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AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
MOUNT OLYMPUS GARDENS CONDOMINIUMS  
(including Association Bylaws)

**THIS AMENDED AND RESTATED DECLARATION OF CONDOMINIUM** is made and executed on the date evidenced below by the Mount Olympus Gardens Homeowners Association, a Utah Nonprofit Corporation, (hereinafter referred to as "the Association"), pursuant to the provisions of the Utah Condominium Ownership Act (the "Act"), Title 57-8-1 et seq. of the Utah Code (1953), as may be amended from time to time.

#### RECITALS

A. This Amended and Restated Declaration of Condominium supercedes and replaces in its entirety that previously recorded Declaration recorded as Entry No. 3584166, Book 5629, Page 1386 et seq., recorded May 15, 1981, Salt Lake County Recorder.

B. Association. The Association is the authorized representative of the owners of certain real property known as Olympus Gardens Condominiums, located in Salt Lake County, Utah and more particularly described on **Exhibit "A"** attached hereto and incorporated herein by this reference (the "Project"). **This Amended and Restated Declaration extends to Parcel Nos. 22-08-333-047-0000 and all parcels located within the Mount Olympus Gardens Condominium.**

C. Existing Project. The Project consists of Forty-Eight (48) Units and certain Common Area and Facilities;

D. Binding Effect. These covenants, conditions, restrictions, easements and limitations shall run with the said real property and shall be binding on all parties having or acquiring any right, title or interest in the described real property or any part thereof and shall inure to the benefit of each owner thereof and are imposed upon said real property and every part thereof as a servitude in favor of each and every parcel thereof as the dominant tenement or tenements.

E. Purpose. It is intended that all Owners, guests, invitees and residents abide by these covenants, conditions and restrictions in order to maintain property values and a desirable living environment.

NOW, THEREFORE, for the benefit of the Project and the Unit Owners thereof, the Association hereby executes this Amended and Restated Declaration of Covenants, Conditions and Restrictions for the Association, for and on behalf of all of the Unit Owners.

ARTICLE I

*DEFINITIONS*

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When used in this Declaration (including in that portion hereof headed "Recitals" and in the Bylaws attached hereto as **Exhibit "C"**) the following terms shall have the meaning indicated.

**1.1 Act** shall mean and refer to the Utah Condominium Ownership Act (Section 57-8-1, et seq., Utah Code Annotated, 1953), as amended from time to time.

**1.2 Association** shall mean and refer to the Mount Olympus Gardens Homeowners Association. Every Unit Owner shall automatically be a member of the Association. Membership in the Association shall be appurtenant to the Unit in which the Owner has the necessary interest, and shall not be separated from the Unit to which it appertains. The property, business and affairs of the Association shall be governed by the Management Committee.

**1.3 Common Areas and Facilities** shall mean, refer to, and include:

- (a) The real property and interests in real property which this Declaration submits to the terms of the Act.
- (b) All Common Areas and Facilities designated as such in the Survey Map.
- (c) All Limited Common Areas and Facilities.
- (d) All foundations, roofs, columns, girders, beams, supports, and perimeter walls constituting a portion of or included in the improvements which comprise a part of the Project, and any halls, corridors, stairs, stairways, entrances and exits which are

designed for the use of more than one Unit.

(e) All installations for and all equipment connected with the furnishing of Project utility services, such as electricity, gas, water and sewer.

(f) In general all apparatus, installations, and facilities included within the Project and existing for common use.

(g) The Project outdoor lighting, fences, landscape, sidewalks, parking spaces, and roads.

(h) All portions of the Project not specifically included within the individual Units.

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

(j) All common areas as defined in the Act, whether or not enumerated herein.

**1.4 Common Expenses** shall mean and refer to all sums which are expended on behalf of all the Unit Owners and all sums which are required by the 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.

**1.5 Common Profits** shall mean and refer to the balance of income, rents, profits and revenues from the Common Areas remaining after deduction of the Common Expenses.

**1.6 Declaration** shall mean and refer to this instrument and as it may be amended from time to time.

**1.7 Limited Common Areas and Facilities** shall mean and refer to those Common Areas and Facilities designated herein or on the appropriate Record of Survey Map as reserved for the use of a certain Unit or Units to the exclusion of the other Units, Limited Common Areas consist of the patio areas provided adjacent to the Units indicated on the appropriate Record of Survey Map as Limited Common Areas, as are the entrances and exits of each Unit although not indicated on the appropriate Record of Survey Map.

**1.8 Management Committee or Committee** shall mean and refer to the Management Committee of Mount Olympus Gardens Condominiums as it exists at any given time.

**1.9 Manager** shall mean and refer to the manager retained by the Management Committee to oversee the day-to-day operations of the Association and to enforce the covenants, conditions, and restrictions applicable to this community. A Manager may also be a full-time employee/resident of the Project.

**1.10 Mortgage** shall mean any mortgage, deed of trust or other security instrument by which a Unit or any part thereof is encumbered.

**1.11 Mortgagee** shall mean a beneficiary of a Mortgage as will as named Mortgagee.

**1.12 Percentage Interest** shall mean and refer to the undivided percentage interest of each Unit in the Common Areas as set forth in **Exhibit "B"** attached hereto.

**1.13 Person** shall mean and refer to a natural person, corporation, partnership, trust, limited liability company, or other legal entity.

**1.14 Project Documents** shall mean and refer to the Declaration of Condominium, Bylaws and Rules and Regulations.

**1.15 Property** shall mean and refer to the land, described in **Exhibit "A,"** the buildings, all improvements and the structures thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property, belonging to the Association, intended for use in connection therewith.

**1.16 Record of Survey Map or Maps** shall mean and refer to the Record of Survey Maps filed herewith.

**1.17 Resident** shall mean and refer to any person living or staying at the Project. This includes but is not limited to all lessees, tenants, and the family members of Owners, tenants or lessees.

**1.18 Size** shall mean and refer to the square footage of each Unit, as depicted on the Map and shown in said **Exhibit "B."**

**1.19 Unit** shall mean and refer to one of the forty-eight (48) Units which is designed as a Unit on the Record of Survey Map and in **Exhibit "B"** attached hereto (and incorporated herein by this reference). Unless a wall on the perimeter of a Unit separates and is common to two or more Units, such perimeter wall shall constitute a part of the Unit to which it relates. A vertical and horizontal perimeters and the surfaces of any floors, ceilings, or coverings which bound it. A Unit shall not include pipes, wires, conduits, or other utility lined

running through it which are utilized for or which serve more than one Unit.

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**1.20 Unit Number** shall mean and refer to the number, letter, or combination thereof which designates a Unit on the Map.

**1.21 Unit Owner or Owner** shall mean and refer to the owner of the fee in a Unit and the percentage of undivided interest in the Common Areas and Facilities which is appurtenant thereto. In the event a Unit is the subject of an 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.

ARTICLE II  
*SUBMISSION*

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**2.1** *Property Submitted.*

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There is hereby submitted to the provisions of the Act, as the Property initially associated with the Mount Olympus Gardens Condominiums, the real property situated in Salt Lake County, State of Utah, particularly described in **Exhibit "A"** attached hereto and incorporated herein by this reference; subject to the easements, reservations and other provisions set forth in said **Exhibit "A"**.

ARTICLE III

*ENFORCEMENT OF COVENANTS, CONDITIONS, RESTRICTIONS*

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**3.1 Compliance.**

Each Owner, tenant or occupant of a Unit shall comply with the provisions of this Declaration, the Bylaws, and the rules and regulations adopted pursuant to the Declaration and Bylaws and any applicable statute. Failure to comply therewith shall be grounds for sanctions (i.e., fines) and/or an action or suit maintainable by the Association or an aggrieved Owner.

**3.2 Remedies.**

Violation of any provisions of this Declaration, the Bylaws or any rules or regulations adopted pursuant to the Declaration or Bylaws, or of any decision of the Association made pursuant to such documents, shall give the Management Committee acting on behalf of the Association, in addition to any other rights set forth in this Declaration or the Bylaws, or under law, to do, any or all of the following after giving notice and an opportunity to be heard:

(a) Subject to reasonable notice, to enter any Unit which or as to which such violation exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition that may exist contrary to the intent and meaning of such provisions, and the Management Committee shall not thereby be deemed guilty of any manner of trespass, provided that judicial proceedings shall be instituted before any items of construction may be altered or demolished;

(b) To enjoin, abate, or remedy such thing or condition by appropriate legal proceeding;

(c) To levy reasonable fines pursuant to a schedule of fines adopted by resolution of the Management Committee a copy of which has been delivered to each Owner, mailed to the mailing address of the Unit or mailed to the mailing address designated by the Owner in writing to the Association;

(d) If collectively metered and billed, to terminate the right to receive utility services paid for out of assessments or, except for the right to an assigned parking space, to terminate the right of access to and use of recreational and service facilities of the Association, until the correction of the violation has occurred; or

(e) The right of the Association to suspend the voting rights of the Owners after notice and a hearing for any period not to exceed sixty (60) days for any infraction of any of the published rules and regulations of the Association or of this Declaration.

(f) Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration, the Bylaws and any rules or regulations adopted pursuant thereto.

**3.3 Action by Owners.**

Subject to any limitation imposed under this Declaration, the Bylaw or Utah law, an aggrieved Owner may bring an action against such other Owner or the Association to recover damages or to enjoin, abate, or remedy such thing or condition by

appropriate legal proceedings.

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**3.4 *Injunctive Relief.***

Nothing in this section shall prevent an Owner, the Association, or other interested party from resort to a court of competent jurisdiction in those instances where injunctive relief may be appropriate.

**3.5 *Notification of First Mortgagee.***

The Management Committee may notify in writing any first Mortgagee of any individual Unit of any default in performance of the terms of this Declaration by the Lot Owner which is not cured within sixty (60) days provided such Mortgagee has requested in writing to be so notified.



