

11591111  
03/06/2013 02:48 PM \$66.00  
Book - 10114 Pg - 6594-6601  
GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
SANDY POINT HOA  
P O BOX 5555  
DRAPER UT 84020  
BY: KSR, DEPUTY - WI 8 P.

**EIGHTH AMENDMENT TO THE  
DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS  
FOR SANDY POINT NO. 2 P.U.D.  
A Planned Residential Development**

This Eighth Amendment to the Declaration of Covenants, Conditions & Restrictions for Sandy Point No. 2 P.U.D. (hereinafter referred to as the Declaration) and By-laws (jointly hereafter referred to as the "Governing Documents") is made and executed this 20th day of February, 2013, by members of the Sandy Point No. 2 P.U.D. Homeowners Association (hereafter referred to as the "Association") and shall become effective when recorded with the Salt Lake County Recorder.

Recitals

- A. This Eighth Amendment to the Declaration affects that certain real property located in Salt Lake County, Utah described with particularity in Exhibit "A" attached hereto and incorporated herein by this reference (hereafter referred to as the "Tract").
- B. This Amendment shall be binding against the property described in "Exhibit A";
- C. The Association is empowered to amend the Declaration as described in Section III.29.a of the Declaration
- D. The Association, consistent with the terms of the Declaration, hereby adopts this Amendment to further the Association's compliance with governing Utah State Law regarding the proper insurance scheme for the Association.
- E. Therefore, for the reasons cited above, the Association, by and through its Management Committee, hereby amends Article IX of the Declaration as follows:

Amendment

Insurance.

1. **Requirements.** 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.

2. **Annual Insurance Report.** Not later than sixty (60) prior to the annual meeting of the Association, the Management Committee shall obtain a written report by an independent and experienced insured 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 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: **“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.

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 Living 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 Living Unit or any Limited Common Area or otherwise permanently part of or affixed to Common Areas, Living 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 Living Units) at the time the insurance is purchased and at each renewal date. The actual replacement value of the property shall be determined by using methods reasonably 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: (1) "Inflation Guide Endorsement," if available; (2) "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 (3) "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 the Owner:

- i. the Association's policy provides primary 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 the portion of the loss attributable to the Association's policy deductible;
- iii. An Owner that has suffered damage to any combination of a Living Unit or a Limited Common Area appurtenant to a Living 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 Living 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 (ii) above within 30 days after substantial completion of the repairs to, as applicable, the Living Unit or the Limited Common Area appurtenant to the Living 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: (1) 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 (2) 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: (1) the Owner’s policy is considered the policy

for primary coverage to the amount of the Association's policy deductible; (2) 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 (3) 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.

- 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) 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 negligent acts of the Association or another Owner.
- 5. Director's and Officer's Insurance.** 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. 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 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 (d) officers, directors, and employees of any manager of the Association.

7. **Workers' Compensation Insurance.** 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.
8. **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 Lender.
9. **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.
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.
11. **Insurance Trustee.** 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.
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.

**13. 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.

**14. Applicable Law.** This Declaration is specifically subjecting the Association to the insurance requirements and provisions of Utah Code Annotated 57-8a-403 and any amendments thereto and thereafter enacted by law. It is the intent of this provision that any future changes to the insurance law shall be applicable to this Association.

IN WITNESS WHEREOF, the Association has executed this instrument the 20<sup>th</sup> day of February 2013.

**SANDY POINT NO. 2 P.U.D. HOMEOWNERS ASSOCIATION**

By: Ken H. Carroll

Its: HOA Board President

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

On this 20<sup>th</sup> day of February, 2013, personally appeared before me Ken Carroll, who being by me duly sworn, did say that he/she is the Board President of the Sandy Point No. 2 P.U.D. Homeowners Association; that said instrument was signed by him/her on behalf of said Association pursuant to proper authority; and that the foregoing information is true and accurate to the best of his/her knowledge.

Deidre Jane Terry  
NOTARY PUBLIC



**EXHIBIT A**

**Lot Parcel Numbers and Legal Description**

Parcel #'s: 28-17-151-060  
(Lot 4, SANDY POINT 2 PUD)  
Parcel #'s: 28-17-151-063 through 28-17-151-072  
(All of Lots 7 through 16, SANDY POINT 2 PUD)  
Parcel #'s: 28-17-151-074 through 28-17-151-089  
(All of Lots 17 through 32, SANDY POINT 2 PUD)  
Parcel #'s: 28-17-151-091  
(Lot 3, SANDY POINT 2 PUD)  
Parcel #'s: 28-17-151-095  
(Lot 2, SANDY POINT 2 PUD)  
Parcel #'s: 28-17-151-096 through 28-17-151-098  
(All of Lots 5 through 6, SANDY POINT 2 PUD)  
Parcel #'s: 28-17-151-100  
(Lot 1, SANDY POINT 2 PUD)  
Parcel #'s: 28-17-155-001 through 28-17-155-005  
(All of Lots 37 through 41, SANDY POINT 2 PUD)  
Parcel #'s: 28-17-155-007 through 28-17-155-010  
(All of Lots 33 through 36, SANDY POINT 2 PUD)  
Parcel #'s: 28-17-151-090  
(Lot 9A, SANDY POINT 2 PUD)