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Salt Lake City, Utah 84107

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**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM  
OF  
COLONIAL PINES CONDOMINIUM APARTMENTS  
A Utah Condominium Project**

Date: October \_\_, 2013

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*ASSESSOR PARCEL NOS.*

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**TABLE OF CONTENTS**

**Article 1 - Definitions**

1. Association .....	2
2. Assessment .....	2
3. Board.....	2
4. Building .....	2
5. Common Areas .....	2
6. Common Expenses .....	2
7. Common Expense Fund.....	3
8. Common Facilities.....	3
9. Condominium .....	3
10. Condominium Act .....	3
11. Contact Person.....	3
12. Declarant.....	3
13. Land.....	3
14. Lease List.....	3
15. Lease Restriction Period .....	3
16. Limited Common Areas.....	4
17. Mortgage.....	4
18. Mortgagee.....	4
19. Owner .....	4
20. Plat.....	4
21. Project.....	4
22. Reserve Analysis .....	4
23. Third Party Lease.....	4
24. Total Votes of the Association.....	4
25. Trustee .....	4
26. Unit .....	5
27. Utility Services .....	5
28. Waiting List .....	5
29. Waiting List Request .....	5

**Article 2 – Submission and Division of Project**

1. Submission to Condominium Act.....	5
2. Division into Condominiums.....	6
<b>Article 3 – Buildings and Improvements</b>	
1. Buildings and Improvements.....	6
2. Description of Units.....	6
3. Description of Common Areas.....	6
<b>Article 4 – Nature and Incidents of Ownership</b>	
1. Interior of Units.....	6
2. Maintenance of Units.....	6
3. Right to Combine Units.....	7
4. Title.....	7
5. Ownership of Common Areas.....	7
6. Inseparability.....	7
7. No Partition.....	8
8. Separate Mortgages by Owners.....	8
9. Separate Taxation.....	8
10. Mechanics’ Liens.....	8
11. Description of Condominium.....	8
<b>Article 5 – Easements</b>	
1. Easements for Encroachments.....	8
2. Easements for Maintenance, Cleaning and Repair.....	9
3. Right to Ingress, Egress, and Support.....	9
4. Association’s Right to Use Common Areas.....	9
5. Easements Deemed Created.....	9
<b>Article 6 – Restrictions on Use</b>	
1. Primary Residential Use.....	9
2. No Noxious or Offensive Activity.....	9
3. Restrictions on Signs.....	10
4. Pets and Animals.....	10
5. No Alterations.....	10
6. No Obstructions.....	11
7. No Overloading.....	11

8. Prohibition of Damage and Certain Activities .....	11
9. Satellite Dishes & Antennas .....	11
10. No Commercial Business.....	11
11. Leasing Restrictions.....	11
12. Parking Restrictions.....	13
13. Rules and Regulations .....	14
14. 55 and Older Housing .....	14
15. Smoking Ban .....	14
16. Storage Units .....	14

**Article 7 – The Association**

1. Membership .....	14
2. Board of Trustees.....	14
3. Votes.....	15
4. Amplification.....	15

**Article 8 – Certain Rights and Obligations of the Association and Trustees**

1. The Common Areas.....	15
2. Miscellaneous Goods and Services.....	15
3. Real and Personal Property.....	16
4. Rules and Regulations .....	16
5. Granting Easements .....	16
6. Statutory Duties and Powers .....	16
7. Implied Rights .....	16

**Article 9 – Assessments**

1. Annual Assessments .....	16
2. Reserve Analysis .....	18
3. Special Assessments .....	18
4. Separate Common Expense Fund and Reserve Funds.....	18
5. Lien for Assessments.....	19
6. Enforcement of a Lien .....	19
7. Personal Obligation of Owner .....	20
8. Termination of a Delinquent Owner's Rights .....	21
9. Payment of Tenant Lease Payments .....	22

11. Cumulative Remedies .....	22
12. Certificate of Unpaid Assessments .....	23
13. Records of Receipts and Expenditures; Examination .....	23
14. Amendment of Article .....	23
<b>Article 10 – Insurance</b>	
1. Maintaining Insurance; Notice if Not Reasonably Available .....	23
2. Property Insurance .....	24
3. Liability Insurance .....	26
4. Fidelity Bonds .....	26
5. Insurance Trustees; Power of Attorney .....	27
6. Qualifications of Insurance Carriers & General Coverage Requirements .....	27
7. Waiver of Subrogation .....	27
8. Unit Owners' Content Policies .....	27
9. Additional Coverage .....	28
10. Review of Insurance .....	28
<b>Article 11 – Damage or Destruction</b>	
1. Association as Attorney in Fact .....	28
2. Definition of Repair and Reconstruction .....	28
3. Procedures .....	28
4. Notice to Eligible First Mortgage Holders .....	28
5. Estimate of Costs .....	28
6. Sufficient Insurance .....	28
7. Insufficient Insurance – Less than 75% Destruction .....	29
8. Insufficient Insurance – 75% or More Destruction .....	29
9. Priority of First Mortgage .....	30
10. Repair or Reconstruction .....	30
11. Disbursement of Funds for Repair and Reconstruction .....	30
12. Amendment of Article .....	30
<b>Article 12 – Condemnation</b>	
1. Condemnation .....	30
2. Proceeds .....	30
3. Complete Taking .....	31

4. Partial Taking.....	31
5. Allocation of Award .....	31
6. Priority of First Mortgage .....	31
7. Continuation and Reorganization .....	31
8. Repair and Reconstruction.....	32
9. Association to Represent Owners in Condemnation .....	32

**Article 13 - Obsolescence**

1. Adoption of Plan.....	33
2. Payment for Renewal and Reconstruction .....	33
3. Sale of Project.....	33
4. Amendment of Article .....	33

**Article 14 – Mortgage Protection**

1. Notices to Mortgagees .....	34
2. Restoration after Condemnation or Damage.....	34
3. Amendments .....	34

**Article 15 – Compliance with Declaration and Bylaws**

1. Compliance .....	36
2. Enforcement.....	36

**Article 16 – General Provisions**

1. Intent and Purpose .....	37
2. Construction.....	37
3. Notices and Registration of Mailing Address .....	37
4. Amendment.....	37
5. Effective Date .....	37
6. Agent for Service; Contract Person; Registration.....	38
7. Limitation on Association’s Liability .....	38
8. Owner’s Obligations .....	38
9. Fines.....	38
10. Availability of the Declaration, Bylaws, Rules and Regulations, and Financial Statements.....	39

EXHIBIT A – Unit Number, Size, Undivided Ownership Interests, Votes .....	43
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EXHIBIT B – Legal Description of the Land.....	45
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**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM  
OF  
COLONIAL PINES CONDOMINIUM APARTMENTS  
A Utah Condominium Project**

This Amended and Restated Declaration of Condominium (the "**Declaration**") is made on the date hereinafter set forth by the undersigned members of the Board of Trustees of Colonial Pines, Inc., a Utah nonprofit corporation (the "**Association**"), being the duly elected representatives of the Owners and the successors of the original Declarant.

**RECITALS:**

A. A certain Bylaws and Declaration Establishing a Plan for Condominium Ownership Pursuant to Utah Code Annotated 57-8-1, *et seq.* (1953) was recorded on February 8, 1988 in the office of the County Recorder of Salt Lake County, State of Utah, as Entry No. 4583609, in Book 968, *et seq.*, as subsequently amended (the "**Original Declaration**").

B. A certain Record of Survey Map of Graystone Pines Condominium Apartments, a Utah Condominium Project, was recorded in the office of the County Recorder of Salt Lake County, State of Utah, as Entry No. 2463134, in Book 11, at Page 70, *et seq.*, as subsequently amended and supplemented (the "**Plat**").

C. By recording the Original Declaration and the Plat, the land, the buildings, and all other improvements situated in or upon the land described in the Original Declaration and the Plat was submitted to the provisions of the Utah Condominium Ownership Act, Utah Code Ann., § 57-8-1, *et seq.* (the "**Condominium Act**") as a fee simple condominium project and imposed on said property mutually beneficial restrictions under a general plan of improvement for the benefit of all condominium units within said project and the owners thereof.

D. By the affirmative vote or approval and consent of owners having ownership of not less than sixty-seven percent (67%) of the undivided interest in the common areas and facilities of said project, the owners desire to amend and restate the Original Declaration in its entirety.

**DECLARATION:**

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

**ARTICLE 1 - DEFINITIONS**

Unless the context clearly indicates otherwise, certain terms as used in this Declaration shall have the meanings set forth in this Article 1:

1. "Association" shall mean Colonial Pines, Inc., a Utah nonprofit corporation, organized to be the Association referred to herein.

2. "Assessment" shall mean any charge imposed by the Association, including, without limitation, (i) Common Expenses assessed against a Unit Owner pursuant to the provisions of this Declaration, the Bylaws or the Act, and (ii) any amount charged by the Association against a Unit Owner for damage to the Owner's Unit or to a Limited Common Area or Facility applicable the Owner's Unit pursuant to §57-8-43(9)(h) of the Act.

3. "Board of Trustees" shall mean shall mean the management committee or governing board of the Association that is (i) appointed or elected in accordance with this Declaration, the Articles of Incorporation and the Bylaws, and (ii) charged with and having the responsibility and authority to make and enforce all of the reasonable rules covering the operation and maintenance of the Project.

4. "Building" shall mean one of the three (3) buildings containing one or more Units that have been or will hereafter be constructed on the Land, as such buildings are shown on the Plat.

5. "Common Areas" shall mean all physical portions of the Project, except all Units.

6. "Common Expenses" shall mean and refer to:

a. All sums described in the Act, this Declaration, the Bylaws or in the rules and regulations promulgated by the Board of Trustees which are lawfully assessed against the Unit Owners or any of them in accordance with the Act, this Declaration, the Bylaws or such rules and regulations;

b. All expenses of operation, administration, maintenance, repair and replacement of the Common Areas and Facilities, including but not limited to, such aggregate sum as the Board of Trustees shall from time to time estimate, in its best judgment, is needed during each year or other appropriate time period to pay all budgeted expenses and other cash requirements arising out of or in connection with operation, administration, maintenance, repair and/or replacement of the Common Areas and Facilities, including but not limited to:

1. all costs and expenses of operation of the Association, all costs of management of the Common Areas and Facilities, all costs of enforcement of the Act, this Declaration, the Bylaws and the rules and regulations promulgated by the Board of Trustees, all costs of repair and reconstruction of the Common Areas and Facilities, all insurance premiums, all Utility Services, all wages and salaries, all legal and accounting fees, all management fees and all other expenses and liabilities incurred by the Association under or by reason of this Declaration;

2. the payment of any deficit remaining from any previous year or time period;



3. the creation, maintenance or expansion of an adequate reserve or contingency fund for maintenance, repairs and/or replacement of those Common Areas and Facilities that must be replaced on a periodic basis, and/or for unforeseen emergencies; and

4. all other costs and expenses relating to the Project;

c. Expenses agreed upon as Common Expenses by the Association; and

d. All other expenses declared to be Common Expenses by the Act, this Declaration, the Bylaw or the rules and regulations promulgated by the Board of Trustees.

7. "Common Expense Fund" shall mean the fund created or to be created pursuant to the provisions of Article 9 of this Declaration and into which all monies of the Association shall be deposited.

8. "Common Facilities" shall mean all furniture, furnishings, equipment, facilities, and other property (real, personal, or mixed) and interests therein at any time leased, acquired, owned, or held by the Association for the use and benefit of all Owners and all other property (real, personal or mixed) hereafter purchased in accordance with this Declaration to be part of the Common Areas, except to the extent otherwise expressly provided in this Declaration.

9. "Condominium" shall mean a Unit and the undivided interest (expressed as a percentage of the entire ownership interest) in the Common Areas appurtenant to such Unit, as set forth in Exhibit A attached hereto and by this reference made a part hereof.

10. "Condominium Act" shall mean the Utah Condominium Ownership Act, Utah Code Ann., § 57-8-1, *et seq.*, as amended.

11. "Contact Person" shall mean the person whose name, address and telephone number have been provided to the Utah Department of Commerce by the Association in compliance with §57-8-13.1 of the Act and who has been designated by the Association as the primary contact person who has Association payoff information needed in connection with the closing of an Owner's financing, refinancing or sale of the Owner's Unit.

12. "Declarant" shall mean all persons who execute this Declaration or on whose behalf the Declaration is executed, and the successors of said persons who come to stand in the same relation to the Project as their predecessors.

13. "Land" shall mean the land upon which the Project is situated, as more particularly in Exhibit B attached hereto and by this reference made a part hereof.

14. "Lease List" is hereinafter defined in Article 6 Section 11.

15. "Lease Restriction Period" is hereinafter defined in Article 6 Section 11.

