

AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
INCLINE TERRACE CONDOMINIUM

A Utah Condominium Project

This Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Incline Terrace Condominium (herein "this Declaration") is made effective when recorded with the Salt Lake County Recorder's Office by the Incline Terrace Condominium Owners Association, Inc., a Utah nonprofit corporation (herein the "Association").

ARTICLE I
RECITALS

A. The Incline Terrace Condominium Declaration of Covenants, Conditions and Restrictions and Bylaws was recorded with the Salt Lake County Recorder on May 16, 1978 as Entry Number 3108730 (herein the "Original Declaration").

B. The Record of Survey Map of Incline Terrace Condominiums was recorded in the office of the Salt Lake County Recorder on May 16, 1978 as Entry No. 3108729, Book 1978 and Page 146 (the "Plat"). The Association does not intend to amend or affect the Plat by the execution and recordation of this Declaration.

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

D. Section 26 of the Original Declaration provides that it may be amended upon the approval of Owners holding at least seventy-five percent (75%) of the Association's voting power; however, the Original Declaration subjected Incline Terrace Condominium to the Utah Condominium Ownership Act, which states that a condominium declaration cannot require an amendment voting threshold greater than sixty-seven percent (67%) of its voting interests. See U.C.A. 57-8-39. Therefore, sixty-seven percent (67%) of the Association's voting interests can amend the Original Declaration.

E. Not less than sixty-seven percent (67%) of the Association's voting interests have approved this Declaration. The signature hereinafter of the president of the Association certifies and attests that such vote was obtained.

F. This Declaration shall amend and replace the Original Declaration, and any supplements and amendments thereto, recorded prior to the date of this Declaration.

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

ARTICLE II
DEFINITIONS

2.1 Name. The name by which the Condominium Project shall be known is Incline Terrace Condominiums.

2.2 Definitions.

2.2.1 "Act" shall mean the Utah Condominium Ownership Act, §57-8-1, et seq., Utah Code Annotated, as the same may be amended from time to time.

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

2.2.3 "Articles" shall mean the Articles of Incorporation adopted by the Association, as the same may be amended from time to time.

2.2.4 "Assessments" shall mean any charge imposed or levied by the Association against Units including, without limitation, annual assessments, special assessments, individual assessments, and all corresponding late fees, fines, and interest as further provided by this Declaration.

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

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

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

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

2.2.9 "Common Areas" shall mean and refer to: (1) the land described on Exhibit A; (2) that portion of the Project not specifically included in the respective Units as herein defined; (3) all roofs, foundations, exterior building surfaces, bearing walls, perimeter walls, structural floors, ceilings, columns and girders; (4) all pipes, ducts, flues, chutes, wires, and other utility installations existing for common use; (5) hallways stairways, lobbies, walkways, storage units, hallway closets, elevators, gardens, swimming pool and other recreational areas and facilities, landscaping, fences, and service areas and in general all other apparatus installations and other parts of the Project necessary or convenient to the existence, maintenance, and safety of the foregoing or normally in common use; (6) those areas specifically set forth and designated in the Plat as "Common Area" or as "Limited Common Area", and those areas and facilities described elsewhere in this Declaration; and (7) all other parts of the

Condominium Project necessary or convenient to its existence, maintenance, and safety, or normally in common use.

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

2.2.11 "Condominium Project" or "Project" shall mean and refer to the entire Parcel, as defined below, together with all buildings, improvements, and permanent fixtures thereupon, and all rights, obligations, and easements appurtenant thereto.

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

2.2.13 "Eligible Mortgagee" shall mean and refer to a first mortgagee which has requested notice of certain matters from the Association in accordance with this Declaration.

2.2.14 "Insurance Trustee" shall mean any trustee with which the Association may enter into an Insurance Trust Agreement, and which shall have exclusive authority to negotiate losses under the policies of insurance in accordance with such agreement.

2.2.15 "Lender" shall mean a holder of a mortgage or deed of trust on a Unit.

2.2.16 "Limited Common Areas" shall mean and refer to those portions of the Common Areas reserved for the exclusive use of certain Unit Owners, as specified herein or on the Plat, including the decks, balconies, patios, special corridors, terraces, and hot water heaters adjacent to or associated with one or more particular Units and intended for the exclusive use of such Units. The use and occupancy of the Limited Common Areas shall be reserved to the applicable Unit, and each applicable Unit Owner is hereby granted an irrevocable license to use and occupy the same so long as such Owner owns the Unit associated with such Limited Common Area. Conveyance of a Unit includes the use of the Limited Common Area appurtenant to the Unit.

2.2.17 "Manager" shall mean a person, persons, or entity, if any, selected by the Board of Directors to manage the affairs of the Condominium Project.

2.2.18 "Occupant" shall mean any Person, other than an Owner, visiting, living, dwelling, or staying in a Unit. This includes, but is not limited to all lessees, tenants, guests, and the family members, agents, and representatives visiting, living, dwelling, or staying in a Unit.

2.2.19 "Owner" or "Unit Owner" shall mean the Person owning a Unit in the Condominium Project and an undivided interest in the Common Areas as shown in the records of the Salt Lake County Recorder. The term Unit Owner or Owner shall not mean or include a mortgagee or beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof. If a Unit is subject to an executory purchase contract, the contract purchaser shall be considered the Owner unless the seller and buyer otherwise agree, in which event they shall inform the Board in writing of the alternative arrangement.

2.2.20 "Parcel" shall mean and include the land described in Section 4.1 below and incorporated herein by this reference, and the buildings, all improvements and structures thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

2.2.21 "Parking Unit" shall mean those separate physical spaces conveyed to Owners for parking motor vehicles or for other uses as hereinafter provided.

2.2.22 "Person" shall mean a natural individual, corporation, business entity, estate, partnership, trustee, association, joint venture, government, governmental subdivision, or agency or other legal entity capable of holding title to real property.

2.2.23 "Plat" shall have the same meaning given in Recital B above. "Plat" shall also refer to any additional plat that may be recorded with any Supplemental Declaration.

2.2.24 "Project Documents" shall mean and refer collectively to the Declaration, Articles, Bylaws, and Rules.

2.2.25 "Restrictions" shall mean the covenants, conditions, assessments, easements, liens, and restrictions set forth in this Declaration.

2.2.26 "Rules" shall mean and refer to the rules, resolutions, policies, and/or regulations adopted by the Board of Directors.

2.2.27 "Supplemental Declaration" shall mean a written instrument recorded in the records of the Salt Lake County Recorder, which refers to this Declaration and which amends, modifies, or supplements this Declaration in accordance with its terms.

2.2.28 "Unit" shall mean and refer to a separate physical part of the Condominium Project intended for independent use, consisting of rooms or spaces located in a building. Units are shown on the Plat. Mechanical equipment, ducts, pipes, and appurtenances located within any one Unit or located without said Unit but designated and designed to serve only the Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus, fixtures and the like, shall be considered part of the Unit. Unit includes all decorated interiors, wallboard and drywall, surfaces of interior structural walls, floors, and ceilings, windows and window frames, doors and door frames, and trim, consisting of inter alia and as appropriate, wallpaper, paint, flooring, carpeting, and tile. All pipes, wires, conduits, or other public utility lines or installations constituting a part of the Unit and serving only the Unit, and any structural members of any other property of any kind, including fixtures and appliances within any Unit, which are removable without jeopardizing the soundness, safety, or usefulness of the remainder of the building within which the Unit is situated shall be considered part of the Unit. Except where the context specifically requires otherwise, reference to a Unit shall include reference to the Allocated Interest in the Common Area appurtenant to such Unit.

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

ARTICLE III THE CONDOMINIUM PROJECT

- 3.1 Submission. The Association hereby confirms that the Parcel is a Condominium Project pursuant to the Act and the Association hereby declares and agrees that the Condominium Project and all of the Units shall be held, conveyed, transferred, sold, mortgaged, encumbered, occupied, used, and improved subject to the Restrictions, which Restrictions shall constitute covenants and conditions running with the land and shall be binding upon and inure to the benefit of the Association, and each Owner, including their respective heirs, executors, administrators, personal representatives, successors, and assigns.
- 3.2 Name and Location. The Condominium Project shall be named and known as INCLINE TERRACE CONDOMINIUMS. The Condominium Project is located in Salt Lake City, Salt Lake County, Utah, and the legal description of the real estate included in the Condominium Project is the Parcel set forth on Exhibit A. The name of the Association is INCLINE TERRACE CONDOMINIUM OWNERS ASSOCIATION, INC.
- 3.3 Interpretation of Declaration and Applicability of the Act. The Association intends that the Condominium Project shall be governed by the Act, except where the Association has included specific provisions in this Declaration that legally vary, supersede, or supplement the Act, in which event such specific provisions of this Declaration that are contrary to the Act shall govern the Condominium Project to the extent allowed by the Act.
- 3.4 Agent for Service of Process. The Registered Agent, as listed with the Utah State Department of Commerce, Division of Corporations and Commercial Code, shall be the person to receive service of process for the Association pursuant to Section 57-8-10(2)(d)(iii) of the Act, unless such time as the Board of Directors duly appoints a new agent. The Board of Directors may execute and record a Supplemental Declaration solely for the purpose of changing the Agent for Service of Process at any time and without satisfying any procedure otherwise required for a Supplemental Declaration.

ARTICLE IV DESCRIPTION OF PROPERTY AND ALLOCATED INTEREST

- 4.1 Description of the Land. The land is located in Salt Lake City, Salt Lake County, Utah and is more particularly described as follows:

Beginning at a point 33 feet North of the Southwest corner of Lot 4, Block 20, Plat "F", Salt Lake City survey, and running thence N 0°00' 46" W 255.75 feet, thence N 89°57'54" E 82.50 feet, thence S 0°00'46" E 41.25 feet, thence N 89°57'54", E 65.25 feet, thence N 0°00'46" W 82.50 feet, thence N 89°57'54" E 242.25 feet, thence S 0°00'46" E 165.00 feet, thence S 89°57'54" W 36.01 feet, thence S 0°00'46" E 132.00 feet, thence S 89°57'54" W 353.99 feet, to the point of beginning. Parcel contains 102,310.44 sq. feet (2.35 AC.)

EXCEPTING THEREFROM:

Beginning at a point 33 feet North and 158 feet East from the Southwest corner of Lot 4, Block 20, Plat "F", Salt Lake City survey, running thence North 132 feet, thence East 6 feet, thence South 12 feet, thence East 127 1/3 feet, thence South 120 feet, thence West 133 1/3 feet to the point of beginning. Parcel contains 16,072 sq. feet (.37 AC.)

- 4.2 Description of Buildings. Incline Terrace consists of three (3) buildings designated respectively Buildings A, B and C, containing 147 Units located within the boundaries of the land described in Section 4.1 above, together with covered and uncovered parking facilities

and other outbuildings. Building A consists of six (6) stories and contains 39 Units. Building B consists of six (6) stories and contains 51 Units. Building C consists of (5) five stories and contains 57 Units. All buildings are of frame and brick and wood facing construction with concrete foundations.

- 4.3 Description and Legal Status of Units. The Plat shows the Unit Number of each Unit, its location, and the Common Areas and Limited Common Areas to which it has access. All Units shall be capable of being independently owned, encumbered, and conveyed. Each Unit shall include that part of the building which lies within the boundaries of the Unit, which boundary shall be determined in the following manner:
- (a) The upper boundary shall be the place of the lower surface of the ceiling;
 - (b) the lower boundary shall be the place of the upper surface of the floor; and
 - (c) the vertical boundaries of the Unit shall be: (i) the interior surface of the outside walls of the building bounding a Unit; (ii) the center line of any non-bearing interior walls bounding a Unit; and (iii) the interior surface of any interior bearing walls bounding a Unit.
- 4.4 Description of Parking Units. Each Parking Unit shall be deeded with its corresponding assigned Unit and have no appurtenant percentage of undivided interest, as further provided in Section 9.24 hereof.
- 4.5 Allocated Interest of Each Unit. The Allocated Interest in the Common Areas which is appurtenant to each Unit has been determined on the basis of the relative area in square feet of each Unit as a percentage of the total area in square feet of all Units. The percentage applicable to each Unit is as set forth in Exhibit B attached hereto and incorporated herein by reference. A Unit Owner's Allocated Interest shall be used for all purposes, including voting and the allocation of Common Expenses in the Condominium Project.

ARTICLE V MAINTENANCE

- 5.1 Maintenance Responsibilities of Owners. Each Owner of a Unit shall ensure that the interior of his/her Unit and its equipment and appurtenances are kept in good order, condition, and repair, are safe, are in a clean and sanitary condition, and that all redecorating and painting which may at any time be necessary to maintain the good appearance of such Unit gets done. Except to the extent that the Association on behalf of all Unit Owners is responsible for and is protected by insurance against such injury, the Unit Owner shall repair all injury or damages to the Unit, building or buildings, furnishings, furniture and appliances caused by the act, negligence or carelessness of the Unit Owner or that of any Occupant, officer, agent, employee, contractor, or guest of the Owner or its Occupant. All such repairs, redecorating, and painting shall be of a quality and kind at least equal to the standards set by the Board and shall be in compliance with applicable building codes. In addition to maintaining the interior of a Unit in good repair, the Unit Owner shall be responsible for ensuring the maintenance or replacement of the windows, glass surfaces, skylights, doors (including but not limited to, sliding doors, interior portion of the entrance door, and the interior doors), door locks, any heating or ventilating equipment, electrical equipment, hot water equipment, fireplaces, plumbing fixtures, lighting fixtures, or any other equipment or fixtures that may be in or used exclusively by the Unit. The Unit Owner shall be responsible for the maintenance and repair of any utility pipe or line or system that solely services his/her Unit, and all ducts, wires, conduits, and other accessories solely used

therewith. Each Unit Owner shall be entitled to the exclusive use and possession of the Limited Common Area appurtenant to his/her Unit and shall be responsible to maintain the decks, patios, and balconies in a clean and tidy condition. Decks, patios, and balconies shall not be used for storage purposes and shall be kept from clutter and debris. Limited Common Area hot water heaters shall be maintained, repaired, and replaced by the Owner who has the exclusive use of such. An Owner may make nonstructural alterations within the Owner's Unit, but an Owner shall not make any structural alterations or other alterations to any part of the Unit on the exterior of a building (such as windows, light fixtures, skylights, patios, balconies, decks, railings, and exterior doors), the Common Areas, or the Limited Common Areas without the prior written approval of the Board of Directors. The Board may require that such repairs or modifications, if allowed, be made in a particular manner, by a particular person, during certain hours, or that they comply with particular material requirements or standards. All obligations set forth herein shall be fulfilled to the standards set by the Board of Directors.

