for the same shall and does exist. If any part of a unit encroaches or shall hereafter encroach upon the common areas, or upon an adjoining unit or units, an easement for such encroachment and for the maintenance for the same shall and

does exist. Such encroachment shall not be considered to be encumbrances either to the common areas or to the units. Encroachment referred to herein include, but are not limited to, encroachments caused by error in the original construction of the building(s) on the tract, by error in the Map, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

(b) Some of the common areas are or may be located within the units or may be conveniently accessible only through the units. The owners of the other units shall have the irrevocable right, to be exercised by the Committee, as its agent, to have access to each unit and to all common areas, from time to time, during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the common areas located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the common areas or to another unit or units. The Committee shall also have such rights independent of the agency relationship. The Committee shall provide for repair of damage to the interior of any part of a unit or units resulting from the maintenance, repair, emergency repair, or replacement of any of the common areas or as a

result of emergency repairs within another unit at the insistance of the Committee or of unit owners; provided, that if such damage is a result of negligence of the owner of a unit, then such owner shall be financially responsible for all such damage. Such damage shall be repaired and the property shall be restored substantially to the same condition as existed prior to damage. Amounts owing by owners pursuant hereto shall be collected by the Committee by assessment.

(d) Each owner shall have the right to ingress and egress over, upon and across the common areas necessary for access to his unit, and each owner shall have the right to the horizontal and lateral support of a unit, such rights shall be appurtenant to and pass with the title to each unit.

(e) The Management Committee shall have non-exclusive easements to make such use of the common areas as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration.

(f) There is hereby created a blanket easement upon, across, over and under the subject property for ingress and egress, installation, replacing, repairing and maintaining all utilities

including, but not limited to, water, sewer, gas, telephone, electricity, and other utility services, whether or not any part of such easement is shown on the Map.

3.9 Use of Condominium and Common Areas:

(a) Each of the units in the Project is intended to be used for residential purposes for single-family use, and is restricted to such use.

(b) There shall be no obstructions of the common areas by the owners, their tenants, guests or invitees without the prior written consent of the Committee. The Committee may, by rules and regulations, prohibit or limit the use of the common areas as may be reasonably necessary for protecting the interests of all the owners or protecting the units or the common areas. Nothing shall be kept or stored on any part of the common areas without the prior written consent of the Committee, except as specifically provided herein. Nothing shall be altered on, constructed in or removed from the common areas except upon the prior written consent of the Committee.

(c) Nothing shall be done or kept in any unit or in the common areas or any part thereof which would result in the cancellation of the insurance on the Project or any part thereof or increase the rate of the insurance on the Project or any part

thereof over what the Committee, but for such activity, would pay, without the prior written consent of the Committee. Nothing shall be done or kept in any unit or in the common areas or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the common areas or any part thereof shall be committed by any owner or any invitee of any owner, and each owner shall indemnify and hold the Committee and the owners harmless against all loss resulting from any such damage or waste caused by him or his invitees; provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee of any other owner.

(d) No owner shall violate the rules and regulations for the use of the units and of the common areas as adopted, from time to time, by the Management Committee.

(e) No structural alterations to any unit shall be made by any owner without the prior written consent of the Committee.

(f) Notwithstanding anything contained herein to the contrary, until the Declarant has completed and sold all of the units, neither the unit owners who have purchased units from the Declarant nor the

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Committee shall interfere with the completion of improvements and sale of the remaining units. The Declarant may make such use of the unsold units and the common areas as may facilitate such completion and sale including, but not limited to, the maintenance of a sales office and personnel, the showing of the units, showing the common areas, and the conducting of advertising and promotion programs. Notwithstanding any provision herein to the contrary, after such time as all units have initially been sold, all units shall thereafter revert to use solely as single-family residential units and shall not thereafter be used or occupied for offices or non-residential uses, nor display any signs, which are prohibited by applicable zoning ordinances and other governmental laws and regulations.

3.10 Transfer or Lease of Units: Any unit owner, other than the Declarant, who wishes to sell or lease his ownership interest or any interest therein (or any lessee of any ownership interest) to any person shall give the Management Committee, not less than fifteen (15) days prior to the date of the proposed sale or lease, written notice of the terms of any proposed sale or lease, together with his name and address, the unit of which he is the owner and which is to be the subject matter of the proposed sale or lease, the name and address of the proposed purchaser or lessee, the amount deemed by him to constitute the

fair market value of such ownership interest, the amount of any liens and encumbrances thereon. The Management Committee shall at all times have the first right and option to purchase or lease such ownership interest or interests therein upon the same terms, which option shall expire fifteen (15) days after the date of receipt by it of such notice. If said option is not exercised by the Management Committee within the aforesaid option period, the owner or lessee may, upon the expiration of said option period, contract to sell or lease (or sublease or assign) such ownership

interest or such interest therein to the proposed purchaser or lessee named in such notice upon the terms specified therein. The Management Committee, upon written request of any prospective seller, buyer, lessor, tenant or mortgagee, shall furnish a duly acknowledged certificate of compliance with, or a waiver of, the provisions of this paragraph.