16. "Limited Common Areas" shall mean any Common Areas designated as reserved for the use of a certain Unit or Units to the exclusion of the other Units in the Project. Structural separations between Units or the space which would be occupied by such structural separations may become Limited Common Areas for the exclusive use of the Owner or Owners of the Units on either side thereof as provided herein.

17. "Mortgage" shall mean any mortgage, deed of trust, or other security instrument by which a Condominium or any part thereof is encumbered.

18. "Mortgagee" shall mean and include any institutional holder, insurer or guarantor of a Mortgage on any Condominium in the Project. "Mortgagee" shall mean and include any institutional holder, insurer or guarantor of a Mortgage on any Condominium in the Project.

19. "Owner" shall mean the person or persons owning in fee simple a Condominium in the Project, as such ownership is shown by the records of the County Recorder of Salt Lake County, State of Utah. The term "Owner" shall not refer to any Mortgagee (unless such Mortgagee has acquired title to a Condominium for other than security purposes) or to any person or persons purchasing a Condominium under contract (until such contract is fully performed and legal title conveyed of record).

20. "Plat" shall mean that certain condominium plat entitled "Record of Survey Map of Graystone Pines Condominium Apartments, A Utah Condominium Project," recorded in the office of the County Recorder of Salt Lake County, State of Utah, as Entry No. 2463134, in Book 11, at Page 70, *et seq.*, as subsequently amended and supplemented.

21. "Project" shall mean the land, the buildings, and all improvements submitted by this Declaration and the Plat to the provisions of the Condominium Act.

22. "Reserve Analysis" shall mean an analysis to determine the need for and the appropriate amount of a reserve fund to accumulate money to cover the cost of repairing, replacing, and restoring the Common Areas and Facilities that have a useful life of three years or more, but excluding any cost that can reasonably be funded from the Association's general budget or other funds of the Association.

23. "Third Party Lease" is hereinafter defined in Article 6 Section 11.

24. "Total Votes of the Association" shall mean the total number of votes appertaining to all Condominiums in the Project, as shown on Exhibit A attached hereto.

25. "Trustee" shall mean the person who qualifies as a trustee under Section 57-1-21 of the Act and is appointed as trustee with power of sale pursuant to Section 57-8-45 of the Act with respect to each of the Units and all improvements to the Units for the purpose of securing payment of Assessments under the terms of this Declaration

26. "Unit" shall mean an individual air space unit, consisting of enclosed rooms occupying part of a Building and bounded by the unfinished interior surfaces of the walls, floors, ceilings, windows, and doors along the perimeter boundaries of the air space, as said boundaries are shown on the Plat, together with all fixtures and improvements therein contained. Paint and other wall, ceiling, or floor coverings on interior surfaces shall be deemed to be part of the Unit. Notwithstanding the fact that they may be within the boundaries of such air space, the following are not part of a Unit insofar as they are necessary for the support or for the use and enjoyment of any other Unit: Bearing walls, foundations, floors, ceilings, and roofs (except the interior surfaces thereof); installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, and incinerating; and the elevators, tanks, pumps, motors, fans, compressors, ducts, shafts, pipes, vents, conduits, wires and in general all apparatus and installations existing for common use, except the outlets thereof when located within the Unit. The interior surfaces of a window or door mean the points at which such surfaces are located when the window or door is closed.

27. "Utility Services" shall include, but not be limited to, any water, electricity, sewage disposal, garbage disposal services and all other similar services provided to the Project which are not separately billed or metered to the individual Units by the utility or party furnishing such service.

28. "Waiting List" is hereinafter defined in Article 6 Section 11.

29. "Waiting List Request" is hereinafter defined in Article 6 Section 11.

30. Those definitions contained in the Act, to the extent they are applicable hereto and not inconsistent herewith, shall be and are hereby incorporated herein by reference and shall have the same effect as if expressly set forth herein and made a part hereof

## **ARTICLE 2 - SUBMISSION AND DIVISION OF PROJECT**

1. Submission to Condominium Act. The Land, the buildings, and all other improvements now or hereafter made in or upon the land are hereby submitted to the provisions of the Condominium Act. All of said property is and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, and improved as a fee simple Condominium Project to be known as Colonial Pines Condominium Apartments, a Utah Condominium Project. All of said property is and shall be subject to the covenants, conditions, restrictions, uses, limitations, and obligations set forth herein, each and all of which are declared and agreed to be for the benefit of said Project and in furtherance of a plan for improvement and operation of said property and division thereof into Condominiums further, each and all of the provisions hereof shall be deemed to run with the land and shall be a burden and a benefit on the land and shall be binding upon the Owners, their respective successors and assigns, and to any person acquiring, leasing, or owning an interest in the real property and improvements comprising the Project, and to their respective personal representatives, heirs, successors, and assigns.

2. Division into Condominiums. The Project is hereby divided into Condominiums, each such Condominium consisting of a Unit and an appurtenant undivided interest in the Common Areas, as set forth in Exhibit A attached hereto and as show on the Plat.

### **ARTICLE 3 - BUILDINGS AND IMPROVEMENTS**

1. Buildings and Improvements. The Buildings and other improvements constructed on the Land are shown on the Plat. The following information regarding the Buildings is also contained on the Plat: The number of floors in a Building; and the number of Units on each floor of a Building.

2. Description of Units. The Plat contains the Unit number, location, and dimensions of each Unit in the Project and all other information necessary to identify each such Unit.

3. Description of Common Areas. The Plat contains a description of the Common Areas of the Project.

4. Description of Limited Common Areas. The Limited Common Areas of the Project are shown on the Plat and the Unit or Units to which the exclusive use of each the Limited Common Areas is reserved is specified in Exhibit A.

### **ARTICLE 4 - NATURE AND INCIDENTS OF OWNERSHIP**

1. Interior of Units. Each Owner shall have the exclusive right to paint, repaint, tile, wax, paper, carpet, or otherwise decorate the interior surfaces of the walls, ceilings, floors, and doors forming the boundaries of such Owner's Unit and the surfaces of all walls, ceilings, floors, and doors within such boundaries. Each Owner shall also have the right, to construct partition walls, fixtures, and improvements within the boundaries of such Owner's Unit; provided however, that such partition walls, fixtures and improvements shall comply with all applicable laws, ordinances, and building codes, shall not interfere with the Common Areas and the facilities necessary for the support, use, or enjoyment of any other part of the Project, shall not impair the structural soundness or integrity of the Building in which they are located, and shall not encroach upon the Common Areas or any part thereof, unless the Board of Trustees shall consent in writing to such encroachment.

2. Maintenance of Units. Each Owner shall keep the interior of his Unit, including without limitation, interior walls, windows, ceilings, floors, and permanent fixtures and appurtenances thereto, in a clean and sanitary condition and in a state of good repair. In the event that any such Unit shall develop an unsanitary or unclean condition or fall into a state of disrepair, and in the event that the Owner of such Unit shall fail to correct such condition or state of disrepair promptly following written notice from the Board of Trustees, the Board of Trustees in behalf of the Association 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, however, that the Association shall in no event have the obligation to correct or eliminate any such condition or state of disrepair.

3. Right to Combine Units. With the written consent of the Board of Trustees, which consent shall not be unreasonably withheld, two or more Units may be utilized by the Owner or Owners thereof as if they were one Unit. To the extent permitted in the written consent of the Association, any walls, floors, or other structural separations between any two such Units, or any space which would be occupied by such structural separations but for the utilization of the two Units as one Unit, may, for as long as the two Units are utilized as one Unit, be utilized by the Owner or Owners of the adjoining Units as Limited Common Areas, except to the extent that any such structural separations are necessary or contain facilities necessary for the support, use, or enjoyment of other parts of the Project. At any time, upon the request of the Owner of one of such adjoining Units, any opening between the two units which, but for joint utilization of the two Units, would have been occupied by structural separation, shall be closed, at the equal expense of the Owner or Owners of each of the two Units and the structural separations between the two Units shall thereupon become the common areas.

4. Title. Title to a Condominium within the Project may be held or owned by any person or entity, or any combination thereof, and in any manner in which title to any other real property may be held or owned in the State of Utah, including without limitation joint tenancy or tenancy in common.

5. Ownership of Common Areas. Each of the Units is hereby allocated an equal undivided interest in the Common Areas and Facilities as set forth in Exhibit A attached hereto. The percentages appurtenant to each Unit as shown in said Exhibit A shall have a permanent character and shall not be altered except with the affirmative vote or written consent of Owners having at least 67% of the Total Votes of the Association expressed in an amendment to this Declaration duly recorded. Except as otherwise provided in this Declaration, any Owner shall be entitled to nonexclusive use of the Common Areas (other than Limited Common Areas) in any manner that does not hinder or encroach upon the rights of other Owners and is not contrary to any rules and regulations promulgated by the Association. Except as otherwise provided in this Declaration, any Owner shall have the exclusive right to use and enjoy any Limited Common Areas that may be designated for exclusive use by such Owner.

6. Inseparability. Title to no part of a Condominium within the Project may be separated from any other part thereof, and each Unit and the undivided interest in the Common Areas appurtenant to each Unit shall always be conveyed, devised, encumbered, and otherwise affected only as a complete Condominium. Every devise, encumbrance, conveyance, or other disposition of a Condominium, or any part thereof, shall be construed to be a devise, encumbrance, conveyance, or other disposition, respectively, of the entire Condominium, together with all appurtenant rights created by law or by this Declaration, including appurtenant rights created by law or by this Declaration, including appurtenant membership in the Association as hereinafter set forth.

7. No Partition. The Common Areas shall be owned in common by all of the Owners, and no Owner may bring any action for the partition thereof.

8. Separate Mortgages by Owners. Each Owner shall have the right separately to mortgage or otherwise encumber such Owner's Condominium. No Owner shall attempt to or shall have the right to mortgage or otherwise encumber the Common Areas or any part thereof, except the undivided interest therein appurtenant to such Owner's Condominium. Any mortgage or other encumbrance of any Condominium within the Project shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure the provisions of this Declaration shall be binding upon any Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.

9. Separate Taxation. Each Condominium within the Project including each Unit and appurtenant undivided interest in the Common Areas, shall be deemed to be a parcel and shall be assessed separately for all taxes, assessments, and other charges of the State of Utah or of any political subdivision or of any special improvement district or of any other taxing or assessing authority. For purposes of such assessment, the valuation of the Common Areas shall be apportioned among the Units in proportion to the undivided interests in Common Areas appurtenant to such Units. All such taxes, assessments, and other charges on each respective Condominium shall be separately levied against the Owner thereof. No forfeiture or sale of any Condominium for delinquent taxes, assessments, or other governmental charges shall divest or in any way affect the title to any other Condominium.

10. Mechanics' Liens. No labor performed or material furnished for use in connection with any Unit with the consent or at the request of an Owner or his agent or subcontractor shall create any right to file a statement of mechanic's lien against the Unit of any other Owner not expressly consenting to or requesting the same or against any interest in the Common Areas, except the undivided interest therein appurtenant to the Unit of the Owner for whom such labor shall have been performed and such materials shall have been furnished.

11. Description of Condominium. Every contract for the sale of a Condominium and every other instrument affecting title to a Condominium within the Project may describe a Unit by its identifying number or symbol as indicated in this Declaration or as shown on the Plat. Such description will be construed to describe the Unit, together with its appurtenant undivided interest in the Common Areas, and to incorporate all of the rights incident to ownership of a Condominium within the Project and all of the limitations on such ownership.

#### **ARTICLE 5 - EASEMENTS**

1. Easements for Encroachments. If any part of the Common Areas encroaches or shall hereafter encroach upon any Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas, or upon an adjoining Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. Such encroachments shall not be considered to be encumbrances either on the Common Areas or the Units.

Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of the Building or any Improvements constructed or to be constructed within the Project, by error in the Plat, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project, or any part thereof, in accordance with the provisions of this Declaration.

2. Easements for Maintenance, Cleaning and Repair. Some of the Common Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Association shall have the irrevocable right to have access to each Unit and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, cleaning, repair or replacement of any Common Areas or for making emergency repairs at any time therein necessary to prevent damage to the Common Areas or to any Unit. In addition, agents of the Association may enter any Unit when necessary in connection with any cleaning, maintenance repair, replacement, landscaping, construction, or reconstruction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Association with funds from the Common Expense Fund.

3. Right to Ingress, Egress, and Support. Each Owner shall have the right to ingress and egress over, upon, and across the Common Areas as necessary for access to such Owner's Unit and to any Limited Common Areas appurtenant to such Unit, and shall have the right to horizontal, vertical, and lateral support of such Unit, and such rights shall be appurtenant to and pass with title to each Condominium.