An Owner shall be liable for any and all damage and/or liability associated with any remodeling or maintenance work including damage to the Unit, another Unit, or any Common Area, or Limited Common Area. The Board may require a refundable deposit or bond be made to secure the Association before any work is commenced, and create other Rules governing Unit remodeling or maintenance work. Without prior written permission of the Board of Directors, none of the following shall occur in any remodeling: (1) any use of the Common Areas for staging, storage, assembly, or construction, (2) any nuisance, (3) any blocking of the Common Areas by vehicles, materials, or persons, or (4) any use of the Association's garbage and disposal facilities for the disposal of debris, materials, or other items related to the remodeling.

If an Owner or Occupant fails to maintain a Unit or its Limited Common Area hot water heater, as provided in this Article V, or make repairs thereto in such a manner as may be deemed reasonably necessary in the judgment of the Board of Directors to preserve and protect the attractive appearance, safety, and value of the Condominium Project, following written notice from the Association, the Association shall have the right, but not the obligation, at the expense of the Owner and without liability to the Owner for trespass or otherwise, to take the corrective action that the Board deems necessary. Expenses incurred by the Association in taking the corrective action shall be levied against the Unit and treated as an Individual Assessment as outlined in Section 7.8. The Individual Assessment shall be due and payable immediately and shall be secured by the Assessment lien created in Section 7.4 of this Declaration.

- 5.2 Common Area Maintenance. Except as otherwise provided in this Article V, the Association shall provide for such maintenance, and operation of the Common Areas as may be reasonably necessary to keep them clean, functional, attractive, and generally in good condition and repair. The Association shall do all such other and further acts that the Board of Directors deem necessary to preserve and protect the Common Area and the beauty thereof, in accordance with the general purposes specified in this Declaration. If the need for maintenance, repair, or replacement is caused through the willful or negligent act of an Owner or an Occupant, the Board may cause the maintenance, repair, or replacement to be made. In such a case, the Association shall individually assess the Owner the reasonable costs of such maintenance, repair, or replacement work. The storage units and hallway closets shall be deemed Common Area and controlled by the Association who will assign and lease them to Owners.
- 5.3 Limited Common Area Maintenance. All Limited Common Areas upkeep, maintenance, repairs, and replacement shall be performed as necessary to keep them clean, safe, up to

building code standards, functional, attractive, and generally in good condition and repair as determined by the Board.

- (a) **Owner Responsibility.** As provided in Section 5.1, each Unit Owner shall be responsible for the upkeep, maintenance, repair, and replacement of the Limited Common Area hot water heater appurtenant to his/her Unit in a manner prescribed by the Board. If such work is needed as determined by the Board, the Association shall inform the respective Owner of the required work and either notify the Owner that they are required to perform such work as detailed by the Board or notify the Owner that the Association will perform such work and levy the costs resulting from the work as an Individual Assessment against the respective Owner. In any event, if an Owner fails to perform the work in the timeframe required by the Board of Directors, the Association may perform the required Limited Common Area work and individually assess the Owner the resulting costs. Without liability for trespass or otherwise, the Association is expressly permitted (1) to inspect the Limited Common Areas even if required to enter through a Unit to access them; and (2) to perform maintenance, repair, or replacement work upon said items as provided in this Article V.
- (b) **Association Responsibility.** The Association shall be responsible for the upkeep, maintenance, repairs, and replacement of other Limited Common Areas, including the decks, balconies, and patios. The Association shall maintain the Unit identification signage upon and paint the exterior portion of all Unit front entry doors located off of Limited Common Area and Common Area hallways and walkways. If the need for upkeep, maintenance, repair, or replacement of these Limited Common Areas is caused through the willful or negligent act of an Owner or an Occupant, the Board may cause the maintenance or repair to be made. In such a case, the Association shall also individually assess the Owner the costs of such work.

ARTICLE VI MANAGEMENT

- 6.1. Organization of Association. The Association shall serve as the governing body for all Owners. The Association shall make provisions for the maintenance, repair, replacement, administration and operation of the Common Areas, assessment of expenses, payment of losses, division of profits, acquisition of hazard insurance and disposition of such hazard insurance proceeds, and other matters as provided in the Act, this Declaration, and the Bylaws. The Association shall have all rights and powers granted to it under the Act and in this Declaration and the Bylaws. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Owners in accordance with this Declaration and the Bylaws. Except as specifically authorized in this Declaration or the Bylaws, no Owner or group of Owners shall have authority to take any action on behalf of the Owners, the Association, or the Board of Directors.
- 6.2. Legal Organization. The Association is a Utah condominium association subject to the Act. Any changes in the legal status of the Association shall not relieve any Owner from paying Assessments and abiding by all Restrictions in this Declaration. The Association may be incorporated as a nonprofit corporation upon the affirmative vote of a majority of the Allocated Interest.

- 6.3 Membership. Membership in the Association shall at all times consist exclusively of the Owners. Each Owner shall be a member of the Association so long as such Owner owns a Unit and such membership shall automatically terminate when the Owner ceases to own a Unit. Upon the transfer of an ownership interest in a Unit, the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association. If title to a Unit is held by more than one Person, the membership appurtenant to that Unit shall be shared by all such Persons in the same proportional interest and by the same type of tenancy in which title to the Unit is held.
- 6.4 Voting. Except as otherwise disallowed or provided in this Declaration or the Bylaws, Owners shall be entitled to vote their Allocated Interest pertaining to the Unit owned by that Owner at any meeting of the Owners. There may be one (1) vote cast per Unit.
- 6.5 Board of Directors. The governing body of the Association shall be the Board of Directors. The Board of Directors shall consist of three (3) individuals who shall be an Owner, a spouse of an Owner, or a designee of a Unit owned by a trust, LLC, or other legal entity owning a Unit. Except as otherwise provided in this Declaration or the Bylaws, the Board of Directors may act in all instances on behalf of the Association. The Board of Directors may also, as it deems appropriate, recommend amendments to the Bylaws and Declaration and adopt, amend, and repeal the Rules.
- 6.6 Qualification of Board Members. Except as otherwise provided herein, Board Members shall serve for two (2) year terms, which terms shall be staggered so that at the annual Owner meetings one (1) or two (2) (depending on the year) of the three (3) Board Members shall be elected. No two Board Members may reside in the same Unit, be the spouse of one another, or be business partners if the business is related to their ownership of a Unit(s). If a Board Member ceases to meet any required qualifications during the Board Member's term, such person's membership on the Board of Directors shall automatically terminate.
- 6.7 Election of Board Members. At the annual meeting, the Owner of each Unit shall be entitled to vote the Allocated Interest appurtenant to the Unit for each Board Member seat to be filled. There shall not be any cumulative or fractional voting.
- 6.8 Action by Board of Directors and Owners. Except as specifically provided herein, the Board of Directors and any individual Owner have no authority to and may not act on behalf of the Association to amend or terminate this Declaration, to elect or remove members of the Board of Directors (except as provided in the Bylaws for filling vacancies in its membership for the unexpired portion of any term for which a Board Member has resigned or been removed), or to establish or change the qualifications, powers and duties, or terms of the Board of Directors.
- 6.9 Status and General Authority of Board. Any instrument executed by the Board of Directors that recites facts which, if true, would establish the Board of Directors' power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument. The Association shall, in connection with its exercise of any of the powers delineated below, constitute a legal entity capable of dealing in its Board of Directors name. The Board of Directors shall have, and is hereby granted, the following authority and powers:

- (a) The authority to execute and record, on behalf of all Owners, any amendment to the Declaration or Condominium Plat which has been approved by the vote or consent necessary to authorize such amendment.
- (b) The power to sue or be sued.
- (c) The authority to enter into contracts which in any way concern the Project, so long as any vote or consent necessitated by the subject matter of the agreement has been obtained.
- (d) The power and authority to borrow money and pledge collateral.
- (e) The authority to promulgate such reasonable Rules, guidelines, policies, and procedures as may be necessary or desirable to aid the Board in carrying out any of its functions or to insure that the Project is maintained and used in a manner consistent with the Act and this Declaration.
- (f) The authority to establish procedures for the conduct of its meetings, including, but not limited to the power to decide what portion of the meeting shall be closed to Owners for executive session, to regulate record keeping, and to allow, control, or prohibit the electronic reproduction (video or audio) of Board meetings.
- (g) The authority to contract for discretionary utility services such as telephone, cable, and internet, and allocate the usage fees as an individual assessment (see Section 7.8) to Unit Owners who use such services, or to allocate them as a Common Expense to all Unit Owners. If utility usage fees are allocated as a Common Expense, the utility services must be capable of providing the customary uninterrupted and secure level of services that is appropriate and necessary for all types of Owners.
- (h) The power and authority to delegate its responsibilities over management and control of the Common Area and regulation of the Project to a Manager, reserving the right, power, and authority however, to control and oversee the administration thereof.
- (i) The power and authority to create advisory committees.
- (j) The power and authority to (1) construct, erect, install, place or maintain a radio, television, cable or satellite antenna, or other aerial, dish, transmitting device or reception structure for a master satellite, television, cable, internet, or radio system should any such master system or systems be utilized by the Association or Owners and require such fixtures; and (2) enter into an easement, lease, or license agreement or any combination thereof, with a communications company to provide space and access for communication holders for antenna facilities and related equipment in the Common Areas.
- (k) Any powers and authority provided elsewhere in this Declaration or the Bylaws.
- (l) The powers and authority to assign and/or lease storage units and hallway closets to Owners.
- (m) The powers and authority to select, hire, and fire employees and/or independent contractors for the Association, and establish the scope of their work for the Association.

- (n) The power and authority to perform any and all other acts, and to enter into any other transactions which may be reasonably necessary for the Board of Directors to perform its functions on behalf of the Owners.
- 6.10 Annual Meeting. The Association shall conduct an annual meeting as provided in the Bylaws.
- 6.11 Remedies Available to the Board of Directors. In addition to any other remedies allowed or provided in this Declaration for any violation of the Project Documents, the Board of Directors may: (1) impose and levy fines for a violation of the Project Documents; (2) terminate an Owner's rights to receive utility services paid as a Common Expense; (3) terminate an Owner's rights to access and use recreational facilities and other Common Areas; (4) take any other action or seek any other remedy allowed by the Act or other applicable Utah law.
- 6.12 Reserve Fund. The Association shall maintain a reserve fund for the maintenance, repair and replacement of the Common Areas, the amount of which shall be determined in the discretion of the Board of Directors or as otherwise required by the Act. Reserve funds may be collected as part of the annual Assessments. To the extent the Board of Directors deems necessary, surplus monies of the Association may be retained as additional reserves rather than refunded to the Owners or credited to future Assessments. The proportional interest of any member of the Association in any reserve fund established under this Section shall be considered an appurtenance of such Owner's Unit and shall not be separated from the Unit to which it appertains and shall be deemed to be transferred with the Unit.
- 6.13 Availability of Condominium Project Documents. The Association shall maintain current copies of the Project Documents and the Association's own books, records, and financial statements (as required by the Act and further prescribed by the Bylaws) available for inspection, upon written request, at a mutually convenient time during normal business hours by any Owner or Lender (or any insurer or guarantor of a Lender). The Association may charge a fee for the preparation, photo copying, mailing, and emailing of such documents to an Owner, Lender, title company, real estate agent, or other requesting party.
- 6.14 Managing Agent. The Board of Directors may contract with or hire a Manager, including an onsite Manager, to assist the Board of Directors in the management and operation of the Condominium Project. The Board may delegate such of its powers and duties to the Manager as it deems appropriate; provided, however, that only the Board of Directors shall have the right to approve Association budgets and establish Assessments. Any powers and duties delegated to any Manager may be revoked by the Board of Directors at any time, with or without cause. Any Manager must be terminable upon sixty (60) days notice and have a term not to exceed three (3) years, which may be renewed by the Board of Directors.
- 6.15 Hearing before Board of Directors. The Board of Directors shall have the authority to create a reasonable hearing process applicable in case the Board or Association shall take adverse action related to any particular Owner or group of Owners. The Board shall not be under any obligation to offer a hearing process, except as required by law or by this Declaration, and in any such process, shall have the absolute authority to designate the procedure related to any such hearing and to make any and all final determinations of issues subject to the hearing process.

ARTICLE VII BUDGETS, EXPENSES, AND ASSESSMENTS

7.1 Covenant for Assessments. Each Owner, by acceptance of a deed hereafter conveying any such Unit, whether or not so expressed in the deed or other conveyance, shall be deemed to have covenanted and agreed to pay the Association:

- (a) Annual assessments ("Annual Assessment") as provided in Section 7.2 below;
- (b) Special assessments ("Special Assessments") as provided in Section 7.7 below;
- (c) Individual assessments ("Individual Assessments") as provided in Section 7.8 below; and
- (d) other charges and Assessments levied by the Association pursuant to this Declaration.

Assessments shall be established and collected as provided in this Article. No Owner may exempt itself from liability for Assessments by abandonment of any Unit owned by such Owner.