Such a certificate shall be conclusive evidence of the facts stated herein.

The provisions of this paragraph 3.10 shall not apply to any transfer, sale or assignment which occurs as a result of a mortgagee's exercise of its rights under a mortgage whether through foreclosure, deed or assignment in lieu of foreclosure, or exercise of a power of sale under a trust deed. In the event a mortgagee becomes the owner of or possessor of a unit as a result of its exercise of such rights, the provisions of this paragraph 3.10 shall not apply to any subsequent transfer, sale or assignment of the unit by such mortgagee.

Notwithstanding the provisions of this paragraph 3.10, the failure to comply with the terms hereof shall in no event affect the validity of a transfer of a unit or an interest therein to a person for value, whether or not such person has actual notice of the requirements of this paragraph 3.10.

3.11 Amendments: In addition to the amendment procedure provided by law and elsewhere in this Declaration, the unit owners shall have the right to amend this Declaration and/or the Map upon the approval and consent of three-fifths (3/5) of the undivided interests in the Project and, until the sale from

Declarant of units having ownership of at least eighty percent (80%) of the common areas and facilities, with the written consent of Declarant, which consents and approvals shall be by duly executed and recorded instruments. Notwithstanding anything to the contrary, all amendments must comply with applicable building and zoning ordinances of Salt Lake City, Utah, including but not limited to amendments resulting in changes in structures, boundaries, arrangement of units, numbers of units and amendments to the Record of Survey Map.

ARTICLE IV

MARMALADE HOMEOWNERS, INC.

4.1 Owners Association: The administration of the Project shall be governed by this Declaration and the Articles of Incorporation and the By-Laws of Marmalade Homeowners, Inc., a Utah Non-Profit Corporation. The By-Laws are attached as an exhibit to this Declaration and recorded concurrently herewith. An owner of a lot shall automatically become a member of the Association and shall remain a member for the period of his ownership.

4.2 Association Management: The Association shall conduct the general management, operation and maintenance of the Project and of the common areas and facilities and the enforcement of the provisions of this Declaration, the Articles of Incorporation and By-Laws of the Association, and rules and regulations adopted thereunder.

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ARTICLE V

LIMITATION OF USE OF UNITS AND COMMON AREAS

The units and common areas shall be occupied and used as follows:

5.1 Purposes: Without the prior written consent of all owners of units in the Project, no owner shall occupy or use any unit, or permit the same or any part thereof to be occupied or

used, for any purpose other than for residential purposes for the owner and the owner's family or the owner's lessees or guests. No commercial or business activities of any nature shall be conducted on the units or in common areas, except that the owners may lease their units for residential purposes. Nothing herein shall be construed to permit or allow the rental or lease of any unit for transient or hotel purposes, nor the subdivision of any unit, which actions are expressly prohibited.

5.2 Alterations and Additions: No building, fence, wall, doorway, or other structure, shall be commenced, erected, altered, or placed on any portion of the Project, without the unanimous consent of all owners of units. All buildings, alterations and additions on the subject property shall be made in a workmanlike manner and shall be architecturally compatible with the rest of the project. No structural changes or change in colors or materials on the exterior of any structure shall be made on the Project without the consent of the Management Committee.

5.3 No Animals: No animals, livestock, or poultry of any kind shall be permitted in any unit or in the common areas, except that dogs, cats and other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose, and provided that they do not become an annoyance or nuisance, for any reason, to any owner or resident of a unit. Such animals as are permitted shall be strictly

controlled and kept pursuant to Salt Lake City, Utah, ordinances and regulations, and rules and regulations of the Management Committee.

5.4 No Offensive Activities: No noxious or offensive activity shall be carried on in any unit or in the common areas, nor shall anything be done therein which may be or become an annoyance or nuisance to the other owners.

5.5 Signs: Without unanimous consent of all owners of units, a unit owner will not permit any sign of any kind to be displayed on the exterior of any unit or any portion of the common areas, except for unobtrusive signs designating unit locations and names of unit owners or lessees.

5.6 Construction in Common Areas: Nothing shall be altered or constructed in or removed from the common areas, except upon the written consent of all unit owners.

5.7 Dumping of Garbage: Except in areas designated on the Map or by the Management Committee, no unit or portion of the common areas shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste, nor shall any rubbish, trash, papers, junk or debris be burned within the Project, except in incinerators constructed as part of the Project and authorized by all unit owners. Each unit and its related area of responsibility shall be kept free of trash and refuse by the owner of such unit. No person shall allow any unsightly, unsafe or dangerous conditions to exist on or in any unit.

5.8 Excavation: No excavation for stone, gravel or earth shall be made on the subject property unless such excavation is made in connection with the erection of a building, structure, landscaping or other improvement thereon which is not in conflict with the terms of this Declaration.