4. Association's Right to Use Common Areas. The Association shall have an easement to make such use of the Common Areas as may be necessary or convenient to perform the duties and functions that it is obligated or permitted to perform pursuant to this Declaration, including without limitation the right to construct and maintain in the common areas (other than Limited Common Areas) facilities for use by Owners generally or by the Association and its agents exclusively.

5. Easements Deemed Created. All conveyances of Condominiums within the Project hereafter made shall be construed to grant and reserve such reciprocal easements as are provided herein, even though no specific reference to such easements appears in any such conveyances.

#### **ARTICLE 6 - RESTRICTIONS ON USE**

1. Primary Residential Use. All Units within the Project shall be used exclusively for residential purposes and for no other purpose.

2. No Noxious or Offensive Activity. No rubbish or debris of any kind shall be placed or permitted to accumulate in the Common Areas. No odors, loud sounds or noises, or loud music shall be permitted to arise or emit from any Unit. No person shall permit any condition to exist within any Unit that shall induce, breed or harbor infectious disease or noxious

insects or other vermin. No unsanitary, unsightly, offensive, unlawful or detrimental activity shall be carried on in or upon any part of the Project, nor shall anything be done or placed in or upon any part of the Project which is or may become a nuisance or which may cause disturbance or annoyance to the Owners, their families, guests and invitees. No activities shall be conducted nor Improvements constructed, in or upon any part of the Project which are or may become unsafe or hazardous to any person or property.

3. Restrictions on Signs. No flags, commercial, informational, or directional signs or devices, shall be erected or maintained by any Owner on any part of the Project, without the prior inspection and written approval of the Board of Trustees, except as may be necessary temporarily to caution or warn of danger. Any flags, commercial, informational, or directional signs or devices approved by the Board of Trustees shall not be more than two (2) feet by three (3) feet in size and may only be placed at the location in the Common Areas specifically designated by the Board for the placement of flags, commercial, informational, or directional signs or devices (the "Designated Flag & Sign Area"). If the Association consents to the erection of any such flags, commercial, informational or directional signs or devices, the same shall be removed promptly at the request of the Association. All signs, flags and devices shall comply with applicable ordinances of Salt Lake City and Salt Lake County. Owners will be permitted to display political signs in the Designated Flag and Sign Area advertising a political candidate, a proposition or other item on the ballot in Salt Lake City or Salt Lake County beginning 90 days before the election to which the sign relates and continuing for no longer than 10 days after the election. An Owner shall be limited to one sign for each candidate, proposition or other item on the ballot.

4. Pets and Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept in any Unit or in the Common Areas; provided that an Owner with a disability may apply in writing to the Board of Trustees to be able to keep a service animal if such an animal is needed because of the disability. The Owner making application to keep a service animal shall include with the Owner's application a letter from the Owner's licensed physician or psychologist indicating that the Owner is disabled and the animal is needed because of the disability. Each Owner who keeps a service animal in a Unit shall keep the animal on a leash in the Common Areas, promptly and properly dispose of the animals waste, and indemnify and hold all other Owners and the Association harmless against any loss, damage or liability of any kind or character whatsoever arising from or as a result of having such animal in the Project. If a service animal disturbs other Owners by barking, growling, howling, damaging the Common Areas, endangering the other Owners or their tenants, guests or invitees, or in other ways becomes obnoxious, the Board of Trustees shall give notice to the Owner of such animal to cause such annoyance to be discontinued, and if such annoyance is not promptly discontinued and corrected, the Board of Trustees may revoke its permission to keep the animal in the Project and upon such revocation the animal shall be promptly removed from the Project.

5. No Alterations. No Owner shall, without the prior written consent of the Board Trustees in each specific instance, make, or cause to be made any alteration, addition, removal, or improvement in or to the Common Areas or any part thereof, or do any act that would impair



the structural soundness or integrity of the Buildings or other improvements, or jeopardize the safety of persons or property or impair any easement or hereditament appurtenant to the Project.

6. No Obstructions. No Owner shall obstruct the Common Areas or any part thereof. No Owner shall store or cause to be stored any property whatsoever in any portion of the Common Areas unless the Board of Trustees shall consent thereto in writing; provided that notwithstanding the foregoing, an Owner may use the Limited Common Area storage closet(s) assigned to the Owner's Unit or any Common Area storage closet rented to the Owner by the Association for storage.

7. No Overloading. No Owner shall bring anything into such Owner's Unit or permit anything to be done in such Owner's Unit that will cause damage to the Building. No Owner shall overload the floor of such Owner's Unit. No Owner shall permit the use or operation in his Unit of any equipment, machinery, or other apparatus that will in any manner injure, vibrate, or shake the Building or portions thereof.

8. Prohibition of Damage and Certain Activities. Except with the prior written consent of the Board of Trustees, nothing shall be done or kept in any Unit, in the Common Areas, or in any other part of the Project that would result in cancellation of the insurance on the Project or any part thereof, nor shall anything be done or kept in any Unit that would increase the rate of insurance on the Project or any part thereof over that which the Association, but for such activity, would pay. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would be in violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental authority. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or guest of any Owner, and each Owner shall indemnify and hold harmless the Association and the other Owners from and against all loss resulting from any such damage or waste caused by such Owner or by the guests, tenants, licensees, invitees or pets of such Owner.

9. Satellite Dishes & Antenna. The installation of a satellite dish or outdoor antenna in the Common Areas is subject to the prior written consent of the Board of Trustees. A satellite dish shall not be larger than one meter in diameter and must be installed by a professional installer. The Owner installing a satellite dish or antenna shall be responsible for its maintenance and any damage or injury to the Common Areas relating to its installation, use, removal or replacement.

10. No Commercial Business. All Units in the Project shall be used exclusively for residential purposes. No commercial trade or business shall be conducted from any Unit within the Project.

11. Leasing Restrictions.

a. Project Primarily Owner-Occupied. The Project is primarily an owner-occupied residential condominium project. Notwithstanding anything in this Declaration, the Articles or the Bylaws to the contrary, the following restrictions shall apply to the lease or rental

of any Unit, whether oral or written and without regard to the term of the lease or any option to purchase contained in the lease, to a person or persons who are not the Owners of the Unit ("**Third Party Lease**").

b. Leases Subject to Declaration, Articles, Bylaws and Rules. Third Party Leases are subject in all respects to the provisions of the Condominium Act, the Declaration, the Articles, the Bylaws and any rules and regulations adopted by the Board of Trustees, and each Third Party Lease shall specifically so provide. The Owner of a Unit subject to a Third Party Lease shall provide the tenant(s) under the Third Party Lease with copies of the Declaration, the Articles, the Bylaws and any rules and regulations adopted by the Board of Trustees prior to the date the tenant(s) takes occupancy of the Owner's Unit. Any failure by a tenant to comply with the terms of such documents shall constitute a default under the Third Party Lease.

c. No More Than 5 of the Units May Be Leased. At no time may more than five (5) of the total number of Units in the Project, or such lower percentage as may be required by FHA or any other so-called secondary mortgage market source, be the subject of any Third Party Lease at any one time. Any period during which five (5) or more of the Units in the Project are subject to Third Party Leases is hereinafter referred to as a "**Lease Restriction Period**" and no additional Third Party Leases shall be entered into by any Owner during any such Lease Restriction Period. Notwithstanding the above, any Owner whose Unit is subject to a Third Party Lease prior to the date this Amendment is recorded may continue to lease the Owner's Unit until the date the Owner's Unit is sold, conveyed or transferred. If a Unit is owned by a limited liability company, corporation, partnership or other business entity, the sale, conveyance or transfer of more than 50% of the business entity's membership interests, stock, shares or partnership interests in any 12-month period shall constitute a sale, conveyance or transfer of the Unit for purposes of this Section 11. If legal title to a Unit is held by the trustee of a trust, the change of the one or more of the beneficiaries of the trust shall constitute a sale, conveyance or transfer of the Unit for purposes of this Section 11. Any Owner that has been leasing the Owner's Unit shall disclose to any potential purchaser of the Unit that no more than five (5) Units in the Project may be subject to Third Party Leases at any given time.

d. Copies of Leases Delivered to the Board. An Owner desiring to enter into a Third Party Lease shall contact the Board of Trustees to determine if a Lease Restriction Period is in effect in the Project before entering into or extending a Third Party Lease. Each Owner entering into a Third Party Lease shall promptly deliver to the Board of Trustees a copy of the fully executed Third Party Lease and the names, phone numbers and other contact information of the Owner's tenant(s) under the Third Party Lease and the names, phone numbers and other contact information of all other persons that will be occupying the Owner's Unit. The Owner shall also promptly notify the Board of Trustees of the termination of any Third Party Lease.

e. Lease List; Waiting List. The Board of Trustees shall maintain a list of all current Third Party Leases for the purpose of determining compliance with this Section 11 (the "**Lease List**"). During any Lease Restriction Period, the Board of Trustees shall also maintain a waiting list of Owners desiring to lease their Units (the "**Waiting List**") and any Owner whose Unit is not already subject to a Third Party Lease may submit a written request to the Board of

Trustees to be placed on the Waiting List (the "**Waiting List Request**"). An Owner's position on the Waiting List shall be determined based on the date and time the Owner's Waiting List Request is received by the Board of Trustees with a Waiting List Request received earlier having priority over a Waiting List Request received later by the Board of Trustees. The Lease List and the Waiting List maintained by the Board of Trustees shall be conclusive as to the priorities of the Third Party Leases and the eligibility of any Owner to enter into a Third Party Lease of the Owner's Unit. The Board of Trustees shall notify Owners on the Waiting List according to their position on the Waiting List following the expiration of any Lease Restriction Period. The Board of Trustees shall make the Lease List and the Waiting List available for examination by any Owner at convenient hours of weekdays no later than ten (10) days after an Owner makes a written request to examine them.

f. Lease Term Limitation. No Third Party Leases shall have a term of less than twelve (12) months.

g. Owner Responsible for Damage by Tenant. An Owner shall be responsible and liable for any damage to the Project caused by a tenant or tenants that leases the Owner's Unit.

h. Enforcement of Leasing Restrictions. Whenever the Board of Trustees gives written notice to an Owner that a tenant under a Third Party Lease is in violation of this Section 11, such Owner shall notify the tenant within seven (7) days of the date of receipt of said written notice from the Board of Trustees and take all appropriate action to cause the tenant to cure any such violation. If the tenant fails to cure any such violation within seven (7) days after delivery of said written notice from the Owner, the Owner shall terminate the Third Party Lease and promptly evict the tenant from the Unit. Each Owner of a Unit subject to a Third Party Lease also hereby appoints the Board of Trustees as its attorney-in-fact to enforce the terms of the Declaration, the Articles, the Bylaws and any rules and regulations adopted by the Board of Trustees against the tenant under the Third Party Lease, and if the Owner fails to compel the tenant to comply with the terms of such documents or terminate a Third Party Lease in violation of this Section 11, the Board of Trustees may take all action deemed necessary to enforce the terms of the Declaration, the Articles, the Bylaws and any rules and regulations adopted by the Board of Trustees, including initiating legal action against the Owner and/or the tenant seeking specific performance. The prevailing party in such action shall be entitled to recover from the other party all costs and expenses incurred, including reasonable attorney's fees and costs.

12. Parking Restrictions. Each Unit has two (2) covered parking spaces assigned to it as indicated on the Plat and as provided in Exhibit A. Each parking space shall be used for the parking of operable vehicles of a size no larger than a standard automobile or a half-ton or smaller truck and for no other purpose. No more than one vehicle may be parked in any parking space at one time. No boats, trailers, recreational vehicles, large trucks (larger than a half-ton pickup), commercial vehicles, or inoperable vehicles belonging to Owners or other residents of the Project shall be parked or stored within the Project. If any such boats, trailers, recreational vehicles, trucks, commercial vehicles, or inoperable vehicles are parked or stored within the

Project for more than twenty-four (24) hours, the Board shall have the right to remove them from the Project at the expense of the owner of said vehicle.

13. Rules and Regulations. Each Owner shall comply strictly with the Declaration, the Articles, the Bylaws and any rules and regulations adopted by the Board of Trustees or the Association for the governance of the Units, the Common Areas, and the Project, as such rules and regulations may be modified, amended, and construed by the Association and the Board of Trustees.

14. 55 and Older Housing. The Project is reserved for residents who are age 55 or older.

15. Smoking Ban. The smoking of tobacco products of any nature or description in the Project by Owners, their family members, tenants, guests or invitees constitutes a nuisance and therefore is prohibited at all times in the Common Areas. This prohibition against smoking includes all Common Areas and Facilities of the Project, including but not limited to lobbies, hallways, stairwells, elevators, and parking areas.