ARTICLE IV

*IMPROVEMENTS*

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**4.1 Description of Improvements.**

The improvements included in the Project are now located on the Property described in said **Exhibit "A"**, and all such improvements are described on the appropriate Record of Survey Map. The significant improvements contained in the Project include covered and uncovered parking stalls, the swimming pool area and playground area. The Project also contains other improvements of a less significant nature such as outdoor lighting and landscaping.

The Buildings are composed of the following materials: wood frame with load and non-load bearing walls studded with wood; all floors composed of steel beams or with wooden joists covered with plywood and concrete; wooden truss joists roofs with plywood; roofs surfaced with asphalt shingles; interior walls surfaced with drywall; and exterior surfaced with rough cut wooden shingles; designated parking stalls covered with corrugated metal.

**4.2 Description and Legal Status of Units.**

The Map shows the Units and Building designation, its location, dimensions from which its area may be determined, those Limited Common areas which are reserved for its use, and the Common Areas to which it has immediate access. Included in each Unit 1-48, are two bedrooms, one bathroom, one living room with a walk-out balcony, one dining room, one kitchen and a one-car covered parking stall outdoors in the parking area.

All Units shall be capable of being independently owned, encumbered, and conveyed.

**4.3 Contents of Exhibit "B."**

**Exhibit "B"** to this Declaration furnishes the following information with respect to each Unit: (a) The Unit Designation and (b) The percentage interest which is appurtenant to the Unit. With respect to Percentage Interest, to avoid a perpetual series of digits and to obtain a total of one hundred, percent (100%), the last digit has been adjusted, and rounded up or down to a value that is most nearly correct.

**4.4 Computation of Percentage Interests.**

The proportionate share of the Unit Owners in the Common Areas of the Project is based on the square footage that each of the Units bears to the total square footage of all Units. The proportionate ownership in the Common Areas shall be for all purposes including, but not limited to, voting, participation in common profits, and assessments for Common Expenses. The maximum interest for each of the Unit Owners in the Common Areas shall be as set forth in aforesaid **Exhibit "B."**

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ARTICLE V

*COMMON AREAS; UNIT; MAINTENANCE*

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**5.1 Common and Limited Common Areas.**

(a) The Common Areas contained in the Project are described and identified in Articles I and II of this Declaration.

Neither the Percentage Interest nor the right of exclusive use of a Limited Common Area shall be separated from the Unit to which it appertains; and, even though not specifically mentioned in the Instrument of Transfer, the Percentage Interest and such right of exclusive use shall automatically accompany the transfer of the Unit to which they relate.

Each Unit Owner shall, at its own cost, keep the Limited Common Areas designed for exclusive use in connection with his Unit in a clean, sanitary and attractive condition at all times.

(b) The use of the Common Areas shall be limited to the Owners in residence and to their tenants in residence, and to their guests, invitees and licensees. The use of each of the Limited Common Areas shall be restricted to the Owner of the Unit to which it is appurtenant, to his tenants in residence, and to his guests, invitees and licensees.

The use of the Common Areas and Limited Common Areas shall be governed by the Declaration and the Rules and Regulations as initially established by Declarant and as adopted and amended from time to time by the Management Committee.

(c) Notwithstanding any other provision of this Declaration, a balcony or patio to which a condominium Unit has sole access shall be for the exclusive use of the Owner

of such condominium Unit. Such Unit Owner shall keep the balcony or patio free and clean of snow, ice and any accumulation of water and shall make all repairs thereto.

**5.2 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 boundaries of his Unit and all walls, ceiling, floors, windows and doors within such boundaries.

In addition to decorating and keeping the interior of their Units in good repair and in a clean and sanitary condition, they shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heater, heating equipment, air conditioner, lighting fixtures, refrigerator, dishwasher, disposal equipment, range, or other appliances or fixtures that may be in, or connected with, his Unit. Each Unit shall be maintained so as not to detract from the appearance of the Project and so as not to affect adversely the value or use of any other Unit. Exterior doors and windows shall be maintained by owner but must accord with styles, shapes and colors approved by the Committee.

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ARTICLE VI

*GENERAL AND SPECIFIC EASEMENTS*

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**6.1 Easement for Encroachment.**

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 shall and does exist. Such encroachments shall not be considered to be encumbrances either to the Common Areas or the Units. Encroachments 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 appropriate Record of Survey 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.

**6.2 Access for Repair of Common Areas.**

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 Management 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.

**6.3 Emergency Repairs.**

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 insistence of the Committee shall be the responsibility of the Association; provided, that if such damage is the 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.

**6.4 Right of Ingress, Egress.**

Each Owner, the tenant, guest or invitee, shall have the right to ingress and egress over, upon and across the Common Areas necessary for access to his Unit, and to the Limited Common Areas designated for use in connection with their Unit, and such rights shall be appurtenant to and pass with the title to each Unit.

**6.5 Pipes, Ducts, Cables, Wires, Conduits, Public Utility Lines, and Other Common Facilities Located Inside of Units; Support.**

Each Unit Owner shall have an easement in common with the Owners of all other Units to use all pipes, wires, ducts, cables, conduits, public utility lines and other Common Facilities located in any of the

other Units and serving his Unit.

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Each Unit shall be subject to an easement in favor of the Owners of all other Units to use the pipes, ducts, cables, wires, conduits, public utility lines and other Common Facilities serving such other Units and located in such Unit.

The Management Committee shall have a right of access to each Unit to inspect the same, to remove violations therefrom and to maintain, repair or replace the common areas contained therein or elsewhere in the buildings. Every portion of a Unit which contributed to the structural support of the building shall be burdened with an easement structural support for the benefit of all other Units and the Common Areas.

***6.6 Easement to Management Committee and Manager.***

The Management Committee and Management Company 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.

***6.7 Easement for Utility Services.***

There is hereby created a blanket easement upon, across, over and under the property described in "Exhibit A" for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to, water, sewers, gas, telephones, electricity, and other utility services.

ARTICLE VII

*USE RESTRICTIONS*

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**7.1 Use of Units - Residential Use.**

Each of the Units in the Project is limited to residential use only. Each Unit and Owner is subject to the uses and restrictions imposed by these restrictions (including any parking restrictions).

**7.2 No Obstruction of Common Areas.**

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.

**7.3 Cancellation of Insurance.**

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 of the rate of the insurance on the Project or any part thereof or increase of 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.

No noxious, destructive or offensive activity shall be carried on in any Unit or in the Common Areas or any part thereof, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any person at any time lawfully residing in the Project.

**7.4 Rules and Regulations.**

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. Said Rules and Regulations shall be adopted and enforced pursuant to the terms of Utah's Condominium Act, as may be amended from time to time.

**7.5 Structural Alternations.**

No structural alterations to any Unit shall be made by any Owner without the prior written consent of the Committee.

### **7.6 Window Coverings.**

Window coverings of any and all Units shall consist of wood shutters, mini-blinds, drapes, woven wood coverings, curtains or other customary coverings. The Management Committee may require that certain colors and types of window covering be used.

Under no circumstances shall any cardboard or tinfoil be used as window coverings in the Project.

### **7.7 Signs**

No signs whatsoever shall be erected or maintained in the Common Areas without the prior written consent of the Committee.

### **7.8 Pets**

Dogs (not to exceed 20 pounds), cats or other household pets shall be allowed inside the Units within the Project if: (1) Ownership of the pet does not violate any local, state or federal laws; (2) The owner or occupant accepts full liability for his or her pet and signs a release, waiver and indemnity agreement; (3) Any pet allowed outside of the owner's Unit is accompanied by the owner and is on a leash; (4) The pet owner promptly cleans up all of his or her pet's droppings; (5) The pet is licensed and vaccinated in accordance with Salt Lake County ordinances; (6) Upon request, the Committee is given a copy of the pet's license and proof of vaccination, along with a description sufficient to describe the pet; (7) The pet owner complies with the administrative rules and regulations as they may be adopted or modified by the Committee from time to time; and (8) No animals or birds of any kind shall be raised, bred, or kept in any the Common Areas or Limited Common Areas.

Anything to the contrary notwithstanding, no pet shall be allowed to create or maintain a nuisance. At the discretion of the Committee, after notice and a hearing, any pet that is considered to be a nuisance shall not be allowed to remain within the confines of the Project. For the purposes of this paragraph a nuisance is defined as any behavior which annoys or disturbs other owners or occupants, including but not limited to any abnormal, unreasonable or excessive barking, whining, or scratching; any behavior which creates an unacceptable odor, an unhygienic environment or a dangerous condition; or any behavior which establishes a propensity for harm.

If a pet owner violates any of these covenants, conditions or restrictions, including any administrative pet rules and regulations, the Committee shall have the express authority to issue citations or levy assessments, and collect these by judgment, lien or foreclosure. In extreme cases, the Committee may require that the Owner remove their pet from the premises.

### **7.9 Storage and Parking of Vehicles**

No motor vehicle or trailer, including but not limited to any automobile, commercial vehicle, truck tractor, mobile home, or trailer (either with or without wheels), camper trailers, boat or other water craft, boat trailer, or any other transportation device of any kind may be parked or stationed in front of any garage, walkway, driveway, Unit or Common Area.

Each Unit will be assigned one (1) parking space. All additional vehicles must be parked in designated areas.

Visitors may only park their motor vehicles temporarily in designated "guest" spaces in accordance with the Parking Rules and

Regulations promulgated by the Management Committee.

No Owners or occupants shall repair or restore any motor vehicle of any kind upon any Unit or Common Area, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.

Motor Vehicles parked in unauthorized areas, or in violation of the parking rules and regulations established by the Management Committee, may, at owner's expense, be towed away.

All parking spaces shall be used for the purpose of parking motor vehicles and shall not be used as storage facilities.

#### **7.10 Leasehold Restrictions**

In order to assure a community of congenial owners and thus protect the value of the Units, the leasing of a Unit by any Owner shall be subject to the following restrictions so long as the property shall be owned in accordance with the terms and conditions of this Declaration and the Act:

All leases and lessees shall be subject to the provisions of the Act and the Project Documents. Any owner who leases his/her Unit shall be responsible for assuring the Residents' compliance with the Act and the Project Documents.