7.2 Annual Budget and Assessment.

- (a) Adoption of Budget. The Board shall prepare, or cause the preparation of, an annual budget for the Association, which shall provide, without limitation, for the maintenance of the Common Areas and for the administration, management, and operation of the Association. Prior to the adoption of the annual budget, the Board of Directors shall send the proposed budget to the Owners and give them thirty (30) days to provide any comments on the proposed budget. Notwithstanding any Owner comments, the Board shall have the exclusive right to adopt the annual budget. If the Board fails to adopt an annual budget, the last adopted budget shall continue in effect until the new annual budget is adopted.
- (b) Annual Assessment Determination. The Board shall fix the amount of the Annual Assessment against each Unit for each assessment period at least thirty (30) days in advance of the beginning of the period. Written notice of the Annual Assessments shall be sent to all Owners at least fifteen (15) days in advance of the beginning of any assessment period. The omission by the Board, before the expiration of any assessment period, to fix the amount of the Annual Assessment for that or the next period, shall not be deemed a waiver or modification in any respect of the provisions of this Article or a release of any Owner from the obligation to pay the Annual Assessment, or any installment thereof, for that or any subsequent assessment period. In the event of such omission, the Annual Assessment fixed for the preceding period shall continue until a new assessment is fixed.

7.3 Apportionment of Assessments. Assessments shall be apportioned as follows:

- (a) Annual and Special Assessments. All Units shall pay their pro rata share of the Annual Assessment and Special Assessments based on their Allocated Interest.
- (b) Individual Assessments. Individual Assessments may, as determined by the Board, be apportioned exclusively against the Units benefitted or to which the expenses are attributable as further provided in Section 7.8 below.

- (c) **Payment of Assessments.** Upon resolution of the Board, and in the Board's sole discretion, installments of Annual Assessments may be levied and collected on a monthly, quarterly, semi-annual or annual basis. Any Owner may prepay one or more installments of any Assessment levied by the Association, without premium or penalty.
- 7.4 **Lien.** The Annual Assessment and all other Assessments imposed shall be a charge and continuing lien upon each of the Units against which the Assessment is made in accordance with the terms and provisions of this Article VII and shall be construed as a real covenant running with the land.
- 7.5 **Personal Obligation and Costs of Collection.** Assessments imposed under this Declaration, together with interest, late fee charges, and costs and reasonable attorneys' fees incurred or expended by the Association in the collection thereof (whether or not a lawsuit is initiated), shall also be the personal obligation of the Owner holding title to any Unit at the time when the Assessment became due. In a voluntary conveyance, the grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid Assessments, together with interest, late fee charges, costs, and reasonable attorneys' fees, if any, against the latter for his/her share of any Assessments authorized by this Article up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee.
- 7.6 **Purpose of Assessments.** The Assessments levied by the Association shall be used exclusively for the purposes of promoting the health, safety, and welfare of the Owners; the management, maintenance, care, preservation, and protection of the Condominium Project; enhancing the quality of life in the Condominium Project and the value of the Condominium Project including, without limitation, the improvement and maintenance of the services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas; or in furtherance of any other duty or power of the Association.
- 7.7 **Special Assessments.** In addition to the Annual Assessments authorized in this Article, the Board may levy Special Assessments for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of Common Areas; for emergencies; for any Common Expense shortages; or for any other lawful purpose. Special Assessments levied in excess of \$500 per calendar year shall first be approved by a majority of the Allocated Interest that is present in person or by proxy at a meeting duly called for such purpose.
- 7.8 **Individual Assessments.** Any expenses benefitting or attributable to fewer than all of the Units may be assessed exclusively against the Units affected or benefitted ("Individual Assessment") as determined by the Board. Individual Assessments may, as determined by the Board, include, but are not limited to: (1) Assessments levied against any Unit to reimburse the Association for costs incurred in bringing the Unit or its Owner into compliance with the provisions of the Project Documents, and for fines or other charges imposed pursuant to this Declaration for violation of the Project Documents; (2) expenses relating to the cost of maintenance, repair, replacement of a Unit and/or Limited Common Area appurtenant to the Unit if required to be done by the Owner; and (3) expenses from benefits a Unit Owner has the choice of accepting or rejecting in the sole discretion of the Board.

- 7.9 Dates and Manner of Assessment Payments. The dates and manner of Assessment payments shall be determined by the Board of Directors. Unless otherwise provided by resolution of the Board, Assessments shall be deemed late and delinquent if not paid by the tenth (10th) day after such Assessment is first due.
- 7.10 Nonpayment of Assessments. Any Assessment or portion thereof not paid within ten (10) days of the due date: (a) shall bear interest from the date first due at the rate of eighteen percent (18%) per annum; (b) shall be subject to a monthly late fee until paid in full, in an amount to be determined by resolution of the Board; and, (c) if paid by installments, may, in the discretion of the Board, be accelerated (including interest as provided for above) and the entire balance declared due and payable upon not less than ten (10) days written notice to the Owner. The Association may bring an action to recover a delinquent Assessment either personally against the Owner obligated to pay the same or by foreclosure of the Assessment lien, or any other collection method allowed by law. The Association's choice of one remedy shall not prejudice or constitute a waiver of the Association's right to exercise any other remedy. Any attorneys' fees and costs incurred in this effort shall be assessed against the delinquent Owner and the Owner's Unit, and reasonable attorneys' fees and court costs will thereafter be added to the amount in delinquency (plus interest, late fees, and collection charges). Each Owner vests in the Association or its successors or assigns the right and power to bring actions at law or lien foreclosures against such Owner(s) for the collection of delinquent Assessments.
- 7.11 Subordination of Lien to Mortgages. The lien of the Assessments provided for in this Article shall be subordinate to the lien of any first mortgages or deeds of trust now or hereafter placed upon the Unit subject to Assessment, except the sale or transfer of any Unit pursuant to a mortgage or deed of trust foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer. Such sale or transfer shall not relieve the Unit from liability for any Assessments thereafter becoming due, or from the lien of any future Assessment.
- 7.12 Enforcement of Lien. The Association may establish and enforce the lien for any Assessment pursuant to the provisions of this Declaration. The lien is imposed upon the Unit against which the Assessment is made. The lien may be established and enforced for damages, interest, costs of collection, late charges permitted by law, and attorneys' fees provided for in this Declaration (whether or not a legal proceeding is initiated) or by law or awarded by a court for breach of any provisions of the Project Documents. The lien may be foreclosed judicially or non-judicially consistent with the laws of the State of Utah for the non-judicial foreclosure of deeds of trusts. In such an event, the Owner, by acceptance of the deed to their Unit, hereby irrevocably appoints the Association, or its authorized agent, to act as trustee for purposes of foreclosing any lien hereunder.
- 7.13 Rent During Redemption Period. In the event of foreclosure, if the Unit Owner desires to remain in the Unit during any redemption period, such Owner shall be required to pay a reasonable rental for the Unit and the plaintiff in the foreclosure action shall be entitled to the appointment of a receiver to collect the rental without regard to the value of the security.
- 7.14 Exempt Property. All Units owned by the Association shall be exempt from the Assessments created under this Declaration. Similarly, all Units owned by the Association shall not have voting rights.
- 7.15 Reinvestment Fee Contribution. At the closing settlement for the purchase and/or conveyance of each Unit, a reinvestment fee at the then equivalent of one month of the

Annual Assessment shall be paid to the Association. Such amount shall be in addition and not in lieu of any pro rata share of Assessments due and adjusted at settlement. The Reinvestment Fee shall be the personal obligation of the new Owner (treated as an Individual Assessment) and shall be secured by the lien in Section 7.4. Notwithstanding the other provisions of this Declaration, this Section 7.15 shall not apply to a Lender who becomes an Owner by a foreclosure proceeding.

- 7.16 Certificate of Assessment. The Association shall, upon demand at any time, furnish to any Owner liable for Assessment a certificate in writing signed by an officer of the Association setting forth whether Assessments have been paid. The certificate shall be conclusive evidence of payment of any Assessment therein stated as having been paid. A reasonable charge not to exceed \$50 or an amount greater if so allowed by the Act (whichever is greater), may be levied in advance by the Association for each certificate so requested.
- 7.17 Application of Excess Assessments. In the event the amount budgeted to meet Common Expenses for a particular fiscal year proves to be excessive in light of the actual Common Expenses, the Board of Directors in its discretion may apply the excess to reserves, credit the excess against future Assessments, or pay the excess to the Owners in proportion to the Allocated Interests of each Unit, as the Board of Directors deems appropriate. The decision of the Board of Directors shall be binding and conclusive. In addition, the Association shall not be obligated to reduce the amount of Assessments in succeeding years if an excess exists in a prior year.
- 7.18 No Offsets. All Assessments shall be payable in the amount specified by the Assessment and no offsets against such amount shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in this Declaration.
- 7.19 Suspension of Votes. An Owner's right to vote on any matter at regular or special meetings of the Association shall be suspended while delinquent in the payment of any Assessment or other amount due under the Declaration.
- 7.20 Termination of Services. If an Owner fails or refuses to pay any Assessment for more than sixty (60) days after the Assessment is due, the Board of Directors may terminate the Owner's right to receive utility services paid as a Common Expense and access to and use of the Common Areas. Before terminating any utility service or restricting access to or use of the Common Areas, the Association shall notify the Owner and give such Owner at least 48 hours to pay the past due Assessment.
- 7.21 Unpaid Assessments and Future Lease Proceeds. If an Owner fails to pay any Assessment for more than sixty (60) days after the Assessment is due, the Board of Directors may demand that any tenant occupying the Owner's Unit or that any managing agent of the Unit pay to the Association all future lease or rental proceeds due to the Owner beginning with the next monthly payment until the amount due is paid to the Association.
- 7.22 Capital Improvements. All expenses for capital improvements shall be governed by and subject to the following conditions, limitations, and restrictions:
- (a) Common Areas Maintenance, Repair, and Replacement. The Association, through the Board of Directors, is obligated to maintain, repair, and replace the Common Areas and certain designated Limited Common Areas whether by reason of normal wear and tear, damage, defect, and so forth. Regardless of cost, the Board may authorize any

maintenance, repair, and replacement work to the Common Areas or Limited Common Areas required to be maintained, repaired, or replaced by the Association.

- (b) Owner Approval/Changing the Nature of the Project. Any capital improvement that would materially alter the nature of the Project (e.g. removal of swimming pool, installation of tennis courts) must, regardless of its cost and prior to being constructed or accomplished, be authorized by at least a majority of the Allocated Interest; and
- (c) Emergencies and Livability of the Project. Notwithstanding anything to the contrary, in case of emergencies or capital improvements necessary to preserve the ability of people to comfortably live in the Units, the Board of Directors may authorize any necessary capital improvement.

ARTICLE VIII

PROPERTY RIGHTS IN COMMON AREA

8.1 General Easements to Common Area and Units.

- (a) Subject to this Declaration and the Rules, each Owner shall have an undivided interest, right, and easement of use and enjoyment in and to the Common Area. Each Owner shall have an unrestricted right of ingress or egress to and from the Owner's Unit over and across such Common Area (exclusive of the Limited Common Area unless stated otherwise). Each Owner shall also have the exclusive right to use and enjoy any Limited Common Area that may be designated for exclusive use by such Owner. Such rights and easements shall be appurtenant to and shall pass with title to each Unit and in no event shall such appurtenant rights be separated therefrom. Any Owner may delegate the right and easement of use and enjoyment described herein to any family member, household guest, contract purchaser, Occupant, or Person who resides in such Owner's Unit.
- (b) The Association, acting through the Board of Directors or its authorized agent, shall have nonexclusive easements with the right of access to each Unit, without trespass, to make inspections and to maintain, repair, replace, or effectuate the restoration of the Common Area accessible from such Unit. Such rights shall be exercised in a reasonable manner and at reasonable times with prior notification, unless emergency situations demand immediate access. The Association, acting through the Board of Directors or its authorized agent, shall have a nonexclusive right to grant permits, licenses, and easements upon, across, over, under and through the Common Area for purposes necessary for the proper operation of the Condominium Project; provided, however, such rights shall be exercised in a reasonable manner and at reasonable times, with reasonable notification, unless emergency situations demand immediate access.

8.2 Easements for Encroachments. In the event that, by reason of the construction, reconstruction, settlement, movement, or shifting of any part of a building, any part of the Common Areas encroaches or shall hereafter encroach upon any part of any Unit or any part of any Unit encroaches or shall hereafter encroach upon any part of the Common Areas or any other Unit, valid easements for such encroachment and the maintenance of such encroachment are hereby established and shall exist for the benefit of such Unit and the Common Areas, as the case may be, so long as all or any part of the building containing any such Unit shall remain standing; provided, however, that in no event shall a valid easement for any encroachment be created in favor of any Unit Owner or in favor of the Unit Owners as owners of the

Common Areas if such encroachment occurred due to the willful conduct of such Unit Owner or Owners occurring after the date on which this Declaration is recorded.

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

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

- (a) The right of the Association to suspend the Owner's voting right in the Association and the Owner's right to the use of any recreational facilities included in the Common Area:
 - (i) for any period during which an Assessment on such Owner's Unit remains unpaid;
 - (ii) for a period not exceeding sixty (60) days for any infraction by such Owner of the provisions of this Declaration or any Association Rule; and (iii) for successive 60-day periods if any such infraction is not corrected during any prior 60-day suspension period;
- (b) The right of the Association to impose reasonable limitations on the number of guests per Owner or Occupant who at any given time are permitted to use the Common Area; and
- (c) The right of any governmental or quasi-governmental body having jurisdiction over the Property to access and to have rights of ingress and egress over and across any street, parking areas, walkway or open areas contained within the Common Area for purposes of providing police and fire protection, transporting school children, and providing other governmental or municipal services.

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

Unit ____ of INCLINE TERRACE CONDOMINIUMS, together with all improvements located thereon, as said Unit is identified in the Plat of said development recorded _____, _____ as Entry Number _____, in Book _____, at Page _____ of the

official records of the Salt Lake County Recorder, State of Utah, and as identified and described in the AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR INCLINE TERRACE CONDOMINIUM, a Utah Condominium Project, recorded _____, _____, _____ as Entry Number _____, in Book _____, at Page _____, of the official records of the Salt Lake County Recorder, State of Utah. TOGETHER WITH an undivided interest, and a right and easement of use and enjoyment in and to the Common Area described, as provided for and in the percentage shown, in said Declaration. This conveyance is subject to the provisions of said Declaration, including any amendments thereto.

