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Gary W. Ott  
Recorder, Salt Lake County, UT  
STRONG & HANNI  
BY: eCASH, DEPUTY - EF 9 P.

**AMENDMENT #2 TO  
DECLARATION OF CONDOMINIUM  
OF**

**MILLCREEK TERRACE CONDOMINIUMS**

(Filed to correct and replace First Amendment to Declaration of Condominium of Millcreek Terrace Condominiums dated February 29, 2012, and recorded March 20, 2012, in the Salt Lake County Recorder’s Office, as Entry No. 11353798 (the “**March 20, 2012 Amendment**”))

THIS AMENDMENT #2 TO DECLARATION OF CONDOMINIUM OF MILLCREEK TERRACE CONDOMINIUMS (this “**First Amendment**”), is made and executed April 11, 2012 by Millcreek Terrace, LLC, a Utah limited liability company (“**Declarant**”), pursuant to the provisions of the Utah Condominium Ownership Act, UTAH CODE ANN. §§ 57-8-1, *et seq.* (the “**Act**”). The correct name of the Project is the Millcreek Terrace Condominiums, not Millcreek Terrace, LLC Condominiums.

**WITNESSETH:**

**WHEREAS**, on March 4, 2009, Declarant executed the Declaration of Condominium of Millcreek Terrace, LLC Condominiums, recorded March 25, 2009, at the Salt Lake County Recorder’s Office, Entry No. 10656380, Book 9701, Pages 6838-6887 (the “**Declaration**”);

**WHEREAS**, the real property covered by the Declaration consists of the Condominium Units described below:

<u>Unit</u>	<u>Serial No.</u>
201	16-32-381-001
202	16-32-381-002
203	16-32-381-003
204	16-32-381-004
205	16-32-381-005
206	16-32-381-006
207	16-32-381-007
208	16-32-381-008
301	16-32-381-009
302	16-32-381-010
303	16-32-381-011
304	16-32-381-012
305	16-32-381-013
306	16-32-381-014
307	16-32-381-015
308	16-32-381-016

<u>Unit</u>	<u>Serial No.</u>
401PH	16-32-381-017
402PH	16-32-381-018
403PH	16-32-381-019
404PH	16-32-381-020
405PH	16-32-381-021
406PH	16-32-381-022
501PH	16-32-381-023
502PH	16-32-381-024
503PH	16-32-381-025
504PH	16-32-381-026
505PH	16-32-381-027
506PH	16-32-381-028

**WHEREAS**, on March 4, 2009, the Declarant executed Amendment #1 to the Declaration of Condominium, Millcreek Terrace, LLC Condominiums, Salt Lake County, Utah (the "**First Restated Declaration**"), recorded April 8, 2009 in the Salt Lake County Recorder's office as Entry No. 10670259, which amended and restated the Declaration in its entirety;

**WHEREAS**, pursuant to powers held and exercised unilaterally by Declarant under Section 15.1(b) of the First Restated Declaration, the First Restated Declaration is amended as provided herein;

**WHEREAS**, the purpose of this Amendment #2 is to make corrections to and replace in its entirety the March 20, 2012 Amendment.

**NOW, THEREFORE**, the First Restated Declaration is hereby amended as follows:

1. Capitalized terms used, but not otherwise defined in this First Amendment, have the same respective meanings given to them in the First Restated Declaration or in the Bylaws, as the case may be.

2. The definition of "**Association**" in Article I of the First Restated Declaration is amended and restated in its entirety to read as follows:

*"Association" shall mean Millcreek Terrace Condominium Owners Association, a Utah nonprofit corporation.*

3. The Management Committee shall not be required to conduct a reserve analysis as may otherwise be required by Section 57-8-7.5 of the Act. However, from and after the date when a Management Committee is appointed by Owners other than (or in addition to) the

Declarant, as provided in Section 6.2 of the First Restated Declaration, the Management Committee shall comply with the requirements of Section 57-8-7.5(4) of the Act, in that:

- (a) The Management Committee may not use money in a reserve fund:
  - (i) for daily maintenance expenses, unless a majority of the Members, by Percentage Interest, vote to approve the use of the reserve fund money for that purpose; or
  - (ii) for any purpose other than the purpose for which the reserve fund was established.
- (b) The Management Committee shall maintain any reserve fund separate from other funds of the Association; and
- (c) This section shall not be construed to limit the Management Committee from prudently investing money in the reserve fund, subject to any investment constraints imposed by the First Restated Declaration.