(a) Subject to the following, all Owners who rent their Units, shall make a \$2,000.00 refundable security deposit to the Association. This security deposit shall be refunded to the Owner upon the termination of any tenancy permitted herein to the extent said deposit is not used to repair or replace the common areas due to damage caused by the Owner's tenants, guests or invitees.

Owners shall be responsible for any and all damage to their Units. In the event that the aforementioned deposit is not enough to meet the costs of repair or replacement of the common areas, the Owner of the Unit shall be responsible for all such costs.

(b) The leasing and renting of Units by Owners shall be in accordance with this Section. "Leasing or renting" of a Unit means the granting of a right to use or occupy a Unit for a specific term or an indefinite term (with rent stated on a periodic basis), in exchange for the payment of rent (money, property or other goods or services of value); but shall not mean and include joint ownership of a Unit by means of joint tenancy, tenancy-in-common or other forms of co-ownership.

(1) Rental-Lease Limit. Owners, and Units shall be subject to the following restrictions:

(i) No Owner may lease or rent less than their entire Unit and no Owner may lease or rent any Unit for a period of less than six (6) consecutive months.

(ii) No Unit may be rented or leased if the rental or lease results in more than ten percent (10%) of Units (the "**Rental-Lease Limit**") being rented or leased at any given time, except as provided in Subparagraph 7.10(b)(3), below.

(2) Twelve Month Occupancy Requirement / Application and Approval. Prior to leasing any Unit, an Owner shall have occupied their Unit for twelve (12) consecutive months (the "**Residency Requirement**") and shall apply to the Management Committee for approval. The Committee shall review the application and

make a determination of whether the Owner has met the twelve month Residency Requirement and whether the proposed lease will exceed the Lease Limit expressed above.

The Committee shall:

(i) Approve the application if it determines that the Owner meets the Residency Requirement and that rental or lease will not exceed the Rental-Lease Limit; or

(ii) Deny the application if it determines that the Owner does not meet the Residency Requirement or that the rental or lease of the Unit will exceed the Rental-Lease Limit.

(3) Hardship Exemption. Notwithstanding the above, in order to avoid undue hardships or practical difficulties such as the Owner's job relocation, extended vacation, disability, military service, charitable service, or other similar circumstances, the Management Committee shall have discretion to approve an Owner's application to temporarily rent or lease the Owner's Unit provided the approval would not result in more than twelve percent (12%) of the total Units being rented or leased at any given time.

The Committee may not approve an application to rent or lease less than the Owner's entire Unit or to rent or lease the Unit for a period of less than six (6) consecutive months. Dormitory type rentals are strictly prohibited.

(4) Multiple Unit Ownership Limitation. An Owner who owns more than one Unit is not eligible to rent more than one

Unit until the pending applications of:

(i) All Owners who are not currently renting or leasing a Unit have been approved; and

(ii) All Owners who are currently renting or leasing fewer Unit than the applicant have been approved.

(5) Review of Rental Applications. Applications from an Owner for permission to rent or lease shall be reviewed and approved or denied by the Management Committee pursuant to the following:

(i) The Management Committee shall review applications for permission to rent or lease in chronological order based upon the date of receipt of the application. Within ten (10) business days of receipt, the Committee shall approve or deny an application and shall notify the Owner of the result, and, if permission is not given, the reason for the denial within fifteen (15) business days of receipt of the application.

(ii) If an Owner's application is denied, the applicant may be placed on a waiting list according to the date the application was received so that the Owner whose application was earliest received will have the first opportunity to rent or lease.

(6) Application Form; Approval Process; Waiting List. An application form, the application and approval process, a waiting list, and any other rules deemed necessary by the Committee to implement this section shall be established by rules adopted by resolution of the Management



Committee.

(7) Approved Lease Agreement. All Owners shall use and provide the Management Committee with a copy of the Association's Approved Residential Lease Agreement (" **Approved Lease Agreement**") which shall be kept on file with the books and records of the Association so that the Association may determine the number of Units rented or leased. The Approved Lease Agreement shall be on a form prescribed by resolution of the Board.

(8) Violations of Rental Restrictions. If an Owner fails to submit the required application, fails to use and submit a copy of the Approved Lease Agreement and rents or leases any Units, and/or rents or leases any Unit after the Management Committee has denied the Owner's application, the Committee may assess fines against the Owner and the Owner's Unit in an amount to be determined by the Committee pursuant to a schedule of fines adopted by the Committee. In addition, regardless of whether any fines have been imposed, the Committee may proceed with any other available legal or equitable remedies, including but not limited to, an action to terminate the rental or lease agreement and removal of any tenant or lessee.

(9) Recovery of Costs and Attorney Fees. The Association shall be entitled to recover from the offending Owner its costs and attorney's fees incurred for enforcement of this Subsection, regardless of whether any lawsuit or other action is commenced. The Association may assess such costs and attorney's fees against the Owner and the Unit as an assessment

pursuant to this Declaration.

(10) Grandfather Clause. As of the date of recording this amendment, any Owner that is currently renting or leasing a Unit (" **Grandfathered Owner** ") may continue to rent or lease their Unit until such time as the Unit is sold or title is otherwise transferred to a new Owner of record or the Unit is re-occupied as a residence by the Owner. However, notwithstanding the grandfather provision above, if a Grandfathered Owner fails to re-let their Unit within ninety (90) days of the expiration or termination of a rental or lease agreement by any tenant, then the Grandfathered Owner and Unit become subject to the Rental-Lease Limit expressed above and shall apply to the Board of Directors for permission to rent or lease the Unit in accordance with this Subsection.

(11) Owner Obligation to Inform Tenant and Association. Rental and lease agreements shall comply with the following:

(i) The Owner shall provide the tenant or lessee with a copy of the Declaration, Bylaws, and rules and regulations (the "**Governing Documents**") then in effect and shall take a receipt for delivery of the Governing Documents. In the event the Governing Documents are amended, revised, changed, or supplemented by the Association, the Owner shall provide the tenant or lessee with a copy of the amendments, revisions, changes, or supplements within ten (10) calendar days of adoption by the Association, its Board of Directors, or its membership.

(ii) Upon the commencement of the rental or lease period, the Owner shall provide the Association with a copy of the

Approved Lease Agreement and a copy of the receipt specified above. If the Owner fails to provide the receipt, the Association shall provide a copy of the Governing Documents to the tenant or lessee and take a receipt therefor, and shall assess a reasonable charge therefor to the Owner as an assessment consistent with this Declaration.

(12) Termination of Lease or Rental Agreement Because of Violations. In addition to any other remedies available to the Association, the Committee may require the Owner to terminate a lease or rental agreement if the Committee determines that any lessee or tenant has violated any provision of this Declaration, the Articles of Incorporation, the Bylaws, or any amendments thereto, or the Rules and Regulations adopted thereto.

Notwithstanding anything contained herein to the contrary, the Association shall have legal and equitable standing as a third party beneficiary to enforce the provisions of the Governing Documents against an Owner or its tenant, including without limitation, levying fines against the Lot, Owner, and Tenant and termination of the lease agreement.

### ***7.11 Aerials, Antennas and Satellite Dishes.***

It is the intent that this policy not be inconsistent, incongruent or in conflict with applicable local, state and federal legislation. Aerials, antennas and satellite dishes shall be prohibited within the Project, except (a) antennas or satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter; (b) antennas or satellite dishes designed to receive video programming

services via multipoint distribution services which are one meter or less in diameter or diagonal measurement. (hereafter referred to as "Permitted Devices") shall be subject to the following.

(1) located in the attic, garage, or other interior spaces of the residential unit, so as not to be visible from outside the unit;

(2) located in the appurtenant limited common area patio (i.e., the area between the plane formed by the front facade of the building containing the residential unit and the rear line of the limited common area as shown on the record of survey map) and setback from all property lines at least eight (8) feet;

(3) attached to or mounted behind the limited common area appurtenant to the residential unit on the rear wall of the building containing the residential unit so as to extend no higher than the plane commencing the next story of the building or, the eaves of the building at a point directly above the position where attached or mounted to the wall.

Notwithstanding the foregoing, should an Owner determine that a Permitted Device cannot be located in compliance with the above guidelines without precluding reception of an acceptable quality signal, then the Owner may install the device in the least conspicuous alternative location in the residential unit or appurtenant limited common area where an acceptable quality signal can be obtained.

The Management Committee may adopt rules establishing a preferred hierarchy of alternative locations and require screening of all Permitted Devices, so long as such rules to not unreasonably increase the cost

of installation, maintenance, or use of the Permitted Device. Anything to the contrary notwithstanding, no Permitted Device may be located in the common area without the express prior written consent of the Management Committee. Permitted Devices may only be installed in, on or within property which a party owns or is subject to his exclusive use.

NOTES

ARTICLE VIII

*MANAGEMENT COMMITTEE; POWERS; COMPOSITION*

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**8.1 Status and General Authority of Management Committee.**

Notwithstanding anything herein contained to the contrary, the Condominium Project shall be managed, operated, and maintained by the Management Committee exclusively as agent of, and in the name of, the Association and any act performed by the Management Committee pursuant to this Declaration or the Bylaws, as the same may be amended from time to time, shall be deemed to be performed by the Committee for and on behalf of the Association as its agent.

The Management Committee may delegate (for compensation) to a professional property management company, an Independent Contractor, or an occupant of any Unit within the Project, as manager, the necessary powers and authority to manage the Project.

The Manager so engaged shall be responsible for managing the Project for the benefit of the Management Committee and the Unit Owners and shall, to the extent permitted by law and the terms of the agreement with the Committee, be authorized to perform any of the functions or acts required or permitted to be performed by the Management Committee itself.

**8.2 Composition of Committee and Selection Thereof.**

The Management Committee shall be composed of five (5) members. At each annual Owners meeting thereafter any vacant seat on the Committee shall be filled with a member elected for a two-year term.