5.9 Parking of Vehicles: All motor vehicles on the Project shall be parked within garage or carport areas or such other areas specifically designated on the Map or by the Committee for such purposes. No vehicles, boats, campers, motorcycles, or large items shall be parked or stored on any portion of the Project except in such designated areas.

5.10 No Obstruction: There shall be no obstructions of the common areas by the owners, their tenants, guests or invitees without the consent of the Committee. The Committee may, by rules and regulations, prohibit or limit the use of the common areas as may be reasonably necessary for protecting the interests of all the owners or protecting the units or the common areas. Nothing shall be kept or stored on any part of the common areas without the prior consent of the Committee, except as specifically provided herein. Nothing shall be altered on, constructed in or removed from the common areas, except upon the prior consent of the Committee.

5.11 No Violations: Nothing shall be done or kept in any unit or in the common areas or any part thereof which would result in the cancellation of the insurance on the Project or any part thereof, or increase the rate of the insurance on the Project or any part thereof, over what the Committee, but for such

activity, would pay, without the prior consent of the Committee. Nothing shall be done or kept in any unit or in the common areas or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the common areas or any part thereof shall be committed by any owner or any invitee of any owner, and each owner shall indemnify and hold the Committee and the other owners harmless against all loss resulting from any such damage or waste caused by him or his invitees; provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee of any other owner.

5.12 Use of Unsold Unit: The Declarant may make such use of any unsold unit and the common areas as may facilitate such completion and sale including, but not limited to, the maintenance of a sales office and personnel, the showing of the unit, showing of the common areas, and the conducting of advertising and promotional programs. Notwithstanding any provision herein to the contrary, after such time as all units have initially been sold, all units shall thereafter revert to use solely as single-family residential units and shall not thereafter be used or occupied for offices or non-residential uses, nor display any signs, which are prohibited by applicable zoning ordinances and other governmental laws and regulations.

ARTICLE VI

INSURANCE

6.1 Obtaining of Insurance Policies: The Management Committee shall obtain and maintain, at all times, a policy of insurance in accordance with the following guidelines:

(a) A multi-peril policy of insurance covering the entire project providing as a minimum fire and extended coverage and all other coverage in the kinds and amounts commonly required by private

institutional mortgage investors for projects similar in construction, location and use on a replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based upon replacement cost). If the Secretary of Housing and Urban Development designates the area in which the project is situated as an area having special flood hazards, a "blanket" policy of flood insurance on the project must be maintained in the amount of the aggregate of the outstanding principal balances of the mortgage loans on the units comprising the project or the maximum limit of coverage available under the National Flood Insurance Act of 1968, as amended, whichever is less. The name of the insured under each required policy must be stated in form and substance similar to the following:

"Marmalade Homeowner's, Inc."

Each such policy shall contain the standard mortgagee clause which must be endorsed to provide that any proceeds shall be paid to the Marmalade Homeowner's, Inc., for the use and benefit of mortgagees as their interest may appear.

Each hazard insurance policy shall be written by a hazard insurance carrier which has a financial

rating by Best's Insurance Reports of Class VI or better or, in that alternative, by an insurance carrier which has a financial rating by Best's Insurance Reports of Class V, provided it has a general policy holder's rating of at least A. Each carrier must be specifically licensed or authorized by law to transact business within the State of Utah.

Notwithstanding anything herein to the contrary, no policies of insurance shall be issued where (i) under the terms of the insurance carrier's charter, bylaws or policy, contributions or assessments may be made against any obligor under a mortgage on a unit, upon the Federal Home Loan Mortgage Corporation ("FHLMC"), the Federal National Mortgage Corporation ("FNMA"), or other similar government agencies or government sponsored lending institutions, or their designees; (ii) by the terms of the insurance carrier's charter, bylaws or policy, loss payments are contingent upon the carrier's board of directors, policyholders or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent the collection of insurance proceeds by the obligor under a mortgage on the unit, the

FHLMC, the FNMA, or other similar government agencies or government sponsored lending institutions.

All policies of hazard insurance must contain or have attached the standard mortgagee clause commonly accepted by private institutional mortgage investors in the area in which the Mortgaged Premises are located. The mortgagee clause must provide that the insurance carrier shall notify the first mortgagee (or trustee) named at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.

(b) The Association shall have a comprehensive policy of public liability insurance covering all of any common areas, commercial spaces and public ways in the project. Such insurance policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a unit owner because of negligent act of the Association or other unit owners. The scope of coverage shall include all other coverage in the kinds and amounts required by private institutional mortgage investors for projects similar in construction, location and use.

(c) In addition, the Management Committee may obtain insurance for such other risks of a similar or dissimilar nature as are or shall hereafter

customarily be covered with respect to common areas or other Projects similar in construction, design and use.