16. Storage Units. Each Unit is assigned an enclosed corner storage space in the underground parking areas of the Buildings as indicated on the Plat and as provided in Exhibit A. Additional storage spaces are available for rent by the Owners on a "first-come, first-served" basis at a rental rate to be determined from time to time by the Board of Trustees.

#### **ARTICLE 7 - THE ASSOCIATION**

1. Membership. Each Owner shall be entitled and required to be a Member of the Association; Membership shall begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner. If title to a Condominium is held by more than one person, the Membership appurtenant to that Condominium shall be shared by all such persons in the same proportionate interest and by the same type of tenancy in which title to the Condominium is held. An Owner shall be entitled to one Membership for each Condominium owned by such Owner. Each Membership shall be appurtenant to the Condominium to which it relates and shall be transferred automatically by conveyance of that Condominium. Ownership of a Condominium within the Project cannot be separated from Membership in the Association appurtenant thereto, and any devise, encumbrance, conveyance, or other disposition of a Condominium shall be construed to be a devise, encumbrance conveyance, or other disposition respectively of the Owner's Membership in the Association and rights appurtenant thereto. No person or entity other than an Owner may be a Member of the Association, and Membership in the Association may not be transferred except in connection with the transfer of the Condominium.

2. Board of Trustees. The Trustees of the Association shall be elected by the Members in accordance with the Bylaws.

3. Votes. Each Unit in the Project shall have one vote in the Association regardless of the size or value of the Unit. The number of votes appurtenant to each respective Condominium shall be as set forth in Exhibit A. The number of votes appurtenant to each Condominium as set forth in said Exhibit A shall have a permanent character and shall not be altered without the affirmative vote or written consent of Owners having at least 67% of the Total Votes of the Association expressed in a duly recorded amendment to this Declaration.

4. Amplification. The provisions of this Article 7 may be amplified by the Articles of Incorporation and Bylaws of the Association; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth in this Declaration.

#### **ARTICLE 8 - CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION AND TRUSTEES**

1. The Common Areas. The Board of Trustees, acting on behalf of the Association and, subject to the rights and duties of the Owners as set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas and all Improvements thereon (including the Common Facilities), and shall keep the same in a good, clean, attractive, safe, and sanitary condition, order, and repair; provided, however, that unless otherwise stated herein, each Owner shall keep the Limited Common Areas designated for use in connection with his Unit, if any, in a clean, sanitary, and attractive condition. The Association shall be responsible for the maintenance and repair of the exterior of the Buildings, other Improvements and grounds, including without limitation painting thereof, repair and replacement of exterior trim, roofs and fences, and maintenance of landscaping, walkways, driveways, and parking areas. The Board of Trustees shall also be responsible for maintenance, repair, and replacement of Common Areas within the Buildings, including without limitation landings, stairways utility lines, Common Facilities, and all Improvements and other items located within or used in connection with the Common Areas. The specification of duties of the Board of Trustees with respect to particular Common Areas shall not be construed to limit its duties with respect to other Common Areas. All goods and services procured by the Board of Trustees in performing its responsibilities under this Section shall be paid for with funds from the Common Expense Fund.

2. Miscellaneous Goods and Services. The Board of Trustees may, in behalf of the Association, obtain and pay for the services of such personnel as the Board of Trustees shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Board of Trustees may, in behalf of the Association, obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration. In addition to the foregoing, the Board of Trustees may, in behalf of the Association, acquire and pay for out of the Common Expense Fund water, sewer, garbage collection, electrical, gas, and other necessary or desirable utility services for the Common Areas (and for the Units to the extent not separately metered or billed), insurance, bonds, and other goods and services common to the Units.

3. Real and Personal Property. The Board of Trustees may acquire and hold on behalf of the Association real, personal, and mixed property of all types for the use or benefit of all of the Owners and may dispose of such property by sale or otherwise; provided that any acquisition or disposition of any real, personal or mixed property by the Board of Trustees wherein the value of such property exceeds \$5,000 must be approved by the affirmative vote or written consent of at least fifty-one percent (51%) of the Total Votes of the Association. All such property, including Common Facilities, shall be paid for out of the Common Expense Fund and all proceeds from the disposition thereof shall be part of such fund.

4. Rules and Regulations. The Board of Trustees may make reasonable rules and regulations governing the use of the Units, the Common Areas, the Limited Common Areas, and all parts of the Project, which rules and regulations shall be consistent with the rights and duties established by this Declaration. The Board of Trustees in behalf of the Association may take judicial action against any Owner to enforce compliance with such rules and regulations or other obligations of such Owner arising hereunder, or to obtain damages for noncompliance therewith, as permitted by law. In the event of such judicial action, the Association shall be entitled to recover its costs, including reasonable attorneys' fees, from the offending Owner.

5. Granting Easements. The Board of Trustees shall have the right on behalf of the Association to grant utility and other easements under, through and over the Common Areas and Facilities that are reasonably necessary to the ongoing development and operation of the Project.

6. Statutory Duties and Powers. All duties, responsibilities rights, and powers imposed upon or granted to the "management committee" or to the "manager" under the Condominium Act shall be duties, responsibilities, rights, and powers of the Board of Trustees hereunder.

7. Implied Rights. The Association may exercise any right, power, or privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonably implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

## **ARTICLE 9 - ASSESSMENTS**

1. Annual Assessments. Annual Assessments shall be computed and assessed against all Condominiums in the Project as follows:

a. Common Expenses. Annual Assessments shall be based upon advance estimates of the Association's cash requirements to provide for payment of all estimated Common Expenses for each calendar year ("Annual Assessments"). Such estimated Common Expenses shall include, without limitation, the following: (i) Common Expenses of management; (ii) real property taxes and special assessments (unless and until the Condominiums are separately assessed); (iii) premiums for all insurance that the Association is required or permitted to maintain hereunder; (iv) repairs, maintenance and administration of the Common Areas and

Facilities; (v) wages for Association employees, including fees for a manager (if any); (vi) utility charges, including charges for utility services to the Units to the extent not separately metered or billed; (vii) legal and accounting fees; (viii) any deficit remaining from a previous period; (ix) creation and maintenance of an adequate reserve fund to cover the cost of repairing, replacing and restoring of those Common Areas and Facilities that have a useful life of three (3) years or more, but excluding any cost that can reasonably be funded from the annual budget or other funds of the Association, and such reserve shall be funded by monthly payments; and (x) any other expenses and liabilities that may be incurred by the Association for the benefit of the Owners under or by reason of this Declaration or the Act.

b. Apportionment. Common Expenses shall be apportioned among and assessed to the Owners in proportion to their respective undivided interests in the Common Areas, as shown in Exhibit "A."

c. Annual Budget. Annual Assessments shall be determined on the basis of a fiscal year beginning January 1 of each year and ending the December 31 next following. On or before December 15 of each year, the Board of Trustees shall prepare and furnish to each Owner, or cause to be prepared and furnished to each Owner, an operating budget for the upcoming fiscal year. The budget shall itemize the estimated Common Expenses for such fiscal year, anticipated receipts (if any), any deficit or surplus from the prior operating period, and the amount to be set aside in the reserve fund for such fiscal year. The budget shall serve as the supporting document for the Annual Assessment for the upcoming fiscal year and as a major guideline under which the Project shall be operated during such annual period.

d. Notice and Payment. The Board of Trustees shall notify each Owner as to the amount of the Annual Assessment against such Owner's Condominium on or before December 15 each year for the fiscal year beginning on January 1 next following. Each Annual Assessment shall be payable in twelve equal monthly installments, one such installment due on the first day of each calendar month during the fiscal year to which the Assessment relates. All unpaid installments of any Annual Assessment shall bear interest at the rate of eighteen percent (18%) per annum from the date each such installment becomes due until paid. In addition, in the event that any installment of any Annual Assessment is not paid on the date such installment becomes due, it shall be subject to a penalty for late payment of three dollars (\$3.00) per day from the date each such installment becomes due until paid. The failure of the Board of Trustees to give timely notice of any Annual Assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay such Assessment or any other Assessment; but the date when the payment shall become due in such case shall be deferred to a date fifteen (15) days after notice of such Assessment shall have been given to the Owner in the manner provided in this Declaration.

e. Inadequate Funds. In the event that the Annual Assessments prove inadequate at any time for whatever reason, including nonpayment of any Owner's Assessment, the Board of Trustees may on behalf of the Association levy additional Assessments in accordance with the procedure set forth in Section 2 below, except that the vote therein specified shall be unnecessary.

2. Reserve Analysis.

a. The Board of Trustees shall cause a Reserve Analysis to be conducted no less frequently than every five (5) years, and review and, if necessary, update a previously conducted Reserve Analysis no less frequently than every two (2) years. The Board of Trustees may conduct a Reserve Analysis itself or may engage a reliable person or organization, as determined by the Board of Trustees management committee, to conduct the reserve analysis.

b. The Board of Trustees shall not use money in the reserve fund (i) for daily maintenance expenses, unless a majority of the Total Votes of the Association votes to approve the use of reserve fund money for that purpose, or (ii) for any purpose other than the purpose for which the reserve fund was established.

c. The Association shall (i) annually, at the annual meeting of Owners or at a special meeting of the Owners, present the reserve study, and provide an opportunity for Owners to discuss reserves and to vote on whether to fund the reserve fund and, if so, how to fund it and in what amount, and (ii) prepare and keep minutes of each such meeting and indicate in the minutes any decision relating to funding the reserve fund.

3. Special Assessments. In addition to the Annual Assessments authorized by this Article 9, the Board of Trustees may, on behalf of the Association, levy Special Assessments at any time and from time to time, upon the affirmative vote or written consent of Owners having at least fifty-one percent (51%) of the Total Votes of the Association, payable over such periods as the Board of Trustees may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration (including without limitation Common Expenses). This Section shall not be construed as an independent source of authority for the Association to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections or Articles hereof. Notice in writing of the amount of each such Special Assessment and the time for payment thereof shall be given promptly to the Owners; no payment shall be due less than fifteen (15) days after such notice shall have been given. All unpaid portions of any Special Assessment shall bear interest at the rate of eighteen percent (18%) per annum from the date such portions become due until paid. In addition, in the event that any Special Assessment is not paid on the date such Special Assessment becomes due, it shall be subject to a penalty for late payment of three dollars (\$3.00) per day from the date each such Special Assessment becomes due until paid.

4. Separate Common Expense Fund and Reserve Funds. All funds received from Assessments under this Section other than the amounts set aside for the reserve fund shall be part of the Common Expense Fund. The Common Expense Fund and the reserve fund shall be kept in separate accounts established with a federal or state chartered bank, savings bank, industrial bank or credit union.



5. Lien for Assessments. The Association has a lien on each of Unit for (i) any Assessment, (ii) fees, charges, and costs associated with collecting any unpaid Assessment, including, court costs and reasonable attorney fees, late charges, interest, and any other amount that the Association is entitled to recover under this Declaration, the Act, or an administrative or judicial decision, and (iii) any fine that the Association imposes against the Owner of the Unit. The recording of the Declaration constitutes record notice and perfection of the lien described in this Section. A lien under this Section is not subject to Utah Code Annotated Title 78B, Chapter 5, Part 5, Utah Exemptions Act. If an Assessment is payable in installments, the lien described in this Section is for the full amount of the Assessment from the time the first installment is due, unless the Association otherwise provides in the notice of Assessment. A lien under this Section has priority over each other lien and encumbrance on a Unit except:

- a. a lien or encumbrance recorded before the Declaration is recorded;
- b. a first or second security interest on the Unit secured by a Mortgage that is recorded before a recorded notice of lien by or on behalf of the Association; or
- c. a lien for real estate taxes or other governmental assessments or charges against the Unit.