Members shall serve on the Committee until their successors are elected and qualify. Only the Unit owners and officers and agents of Owners other than individuals shall be eligible for Committee membership. At the annual meeting each Unit Owner may vote his percentage of undivided ownership interest in favor of as many candidates for Committee membership as there are seats on the Committee to be filled.

In cases of vacancy on the Committee, the remaining Committee members shall elect a replacement to sit on the Committee until the expiration of the term for which the member being replaced was elected. Committee Members may be removed from their position at any time upon a 60% vote of all owners. Such vacant seat shall then be filled at the same meeting by the majority vote of Owners for the balance of the unexpired term. Committee members shall be reimbursed for all expenses reasonably incurred in connection with Committee business.

NOTES

ARTICLE IX

*ASSESSMENTS*

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**9.1 Agreement to Pay Assessment.**

Each Owner of any Unit by the acceptance of a deed therefor, whether or not it be so expressed in the deed, or by entering into a sale and purchase contract, shall be deemed, to covenant and agree with each other and with the Association to pay to the Association:

(1) annual assessments made by the Association for the purposes provided in this Declaration;

(2) special assessments for capital improvements and other matters as provided in this Declaration, and, as the case may be,

(3) individual assessments applicable to less than all owners as set forth below. Such assessments shall be fixed, established and collected from time to time in the manner provided in this Article.

The monthly assessments herein provided shall commence as to all Units on the date deed is delivered to the first purchaser of a Unit, with the first monthly assessment being adjusted according to the number of days remaining in the month of conveyance.

**9.2 Amount of Total Annual Assessments.**

The total annual assessments against all Units shall be based upon advance estimates of cash requirements by the Committee to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Areas, which estimates may include, among other things expenses of management, grounds maintenance, taxes

and special assessments, (until the Units are separately assessed as provided herein), premiums for all insurance which the Committee is required or permitted to maintain pursuant hereto, common lighting and heating, water charges, trash collection, repairs and maintenance of the Common Areas that must be replaced on a periodic basis, wages for Committee employees (if any), legal and accounting fees, any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus and/or sinking fund; and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under or by reason of this Declaration.

**9.3 Apportionment of Annual Assessments.**

Expenses attributable to the Common Areas and to the Project as a whole shall be apportioned among all Owners in proportion to their respective Percentage Interests in the Common Areas.

**9.4 Notice of Annual Assessments and Time for Payment Thereof.**

Annual assessments shall be made on a calendar year basis. The Committee shall give written notice to each Owner as to the amount of the annual assessment with respect to his Unit not less than thirty (30) days nor more than sixty (60) days prior to the beginning of the next calendar year. Such assessments shall be due and payable in monthly installments on the first day of each and every month of each year.

Such assessment shall be due and payable within thirty (30) days after written notice of the amount thereof shall have been given to the respective Owner of a Unit. Each monthly assessment shall bear interest at the rate of twelve percent (12%) per annum from the date it becomes due and payable if not paid within thirty (30) days after such date. Moreover, the Committee may impose a late payment service charge equal to 5% percent of each delinquent monthly assessment.

Failure of the Committee to give timely notice of any assessment as provided herein shall not affect the liability of the Owner of a Unit for such assessment, but the date when payment shall become due in such case shall be deferred to a date thirty (30) days after such notice shall have been given.

Each time a legal title to a Unit passes from one person to another, unless the transfer is made to a Qualified Successor Owner, which shall mean such owner's spouse, son, daughter, father or mother or a legal entity, such as a trust, in which the owner or the owner's spouse, son, daughter, father or mother hold a beneficial interest of at least fifty percent (50%) (the "Qualified Successor Owner(s)") for estate planning purposes, within thirty (30) days after the effective date of such title transaction the new Unit Owner shall pay to the Committee, in addition to any other required amounts, the sum of \$125.00, unless otherwise determined by the Committee.

If, in the Committee's sole discretion, this sum is too large or too small as a result of unanticipated income or expenses, the Committee may at the annual meeting of the Association effect an equitable change in the amount of said payment, but, without the prior approval of a majority of the

percentage of ownership interest in the Common Area, not greater than fifteen percent (15%) of the sum in any calendar year and the owners shall be given at least thirty (30) days prior written notice of any change. The provisions for payment of assessments shall apply to the collections of such sum. The sums received by the Committee pursuant to this paragraph shall be held by it as a contingency reserve and shall be used at such times and for such purposes as the Committee may determine.

#### ***9.5 Special Assessments for Capital Improvements.***

In addition to the annual assessments authorized above, the Committee may levy in any assessment year a special assessment, payable over such a period as the Committee may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or for any other expense incurred or to be incurred as provided in this Declaration.

This Section shall not be construed as an independent source of authority for the Committee to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections hereof.

Any amounts assessed pursuant hereto shall be assessed to Owners in proportion to their respective Percentage Interests in the Common Areas. Notice in writing of the amount of such special assessments and the time for payment thereof shall be given promptly to the Owners, and no payment shall be due less than thirty (30) days after such notice shall have been given.

A special assessment shall bear interest at the rate of twelve percent (12%) per annum from the date it becomes due and payable if not paid within thirty (30) days after such date. Notwithstanding anything to the contrary herein contained, additions or capital improvements to the Project which cost no more than \$10,000.00 may be authorized by the Management Committee alone.

Additions or capital improvements the cost of which will exceed such amount must, prior to being constructed, be authorized by at least a majority of the Percentage Interests. Any addition or capital improvement which would materially alter the nature of the Project must, regardless of its cost and prior to being constructed, be authorized by a vote of Unit Owners in person or by proxy of not less than 67% of the Percentage Interest at a meeting of the Association, special or annual, at which a quorum is present.

#### **9.6 *Lien for Assessments.***

All sums assessed to any Unit pursuant to this Declaration, together with interest thereon as provided hereon, shall be secured by a lien on such Unit in favor of the Association.

Such lien shall be superior to all other liens and encumbrances on such Unit, except only for: (a) valid tax and special assessment liens on the Unit in favor of any governmental assessing authority; and (b) a lien for all sums unpaid on a first-mortgage, duly recorded in the Official Records of Salt Lake County, Utah, including all unpaid obligatory advances to be made pursuant to such Mortgage and all amounts advanced pursuant to such Mortgage and secured by the lien thereof in accordance with the terms of such instrument.

All other lienors acquiring liens on any Unit after this Declaration shall have been

recorded in said records shall be deemed to consent that such lien shall be inferior to future liens for assessments, as provided herein, whether or not such consent be specifically set forth in the instruments creating such liens.

To evidence a lien for sums assessed hereunder, the, Committee may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Unit and a description of the Unit. Such a notice shall be signed by the Committee and may be recorded in the Office of the County Recorder of Salt Lake County, Utah.

No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by judicial foreclosure by the Committee in the same manner in which mortgages on real property may be foreclosed in Utah or in a non-judicial manner, the same as for trust deeds in the State of Utah.

In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding, the costs and expenses of filing the notice of lien and all court costs and reasonable attorneys' fees. All such costs, expenses and fees shall be secured by the lien being foreclosed.

The Owner shall also be required to pay to the Committee any assessments against the Unit which shall become due during the period of foreclosure. In the event of foreclosure, after the institution of the action the Unit Owner shall pay a reasonable rental for his use of the Unit and the Committee shall, without regard to the value of the Unit, be entitled to the appointment of a receiver to collect any rentals due from the Owner or any other person.

The Committee shall have the right and power to bid an amount equal to its then existing lien at the foreclosure sale or other legal sale and to acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the same as the Owner thereof.

A release of notice of lien shall be executed by the Committee and recorded in the Office of the County Recorder of Salt Lake County, Utah, upon payment of all sums secured by a lien which has been made the subject of a recorded note of lien.

Any encumbrancer holding a lien on a Unit may pay, but shall not be required to pay, any amounts secured by the lien created hereunder, and upon such payment such encumbrancer shall be subrogated to all rights of the Committee with respect to such lien, including priority.

The Committee shall report to any encumbrancer of a Unit any unpaid assessments remaining unpaid for thirty days after the same shall have become due; provided, however, that such encumbrancer first shall have furnished to the Committee written notice of such encumbrance.

#### **9.7 *Personal Obligations of Owner***

The amount of any annual or special assessment against any Unit shall be the personal obligation of the Owner thereof to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Committee without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his Unit.

#### **9.8 *Statement of Account.***

Upon payment of a reasonable fee not to exceed ten dollars (\$10.00), or such other amount as may in the future be allowed by the Act, and upon written request of any Owner or any Mortgagee, prospective Mortgagee or prospective purchaser of a Unit, the Committee shall issue a written statement setting forth the amount of the unpaid assessments, if any, with respect to such Unit; amount of the current yearly assessment and the date that such assessment becomes or became due; credit for advanced payments or prepaid items, including, but not limited to, an Owner's share of prepaid insurance premiums; and such statement shall be conclusive upon the Committee in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within twenty (20) days, all unpaid assessments which became due prior to the date of making such request shall be subordinate to the lien of a Mortgagee which acquired its interest subsequent to requesting such statement. Where a prospective purchaser makes such request, both the lien for such unpaid assessments and the personal obligations of the purchaser shall be released automatically if the statement is not furnished within the twenty (20) day period provided herein and thereafter an additional written request is made by such purchaser and is not complied with within ten (10) days, and the purchaser subsequently acquires the Unit.

#### **9.9 *Personal Liability of Purchaser for Assessments.***

A purchaser of a Unit shall be jointly and severally liable with the seller for all unpaid assessments against the Unit up to the time of the grant or conveyance, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.



**9.10 Individual Assessments.**

Individual assessments may be levied by the Committee against a Unit and its Owner for:

(1) Administrative costs and expenses incurred by the Committee in enforcing the Project Documents, including any fines levied;

(2) Costs associated with the maintenance, repair or replacement of Common Area for which some but not all of the Unit Owners are responsible;

(3) Any other charge, fee, fine, due, expense, or cost designated as an Individual Assessment in the Project Documents or by the Management Committee; and

(4) Reasonable attorneys' fees, interest, and other charges relating thereto as provided in this Declaration.

