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11248530 09/23/2011 12:08 PM \$78.00 Book - 9952 Pa - 2117-2133 GARY W. OTT RECORDER, SALT LAKE COUNTY, UTAH MCKAY BURTON & THURMAN 170 MAIN ST STE 800 SLC UT 84101 BY: SLR, DEPUTY - MA 17 P.

AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND RESERVATION OF EASEMENTS OF THE ARNECIA GARDENS CONDOMINIUMS

This Amendment is made and executed this ignormal day of September, 2011, by the Arnecia Gardens Condominiums Association ("the Association").

Recitals

- A. The DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND RESERVATION OF EASEMENTS OF THE ARNECIA GARDENS CONDOMINIUMS was recorded on October 29, 2007 in the Salt Lake County Recorder's office at Book 9531, beginning on Page 1364, as Entry No. 10261190 ("the Declaration").
- B. This document affects the real property located in Salt Lake County, Utah, described with particularity on Exhibit A, attached hereto and incorporated here by reference ("the Property").
- C. The Association desires to amend certain provisions of the Declaration, including the provisions governing leasing restrictions and insurance. The Association also desires to correct name errors in the Declaration.
- D. As demonstrated by the signatures attached hereto, and in accordance with sections 12.3 and 11.2 of the Declaration, and Utah Code Ann. § 57-8-39, the Association has obtained the written consent of Owners holding at least sixty-seven percent (67%) of the Voting Rights within the Association.
- E. The Association has further obtained the approval of Eligible Mortgagees, if any, holding First Mortgages on Units having at least fifty-one percent (51%) of the votes of the Units subject to First Mortgages held by Eligible Mortgagees.

NOW, THEREFORE, pursuant to the foregoing, the Association hereby makes and executes this Amendment to the Declaration, which shall be effective as of its recording date.

1. <u>Amendment #1</u>. The references to "Quail Lane Condominiums" found in sections 1.2, 1.11, 1.12, and anywhere else in the Declaration are deleted and replaced with "Arnecia Gardens Condominiums."

1

2. <u>Amendment #2</u>. Section 10.5.2 is changed as indicated below (with additions in bold and deletions struck through):

Restrictions on Leasing. Any Owner must receive prior written approval from the Management Committee (which may be withheld in the Management Committee's discretion as provided below) in the event (i) an Owner of a Unit does not use his/her Unit as such Owner's primary residence, and (ii) such Owner intends to rent, lease, or otherwise cause or allow any other person or entity to occupy or use such Owner's Unit (a "Non-Owner Occupant"). No Non-Owner Occupant shall be allowed to use or occupy a Unit without such Management Committee approval. The Management Committee may withhold its approval (i) if the Owner of the Unit is not then current in paying all assessments or other charges to the Association, or (ii) if more-than twenty five thirty-five percent (35%) of the Units within the Project are already occupied or used by other Non-Owner Occupants, or (iii) forany other-reason deemed reasonable by the Management Committee. Owners may seek approval under this section in accordance with any rule adopted by the Management Committee, or in the absence of such a rule, by submitting a written petition to rent to the Association President, who shall issue a grant or denial of the request in writing, on behalf of the Management Committee, within a reasonable time. Any agreement of any kind (whether written or oral) between an Owner and a Non-Owner Occupant that does not have written approval of the Management Committee shall be null and void. Any Owner that causes or allows a Non-Owner Occupant to occupy or use such Owner's Unit without such Management Committee approval shall be in default of this Declaration. Upon no less than 30 days' notice, the Management Committee may revoke a previously granted written approval in the event that (i) an Owner becomes delinquent in paying assessments or other charges, or (ii) an Owner's tenants violate Association rules. The foregoing restrictions on leasing set forth in thisparagraph do-not apply to the Declarant and the Declarant may freely rent, lease, or otherwise cause or allow any Non-Owner Occupant to occupy or use any Unit or Units owned by Declarant without the need for any Management Committee approval.

3. <u>Amendment #3.</u> Section 6.7 of the Declaration is deleted in its entirety and replaced with the following:

6.7 Insurance.

- 6.7.1 <u>Requirements</u>. The Association shall obtain insurance as required in this Declaration and as required by applicable law. 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.
- 6.7.2 <u>Annual Insurance Report</u>. Not later than sixty (60) days prior to the annual meeting of the Association, the Management Committee shall obtain a written