6. Enforcement of a Lien.

a. Any lien for unpaid Assessments may be enforced by sale or foreclosure conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any other manner permitted by law. The Association shall be considered to be the beneficiary under a trust deed, and the Owner shall be considered to be the trustor under a trust deed for purposes of a nonjudicial or judicial foreclosure of a lien for unpaid Assessments. An Owner's acceptance of the Owner's interest in a Unit constitutes a simultaneous conveyance of the Unit in trust, with power of sale, to the trustee designated as provided in this Section for the purpose of securing payment of all amounts due under this Article. In any such sale or foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees) and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any Assessments against the Unit which shall become due during the period of sale or foreclosure, and all such Assessments shall be secured by the lien being foreclosed. The Board of Trustees shall have the right and power in behalf of the Association to bid in at any foreclosure sale, and to hold, lease, mortgage, or convey the subject Unit in the name of the Association.

b. The Declarant hereby appoints Steven L. Ingleby, attorney at law, as Trustee with power of sale pursuant to Section 57-8-45 of the Act and hereby conveys and warrants pursuant to Utah Code Annotated Sections 57-1-20 and 57-8-45 to Trustee, with power of sale, the Units and all improvements to the Units for the purpose of securing payment of assessments under the terms of the Declaration. The Association may appoint a substitute Trustee by executing and recording in the official records of Salt Lake County, Utah a

substitution of trustee form authorized under Utah Code Annotated Section 57-1-22. A person may not be a Trustee under this Section unless the person qualifies as a trustee under Utah Code Annotated Section 57-1-21(1)(a)(i) or (iv).

c. At least 30 calendar days before initiating a nonjudicial foreclosure, the Association shall provide notice to the Owner of the Unit that is the intended subject of the nonjudicial foreclosure. The notice shall (i) notify the Owner that the Association intends to pursue nonjudicial foreclosure with respect to the Owner's Unit to enforce the Association's lien for an unpaid Assessment; (ii) notify the Owner of the Owner's right to demand judicial foreclosure in the place of nonjudicial foreclosure; (iii) be sent to the Owner by certified mail, return receipt requested; and (iv) be in substantially the following form:

**NOTICE OF NONJUDICIAL FORECLOSURE AND RIGHT TO DEMAND JUDICIAL FORECLOSURE** The Colonial Pines, Inc., the association for the project in which your Unit is located, intends to foreclose upon your Unit and allocated interest in the common areas and facilities using a procedure that will not require it to file a lawsuit or involve a court. This procedure is being followed in order to enforce the Association's lien against your Unit and to collect the amount of an unpaid assessment against your unit, together with any applicable late fees and the costs, including attorney fees, associated with the foreclosure proceeding. Alternatively, you have the right to demand that a foreclosure of your property be conducted in a lawsuit with the oversight of a judge. If you make this demand and the Association prevails in the lawsuit, the costs and attorney fees associated with the lawsuit will likely be significantly higher than if a lawsuit were not required, and you may be responsible for paying those costs and attorney fees. If you want to make this demand, you must state in writing that 'I demand a judicial foreclosure proceeding upon my unit,' or words substantially to that effect. You must send this written demand by first class and certified U.S. mail, return receipt requested, within 15 days after the date of the postmark on the envelope in which this notice was mailed to you. The address to which you must mail your demand is Colonial Pines, Inc., c/o Property Management Systems, Inc., 262 E. 3900 South, Ste. 200, Salt Lake City, Utah 84107.

d. In the event of foreclosure, the Owner, if it is an owner-occupier and desires to remain in the Unit during any redemption period, 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. The Association or its manager (if any) shall have the power to bid on the Unit at foreclosure or other sale and to hold, lease, mortgage and convey the Unit.

e. As provided in §57-8-48 of the Act, the one-action-rule provided in Utah Code Annotated Subsection 78B-6-901(1) shall not apply to the Association's judicial or non-judicial foreclosure of a lien for Common Expenses.

7. Personal Obligation of Owner. The amount of any Assessment against any Condominium shall be the personal obligation of the Owner of such Unit to the Association. Suit

to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his Condominium or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment for unpaid assessments hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorneys' fees in an amount as the court may deem reasonable, in favor of the Association, as well as the amount of any delinquent payment, interest thereon, costs of collection and court costs. As provided in the Act, a purchaser of a Unit in any voluntary conveyance of a Unit shall be jointly and severally liable with the seller thereof for all unpaid Assessments against the Unit up to the time of the grant or conveyance, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such Assessments. Notwithstanding the foregoing, a sale or transfer of a Unit pursuant to a foreclosure or trust deed sale of a Mortgage shall extinguish a subordinate lien for Common Expenses which became payable prior to such sale or transfer.

8. Termination of a Delinquent Owner's Rights.

a. If an Owner fails or refuses to pay any Assessment when due, the Board of Trustees may terminate a delinquent Owner's right to receive a utility service for which the Owner pays as a Common Expense, or of access to and use of any recreational facilities that are part of the Common Areas and Facilities. Before terminating a utility service or right of access to and use of recreational facilities, the Board of Trustees shall give the delinquent Owner twenty (20) days prior written notice to such Owner stating that (i) the Association will terminate the Owner's utility service or right of access to and use of recreational facilities, or both, if the Association does not receive payment of the Assessment within said twenty (20) day period; (ii) the amount of the Assessment due, including any interest or late payment fee; and (iii) the Owner's right to request a hearing under Subsection 8.b. below.

b. A delinquent Owner may submit a written request to the Board of Trustees for an informal hearing to dispute the Assessment. A request under this Subsection 8.b. shall be submitted to the Board of Trustees within fourteen (14) days after the date the delinquent Owner receives the notice under Subsection 8.a. The Board of Trustees shall conduct an informal hearing requested under this Subsection 8.b. and may not terminate a utility service or right of access to and use of recreational facilities until after the Board of Trustees conducts the hearing, and enters a final decision. If the Board of Trustees terminates a utility service or a right of access to and use of recreational facilities, the Board of Trustees shall take immediate action to reinstate the service or right following the Owner's payment of the delinquent Assessment, including any interest and late payment fee. The Board of Trustees may assess an Owner for the cost associated with reinstating a utility service that the Board of Trustees terminates and demand that the estimated cost to reinstate the utility service be paid before the service is reinstated, if the estimated cost is included in the notice to the Owner under Subsection 8.a. above.

9. Payment of Tenant Lease Payments.

a. If an Owner is leasing the Owner's Unit and fails to pay an Assessment for more than sixty (60) days after the assessment is due, the Board of Trustees may demand that any tenant that is leasing the Owner's Unit pay to the Association all future lease payments due the Owner, beginning with the next monthly or other periodic payment, until the amount due to the Association is paid.

b. The Board of Trustees shall give the Owner written notice of its intent to demand full payment from the tenant. Said notice shall (i) provide notice to the tenant that full payment of the remaining lease payments will be paid to the Association beginning with the next monthly or other periodic payment unless the delinquent Assessment is received by the Association within the time provided herein, (ii) state the amount of the Assessment due, including any interest or late payment fee, and (iii) state that any costs of collection, not to exceed the amount permitted by law in the State of Utah, and other Assessments that become due may be added to the total amount due.

c. If the Owner fails to pay the Assessment by the date specified in said notice, the Board of Trustees may then deliver written notice to the Owner's tenant demanding that the tenant make all future payments otherwise due the Owner to the Association. The Board of Trustees shall mail a copy of said tenant notice to the Owner. Said notice shall state (i) that due to the Owner's failure to pay the Assessment within the time period allowed, the Owner has been notified of the intent of the Board of Trustees to collect all lease payments due to the Association, (ii) that until notification by the Association that the Assessment due, including any interest, collection cost, or late payment fee, has been paid, the tenant shall pay to the Association all future lease payments due to the Owner, and (iii) that payment by the tenant to the Association in compliance with this Section will not constitute a default under the terms of the tenant's lease agreement with the Owner.

d. All funds deposited with the Association pursuant to this Section shall be (i) deposited in a separate account; and (ii) disbursed to the Association until the Assessment due, together with any cost of administration, not to exceed \$25.00, is paid in full. Any remaining balance shall be paid to the Owner within five (5) business days after payment in full to the Association.

e. Within five (5) business days after payment in full of the Assessment, including any interest or late payment fee, the Board of Trustees shall notify the tenant in writing that future lease payments are no longer due to the Association. A copy of said notice shall also be mailed to the Owner.

10. Cumulative Remedies. The Assessment lien and the rights to foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid Assessments, as above provided. Nothing in this Article 9 shall be deemed to prohibit the Association from bringing an action against an Owner to recover an

amount for which a lien is created under this Article 9 or from taking a deed in lieu of foreclosure, if the action is brought or deed taken before the sale or foreclosure of the Owner's Unit under this Article 9.

11. Certificate of Unpaid Assessments.

a. The Board of Trustees or the Project's manager (if any) shall issue a written statement indicating any unpaid assessment with respect to an Owner's Unit upon receipt of a written request by the Owner and payment of a reasonable fee, not to exceed \$25.00.

b. A certificate executed and acknowledged by the Association or its manager (if any) stating the unpaid Assessments, late fees and interest charges then outstanding with respect to a Unit shall be conclusive upon the Association and the Owners as to the amount of such indebtedness on the date of the certificate, in favor of all persons who rely thereon in good faith. Such certificate shall be furnished to any Owner or Mortgagee or prospective Owner or Mortgagee of a Unit upon written request to the Association's Contact Person in connection with the closing of the financing, refinancing or sale of a Unit Owner's Unit at a reasonable fee not to exceed Fifty Dollars (\$50.00) to be paid before closing. Any such request for payoff information must be (a) submitted to the Contact Person in writing, (b) contain the name, telephone number and address of the person making the request and the facsimile number or email address for delivery of the payoff information, and (c) be accompanied by a written consent for the release of the payoff information, identifying the person requesting the information as a person to whom the payoff information may be released, and signed and dated by an Owner of the Unit for which the payoff information is requested. The Association shall provide the certificate to the party requesting it within five (5) business days of the date of the request. Any Mortgagee holding a lien on a Unit may pay any unpaid Common Expenses payable with respect to such Unit and upon such payment that Mortgagee shall have a lien on that Unit of the same rank as the lien of his/her encumbrance for the amounts paid.

12. Records of Receipts and Expenditures; Examination. The Board of Trustees shall (a) keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the Common Areas and Facilities, specifying and itemizing the maintenance and repair expenses of the Common Areas and Facilities and any other expenses incurred, and (b) make those records available for examination by any Owner at convenient hours of weekdays no later than 14 days after the Owner makes a written request to examine the records.

13. Amendment of Article. This Article 9 shall not be amended unless such amendment receives the affirmative vote or written consent of Unit Owners having ownership of not less than sixty-seven percent (67%) of the undivided interest in the Common Areas and Facilities.

**ARTICLE 10 - INSURANCE**

1. Maintaining Insurance; Notice if Not Reasonably Available. The Association shall maintain, to the extent reasonably available using typical insurance carriers and markets, (a)

property insurance on the physical structures in the Project, including the Common Areas and Facilities, Limited Common Areas and Facilities; and the Units, insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage perils, and (b) liability insurance, including medical payments insurance covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Areas and Facilities. If the Association becomes aware that property insurance or liability insurance is not reasonably available, the Association shall, within seven (7) calendar days after becoming aware, give all Unit Owners notice that the insurance is not reasonably available.

2. Property Insurance. The Association shall at all times maintain in force property insurance meeting the following requirements:

a. A multi-peril type policy shall be maintained by the Association covering the entire Condominium Project (both Units and Common Areas and Facilities), including, without limitation, all fixtures, machinery, equipment and supplies maintained for the service of the Project, and all fixtures, improvements, alterations, equipment and betterments within the individual Units and the Common Areas and Facilities, including, without limitation, those installed by any Owner. Such policy shall provide coverage against loss or damage by fire and other hazards covered by the standard extended coverage blanket "all risk" endorsement and by debris removal, cost of demolition, vandalism, malicious mischief, windstorm, water damage, and such other risks as customarily are covered with respect to condominium projects similar to the Project in construction, location, and use. As a minimum, such policy shall provide coverage on a replacement cost basis in an amount not less than that necessary to comply with any co-insurance percentage specified in the policy, but not less than one hundred percent (100%) of the full insurable value of the Project (based upon replacement cost). Deductibles shall not exceed the lower of \$10,000 or one percent of the applicable amount of coverage. At the option of the Association, funds for such deductibles may be included in the Association's reserves and, if included, shall be so designated. Such policy shall include an "Agreed Amount Endorsement" or its equivalent, and, if necessary or appropriate, an "Increased Cost of Construction Endorsement" or its equivalent. Such policy shall include coverage for any fixture, improvement, or betterment installed by an Owner to a Unit or to a Limited Common Area, including a floor covering, cabinet, light fixture, electrical fixture, heating or plumbing fixture, paint, wall covering, window, and any other item permanently part of or affixed to a Unit or to a Limited Common Area. Each Owner shall be an insured person under the policy of property insurance.

b. If a steam boiler is or comes to be contained in the Project, there shall be maintained boiler explosion insurance and a broad form policy of repair and replacement boiler and machinery insurance, evidenced by the standard form of boiler and machinery insurance policy. The insurer's minimum liability per accident under boiler and machinery coverage shall equal the insurable value of the Building housing such boiler or machinery or One Million Dollars (\$1,000,000), whichever is less. Deductibles shall not exceed the lower of \$10,000 or one percent of the applicable amount of coverage. At the option of the Association, funds for such deductibles may be included in the Association's reserves, and, if included, shall be so designated.