**9.11 Reserve Account**

The Association shall establish a reasonable reserve account for the funding of long term maintenance and/or replacement items. The Management Committee, shall use reasonable efforts to fund said reserve account but shall not be held personally liable for a failure to fully fund said account as long as gross negligence or intentional misconduct or negligent is proven in a court of law.

**9.12 Absentee Owner Failure to Pay Assessments**

In the event that an absentee owner fails to pay any assessment obligation hereunder, and that same under maintain a tenant and/or tenants in his/her Unit, the

Association may demand that the tenants pay to the association any rent owing to said Owner. Said amount received shall be applied to the Owner's account and payments hereunder shall not constitute of the lease agreement between the Owner and Tenant.

NOTES

ARTICLE X

*INSURANCE*

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**10.1 Insurance.**

Unit Owners are required to carry and maintain adequate property and liability insurance on their Units. A Unit Owners' policy shall serve as primary insurance in the event any damage is caused to another Unit, Common Area, or Limited Common Area, so long as fault is attributable to the said Unit Owner. The Management Committee may request that Owners provide proof of adequate insurance.

The Management Committee shall secure and at all times maintain the following insurance coverage:

(a) A master or blanket policy of property insurance, with 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).

Each such policy shall contain the standard mortgagee clause which must be endorsed to provide that any proceeds shall be paid to the Association for the use and benefit of mortgagees as their interests may appear. The assured shall be the Association as a trustee for the Unit Owners, or their authorized representative. Such insurance must provide protection against at least the following loss by fire and other hazards covered by the standard extended coverage.

(b) A comprehensive policy of public liability insurance covering all of the Common Areas insuring the Association, the

Committee, the Manager, and the Unit Owners against any liability incident to the ownership, use, or operation of the Common Areas and public ways of the Project or of any Unit which may arise among themselves, to the public, or to any invitees, or tenants of the Project, or of the Unit Owners. Limits of liability under such insurance shall be not less than One Million Dollars (\$1,000,000.00) covering all claims for personal property injury and for property damage arising out of a single occurrence, including protection against water damage liability, liability for nonowned and hired automobile and liability for property of others. 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 acts of the Association or other Unit Owners. The scope of coverage must include all other coverage in the kinds and amounts required by private institutional mortgage investors for similar projects in location, construction and use.

(c) The Association shall maintain fidelity coverage to protect against dishonest acts on the part of Committee Members, Manager (including, but not limited to, employees of professional managers) employees, or volunteers responsible for handling funds belonging to or administered by the Association. The fidelity bond or insurance must name the Association as the obligee and shall be written in an amount sufficient to provide protection which in no event shall be less than one-half of the insured's estimated annual operating expenses and reserves unless a greater amount is required by majority of the Mortgagees, or their designees.

In connection with such coverage any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers. All fidelity bond coverage shall provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without a least 30 days' prior written notice to the service on behalf of Mortgagees.

The following additional provisions shall apply with respect to insurance:

(1) In addition to the insurance and bond coverage described above, the Committee shall secure and at all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with all condominium projects similar to the Project in construction, nature and use.

(2) Each hazard insurance policy shall be written by a company holding a financial rating of Class VI or better as designated in Best's Key Rating Guide. Each insurer must be specifically licensed to transact business within the State of Utah. Policies are unacceptable where (i) under the terms of the carrier's charter, by-laws or policy, contributions or assessments may be made against the Borrower or the Mortgagee, or its designee; or (ii) by the terms of the carrier's charter, by-laws or policy, loss payments are contingent upon action by the carrier's board of directors, policy holders, or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent the Mortgagee or the borrower from collecting insurance proceeds.

(3) The Committee shall have the authority to adjust losses.

(4) Insurance secured and maintained by the Committee shall not be brought into contribution with insurance held by the individual Unit Owners or their mortgagees.

(5) Each policy of insurance obtained by the Committee shall provide: a standard mortgagee clause commonly accepted by private institutional mortgage investors in the Area in which the Project is located; a waiver (if available) of the insurer's subrogation rights with respect to the Committee, the Manager, the Unit Owners, their respective servants, agents, and guests; that it cannot be canceled, suspended or Invalidated due to the conduct of any member, officer or employee of the Committee or of the Manager without a prior written demand that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Unit Owners; and that a mortgagee clause endorsement which must provide that the insurance carrier shall notify in writing any and all insureds, including the servicers on behalf of Mortgagees or designees thereof at least thirty (30) days in advance of the effective date of any substantial modification or cancellation of the coverage.

(6) Each Unit Owner shall obtain additional insurance at his own expense, as long as such additional insurance does not have the effect of decreasing the amount which may be realized under any policy maintained by the Committee. Each Unit Owner shall supply the Committee with a copy of his policy within 30 days after he acquires such insurance.

As stated above, the Unit Owner's insurance policy shall serve as primary insurance in the event any damage is caused to another Unit, Common Area, or Limited Common Area, so long as fault is attributable to the said Unit Owner.

(7) Insurance coverage required by this Article must not be prejudiced by (i) any act or neglect of the Unit Owners when such act or neglect is not within the control of the Association, or (ii) any failure of the Association to comply with any warranty or condition regarding any portion of the Project over which the Association has no control.

(8) All policies of property insurance must provide that notwithstanding any provision affording the insurer the right to elect to restore damage in lieu of a cash settlement, such option shall not be exercisable without the prior written approval of the Association (or any insurance trustee) or when in conflict with the provisions of any insurance trust agreement to which the insurance may be a party, or any requirement of law.

#### **10.2 Damage to Project.**

In the event of damage of or destruction or all of the improvements in the Condominium Project, the following Procedures shall apply:

(a) If proceeds of the insurance maintained by the Management Committee are alone sufficient to repair or reconstruct the damage 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 the proceeds of the insurance maintained by the Committee are not alone sufficient to accomplish repair or reconstruction, restoration shall be carried out and all the Unit Owners shall be assessed for any deficiency on the basis of their respective Percentage Interest.

(c) If 75% or more of the Project's improvements are destroyed or substantially damaged, and if proceeds of the insurance

maintained by the Management Committee 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 75% elect to repair or reconstruct the affected improvements, restoration shall be accomplished in the manner directed under subparagraph (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 Committee are insufficient to accomplish restoration, and if the Unit Owners do not, within 100 days after the destruction or damage and by a vote of at least 75%, elect to repair or reconstruct the affected improvements, the Management Committee 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 Section 57-8-31, Utah Code Annotated (1953), shall apply and shall govern the rights of all parties having an interest in the Project or any of the Units.

Any reconstruction or repair which is required to be carried out by this Article regarding the extent of damage to or destruction of Project improvements shall be made by three MAI appraisers selected by the Management Committee. The decision of any two such appraisers shall be conclusive.

#### NOTES

ARTICLE XI

*MORTGAGEE PROTECTION*

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**11.1. Mortgage Protection.**

Notwithstanding anything to the contrary contained in the Declaration:

(a) Any mortgage holder which comes into possession of the Unit pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage or deed (or assignment in lieu of foreclosure) shall be exempt from any "right of first refusal", or other provisions which may exist relating to sale or lease of the Units in the Project, and no right of first refusal shall impair the rights of any first mortgage to: (i) foreclose or take title to a Unit pursuant to the remedies provided in the Mortgage, or (ii) accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor, or (iii) interfere with a subsequent sale or lease of the Unit so acquired by the Mortgagee.

(b) In the event of damage to or destruction of any Unit, which loss exceeds \$1,000.00, or any part of the Common Areas, which loss exceeds \$10,000.00, the institutional holder of any first mortgage on a Unit shall be entitled to timely written notice to any such damage or destruction. No Unit Owner or other party shall be entitled to priority over such institutional holder with respect to the distribution to such Unit Owner of any insurance proceeds regardless of the amount of loss. Upon request of any first mortgagee of the Association must provide a letter to said first Mortgagee wherein the Association agrees to notify the first Mortgagee or any organization it designates at the address indicated by the Mortgagee whenever (i) damage to a Unit covered by the first Mortgagee's Mortgage exceeds \$1,000.00, or (ii) damage to the Common Areas and related facilities exceeds

\$10,000.00.

(c) If any Unit or portion thereof or the Common Areas or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the institutional holder of any first mortgage of a Unit shall be entitled to timely written notice of any such proceeding or proposed acquisition. No Unit Owner or other party shall have priority over such institutional holder regardless of the amount of the condemnation award with respect to the distribution to such Unit Owner of the proceeds of any award or settlement.

(d) With the exception of a lender in possession of a Unit following a default in a first mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no Unit Owner shall be permitted to lease his Unit for transient or hotel purposes. No Unit Owner may lease less than the entire unit. Any lease agreement shall provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration and By-Laws and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be in writing.

(e) Each holder of a first mortgage lien on a Unit who obtains title to a Unit by virtue of remedies provided in the Mortgage, including but not limited to, foreclosure of the mortgage, or by deed of assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Unit free of unpaid charges and shall not be liable for any unpaid claims or assessments and charges against the Unit which accrue prior to the

acquisition of title of such Unit by Mortgagee, except for claims for a pro-rata share of such assessments or charges to all Project Units including the mortgaged Unit.

(f) Any lien which the Management Committee may have on any Unit in the Project for the payment of Common Expenses assessments attributable to such Unit will be subordinate to the lien or equivalent security interest of any first mortgage on the Unit recorded prior to the date any such Common Expense Assessments become due.

(g) Unless at least 75% of the institutional holders of first Mortgages (based on one vote for each Mortgage owned) of Units have given their prior written approval neither the Management Committee, Owners nor the Association shall:

(1) By act or omission, seek to abandon or terminate the Project, except in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain.

(2) Change the Percentage Interests or obligations of any Unit for (i) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards or for (ii) determining the pro-rata share of ownership of each Unit in the appurtenant Common Areas, except as necessary to allow the expansion of the Project as provided in the Declaration.

(3) Partition or subdivide any Unit or of the Common Areas.