ARTICLE VII

COMMON ASSESSMENTS

7.1 Payment of Expenses: Each unit owner shall share in any common profits and shall be liable to pay a pro-rata portion of the costs and expenses required and deemed necessary by the Management Committee to manage, maintain and operate the common areas and facilities of the Project, such portion to be the same as the percentage of undivided ownership interest in the common areas and facilities appurtenant to the unit owned by the unit owners as set forth in Exhibit "A," attached hereto. All payments shall be made upon the terms, at the time and in the manner provided without deduction of any off-sets or claims which the owner may have against the Committee, and if any owner shall fail to pay any installment within one (1) month from the time when the same becomes due, the owner shall pay interest thereon at the rate of 1½% per month from the date when such installment shall become due to the date of the payment thereof.

7.2 Collection of Assessments: The Management Committee may, from time to time, up to the close of the year for which such cash requirements have been so fixed or determined, increase or diminish the amount previously fixed or determined for such year. The Committee may include in the cash requirements for any year, any liabilities or items of expense which accrued or became payable in the previous year or which might have been included in

the cash requirements for a previous year, but were not included therein, and also any sums which the Management Committee may deem necessary or prudent to provide a reserve against liabilities or expenses then accrued or thereafter to accrue although not payable in that year. In any year in which there is an excess of assessments received over amounts actually used for the purposes described in this Declaration such excess may, upon written consent of all members, be applied against and reduce the subsequent year's assessment or be refunded to the members, subject to any contrary provisions for the benefit of mortgage holders and specified in Article VIII, below. The preceding sentence shall automatically be repealed upon the revocation of Rev. Rul. 70-604, 1970-2, CB 9 promulgated by the Internal Revenue Service or upon a court of competent appellate jurisdiction declaring such Rev. Rul. invalid or upon amendment of the Internal Revenue Code or the Treasury Regulations thereunder obviating the requirement of a membership vote to apply such excess to the subsequent year's assessments or to refund the same in order that such excess be excluded from gross income of the Association.

7.3 Manner of Payment: All assessments, together with any additional sums accruing under this Declaration, shall be payable monthly in advance, or in such payments and installments as shall be required by the Management Committee, and at such times as shall be provided by the Management Committee.

7.4 Unfinished Units: It is the express intention of this Declaration, and this Declaration shall be so construed, that the entire pro-rata assessments payable to the Management

Committee herein shall be made only with respect to all units upon which improvements have been made to the extent so as to allow occupancy of such units. Accordingly, notwithstanding any other provisions of this Declaration, the Management Committee shall have discretionary powers to assess amounts less than the entire pro-rata assessments specified above with respect to any unit on which habitable improvements have not been completed on such units.

7.5 Powers of Management Committee: The Management Committee shall have discretionary powers to prescribe the manner of maintaining the operation of the Project, and to determine the cash requirements of the Management Committee to be paid as aforesaid by the owners under this Declaration. Every such reasonable determination by the Committee within the bounds of this Declaration shall be final and conclusive as to the owners, and any expenditures made by the Committee within the bounds of this Declaration shall be deemed, as against the owners, necessary and properly made for such purpose.

7.6 Application of Lease Payments: If any owner shall, at any time, let or sublet any unit and shall default for a period of one (1) month in payment of any management assessments, the Management Committee may, at its option, so long as such default shall continue, demand and receive from any tenant or subtenant of such owner occupying the unit, the rent due or becoming due up to the amount of such assessment due, together with all penalties provided herein. Such payment of rent to the Committee shall be sufficient payment and discharge of such

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tenant or subtenant as between such tenant or subtenant and such owner to the extent of the amount so paid.

7.7 Collection of Assessments: Each monthly assessment and each special assessment shall be separate, distinct and personal debts and obligations of the owner against whom the same are assessed at the time the assessment is made, and shall be collectible as such. Suit to recover a money judgment for unpaid common expenses may be maintained without foreclosing or waiving the lien securing the same. The amount of assessment, whether regular or special, assessed to the owner of any unit, plus interest at $1\frac{1}{2}\%$ per month and costs, including reasonable attorney's fees, shall become a lien upon such unit upon recordation of notice of assessment. Said lien for non-payment of common expenses shall have priority over all other liens and encumbrances, recorded or unrecorded, except only:

(a) Tax and special assessment liens on the unit in favor of any assessment authority, or special district; and

(b) Encumbrances on the owner's unit and such owner's interest in the common areas recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

A certificate executed and acknowledged by a majority of the Management Committee stating the indebtedness secured by the lien upon any unit in the Project hereunder shall be conclusive upon the Management Committee and the owners as to the amount of

such indebtedness on the date of the certificate, in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any owner or any encumbrancers or prospective encumbrancer of a unit upon request at a reasonable fee, not to exceed \$10.00. Unless the request for a certificate of indebtedness shall be complied within within ten (10) days, all unpaid common expenses which become due prior to the date of the making of such request shall be subordinate to the lien held by the person making the request. Any encumbrancer holding a lien on the unit may pay any unpaid common expenses payable with respect to such unit and upon such payment such encumbrancer shall have a lien on such unit for the amounts paid of the same ranks as the lien of his encumbrance.