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

ARTICLE IX USE RESTRICTIONS

- 9.1 Rules and Regulations. The Board of Directors shall have authority to promulgate and enforce such Rules and procedures as may aid the Association in carrying out any of its functions or to ensure that the Condominium Project is maintained and used in a manner consistent with the Project Documents. Unit Owners shall at all times obey the Rules and see that they are faithfully observed by those persons over whom they have or may exercise control and supervision, it being understood that such Rules shall apply and be binding upon all Owners and Occupants of the Units. The Rules may address any issues including those addressed in this Declaration and the Bylaws. The Rules may supplement, clarify, and add detail to issues otherwise addressed in this Declaration and the Bylaws so long as they do not contradict the same. The Board of Directors determination as to whether a particular activity being conducted or to be conducted violates or will violate the Rules shall be conclusive.
- 9.2 Occupancy Uses. Units shall be occupied by the Unit Owner(s) and their Occupants for residential purposes only. The Common Areas shall be used for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the Unit Owners.
- 9.3 Signs. No signs of any kind, except for a "For Sale" or "For Rent" sign no larger than 2' x 2' the placement of which may be regulated by resolution of the Board, shall be displayed to the public view on or from any Unit or the Common Areas without the prior written approval of the Board of Directors. If the Board allows the sign, the Board may dictate the size, shape, design, location, text, style, and other features of the sign.
- 9.4 Nuisance. No noxious or offensive activity shall be carried on upon the Condominium Project, nor shall any activity that might be or become an annoyance or nuisance to the Owners or Occupants be permitted to interfere with their rights of quiet enjoyment, or increase the rate of any insurance or decrease the value of the Units. No Owner or Occupant shall engage in activity within the Condominium Project in violation of any Restrictions or Rules adopted by the Board, or any laws, ordinances, statutes, rules or regulations of any local, county, state, or federal body. Any such violations shall be deemed a nuisance under this Section.
- 9.5 Temporary Structures. No structure or building of a temporary character, including a garbage container, tent, or shack, shall be placed upon the Condominium Project or used therein unless the same and its proposed use are approved by the Board of Directors.

- 9.6 External Fixtures. No external items such as, but not limited to, deck or patio furniture, television and radio antennas, satellite dishes, flags and flag poles, clotheslines, wiring, insulation, air conditioning equipment, water softening equipment, fences, awnings, ornamental screens, exterior doors, screen doors, porch or patio or balcony enclosures, sunshades, lighting fixtures, walls, windows, skylights, landscaping and planting, other than those approved by the Board of Directors, and any replacements thereof, shall be constructed, erected, or maintained on the Condominium Project without the prior written approval of the Board of Directors or as allowed by the Rules. The Board of Directors may adopt Rules regulating the location, type, color, and design of these external fixtures.
- 9.7 Window Covers. Only curtains, drapes, shades, shutters, and blinds may be installed as window covers, and all such window covers shall be approved in advance by the Board of Directors. No window shall be covered by paint, blankets, rugs, foil, sheets, and the like. The Board of Directors may adopt Rules regulating the type, color, and design of any window coverings that can be viewed from outside of the Units.
- 9.8 Outside Speakers and Amplifiers. No radio, stereo, broadcast, or loudspeaker units shall be placed upon or outside, or be directed to the outside of any Unit without the prior written approval of the Board of Directors.
- 9.9 Repairs. No repairs of any detached machinery, equipment or fixtures, including without limitation, motor vehicles, shall be made upon the Condominium Project.
- 9.10 Unightly Items. All rubbish, debris or unsightly materials or objects of any kind shall be regularly removed from Units and Limited Common Areas and shall not be allowed to accumulate therein or thereon. Refuse containers and machinery and equipment not a part of the Units, shall be prohibited in any Unit unless obscured from view of adjoining Units and Common Area. Trash and garbage shall be properly disposed in accordance with the Rules applicable thereto adopted by the Board of Directors.
- 9.11 Animals and Pets. No pets, animals, livestock, or poultry of any kind shall be kept, raised, or bred anywhere in the Condominium Project, including in any Unit, Parking Unit, the Limited Common Area, or Common Area. The Condominium Project is a pet-free development, except as otherwise required by law.
- 9.12 Barbeques. No barbeques shall be placed permanently or temporarily on the decks, balconies, patios or other Limited Common Areas or the Units. Barbeques shall also not be placed on the Common Areas without prior approval from the Board of Directors.
- 9.13 Unit Leasing. 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 provisions:
- (a) Notice of Lease or Intent to Lease. Any Owner who has leased his/her Unit or who intends to lease his/her Unit shall give notice in writing to the Board of such intention, stating: (i) the name, phone number, email address, and mailing address of the adult lessees; (ii) the terms of the proposed transaction; (iii) such other information as the Board may reasonably require; and (iv) a copy of the Lease if so requested by the Board.
 - (b) Restrictions. Each lease shall be deemed to be subject to the following restrictions:
 - i. Units may not be rented for transient or hotel purposes. Leases shall be for a term of no less than (6) months and no resort-hotel, corporate, or rental pool uses are permitted.

- ii. All leases and lessees shall be subject to the provisions of the Project Documents and a violation of any provision within such document shall constitute a breach of the lease agreement.
 - iii. The Unit Owner shall make available to the lessee copies of the Project Documents.
 - iv. Unit Owners shall perform a background check on all prospective tenants.
- (c) Owners are responsible for the actions of their Occupants, including financial responsibility for damage caused within the Condominium Project and fines levied by the Association.
- 9.14 Landscape Maintenance. The Association shall have the right and duty to maintain all landscaping in the Common Area, as well as the right to alter and change any and all such landscaping. The Association shall have the right of access to all Common Area and Limited Common Area of the Condominium Project as necessary for such landscape maintenance.
- 9.15 Residential Use. No business use and trade may be conducted in or from any Unit unless: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (b) the business activity conforms to all zoning requirements for the Condominium Project; (c) the business activity does not involve persons coming onto the Condominium Project who do not reside in the Condominium Project or door-to-door solicitation of residents of the Condominium Project; and (d) the business activity is consistent with the residential character of the Condominium Project and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents, as may be determined in the sole discretion of the Board of Directors. Notwithstanding the above, the leasing of a Unit shall not be considered a trade or business within the meaning of this Section.
- 9.16 No Subdivision of Units or Further Restrictions. No Unit shall be split, subdivided, or separated into two or more Units. No Owner of a Unit shall sell part of a Unit. No subdivision plat or covenants, conditions, or restrictions shall be recorded by any Owner or other Person with respect to any Unit unless the Board of Directors has first approved the plat or the proposed covenants, conditions or restrictions, such approval to be evidenced by the Association's signature on the final recorded plat or instrument imposing the covenants, conditions or restrictions. Any plat or covenants, conditions, or restrictions recorded in violation of this Section shall be absolutely null and void. The Board of Directors review shall be for the purpose of assuring, in the sole and absolute discretion of the Board of Directors, that the plat or covenants, conditions and restrictions are consistent and compatible with the overall plan of development of the Property. However, in no event shall the approval of the Board of Directors of any plat or covenant, condition or restriction be an abandonment or waiver of any provision of this Declaration. The provisions of this Declaration shall be and remain superior to any such plat or covenants, conditions or restrictions except to the extent they defer to the Plat.
- 9.17 Architectural Control. No exterior changes whatsoever shall be commenced, erected, maintained, made, or done without the prior written approval of the Board of Directors or any committee established by the Board for that purpose. By way of illustration, but not of limitation, the following are considered exterior changes: painting, landscaping, lighting, repairs, excavation, patio covers, screens, doors, evaporative coolers, window air conditioners, fireplaces, skylights, storage buildings, solar collectors, decks, balconies, shade screens, awnings, window coating or tinting, furniture, decorative alterations or other work that in any way alters the exterior appearance of the Property. The Board, or committee established by the Board for

that purpose, may designate the design, color, style, model, and manufacturer of any exterior improvement or alteration that is acceptable to the Board. Such designations shall be for the purpose of achieving uniformity of appearance and preservation of property values. No interior structural changes whatsoever shall be commenced, erected, maintained, made or done without the prior written approval of the Board, or any committee established by the Board for that purpose. By way of illustration, but not of limitation, the following are considered interior structural changes: moving, removing, adding, or altering walls, doorways, windows, skylights, venting, and the like.

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

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

9.20 Hazardous Substances.

- (a) The Owners shall comply with applicable Environmental Laws (as defined below), and shall not cause or permit the presence, use, disposal, storage or release of any Hazardous Substances (as defined below), on or within the Condominium Project that are not properly controlled, safeguarded, and disposed of. The Owners shall not do, nor allow anyone else to do, anything affecting the Condominium Project that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use or storage on the Condominium Project of small quantities of Hazardous Substances that are generally recognized to be appropriate for the cleaning or maintenance of a Unit or the Condominium Project.
- (b) Each Owner shall indemnify, defend and hold the Association and each and every other Owner harmless from and against any and all claims and proceedings (whether brought by private party or governmental agency) for bodily injury, property damage, abatement or remediation, environmental damage or impairment; or any other injury or damage resulting from or relating to any Hazardous Substances located under or upon or migrating into, under, from or through the Condominium Project, which the Association or the other Owners may incur due to the actions or omissions of an indemnifying Owner. The foregoing indemnity shall apply: (i) whether or not the release of the Hazardous Substances was caused by an indemnifying Owner, a tenant, invitee, or otherwise of an indemnifying Owner; and (ii) whether or not the alleged liability is attributable to the handling, storage, generation, transportation or disposal of Hazardous

Substances on the Condominium Project. The obligations of each Owner under this Section shall survive any subsequent sale by an indemnifying Owner.

- (c) As used in this Section, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde and radioactive materials. As used in this Section, "Environmental Law" means federal laws and laws of the jurisdiction where the Condominium Project is located that relate to health, safety, or environmental protection.
- 9.21 Smoke and Carbon Monoxide Detectors. Each Unit shall have an operable Carbon Monoxide Detector and Smoke Detectors as required by building code. The Board of Directors may, but is not required to enter a Unit, upon advanced notice of at least seventy-two (72) hours, to ensure that the Unit is in compliance with this Section and Section 9.22 below.
- 9.22 Unit Heating. Owners shall heat Units to no less than fifty-degrees (50° F) at all times to prevent pipes from freezing.
- 9.23 No Smoking. The Condominium Project is a smoke-free facility. Smoking is prohibited inside the Units, on the Limited Common Areas, in the Common Areas, and throughout the Condominium Project.
- 9.24 Parking. All Parking Units shall be deemed to be separate physical spaces and shall be conveyed to Unit Owners for the parking of motor vehicles and for other uses as hereinafter provided. Provided, however, that no Parking Unit may be conveyed to a Person who is not also an Owner. The use and occupancy of Parking Units shall be for the parking of automobiles, motorcycles, and other wheeled vehicles if allowed by the Rules. Parking Units shall further be subject to and governed by Association Rules. The Board may adopt Rules relating to the size and dimensions of the vehicles parked within the Project; relating to the admission and temporary parking of vehicles within the Project; and the right to remove or cause to be removed any vehicles that are improperly parked; the time visitor spaces may be used, if any; the levying of fines to Owners and Occupants who violate, or whose invitees violate, such Rules; and any other parking Rules the Board deems necessary.

ARTICLE X CHANGE IN OWNERSHIP

The Board of Directors shall maintain up-to-date records showing the name of each Owner, the address of such Owner, and the Unit which is owned by it. In the event of any transfer of an interest in a Unit, within fourteen (14) days after the date of such transfer, the transferee shall furnish the Board with written notice containing evidence establishing that the transfer has occurred and that the deed or contract accomplishing the transfer is of record in the office of the Salt Lake County Recorder. The written notice shall set forth the name of the transferee and the transferor, the street address of the Unit purchased or acquired by the transferee, the transferee's mailing address, the date of the sale or transfer and the name and address of the transferee's Lender, if any. The Board may for all purposes act and rely on the information concerning Owners and Unit ownership which is thus acquired by it or, at its option, the Board may act and rely on current ownership information respecting any Unit or Units which is obtained from the office of the Salt Lake County Recorder. Prior to the receipt of the written

notice, all notices required or permitted to be given by the Association to the Owner shall be deemed to be duly made or given to the transferee if duly and timely made and given to the transferee's predecessor in interest. The address of an Owner shall be deemed to be the address of the Unit owned by such Owner unless the Board is otherwise advised.

ARTICLE XI DESTRUCTION OR DAMAGE

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

- (a) If the proceeds of the insurance maintained by the Association are alone sufficient to repair or reconstruct the damaged or destroyed improvement, such repair or reconstruction shall be carried out.
- (b) If less than 75% of the Project's improvements are destroyed or substantially damaged, and if proceeds of the insurance maintained by the Association are not alone sufficient to accomplish repair or reconstruction, restoration shall be carried out and all of the Unit Owners shall be assessed for any deficiency on the basis of their respective appurtenant percentages of the Allocated Interest, said assessment becoming a lien on the Units as provided in the Act.
- (c) If 75% or more of the Project's improvements are destroyed or substantially damaged, and if proceeds of the insurance maintained by the Association are not alone sufficient to accomplish restoration, and if the Unit Owners within 100 days after the destruction or damage by a vote of at least 67% of the entire Allocated Interest of the Project elect to repair or reconstruct the affected improvements, restoration shall be accomplished in the manner directed under subsection (b) above.
- (d) If 75% or more of the Project's improvements are destroyed or substantially damaged, if proceeds of the insurance maintained by the Association are not sufficient to accomplish restoration, and if the Unit Owners do not, within 100 days after destruction or damage and by a vote of at least 67% of the entire Allocated Interest of the Project, elect to repair or reconstruct the affected improvements, the Association shall promptly record with the Salt Lake County Recorder a notice setting forth such facts. Upon the recording of such notice the provisions of subsections (1) through (4) of the Act at §57-8-31, Utah Code Annotated (1963), shall apply and shall govern the rights of all parties having an interest in the Project or any of the Units.
- (e) Any reconstruction or repair which is required to be carried out by this Section shall be accomplished at the instance and direction of the Board of Directors. Any determination which is required to be made by this Section regarding the extent of damage to or destruction of the Project improvements shall be made as follows:

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

ARTICLE XII
TAXES

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

ARTICLE XIII
INSURANCE

13.1 Insurance. The Board of Directors shall obtain insurance as required in this Declaration, the Act, or other applicable laws. The Association may obtain insurance that provides more or additional coverage than the insurance required in this Declaration. Different policies may be obtained from different insurance carriers and standalone policies may be purchased instead of or in addition to embedded, included coverage, or endorsements to other policies. Insurance premiums shall be a Common Expense.