(4) Make any material amendment to the Declaration or to the By-Laws of the Association, including, but not limited to, any amendment which would change the percentage interests of the Unit Owners in the

Common Areas, except as may be necessary to effect expansion of the Project as provided in the Declaration.

(5) By act or omission, seek to amend, partition, subdivide, encumber, sell, abandon or transfer the Common Areas. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas of the Project shall not be deemed a transfer within the meaning of this subparagraph).

(6) Use hazard insurance proceeds for losses to any condominium property (whether to Units or to the Common Areas) for other than the repair, replacement or reconstruction of such improvements, except as provided by statute in cases of substantial loss to the Units and/or the Common Areas of the Project.

(h) Any institutional holder of a first mortgage (or trust deed) of a Unit in the Project will, upon request, be entitled to (i) examine the books and records of the Project during normal business hours; (ii) receive an audited financial statement of the Project within 90 days following the end of any fiscal year of the Project; and (iii) written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings.

(i) Whenever there is a change of ownership of a Unit, the Committee shall require that the new Unit Owner furnish the Committee with the name of the holder of any first mortgage (or trust deed) affecting such Unit. The Management Committee or Manager shall maintain a current roster of Unit Owners and of the holders of first mortgages (or trust deed) affecting Units in the Project.

ARTICLE XII

*MISCELLANEOUS*

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**12.1 Amendment.**

Except as provided below, the vote of at least 51% of the Percentage Interests of all of the Unit Owners in person or represented by proxy at a meeting of the Association at which a quorum is present shall be required to amend this Declaration or the Map. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the Management Committee. In such instrument the Committee shall certify that the vote required by this Paragraph for amendment has occurred.

**12.2 Consent Equivalent to Vote.**

In those cases in which the Act or this Declaration requires the vote of a stated percentage of the Project's undivided ownership interest for the authorization or approval of a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Unit Owners who collectively hold at least the necessary percentage of undivided ownership interest.

**12.3 Service of Process.**

John D. Richards III, whose address 4190 South Highland Drive, Suite 111, Salt Lake City, UT 84124 is the person to receive service of process in cases authorized by the Act.

The Management Committee shall, however, have the right to appoint a successor substitute process agent. Such successor or substitute agent and his address shall be specified by an appropriate instrument filed in the office of the County Recorder of Utah

Lake County, State of Utah.

**12.4 Duty of Owner to Pay Taxes on Unit Owned.**

It is understood that under the Act each Unit (and its in the Common Areas) in the Percentage Interest Project is subject to separate assessment and taxation of each taxing authority and the special district (s) for all types of taxes and assessments authorized by law, and that as a result thereof, no taxes will be assessed or levied against the Project as such, except for certain personal properties thereof. Accordingly, each Unit Owner will pay and discharge any and all taxes and assessments which may be assessed against him on his Unit.

**12.5 Covenants to Run With Lands; Compliance.**

This Declaration and all the provisions hereof shall constitute covenants which run with the land and constitute equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of The Association, all parties who hereafter acquire any interest in or occupy a Unit or any part of in the Project, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, assigns, guests and invitees. Each Owner or occupant of a Unit shall comply with, and all interests in all Units shall be subject to, the terms of the Act, the terms of this Declaration, the By-Laws, and the provisions of any rules, regulations, agreements, instruments, and determinations adopted pursuant thereto, (hereinafter referred to collectively as the "Declaration"), and failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the

Committee on behalf of the Association, or, in a proper case, by an aggrieved Unit Owner. By acquiring any interest in a Unit each Unit Owner or occupant consents and agrees to be bound by and subject to each and every provision of the Declaration. Should the Association be required to take action hereunder or by applicable law, whether such remedy is pursued by filing a lawsuit or otherwise, the Association may recover all costs and expenses, including a reasonable attorney's fee, which may arise or accrue.

#### ***12.6 Information Regarding Transferee of Unit.***

Any Unit Owner who sells, leases, or otherwise disposes of his Unit shall submit to the Committee pertinent information concerning the transferee or new occupant within one week of any transfer of title or possession on a form furnished by the Committee.

#### ***12.7 Indemnification of Management Committee.***

Each member of the Management Committee shall be indemnified and held harmless by the Unit Owners against all costs, expenses, and fees, reasonably incurred by him in connection with any proceeding to which he may become involved by reason of his being or having been a member of said Committee.

#### ***12.8 Invalidity.***

The invalidity of any provisions of this Declaration, or any portion thereof, shall not be deemed to impair or affect in any manner the validity, enforceability, or effect of the remainder of this Declaration and, in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

#### ***12.9 Waiver.***

No provision contained in this Declaration 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 which may occur.

#### ***12.12 Conflicts.***

This Declaration is set forth to comply with the requirements of the Act. In the event of any conflict between this Declaration and the provisions of the Act, the provisions of the latter shall control.

#### ***12.13 Effect of Recorded Instruments.***

At any point in time, the Declaration and the Record of Survey Map concerning each phase which is then a part of the Project shall constitute but constituent parts of a single Declaration and Record of Survey Map affecting the Project. Accordingly, in the event the provisions of the separate instruments conflict irreconcilably, the terms of that instrument which is last recorded shall control.

#### ***12.14 Effective Date.***

This Declaration shall take effect upon recording in the office of the Salt Lake County Recorder, Utah.

#### **NOTES**





**EXHIBIT "A"**

**(Legal Property Description)**

Beginning at a point on the North side of a street, said point being South 0°04'30" East 18.29 feet, South 89°00' West 228.80 feet and North 25.00 feet from a Salt Lake County Monument located at an angle point on the center line of 900 East Street near 5110 South, said Monument being North 89°48'51" East 1745.447 feet along the Section line and North 0°04'30" West 2307.665 feet along the center line of 900 East Street from the Southwest corner of Section 8, Township 2 South, Range 1 East, Salt Lake Base and Meridian, and running thence South 89°00' West 115.0 Feet; thence North 109.6 feet to a fence line; thence North 89°40' West 79.8 feet along said fence line; thence North 89°00' West 79.8 feet along a fence line to a fence corner; thence North 260.00 feet along a fence line to an old East-west fence line; thence South 89°40' East along said fence line a distance of 250.00 feet; thence South 260.00 feet; thence North 89°40' West 55.71 feet; thence South 106.92 feet to the point of BEGINNING.

**This Amended and Restated Declaration extends to Parcel Nos. 22-08-333-047-0000 and all parcels located within the Mount Olympus Gardens Condominium.**

**EXHIBIT "B"**

<u>Units</u>	<u>Percentage Interest in the Common Areas</u>
<b><u>Building Units:</u></b>	
Each Unit, # 1 - #48	2.0833%

**EXHIBIT "C"**  
**BY-LAWS**  
**OF**  
**THE MOUNT OLYMPUS GARDENS**  
**HOMEOWNERS ASSOCIATION, INC.**

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## ARTICLE I

### *PLAN OF UNIT OWNERSHIP*

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1. **Condominium Submission.** The Property is located in Salt Lake County, Utah, has been submitted to the provisions of the Act by a Declaration recorded in the Office of the County Recorder of Salt Lake County, Utah, simultaneously herewith, and shall hereafter be referred to as "The Condominium."

2. **By-Laws Applicability.** The Provisions of these Bylaws are applicable to the Project as the same may be expanded as provided in the Declaration and the use, occupancy, sale, lease or other transfer thereof. All Owners of any fee or leasehold interest, all occupants or users of the Condominium, and the agents and servants of any of them are subject to the provisions of the Declaration, these Bylaws, and the Rules and Regulations.

3. **Personal Application.** All present and future Owners, tenants, future tenants, their guests, licensees, servants, agents, employees and any other person or persons who shall be permitted to use the facilities of the Condominium, shall be subject to these Bylaws and to the Rules and Regulations of the Condominium. Acquisition, rental or occupancy of any of the Condominium Units in the Condominium shall constitute an acknowledgment that such Owner, tenant or occupant has accepted and ratified these Bylaws, the provisions of the Declaration and the Rules and Regulations and will comply with them.

4. **Office.** The office of the Condominium and of the Management Committee shall be located at the Condominium or at such other place as may be designated from time to time by the

Management Committee (hereinafter sometimes called the "Committee").

#### NOTES:

## ARTICLE II

### ASSOCIATION

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1. **Composition.** All of the Unit Owners of the Mount Olympus Cove Condominiums, acting as a group in accordance with the Act, the Declaration and these Bylaws, shall constitute the Association. Except as to those matters which the Act specifically requires to be performed by the vote of the Unit Owners, the administration of the Condominium shall be performed by the Committee.

2. **Voting.** There shall be forty-eight (48) votes in the Association, each Unit Owner shall have a vote equal to the Percent Interest said Unit holds in relation to the entire Project. Since a Unit Owner may be more than one person, if only one of such persons is present at a meeting of the Association that person shall be entitled to cast the votes appertaining to that Unit. But if more than one of such persons is present, the vote appertaining to that Unit shall be cast only in accordance with the agreement of a majority of them, and such consent, shall be conclusively presumed if any one of them purports to cast the vote appertaining to that Unit without protest being made forthwith by any of the others to the person presiding over the meeting.

Since a person need not be a natural person, the word "person" shall be deemed for the purposes of this Section to include, without limitation, any natural person having authority to execute deeds on behalf of any person, excluding natural persons, which is, either alone or in conjunction with another person or persons, a Unit Owner.

Except where a greater number is required by the Act, the Declaration, or these Bylaws, a majority of the votes of Unit Owners present

in person or represented by proxy in good standing and entitled to vote is required to adopt decisions at any meeting of the Association.

3. **Place of Meeting.** Meetings of the Association shall be held at the principal office of the Condominium or at such other suitable place as may be designated by the Committee and stated in the notice of the meeting.

4. **Annual Meeting.** Annual meetings for any other purpose than the election of the Management Committee may be held at any time on call of the President of the Committee, by a majority of the Committee or by Unit Owners representing twenty percent (20%) of the Unit Owners. Notice of such meeting shall be given in accordance with the provisions of Section 6 of this Article II.