Upon payment of a delinquent assessment concerning which such a certificate has been so recorded, or other satisfaction thereof the Management Committee shall cause to be recorded, in the same manner as the certificate of indebtedness, a further certificate stating the satisfaction and the release of the lien thereof. Such lien for non-payment of assessment may be enforced by sale by the Management Committee or by a bank or trust company or title insurance company authorized by the Management Committee, such sale to be conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any manner permitted by law. In any foreclosure or sale, the owner shall be required to pay the costs and expenses of such proceedings and reasonable attorney's fees.

In case of foreclosure, the owner shall be required to pay a reasonable rental for the unit from the date of foreclosure action is filed with the Court having jurisdiction over the matter, and the Plaintiff in the foreclosure action shall be entitled to the appointment of a receiver, at the time such action is filed, to collect the rental without regard to the value of the mortgaged security. In any foreclosure or sale, the owner shall also be required to pay the costs and expenses of such proceedings and reasonable attorney's fees. The Management Committee or Manager shall have the power to bid on the unit at foreclosure or other sale and to hold, lease, mortgage and convey the unit.

ARTICLE VIII

MORTGAGE PROTECTION

Notwithstanding all other provisions herein to the contrary:

8.1 Reserve Fund: An adequate reserve fund for repair, maintenance and replacement of the common areas and facilities must be established and shall be funded by regular monthly payments rather than by special assessments.

8.2 Rights of First Refusal: Any "right of first refusal" which may be granted herein shall not impair the rights of the first mortgagee to:

(a) Foreclose or take title to a unit pursuant to the remedies provided in the mortgage, or

(b) Accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor, or

(c) To sell or lease a unit acquired by a mortgagee.

8.3 Title in Mortgagee: Any first mortgagee who obtains title to a unit pursuant to the remedies provided in the mortgage or foreclosure of the mortgage will not be liable for such unit's unpaid dues or charges which accrue prior to the acquisition of title of such unit by the mortgagee.

8.4 Consent of Mortgagees: Unless at least two-thirds (2/3) of the first mortgagees (based upon one vote for each first mortgage owned) or owners (other than the sponsor, developer or builder) of the individual units in the Project have given their prior written approval, the Association shall not be entitled to:

(a) By act or omission, seek to abandon or terminate the Project.

(b) Change the pro-rata interest or obligations of any individual unit for the purpose of: (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; or (ii) determining the pro-rata share of ownership of each unit in the common areas and facilities.

(c) Partition or subdivide any unit.

(d) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the common areas and facilities (the granting of easements for public utilities or for other public purposes consistent with the intended use of the common areas and facilities by the Project shall not be deemed a transfer within the meaning of this paragraph).

(e) Fail to maintain fire and extended coverage on insurable common areas and facilities on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost).

(f) Use hazard insurance proceeds for losses to any condominium property (whether to unit or to common areas and facilities) for other than the repair, replacement or reconstruction of such property, except as provided by statute in case of substantial loss to the units and/or common areas and facilities.

8.5 Taxes and Expenses: First mortgagees of units may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any common areas and facilities and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such common areas and facilities and

first mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

8.6 Notice of Default by Individual Unit Borrower: A first mortgagee of a unit, upon request, shall be entitled to written notification from the Association of any default in the performance by the individual unit borrower of any obligation under this Declaration, or other constituent documents of this Condominium Project, which is not cured within sixty (60) days.

8.7 Management Agreements: Any agreement for professional management of the Project, or any other contract providing for services of the developer, sponsor or builder, may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice.

8.8 No Priority: No provision of this Declaration or of the By-Laws or Articles of Marmalade Homeowners, Inc., is intended, nor shall it be construed, to give any unit owner, or any other party, priority over any rights of the first mortgagee of a unit pursuant to its mortgage in the case of a distribution to such unit owner of insurance proceeds or condemnation awards for losses to or a taking of a unit and/or common areas and facilities.

8.9 Examination of Books. Each first mortgagee shall, upon request, be entitled to examine the books and records of the Association, receive copies of all financial statements of the Association, and receive written notice of all meeting of the Association.

8.10 Notice of Loss. Written notice shall immediately be given by the Association to all first mortgagees in the event of damage, loss, and taking or anticipated condemnation of any portion of the project.

ARTICLE IX

SERVICE OF PROCESS

9.1 The person to receive service of process in the cases contemplated by the Act is:

Ronald L. Molen
345 South 400 East
Salt Lake City, Utah 84111

ARTICLE X

INDEMNIFICATION

10.1 Every trustee, officer, and officially designated agent of the Association shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a trustee, officer or agent of the Association, or any settlement thereof, whether or not he is a trustee, officer or agent at the time such expenses are incurred, except in such cases wherein the trustee, officer or agent is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification herein shall apply only when the Board of Trustees approves such settlement and reimbursement as being for the best interests of the Association. The foregoing right of indemnification shall be in addition to

and not exclusive of all other rights to which such trustee, officer or agent may be entitled.