13.2 Property Insurance.

- (a) Hazard Insurance. The Association shall maintain a blanket policy of property insurance covering the entire Project, including the Common Area and all buildings including all Units, fixtures, and building services equipment as provided in the Act. The Association may maintain broader coverage if afforded by the insurance contract.
 - i. The blanket policy shall exclude land and other items not normally and reasonably covered by such policies. The blanket policy shall be an "all in" or "all inclusive" insurance as those terms are used in the insurance industry and shall include insurance for any fixture, improvement, or betterment installed in or to the Unit or any Limited Common Areas or otherwise permanently part of or affixed to Common Areas, Units, or Limited Common Areas, including but not limited to floor coverings, cabinets, light fixtures, electrical fixtures, heating and plumbing fixtures, paint, wall coverings, windows.
 - ii. At a minimum, the blanket policy shall afford protection against loss or damage by: (1) fire, windstorm, hail, riot, aircraft, vehicles, vandalism, smoke, and theft; and (2) all perils normally covered by "special form" property coverage.
 - iii. The blanket policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all property covered by such policy (including the Units) at the time the insurance is purchased and at each renewal date. The actual replacement cost of the property shall be determined by using methods generally accepted in the insurance industry.
 - iv. The blanket policy shall include either of the following endorsements to assure full insurable value replacement cost coverage: (1) a Guaranteed Replacement Cost Endorsement under which the insurer agrees to replace the insurable property regardless of the cost; and (2) a Replacement Cost Endorsement under which the insurer agrees to pay up to one hundred

percent (100%) of the Property's insurable replacement cost but not more. If the policy includes a coinsurance clause, it must include an Agreed Amount Endorsement which must waive or eliminate the requirement for coinsurance.

- v. Each property policy that the Association is required to maintain shall also contain or provide for the following: (i) "Inflation Guard Endorsement," if available, (ii) "Building Ordinance or Law Endorsement," (the endorsement must provide for contingent liability from the operation of building laws, demolition costs, and increased costs of reconstruction), and (iii) "Equipment Breakdown," if the project has central heating or cooling or other equipment or other applicable fixtures, equipment, or installation, which shall provide that the insurer's minimum liability per accident at least equals the lesser of two million dollars (\$2,000,000) or the insurable value of the building containing the equipment.

- (b) Owner Responsibility for Payment of Deductible. If a loss occurs that is covered by a property insurance policy in the name of the Association and another property insurance policy in the name of an Owner:

- i. the Association's policy provides primary insurance coverage;
- ii. notwithstanding Subsection (i) above, and subject to Subsection (iii) below:
 - 1) the Owner is responsible for the Association's policy deductible; and
 - 2) the Owner's policy, if any, applies to that portion of the loss attributable to the Association's policy deductible.
- iii. An Owner that has suffered damage to any combination of a Unit or a Limited Common Area appurtenant to a Unit ("Unit Damage") as part of a loss, resulting from a single event or occurrence, that is covered by the Association's property insurance policy ("a Covered Loss") is responsible for an amount calculated by applying the percentage of total damage resulting in a Covered Loss that is attributable to Unit Damage ("Unit Damage Percentage") for that Unit to the amount of the deductible under the Association's property insurance policy; and
- iv. If an Owner does not pay the amount required under Subsection b) above within 30 days after substantial completion of the repairs to, as applicable, the Unit or the Limited Common Area appurtenant to the Unit, the Association may levy an assessment against the Owner for that amount.

- (c) Flood Insurance. If any part of the Project is or comes to be situated in a Special Flood Hazard Area as designated on a Flood Insurance Rate Map, a policy of flood insurance shall be maintained covering the Project, or, at a minimum, that portion of the Project located within the Special Flood Hazard Area. That policy shall cover any machinery and equipment that are not part of a building and all Common Area within the Project ("Insurable Property") in an amount deemed appropriate, but not less than the lesser of: (i) the maximum limit of coverage available under the National Flood Insurance Program for the Insurable Property within any portion of

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

- (d) Earthquake Insurance. The Association may purchase earthquake insurance as the Board of Directors deems appropriate. If the Board of Directors elects not to purchase earthquake insurance, a vote of a majority of the Allocated Interests present at the annual meeting, with a proper quorum, may veto the decision of the Board. If the Owners at the annual meeting veto the decision to not purchase earthquake insurance, the Board of Directors shall purchase earthquake insurance within (60) days of the vote.
 - (e) Association's Obligation to Segregate Property Insurance Deductible. The Association shall keep in a segregated bank account an amount equal to the Association's property insurance policy deductible or \$10,000, whichever is less. This requirement shall not apply to any earthquake or flood insurance deductible.
 - (f) Association's Right to Not Tender Claims that are Under the Deductible. If, in the exercise of its business judgment, the Board of Directors determines that a claim is likely not to exceed the Association's property insurance policy deductible: (a) the Owner's policy is considered the policy for primary coverage to the amount of the Association's policy deductible; (b) an Owner who does not have a policy to cover the Association's property insurance policy deductible is responsible for the loss to the amount of the Association's policy deductible; and (c) the Association need not tender the claim to the Association's insurer.
 - (g) Notice Requirement for Deductible. The Association shall provide notice to each Owner of the Owner's obligation under Subsection (b) above for the Association's policy deductible and of any change in the amount of the deductible. If the Association fails to provide notice of the initial deductible, it shall be responsible for the entire deductible in case of any loss. If the Association fails to provide notice of any increase in the deductible, it shall be responsible for paying any increased amount that would otherwise have been assessed to the Owner. The failure to provide notice shall not invalidate or affect any other provision in this Declaration.
- 13.3 Comprehensive General Liability (CGL) Insurance. The Association shall obtain CGL insurance insuring the Association, the agents and employees of the Association, and the Owners, against liability incident to the use, ownership or maintenance of the Common Area or membership in the Association. The coverage limits under such policy shall not be less than Two Million Dollars (\$2,000,000.00) covering all claims for death of or injury to any one person or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which should preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or another Owner.
- 13.4 Director's and Officer's Insurance. The Association shall obtain Directors' and Officers' liability insurance protecting the Board of Directors, the officers, and the Association against claims of wrongful acts, mismanagement, failure to maintain adequate reserves, failure to maintain books and records, failure to enforce the Project's Documents, and breach of

contract (if available). This policy shall: (1) include coverage for volunteers and employees, (2) include coverage for monetary and non-monetary claims, (3) provide for the coverage of claims made under any fair housing act or similar statute or that are based on any form of discrimination or civil rights claims, and (4) provide coverage for defamation. In the discretion of the Board of Directors, the policy may also include coverage for any manager and any employees of the manager and may provide that such coverage is secondary to any other policy that covers the manager or any employees of the manager.

- 13.5 Insurance Coverage for Theft and Embezzlement of Association Funds. The Association shall obtain insurance covering the theft or embezzlement of funds that shall: (1) provide coverage for an amount of not less than the sum of three (3) months' regular assessments in addition to the prior calendar year's highest monthly balance on all operating and reserve funds, and (2) provide coverage for theft or embezzlement of funds by: (a) Officers and Board of Directors members of the Association, (b) employees and volunteers of the Association, (c) any manager of the Association, (c) officers, directors, and employees of any manager of the Association, and (d) coverage for acts.
- 13.6 Worker's Compensation Insurance. The Board of Directors shall purchase and maintain in effect workers' compensation insurance for all employees of the Association to the extent that such insurance is required by law and as the Board of Directors deems appropriate.
- 13.7 Certificates. Any insurer that has issued an insurance policy to the Association shall issue a certificate of insurance to the Association and upon written request, to any Owner or Mortgagee.
- 13.8 Named Insured. The named insured under any policy of insurance shall be the Association. Each Owner shall also be an insured under all property and CGL insurance policies.
- 13.9 Association has the Right to Negotiate All Claims and Losses and Receive Proceeds. Insurance proceeds for a loss under the Association's property insurance policy are payable to an Insurance Trustee if one is designated, or to the Association, and shall not be payable to a holder of a security interest. An Insurance Trustee, if any is appointed, or the Association shall hold any insurance proceeds in trust for the Association, Owners, and lien holders. Insurance proceeds shall be disbursed first for the repair or restoration of the damaged property, if the property is to be repaired and restored as provided for in this Declaration. After any repair or restoration is complete and if the damaged property has been completely repaired or restored, any remaining proceeds shall be paid to the Association. If the property is not to be repaired or restored, then any remaining proceeds after such action as is necessary related to the property has been paid for, shall be distributed to the Owners and lien holders, as their interests remain with regard to the Units. Each Owner hereby appoints the Association, or any Insurance Trustee, as attorney-in-fact for the purpose of negotiating all losses related thereto, including the collection, receipt of, and appropriate disposition of all insurance proceeds; the execution of releases of liability; and the execution of all documents and the performance of all other acts necessary to administer such insurance and any claim. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors, or assigns of the Owner.
- 13.10 Insurance Trustee. In the discretion of the Board of Directors or upon written request executed by Owners holding at least 50% of the Allocated Interest, the Board of Directors shall hire and appoint an insurance trustee ("Insurance Trustee"), with whom the

Association shall enter into an insurance trust agreement, for the purpose of exercising such rights under this paragraph as the Owners or Board of Directors (as the case may be) shall require.

- 13.11 Owner Act Cannot Void Coverage Under Any Policy. Unless an Owner is acting within the scope of the Owner's authority on behalf of the Association and under direct authorization of the Association, an Owner's act or omission may not void an insurance policy or be a condition to recovery under a policy.
- 13.12 Waiver of Subrogation against Owners and Association. All property and CGL policies must contain a waiver of subrogation by the insurer as to any claims against the Association and the Owners and their respective agents and employees.
- 13.13 Annual Insurance Report. Not later than sixty (60) days prior to the beginning of each fiscal year, Board of Directors may obtain a written report by a reputable insurance broker, agent, or consultant (who may be the insurance provider/agent/broker used by the Association) setting forth the existing insurance obtained pursuant to the Declaration and stating whether in the opinion of such broker or consultant, the insurance complies with the requirements of the Declaration and the Act. Such report may also set forth recommendations regarding current policy provisions and for additional insurance reasonably required for the protection of the Owners and Lenders in light of the insurance then available and the prevailing practice with respect to other similar condominium projects. The Board of Directors shall be protected in relying on the written report furnished pursuant to this Subsection provided reasonable care and prudence were exercised in selecting such insurance broker, agent, or consultant. The most recent annual insurance report shall be made available to all Lenders and Owners upon request.
- 13.14 Applicable Law. This Declaration is specifically subjecting the Association to the insurance requirements required by U.C.A. §57-8-43 that became law in 2011, and any amendments thereto and thereafter enacted by law. It is the intent of this provision that any future changes to the insurance laws applicable to condominium associations shall apply to this Association.

ARTICLE XIV EMINENT DOMAIN

- 14.1 Total Taking of a Unit. If a Unit is taken by eminent domain, or sold under threat thereof, or if part of a Unit is taken by eminent domain, or sold under threat thereof, leaving the Owner with a remnant that may not be practically or lawfully used for any purpose permitted by this Declaration, the award must compensate the Owner for the Owner's Unit and Allocated Interest in the Common Area, regardless of whether any Common Area is taken. Upon such a taking, unless the decree otherwise provides, that Unit's Allocated Interest in the Common Area shall automatically be reallocated to the remaining Units in proportion to their respective interests immediately before the taking. Upon such a taking, the Association shall prepare, execute and record an amendment to the Declaration in compliance with the Act. Any remnant of a Unit remaining after part of a Unit is taken shall become part of the Common Area.
- 14.2 Partial Taking of a Unit. Except as provided in Section 14.1, if part of a Unit is taken by eminent domain, or sold under threat thereof, so that such Unit may still be practically and lawfully used under this Declaration, the award must compensate the Owner for the reduction in the value of the Owner's Unit and Allocated Interest in the Common Area, regardless of whether any Common Area is taken. Upon such a taking, unless the decree otherwise provides, that Unit's

Allocated Interest in the Common Area shall remain the same, but if the decree provides for a reduction of the Allocated Interest for such Unit, the reduced amount shall automatically be reallocated to that Unit and the remaining Units in proportion to their respective Allocated Interests immediately before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced Allocated Interest.

- 14.3 Taking of Limited Common Area. If the portion of the Condominium Project taken by eminent domain, or sold under threat thereof, is comprised of or includes any Limited Common Area or portion thereof, the portion of the award attributable to the Limited Common Area so taken shall be divided among the Owners of the Units to which such Limited Common Area was allocated at the time of the acquisition.
- 14.4 Taking of Common Area. If the portion of the Condominium Project taken by eminent domain, or sold under threat thereof, is not comprised of or includes any Unit or Limited Common Area, the Board of Directors shall, as soon as practicable, cause the award to be utilized for the purpose of repairing or restoring the portion of the Condominium Project so taken, and the portion of the award not used for restoration shall be divided among the Owners in proportion to their Allocated Interest in the Common Area before the taking.
- 14.5 Taking of Entire Condominium Project. In the event the Condominium Project, in its entirety, is taken by eminent domain; or sold under threat thereof, the Condominium Project is terminated and the provisions of the Act apply.
- 14.6 Priority and Power of Attorney. Nothing contained in this Article XIV shall entitle an Owner to priority over any Lender under a lien encumbering the Owner's Unit as to any portion of any condemnation award allocated to such Unit. Each Owner hereby appoints the Association as attorney-in-fact for the purpose of negotiations and settlement with the condemning authority for the acquisition of the Common Area, or any part thereof. In the event the taking involves all or part of any Unit or the Common Area or Limited Common Area, the award or proceeds shall be payable to the Association for the use and benefit of the Owners and their Lenders as their interests may appear. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors or assigns of an Owner.