c. If the Project is or comes to be situated in a locale identified by the Secretary of Housing and Urban Development (HUD) or the Director of the Federal Emergency Management Agency (FEMA) as a Special Flood Hazard Area, the Association shall obtain and pay the premiums upon, as a common expense, a "master" or "blanket" policy of flood insurance on the Buildings and any other property covered by the required form of policy (herein insurable property), in an amount deemed appropriate by the Association, but not less than the following: The lesser of: (a) the maximum coverage available under the NFIP for all Buildings and other insurable property within the Project to the extent that such buildings and other insurable property are within an area having special flood hazards; or (b) 100% of "current replacement cost" of all such Buildings and other insurable property within such area. Such policy shall be in a form that meets the criteria set forth in the most current guidelines on the subject issued by the Federal Insurance Administrator. At the option of the Association, funds for any deductibles may be included in the Association's reserves, and, if included, shall be so designated.

d. The named insured under each policy required to be maintained by the foregoing items (a), (b) and (c) shall be in form and substance essentially as follows: "Colonial Pines, Inc., a Utah nonprofit corporation, for the use and benefit of the individual Owners."

e. Each such policy shall provide that notwithstanding any provision thereof which gives the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable if it is in conflict with any requirement of law or without the prior written approval of the Association.

f. 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 shall provide primary insurance coverage on the Units and the Common Areas in the Project, and (ii) the Owner's policy shall provide coverage against loss or damage to the personal property in the Owner's Unit and a portion of the deductible under the Association's policy. The portion of the deductible under the Association's policy for which an Owner is responsible is calculated by multiplying the amount of the Association's deductible by the percentage that the damage to the Owner's Unit and the Limited Common Area appurtenant to the Unit is to the total damage in a covered loss. For example, if a fire occurs in the Project where the total covered loss to the Units and Common Areas is \$100,000, the damage to an Owner's Unit and its appurtenant Limited Common Areas is \$20,000, and the Association's deductible is \$5,000, the portion of the Association's deductible for which the Owner is responsible is calculated as follows:  $\$20,000/\$100,000 \times \$5,000 = \$1,000$ . The Association shall set aside in the Association's reserves an amount equal to the amount of the Association's property insurance deductible or \$10,000, whichever is less. The Association shall provide written notice to each Owner of the Owner's obligation for the Association's policy deductible and of any change in the amount of the deductible.

g. An insurer under a property insurance policy issued to the Association shall adjust with the Association a loss covered under the Association's policy. Notwithstanding the above, the insurance proceeds for a loss under a property insurance policy of the Association

are payable to an insurance trustee that the Association designates or, if no trustee is designated, to the Association, and may not be payable to a holder of a security interest. An insurance trustee or the Association shall hold any insurance proceeds in trust for the Association, unit owners, and lien holders. Insurance proceeds shall be disbursed first for the repair or restoration of the damaged property. After such disbursements are made and the damaged property has been completely repaired or restored or the project terminated, any surplus proceeds are payable to the Association, Unit Owners, and lien holders.

h. An insurer that issues a property insurance policy under this Section, or the insurer's authorized agent, shall issue a certificate or memorandum of insurance to the Association, a Unit Owner, and a holder of a security interest, upon the Association's, a Unit owner's or the holder's written request.

i. A cancellation or nonrenewal of a property insurance policy under this Section is subject to the procedures stated in Utah Code Annotated § 31A-21-303.

j. The Board of Trustees that acquires from an insurer the property insurance required in this Section is not liable to Owners if the insurance proceeds are not sufficient to cover 100% of the full replacement cost of the insured property at the time of the loss

3. Liability Insurance. The Association shall maintain comprehensive general liability insurance coverage covering all of the Common Areas and Facilities, commercial space owned and leased by the Association, if any, and public ways of the Project. Coverage limits shall be in amounts generally required by private institutional mortgage investors for condominium projects similar to the Project in construction, location, and use. However, such coverage shall be for at least \$1,000,000 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Areas and Facilities, and legal liability arising out of lawsuits related to employment contracts of the Association. Such policies must provide that they may not be cancelled or substantially modified, by any party, without at least 10 days' prior written notice to the Association and to each holder of a Mortgage on any Unit in the Project that is listed as a scheduled holder of a Mortgage in the insurance policy. Such policies must also include protection against such other risks as are customarily covered with respect to condominium projects similar to the Project in construction, location and use, including, but not limited to, host liquor liability, employers liability insurance, contractual and all-written contract insurance, and comprehensive automobile liability insurance. Each Owner is an insured person under a liability insurance policy that the Association obtains that insures against liability arising from the Owner's interest in the Common Areas and Facilities or from membership in the Association.

4. Fidelity Bonds. The Association shall also obtain and maintain blanket fidelity bonds for all officers, directors, and employees of the Association and all other persons handling or responsible for, funds of or administered by the Association. Where the Association has a management agent that is responsible for handling or administering funds of the Association, the



management agent shall be required to maintain fidelity bond coverage for its officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. Such fidelity bonds shall name the Association as an obligee and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bonds be less than a sum equal to 3 months aggregate assessments on all Units plus reserve funds. The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions. The premiums on all bonds required herein, except those maintained by the management agent, shall be paid by the Association as a Common Expense. The bonds shall provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least 10 days' prior written notice to the Association or Insurance Trustee. Such bonds shall also provide that the FNMA Servicer, if FNMA is a holder of Mortgages on Units within the Project, on behalf of FNMA, also; receive such notice of cancellation or modification.

5. Insurance Trustees; Power of Attorney. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement or any successor to such trustee (each of whom shall be referred to herein as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance and to perform such other functions as are necessary to accomplish this purpose. Each Owner appoints the Association, or any Insurance Trustee or substitute Insurance Trustee designated by the Association, as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose.

6. Qualifications of Insurance Carriers & General Coverage Requirements. The Association shall use generally acceptable insurance carriers that meet the specific requirements of FHLMC and FNMA if such corporations are holders of Mortgages on Units within the Project (See the FNMA Conventional Home Mortgage Selling Contract Supplement and the FHLMC Sellers Guide for specific requirements regarding the qualifications of insurance carriers). Notwithstanding anything herein contained to the contrary; insurance coverages required to be obtained hereunder must be in such amounts and meet other requirements of FNMA, FHLMC, FHA and the Department of Veterans Affairs.

7. Waiver of Subrogation. An insurer under a property insurance policy or liability insurance policy obtained under this Article waives the insurer's right to subrogation under the policy against any Owner or member of the Owner's household.

8. Unit Owners' Content Policies. Each Owner shall be responsible to purchase and maintain in force a condominium unit owner contents policy (the "Content Policy"). All Content

Policies shall provide that they do not diminish the insurance carrier's coverage for liability arising under insurance policies obtained by the Association pursuant to this Article.

9. Additional Coverage. The provisions of this Declaration shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage in addition to any insurance coverage required by this Declaration, in such amounts and in such forms as the Association may deem appropriate from time to time.

10. Review of Insurance. The Board of Trustees shall review annually the coverage and policy limits of all insurance on the Project and adjust the same at its discretion. Such annual review may include an appraisal of the improvements in the Project by a representative of the insurance carrier or carriers providing the policy or policies on the Project, or by such other qualified appraisers as the Association may select.

#### **ARTICLE 11 - DAMAGE OR DESTRUCTION**

1. Association as Attorney in Fact. All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney in fact in their name, place, and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from any Owner shall constitute an appointment by said grantee of the Association as such grantee's attorney in fact as herein provided. As attorney in fact, the Association shall have full and complete authorization, right and power to make, execute, and deliver any contract, deed, or other instrument with respect to the interest of an Owner in which may be necessary or appropriate to exercise the powers herein granted.

2. Definition of Repair and Reconstruction. Repair and reconstruction of the improvements as used herein means restoring the Project to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas having substantially the same vertical and horizontal boundaries as before.

3. Procedures. In the event any part of the Project is damaged or destroyed, the Association shall proceed as follows:

4. Notice to Eligible First Mortgage Holders. The Association shall give timely written notice to any each Eligible First Mortgagee holding a First Mortgage on a Unit in the event of substantial damage to or destruction of such Unit or any part of the Common Areas.

5. Estimate of Costs. As soon as practicable after an event causing damage to or destruction of any part of the Project, the Association shall obtain complete and reliable estimates of the costs to repair and reconstruct that part of the Project damaged or destroyed.

6. Sufficient Insurance. If the proceeds of the insurance maintained by the Association exceed the estimated costs to repair and reconstruct the damaged or destroyed part of the Project such repair and reconstruction shall be carried out.

7. Insufficient Insurance – Less than 75% Destruction. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project and if less than seventy-five percent (75%) of the Project is damaged or destroyed, such repair and reconstruction shall nevertheless be carried out. The Association shall levy a Special Assessment sufficient to provide funds to pay the actual costs of such repair and reconstruction to the extent that such insurance proceeds are insufficient to pay such costs. Such Special Assessment shall be allocated and collected as provided in Article 9, Section 3 hereof, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected (together with the proceeds of insurance) are insufficient to pay all actual costs of such repair and reconstruction.

8. Insufficient Insurance – 75% or More Destruction. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project and if seventy-five percent (75%) or more of the Buildings in the Project are substantially damaged or destroyed, such damage or destruction shall be repaired and reconstructed if, but only if, within one hundred (100) days following the damage or destruction, the Owners shall elect by a vote or written consent of at least seventy-five percent (75%) of the Total Votes of the Association to carry out such repair and reconstruction. If, however, the Owners shall not, within one hundred (100) days after such damage or destruction, elect by a vote or written consent of at least seventy-five percent (75%) of the Total Votes of the Association to carry out such repair and reconstruction, the Association shall record in the office of the County Recorder of Salt Lake County, State of Utah, a notice setting forth such facts. Upon the recording of such notice, the following shall occur:

- a. The Project shall be deemed to be owned in common by the Owners.
- b. The undivided interest in the Project owned in common which shall appertain to each Owner shall be the percentage of the undivided interest preciously owned by such Owner in the Common Areas;
- c. Any liens affecting any of the Condominiums shall be deemed to be transferred, in accordance with the existing priorities, to the undivided interest of the respective Owner in the Project; and
- d. The Project shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of any sale resulting from such suit for partition, together with the net proceeds of the insurance of the Project, if any, shall be considered as one fund and shall be divided among all Owners in a percentage equal to the percentage of undivided interest owned by each respective Owner in the Common Areas, as set forth in Exhibit B hereto, after first paying out of the respective share of each Owner, to the extent sufficient for the purposes, all liens on the undivided interest in the Project owned by such Owner.

9. Priority of First Mortgage. In no event shall an owner of a Unit or any other party have priority over any First Mortgagee holding a First Mortgage on such Unit with respect to the distribution to such unit of any insurance proceeds.

10. Repair or Reconstruction. If the damage or destruction is to be repaired and reconstructed as provided above, the Association shall, as soon as practicable after receiving the said estimate of costs, commence and diligently pursue to completion the repair and reconstruction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair and reconstruction, as attorney in fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith, except as otherwise expressly provided herein. The Project shall be restored or repaired to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas having the same vertical and horizontal boundaries as before.

11. Disbursement of Funds for Repair and Reconstruction. If repair or reconstruction is to occur, the insurance proceeds held by the Association and any amounts received from assessments made pursuant to Section 7 hereof shall constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for costs of repair and reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners in proportion to their respective percentages of Ownership of the Common Areas.

12. Amendment of Article. This Article 11 shall not be amended unless Owners of at least sixty-seven percent (67%) of the Total Votes of the Association vote in favor of or consent in writing to such amendment as expressed in an amendment to this Declaration duly recorded.

## ARTICLE 12 - CONDEMNATION

1. Condemnation. If at any time or times all or any part of the Project shall be taken or condemned by any public authority under power of eminent domain, the provisions of this Article 12 shall apply. A voluntary sale or conveyance of all or any part of the Project in lieu of condemnation, but under threat of condemnation, shall be deemed to be a taking by power of eminent domain. If any Unit or portion thereof or the Common Areas or Facilities or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the Board of Trustees shall give prompt written notice of any such proceeding or proposed acquisition to each Owner in the Project and to any Eligible First Mortgagee holding a First Mortgage on a Unit in the Project.

2. Proceeds. All compensation, damages, and other proceeds from any such taking by power of eminent domain (hereinafter the "condemnation award") shall be made payable to the Association and shall be distributed by the Board of Trustees, on behalf of the Association, as herein provided.

3. Complete Taking. In the event the entire Project is taken by power of eminent domain, condominium ownership pursuant hereto shall terminate and the condemnation award shall be allocated among and distributed to the Owners in proportion to their respective undivided interests in the Common Areas. Such distribution shall be made by check payable jointly to the respective Owners and their respective Mortgagees, as appropriate.