report by an independent and experienced insurance broker, agent, or consultant (who may be the insurance provider/agent/broker used by the Association), with specific knowledge and experience in community association insurance industry, setting forth: (1) a summary description of the insurance coverage obtained by the Association, including the dollar amounts of any such coverage, and any material exceptions, exclusions, and limitations on such coverage; (2) whether, in the opinion of such broker or consultant, the insurance coverage in effect for the Association complies with the requirements of this Declaration and the law; (3) a description of any earthquake insurance and material exclusions and limitations for that coverage and if no earthquake insurance is obtained, a conspicuous clear statement in both bold and uppercase letters stating: "NO EARTHQUAKE INSURANCE HAS BEEN OBTAINED BY THE ASSOCIATION," and (4) a description of any flood insurance and material exclusions and limitations for that coverage and if no flood insurance is obtained, a conspicuous clear statement in both bold and uppercase letters stating: "NO FLOOD INSURANCE HAS BEEN OBTAINED BY THE ASSOCIATION." The report shall also set forth any recommendations or suggestions from the insurance professional regarding current policy provisions, deductibles, exceptions, exclusions, and for additional insurance suggested or recommended for the protection of the Owners in light of the insurance then available and the best practices with respect to other similar projects. The most recent annual insurance report shall be distributed to the Owners at or before the annual meeting of the Association and shall be provided to any Owner at any other time upon request. If the report is distributed to Owners at the annual meeting, a copy shall also be mailed to Owners not personally in attendance within 30 days of the meeting.

6.7.3 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 service equipment.
 - (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; or (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 installations, 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 6.7.3(b)(i) and subject to Subsection 6.7.3(b)(iii):
 - (a) the Owner is responsible for the Association's policy deductible; and
 - (b) 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 6.7.3(b)(3)(ii) 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 areas; 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 Management Committee, 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 Management Committee deems appropriate. If the Management Committee elects not to purchase earthquake insurance, a vote of the Owners present at the annual meeting, with a proper quorum, shall be required to confirm this decision. If the Owners at the annual meeting do not confirm the decision to not purchase earthquake insurance, the Management Committee 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 Management Committee 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 6.7.3(b) 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.
- 6.7.4 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 would preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or another Owner.
- 6.7.5 <u>Director's and Officer's Insurance</u>. The Association shall obtain Directors' and Officers' liability insurance protecting the Management Committee, 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 Governing 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 Management committee, 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.
- 6.7.6 <u>Insurance Coverage for Theft and Embezzlement of Association Funds.</u>
 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 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 Management Committee members of the Association, (b) employees and volunteers of the Association, (c) any manager of the Association, and (c) officers, directors, and employees of any manager of the Association.

- 6.7.7 <u>Workers' Compensation Insurance</u>. The Management Committee 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 Management Committee deems appropriate.
- 6.7.8 <u>Certificates</u>. 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 Lender.
- 6.7.9 <u>Named Insured</u>. 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.
- 6.7.10 Association Shall have 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 an Owner.
- 6.7.11 <u>Insurance Trustee</u>. In the discretion of the Management Committee or upon written request executed by Owners holding at least 50% of the Ownership Interest of the Association, the Management Committee 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 Management Committee (as the case may be) shall require.

- 6.7.12 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.
- 6.7.13 <u>Waiver of Subrogation against Owners and Association</u>. 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.
- 6.7.14 Applicable Law. This Declaration is specifically subjecting the Association to the insurance requirements and provisions in 2011 Senate Bill 167 (the final version as enacted by the legislature) 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 law applicable to condominium associations shall apply to this Association.
- 2. <u>Conflicts.</u> All remaining provisions of the Declaration and any prior amendments not specifically amended in this Amendment shall remain in full force and effect. In the case of any conflict between the provisions of this document and the provisions of the Declaration or any prior amendments, the provisions of this document shall in all respects govern and control.
- 3. <u>Incorporation and Supplementation of Declaration</u>. This document is supplemental to the Declaration and each amendment thereto, which by reference are made a part hereof, and all the terms, definitions, covenants, conditions, restrictions, and provisions thereof, unless specifically modified herein, are to apply to this document and are made a part hereof as though they were expressly rewritten, incorporated, and included herein.

EXECUTED this 19 day of September, 2011.

ARNECIA GARDENS CONDOMINIUMS ASSOCIATION

By:

Its: Vice President

STATE OF UTAH

SS:

COUNTY OF Solt Lake)

On the 9 day of September, 2011, personally appeared before me type J. Pice, the signer of the foregoing AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND RESERVATION OF EASEMENTS OF THE ARNECIA GARDENS CONDOMINIUMS, who duly acknowledged to me that he/she executed the same.

SUSAN SANDSTROM
NOTARY PUBLIC - STATE OF UTAH
4725 S. HOLLADAY BLVD. #220
SALT LAKE CITY, UT 84117
My Comm. Exp. 05/19/2012

Exhibit A Description of Property

Beginning at a point that lies West 792.00 feet and South 505.00 feet and West 41.62 feet from the Center of Section 32, Township 1 South, Range 1 East, Salt Lake Base and Meridian (Basis of bearings is North 00°11'03" East between two county monuments in 900 East Street at 3900 South and 3300 South) and running thence West 700.38 feet to a ditch; thence South 45°30'01" East 145.81 feet along said ditch; thence East 596.05 feet; thence North 00°11'03" East 102.20 feet to the point of beginning.