ARTICLE XV RIGHTS OF LENDERS

- 15.1 Notice of Lenders. A Lender shall not become an Eligible Mortgagee, and thus be entitled to receive any notice that this Declaration requires the Association to provide Lenders for notice, approval, or consent regarding a proposed action or otherwise, unless and until such Lender or its mortgage servicing contractor has delivered to the Association a written notice stating that such Lender is the holder of a loan encumbering a Unit within the Condominium Project, in accordance with Section 15.6. Notwithstanding the foregoing, if any right of a Lender under this Declaration is conditioned on a specific written request to the Association, in addition to the above, a Lender must also make such request in writing delivered to the Association. Except as provided in this Section 15.1, a Lender's rights pursuant to this Declaration, including, without limitation, the priority of any mortgage lien over the lien of Assessments levied by the Association hereunder shall not be affected by the failure to deliver a notice or request to the Association. The provisions of this Section 15.1 shall not apply to the Department of Veterans Affairs or the Department of Housing and Urban Development.

- 15.2 Priority of Lenders. No breach of the Restrictions herein contained, nor the enforcement of any lien provision herein, shall affect, impair, defeat or render invalid the lien or charge of any Lender made in good faith and for value encumbering any Unit, but all of such Restrictions shall be binding upon and effective against any Owner whose title to a Unit is derived through foreclosure or trustee's sale, or otherwise.
- 15.3 Relationship with Assessment Liens.
- (a) The lien provided for in Article VII for the payment of Assessments shall be subordinate to the lien of any Lender that was recorded prior to the date any such Assessment becomes due.
 - (b) If any Unit that is subject to a monetary lien created by this Declaration is also subject to the lien of a Lender, then: (i) the foreclosure of any lien created by this Declaration shall not operate to affect or impair the lien of such Lender; and (ii) the foreclosure of the lien of a Lender or the sale under a power of sale included in a mortgage or deed of trust shall not operate to affect or impair the lien hereof, except that any Person who obtains an interest thereafter shall take title free of any lien created by this Declaration for any Assessments that became due after the recordation of the mortgage or deed of trust, or any personal obligation for such charges, but such Person shall remain subject to the lien hereof for all charges that shall accrue subsequent to such foreclosure.
 - (c) Without limiting the provisions of Section 15.3(b), any Lender who obtains title to a Unit by reason of any foreclosure, or deed or assignment in lieu of foreclosure, or any Person who obtains title at a private or judicial foreclosure sale, shall take title to such Unit free of any lien or claim for unpaid Assessments against such Unit that accrued prior to the time such Lender or purchaser takes title to such Unit, except for liens or claims for a share of such Assessments resulting from a pro rata reallocation of such Assessments to all Units within the Condominium Project.
 - (d) Nothing in this Section 15.3 shall be construed as releasing any Person from the personal obligation to pay for any Assessments levied pursuant to this Declaration during the period such Person is an Owner.
- 15.4 Required Lender Approval. Except upon the prior written approval of sixty-seven percent (67%) of all Lenders that have provided notice to the Association as described in Section 15.1 and Section 15.6, based on one vote for each Unit encumbered by a loan, neither the Association nor the Board of Directors shall be entitled to abandon or terminate by an act or omission the legal status of the Condominium Project.
- 15.5 Other Rights of Lenders. Any Lender (and such Lender's insurer or guarantor) shall, upon written request to the Association, be entitled:
- (a) To inspect current copies of the Project Documents and other books and records of the Association during normal business hours; and
 - (b) To receive an annual financial statement of the Association within ninety (90) days following the end of the Association's fiscal year.
- 15.6 Notices of Action. Upon written request to the Association identifying the name and address of the Lender (and the name and address of the Lender's insurer or guarantor, if desired) and the Unit Number or address, any such Lender (or any such insurer or guarantor) will be entitled to timely written notice of:

- (a) Any condemnation or casualty loss that affects a material portion of the Condominium Project or any Unit on which there is a First Mortgage held by such Lender; and
- (b) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

ARTICLE XVI TERMINATION

- 16.1 Required Vote. Except as otherwise provided in Articles XI and XIV, the Condominium Project may be terminated only by unanimous agreement of Owners of all Units.
- 16.2 Termination Agreement. An agreement to terminate shall be evidenced by the execution or ratification of a termination agreement, in the same manner as a deed, by the requisite number of Owners. Such an agreement to terminate shall also be approved by unanimous consent of all Lenders with a loan secured by a Unit. The termination agreement shall specify a date after which the agreement will be void unless it is recorded before that date. A termination agreement, including all ratifications of such termination agreement, shall be recorded in the records of the Salt Lake County Recorder and is effective only upon recordation.
- 16.3 Sale of Condominium Project. A termination agreement may provide that the entire Condominium Project shall be sold following termination. If, pursuant to such agreement, any real estate in the Condominium Project is to be sold following termination, the termination agreement shall set forth the minimum terms of the sale.
- 16.4 Association Duties. The Association, on behalf of the Owners, may contract for the sale of real estate in the Condominium Project, but the contract is not binding on the Owners until approved pursuant to Sections 16.1 and 16.2 of this Declaration. If any real estate in the Condominium Project is to be sold following termination, title to that real estate on termination vests in the Association as trustee for all Owners. Thereafter, the Association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds of the sale distributed, the Association continues in existence with all powers it had before termination. Proceeds of the sale shall be distributed to Owners and Lenders as their interests may appear, based on the relative value of each Unit and Condominium Project. Unless otherwise specified in the termination agreement, as long as the Association holds title to the real estate, each Owner and his/her successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted their Unit in accordance with the terms of this Declaration. During the period of that occupancy right, each Owner and his/her successors in interest remain liable for all Assessments and other obligations imposed on Owners by this Declaration.
- 16.5 Allocation upon Termination. Unless provided otherwise herein, upon any liquidation or termination of all or part of the Condominium Project, the Association shall represent the Owners in any proceedings, negotiations, settlements or agreements related thereto. Each Owner hereby appoints the Association as attorney-in-fact for such purpose, including the allocation of any losses, awards or proceeds resulting from such termination or liquidation. Any proceeds generated by such a termination or liquidation shall be made payable to the Association, which will hold such proceeds for the benefit of the Owners and their Lenders. Owners shall share in the proceeds of such termination or liquidation in the same proportion as their Allocated Interest in the Common Area (or as otherwise provided by the Act), but in such event, the liens and provisions of all Lenders or Assessment liens encumbering Units within the Condominium

Project shall extend to each applicable Owner's interest in such proceeds. The interest of an Owner in such proceeds shall not be distributed to such Owner except upon the prior payment in full of any Assessment lien or lien of a Lender encumbering such proceeds.

ARTICLE XVII RIGHT OF ENTRY

The Association acting through the Board of Directors or its duly authorized agent shall have the right at all times upon reasonable notice of at least 24 hours to enter upon or into any Unit, without trespass, and regardless of whether or not the Unit Owner or occupant thereof is present at the time, to abate any infractions, to make repairs or correct any violation of any of the Restrictions herein set forth, and in connection therewith shall have the further right to assess all costs incurred against the Owner, such Assessment to be secured by a lien provided in Article VII. Notice shall not be necessary in case of an emergency originating in or threatening such Unit or any other part of the Project, including the sound or sight of running water in a Unit, the smell or sight of smoke in a Unit, abnormal or excessive noises; and foul smell. Owners shall maintain a key to their Units with the Association. Owners shall also maintain up-to-date emergency contact information records with the Association, including any local representative an Owner may have. Owners shall be responsible for any costs incurred by the Association as a result of entering a Unit under this Article and shall indemnify and hold harmless the Association for all damages related to such entry. In order to have immediate access to the Units in the case of an emergency or to otherwise effectuate the terms of this Declaration and because so many Owners do not live onsite, Owners shall provide the Association with a key to their Unit which shall be held in the office of the Association.

ARTICLE XVIII OBLIGATION TO COMPLY HEREWITH

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

ARTICLE XIX INDEMNIFICATION OF BOARD OF DIRECTORS

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

ARTICLE XX CONSENT IN LIEU OF VOTE

In any case in which the Act or this Declaration requires the vote of a stated percentage of the Project's Allocated Interest for authorization or approval of a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Unit Owners who collectively hold at least the stated percentage of the Allocated Interest. The following additional provisions shall govern any application of this section:

- (a) all necessary consents must be obtained prior to the expiration of sixty (60) days after the first consent is given by any Owner; and
- (b) any change in ownership of a Unit which occurs after consent has been obtained from the Owner having an interest therein shall not be considered or taken into account for any purpose.

ARTICLE XXI AMENDMENTS

- 21.1 General Amendment Requirements. Except as otherwise provided herein, this Declaration and/or the Plat may be amended only upon the affirmative vote of at least sixty percent (60%) of the Allocated Interest of the Association. Amendments to the Declaration shall be proposed by either a majority of the Board of Directors or by Owners holding at least thirty-five percent (35%) of the Allocated Interest of the Association. The proposed amendment must be reduced to writing and must be included in the notice of any meeting at which action is to be taken thereon or with any written ballot that may be used for voting purposes. Amendments may be approved by the Association at duly called Association meetings or by written ballot in lieu of a meeting. Any amendment(s) shall be effective upon recordation in the office of the recorder of Salt Lake County, State of Utah. In such instrument the Board of Directors shall certify that the vote required by this Section for amendment has occurred. If a Unit is owned by more than one (1) Owner, the signature of any one (1) Owner shall be sufficient to constitute approval for that Unit under this Section. If a Unit is owned by an entity or trust, the signature of any trustee of the trust, or officer or agent of the entity shall be sufficient to constitute approval for that Unit under this Section. No acknowledgment of any signature shall be required.
- 21.2 Lender Approval for Association Amendment or Action. Assuming a Lender has given notice as provided in Section 15.1 above, if a Lender's consent is a condition for amending this Declaration or the Bylaws, or for any other action, such Lender's consent is presumed if:
- (a) Written request of the proposed amendment or action is sent by certified or registered mail to the Lender's address listed with the Association;
 - (b) Sixty (60) days have passed after the day on which notice was mailed; and
 - (c) The Association has not received a written response from the Lender consenting to or refusing to accept the amendment or action.

ARTICLE XXII GENERAL PROVISIONS

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

Association or any Owner shall also have the right to enforce by proceedings at law or in equity the provisions of the other Project Documents, and any respective amendments thereto.

- 22.2 No Waiver. Failure by the Association or by any Owner to enforce any Restriction or provision herein contained, or contained in the Bylaws or the Rules, in any certain instance or on any particular occasion shall not be deemed a waiver of such right of enforcement as to any such future breach of the same or any other Restriction or provision.
- 22.3 Cumulative Remedies. All rights, options, and remedies of the Association, the Owners or the Lenders under this Declaration are cumulative, and no one of them shall be exclusive of any other, and the Association, the Owners and the Lenders shall have the right to pursue any one or all of such rights, options and remedies or any other remedy or relief that may be provided by law, whether or not stated in this Declaration.
- 22.4 Severability. Invalidation of any one or a portion of the Restrictions or provisions set forth in this Declaration or in the Bylaws or the Rules by judgment or court order shall in no way affect any other Restrictions or provisions contained herein or therein, which shall remain in full force and effect.
- 22.5 Covenants to Run with the Land. The Restrictions and other provisions of this Declaration shall run with and bind the Condominium Project as equitable servitudes and also as covenants running with the land and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, and successors. By acquiring any interest in a Unit, or in a Limited Common Area, or in the Common Area, such Owner consents to, and agrees to be bound by, each and every provision of this Declaration.
- 22.6 Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a plan for the development of a residential condominium community and for the maintenance of the Condominium Project. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. References in this Declaration to Articles and Section numbers, unless otherwise expressly provided, are to the Articles and Sections of this Declaration.
- 22.7 Gender and Number. Whenever the context of this Declaration requires, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and the neuter, and vice versa.
- 22.8 Nuisance. The result of every act or omission whereby any provision or Restriction contained in this Declaration or any provision contained in the Bylaws or the Rules is violated in whole or in part is hereby declared to be and shall constitute a nuisance, and every remedy allowed at law or in equity against a nuisance, either public or private, shall be applicable with respect to the abatement thereof and may be exercised by the Association or any Owner. Such remedy shall be deemed cumulative to all other remedies set forth in this Declaration and shall not be deemed exclusive.
- 22.9 Attorneys' Fees. Should the Association, Board of Directors, or an Owner take action to enforce the provisions of the Project Documents or pursue any remedy provided hereunder or allowed by applicable law, the prevailing party in such action shall be entitled to its reasonable attorneys' fees and costs.
- 22.10 Notices. Any notice to be given to an Owner, a Lender, or the Association under the provisions of this Declaration shall be in writing and shall be delivered as follows:

- (a) Notice to an Owner shall be delivered personally, by email, or placed in the first class United States mail, postage prepaid, to the most recent address furnished by such Owner in writing to the Association for the purpose of giving notice, or if no such address shall have been furnished, then to the street address of such Owner's Unit or posted on the front door of the Unit. Any notice so deposited in the mail shall be deemed delivered when deposited in the United States mail. Any notice delivered by email shall be deemed delivered when sent. In the case of co-Owners, any such notice may be delivered or sent to any one of the co-Owners on behalf of all co-Owners and shall be deemed delivered to all such co-Owners. Notice by email is not proper notice if an Owner sends a written request to the Board of Directors stating that the Owner will not accept notices by email.
 - (b) Notice to a Lender shall be delivered by first class United States mail, postage prepaid, to the most recent address furnished by such Lender in writing to the Association for the purpose of notice or, if no such address shall have been furnished, to any office of the Lender. Any address for a Lender that is found on a document recorded on the title of a Unit shall be deemed an office of the Lender. Any notice so deposited in the mail shall be deemed delivered upon deposit.
 - (c) The declaration of an officer or authorized agent of the Association declaring under penalty of perjury that a notice has been sent to any Owner or Owners, or to any Lender or Lenders, in any manner that this Section 22.10 allows, shall be deemed conclusive proof of such mailing or delivery.
 - (d) Notice to the Association shall be delivered by registered or certified United States mail, postage prepaid, addressed to the office of the Manager of the Association (if any) or if there is no Manager, the Registered Agent with the Utah Department of Commerce (if any) or if there is none, to the statutory agent of the Association. The Association shall, however, have the right to designate a successor or substitute address for receipt of notices hereunder by filing a Supplemental Declaration and such Supplemental Declaration may be filed for this purpose alone upon approval of the Board of Directors.
- 22.11 Effect of Declaration. This Declaration is made for the purposes set forth in the recitals in this Declaration and the Association makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration, or as to the compliance of any of these provisions with public laws, ordinances, regulations and the like applicable thereto. The Association shall have no liability whatsoever if any of the provisions of this Declaration, the Bylaws or the Rules are determined to be unenforceable in whole or in part or under certain circumstances.
- 22.12 Nonliability of Officials. To the fullest extent permitted by law, neither the Board of Directors nor any officer of the Association shall be liable to any Owner or the Association for any damage, loss, or prejudice suffered or claimed on account of any decision, approval or disapproval, course of action, act, omission, error, or negligence if such Board of Directors Member or officer acted in good faith within the scope of such Person's duties.
- 22.13 Changes to Plat or Boundaries of the Association. The Association may adopt an amended Plat, supplemental Plat, correction to the Plat, or boundary agreement related to any boundary in or around the Association, including any boundary to any Unit or Units upon the approval of the number of Owners required to amend this Declaration. Any such Plat may make material changes to the existing or prior Plat including the addition or removal of amenities, increase the

size of Units, deleting or modifying Common Area or Limited Common Area, or other changes in the layout of the Association. If any such document or action is approved by the consent of at least sixty-seven percent (67%) of the Owners obtained in the manner required to amend this Declaration and so long as the document or action does not materially reduce the size of that Owner's Unit, each and every Owner shall sign, consent to, and execute any further documents required for the finalization, recording, and/or governmental approval of any such document regardless of whether they approved of or consented to the change in the Plat.