4. Partial Taking. In the event less than the entire Project is taken by power of eminent domain, the following shall occur:

5. Allocation of Award. As soon as practicable, the Board of Trustees shall, on behalf of the Association, reasonably and in good faith, apportion the condemnation award between compensation and severance damages, or other proceeds, and shall allocate such apportioned amounts and pay the same to the Owners as follows:

b. The total amount apportioned to taking of or injury to the Common Areas shall be allocated among and distributed to all Owners (including Owners whose entire Units have been taken) in proportion to their respective undivided interests in the Common Areas.

c. The total amount apportioned to severance damages shall be allocated among and distributed to the Owners of those Condominiums that have not been taken, in proportion to their respective undivided interests in the Common Areas;

d. The respective amounts apportioned to the taking of or injury to a particular Unit shall be allocated and distributed to the Owner of such Unit;

e. The total amount apportioned to consequential damages and any other takings or injuries shall be allocated and distributed as the Association determines to be equitable under the circumstances;

f. If apportionment or allocation is already established by negotiation, judicial decree, statute, or otherwise, the Association shall employ such apportionment and allocation to the extent it is relevant and applicable;

g. Distribution of allocated proceeds shall be made by check payable jointly to individual Owners and their respective Mortgagees, as appropriate; and

6. Priority of First Mortgage. No provision of this Article 12 or any other provisions in this Declaration, the Articles, or the Bylaws shall entitle the Owner of a Unit or other party to priority over any First Mortgagee holding a First Mortgage lien on such Unit with respect to the distribution to such Unit of the proceeds of any award, settlement, or proceeds from any eminent domain or condemnation proceeding.

7. Continuation and Reorganization. If less than the entire Project is taken by power of eminent domain, condominium ownership pursuant hereto shall not terminate, but shall continue. In such event, the Project shall be reorganized as follows:

b. If any partial taking results in the taking of an entire Unit, the Owner thereof shall cease to be a Member of the Association and all voting rights and the undivided interest in the Common Areas appertaining to such Unit shall be reallocated to, and shall appertain to, the remaining Units in proportion to their respective undivided interests in the Common Areas.

c. If any partial taking results in the taking of a portion of a Unit and if no determination is made by the Board of Trustees that such taking makes it impractical to use the remaining portion of such Unit for any lawful purpose permitted by this Declaration, then the fair market value of such remaining portion of the Unit shall be determined by the Board of Trustees and all voting rights and the undivided interest in the Common Areas appertaining to such Unit shall be reduced in proportion to the diminution in fair market value of such Unit resulting from the taking. The voting rights and undivided interest in the Common Areas so divested from such Unit shall be reallocated to, and shall appertain to, such Unit and the other Units in the Project in proportion to their respective undivided interests in the Common Areas; provided, however, that such Unit shall participate in such reallocation on the basis of the undivided interest reduced in accordance with the preceding sentence.

d. If any partial taking results in the taking of a portion of a Unit and if there is a determination made by the Board of Trustees that such taking makes it impractical to use the remaining portion of such Unit for any lawful purpose permitted by this Declaration, then all voting rights and the entire undivided interest in the Common Areas appertaining to such Unit shall be reallocated to, and shall appertain to, the remaining Units in proportion to their respective undivided interests in the Common Areas, and the remaining portion of such Unit shall thenceforth be part of the Common Areas.

e. The Board of Trustees shall have the duty and authority to make all determinations and to take all actions necessary or appropriate to effectuate reorganization of the Project under the provisions of this Section; provided, however, that if any such determination shall have been or such action taken by judicial decree, the Board of Trustees shall defer thereto and proceed in accordance therewith.

8. Repair and Reconstruction. Any repair and reconstruction necessitated by condemnation shall be governed by the provisions of Article 12 hereof for cases of Damage or Destruction; provided, however, that the provisions of said Article dealing with sufficiency or insufficiency of insurance proceeds shall not be applicable.

9. Association to Represent Owners in Condemnation. The Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements and agreements with any condemning authority for acquisition of the Common Areas and Facilities, or part thereof, by the condemning authority. Each Owner appoints the Association as attorney-in-fact for such purpose. The Association may appoint a Trustee to act on behalf of the Owners, in carrying out the above functions, in lieu of the Association. In the event of a taking or acquisition of part or all of the Common Areas and Facilities by a condemning authority, the

award or proceeds of settlement shall be payable to the Association, or any Trustee, to be held in trust for Owners and their Mortgagees, if any, as their interests may appear.

### **ARTICLE 13 - OBSOLESCENCE**

1. **Adoption of Plan.** Subject to the provisions of Article 14 hereof, Owners holding sixty-seven percent (67%) or more of the Total Votes of the Association may agree by vote or written consent that the Project is obsolete and adopt a written plan for the renewal and reconstruction of the Project. Written notice of adoption of such a plan shall be given to all Owners and Mortgagees.

2. **Payment for Renewal and Reconstruction.** The Association shall levy a Special Assessment sufficient to provide funds to pay the estimated expenses of renewal or reconstruction. Such Special Assessment shall be allocated and collected as provided in Article 9, Section 3 hereof, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected prove insufficient to pay the actual expenses of such renewal or reconstruction. In the event amounts collected pursuant hereto are in excess of the amounts required for renewal or reconstruction, such excess shall be distributed to the Owners in proportion to their respective percentages of ownership of the Common Areas.

3. **Sale of Project.** Subject to the provisions of Article 14 hereof, the Owners may at any time, by an affirmative vote or written consent of at least sixty-seven percent (67%) of the Total Votes of the Association, at a special meeting of the Members of the Association duly called for such purpose, elect to sell or otherwise dispose of the Project. In such event, the Board of Trustees shall forthwith record in the office of the County Recorder of Salt Lake County, State of Utah, a notice setting forth such facts, and upon the recording of such notice by the Board of Trustees, the Project shall be sold or otherwise disposed of by the Board of Trustees as attorney in fact for all of the Owners. Such action shall be binding upon all Owners and each Owner shall have the duty to execute and deliver such instruments and to perform all acts in such manner and form as may be necessary or appropriate to effect such sale or other disposition of the Project. The proceeds of such sale or disposition shall be apportioned among the Owners in proportion to their respective undivided interests in the Common Areas, and such apportioned proceeds shall be paid into separate accounts, each such account representing one Condominium. Each such account shall remain in the name of the Association, and shall be further identified by the Condominium designation and the name of the Owner. The Board of Trustees, as attorney in fact, shall use and disburse the total amount of each such account, without contribution from one account to another, first to the payment of valid tax and special assessment liens on the Condominium in favor of any governmental assessing authority, second to the payment of any First Mortgagee holding a First Mortgage lien on the Condominium, third to the payment of assessments made pursuant to this Declaration, fourth to the payment of other holders of liens or encumbrances on the Condominium in the order of priority of their liens, and the balance remaining, if any, to the respective Owners.

4. **Amendment of Article.** This Article 13 shall not be amended unless the Owners of sixty-seven percent (67%) or more of the Total Votes of the Association and at least fifty-one

percent (51%) of all First Mortgagees holding First Mortgage liens on Units in the Project, based on one vote for each mortgage, consent and agree to such amendment expressed in an amendment to this Declaration duly recorded.

#### **ARTICLE 14 - MORTGAGE PROTECTION**

1. **Notices to Mortgagees.** Each Owner shall furnish the Board of Trustees with the name and address of any Mortgagee that holds, insures or guarantees a Mortgage against an Owner's Condominium, and the Board of Trustees shall maintain such information. Upon the written request of a Mortgagee to the Association, the Board of Trustees shall provide the Mortgagee timely written notice of (a) any proposed amendment of the Declaration effecting a change in the boundaries of any Unit or the exclusive easement rights appertaining thereto, the interest in the Common Areas and Facilities and Limited Common Areas appertaining to any Unit or the liability for Common Expenses appertaining thereto; (b) any proposed termination of the condominium regime; (c) any condemnation loss or casualty loss that affects a material portion of the Project or that affects any Unit subject to a Mortgage held, insured or guaranteed by the Mortgagee; (d) any delinquency in the payment of any Assessments owed by the Owner of any Unit subject to a Mortgage held, insured or guaranteed by the Mortgagee, where such delinquency has continued for a period of 60 days or more; and (e) any lapse, cancellation or material modification of any insurance policy maintained by the Association.

2. **Restoration after Condemnation or Damage.**

a. Any restoration or repair of the Project after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with the Declaration and the original plans and specifications for the Project unless the affirmative vote or written consent of Mortgagees holding Mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to Mortgages held by such Mortgagees are allocated, is obtained.

b. Any election to terminate the condominium regime after substantial destruction or a substantial taking in condemnation of the Project must require the approval of the Mortgagees holding Mortgages on Units to which at least 51% of the votes of Units subject to Mortgages held by such Mortgagees are allocated.

c. Unless the formula for reallocation of interests in the Common Areas after a partial condemnation or partial destruction of the Project is fixed in advance by the Declaration or the Act, no reallocation of interests in the Common Areas resulting from a partial condemnation or partial destruction of the Project may be effected without the approval of the Mortgagees holding Mortgages on Units to which at least 51% of the votes of Units subject to Mortgages held by such Mortgagees are allocated.

3. **Amendments.**

a. Except as otherwise provided herein, the affirmative vote or consent of Owners holding at least sixty-seven percent (67%) of the Total Votes in the Association shall be



required to amend this Declaration or the Plat. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the members of the Board of Trustees. In such instrument the Board of Trustees shall certify that the vote required by this Section for amendment has occurred.

b. The affirmative vote or consent of Owners to which at least sixty-seven percent (67%) of the Total Votes in the Association are allocated and the approval of at least fifty-one percent (51%) of the Mortgagees requesting written notice of any proposed amendment of this Declaration or the Plat shall be required to terminate the condominium regime.

c. The affirmative vote or consent of Owners to which at least sixty-seven percent (67%) of the Total Votes in the Association are allocated and the approval of at least fifty-one percent (51%) of the Mortgagees requesting written notice of any proposed amendment of this Declaration or the Plat shall be required to materially amend any provisions of the Declaration or the Plat, or to add any material provisions thereto, which establish, provide for, govern or regulate any of the following: (1) Voting; (2) Assessments, assessment liens or subordination of such liens; (3) Reserves for maintenance, repair and replacement of the Common Areas and Facilities; (4) Insurance or Fidelity Bonds; (5) Rights to use of the Common Areas and Facilities; (6) Responsibility for maintenance and repair of the several portions of the Project; (7) Expansion or contraction of the Project or the addition, annexation or withdrawal of property to or from the Project; (8) Boundaries of any Unit; (9) The interests in the Common Areas and Facilities or the Limited Common Areas; (10) Convertibility of Units into Common Areas and Facilities or of Common Areas and Facilities into Units; (11) Leasing of Units; (12) Imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his or her Unit in the Project; and (13) Establishment of self-management by the Association where professional management has been required by FNMA, FHLMC, FHA or Department of Veterans Affairs.

d. Notwithstanding anything contained in this Section 3 to the contrary, the consent or affirmative vote of Owners of Units to which at least sixty-seven percent (67%) of the Total Votes in the Association are allocated and the approval of at least fifty-one percent (51%) of Mortgagees requesting written notice of any proposed amendment of this Declaration or the Plat shall be required to amend any provisions included in the Declaration or the Plat which are for the express benefit of such Mortgagees.

e. A Mortgagee's consent to an amendment to the Declaration or Bylaws is presumed if: (a) written notice of the proposed amendment or action is sent by certified or registered mail to the Mortgagee's address listed for receiving notice in the recorded trust deed or other recorded document evidencing the security interest, (b) 60 days have passed after the day on which notice was mailed, and (c) the person designated for receipt of the response in the notice has not received a written response from the Mortgagee either consenting to or refusing to accept the amendment or action.

## **ARTICLE 15 - COMPLIANCE WITH DECLARATION AND BYLAWS**

1. **Compliance.** Each Owner shall comply strictly with the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association, rules and regulations promulgated by the Association, and the decisions and resolutions of the Association adopted pursuant thereto, as the same may lawfully be modified and amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or for injunctive relief or for both, maintainable by the Association or by an aggrieved Owner.