ARTICLE XI

MISCELLANEOUS PROVISIONS

11.1 Notices. Any notice permitted or required to be delivered as provided in this Declaration may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered twenty-four (24) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed (1) to each such person at the address given by such person to the Board of Trustees or Manager for the purpose of service of such notice, or (2) to the address of the Unit owned by such person, if no address has been given to the Board of Trustees or Manager. Such address may be changed, from time to time, by notice in writing to the Board of Trustees or Manager.

11.2 Interpretation: The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a condominium project. Failure to enforce any provision hereof shall not constitute a waiver of the rights to enforce said provision or any other provision hereof.

11.3 Severability: The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not effect the validity or enforceability of any other provision hereof.

11.4 Counterparts: This Declaration may be executed simultaneously in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

11.5 Effective Date: This Declaration shall take effect upon recording.

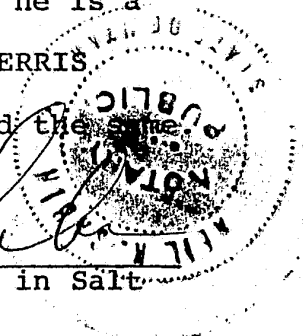
KELLER-MOLEN PARTNERSHIP

BY: Ferris Keller
GENERAL PARTNER

STATE OF UTAH)
) ss.
County of Salt Lake)

On the 23rd day of December, 1980, personally appeared before me FERRIS KELLER, who duly acknowledged to me that he is a General Partner of KELLER-MOLEN PARTNERSHIP; and said FERRIS KELLER acknowledged to me that said Partnership executed the same.

Paul Keller
NOTARY PUBLIC, Residing in Salt Lake City, Utah



My Commission Expires:

10/19/81

EXHIBIT "A"

<u>UNIT</u>	<u>SQUARE FOOTAGE</u>	<u>PERCENTAGE OF COMMON OWNERSHIP</u>
1	2,194	20%
2	2,178	20%
3	2,170	20%
4	2,170	20%
5	2,170	20%

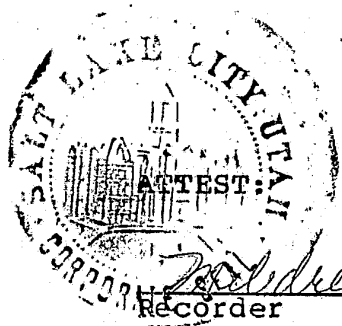
APPROVAL BY CITY

SALT LAKE CITY, a body corporate and politic, and the City in which Marmalade Condominium, a Utah condominium project, is located, by and through its duly elected Mayor, does hereby give final approval to the said Project, to the foregoing Declaration, to the Record of Survey Map recorded concurrently herewith, and to the attributes of the said Project which are mentioned in Section 57-8-35(3) of the Utah Condominium Ownership Act, as amended and expanded by the Laws of Utah, 1975, Chapter 173, Section 18.

DATED: JAN. 29. 1981

SALT LAKE CITY

BY *[Signature]*
Mayor



#10

BY-LAWS
OF
MARMALADE HOMEOWNERS, INC.

ARTICLE I
NAME AND LOCATION

The name of the Association is MARMALADE HOMEOWNERS, INC., hereinafter referred to as the "Association." The principal office of the Association shall be located in Salt lake City, Utah, but meetings of Members and Trustees may be held at such places within the State of Utah as may be designated by the Board of Trustees.

ARTICLE II
DEFINITIONS

Section 1. "Association" shall mean and refer to MARMALADE HOMEOWNERS, INC., its successors and assigns.

Section 2. "Project" shall mean and refer to the condominium project constructed on that certain real property described in the Declaration of Condominium of Marmalade Condominium, and all amendments thereto, recorded in the Office of the Salt Lake County Recorder, and such additional properties as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Areas and Facilities" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

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Section 4. "Unit" shall mean and refer to any residential Unit within the Project.

Section 5. "Owner" shall mean and refer to the record owners, whether one or more persons or entities, of the fee simple title to any Unit which is a part of the Project, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Declarant" shall mean and refer to Keller Construction, Inc., a Utah corporation, and its successors and assigns.

Section 7. "Declaration" shall mean and refer to the Declaration of Condominium of Marmalade Condominium, and all amendments thereto, applicable to the properties and recorded in the Office of the Salt Lake County Recorder, State of Utah.

Section 8. "Member" shall mean and refer to each of those persons entitled to a membership in the Association as provided in the Declaration and in the Articles of Incorporation of the Association.

Section 9. All other references used, but not otherwise defined herein, shall have the meanings defined in the Declaration.

ARTICLE III

MEETINGS OF THE MEMBERS OF THE ASSOCIATION

Section 1. Annual Meetings: An annual meeting of Unit Owners shall be held at the Project on the first Monday in June, or at such other time not more than thirty (30) days before or thirty (30) days after such date, as may be designated by written

notice of the Board of Trustees, or their designate, delivered to the Owners not less than ten (10) days prior to the date fixed for said meeting. At the annual meeting, elections shall be held to elect members of the Board of Trustees, financial reports shall be given and such other business conducted as may be properly presented.