- 22.14 Use of Funds Collected by the Association. All funds collected by the Association, including Assessments and contributions to the Association paid by the Owners, if any, shall be held by the Association in a fiduciary capacity to be expended in their entirety for purposes of the Association in managing, maintaining, caring for, and preserving the Common Area and for other permitted purposes as set forth in this Declaration. No part of said funds shall inure to the benefit of any Owner (other than as a result of the Association managing, maintaining, caring for and preserving the Common Area, and other than as a result of expenditures made for other permitted purposes as set forth in this Declaration).
- 22.15 Owner Liability and Indemnification. Each Owner shall be liable to the remaining Owners and to the Association for any damage to the Common Area that may be sustained by reason of the negligence of that Owner or such Owner's family members or Occupants. Each Owner, by acceptance of a deed for a Unit, agrees personally and for family members and Occupants to indemnify each and every other Owner, and to hold such other Owners harmless from, and to defend such Owners against, any claim of any person for personal injury or property damage occurring within the Unit of that particular Owner, including Limited Common Area, if any, except to the extent that: (a) such injury or damage is covered by liability insurance in favor of the Association or any other Owner, or (b) the injury or damage occurred by reason of the willful or negligent act or omission of the Association or other Owner or other Person temporarily visiting such Unit.
- 22.16 Conflicting Provisions. In the case of any conflict between this Declaration and the Bylaws, or the Rules, this Declaration shall control. In the case of any conflict between this Declaration and the Act, to the extent the Act does not legally allow this Declaration to contain provisions contrary to the Act, the Act shall control and this Declaration shall be deemed modified accordingly. Notwithstanding the above, this Declaration shall be deemed modified only to the extent necessary to come into compliance with the Act.
- 22.17 Consent, Power of Attorney, Waiver. By acceptance of a deed, lease or other conveyance of an interest in Unit, each Owner or Occupant of such Owner's Unit consents to the rights reserved to the Association in this Declaration, including but not limited to, the right to prepare, execute, file, process and record necessary and appropriate documents and other items to establish and grant easements and to make necessary and appropriate amendments of this Declaration, the Plat, and the Bylaws. By such acceptance, each Owner or Occupant agrees to execute all documents and to do all other things as may be necessary or convenient to effect the same; and such acceptance shall be deemed an appointment of the Association, with full right of substitution, as the attorney-in-fact of such Owner or Occupant to execute such documents and to do such things on such Owner's or Occupant's behalf; and such appointment, being coupled with an interest, shall be irrevocable for the specific period of the Association's reserved rights as set forth in this Declaration and shall not be affected by the disability of any such Owner or Occupant.

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

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

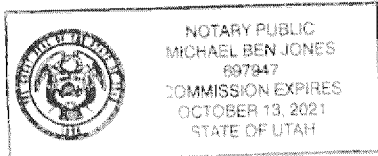
**INCLINE TERRACE CONDOMINIUM
OWNERS ASSOCIATION, INC.**

By: David W. Tanner

Its: PRESIDENT of BOARD

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

On this 34 day of DECEMBER, 2018, personally appeared before me David W. Tanner, who being by me duly sworn, did say that he is the President of the Incline Terrace Condominium Owners Association, Inc.; that said instrument was signed by him/her on behalf of said Association after receiving approval from owners representing at least 67% of the Association's voting power as evidenced by the written ballots attached herewith signed and acknowledged by owners; and that the foregoing information is true and accurate to the best of his/her knowledge.



[Signature]
NOTARY PUBLIC

EXHIBIT A **Legal Description and Unit Parcel Numbers** **(147 Unit Parcels & 1 Common Area Parcel)**

Legal Description:

Beginning at a point 33 feet North of the Southwest corner of Lot 4, Block 20, Plat "F", Salt Lake City survey, and running thence N 0°00' 46" W 255.75 feet, thence N 89°57'54" E 82.50 feet, thence S 0°00'46" E 41.25 feet, thence N 89°57'54", E 65.25 feet, thence N 0°00'46" W 82.50 feet, thence N 89°57'54" E 242.25 feet, thence S 0°00'46" E 165.00 feet, thence S 89°57'54" W 36.01 feet, thence S 0°00'46" E 132.00 feet, thence S 89°57'54" W 353.99 feet, to the point of beginning. Parcel contains 102,310.44 sq. feet (2.35 AC.)

EXCEPTING THEREFROM:

Beginning at a point 33 feet North and 158 feet East from the Southwest corner of Lot 4, Block 20, Plat "F", Salt Lake City survey, running thence North 132 feet, thence East 6 feet, thence South 12 feet, thence East 127 1/3 feet, thence South 120 feet, thence West 133 1/3 feet to the point of beginning. Parcel contains 16,072 sq. feet (.37 AC.)

Unit Parcel Numbers:

Common Areas:	16054040220000
16054040020000	16054040230000
	16054040240000
Building A (39 Units)	16054040250000
16054040030000	16054040260000
16054040040000	16054040270000
16054040050000	16054040280000
16054040060000	16054040290000
16054040070000	16054040300000
16054040080000	16054040310000
16054040090000	16054040320000
16054040110000	16054040330000
16054040120000	16054040340000
16054040130000	16054040350000
16054040140000	16054040360000
16054040150000	16054040370000
16054040160000	16054040380000
16054040170000	16054040390000
16054040180000	16054040400000
16054040190000	16054040410000
16054040200000	
16054040210000	

Building B (51 Units)

16054040420000
 16054040430000
 16054040440000
 16054040450000
 16054040460000
 16054040470000
 16054040480000
 16054040490000
 16054040500000
 16054040510000
 16054040520000
 16054040530000
 16054040540000
 16054040550000
 16054040560000
 16054040570000
 16054040580000
 16054040590000
 16054040600000
 16054040610000
 16054040620000
 16054040630000
 16054040640000
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 16054040690000
 16054040700000
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 16054040740000
 16054040750000
 16054040760000
 16054040770000
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 16054040790000
 16054040800000
 16054040810000
 16054040820000
 16054040830000

16054040840000
 16054040850000
 16054040860000
 16054040870000
 16054040880000
 16054040890000
 16054040900000
 16054040910000
 16054040920000

Building C (57 Units)

16054040930000
 16054040940000
 16054040950000
 16054040960000
 16054040970000
 16054040980000
 16054040990000
 16054041000000
 16054041010000
 16054041020000
 16054041030000
 16054041040000
 16054041050000
 16054041060000
 16054041070000
 16054041080000
 16054041090000
 16054041100000
 16054041110000
 16054041120000
 16054041130000
 16054041140000
 16054041150000
 16054041160000
 16054041170000
 16054041180000
 16054041190000
 16054041200000
 16054041210000
 16054041220000
 16054041230000

16054041240000
16054041250000
16054041260000
16054041270000
16054041280000
16054041290000
16054041300000
16054041310000
16054041320000
16054041330000
16054041340000
16054041350000
16054041360000
16054041370000

16054041380000
16054041390000
16054041400000
16054041410000
16054041420000
16054041430000
16054041440000
16054041450000
16054041460000
16054041470000
16054041480000
16054041490000

EXHIBIT B
UNIT ALLOCATED INTERESTS IN COMMON AREAS

(Initial numeral denotes floor,
and letter suffix denotes Building,
where Unit is located)

Unit No.	Allocated Interest (%)	Par Value
BUILDING A		
101-A	.85	110
201-A	.61	80
202-A	.85	110
203-A	.61	80
204-A	.61	80
205-A	.61	80
206-A	.85	110
301-A	.61	80
302-A	.85	110
303-A	.61	80
304-A	.69	90
305-A	.69	90
306-A	.61	80
307-A	.61	80
308-A	.85	110
401-A	.61	80
402-A	.85	110
403-A	.61	80
404-A	.69	90
405-A	.69	90
406-A	.61	80
407-A	.61	80
408-A	.85	110
501-A	.61	80
502-A	.85	110
503-A	.61	80
504-A	.69	90
505-A	.69	90
506-A	.61	80
507-A	.61	80
508-A	.85	110
601-A	.61	80
602-A	.85	110
603-A	.61	80
604-A	.69	90
605-A	.69	90

EXHIBIT B

(Continued)

<u>Unit No.</u>	<u>Allocated Interest(%)</u>	<u>Par Value</u>
606-A	.61	80
607-A	.61	80
608-A	.85	110

BUILDING B

101-B	.69	90
102-B	.61	80
103-B	.61	80
104-B	.69	90
201-B	.69	90
202-B	.61	80
203-B	.61	80
204-B	.85	110
205-B	.69	90
206-B	.61	80
207-B	.69	90
301-B	.69	90
302-B	.61	80
303-B	.61	80
304-B	.85	110
305-B	.69	90
306-B	.69	90
307-B	.61	80
308-B	.85	110
309-B	.61	80
310-B	.69	90
401-B	.69	90
402-B	.61	80
403-B	.61	80
404-B	.85	110
405-B	.69	90
406-B	.69	90
407-B	.61	80
408-B	.85	110
409-B	.61	80
410-B	.69	90
501-B	.69	90
502-B	.61	80
503-B	.61	80
504-B	.85	110
505-B	.69	90
506-B	.69	90
507-B	.61	80
508-B	.85	110
509-B	.61	80

EXHIBIT B
(Continued)

Unit No.	Allocated Interest (%)	Par Value
510-B	.69	90
601-B	.69	90
602-B	.61	80
603-B	.61	80
604-B	.86	111
605-B	.69	90
606-B	.69	90
607-B	.61	80
608-B	.85	110
609-B	.61	80
610-B	.69	90

BUILDING C

101-C	.69	90
102-C	.61	80
103-C	.61	80
104-C	.61	80
201-C	.69	90
202-C	.61	80
203-C	.61	80
204-C	.61	80
205-C	.85	110
206-C	.85	110
207-C	.61	80
208-C	.69	90
209-C	.61	80
210-C	.69	90
301-C	.69	90
302-C	.61	80
303-C	.61	80
304-C	.61	80
305-C	.85	110
306-C	.85	110
307-C	.61	80
308-C	.69	90
309-C	.69	90
310-C	.61	80
311-C	.61	80
312-C	.61	80
313-C	.69	90
401-C	.69	80
402-C	.61	80
403-C	.61	80
404-C	.61	80
405-C	.85	110
406-C	.85	110

EXHIBIT B
(Continued)

<u>Unit No.</u>	<u>Allocated Interest (%)</u>	<u>Par Value</u>
407-C	.61	80
408-C	.69	90
409-C	.69	90
410-C	.61	80
411-C	.61	80
412-C	.61	80
413-C	.61	80
414-C	.61	80
415-C	.69	90
501-C	.69	90
502-C	.61	80
503-C	.61	80
504-C	.61	80
505-C	.85	110
506-C	.85	110
507-C	.61	80
508-C	.69	90
509-C	.69	90
510-C	.61	80
511-C	.61	80
512-C	.61	80
513-C	.61	80
514-C	.61	80
515-C	.69	90

total allocated interests:	100.00%
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EXHIBIT C
AMENDED BYLAWS
OF
INCLINE TERRACE CONDOMINIUM OWNERS ASSOCIATION, INC.

SALT LAKE CITY, SALT LAKE COUNTY, UTAH

THESE AMENDED BYLAWS OF INCLINE TERRACE CONDOMINIUM OWNERS ASSOCIATION, INC ("Bylaws") are effective upon recording with the Salt Lake County Recorder.

RECITALS

1. The original bylaws of the Incline Terrace Condominium Owners Association, Inc. ("Original Bylaws") were recorded as Appendix C to the Original Declaration for Incline Terrace Condominium.
2. Article XIV of the Original Bylaws provide that they may be amended upon the approval of Owners holding at least 75% of the Association's total voting power; however, the Act states that condominium bylaws cannot require an amendment voting threshold greater than 67% of its voting interests. See U.C.A. §57-8-39. Therefore, 67% of the Association's voting interests can amend the Original Bylaws.
3. Not less than 67% of the Association's voting interests have approved these Bylaws.
4. These Bylaws shall amend and completely replace the Original Bylaws and any amendments thereto, in effect prior to the recording of these Bylaws.
5. Capitalized terms in these Bylaws, unless otherwise noted herein, are defined in Article I of the AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESRICTIONS FOR INCLINE TERRACE CONDOMINIUM ("Declaration").
6. These Bylaws are adopted in order to complement the Declaration and to eliminate ambiguity, to further define the rights of the Association and the Unit Owners, to provide for the ability to more easily govern and operate the Association, and, to further the Association's efforts to safely, efficiently, and economically provide a quality living environment.