4. Section 3.3 of the First Restated Declaration is amended and restated in its entirety to read as follows:

*3.3 Contents of Exhibit C. Exhibit C to this Declaration contains the following information with respect to each Unit: (i) the Unit Number; (ii) its Size; (iii) the Percentage Interest which is assigned to and appurtenant to the Unit; and (iv) the number of votes per Unit. The votes appurtenant to the Units are not of equal weight.*

5. Section 5.2 of the First Restated Declaration is amended and restated in its entirety to read as follows:

*5.2 Maintenance of Units. Each Unit, and all utility facilities, including but not limited to all electrical, plumbing, heating, air conditioning, water, sewer lines, ducts, and other such apparatus serving solely such Unit, shall be maintained by the Owner thereof so as not to detract from the appearance of the Project and so as not to affect adversely the value or use of any other Unit or other portions of the Project. Each Owner shall keep the interior of his Unit, including without limitation, interior walls, doors, windows, ceilings, floors, and permanent fixtures and appurtenances thereto, in a clean and sanitary condition and in good state of repair. If any such Unit shall develop an unclean or unsanitary condition or fall into a state of disrepair or if odors become offensive to other Owners or tenants in the Building, and if the Owner of such Unit shall fail to correct such condition or state of disrepair or offensive smell by promptly following written notice from the Association, the Association, but only upon the approval of the Management*

*Committee, shall have the right, at the expense of the Owner and without liability to the Owner for trespass or otherwise, to enter said Unit and correct or eliminate said unsanitary or unclean condition or state of disrepair, provided that the Association shall in no event have the obligation to do so. The Association shall have the irrevocable right to have access to each Unit from time to time during such reasonable hours as may be necessary to insure each Owner's compliance with the provisions of this Section.*

6. The following Sections 5.5(a) and (b) are added to Section 5.5 of the First Restated Declaration following the existing Section 5.5:

(a) **Balconies.** *Only approved, outdoor-type furniture may be placed on the balconies. During summer months, flower pots or flower arrangements are encouraged. No cardboard, mesh or similar type enclosures for pets or children, if visible from the street may be used. Approval of balcony furniture and accessories is strictly at the discretion of the Association.*

(b) **Parking Stalls.** *Indoor, garaged, parking stalls are to be kept clear of clutter and storage items. Bicycles, skis and other recreational equipment that cannot be stored in the available lockers may be placed in front of the Owner's parking stall, as long as those items do not encroach upon an adjacent parking stall.*

7. Section 6.2 of the Declaration is amended and restated in its entirety to read as follows:

**6.2 Management Committee.** *The Management Committee shall consist of not less than one, nor more than three, individuals, provided that until the later of (i) the expiration of three years from the date that this Declaration (exclusive of amendments or supplements) is recorded in the Official Records, or such shorter period as the Declarant may determine in its sole discretion, or (ii) four months after Units to which at least 89% (25 of the 28 units) of the aggregate Percentage Interest are appurtenant have been conveyed by the Declarant to Unit purchasers, the Management Committee may consist of a single individual selected by the Declarant. In addition to individual Unit Owners, spouses of Unit Owners, Mortgagees (or designees of Mortgagees), partners of partnerships, directors or officers of corporations and managers of limited liability companies owning a Unit, shall be eligible for Membership on the Committee. The Management Committee and the Board of Directors shall, for all purposes, be one and the same body.*

*At each annual meeting, each Unit shall have one vote (each vote having a weighting/Percentage Interest as shown in Exhibit C) for each seat on the*

*Management Committee to be filled. If any Management Committee member fails on three successive occasions to attend Management Committee meetings (whether regular or special) or fails to attend at least sixty percent (60%) of all Management Committee meetings (whether regular or special) held during any 12-month period, the remaining Management Committee members may remove the same from the Management Committee and elect a replacement to sit on such committee until the expiration of the term for which the member being replaced was elected. A person serving on the Management Committee shall be reimbursed for all expenses reasonably incurred in connection with Management Committee business. The Management Committee may fix such compensation for any member as may be reasonable in light of the Management Committee duties which that member is required to perform.*

8. Section 6.3 of the First Restated Declaration is amended and restated in its entirety to read as follows:

*6.3 **Votes and Voting.** Each Unit shall have the number of votes set forth in Exhibit C, i.e., one vote (based upon its Percentage Interest) per Unit. Such votes shall have a permanent character and shall not be altered without the unanimous written consent of all Owners expressed in a duly recorded amendment to this Declaration. The number of votes appurtenant to each Unit may not be divided between multiple Owners of such Unit or between matters which require the vote of Owners. The votes appurtenant to the Units are not of equal weight.*