Section 2. Special Meeting of the Unit Owners: Special meetings of Unit Owners may be called at any time by written notice signed by a majority of the Board of Trustees, or by the Owners having one-third (1/3) of the total votes, delivered not less than fifteen (15) days prior to the date fixed for said meeting. Such meeting shall be held on the Project, and the notice thereof shall state the date, time and matters to be considered.

Section 3. Quorum: A quorum for the transaction of business at an Owner's meeting shall consist of a majority of all the undivided ownership interests in common areas and facilities of the Project. In the event a quorum is not present at an Owner's meeting, whether regular or special, the meeting may be adjourned and rescheduled for a time no earlier than forty-eight (48) hours and no later than thirty (30) days, after the time set for the original meeting. No notice of such rescheduled meeting shall be required. A quorum for the transaction of business at the rescheduled meeting shall be twenty-five percent (25%) of all the undivided ownership interests in the common areas and facilities in the Project.

Section 4. Voting at Meeting of Unit Owners: At any meeting of Owners, each Owner shall be entitled to the number of votes in accordance with this ownership interest in the common areas and facilities. Any Owner may attend and vote at such meeting in person or by agent duly appointed in writing signed by the Owner and filed with the Board of Trustees. Where there is more than one (1) record Owner for any Unit, any or all such Owners may attend any meeting of the Owners, but they must act unanimously in order to cast the votes to which they are entitled. The Board of Trustees may accept the votes cast by any one (1) of the record Owners of a Unit, unless such votes are objected to by any of the other record Owners of such Unit, and any disagreement between such record Owners shall be resolved among themselves; provided, however, that in the event the record Owners are unable to resolve the disagreements among themselves and act unanimously, the Board of Trustees shall not accept the votes of such Owners.

Section 5. Notices: Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered twenty-four (24) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed (1) to each such person at the address given by such person to the Board of Trustees or Manager for the purpose of service of such notice, or (2) to the address of the Unit owned by such person, if no address has been given to the Board of Trustees or the Manager. Such address may be changed, from

time to time, by notice in writing to the Board of Trustees or Manager.

Section 6. Proxies: At all meetings of members, each member may vote either in person or by proxy. All proxies shall be in writing duly signed and dated by the voting Member and filed with the Secretary of the Association. Every proxy shall be revocable either in writing or personal appearance and shall be automatically void upon conveyance by the Member of his Unit.

ARTICLE IV

SELECTION AND TERM OF THE BOARD OF TRUSTEES

Section 1. Number: The affairs of this Association shall be managed by a Board of three (3) Trustees who need not be Members of the Association.

Section 2. Term of Office: The term of office of each Trustee shall be for a period of one (1) year; and at each annual meeting thereafter the Members shall elect the Trustees.

Section 3. Removal: Any Trustee may be removed from the Board, with or without cause, by a majority vote of the voting Members of the Association. In the event of the death, resignation or removal of a Trustee, a successor Trustee shall be selected by the remaining members of the Board and shall serve for the unexpired term of the predecessor.

Section 4. Compensation: No Trustee shall receive compensation for any services he may render to the Association. However, any Trustee may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting: The Board of Trustees shall have the authority to take any action in the absence of a meeting which they could take at a meeting by obtaining the written waiver and approval of all of the Trustees. Any action so approved shall have the same force and effect as though taken at a meeting of the Trustees.

ARTICLE V

NOMINATION AND ELECTION OF TRUSTEES

Section 1. Nomination: Nomination for election to the Board of Trustees shall be made either (a) by a Nominating Committee which may be established by the Board of Trustees, or (b) from the floor at the annual meeting. The Nominating Committee, if established, shall consist of a Chairman, who shall be a member of the Board of Trustees, and two (2) or more voting Members of the Association. The Nominating Committee shall be specified and appointed by the Board of Trustees prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting. The Nominating Committee shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for elections to the Board of Trustees as it shall, in its discretion, deem proper. Nominations may be made from among Members or nonmembers.

Section 2. Election: Elections to the Board of Trustees shall be by secret written ballot. At such elections the voting Members and proper proxies, may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the

provisions of the Declaration. The persons receiving the largest number of votes shall be elected.

ARTICLE VI

MEETING OF BOARD OF TRUSTEES

Section 1. Regular Meetings: Regular meetings of the Board of Trustees may be held monthly, or at least once every three (3) months, without notice, at such place and hour as may be fixed, from time to time, by resolution of the Board.

Section 2. Special Meetings: Special meetings of the Board of Trustees shall be held when called by (a) the President of the Association, or (b) by any two (2) Trustees, after not less than three (3) days written notice to each Trustee.

Section 3. Quorum: A majority of the Trustees shall constitute a quorum for the transaction of business. Every act or decision authorized by a majority of the Trustees present at a duly called and constituted meeting shall represent an act of the entire Board of Trustees.