2. **Enforcement.** This Declaration, the Bylaws, any rules and regulations promulgated by the Board of Trustees, and any decisions made by the Board of Trustees may be enforced by the Board of Trustees and any Owner as follows:

a. Breach of any of the covenants contained in the Declaration, the Bylaws, any rules and regulations promulgated by the Board of Trustees, or any decisions made by the Board of Trustees and the continuation of any such breach, as well as noncompliance with decisions of the Board of Trustees, may be enjoined, abated or remedied by appropriate legal proceedings by an aggrieved Owner, by the Board of Trustees, or by any successor in interest of the Association. Any judgment rendered in any action or proceeding pursuant hereto shall include a sum for attorney's fees in an amount as the court may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and court costs.

b. The result of every act or omission whereby any of the covenants contained in this Declaration, the Bylaws or any rules and regulations or decisions by the Board of Trustees are violated in whole or in part is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance either public or private shall be applicable against every such result and may be exercised by any Owner, by the Board of Trustees, or by the Association's successor in interest.

c. The remedies herein provided for breach of the covenants contained in this Declaration or in the Bylaws shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

d. The failure of the Board of Trustees to enforce any of the covenants contained in this Declaration or in the Bylaws or any of the rules and regulations or decisions of the Board of Trustees shall not constitute a waiver of the right to enforce the same thereafter.

e. A breach of the covenants, conditions or restrictions contained in this Declaration or in the Bylaws or any of the rules and regulations or decisions of the Board of Trustees shall not affect or impair the lien or charge of any bona fide first Mortgage made in good faith and for value on any Condominium, provided, however, that any subsequent Owner of such property shall be bound by said covenants, whether such Owner's title was acquired by foreclosure in a trustee's sale or otherwise.

## ARTICLE 16 - GENERAL PROVISIONS

1. Intent and Purpose. The provisions of this Declaration, and any Supplemental or Amended Declaration, shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of a Condominium Project. Failure to enforce any provision, restriction, covenant, or condition contained in this Declaration, or in any Supplemental or Amended Declaration, shall not operate as a waiver of any such provision, restriction, covenant, or condition or of any other provisions, restrictions, covenants, or conditions.

2. Construction. The provisions of this Declaration shall be in addition and supplemental to the provisions of the Condominium Act and all other provisions of law. Whenever used herein, unless the context shall otherwise require, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both genders. The Article and Section headings set forth herein are for convenience and reference only and are not intended to expand, limit, or otherwise affect the meaning or interpretation of this Declaration or any provision hereof. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provisions hereof.

3. Notices and Registration of Mailing Address. Each Owner shall register from time to time with the Association his current mailing address. All notices, demands, and other communications to any Owner as provided for in this Declaration shall be in writing and shall be sufficient for all purposes if personally served or if sent by first class U.S. mail postage prepaid, addressed to the Owner at his registered mailing address or, if no address has been registered, to the Unit of such Owner. All notices, demands, and other communications to the Association as provided for in this Declaration shall be in writing and shall be sufficient for all purposes if personally served or if sent by first class U.S. mail, postage prepaid, addressed to the registered agent and address of the Association as shown in the official corporate records maintained in the office of the Utah Department of Commerce, Division of Corporations and Commercial Code. On the date of this Declaration, the registered agent of the Association is Property Management Systems, Inc., 262 East 3900 South, Suite 200, Salt Lake City, Utah 84107. Any notice, demand, or communication referred to in this Declaration shall be deemed to have been given and received when personally served or when deposited in the U.S. mail, postage prepaid, and in the form provided for in this Section, as the case may be.

4. Amendment. Except as otherwise provided herein (including, but not limited to, Article 14), this Declaration may be amended if Owners holding at least sixty-seven percent (67%) of the Total Votes in the Association vote in favor of or consent in writing to such amendment as expressed in an amendment that is duly recorded in the office of the County Recorder of Salt Lake County, State of Utah.

5. Effective Date. This Declaration shall be effective upon recording.

6. Agent for Service; Contact Person; Registration.

a. The name and address of the person to receive service of process in all cases provided by the Condominium Act shall be the registered agent and address of the Association as shown in the official corporate records maintained in the office of the Utah Department of Commerce, Division of Corporations and Commercial Code. On the date of this Declaration, the registered agent of the Association is: Property Management Systems, Inc., 262 East 3900 South, Suite 200, Salt Lake City, Utah 84107.

b. The Association shall, in compliance with §57-8-13.1 of the Act, (a) designate a Contact Person that a closing agent may contact who has Association payoff information needed in connection with the closing of an Owner's financing, refinancing or sale of the Owner's Unit, and (b) provide to the Utah Department of Commerce the Contact Person's name, address and telephone number.

c. The Association shall register with the Utah Department of Commerce as required by §57-8-13.1 of the Act and submit an updated registration to the Department within ninety (90) days after a change in any of the information previously provided to the Department.

7. Limitation on Association's Liability. The Association shall not be liable for any failure of water service or other utility service (if any) to be obtained and paid for by the Association hereunder, or for injury or damage to any person or property caused by the elements or by another Owner or person in or upon the Project, or resulting from electricity, water, rain, snow, or ice which may leak or flow from outside or from any parts of the Building or its drains, pipes, conduits, appliances, or equipment, or from any other place, unless caused by the grossly negligent or willful misconduct of the Association. No diminution or abatement of any Assessments under this Declaration shall be claimed or allowed for inconvenience or discomfort arising from the making of any repairs or improvements to or maintaining the Project or any part thereof, or from, any action taken to comply with the provisions of this Declaration or with the laws, ordinances, regulations, rules, or order of any governmental authority.

8. Owner's Obligations. All obligations of an Owner, under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that such Owner may be leasing, renting, or selling under contract such Owner's Condominium. The Owner of a Condominium within the Project shall have no obligation for expenses or other obligations accruing after he conveys such Condominium.

9. Fines. The Board of Trustees may assess a fine against an Owner for a violation of the Declaration, the Bylaws, any rules and regulations promulgated by the Board of Trustees, or any decisions made by the Board of Trustees. Before assessing a fine, the Board of Trustees shall give notice to the Owner of the violation and inform the Owner that a fine will be imposed if the violation is not cured within the time provided in the Declaration, the Bylaws, the rules and regulations adopted by the Board of Trustees, or any decisions made by the Board of Trustees, which shall be at least 48 hours. A fine assessed by the Board of Trustees shall:

a. be made only for a violation of a rule or regulation which is specifically listed in the Declaration, the Bylaws, any rules and regulations adopted by the Board of Trustees, or the decisions made by the Board of Trustees as an offense which is subject to a fine;

b. be in the amount specifically provided for in the Declaration, the Bylaws, any rules and regulations promulgated by the Board of Trustees, or any decisions made by the Board of Trustees for that specific type of violation, not to exceed \$500; and

c. accrue interest and late fees as provided in the Declaration, Bylaws, or the rules and regulations.

Cumulative fines for a continuing violation may not exceed \$500 per month. An Owner who is assessed a fine may request an informal hearing before the Board of Trustees to protest or dispute the fine within 30 days from the date the fine is assessed. The hearing shall be conducted in accordance with the standards provided in the Declaration, Bylaws, or rules and regulations. No interest or late fees may accrue until after the hearing has been conducted and a final decision has been rendered. An Owner may appeal a fine by initiating a civil action within 180 days after (a) a hearing has been held and a final decision has been rendered by the Board of Trustees; or (b) the time to request an informal hearing has expired without the Owner making such a request. Any fine assessed which remains unpaid after the time for appeal has expired becomes a lien against the Owner's Condominium in accordance with the same standards as a lien for the nonpayment of common expenses under Utah Code Ann. Section 57-8-44.

10. Availability of the Declaration, Bylaws, Rules and Regulations, and Financial Statement. Upon the written request of any Owner or any Mortgagee, the Board of Trustees shall make current copies of the Declaration, Bylaws, any rules and regulations adopted by the Board of Trustees, and any decisions made by the Board available for inspection during normal business hours or under other reasonable circumstances. Upon the written request of any existing or prospective Mortgagee, the Board of Trustees shall furnish within a reasonable time a financial statement of the Association for the immediately preceding year at a reasonable fee not to exceed Fifty Dollars (\$50.00).

**[Remainder of this Page Intentionally Left Blank – Signature Page Follows]**

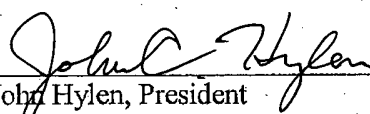
IN WITNESS WHEREOF, the undersigned, being all of the members of the Board of Trustees of the Association, have executed this Declaration the \_\_\_ day of \_\_\_\_\_, 2013.

**BOARD OF TRUSTEES OF COLONIAL PINES INC.,**  
A Utah nonprofit corporation

\_\_\_\_\_  
Margaret Jenson, Trustee

\_\_\_\_\_  
Florence Wolters, Trustee

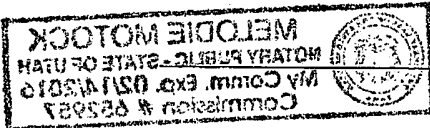
\_\_\_\_\_  
Kay Parker, Trustee

  
\_\_\_\_\_  
John Hylan, President

\_\_\_\_\_  
Valyrie Nibley, Trustee

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by Margaret Jenson, a trustee of Colonial Pines, Inc.



\_\_\_\_\_  
NOTARY PUBLIC

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by Florence Wolters, a trustee of Colonial Pines, Inc.

\_\_\_\_\_  
NOTARY PUBLIC


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

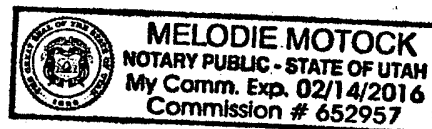
The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by Kay Parker, a trustee of Colonial Pines, Inc.

\_\_\_\_\_  
NOTARY PUBLIC

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

The foregoing instrument was acknowledged before me this 04 day of February,  
201~~2~~<sup>4</sup>, by John Hylan, president of Colonial Pines, Inc.

  
\_\_\_\_\_  
NOTARY PUBLIC



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

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2013,  
by Valyrie Nibley, a trustee of Colonial Pines, Inc.

\_\_\_\_\_  
NOTARY PUBLIC



**EXHIBIT A**

*(Units, Size, Undivided Ownership Interests, Votes, Limited Common Areas & Facilities)*

<b><u>UNIT NO.</u></b>	<b><u>SIZE</u></b> <i>(Square Feet)*</i>	<b><u>UNDIVIDED OWNERSHIP INTERESTS</u></b> <i>(Equal Percentage)</i>	<b><u>VOTES</u></b>	<b><u>LIMITED COMMON AREAS &amp; FACILITIES</u></b>
1	1672.1191	0.041667	1	PA-3&16; S-1
2	1672.1191	0.041667	1	PA-9&10; S-2
3	1672.1191	0.041667	1	PA-2&7; S-3
4	1672.1191	0.041667	1	PA-1; S-4
5	1672.1191	0.041667	1	PA-5&6; S-5
6	1672.1191	0.041667	1	PA-11&13; S-6
7	1672.1191	0.041667	1	PA-17; S-7
8	1672.1191	0.041667	1	PA-8&14; S-8
9	1672.1191	0.041667	1	PB-13&18; S-9
10	1672.1191	0.041667	1	PB-3&4; S-10
11	1672.1191	0.041667	1	PB-1&2; S-11
12	1672.1191	0.041667	1	PB-6&12; S-12
13	1672.1191	0.041667	1	PB-14&15; S-13
14	1672.1191	0.041667	1	PB-11&5; S-14
15	1672.1191	0.041667	1	PB-16&17; S-15
16	1672.1191	0.041667	1	PB-7&8; S-16
17	1455.0291	0.041667	1	PC-13&14; S-17
18	1455.0291	0.041667	1	PC-4&7; S-18
19	1455.0291	0.041667	1	PC-3&12; S-19
20	1455.0291	0.041667	1	PC-10; S-20
21	1455.0291	0.041667	1	PC-1&2; S-21
22	1455.0291	0.041667	1	PC-3A; S-6

<u>UNIT NO.</u>	<u>SIZE</u> (Square Feet)*	<u>UNDIVIDED OWNERSHIP INTERESTS</u> (Equal Percentage)	<u>VOTES</u>	<u>LIMITED COMMON AREAS &amp; FACILITIES</u>
23	1455.0291	0.041667	1	PC-5&6; S-23
24	1455.0291	0.041667	<u>1</u>	PC-8&11; S-24
	38,394.1384	100.00%	24	

\*Size has been determined on the basis of the approximate number of square feet of floor space within each respective Unit, as shown on the Plat and rounded off.

**EXHIBIT B**

(Legal Description of the Land)

That certain real property located in Salt Lake County, State of Utah and more particularly described as follows:

Beginning at the Northeast corner of Lot 9, Block 27, Ten Acre Plat "A", Big Field Survey, and running thence North 89°52'12" East 59.40 feet; thence South 11°50' East 200.74 feet; thence South 2°26' East 234.72 feet; thence South 89°52'12" West 210 feet; thence North 24°00'14" East 48.99 feet; thence North 2°03'58" East 386.67 feet; thence North 89°52'12" East 65.60 feet to the point of beginning.

Parcel Nos.

1620479002	1620479003	1620479004
1620479005	1620479006	1620479007
1620479008	1620479009	1620479010
1620479011	1620479012	1620479013
1620479014	1620479015	1620479016
1620479017	1620479018	1620479019
1620479020	1620479021	1620479022
1620479023	1620479024	1620479025