Building 1 (893 E.) Unit 11	Erik Ingebrigtsen Name of Owner (Print)
$\frac{9/12/11}{\text{Date}}$	Signature of Owner
Building 1 (893 E.) Unit 21	Majo Galicia Name of Owner (Print)
<u>09112/8011</u> Date	Mojesolicie Signature of Owner
Building 1 (863 E.) Unit 31	Name of Owner (Print)
Date	Signature of Owner
Building 1 (893 E.) Unit 10	Name of Owner (Print)
Date	Signature of Owner
Building 1 (893 E.) Unit 20	Name of Owner (Print)
Date	Signature of Owner
Building 1 (893 E.) Unit 30	Name of Owner (Print) Name of Owner (Print) Name of Owner (Print) Name of Owner (Print)
Date	Signature of Owner
Building 1 (883 E.) Unit 11	Name of Owner (Print)
Date	Signature of Owner

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Building 1 (893 E.) Unit 11	Name of Owner (Print)
Date	Signature of Owner
Building 1 (893 E.) Unit 21	HEIDI S. JACOBS Name of Owner (Print)
Date	Signature of Owner
Building 1 (853 E.) Unit 31	Tiffany A. Adams Name of Owner (Print)
3 Sep. 2011 Date	Signature of Owner
Building 1 (893 E.) Unit 20	SALLJA ALIBASIC Name of Owner (Print)
09-12-11	-Hybosic
Date	Signature of Owner
Building 1 (893 E.) Unit 20	Prenan Feld Name of Owner (Print)
9-12-11	C VANC
Date	Signature of Owner
Building 1 (893 E.) Unit 30	Name of Owner (Print)
Date	Signature of Owner
Building 1 (88) E.) Unit 10	Name of Owner (Print)
9/12/11 Date	Signature of Owner

Building 1 (883 E.) Unit 21	Name of Owner (Print)
Date	Signature of Owner
Building 1 (883 E.) Unit 31	Name of Owner (Print)
Date	Signature of Owner
Building 1 (883 E.) Unit 10	Maddilyn Podford & Brenon Feld Name of Owner (Print)
9/8/11 Date	Maddly & Raddad Signature of Owner
Building 1 (883 E.) Unit 20	Name of Owner (Print)
Date	Signature of Owner
Building 1 (883 E.) Unit 30	Name of Owner (Print)
Date	Signature of Owner
Building 2 (864 E.) Unit 10	Name of Owner (Print)
9 8/1 Date	Signature of Owner
Building 2 (864 E.) Unit 20	Name of Owner (Print)
Date	Signature of Owner

Building 2 (864 E.) Unit 30	Name of Owner (Print)
Date	Signature of Owner
Building 2 (864 E.) Unit 11	Name of Owner (Print)
0/12/11 Date	Signature of Owner
Building 2 (864 E.) Unit 21	Name of Owner (Print)
9/8/2011 Date	Amy of Owner Signature of Owner
Building 2 (864 E.) Unit 31	Name of Owner (Print)
9/12/1[Date	Signature of Owner
Building 2 (854 E.) Unit 11	Name of Owner (Print) Name of Owner (Print)
9/8/11 Date	Signature of Owner
Building 2 (854 E.) Unit 21	Stephanie Partriage. Name of Owner (Print)
9/8/1\ Date	Signature of Owner
Building 2 (854 E.) Unit 31	Name of Owner (Print)
Date	Signature of Owner

Mark Godfee Name of Owner (Print)	
1100 26	
Signature of Owner	
RIFAT SADAWUC	-
Signature of Owner	
Name of Owner (Print)	_
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Signature of Owner	
Anthony Hond	_
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J. CAMERON CRANE	_
Name of Owner (Print)	
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Building 3 (833 E.) Unit 20	Name of Owner (Print)	
Date	Signature of Owner	
Building 3 (833 E.) Unit 30	Name of Owner (Print)	
0-8-11	Josep Stillman	
Date	Signature of Owner	
Building 3 (823 E.) Unit 11	Name of Owner (Print)	
a-8-17	h-n	
Date	Signature of Owner	
Building 3 (823 E.) Unit 21	Name of Owner (Print)	
Date	Signature of Owner	
Building 3 (823 E.) Unit 31	Name of Owner (Print)	
9/8/2011 Date	Signature of owner	
Building 3 (823 E.) Unit 10	Nicholas Wilson Name of Owner (Print)	
9 8 Date	Signature of Owner	
Building 3 (823 E.) Unit 20	Name of Owner (Print) Signature of Owner	
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Building 3 (823 E.) Unit 30	Name of Owner (Print)	
9/12/11 Date	Signature of Owner	