ARTICLE I
DEFINITIONS

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

ARTICLE II
APPLICATION

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

ARTICLE III OWNERS

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

3.2 Special Meetings. Special meetings of the Owners may be called by a majority of the Board of Directors, the President, or upon the written request of Owners holding not less than forty percent (40%) of the Allocated Interest of the Association. Any written request for a special meeting presented by the Owners shall be delivered to the President and shall include the original signature of each Owner affirmatively supporting such request along with a complete statement of the purpose of the meeting on each page containing signatures. The President shall then call, provide notice of, and conduct a special meeting within 60 days of receipt of the request.

3.3 Place of Meetings. The Board of Directors may designate any place in the Salt Lake County limits reasonably convenient for the Owners of the Association as the place of meeting for any annual or special meeting. If no designation is made, or if a special meeting is otherwise called, the place of the meeting shall be held at the office of the Association.

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

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

3.6 Record Date for Notice Purposes. The Board of Directors may designate a record date, which shall not be more than sixty (60) nor less than fifteen (15) days prior to the meeting, for the purpose of determining Owners entitled to notice of any meeting of the Owners. If no record date

is designated, the last date on which a notice of the meeting is mailed or delivered shall be deemed to be the record date for determining Owners entitled to notice. The persons or entities appearing in the records of the Association on such record date as the Owner(s) of record of Units in the Condominium Project shall be deemed to be the Owners of record entitled to notice of the meeting of the Owners.

3.7 Quorum. At any meeting of the Owners, the presence of Owners and holders of proxies entitled to cast more than thirty-five percent (35%) of the Allocated Interest of the Association shall constitute a quorum for the transaction of business. If, however, such quorum shall not be present or represented at any meeting, the Board of Directors shall have power to adjourn the meeting and reschedule for a time not earlier than twenty-four (24) hours, nor later than thirty (30) days after the set time for the original meeting. Notice of such rescheduled meeting shall not be required except an oral announcement at the meeting to be rescheduled, and, at least twelve (12) hours prior to the rescheduled meeting, an email sent to Owners who have registered an email address with the Association. No other type of notice shall be required for the rescheduled meeting. The presence of Owners and holders of proxies entitled to cast more than twenty-five percent (25%) of the Allocated Interest of the Association shall constitute a quorum for the transaction of business at the rescheduled meeting.

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

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

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

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

ARTICLE IV BOARD OF DIRECTORS

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

4.2 **Number, Tenure, and Qualifications.** The property, business, and affairs of the Association shall be governed and managed by a Board of Directors composed of three (3) persons, each of whom shall serve for two (2) year terms and meet the qualifications provided in the Declaration.

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

4.4 **Regular Meetings.** The Board of Directors shall hold regular meetings at least six (6) times per year at the discretion of the Board of Directors.

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

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

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

- a. Consult with legal counsel of the Association to obtain legal advice and discuss legal matters;
- b. Discuss existing or potential litigation, mediation, arbitration, or an administrative proceeding;

- c. Discuss a labor or personnel matter;
- d. Discuss a matter relating to the initial contract negotiations, including the review of a bid or proposal;
- e. Discuss a matter involving a Person, if the Board determines that public knowledge of the matter would violate the Person's privacy; or
- f. Discuss a delinquent assessment.

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

4.8 Board Meeting Location. The Board of Directors may designate any place in Salt Lake County, Utah as the place of meeting for any regular or special Board meeting. Board meetings may also be held with Board Members appearing telephonically so long as any Board Member appearing telephonically consents to such appearance. If a Board meeting is held by telephone, the Association shall provide the call-in information to Owners who request such so that those Owners may call-in to access the meeting. If no designation is made, the place of the Board meeting shall be held in the office of the Association.

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

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

4.11 Resignation and Removal. A Board Member may resign at any time by delivering a written resignation to either the President or the Secretary. Unless otherwise specified therein, such resignation shall take effect upon delivery. A Board Member may be removed at any time, with or without cause, at a special meeting of the Owners duly called for such purpose upon the affirmative vote of more than fifty percent (50%) of the Allocated Interest of the Association. A Board Member may also be removed by the affirmative vote of a majority of the other Board Members if he/she, in any twelve (12) month period, misses either three (3) consecutive or seventy-five percent (75%) of the regularly scheduled Board of Directors meetings.

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

4.13 **Informal Action by Board Members.** Any action that is required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Board Members.

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

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

ARTICLE V OFFICERS

5.1 **Officers.** The officers of the Association shall be a President, Vice President, a Secretary, a Treasurer, and such other officers as may from time to time be appointed by the Board of Directors. The President, Vice President, and Secretary shall be Board Members. Treasurer may be a Board Member, but may also be an Owner, a spouse of an Owner, or a designee of a Unit owned by a trust, LLC, or other legal entity owning a Unit.

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

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

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

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

5.6 **The President.** The President shall be the chief executive of the Association. The President shall be a Board Member and preside at meetings of the Board of Directors and at meetings of the Owners. At the meetings, the President shall have all authority typically granted to the person presiding over the meeting including but not limited to: (1) the right to control the order of the meeting, (2) the right to arrange for the removal of any disruptive Owner or person, (3) the right to

impose and enforce reasonable rules and procedures related to the meeting such as those found in "Robert's Rules of Order" or "The Modern Rules of Order." The President shall sign on behalf of the Association all conveyances, mortgages, documents, and contracts, and shall do and perform all other acts and things as required by the Board of Directors.

5.7 The Vice President. The Vice President shall perform all duties of the President when the President is absent or unable or refuses to act at any meeting of the Board of Directors or Owners. The Vice President shall perform such other duties as required by the Board of Directors and shall be a Board Member.

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

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

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

ARTICLE VI COMMITTEES

6.1 Designation of Committees. The Board of Directors may from time to time by resolution designate such committees as it may deem appropriate in carrying out its duties, responsibilities, functions, and powers. The membership of each such committee designated hereunder shall include at least one (1) Board Member, unless otherwise determined by the Board. No member of such committee shall receive compensation for services rendered to the Association as a member of the committee; provided, however, that the committee member may be reimbursed for expenses incurred in performance of such duties as a committee member to the extent that such expenses are approved by the Board of Directors. A committee shall not have any powers, duties, or responsibilities beyond those specifically assigned by the Board of Directors in a written resolution. The Board of Directors may terminate any committee at any time.

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

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

individual members thereof shall have no powers as such. A committee may exercise the authority granted by the Board of Directors.

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

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

ARTICLE VII INDEMNIFICATION

7.1 Indemnification No Board Member or officer shall be personally liable for any obligations of the Association or for any duties or obligations arising out of any acts or conduct of said Board Member or officer performed for or on behalf of the Association. The Association shall and does hereby indemnify and hold harmless each person who shall serve at any time as a Board Member or officer of the Association, as well as such person's heirs and administrators, from and against any and all claims, judgments and liabilities to which such persons shall become subject, by reason of that Board Member having heretofore or hereafter been a Board Member or officer of the Association or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him/her as such Board Member or officer, and shall reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability; provided that no such person shall be indemnified against or be reimbursed for or be defended against any expense or liability incurred in connection with any claim or action arising out of such person's intentional misconduct. The rights accruing to any person under the foregoing provisions of this Section shall not exclude any other right to which such person may lawfully be entitled, nor shall anything herein contained restrict the right of the Association to indemnify or reimburse such person in any proper case, even though not specifically provided for herein or otherwise permitted. The Association, its Board Members, officers, employees, and agents shall be fully protected in taking any action or making any payment or in refusing so to do in reliance upon the advice of counsel.

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

7.3 Insurance. The Board of Directors, in its discretion, may direct that the Association purchase and maintain insurance on behalf of any person who is or was a Board Member, officer, or employee of the Association or is or was serving at the request of the Association as a Board

Member, officer, employee or agent of another association, corporation, partnership, joint venture, trust or other enterprise against any liability asserted against, and incurred by, such person in any such capacity or arising out of such person's status as such, whether or not the Association would have the power to indemnify such person against liability under the provisions of this Article VII.

7.4 Settlement by Association. The right of any person to be indemnified shall be subject always to the right of the Association through the Board of Directors, in lieu of such indemnity, to settle any such claim, action, suit or proceeding at the expense of the Association by the payment of the amount of such settlement and the costs and expenses incurred in connection therewith.

ARTICLE VIII RECORDS AND AUDITS

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

8.1 General Records.

a. The Board of Directors or the Manager for the Association shall keep detailed records of the actions of the Board of Directors and Manager; minutes of the meetings of the Board of Directors; and minutes of the Owner meetings of the Association.

b. The Board of Directors shall maintain a book of resolutions containing the rules, regulations, and policies adopted by the Association and Board of Directors.

c. The Board of Directors shall maintain a list of Owners.

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

8.2 Records of Receipts and Expenditures. The Board of Directors or its designee shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Property, itemizing the maintenance and repair expenses of the Common Areas or Association property and any other expenses incurred.

8.3 Financial Reports and Audits.

a. An annual report of the receipts and expenditures of the Association and a balance sheet showing assets and liabilities shall be rendered by the Board of Directors to all Owners and to any mortgagees of Units who request the same.

b. The Board of Directors shall annually, at the expense of the Association, obtain an "accounting review" or "agreed upon procedures" by a certified public accountant or other similar financial review of the books and records pertaining to the Association and furnish copies thereof to the Owners and Lender who request this information. From time to time the Board may also, at the expense of the Association, obtain an audit by a certified public accountant of the books and records of the Association. At any time, any Owner or Lender may, at such Owner's or Lender's own expense, cause an audit or inspection to be made of the books and records of the Association.

8.4 Inspection of Records by Owners.

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

adopted by resolution of the Board of Directors.

b. The Board of Directors shall maintain a copy, suitable for the purposes of duplication of the following:

i. The Declaration, Bylaws, and any amendments in effect or supplements thereto, and Rules of the Association.

ii. The most recent financial statement prepared pursuant to Section 8.3 above.

iii. The current operating budget of the Association.

c. The Association shall, within a mutually agreeable time, after receipt of a written request by an Owner, furnish the requested information required to be maintained under subsection b. of this Section.

d. The Board, by resolution, may adopt reasonable Rules governing the frequency, time, location, notice and manner of examination and duplication of Association and the imposition of a reasonable fee for furnishing copies of any documents, information or records described in this Section. The fee may include reasonable personnel costs incurred to furnish the information, including any and all fees the Association may be charged by its designee that assists the Association in furnishing this information, which may include managerial, legal, or accounting fees.

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

a. Personnel matters relating to a specific identified person or a person's medical records.

b. Contracts, leases, and other business transactions that are currently under negotiation to purchase or provide goods or services.

c. Communications with legal counsel that relate to matters specified in subsections a. and b. of this Section, or current or pending litigation.

d. Documents concerning existing or potential litigation, mediation, arbitration, or administrative proceedings.

e. Disclosure of information in violation of law.

f. Documents concerning existing or potential matters involving federal, state or local administrative or other formal proceedings before a governmental tribunal for enforcement of the Project Documents;

g. Documents, correspondence, or management or Board of Director reports compiled for or on behalf of the Association or the Board by its agents or committees for consideration by the Board in executive session.

h. Documents, correspondence, or other matters considered by the Board of Directors in executive session.

i. Files of individual Owners, other than those of a requesting Owner or requesting Lender of an individual Owner, including any individual Owner's file kept by or on behalf of the Association.

ARTICLE IX RULES AND REGULATIONS

The Board of Directors shall have the authority to adopt and establish by resolution such Condominium Project management and operational Rules as it may deem necessary for the maintenance, operation, management, and control of the Condominium Project, and the Board of Directors may from time to time, by resolution, alter, amend, and repeal such Rules and use their best efforts to see that they are strictly observed by their lessees and the persons over whom they have or may exercise control or supervision, it being clearly understood that such Rules shall apply and be binding upon all Unit Owners of the Condominium Project. Copies of all Rules adopted by the Board of Directors shall be sent to all Unit Owners at least ten (10) days prior to the effective date thereof.

ARTICLE X AMENDMENTS

10.1 **How Proposed.** Amendments to the Bylaws shall be proposed by either a majority of the Board of Directors or by Owners holding at least thirty percent (30%) of the Allocated Interest of the Association. The proposed amendment must be reduced to writing and must be included in the notice of any meeting at which action is to be taken thereon.

10.2 **Adoption.** Amendments may be approved by the Association at a duly constituted meeting or by written ballot in lieu of a meeting for such purpose. These Bylaws may be amended, altered, or repealed and new Bylaws may be adopted by the Owners upon the affirmative vote of more than fifty percent (50%) of the Allocated Interest of the Association.

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

ARTICLE XI MISCELLANEOUS PROVISIONS

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

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

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

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

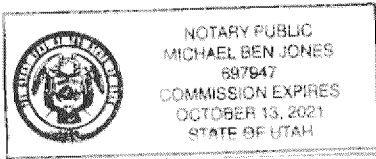
INCLINE TERRACE CONDOMINIUM
OWNERS ASSOCIATION, INC.

By: David W. Tanner

Its: President of Board

State of Utah)
)ss
County of Salt Lake)

On this 3rd day of December, 2018, personally appeared before me
DAVID W. TANNER, who being by me duly sworn, did say that he is the President
of the Incline Terrace Condominium Owners Association, Inc.; that said instrument was signed by
him/her on behalf of said Association after receiving approval from owners representing at least
67% of the Association's voting power as evidenced by the written ballots attached herewith signed
and acknowledged by owners; and that the foregoing information is true and accurate to the best of
his/her knowledge.



[Signature]
NOTARY PUBLIC