Thereafter, the annual meetings of the Association shall be held on the same date of each succeeding year, unless such date shall occur on a Sunday or holiday, in which event the meeting shall be held on the next succeeding Monday which is not a holiday. At such annual meetings the Committee shall be elected by ballot of the Owners in accordance with the requirements of these Bylaws. The Association may transact such other business as may properly come before them at such meetings.

5. **Special Meetings.** It shall be the duty of the President to call a special meeting of the Association if so directed by resolution of the Committee or, after all of the Committee has been elected by Unit Owners, upon a petition signed and presented to the

Secretary/Treasurer by Owners having not less than twenty percent (20%) of the votes of all Owners. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

6. **Notice of Meetings.** It shall be the duty of the Secretary/Treasurer to mail, by United States mail, postage prepaid, a notice of (a) each annual meeting of the Owners, as least twenty (20) days in advance of such meeting and (b) each special meeting of the Owners at least ten (10) days in advance of such meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Owner of record, at the address of their respective Units and at such other address as each Owner may have designated by notice in writing to the Secretary/Treasurer. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice.

7. **Voting Requirements.** An Owner shall be deemed to be in "good standing" and "entitled to vote" at any annual meeting or at any special meeting of the Association if, and only if, he shall have fully paid all due installments of assessments made or levied against him and his Unit by the Committee as hereinafter provided, together with all interest, costs, attorney's fees, penalties and other expenses, if any, properly chargeable to him and against his Unit, at least three (3) days prior to the date fixed for such annual or special meeting.

8. **Proxies.** The votes appertaining to any Unit may be cast pursuant to a proxy or proxies duly executed by or on behalf of the Unit Owner, or, in cases where the Unit Owner is more than one person, by or on behalf of all such persons. No such proxy shall be revocable except by actual notice to

the person presiding over the meeting, by the Unit Owner or by any of such persons, that it be revoked. Any proxy shall be void if it is not dated, if it purports to be revocable without notice as aforesaid. The proxy of any person shall be void if not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Any proxy shall terminate automatically upon the adjournment of the first meeting held on or after the date of that proxy, and must be filed with the Secretary/Treasurer not less than three (3) days before the meeting.

9. **Absentee Ballots.**

(a) A Member who is incapacitated, or who will be absent, on the date set for balloting may cast an absentee ballot at the place or time of balloting, or by mail, in the manner required by the Election Committee, but in no event shall the vote be cast more than fourteen (14) days prior to the voting date.

(b) Ballot boxes containing absentee votes shall be opened and the ballots tabulated at the same time and place and under the same conditions as the regular ballots.

10. **Mail-in Ballots.**

(a) A majority of the Board may authorize the use and implementation of mail-in ballots at any election or vote on an issue it deems appropriate, including the election of Directors.

(b) When mail-in ballots are authorized by the Board, said ballots shall be prepared and mailed to Voting Members no more than thirty (30) days prior to the date of the election or vote on an Issue. The date set for the tabulation of the ballots shall be stated on

the ballot. Ballots received on or after the date set for tabulation of the ballots shall not be counted.

(c) A combination of mail-in ballots and "in person" ballots may be used.

11. **Unanimous Written Consent in Lieu of Vote.** In any case in which these Bylaws or the Declaration require for authorization or approval of a transaction the assent or affirmative vote of a stated percentage of the votes of the Owners present or represented at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from every Owner entitled to cast a vote. 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 Member.

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

12. **Quorum.** Except as may otherwise be provided herein or by statute, more than fifty percent (50%) of the Owners shall constitute a quorum for the adoption of decisions. If, however, such quorum shall not be present or represented at any meeting; the Owners entitled to vote thereat, present in person, represented by proxy or absentee ballot, shall have power to adjourn the meeting and reschedule for a time no earlier than 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 except an announcement thereof at the original

meeting. A quorum for the transaction of business at the rescheduled meeting shall be thirty percent (30%) of the Owners in person or represented by proxy or absentee ballot.

13. **Order of Business.** The order of business at all meetings of the Association shall be as follows: (a) roll call; (b) proof of notice of meeting; (c) reading of minutes of preceding meeting; (d) reports of officers; (e) report of special committees, if any; (f) election of inspectors of election, if applicable; (g) election of Committee Members, if applicable; (h) unfinished business; and (i) new business.

14. **Title to Unit.** Title to Units may be taken in the name of natural person or in the names of two or more natural persons, or in the name of a corporation, partnership, association or other entity capable of holding title to real property, or any combination thereof.

15. **Conduct of Meeting.** The President shall, or in his absence the Vice-President preside over all meetings of the Association and the Secretary/Treasurer shall keep the minutes of the meeting and record in a Minute Book all resolutions adopted by the meeting as well as a record of all transactions occurring thereat.

**NOTES:**



## ARTICLE III

### MANAGEMENT COMMITTEE

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1. **Powers and Duties.** The affairs and business of the Association shall be managed by the Committee which shall have all of the powers and duties necessary for the administration of the affairs of the Association in accordance with the provisions of the Declaration and may do all such acts and things as are not by the Act or by these By-Laws directed to be exercised and done by the Association.

The Committee shall have the power from time to time to adopt any Rules and Regulations deemed necessary for the enjoyment of the Condominium provided such Rules and Regulations shall not be in conflict with the Act, the Declaration or these By-Laws. The Committee shall delegate to one of its members the authority to act on behalf of the Committee on all matters relating to the duties of the Managing Agent, if any, which might arise between meetings of the Committee. Subject to any limitations or provisions contained in the Declaration, the Committee shall be responsible for the following:

(a) Preparation of an annual budget, in which there shall be established the contribution of each Owner to the Common Expenses;

(b) Making assessments against Owners to defray the cost and expenses of the Condominium, establishing the means and methods of collecting such assessments from the Owners, and establishing the period of the installment payment of the annual assessment for Common Expenses. Unless otherwise determined by the Committee, the annual assessment against each Owner for his proportionate share of the Common Expenses

shall be payable in equal monthly installments, each such installment to be due and payable in advance on the first day of each month for said month.

(c) Providing for the operation, care, upkeep, replacement, maintenance and surveillance of all of the Common Areas and services of the Condominium.

(d) Designating, hiring and dismissing the personnel necessary for the maintenance, operation, repair and replacement of the Common Area, and providing services for the Property, and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties, which supplies and equipment shall be deemed the common property of the Owners.

(e) Collecting the assessments against the Owners, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to carry out the administration of the Property.

(f) Making and amending Rules and Regulations respecting the use of the Property.

(g) Opening of bank accounts on behalf of the Condominium and designating the signatories required therefor.

(h) Making, or contracting for the making of, repairs, additions, and improvements to, or alterations of, the Property and repairs to, and restoration of, the Property, in accordance with the

Declaration and other provisions of these By-Laws, after damage or destruction by fire or other casualty.

(i) Enforcing by legal means the provisions of the Declaration, these By-Laws and the Rules and Regulations for the use of the Property adopted by it, and bringing any proceedings which may be instituted on behalf of the Owners.

(j) Obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof.

(k) Paying the cost of all services rendered to the condominium and not billed to Owners of individual Units.

(l) Keeping books with detailed accounts of the receipts and expenditures affecting the Property, and the administration of the Condominium, specifying and maintenance and repair expenses of the common Areas and any other expenses incurred. The said books and vouchers accrediting the entries thereupon shall be available for examination by the Owners, their duly authorized agents or attorneys, during general business hours on working days at the times and in the manner that shall be set and announced by the Committee for the general knowledge of the Owners.

All books and records shall be kept in accordance with Generally Accepted Accounting Practices, and the same, upon resolution of the Association shall be audited by an outside auditor employed by the Committee who shall not be a resident of the Condominium, or an Owner therein. The cost of such audit shall be a Common Expense. A copy of the annual audit report shall be supplied to any first mortgagee of any Unit in the Condominium who requests

the same in writing from the Secretary/Treasurer.

(m) To do such other things and acts not inconsistent with the Act, the Declaration or the By-Laws or by a resolution of the Association.

2. **Manager.** The Committee may employ for the Condominium a Manager at a compensation established by the Committee, to perform such duties and services as the Committee shall authorize, including, but not limited to, the duties listed in Section 1 of this Article III.

The Committee may delegate to the Manager all of the powers granted to the Committee by these By-Laws; provided that any actions by the Manager with respect to the powers set forth in paragraphs (b), (f), (g) and (i), of Section 1 of this Article III shall require the written consent of the Committee.

3. **Number of Committee Members.** The Committee shall be composed of five persons, all of whom shall be Unit Owners

4. **Selection and Term of Office of the Committee.** Unless appointed under the provisions of Section 10 of this Article III, Committee members shall be elected in a two year cycles. Thereafter, all elected Committee member terms shall be for two years.

5. **Organization Meeting.** The first meeting of the members of the Committee following the annual meeting of the Association shall be held within ten (10) days after the annual meeting at such place as shall be fixed by the Committee at the meeting at which such Committee-persons were elected, and no notice shall be necessary to the newly elected Committee Members in order legally to constitute such meeting provided that

majority of the whole Committee shall be present thereat.

6. **Regular Meetings.** Regular meetings of the Committee may be held at such time and place as shall be determined, from time to time, by a majority of the Committee, but at least six (6) such meetings shall be held during each fiscal year after the first annual meeting of the Association. Notice of regular meetings of the Committee shall be given to each member, personally, by mail or by telephone, at least three (3) business days prior to the day named for such meeting.

7. **Special Meetings.** Special meetings of the Committee may be called by the President on three (3) business days' notice to each member. Such notice shall be given personally, by mail or by telephone, and such notice shall state the time, place and purpose of the meeting. Special meetings of the Committee shall be called by the President or Secretary/Treasurer in like manner and on like notice on the written request of at least two (2) Committee Members.