ARTICLE VII

POWERS AND DUTIES OF THE BOARD OF TRUSTEES

Section 1. Powers: The Board of Trustees shall have the power:

(a) to adopt and publish rules and regulations governing the use of the common areas and facilities by the Members and their guests, and to establish penalties for any infraction thereof; and

(b) to suspend the voting rights and right to use of the common areas and facilities of a Member

during any period in which such Members shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days from infraction of published rules and regulations; and

(c) to exercise on behalf of the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of these ByLaws, the Articles of Incorporation, or the Declaration; and

(d) to declare the office of a member of the Board of Trustees to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Trustees; and

(e) to employ a Manager, an independent contractor, and employees as they deem necessary, and to prescribe their duties

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

(a) cause to be kept a complete record of all its acts and the affairs of the Association and to present a statement thereof to the members at the annual meeting of the Association; and to present such statement at any special meeting upon written request given at least ten (10) days prior to such

meeting by two-fifths (2/5) of the Members entitled to vote; and

(b) to supervise all officers, managers, agents and employees of the Association, and to assure that their duties are properly performed; and

(c) as more fully provided in the Declaration, to:

(i) fix the amount of the annual assessment against each Unit at least thirty (30) days in advance of each annual assessment period; and

(ii) to send written notice of any assessment to every Owner subject thereto at least thirty (30) days in advance of the annual assessment; and

(iii) within its discretion the Board of Trustees may foreclose any lien against any property for which assessments are not paid or bring an action at law against the Owner personally, as authorized by the Declaration; and

(d) to issue, or to cause to be issued, upon demand by any voting Member, a written statement setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of any statement. If a

signed statement verifies that an assessment has been paid, such statement shall be conclusive evidence of payment; and

(e) to acquire and maintain adequate liability and hazard insurance on the common areas and facilities owned by the Association; and

(f) to require all officers, managers and employees having fiscal responsibilities to be bonded as the Board may deem appropriate; and

(g) to cause the common areas and facilities to be maintained; and

(h) to take all other actions directed or permitted in the Declaration.

ARTICLE VIII

OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices: The officers of the Association shall be a President, a Secretary and a Treasurer, and such other offices as the Board of Trustees may, from time to time, create by resolution.

Section 2. Election of Officers: The election of the officers shall take place at the first meeting of the Board of Trustees following each annual meeting of the Members.

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

Section 4. Special Appointments: The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine necessary.

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

Section 6. Vacancies: A vacancy in any office may be filled by appointment from the Board of Trustees. The officer appointed to such vacancy shall have all of the powers of the appointed office and shall serve for the remainder of the terms of the officer replaced.

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

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

President

(a) The President shall preside at all meetings of the Board of Trustees and Members and shall assure that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

(b) The President shall appoint, remove and fix the compensation of all managers, agents and employees of the Association subject to approval by the Board of Trustees.

(c) The President shall enforce these by-Laws and perform all of the duties and obligations required or established by law as incident to the office of President.

Vice-President

(d) The Vice-President shall act in the absence or inability of the President, rendering and performing all duties of the President with full authority, and shall exercise and discharge such other duties as may be required of him by the President.

Secretary

(e) The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Trustees and of the Members; keep the seal of the Association and affix it on all papers

requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses; and shall perform such other duties as required by the President. He shall receive and attend to all correspondence and perform all of the duties and obligations incident to the office of Secretary.

Treasurer

(f) The Treasurer shall receive and deposit in appropriate bank accounts the monies of the Association and such funds as directed by the President or by resolution of the Board; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual examination of the Association books to be made at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting.

ARTICLE IX

COMMITTEES

The Association may appoint a Management Committee as provided in the Declaration, and a Nominating Committee as provided in these By-Laws. In addition, the Board of Trustees shall appoint other committees as deemed appropriate in carrying out the requirements and purposes of the Association.

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ARTICLE X

BOOKS AND RECORDS

The books, records and papers of the Association shall, during reasonable business hours, be subject to inspection by voting Members. The Declaration, Articles of Incorporation and these By-Laws shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XI

SEAL OF THE ASSOCIATION

The seal of the Association shall be in such form as selected by the Board of Trustees.

ARTICLE XII

AMENDMENTS

Section 1. These By-Laws may be amended, at a regular or special meeting of the voting Members upon the vote of a majority of a quorum of Members present in person or by proxy.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XIII

MISCELLANEOUS

These By-Laws shall be interpreted according to the laws of the State of Utah.

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every

year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, we, being all of the Trustees of the MARMALADE HOMEOWNERS, INC., have hereunder set our hands this 23rd day of December, 1980.

[Signature]
[Signature]
[Signature]

CERTIFICATION

I, the undersigned, do hereby certify:

THAT I AM the duly elected and acting Secretary of the Association, an Association created within the State of Utah; and

THAT THE foregoing By-Laws constitute the original By-Laws of the MARMALADE HOMEOWNERS, INC., as adopted at a meeting of the Board of Trustees thereof, held on the 23rd day of December, 1980.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 23rd day of December, 1980.

[Signature]
SECRETARY

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