9. Section 13.7 of the First Restated Declaration is amended and restated in its entirety to read as follows:

*13.7 **Animals.** No animals of any kind shall be raised, bred, or kept in or on the Property or Project for any purpose, except an Owner or occupant may have two cats, or one cat and one dog, or two dogs ("**Pet or Pets**") per Unit, provided: (a) they abide by the rules and regulations adopted by the Committee and that the Pet does not have a known propensity for violence and is not of an "aggressive breed". No animal enclosure shall be erected, placed, or permitted to remain on any portion of the Common Areas, nor shall any Pet be kept tied to any structure outside the Unit. The keeping of Pets and use of the Common Areas shall be subject to such rules and regulations as may be issued by the Management Committee from time to time. Pets shall be on a leash at all times when outside a Unit. No Pet shall be permitted to defecate or urinate on any portion of the Common Areas, and the Owner of any Pet which does so shall immediately remove and clean up any feces or urine left upon the Common Areas by his/her Pet. If an Owner or occupant fails to abide by the rules and regulations and/or covenants applicable to Pets, the Management Committee may, in addition to all other actions permitted hereunder, bar such Pet from the Common Areas. The*

*Management Committee may regulate the use of the Common Areas through a user fee, which may be a general fee for all similarly-situated Persons or a specific fine or fee imposed for failure of an Owner or occupant to abide by the rules, regulations, and/or covenants applicable to Pets. In addition, any Pet which endangers the health of any Owner or occupant of any Unit or which creates a nuisance or an unreasonable disturbance or is not a common household Pet, as may be determined in the sole discretion of the Management Committee, must be permanently removed from the Property by the Owner upon seven days written notice by the Management Committee.*

10. Section 3.4 of Exhibit B (Bylaws) of the First Restated Declaration is amended and restated in its entirety to read as follows:

*Section 3.4 Quorum. The quorum required for any action by the Members hereunder, unless otherwise specifically set forth in the Declaration shall be as follows: At each scheduled meeting, the presence of Members or of proxies entitled to cast at least 50% of the Percentage Interests shall constitute a quorum. If a quorum is not present at a meeting, such meeting may be adjourned pending notice of subsequently scheduled meeting at which a quorum shall be one-half of the quorum which was required at the immediately preceding meeting. No such subsequently scheduled meeting shall be held more than 45 days following the immediately preceding meeting.*

11. Section 3.6 of Exhibit B (Bylaws) of the First Restated Declaration is amended and restated in its entirety to read as follows:

*Section 3.6 Voting. The votes appurtenant to the Units are not of equal weight, as shown in Exhibit C to the Declaration. Since a Unit Owner may be more than one person, if only one of such person is present at a meeting of the Association what person shall be entitled to cast the vote appurtenant to that Unit. But if more than one of such persons are present, the votes appurtenant to that Unit shall be cast only in accordance with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to cast the vote appertaining to that Unit without protest being made forthwith by any of the others to the person presiding over the meeting. The vote appurtenant to any one Unit may be divided between Owners of such Unit or with respect to matters before the Association, and all such vote appurtenant to any one Unit shall be voted in one block. If the vote of a majority of the owners of a Unit cannot be determined, no vote shall be cast in relation to such Unit.*

Declarant has unilaterally adopted and approved this Amendment #2 under Section 15.1(b) of the First Restated Declaration, which Declarant has the right to do because all of the Units have not yet been sold. All of the amendments herein are made by Declarant in

order, “to correct any technical errors or to clarify any provision to more fully express the intent of the Declarant for development and management of the Project”, as permitted in Section 15.1(b) of the First Restated Declaration.

*[Signatures on following page]*

EXECUTED BY DECLARANT on the date first appearing above:

DECLARANT:

MILLCREEK TERRACE, LLC,  
a Utah limited liability company


By its Members:

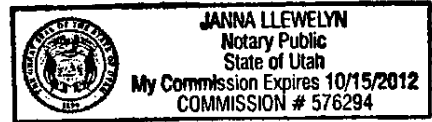
JAR Family Investment Co. Ltd., as a Member of Millcreek Terrace, LLC

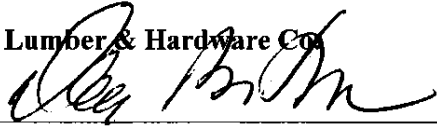
By:   
Jay Rice, General Partner

STATE OF UTAH                    )  
  :SS.  
COUNTY OF SALT LAKE    )

On April 11, 2012 the foregoing instrument was acknowledged before me by Jay Rice, as General Partner of JAR Family Investment Co. Ltd.

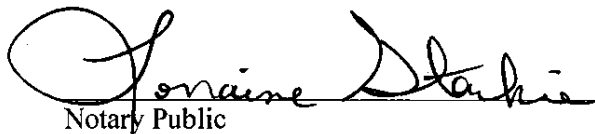
  
Notary Public



Burton Lumber & Hardware Co.  
By:   
Daniel S. Burton, President

STATE OF UTAH                    )  
  :SS.  
COUNTY OF SALT LAKE    )

On April 11, 2012, the foregoing instrument was acknowledged before me by Daniel S. Burton, as President of President of Burton Lumber & Hardware Co.

  
Notary Public