8. **Waiver of Notice.** Before or at any meeting of the Committee, any Committee Member may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Committee Member at any meeting of the Committee shall be a waiver of notice by him of the time and place thereof. If all the Committee Members are present at any meeting of the Committee, no notice shall be required and any business may be transacted at such meeting.

9. **Committee's Quorum.** At all meetings of the Committee, a majority of the Committee shall constitute a quorum for the transaction of business, and the acts of the majority of the Committee present at a

meeting at which a quorum is present shall be the acts of the Committee. If, at any meeting of the Committee, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

10. **Vacancies.** Vacancies in the Committee caused by any reason other than removal of a Committee Member by a vote of the Association shall be filled by vote of the majority of the remaining Committee Members, at a special meeting of the Committee held for that purpose promptly after the occurrence of any such vacancy, even though the Committee Members present at such meeting may constitute less than a quorum of the Committee; and each person so elected shall be a Committee Member for the remainder of the term of the Committee Member so replaced and until a successor is elected at the next annual meeting of the Association.

11. **Removal of Committee Member.**

(a) A Committee Member may be removed with or without cause, and his successor elected, at any duly called regular or special meeting of the Association at which a quorum is present, by an affirmative vote of the majority of the votes represented and voting. Any Committee Member whose removal has been proposed by the Owners shall be given at least thirty (30) days written notice of the calling of the meeting and the purpose thereof and shall be given a reasonable opportunity to be heard at the meeting.

(b) Any Committee Member who fails on three successive occasions to attend Committee meetings (whether regular or

special) or who has failed to attend at least 25% of all Committee meetings (whether regular or special) held during any twelve month period shall automatically forfeit his membership on the Committee.

(c) Any Committee Member who allows his installments of assessments made or levied against him and his Unit by the Committee to exceed four hundred dollars (\$400.00), including default interest, costs, attorney's fees, penalties and other expenses, if any, properly chargeable to him and against his unit, and fails to cure the default within ten (10) days after written notice shall automatically forfeit his membership on the Committee.

12. **Compensation.** No Committee member shall receive any compensation from the Condominium for acting as such.

13. **Conduct of Meetings.** The President shall preside over all meetings of the committee and the Secretary/Treasurer shall keep a Minute Book of the Committee recording therein all resolutions adopted by the Committee and a record of all transactions and proceedings occurring at such meetings.

14. **Report of Committee.** The Committee shall present at each annual meeting, and when called for by vote of the Association at any special meeting of the Association, full and clear statement of the business and condition of the Condominium.

15. **Fidelity Bonds.** The Committee shall require that all officers, agents (including professional Manager and its employees) and employees of the Association handling or responsible for funds furnish adequate fidelity bonds. The premiums on such bonds shall constitute a Common Expense. The Committee shall

provide a fidelity insurance coverage as required by the Declaration.

16. **Dispensing with Vote.** Any action by the Committee required or permitted to be taken at any meeting may be taken without a meeting if all the members of the Committee shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Committee.

17. **Liability of the Committee.** The members of the Committee shall not be liable to the Owners for any mistake of judgment, negligence, or otherwise except for their own individual willful misconduct or bad faith. The Owners shall indemnify and hold harmless each of the Committee Members from and against all contractual liability to others arising out of contracts made by the Committee on behalf of the Owners unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of these By-Laws.

**NOTES:**

## ARTICLE IV

### OFFICERS

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1. **Designation.** The principal officers of the Condominium shall be a President, Vice President, Secretary/Treasurer, all of whom shall be elected by the Committee.

The Committee may appoint assistant secretaries and such other officers as in its judgment may be necessary. With the exception of the President, no officer need be a member of the Committee. Two or more offices may be held by the same person, except that the President shall not hold any other office.

2. **Election of Officers.** The officers of the Condominium shall be elected annually by the Management Committee at the organization meeting of each Committee and shall hold office at the pleasure of the Committee. Any vacancy in an office shall be filled by the Committee at a regular meeting or special meeting called for such purpose.

Nevertheless, the Committee Members may serve as the officers of the Association, with such positions therein determined amongst themselves.

3. **Removal of Officers.** The officers shall hold office until their respective successors are chosen and qualify in their stead. Any officer elected or appointed by the Committee may be removed at any time by the affirmative vote of a majority of the whole committee, and his successor may be elected at any regular meeting of the Committee, or at any special meeting of the Committee called for such purpose.

4. **President.** The President shall be the chief executive officer; he shall preside at

meetings of the Association and the Committee and shall be an ex officio member of all committees; he shall have general and active management of the business of the Condominium and shall see that all orders and resolutions of the Committee are carried into effect.

5. **Vice President.** The Vice President shall, in the absence or disability of the President, perform the duties and exercise the powers of the President, and shall perform such other duties as the Committee or the President shall prescribe. If neither the President nor the Vice President is able to act, the Committee shall appoint a member of the Committee to do so on an interim basis.

6. **Secretary/Treasurer.** The Secretary/Treasurer shall attend all sessions of the Committee and all meetings of the Association and record all votes and the minutes of all proceedings in a book to be kept by him for that purpose and shall perform like duties for committees when required. He or she shall give, or cause to be given, notice of all meetings of the Association, the Committee and committees and shall perform such other duties as may be prescribed by the Committee.

The Secretary/Treasurer shall compile and keep current at the principal office of the Condominium, a complete list of the Owners and their last known post office addresses. This list shall be open to inspection by all Owners and other persons lawfully entitled to inspect the same, at reasonable hours during regular business days. The Secretary/Treasurer shall also keep current and retain custody of the Minute Book of the Association, containing the minutes of all

annual and special meetings of the Association and all sessions of the Committee including resolutions.

Notes:

7. **Treasurer/Secretary.** The Treasurer/Secretary shall have the custody of all funds and securities that are not under the control of the Managing Agent, and, with the assistance of the Managing Agent, shall keep full and accurate records of receipts and disbursements, shall prepare all required financial data, and shall deposit all moneys and other valuable effects in such depositories as may be designated by the Committee. He or she shall disburse funds as ordered by the Committee taking proper vouchers for such disbursements, and shall render to the President and committeemen, at the regular meetings of the Committee, or whenever they may require it, an account of all of his transactions as Treasurer/Secretary and of the financial condition of the Condominium.

8. **Agreement, Contracts, Deeds, Checks, etc.** All agreements, contracts, deeds, leases, checks and other instruments of the Condominium for expenditures or obligations of over \$500.00 shall be executed by any two officers of the Committee or by such other person or persons as may be designated by the Committee. All such instruments for expenditures or obligations of less than \$500.00 may be executed by any one officer of the Committee or by such other person as may be designated by the Committee.

9. **Compensation of Officers.** No officer shall receive any compensation from the Committee for acting as such.

## ARTICLE V

### *FISCAL YEAR*

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The fiscal year of the Association shall consist of the twelve month period commencing on January 1 of each year and terminating on December 31 of the same year, except that the first fiscal year shall begin at the date of organization and terminate on December 31. The fiscal year herein established shall be subject to change by the Committee should it be deemed advisable or in the best interests of the Association.

NOTES:

## ARTICLE VI

### AMENDMENT TO BY-LAWS

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1. **Amendments.** Except as otherwise provided in this Section, these Bylaws may be modified or amended either (i) by an affirmative vote of at least fifty-one percent (51%) of the Percent Interests in the Project at any regular or special meeting at which a quorum is present, provided that Notice of the proposed amendment shall have been given to each Owner simultaneously with the notice of such meeting, or (ii) pursuant to a written instrument duly executed by at least fifty one percent (51%) of the Unit Owners.

2. **Recording.** A modification or amendment of these Bylaws shall become effective only if such modification or amendment is recorded in the office of the County Recorder of Salt Lake County, Utah.

3. **Conflicts.** No modification or amendment of these Bylaws may be adopted which shall be inconsistent with the provisions of the Act or with the provisions of the Declaration. A modification or amendment once adopted and recorded as provided for herein shall then constitute part of the official Bylaws of the Condominium and all Owners shall be bound to abide by such modification or amendment.

#### NOTES:



## ARTICLE VII

### NOTICE

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1. **Manner of Notice.** All notices, demands, bills, statements or other communications provided for or required under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by U.S. Mail, first class postage prepaid, (i) if to an Owner, at the address of his Unit and at such other address as the Owner may have designated by notice in writing to the Secretary/Treasurer, or (ii) if to the Committee or the Manager, at the principal office of the Manager or at such other address as shall be designated by notice in writing to the Owners pursuant to this Section.

2. **Waiver of Notice.** Whenever any notice is required to be given under the provisions of the statutes, the Declaration or of these Bylaws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether signed before or after the time stated therein, shall be deemed equivalent thereto, unless such waiver is ineffective under the provisions of the Act.

NOTES:

## ARTICLE VIII

### *COMPLIANCE, CONFLICT, AND MISCELLANEOUS PROVISIONS*

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1. **Compliance.** These Bylaws are set forth in compliance with the requirements of the Act.

2. **Conflict.** These Bylaws are subordinate and subject to all provisions of the Declaration and to the provisions of the Act. All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as they are defined to have in the Declaration or the Act. In the event of any conflict between these Bylaws and the Declaration, the provisions of the Declaration shall control; and in the event of any conflict between the Declaration and the Act, the provisions of the Act shall control.

3. **Severability.** These Bylaws are set forth to comply with the requirements of the State of Utah. In case any of the Bylaws are in conflict with the provisions of any of its statutes, the provisions of the states will apply. If any provisions of these Bylaws or any section, sentence, clause, phrase, or word, or the application thereof in any circumstance is held invalid, the validity of the remainder of these Bylaws, shall not be affected thereby and to this end, the provisions hereof are declared to be severable.

4. **Waiver.** No restriction, condition, obligation or provision of these Bylaws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

5. **Captions.** The captions contained in these Bylaws are for convenience only and are not part of these Bylaws and are not intended in any way to limit or enlarge the terms and provisions of these Bylaws.

6. **Gender, etc.** Whenever in these Bylaws the context so requires, the singular number shall include the plural and the converse; and the use of any gender shall be deemed to include all genders.

#### NOTES:

