

**DECLARATION OF PROTECTIVE COVENANTS
CONDITIONS AND RESTRICTIONS FOR
BERKLEY MANOR CONDOMINIUMS**

(A CONDOMINIUM RESIDENTIAL PROJECT)

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Gary W. Ott
Recorder, Salt Lake County, UT
WELKER BENJAMIN
BY: eCASH, DEPUTY - EF 47 P.

THIS DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR BERKLEY MANOR CONDOMINIUMS, a residential project, (hereinafter the "Declaration") is made this ____ day of April, 2015, by BERKLEY MANOR HOMEOWNERS' ASSOCIATION, Inc. (hereinafter the "Association").

RECITALS:

A. The Association is the owner of fee simple title to that certain real property situated in the city of Salt Lake City, County of Salt Lake, and more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof (hereinafter the "Property").

B. Declarant created within and upon the Property a strictly residential condominium complex made up of 18 condominiums to be known as Berkley Manor Condominiums. In order to do so, Declarant established protective covenants and conditions and restrictions upon the Property and each and every portion thereof; which constituted a general scheme for the improvement, development and management of said Property, and for the use, occupancy and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability and attractiveness of the property and enhancing the quality of the environment within Berkley Manor Condominiums.

C. To provide efficient management for Berkley Manor Condominiums and to preserve its value, desirability and attractiveness Declarant incorporated a Utah nonprofit corporation called Berkley Manor Homeowners' Association, Inc. and Declarant delegated and assigned to such Association the powers of managing Berkley Manor Condominiums, of maintaining and administering the Common Areas and Facilities, of administering and enforcing all covenants, conditions and restrictions, of collecting and disbursing funds pursuant to the assessments and charges hereinafter created and referred to and of performing such other acts as shall generally benefit Berkley Manor Condominiums.

D. Declarant conveyed title to all of the property subject to the protective covenants, conditions and restrictions hereinafter set forth to the Association. The Association holds title to all of the Property subject to the protective covenants, conditions and restrictions hereinafter set forth and the Association hereby amends and restates the master protective covenants and conditions and restrictions upon the Property.

NOW, THEREFORE, Association hereby covenants, agrees and declares that all of its interest as may from time to time appear in the Property shall be held and conveyed subject to the following covenants, conditions, restrictions and easements which are hereby declared to be for the benefit of said interests in the Property, and the owners of said interests, their successors and assigns.

ARTICLE 1. DEFINITIONS

Unless the context clearly indicates otherwise, the following terms used in the Declaration are defined as follows:

1.1 the "Act" shall mean the Condominium Ownership Act described in Utah Code 57-8-1 et seq., as amended from time to time.

1.2 "Articles" and "Bylaws" shall mean the Articles of Incorporation and Bylaws of the Association as may from time to time be duly amended. The Articles, among other things, establish the Management Committee to manage the affairs of the Association. The Bylaws, among other things, set forth the number of persons constituting the Management Committee, the method of the Management Committee's selection, the Management Committee's general powers, the method of calling a meeting of Members of the Association and the Members required to constitute a quorum for the transaction of business.

1.3 "Assessments" shall include each and all of the Assessments hereinafter defined:

(a) "Capital Improvement Assessment" shall mean a charge against each Owner and such Owner's Unit representing a portion of the cost to the Association for installation or construction of any Capital Improvements on any of the Common Areas and Facilities which the Association may from time to time authorize pursuant to the provisions of this Declaration.

(b) "Reconstruction Assessment" shall mean a charge against each Owner and such Owner's Unit representing a portion of the cost to the Association for reconstruction of any portion or portions of the Common Areas and Facilities pursuant to the provisions of the Declaration.

(c) "Regular Assessment" shall mean a charge against each Owner and such Owner's Unit representing a portion of the cost to the Association for Common Expenses.

(d) "Special Assessment" shall mean a charge against each Owner and such Owner's Unit, directly attributable to the Owner, to reimburse the Association for costs incurred in bringing the Owner and such Owner's Unit into compliance with the provisions of this Declaration, the Articles, Bylaws, or Association Rules, or any other charge designated as a Special Assessment in the Declaration, the Articles, Bylaws or the Association Rules, together with attorney's fees and other charges payable by such Owner, pursuant to the provisions of the Declaration, plus interest thereon as provided for in this Declaration.

1.4 "Association" shall mean Berkley Manor Homeowners' Association, Inc., a Utah non-profit corporation, incorporated under the laws of the State of Utah, and its successors and assigns. The characteristics and nature of the Association are determined by the Act.

1.5 "Association Rules" shall mean the rules adopted from time to time by the Association pursuant to ARTICLE 7 hereof.

1.6 "Building" shall mean any structure containing one or more Units which Building (a) is permanently affixed to the land, and (b) has one or more floors and a roof.

1.7 "Capital Improvement" shall mean all new improvements intended to add to, enhance, or upgrade the nature, scope, utility, value, or beauty of the Project, as opposed to ordinary repair and maintenance.

1.8 "City" shall mean the City of Salty Lake City, Utah, a municipal corporation of the State of Utah.

1.9 "Class B Control Period" shall mean and refer to that period which shall continuously exist or has continually existed until the first of the following events occur(red):

(a) the Turnover Date (b) When, in its discretion, the Declarant elects to terminate the Class B Control Period.

1.10 "Common Areas and Facilities" shall mean:

(a) the real property, parts of real property, interests in real property, and improvements and fixtures thereto, which are not specifically included within the respective units as herein defined, including, without limitation, all foundations, columns, girders, supports, main walls, roofs, landscaped areas, and all parts of the Property which are from time to time devoted primarily to parking, approaches, exits, entrances, walkways, parks, open spaces, paths, trails and slopes, incidental and interior roadways, service roads and other similar areas;

(b) all parts of the Project normally in common use or necessary or convenient to its use, existence maintenance, safety, or management, including all property rights, improvements, fixtures and personal property which are from time to time devoted primarily for the common use and benefit of the Owners and situated upon public property or the private property of the Owners, including, without limitation all easements running in favor of the Association and the improvements, fixtures and personal property situated within or upon said easements, landscaping, irrigation systems and associated pumps and hardware, street lighting systems, project identification, directional and street signs, and street fixtures;

(c) all Common Areas and Facilities specifically set forth and designated as such on the Plat or Plats of the Property;

(d) all Common Areas and Facilities as defined in the Act, whether or not expressly listed herein or on the Plat or Plats of the Property.

1.11 "Common Expenses" shall mean the actual and estimated costs of:

(a) maintenance, management, operation, repair, and replacement of the Common Areas and Facilities, and all other areas within the Property and outside of the Property which are maintained by the Association, including, without limitation, the landscaped areas, the roadways, the sidewalks and the parking areas, etc., as provided in this Declaration or pursuant to agreement with the City or other governmental agency or authority;

(b) unpaid Special, Reconstruction and Capital Improvement Assessments;

- (c) costs of management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees;
- (d) the costs of utilities, trash pickup and disposal, gardening and other services benefiting the Owners and their Units to the extent such services are paid for by the Association;
- (e) the costs of fire, casualty, liability, workmen's compensation and other insurance covering the Common Areas and Facilities;
- (f) the costs of any other insurance obtained by the Association;
- (g) reasonable reserves as deemed appropriate by the Management Committee;
- (h) the costs of bonding the members of the Management Committee, any professional managing agent or any other person handling the funds of the Association;
- (i) taxes paid by the Association
- (j) amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Areas and Facilities or portions thereof;
- (k) the costs of any other item or items approved by the Management Committee and incurred in connection with the Common Areas and Facilities, this Declaration, the Articles or the Bylaws, or in furtherance of the purposes of the Association or in the discharge of any obligations imposed on the Association by this Declaration.

1.12 "Declarant" shall mean A-D Apartment Company, LLC.

1.13 "Design Guidelines" shall mean the guidelines adopted from time to time by the Management Committee at its sole discretion setting forth certain architectural standards and specification regarding the location and design of the improvements, construction materials, lighting, landscaping, signage and other matters relating to Improvements on the Association Property. The Design Guidelines are incorporated in this Declaration by reference.

1.14 "Expansion Property" shall mean real property that may be added to the Project by the Association by recording additional Plats.

1.15 "Hazardous Material" means (a) any waste, material or substance (whether in the form of a liquid, a solid or a gas and whether or not airborne), which is deemed to be a pollutant or a contaminant or to be hazardous, toxic, ignitable, reactive, corrosive, dangerous, harmful or injurious to public health or to the environment, and which is or may become regulated by or under the authority of any applicable local, state or federal laws, judgments, ordinances, orders, rules, regulations, codes or other government restrictions or requirements, any amendments or successor(s) thereto, replacements thereof of publications promulgated pursuant thereto (collectively "Environmental Regulations" and individually, an "Environmental Regulation"); (b) petroleum; (c) asbestos; (d) polychlorinated biphenyls; and (e) any radioactive material. In

addition to the foregoing the term "Environmental Regulations" shall be deemed to include, without limitation, local, state and federal laws, judgments, ordinances, orders, rules, regulations, codes and other government restrictions and requirements, any amendments and successors thereto, replacements thereof and publication promulgated pursuant thereto, which deal with or otherwise in any manner relate to, environmental matters of any kind.

1.16 "Improvements" shall mean any object, thing or activity of any kind installed, located or occurring on the Property which changes the external appearance of any portion of the Property of any Unit or of any structure or thing affixed on the Property or any Unit, from its external appearance as it existed immediately prior to the installation, location or occurrence of the object, thing or activity. Improvements include, but are not limited to, all Buildings, structures, landscaping and lawns, exterior walkways, parking areas, drives and truck loading areas, signs, fences, poles, walls, utility lines, lighting, excavations, grading, berms, drainage facilities, repairs, alterations, painting and all other structures or objects of any type or kind installed or constructed on the Property.

1.17 "Institutional Mortgagee" shall mean a Mortgagee which is a bank, or savings and loan association or established mortgage company, or other entity chartered under federal or state laws, any insurance company, any federal or state agency, or any other institution specified by the Management Committee.

1.18 "Limited Common Areas" shall mean and refer to those Common Areas and Facilities designated herein or on a Plat of the Property as reserved for the use of a certain Unit or Units to the exclusion of the other Units as further described in this Declaration. Limited Common Areas include, without limitation, assigned parking spaces and storage units, as well as driveways, porches, patios, enclosed decks, yards, and landscaped areas that are immediately contiguous to the Unit.

1.19 "Management Committee" shall mean the Management Committee of the Association.

1.20 "Member" shall mean every individual or entity who qualifies for membership in the Association pursuant to ARTICLE 2, including Declarant so long as Declarant qualifies for membership pursuant to said Article.

1.21 "Mortgage" shall mean any duly recorded mortgage or deed of trust encumbering a Unit.

1.22 "Mortgagee" shall mean the mortgagee or beneficiary under any Mortgage. A "First Mortgagee" shall refer to a Mortgagee whose Mortgage has priority over any other Mortgage encumbering a specific Unit.

1.23 "Occupant" shall mean and include the Declarant, the Owners, their respective heirs, successors and assigns (including Mortgagees) and any person who shall be from time to time entitled to the use and occupancy of space located within the Project under any lease, sublease, license or concession agreement, or other instrument or arrangement under which such rights are acquired.

1.24 "Owner" shall mean one or more persons or entities who are alone or collectively the record owner of fee simple title to a Unit and the percentage of undivided interest in the Common Areas and Facilities which is appurtenant thereto, including Declarant, and the

purchaser under an installment land sales contract, but excluding those having such interest merely as security for the performance of an obligation.

1.25 "Permitees" shall mean all Occupants and all other invitees of Occupants.

1.26 "Plat" shall mean any subdivision plat, any of a planned unit development, or any plat or map similar to any of the foregoing: (a) which covers the Property; (b) which describes or creates one or more Lots or Units; (c) on which or in an instrument recorded in conjunction therewith there is expressed the intent that the Condominiums created by the Plat shall comprise the Project; and (d) which is filed for record in the office of the County Recorder of Salt Lake. Recorded prior to this Declaration is a subdivision plat of Berkley Manor Condominiums executed and acknowledged by Declarant on August 15, 2008, creating separately numbered Lots or Units. Said subdivision plat constitutes a Plat.

1.27 "Project" shall mean all of the Property, together with all of the Buildings and other Improvements constructed thereon.

1.28 "Property" shall mean the real property described on Exhibit "A" attached hereto and incorporated herein by this reference and, subsequent to the annexation thereof pursuant to this Declaration, any real property which shall become subject to this Declaration.

1.29 "Set Back" shall mean the distance from the property line of the Unit to the Building or improvement that is subject to the Set Back requirement provided in this Declaration, the Design Guidelines for the Project, and in any recorded final Plat affecting the Project or in the City's applicable zoning ordinance.

1.30 "Supplementary Declaration" shall mean each of those certain supplementary declarations of protective covenants, conditions and restrictions or similar instruments recorded subsequent to this Declaration, which annex portions of the Expansion Property and thereby extend the plan of this Declaration to such additional property as provided in ARTICLE 16 of this Declaration.

1.31 "Transfer" shall mean the conveyance, sale, or other transfer of a unit by deed; the granting of a life estate in the unit; or if the unit is owned by a limited liability company, corporation, partnership, or other business entity, the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period.

1.32 "Turnover Date" shall mean the date upon which the Declarant deeded the Property then covered by and subject to this Declaration to the Association, evidenced by instruments recorded in the Office of the Salt Lake County Recorder as Entry Nos. 11226254 and 11226256.

1.33 "Unit" shall mean each or any individual Unit as more particularly described in this Declaration, and any other Unit or parcel shown on any recorded final Plat filed by the Declarant to the extent such units or parcels are part of the Property, together with the undivided interest in and to the Common Areas and Facilities appertaining to that Unit. Fixtures and the like shall also be considered part of the Unit. All pipes, wires, conduits, or other public utility lines or installation constituting part of a particular Unit or serving only that Unit, and any structural members of any other property of any kind, including fixtures, and appliances within any Unit which are not removable without jeopardizing the soundness, safety or usefulness of the remainder of the building within which the Unit is situated, shall be considered part of the Unit.

References in the Declaration to a specific Unit shall refer to the particular Unit as set forth in this Declaration and, as applicable, on the recorded final Plat for such Unit.

ARTICLE 2. MEMBERSHIP IN THE ASSOCIATION AND NATURE OF OWNERSHIP

2.1 Membership. Every owner shall be a Member of the Association subject to the terms of this Declaration, the Articles, Bylaws and Association Rules. The terms and provisions set forth in this Declaration, which are binding upon all Owners, are not exclusive, as Owners shall also be subject to the terms and provisions of the Articles and Bylaws of the Association to the extent the provisions thereof are not in conflict with the Declaration. Membership in the Association shall be appurtenant to each Unit and may not be separated from the interest of an Owner in any Unit. Ownership of a Unit shall be the sole qualification for membership in the Association; *provided, however*, that a Member's voting rights or privileges in the Common Areas and Facilities may be regulated or suspended as provided in this Declaration, the Bylaws, or the Association Rules. Not more than one membership in the Association shall exist with respect to ownership of a single Unit.

2.2 Transfer. The membership held by any Owner shall not be transferred, pledged or alienated in any way, except upon the conveyance or encumbrance of such Unit and then only to the transferee or Mortgagee of such Unit. Any attempt to separate the membership in the Association from the Unit to which it is appurtenant shall be void and will not be reflected upon the books and records of the Association. In the event an Owner should fail or refuse to transfer the membership registered in such Owner's name to the transferee of such Owner's interest in such Unit, the Association shall have the right to record the transfer upon the books of the Association so that the name of the Member corresponds with the ownership of the Unit set forth in the Salt Lake County Recorder's office. No part of a Unit nor any part of the legal rights comprising ownership of a Unit may be separated from any other part thereof during the period of condominium ownership so that each Unit, the undivided interest in and to the Common Areas and Facilities appurtenant to such Unit, and the exclusive right to use and occupy the same, shall always be conveyed, devised, encumbered, and otherwise effected only together and may never be separated from one another.

2.3 Voting Rights. All voting rights shall be subject to the restrictions and limitations provided herein and in the Articles, Bylaws, Association Rules, and the Act. The Association shall have one class of Members. Each Member shall be entitled to the number of votes which is equal to the percentage of undivided interest of the Common Areas and Facilities assigned to his Unit or Units as set forth in Exhibit "B" attached hereto and incorporated herein by this reference. When more than one person owns a portion of the interest in a Unit, each such person shall be a Member, but the vote for such Unit shall be exercised as they among themselves determine. Absent any other agreement among co-Owners of a single Unit, (i) a single co-Owner appearing at an Association meeting will be entitled to cast all votes for the Unit, and (ii) if multiple co-Owners appear at an Association meeting, each Co-Owner will have a pro rata fractional vote based upon the ownership interests of the co-Owners appearing at such meeting. The Association shall not be required to recognize the vote or written consent of any co-Owner that is not authorized to vote based upon a written designation of all such co-Owners delivered to the Association.

2.4 Approval of Members. Unless a different percentage is otherwise provided for in this Declaration, the Articles of the Bylaws, the vote of a majority of the Members shall be

required to approve any matter before the Members. Votes may be taken at a meeting held pursuant to the requirements set forth in the Bylaws, or by an action by written consent. Quorum requirements for meetings of the Members shall be set forth in the Bylaws.

2.5 Undivided Interest in Common Areas and Facilities. Each Unit Owner shall have, for each Unit owned, an equal, undivided ownership interest in and to the Common Areas and Facilities as set forth in Exhibit "B."

2.6 No Partition. The Common Areas and Facilities shall be owned in common by all the Owners of Units and no Unit Owner may bring action for partition thereof.

2.7 Subdivision of the Units. A Unit may not be subdivided without the consent of sixty-seven percent (67%) of all Owners. Each Owner waives the right of partition as may be permitted under applicable law.

2.8 Limited Common Areas. The use and occupancy of designated Limited Common Areas shall be reserved to its associated Unit and each Unit Owner is hereby granted an irrevocable license to use and occupy said Limited Common Areas.

2.9 Entry by other Owners. An Owner shall permit other Owners, or their representatives, when necessary for the other Owner's use and enjoyment of the other Owner's Unit, to enter his Unit for the purpose of installing, altering, or repairing mechanical, electrical, or plumbing services, provided that the requests for such non-emergency entry are made at least 24 hours in advance and that such entry is at a time convenient to the Owner. In case of emergency, such rights of entry shall be made only after notice that is reasonable under the circumstances has been given.

ARTICLE 3. COVENANT FOR MAINTENANCE ASSESSMENTS

3.1 Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Unit by acceptance of a deed or other conveyance creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association: Regular Assessments, Special Assessments, Capital Improvement Assessments and Reconstruction Assessments, such Assessments to be fixed, established and collected from time to time as hereinafter provided. The Assessments, together with interest thereon provided, shall be a charge on the land and shall be a continuing lien upon the Unit against which each such Assessment is made. Each such Assessment, together with such interest, late charges and costs and reasonable attorney's fees, shall also be the personal obligation of the Owner of such Unit at the time when the Assessment fell due, and of each subsequent Owner other than a Mortgagee. Any subsequent Owner of a Unit shall be deemed to have notice of the Assessments, whether or not a lien has been recorded. No Owner may waive or otherwise escape liability for an Assessment by abandonment of the Unit.

3.2 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the comfort, health, safety, security and welfare of the Owners and to perform the duties and exercise the powers of the Association enumerated in its Articles, Bylaws, and this Declaration.

3.3 Regular Assessment. The amount and timing of payment of Regular Assessments shall be determined by the Management Committee pursuant to the Articles and Bylaws after giving due consideration to the current maintenance, operational, and other costs

and the future needs of the Association. Prior to the beginning of each fiscal year of the Association, the Management Committee shall estimate the total Common Expenses to be incurred for the upcoming fiscal year. The Management Committee shall then determine the amount of the Regular Assessment to be paid by each Owner. Written notice of the annual Regular Assessments shall be sent to every Owner; provided that failure to provide adequate notice does not relieve the Owner's obligation to pay the Regular Assessment in installments as established by the Management Committee. In the event the Management Committee shall determine that the estimate of total charges for the current year is, or will become inadequate to meet all Common Expenses for any reason, it shall immediately determine the approximate amount of such inadequacy and issue a supplemental estimate of the Common Expenses and determine the revised amount of Regular Assessment against each Owner, and the date or dates when due.

3.4 Capital Improvement Assessments. In addition to the Regular Assessments, the Association may levy in any fiscal year, a Capital Improvement Assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or replacement of a described capital improvement upon the Common Areas and Facilities to the extent the same is not covered by the provision affecting Reconstruction Assessments in ARTICLE 10 hereof, including the necessary fixtures and personal property related thereto. All amounts collected as Capital Improvement Assessments may only be used for capital improvements and shall be deposited by the Management Committee in a separate bank account to be held in trust for such purposes. Said funds shall not be commingled with any other funds of the Association.

3.5 Rate of Assessment. All Regular, Reconstruction and Capital Improvement Assessments shall be fixed by the Management Committee at a rate computed and assessed with respect to each improved Unit at a percentage equal to the percentage of undivided interest in the Common Areas and Facilities appurtenant to the Unit owned by the Unit Owner as set forth in Exhibit B. All Regular, Reconstruction and Capital Improvement Assessments may be collected at intervals selected by the Management Committee. For purposes of the paragraph, "improved Units" means Units that have received a certificate of occupancy. Notwithstanding the foregoing, the total amount of Regular Assessments shall not exceed the previous year's Regular Assessments (determined for an entire 12 month period) by more than 15% without the affirmative vote of Members holding not less than sixty-seven (67%) of the voting Members.

3.6 Certificate of Payment. The Association shall, upon demand, furnish to any Owner liable for Assessments, a certificate in writing signed by an officer or authorized agent of the Association, setting forth whether the Assessments on a specified Unit have been paid, and the amount of delinquency, if any. A reasonable charge may be collected by the Management Committee for the issuance of these certificates, such certificates shall be conclusive evidence of payment of any Assessments therein stated to have been paid.

3.7 Exempt Property. The following portions of the Property shall be exempt from the Assessments created herein; all properties dedicated to and accepted by, or otherwise acquired by a public authority; and the Common Areas and Facilities.

3.8 Special Assessments. In addition to the Regular Assessments authorized in Section 3.3, the Association may levy a Special Assessment or Special Assessments from time to time. Special Assessments may be levied against one or more individual units or against all units. Special Assessments shall be payable in such manner and at such times as determined by the Management Committee, and may be payable in installments extending beyond the fiscal year in

which the Special Assessment is approved, if the Management Committee so determines. The Association also may levy a Special Assessment against any owner individually and against such Owner's unit to reimburse the Association for costs incurred in bringing an Owner and his Unit into compliance with the provisions of this Declaration, the Articles, the Bylaws or Association Rules, or any other charges designated as a Special Assessment in this Declaration, the Articles, Bylaws, or Association Rules, together with attorney's fees, interest and other charges related thereto which special assessment may be levied by the Association after notice to an Owner and an opportunity for a hearing.

3.9 Date of Commencement of Regular Assessments. The Regular Assessments shall commence as to all Units within the Property on the first day of the month following the conveyance of the first Unit within the Property by Declarant to an Owner other than Declarant. In the event the amount budgeted to meet Common Expenses for any year proves to be excessive in light of the actual Common Expenses, the Management Committee in its discretion may either reduce the amount of the Regular Assessment or may abate collection of Regular Assessments as it deems appropriate.

3.10 No Offsets. All Assessments shall be payable in the amount specified by the Assessment and no offsets against such amount shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in this Declaration.

3.11 Reserves. The Regular Assessments shall include reasonable amounts as determined by the Management Committee collected as reserves for the future periodic maintenance, repair or replacement of all or a portion of the Common Areas and Facilities. After the Turnover Date, all amounts collected as reserves, whether pursuant to the preceding sentence of this Section or otherwise, shall be deposited by the Management Committee in a separate bank account to be held in trust for the purposes for which they are collected and are to be segregated from and not commingled with any other funds of the Association.

3.12 Reinvestment Fee. Within thirty (30) days after the effective date of any transfer of legal title to a Lot, the new Owner shall pay to the Association, in addition to any other required amounts, a reinvestment fee, in an amount determined by the Management Committee from time to time. However, notwithstanding the foregoing, the following are not subject to the above referenced reinvestment fee:

- (a) an involuntary transfer;
- (b) a transfer that results from a court order;
- (c) a bona fide transfer to a family member of the seller within three degrees of consanguinity who, before the transfer, provides adequate proof of consanguinity, or to a legal entity, such as a trust, in which the owner or the owner's spouse, son, daughter, father or mother hold a beneficial interest of at least fifty percent (50%) for estate planning purposes;
- (d) a transfer or change of interest due to death, whether provided in a will, trust, or decree of distribution; or
- (e) the transfer of burdened property by a financial institution, except to the extent that the reinvestment fee covenant requires the payment of the Association's costs directly related to the transfer of the burdened property, not to exceed \$250.

ARTICLE 4. NONPAYMENT OF ASSESSMENTS

4.1 Delinquency. Any Assessment provided for in this Declaration which is not paid

when due shall be delinquent on said due date (the "delinquency date"). If any such Assessment is not paid within fifteen (15) days after the delinquency date, a late charge equal to five percent (5%) of the late payment shall be levied and the Assessment shall earn interest from the delinquency date at the rate of eighteen percent (18%) per annum.

4.2 Enforcement Rights. The Association shall have the right to take any of the following actions against one or more Owners(s) after the delinquency date:

- (a) The Association may bring an action to recover a money judgment against the Owner for unpaid Assessments, interests, late fees, costs, and attorney's fees.
- (b) The Association may foreclose the Association's lien against the Unit for the unpaid Assessments, interest, late fees, costs, and attorney's fees.
- (c) The Association may, after giving notice and an opportunity to be heard, terminate an Owner's right to receive utility services and access and use of Common Areas and Facilities.
- (d) The Association may require tenants of a Unit to make future lease payments directly to the Association so long as Assessments remain unpaid for such Unit.

4.3 Other Remedies. The Association shall have all other rights and remedies available by applicable law, including the right to assess fines and suspend voting rights for any period during which any Assessment against an Owner's Unit remains unpaid.

4.4 Intent. No provision of this Article shall be interpreted so as to limit in any way the rights of the Association for collection of Assessments.

ARTICLE 5. COVENANTS, CONDITIONS AND RESTRICTIONS

5.1 Permitted Use. No Unit shall be used except for residential purposes. All Units must comply with the Design Guidelines.

5.2 Emissions/Discharge, Etc. To maintain a degree of protection of the investment which Owners in the Project make, the following are prohibited within the Project:

- (a) Emission of smoke, fumes, odors, gases, vapors, steam, dust, sweepings, dirt, cinders or other particles or substances into the atmosphere which are detectable outside the boundaries of the Unit where created and/or which may be detrimental to the health, safety, welfare or comfort of any Owner or any other person, to the condition of any other portion of the Property, or to any vegetation within the Property.
- (b) Discharge of fluids, gases, solid wastes or other harmful materials into any drainage canal or other waterway which may adversely affect the health, safety, welfare or comfort of any Owner or other person or the condition of any portion of the Property.
- (c) Discharge of glare or heat, subsonic or ultrasonic sounds, or atomic, electromagnetic, microwave, ultra-violet, laser or other radiation which is detectable from any point exterior to the Unit upon which the operation is being conducted.
- (d) Recurrent or continuous emission of sound or noise from any Unit which

may be heard without instruments outside the boundaries of the Unit of orientation.

(e) Recurrent or continuous ground vibrations perceptible without instruments at any point exterior to the Unit of origination.

(f) Physical hazard by reason of fire, radiation, explosion or other similar cause to either the Property or the surrounding area.

(g) Persisting unsightly condition (as determined by the Management Committee in its sole discretion) on or from any Unit which is visible from any street or any other portion of the Property.

(h) Excessive risk of fire or explosion that increases the casualty insurance premiums for improvements on adjacent Units.

(i) Violation of any applicable statute, ordinance, rule, regulation, permit or other validly imposed requirement of any governmental body.

5.3 Waste Disposal. No trash, garbage or waste material, including, but not limited to, scraps, grass, shrub or tree clippings, lumbar, metals and plant waste, shall be kept, stored or allowed to accumulate on any portion of the Property except in an approved bin or contained within an enclosed structure appropriately screened from view. All trash, garbage and other waste materials shall be regularly removed from each Unit and the Property. Incineration of trash, garbage, or waste materials on the Property is prohibited; provided, however, that the Association is permitted to burn weeds.

5.4 Hazardous Materials.

(a) Restriction on Hazardous Materials. Any Hazardous Materials brought upon, kept, used, generated, stored, treated, disposed of or released in or about any Unit, or soils or groundwater of the same, by any Owner of such Unit, any Occupant or Permittee of such Owner, or any party acting on behalf of any of them and in a manner which does not comply with applicable Environmental Regulations shall be referred to herein as a "Hazardous Condition." In the event any Hazardous Condition occurs in a Unit, the Owner of such Unit shall promptly take all actions at its sole expense as are reasonably necessary to correct said violation to the satisfaction of the regulating entity.

(b) Indemnity. If an Owner of a Unit breaches the obligations stated in Section 5.4(a) above or if a Hazardous Condition exists at any time, the Owner of such Unit shall indemnify, defend and hold the Owners of each other Unit within the Property harmless from any and all claims, judgments, damages, penalties, fines, costs, expenses liabilities or losses, including, without limitation, (1) diminution in value of the Property, (2) damages for the loss or restriction on use of usable space or of any amenity of the Property, (3) sums paid in settlement of, payment of, or in order to comply with any claims, suits, actions, judgments, proceedings, or investigations, (4) costs, expenses, reasonable attorneys' fees, consultant fees, expert fees and incidental costs incurred in connection with any of the above or any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any governmental or quasi-governmental entity. The obligations contained in this ARTICLE 5 shall survive the termination of this Declaration.

5.5 Restrictions on Signs. Unless otherwise established in writing by the Association

in a document setting forth community rules or in another written instrument, the following regulations regarding signs apply: No signs or advertising devices of any nature, including without limitation, commercial, political, informational, or directional signs or devices, shall be erected or maintained on or from any Unit or other part of the Project, without the prior inspection and written approval of the Association, except as may be necessary temporarily to caution or warn of danger. If the Association consents to the erection of any such signs or devices, the same shall be removed promptly at the request of the Association.

5.6 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 and Facilities except for service animals of Owners or their guests or invitees with disabilities and except that household pets may be kept or housed in units when and in the manner expressly permitted in writing by the Association in a document establishing community rules or in another written instrument. Each Owner who desires to keep a pet in such Owner's Unit shall apply in writing to the Association for permission to keep such pet. In no event shall any pet be permitted in any portions of the Common Area unless carried or on a leash. Each owner who keeps a pet in a Unit shall promptly remove all pet waste from the Common Areas and Facilities. Each Owner who keeps a pet in a Unit shall indemnify and hold all other Owners and the Association harmless against any loss or liability of any kind or character whatsoever arising from or as a result of having such pet in the Project. If a pet disturbs other Owners by barking or biting or in other ways becoming obnoxious, the Association will give notice to the Owner of such pet to cause such annoyance to be discontinued; and if such annoyance is not discontinued and corrected, the Association may revoke its permission to keep the pet in the Project and the pet shall be removed therefrom.

5.7 No Alterations. No Owner shall, without the prior written consent of the Association in each specific instance, make, or cause to be made any alteration, addition, removal, or improvement in or to the Common Areas and Facilities 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 or persons or property or impair any easement or hereditament appurtenant to the Project. No satellite dishes, outdoor antennas or other similar appliances shall be installed outside of a Unit that is visible from outside such Unit unless expressly permitted in writing by the Association in a document establishing community rules or in another written instrument.

5.8 No Obstructions. No Owner shall obstruct the Common Areas and Facilities or any part thereof. No Owner shall store or cause to be stored in the Common Areas and Facilities any property whatsoever, unless the Association shall consent thereto in writing.

5.9 Prohibition of Damage and Certain Activities. Except with the prior written consent of the Association, nothing shall be done or kept on or from any Unit, in the Common Areas and Facilities, 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 on 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 on any Unit or in the Common Areas and Facilities 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 and Facilities or any part thereof shall be committed by an 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 Permittees, guests, tenants, licensee, or invitees of such Owner. No trampolines shall be permitted anywhere within the Project. No dishes or

outdoor antennas shall be allowed without the specific prior written consent of the Association.

5.10 Commercial Business. Commercial Business shall not be permitted within the Project. However, nothing in this article shall be construed to prevent the Association from entering into contracts with utility providers which contracts would involve installing and maintaining equipment within the Project which may be used for providing services to parties that are not members of the Association.

5.11 Lease and Rental Restrictions.

(a) No Lease for Transient or Hotel Purposes. With the exception of a lender in possession of a Unit following a default in a First Mortgage, a foreclosure proceeding, or any deed or other arrangement in lieu of foreclosure, no Owner shall be permitted to lease a Unit for transient or hotel purposes or for an initial term of less than thirty (30) days.

(b) Entire Unit. No Owner shall lease less than the entire Unit.

(c) All Leases Subject to this Declaration. Any lease agreement shall be required to provide that the terms of such lease shall be subject in all respects to the provisions of the Declaration, the Articles, and the Bylaws and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease and that the Management Committee shall have authority to remedy any such default by all remedies available under the law including, without limitation, by legal action against the tenant. Any Owner who shall lease his Unit shall be responsible for assuring compliance by such Owner's lessee with this Declaration, the Articles, Bylaws and Association Rules.

(d) Form of Leases. All leases shall be in writing.

(e) Background Checks. No Owner shall enter into a lease with any tenant unless and until said Owner has performed a criminal background check on said Tenant and has provided the Management Committee with proof that such criminal background check has been completed. Nothing in this provisions shall be construed as requiring any Owner to provide the Management Committee with a copy of any prospective tenant's criminal background check.

(f) Owner to Provide Information Regarding Leases. Within seven (7) days of entering a lease, the Owner shall provide to the Management Committee in writing each of the following:

1. The name(s) of all Tenants listed on the lease;
2. The Unit number the tenant is leasing;
3. The date the rental period begins or began;
4. The contracted termination date of the lease;
5. A current telephone number and mailing address for the Owner;

The Owner shall notify the Management Committee in writing of termination of any lease within seven (7) days of such termination.

Any Owner that is currently leasing his Unit at the time that this Declaration is recorded in the Salt Lake County Recorder's Office shall provide to the Management Committee all items listed within this Section 5.11(f) within seven (7) days of such recording.

(g) Restriction on the Number of Units That May be Rented. No more than eight (8) Units in the Project shall be rented at any given time. Notwithstanding the provisions of this Section 5.11(g), any Owner that is renting out his Unit at the time this Declaration is recorded with the Salt Lake County Recorder's Office shall be permitted to continue to rent out his Unit until 1) the Owner occupies the Unit, or 2) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the unit, occupies the Unit. This right to rent shall not survive a Transfer of the Unit.

The Management Committee shall create procedures to determine and track the number of rentals in the Project and ensure consistent administration and enforcement of these rental restrictions. Such procedures shall be made available to the Owners in a document describing the Association's rules or in another written document. In determining who shall be permitted to rent his Unit, the Management Committee shall give first priority to the first request made in time, second priority to the second request made in time, and so forth. Notwithstanding the foregoing, the Management Committee may refuse any Owner permission to rent if, at the time of the Owner's request, he has not paid all Assessments, fines, and fees charged against him by the Association.

The following shall be exempt from the rental restrictions contained in this Section 5.11(g):

1. Any Owner in the military for the period of the Owner's deployment;
2. Any Unit occupied by an Owner's parent, child, or sibling;
3. Any Owner whose employer has relocated him for no less than two years; and
4. Any Unit owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for the estate of:
 - (A) a current resident of the Unit; or
 - (B) the parent, child, or sibling of the current resident of the unit;

5.12 Parking Restrictions. No recreational vehicles, trailers, or boats may be parked within the Project. All abandoned vehicles left on the Project over seven (7) days may be removed from the Project by the Association at the expense of the owner of the said vehicle.

5.13 Rules and Regulations. Each Owner shall comply strictly with all rules and regulations adopted by the Association for the governance of the Units, the Common Areas and Facilities, and the Project, as such rules and regulation may be modified, amended, and construed by the Association. Each Owner shall be held responsible for the noncompliance of the same by its Permittees, guests, tenants, licensee, or invitees.

5.14 Construction Period Exemption. During the course of actual construction of any permitted structures or improvements within the Project, the provisions, covenants, conditions, and restrictions contained in this Declaration shall be deemed waived to the extent necessary or convenient to permit such construction; provided, however, that during the course of such construction, nothing shall be done which will result in a violation of any said provision, covenants, conditions or restrictions upon completion of the construction.

5.15 Yard Sales. Yard sales, garage sales, estate sales, sample sales and similar kinds of sales activity from Units is not permitted without the consent of the Association.

5.16 Smoking Restrictions. No owner, occupant, family member, guest, business invitee, or visitor shall smoke cigarettes, e-cigarettes, cigars, or any tobacco product anywhere within the boundaries of the Project including, without limitation, on or in common area, limited common area, and Units. Any owner who sells his unit shall specifically disclose to all potential buyers and Realtors that smoking is prohibited everywhere within the project, including within the units. Any owner who rents or otherwise allows someone other than the owner to reside within or occupy the unit shall disclose to all persons who reside within his unit that smoking is prohibited within all common areas and the unit prior to their residency or occupancy. Each owner is responsible for the actions of all other persons residing within or visiting his/her unit and shall be subject to disciplinary action or a court action for an injunction, or any remedies available for the violation of this section. This section may be enforced in a court of law by any resident or the association. If any resident or the association is required to hire legal counsel to enforce this section, the resident or the association shall be entitled to recover his/her or its attorneys fees and costs incurred, whether or not litigation has been commenced. The association may collect the attorneys fees and costs it incurs through the use of a Special Assessment levied against the owner of the unit and an assessment lien, if necessary.

The restriction set forth in this Section 5.16 shall not apply to owners, tenants, residents or occupants of units in which title was acquired by the owner prior to the first date on which this or any similar restriction was enacted by the Declarant, Association, or legislative body and the owner, tenant, resident or occupant began occupying the unit prior to such restriction ("Existing Units"). The restriction will be enforceable as to Existing Units once the unit is sold, transferred or conveyed to a new owner or the owner, a new tenant, resident or occupant begins to occupy the unit after the enactment of the restriction. The ability to smoke in a unit shall not be sold, transferred, or conveyed to any person who acquires title after the enactment of the restriction.

The Board of Directors shall have the authority and power to enact rules and regulations which it deems necessary to enforce this restriction, including a schedule of fines which may be imposed after notice and a hearing.

(a) "Smoking" shall include the inhaling, exhaling, burning, or carrying of any lighted cigarette, cigar or other tobacco product, marijuana, or illegal substance.

(b) "Business invitee" shall include, without limitation, any contractor, agent, household worker, or other person hired by the owner, tenant or resident to provide a service or product to the owner, tenant, or resident.

5.17 Owner Contact Information Within seven (7) days of taking Ownership of a Unit, each Owner shall provide the Management Committee the following:

1. The name(s) of all Owners of the Unit;
2. The Unit number;
3. A current telephone number and mailing address for each Owner;

The Owner(s) shall notify the Management Committee in writing of any change to the foregoing information within seven (7) days of such change.

Any Owner that has not provided the foregoing information to the Management Committee at the time that this Declaration is recorded in the Salt Lake County Recorder's Office shall provide the same to the Management Committee within seven (7) days of such recording.

ARTICLE 6. GENERAL CONSTRUCTION REQUIREMENTS

6.1 Construction of Improvements on Each Unit. All work performed in the construction, maintenance, repair replacement, alteration or expansion of any Improvement on a Unit shall be effected as expeditiously as possible and in such a manner as not to unreasonably interfere, obstruct or delay (a) access to or from any other Unit, or part thereof, to or from any of the Common Areas and Facilities, (b) construction work being performed on any other Unit; or (c) the use, enjoyment or occupancy of any other Unit. Any replacement, alteration or expansion of any Improvement on a Unit shall be in compliance with all applicable laws, rules, regulations, orders and ordinances of the city, county, state and federal government, or any department or agency thereof and no such work shall cause any Improvement located on any other Unit to be in violation of any such laws, rules, regulations, orders or ordinances. All work performed in the construction, maintenance, repair, replacement, alteration or expansion of any Improvement on a Unit shall be done in a good and workmanlike manner and in accordance with engineering standards.

6.2 Staging of Construction of Improvements. Staging for the construction, maintenance, repair, replacement, alteration or expansion of any Improvement on a Unit, including, without limitation, the location of any temporary buildings or construction sheds, the storage of building materials, and the parking of construction vehicles and equipment, shall be limited to such Unit.

ARTICLE 7. DUTIES AND POWERS OF THE ASSOCIATION

7.1 General Duties and Powers of the Association. In addition to the duties and powers enumerated in its Articles and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

(a) enforce the provisions of the Declaration, the Articles and the Bylaws by appropriate means and carry out the obligations of the Association hereunder, including without limitation, the expenditure of funds of the Association, the employment of legal counsel, the commencement of actions, the promulgation for the Association Rules as provided in the Bylaws and Section 7.2 below, which shall include the establishment of a system of fines or penalties enforceable as Special Assessments;

(b) maintain and otherwise manage all of the Common Areas and Facilities and all facilities, improvements and landscaping thereof, and maintain all other areas within and in the vicinity of the Property which the Association deems appropriate to maintain or is obligated to maintain, including, without limitation, the landscaped areas, the roadways, the sidewalks and the parking areas, as provided in this Declaration or pursuant to agreement with the City or other governmental agency or authority;

(c) pay any real and personal property taxes and other charges assessed against the Common Areas and Facilities unless the same are separately assessed to the Owners;

(d) obtain, for the benefit of the Common Areas and Facilities, all water, gas and electric, refuse collections and other services;

(e) grant easements where necessary for utilities and sewer facilities over the

Common Areas and Facilities to serve the Property as provided in ARTICLE 13 below;

(f) contract for and maintain such policy or policies of insurance as may be required by this Declaration or as the Management Committee deems necessary or desirable in furthering the purposes of and protecting the interest of the Association and its Members;

(g) delegate its powers to committees, officers, or employees as provided in the Bylaws, employ a manager or other persons and contract with independent contractors or managing agents who have professional experience in the management of condominium developments or planned unit developments to perform all or any part of the duties and responsibilities of the Association;

(h) establish and maintain a working capital and contingency fund in an amount to be determined by the Management Committee;

(i) have the power of entry upon any Unit where necessary in connection with construction, maintenance or repair for the benefit of the Common Areas and Facilities, or the Owners;

(j) at its sole discretion, provide trash pickup and disposal and snowplowing service for the benefit of the Owners and their Units;

(k) acquire real property by lease or purchase for offices or other facilities that may be necessary or convenient for the management of the Common Areas and Facilities, the administration of the affairs of the Association or for the benefit of the Members;

(l) at its sole discretion, contract for communication services (e.g., cable television, Internet, telephone, etc.) for the benefit of the Owners who have subscribed for the service; and

(m) have the power to establish in cooperation with the City a special tax assessment district for the performance of all or a portion of the maintenance and other functions now within the responsibility of the Association.

(n) retain on file any information provided it pursuant to the provisions of this Declaration including, without limitation, the provisions of Article 5.

7.2 Association Rules. The Management Committee shall also have the power pursuant to the procedures set forth in the Bylaws to adopt, amend, and repeal such rules and regulations as it deems reasonable (the "Association Rules"). The Association Rules shall govern such matters in furtherance of the purposes of the Association, including, without limitation, the use of the Common Areas and Facilities; provided, however, that the Association Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or Bylaws. A copy of the Association Rules, as they may from time to time be adopted, amended or repealed, shall be delivered to each Owner in the same manner established in this Declaration for the delivering of notices. Upon such delivery, said Association Rules shall have the same force and effect as if they were set forth in and were part of this Declaration. The Association Rules, as adopted, amended or repealed, shall be available at the principal office of the Association to each Owner and Mortgagee upon request. In the event of any conflict between any such Association Rules and any other provisions of this Declaration, the Articles or the Bylaws, the provisions of the Association Rules shall be deemed to be superseded by the provisions of this Declaration, the

Articles or the Bylaws to the extent of any such inconsistency.

7.3 Delegation of Powers. The Association shall have the right according to law, to delegate any of its powers under this Declaration, the Articles and Bylaws; provided, however, no such delegation, whether to a professional management company, committee or otherwise shall relieve the Association of its obligation to perform such delegated duty.

7.4 Schedule of Fines and Penalties. The Association has the authority, from time to time, to set forth in the Association Rules a schedule of fines and penalties for violations of the Association's governing documents.

ARTICLE 8. REPAIR AND MAINTENANCE

8.1 Repair and Maintenance by Association. For this purposes of this Article, "Common Areas and Facilities" shall not include those Limited Common Areas which the Unit Owner has a duty to maintain as described in Section 8.2 herein but shall include all other Limited Common Areas. Without limiting the generality of the statement of duties and powers contained in this Declaration, the Association shall have the duty to accomplish the following upon the Units, Common Areas and Facilities or other land within and about the Project in such a manner and at such times as the Management Committee shall prescribe:

(a) maintain the Common Areas and Facilities in a clean, safe, attractive, and first-class condition at all times, and maintain all other areas within and in the vicinity of the Property which the Association deems appropriate to maintain or is obligated to maintain in a clean, safe, attractive, and first-class condition at all times, including, without limitation, the landscaped areas, the roadways, the sidewalks and the parking areas;

(b) repair, restore, replace and make necessary improvements to the Common Areas and Facilities;

(c) maintain all drainage facilities and easements which constitute Common Areas and Facilities in accordance with the requirements of any applicable flood control district;

(d) cause the appropriate public utility to maintain any utility easements located within the Common Areas and Facilities;

(e) maintain the public rights-of-way within the Project; and maintain all other areas, facilities, equipment, services or aesthetic components of whatsoever nature as may from time to time be requested by the vote of Members holding not less than sixty-seven (67%) of the voting power of the Members.

8.2 Repair and Maintenance by Owner. Every Owner shall:

(a) maintain those portions of such Owner's Unit that are not considered to be Common Areas and Facilities and all improvements located therein including, without limitation, any plumbing fixtures, water heater, heating equipment, air conditioner, lighting fixtures, and appliances in and connected to the unit in a clean, safe, attractive and first-class condition at all times, and in compliance with this Declaration, the Articles, Bylaws and the Association Rules;

(b) maintain the following Limited Common Areas in a clean, safe,

attractive and first-class condition at all times, and in compliance with this Declaration, the Articles, Bylaws and the Association Rules: all driveways, porches, patios, enclosed decks, yards, landscaped areas, and storage facilities that are herein defined as Limited Common Areas and reserved exclusively for the Owner's Unit.

(c) repair any structural or visible defects or damages to Improvements that are not considered to be Common Areas and Facilities, keep any exteriors and other structures on such Owner's Unit that are not considered to be Common Areas and Facilities in good, clean, safe, attractive, and first-class condition and painted as required, keep such Owner's Unit free from trash and debris, and keep all lighting clean and functional.

8.3 Architectural Review Committee and Design Guidelines

(a) The Management Committee shall serve as the Architectural Review Committee (the "ARC") and may delegate the responsibilities of the ARC. The ARC shall prepare and promulgate on behalf of the Management Committee, design and development guidelines, and application and review procedures, applicable to the Association Properties or any portion thereof (the "Design Guidelines"). The guidelines and procedures shall be those of the Association, and the ARC shall have the sole and full authority to prepare and to amend the same, subject to approval of the City (if applicable). The Association shall make copies of the guidelines and procedures available, upon request, to Owners, builders and developers who seek to engage in development of or construction upon any portion of the Association Properties, and such Owners, builders and developers shall conduct their operations strictly in accordance therewith.

(b) Any construction, alteration, modification, removal or destruction, within the project, including the location of all improvements, must be approved in writing by the ARC prior to the commencement of the same. No person commencing such construction, alteration, modification, removal or destruction prior to receipt of such written approval shall acquire any vested rights in any such improvement. A majority of the members of the ARC shall have the power to act on behalf of the ARC, without the necessity of a meeting and without the necessity of consulting the remaining member or members of the ARC. All decisions rendered by the ARC must be by written instrument setting forth the action taken by the members consenting thereto.

(c) The ARC may, at its sole discretion, withhold approval of any proposal if the ARC finds the proposal would be inappropriate for the particular Lot or incompatible with the Design Guidelines. Considerations such as siting, shape, size, color, design, height, solar access or other effects on the enjoyment of other Lots or Common Area, and any other factors which the ARC reasonably believes to be relevant, may be taken into consideration by the ARC in determining whether or not to approve any proposal.

(d) Approval or disapproval by the ARC of any matter proposed to it or within its jurisdiction shall not be deemed to constitute precedent, waiver or estoppel impairing its right to withhold approval or grant approval as to any similar matter thereafter proposed or submitted to it.

(e) Any Owner adversely impacted by action of the ARC may appeal such action to the Management Committee. If, however, the ARC's duties are being carried out by the Management Committee, then no such right to appeal shall exist.

(f) All appeals and hearings shall be conducted in accordance with procedures set forth by the Management Committee by resolution.

(g) The ARC's approval of any proposal shall automatically be revoked within three (3) months after issuance unless construction or other work relating to the proposal has been commenced or the Owner has applied for and received an extension of time from the ARC.

(h) The ARC may inspect from time to time, all work performed and determine whether it is in substantial compliance with the approval granted. If the ARC finds that the work was not performed in substantial conformation with the approval granted, or if the ARC finds that the approval required was not obtained, the ARC shall notify the Owner in writing of the noncompliance. The notice of noncompliance shall specify the particulars of noncompliance and shall require the owner to remedy the noncompliance by a specific date. Any Owner who receives a notice of noncompliance may appeal the notice in accordance with the appeals procedure set forth by the Management Committee.

(i) Neither the Management Committee, nor the ARC shall be liable to any Owner, occupant, builder or other person for any damage, loss or prejudice suffered or claimed on account of any action or failure to act of the ARC or a member thereof, provided only that the member has in accordance with the actual knowledge possessed by him or her, acted in good faith. The ARC is not responsible for determining compliance with structural and building codes, solar ordinances, zoning codes or other governmental regulations, all of which are the responsibility of the Owner.

8.4 Standards for Maintenance and Construction.

(a) Maintenance of the exterior of Buildings and Improvements shall be accomplished in accordance with the Design Guidelines.

(b) Throughout any period of construction upon a Unit, the Owner of such Unit shall keep the Unit and all streets used by construction equipment or trucks in clean and safe condition, shall remove daily all trash, rubbish, debris, mud and dirt therefrom, shall take all measures necessary or appropriate to control dust, blowing sand and erosion, whether by wind or water, on the Unit and shall so conduct all such construction so as not to interfere with free and ready access to existing Buildings and neighboring Units.

8.5 Right of Association to Maintain and Install. In the event any Owner fails properly to perform his or her maintenance responsibility, the Association may cause such maintenance to be accomplished as hereinafter set forth.

(a) Upon finding by the Management Committee of a deficiency in such maintenance, the Management Committee shall give notice of deficiency to the responsible Owner which shall briefly describe the deficiency and set a date for hearing before the Management Committee or a committee selected by the Management Committee for such purpose. The Management Committee may delegate its power under this Section 8.4(a) to a duly appointed committee of the Association.

(b) Such hearing shall be held not less than ten (10) nor more than thirty (30) days from the date of said notice.

(c) Such hearing shall be conducted according to such reasonable rules and procedures as the Management Committee shall adopt and which shall provide the Owner with the right to present oral and written evidence and to confront and cross-examine adverse witnesses. If the Management Committee or any such committee renders a decision against the responsible Owner, it shall further set a date by which the deficiency is to be corrected by the responsible Owner. A decision of a committee other than the Management Committee may be appealed to the Management Committee, but a decision of the Management Committee shall be final.

(d) If a deficiency continues to exist after the time limitation imposed by a final decision of the Management Committee or any such committee, the Management Committee or such committee shall have a right of entry upon such Unit and Limited Common Areas and may cause such maintenance to be accomplished.

(e) In the event the Management Committee or such committee elects to cause such maintenance to be accomplished, the following shall apply;

(i) The responsible Owner shall have no more than ten (10) days following the receipt of written notice of such election from the Management Committee or such committee to select a day or days upon which the Unit shall be entered and maintenance work shall be accomplished;

(ii) The date which said Owner selects shall be not less than fifteen (15) days nor more than forty-five (45) days following the last day of said ten (10) day period;

(iii) If said Owner does not select such day or days within said ten (10) day period, the Management Committee or such committee may select a day or days upon which the Unit may be entered and such work may be accomplished which shall be not less than twenty-five (25) nor more than fifty-five (55) days from the last day of said ten (10) day period; and

(iv) Unless the Owner and the Management Committee otherwise agree, such maintenance shall take place only during daylight hours on any day, Monday through Saturday, excluding holidays.

(f) If the Association pays for all or any portion of such maintenance, such amount shall be a Special Assessment to the affected Owner and Unit.

ARTICLE 9. INSURANCE

9.1 Types. The Association shall obtain and continue in effect in its own name the following types of insurance if generally available at reasonable cost or, if not generally available at reasonable cost, reasonably equivalent or substantially similar coverage which is so available:

(a) A comprehensive policy of public liability insurance covering the Common Areas and Facilities, Limited Common Areas, and the Units with a limit of not less than Two Million Dollars (\$2,000,000) for claims for personal injury and/or property damage arising out of a single occurrence, such coverage to include protection against water damage liability, liability for non-owned and hired automobiles and liability for property of others, and such other risks as shall customarily be covered with respect to similar real estate developments in the area

of the Property, shall specifically name Declarant as an "additional insured" so long as Declarant owns a Unit in the Property, and shall contain a "severability of interest" endorsement or the equivalent which shall preclude the insurer from denying the claim of an Owner because of negligent acts or omissions of the Association or other Owners.

(b) A policy of fire and casualty insurance with extended coverage for the full replacement value of the Common Areas and Facilities, Limited Common Areas, and the Units (including all building service equipment and the like), and any fixtures, improvements, or betterments thereof, without deduction for depreciation, with an "agreed amount endorsement" or its equivalent and clauses waiving subrogation against Declarant, Members and the Association and persons upon the Property with the permission of a Member, such insurance to afford protection against at least loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, water damage, and such other risks as shall customarily be covered with respect to similar real estate developments in the area of the Property.

9.2 Waiver By Members. As to each of said policies which will not be voided or impaired thereby, the Members hereby waive and release all claims against the Association, the Management Committee, and agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said persons, but to the extent of insurance proceeds received in compensation for such loss only.

9.3 Other Insurance: Annual Review. The Association may purchase such other insurance as it may deem necessary, including, but not limited to, plate-glass insurance, workmen's compensation, officers' and directors' liability, and errors and omission insurance. The Management Committee shall annually determine whether the amounts and types of insurance it has obtained provide adequate coverage for the Common Areas and Facilities in light of increased construction cost, inflation, practice in the area in which the Property is located, or any other factor which tends to indicate that either additional insurance policies or increased coverage under existing policies are necessary or desirable to protect the interests of the Association. If the Management Committee determines that increased coverage or additional insurance is appropriate, it shall obtain the same.

9.4 Premiums and Proceeds. Insurance premiums for any such blanket insurance coverage obtained by the Association and any other insurance deemed necessary by the Association shall be a Common Expense to be included in the Regular Assessments levied by the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried, or otherwise disposed of as provided in ARTICLE 10 hereof. The Association is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers.

ARTICLE 10. DESTRUCTION OF IMPROVEMENTS

In the event of partial or total destruction of Improvements upon the Common Areas and Facilities, it shall be the duty of the Association to restore and repair the same to its former condition as promptly as practical. The proceeds of any insurance maintained pursuant hereto shall be used for such purpose. In the event that the amount available from the proceeds of such insurance policies for such restoration and repair shall be insufficient to accomplish such repair or restoration, a Reconstruction Assessment may be levied by the Association to provide the

necessary funds or such reconstruction, over and above the amount of any insurance proceeds available for such purpose. In the event any excess insurance proceeds remain, the Management Committee shall distribute pro rata such excess funds to the Members, subject to the prior rights of Mortgagees whose interest may be protected by insurance policies carried by the Association. The rights of an Owner and the Mortgagee of his Unit as to such pro rata distribution shall be governed by the provisions of the Mortgage encumbering such Unit. All amounts collected as Reconstruction Assessments shall only be used for the purposes set forth in this Article and shall be deposited by the Management Committee in a separate bank account to be held in trust for such purposes. Such funds shall not be commingled with any other funds of the Association.

ARTICLE 11. EMINENT DOMAIN

The term "taking" as used in this Article shall mean condemnation by eminent domain or sale under threat of condemnation. In the event of a threatened taking of all or any portion of the Common Areas and Facilities, the Members hereby appoint the Management Committee and such persons as the Management Committee may delegate to represent all of the Members in connection with the taking. The Management Committee shall act in its sole discretion with respect to any awards being made in connection with the taking and shall be entitled to make a voluntary sale to the condemner in lieu of engaging in a condemnation action. Any awards received on account of the taking shall be paid to the Association. In the event of a taking of less than all of the Common Areas and Facilities, the rules as to restoration and replacement of the Common Areas and Facilities and the improvements thereon shall apply as in the case of destruction of the improvements upon the Common Areas and Facilities. In the event of a total taking, the Management Committee shall distribute pro rata any award to the Members. The rights of an Owner and the Mortgagee of such Owner's Unit as to such pro rata distribution shall be governed by the provisions of the Mortgage encumbering such Unit.

ARTICLE 12. RIGHTS TO THE COMMON AREAS AND FACILITIES

12.1 Members' Right of Enjoyment. There is hereby reserved and established for the benefit of each Owner and such Owner's Occupants and Permittees a nonexclusive easement for use and enjoyment in and to the Common Areas and Facilities and an irrevocable license to use and occupy the Limited Common Areas appurtenant to the Unit of such Owner and Owner's Occupants and Permittees, and such rights shall be appurtenant to and shall pass with the interest required to be an Owner to every Unit, subject to the following provisions:

(a) The right of the Association to establish reasonable rules and regulations pertaining to the use of the Common Areas and Facilities (including Limited Common Areas).

(b) The right of the Association subject to the approval rights of Mortgagees pursuant to ARTICLE 15 hereof, to dedicate or transfer all or any part of the Common Areas and Facilities (including Limited Common Areas) to any public agency, authority or utility or other entity for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer, including, without limitation, the conveyance, lease or other transfer of any portion of the Common Areas and Facilities (including Limited Common Areas) to a special tax assessment district or to the City, shall be effective unless approved by Members holding not less than sixty-seven percent (67%) of the voting power of the Members.

(c) The right of the Association to establish, in cooperation with the City, a special assessment district for the performance of all or a portion of the maintenance and other functions now within the responsibility of the Association, together with the right of the

Association to convey, lease or otherwise transfer, subject to the provisions of subsections 12.1(b) above, all or any portion of the Common Areas and Facilities to said district.

12.2 Waiver of Use. No member may exempt such Member from personal liability for Assessments duly levied by the Association, nor release the Unit owned by such Member from the liens and charges hereof, by waiver of the use and enjoyment of the Common Areas and Facilities (including Limited Common Areas) or the abandonment of his Unit.

ARTICLE 13. EASEMENTS

13.1 Owners' Rights and Duties: Utilities and Communication Lines. The rights and duties of the Owners with respect to water, sewer, electricity, gas, telephone, cable television lines and drainage facilities shall be governed by the following:

(a) Wherever sanitary sewer, water, electricity, gas, telephone and communication lines or drainage facilities are installed within the Property, there is hereby reserved and established for the benefit of the Owners of any Unit served by said lines or facilities a nonexclusive easement for the full extent necessary therefore, to enter into the Units owned by others, in or upon said lines or facilities, or any portion thereof, to repair, replace and generally maintain said lines and facilities as and when the same may be necessary as set forth below, provided that such Owner or utility company shall promptly repair any damage to a Unit caused by such entry as promptly as possible after completion of work thereon.

(b) Wherever sanitary sewer, water, electricity, gas, telephone or communication lines or drainage facilities are installed within the Property, which lines or facilities serve more than one (1) Unit, the Owner of each Unit served by said lines or facilities shall be entitled to the full use and enjoyment of such portions of said lines or facilities which service such Owner's Unit.

(c) The foregoing provisions of this Section shall not be deemed to give any Owner the right to connect to any utility line or facility without first complying with all the requirements of the utility company providing the service in question, including without limitation, the payment of all required connection fees and related charges.

13.2 Utilities. Easements over the Property for the installations and maintenance of electric, telephone, communication lines, water, gas, sanitary sewer lines and drainage facilities as shown on the Plat or Plats of the Property are hereby reserved and established for the benefit of each Owner and their respective successors and assigns.

13.3 Common Area Easements. The following nonexclusive easements are hereby reserved and established for the benefit of each Owner and the Occupants and Permittees of each Owner:

(a) Nonexclusive easements between each Unit for the purpose of pedestrian traffic between each Unit and (1) each other Unit which is contiguous thereto; (2) the public streets and alleys now or hereafter abutting or located on any portion of the Property; (3) the Common Areas and Facilities; (4) the parking areas now and hereafter located on the Property; (5) over and across the Common Areas and Facilities located on the Property.

(b) Nonexclusive easements for the purpose of vehicular traffic between each Unit and (1) the public streets and alleys now and hereafter abutting any portion of the

Property; and (2) the Common Areas and Facilities; limited, however, to those portions of the Property which are improved by the Owner thereof from time to time for vehicular access ways as such portions may be relocated from time to time by such Owner.

(c) Nonexclusive easements over, upon, across and between the access points and driving lanes from time to time established on each Unit for the purpose of providing ingress, egress, and access to (1) the easements hereby created; (2) the public streets and alleys now and hereafter abutting any portion of the Property; and (3) the Common Areas and Facilities.

(d) Nonexclusive easements in and to the parking areas from time to time located on the Property for access to and use for vehicular parking purposes.

ARTICLE 14. NATURE OF EASEMENTS AND RIGHTS GRANTED

14.1 Rights and Easements Appurtenant. Each and all of the easements and rights granted or created herein are appurtenances to the affected portions of the Property and none of the easements and rights may be transferred, assigned or encumbered except as an appurtenance to such portions. For the purposes of such easements and rights, the particular areas of the Property which are benefitted by such easements shall constitute the dominant estate, and the particular areas of the Property which are burdened by such easements and rights shall constitute the servient estate.

14.2 Nature and Effect of Easements and Rights. Each and all of the easements, covenants, restrictions and provisions contained in this Declaration:

(a) are made for the direct, mutual and reciprocal benefit of the Owners, Occupants and Permittees of the respective Units;

(b) create mutual equitable servitudes upon each Unit in favor of the other Units;

(c) constitute covenants running with the land; and

(d) shall bind every person or entity having any fee, leasehold or other interest in any portion of the Property at any time or from time to time to the extent that such portion is affected or bound by the easement, covenant, restriction or provision is to be performed on such portion.

Article 15. RIGHTS OF LENDERS

15.1 Filing Notice; Notices and Approvals. A mortgagee shall not be entitled to receive any notice which this Declaration requires the Association to deliver to Mortgagees unless and until such Mortgagee, or its mortgage servicing contractor, has delivered to the Management Committee a written notice stating that such Mortgagee is the holder of a mortgage encumbering a Unit within the Property. Such notice shall state whether such mortgagee is a First Mortgagee. Where the approval of all or a specified percentage of Mortgagees is required pursuant to this Declaration, it shall be deemed to mean the vote or approval of all or the specified percentage only of those mortgagees which have delivered such notice to the Management Committee. Notwithstanding the foregoing, if any right of a Mortgagee under this Declaration is conditioned on a specific written request to the Association, in addition to having delivered the notice provided in this Section, a Mortgagee must also make such request, either in

a separate writing delivered to the Association or in the notice provided above in this Section, in order to be entitled to such right. Except as provided in this Section, a Mortgagee's rights pursuant to this Declaration, including, without limitation, the priority of the lien of Mortgages over the lien of Assessments levied by the Association hereunder shall not be affected by the failure to deliver a notice to the Management Committee. Any notice or request delivered to the Management Committee by a Mortgagee shall remain effective without any further action by such Mortgagee for so long as the facts set forth in such a notice or request remain unchanged.

15.2 Priority of Mortgage Lien. No breach of the covenants, conditions, or restrictions herein contained nor the enforcement of any lien provisions herein, shall affect, impair, defeat or render invalid the lien or charge of any Mortgage made in good faith and for value encumbering any Unit, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise, with respect to a Unit, except as otherwise provided in this Article.

15.3 Curing Defaults. A Mortgagee or the immediate transferee of such Mortgagee who acquires title by judicial foreclosure, deed in lieu of foreclosure or trustee's sale, shall not be obligated to cure a breach of the provisions of this Declaration which occurred before such Mortgagee or transferee acquired title or such breach is noncurable or of a type which is not practical or feasible to cure, and such Mortgagee did not have notice of such breach at the time Mortgagee acquired its lien or security interest in the Unit or Units. The determination of the Management Committee made in good faith as to whether a breach is noncurable or not feasible to cure shall be final and binding on all Mortgagees.

15.4 Relationship With Assessments Liens.

(a) The lien provided for in ARTICLE 3 hereof for the payment of Assessments shall be subordinate to the lien of any Mortgage which is recorded prior to the date any such Assessment becomes due.

(b) If any Unit subject to a monetary lien created by any provision hereof shall be subject to the lien of a Mortgage the foreclosure of the lien of said Mortgage, the acceptance of a deed in lieu of foreclosure of the Mortgage or sale under a power of sale included in such Mortgage (such events being hereinafter referred to as "Events of foreclosure") shall not operate to affect or impair the lien hereof, except that any persons who obtain an interest through any of the Events of Foreclosure, and their successors in interest, shall take title free of the lien hereof or any personal obligation for said charges as shall have accrued up to the time of any of the Events of Foreclosure, but subject to the lien hereof for all said charges that shall accrue subsequent to the Events of Foreclosure.

(c) Any Mortgagee who obtains title to a Unit by reason of any of the Events of Foreclosure, or any purchaser at a private or judicial foreclosure sale shall take title to such Unit free of any lien or claim for unpaid Assessments against such Unit which accrue prior to the time such Mortgagee or purchaser takes title to the Unit, except for liens or claims for a share of such Assessments resulting from a reallocation of such Assessments to all Units within the Property.

(d) Nothing in this Section shall be construed to release any Owner from his obligation to pay for any Assessment levied pursuant to this Declaration.

15.5 Other Rights of Institutional Mortgagees. Any Institutional Mortgagee, or its mortgage servicing contractor, shall, upon, written request to the Association, be entitled to:

- (a) Inspect the books and records of the Association during normal business hours; and
- (b) Receive the annual audited financial statement of the Association ninety (90) days following the end of the Association's fiscal year; and
- (c) Receive written notice of all annual and special meetings of the Members or of the Management Committee, and Institutional Mortgagees shall further be entitled to designate a representative to attend all such meetings in order to, among other things, draw attention to violations of this Declaration which have not been corrected to made the subject of remedial action by the Association; provided, however, nothing contained in this Section shall give an Institutional Mortgagee the right to call a meeting of the Management Committee or of the Members for any purpose or to vote at any such meeting; and
- (d) Receive written notification from the Association of any default in the performance of the obligations imposed by this Declaration by the Owner whose Unit is encumbered by such Institutional Mortgage, which default has not been cured within sixty (60) days of a request therefore by the Association; provided, however, the Association shall only be obligated to provide such notice to Institutional Mortgagees whose written request thereof to the Association specifies the Unit or Units to which such request relates.

15.6 Conflicts. In the event of any conflict between any of the provisions of this Article and any of the other provisions of this Declaration, the provisions of this Article shall control.

15.7 Voting Rights of Institutional Mortgagees. In the event of a default by the Owner of any Unit in any payment due under the terms of any Institutional Mortgage or the promissory note secured thereby, the Institutional Mortgagee or his representative shall have the right, upon giving written notice to such defaulting Owner and the Association and placing of record a notice of default, to exercise the voting rights of such defaulting Owner attributable to such Unit at any regular or special meeting of the Members held during such time as such default may continue. Any such Owner's voting Rights shall be restored to him at such time as such default is cured.

15.8 Notice of Destruction or Taking. In the event that any Common Areas and Facilities, or any portion thereof is substantially damaged or is made the subject of any condemnation proceeding in eminent domain or is otherwise sought to be acquired by a condemning authority, the Management Committee shall promptly notify any Institutional Mortgagee affected by such destruction, taking or threatened taking. As used herein, "substantially damaged" shall mean exceeding Ten Thousand Dollars (\$10,000). If requested in writing by an Institutional Mortgagee, the Association shall evidence its obligations under this Section in a written agreement in favor of such Institutional Mortgagee.

ARTICLE 16. CONDOMINIUM PARTY WALLS

16.1 Boundary Line Between Condominiums. The boundary line between two (2) condominiums shall be deemed to be the center line of the airspace between the exterior walls of the two (2) condominiums which abut such airspace (the "Party Walls") or, if there is no airspace, where the Party Walls abut, notwithstanding the fact that the common boundary line for the

condominiums may not be located precisely upon said center line of the Party Walls. The Owner of each condominium Unit from time to time shall have the full rights of ownership, use and occupancy of such Unit and the Owner of a condominium shall not have any right, title or interest in any part of the other condominiums located primarily adjacent to such Unit.

16.2 Limitation on Alterations to Party Walls. No Owner of a condominium shall have the right, except with the prior written consent of the adjacent Owner, to (i) make any alteration or additions to any Party Wall or any part thereof, except non-structural, interior alterations made within the living unit of such Owner's condominium, or (ii) take any action which would adversely affect the structural integrity or sound transmission prevention qualities of the Party Walls.

16.3 Exterior of Party Walls – Colors and Materials. The exterior portions of any Party Wall visible outside a condominium shall be of the same color and/or materials as the exterior walls thereof or only such colors and/or materials as are approved by the Association.

16.4 State Law Governs. To the extent inconsistent with the provisions of this Article, the laws of the State of Utah regarding party walls shall be application with respect to each Party Wall.

ARTICLE 17. SUBMISSION AND DESCRIPTION OF THE PROJECT

17.1 Submission and Reservations. The Property is hereby submitted to the provisions of the Act.

TOGETHER WITH all easements, rights of way, and other appurtenances and rights incident to, appurtenant to, or accompanying the Property.

SUBJECT TO all liens for current and future taxes, assessments and charges imposed or levied by governmental or quasi-governmental authorities; all patent reservations and exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which affect the Property or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible easements and rights-of-way; all easements and rights-of-way of record; any easements, rights-of-way, encroachments, or discrepancies shown on or revealed by a survey map of the Property or otherwise existing; an easement for each and every pipe, line, cable, wire, utility line or similar facility which traverses or partially occupies the Property at such time as construction of all Project improvements is complete; all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cables, wires, utility lines, and similar facilities; such easements and rights of ingress and egress over, across, through, and under the Property and any improvements now or hereafter constructed thereon as may be reasonably necessary for the Association: i) to construct and complete the Buildings and Units and all of the other improvements described in this Declaration or on a recorded plat map of the Property, and to do all things reasonably necessary or proper in connection therewith; ii) to construct and complete on the Expansion Property or any portion thereof improvements as the Association shall determine to build in its sole discretion; and iii) to improve portions of such property with such other or additional improvements, facilities, or landscaping designed for the use and enjoyment of all the Owners as the Association may reasonably determine to be appropriate. If, pursuant to the foregoing reservations, such real property or any improvement

thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist.

17.2 Description of the Project. The condominium plat map(s) for the Project recorded with the Salt Lake County Recorder shows a description of the Property, the Units, the Buildings, the Common Areas, and the Limited Common Areas.

ARTICLE 18. GENERAL PROVISIONS

18.1 Enforcement. Either the Association or any Owner shall have the right to enforce by proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or any amendment hereto, including the right to prevent the violation of any such restrictions, conditions, covenants, or reservations, and the right to recover damages or other dues for such violation; provided, however, that the Association shall have the exclusive right to enforce assessment liens. The Association or any Member shall also have the right to enforce by proceedings at law or in equity the provisions of the Articles, Bylaws, or Association Rules, and any amendments thereto. Failure by the Association or by any Member to enforce any covenant, condition, or restriction herein contained, or the Articles and the Bylaws, in any certain instance or on any particular occasion, shall not be deemed a waiver of such right on any such future breach of the same covenant, condition or restriction.

18.2 Not a Public Dedication. Nothing contained in this Agreement shall, or shall be deemed to, constitute a gift or dedication of any portion of the property to the general public or for the benefit of the general public or for any public purpose whatsoever, it being the intention of the parties that this Agreement will be strictly limited to and for the purposes expressed herein.

18.3 Severability. Invalidation of any one of these covenants, conditions or restrictions by judgment or court order shall remain in full force and effect.

18.4 Term. The covenants, conditions and restrictions of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Association or any Owner, their respective legal representatives, Occupants, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded; after which time said covenants, conditions and restrictions shall be automatically extended for a successive period of ten (10) years, unless an instrument, signed by a majority of the then current Members has been recorded, at least one (1) year prior to the end of any such period agreeing to change said covenants, conditions and restrictions in whole or in part.

18.5 Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of condominiums on the Property and for the maintenance of the Property and the Common Areas and Facilities. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

18.6 Amendments. Subject to the other provisions of this Declaration, including, without limitation, the rights of Mortgagees and/or First Mortgagees pursuant to ARTICLE 15 hereof, or otherwise, this Declaration may be amended, altered or modified by a Supplementary Declaration after the affirmative vote of not less than sixty-seven percent (67%) of the voting power of the Members, and further, this amendment provision shall not be amended to allow

amendments by the vote of less than sixty-seven percent (67 %) of the voting power of the Members.

Proper approval of all amendments shall be shown by a certificate of the President or Secretary of the Association, attached to the Supplementary Declaration to be recorded, certifying that the signature of a sufficient number of Members approving the amendment are on file in the office of the Association. No such amendment shall be effective until the Supplementary Declaration is recorded in the Office of the Salt Lake County Recorder's Office.

18.7 Singular Includes Plural. Whenever the context of this Declaration requires, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and neuter.

18.8 Nuisance. The result of every act or omission, whereby any provision, condition, restriction, covenants, easement, or reservation contained in this Declaration is 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 the Association or any Member. Such remedy shall be deemed cumulative and not exclusive.

18.9 Attorneys' Fees. In the event action is instituted to enforce any of the provisions contained in this Declaration, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment, reasonable attorneys' fees and costs of such suit. In the event the Association is a prevailing party in such action, the amount of such attorneys' fees and costs shall be a Special Assessment with respect to the Unit involved in the action.

18.10 Notices. Any notice to be given to an Owner or Mortgagee or mortgage servicing contractor under the provisions of this Declaration shall be in writing and may be delivered as follows:

(a) Notice to an Owner shall be deemed to have been properly delivered when delivered personally, sent by fax or email, or placed in the first class United States mail, postage prepaid, to the most recent address furnished by such Owner in writing to the Association for the purpose of giving notice or, if no such address shall have been furnished, then to the street address of such Owner's Unit. Any notice sent by fax or email shall be deemed delivered the earlier of twenty-four (24) hours after being sent or upon confirmed receipt. Any notice deposited in the mail shall be deemed delivered the earlier of forty-eight (48) hours after such deposit or upon confirmed receipt. In the case of co-Owners, any such notice may be delivered or sent to any one of the co-Owners, on behalf of all co-Owners, and shall be deemed delivered on all such co-Owners.

(b) Notice to a Mortgagee or its mortgage servicing contractor shall be deemed to have been properly delivered when placed in the first class United States mail, postage prepaid, to the address furnished to the Association by such Mortgagee or such contractor for the purposes of notice.

18.11 Effect of Declaration. This Declaration is made with the intent to establish a general scheme for the use, occupancy and enjoyment of the Property and each and every Unit and portion thereof. The Association makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration, or as to the

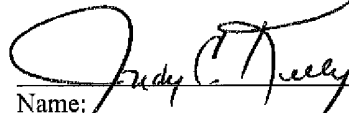
compliance of any of these provisions with public laws, ordinances and regulations applicable thereto.

18.12 Personal Covenant. To the extent the acceptance of a conveyance of a Unit creates a personal covenant between the Owner of such Unit and the Association or other Owners, such personal covenant shall terminate and be of no further force of effect from and after the date when a person or entity ceases to be an Owner except to the extent this Declaration may provide otherwise with respect to the payment of money to the Association.

18.13 Non-liability of Officials. To the fullest extent permitted by law, neither the Management Committee, nor any other committee of the Association or any member of such Management Committee or committee shall be liable to any Member or the Association for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, omission, error, negligence or the like made in good faith within which such Management Committee, committees or persons reasonably believed to be within the scope of their duties.

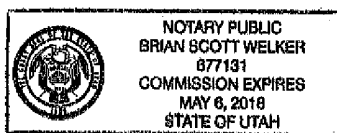
IN WITNESS WHEREOF, the Association has executed this instrument the day and year first herein above-written.

Berkley Manor Homeowners' Association, Inc.


Name: _____
President

STATE OF UTAH)
 :SS
County of Salt Lake)

On this 26 day of April, 2015, Judy Kelley, the signer(s) of the above instrument, personally appeared before me, a notary public in and for the State of Utah, and duly acknowledged to me that he or she has the authority to execute the within and foregoing instrument on behalf of said company, and that said company executed the same.



Notary Public for Utah:



EXHIBIT A

Description of Property

BEGINNING at a point North 89° 54' 59" West, 99.01 feet from the Southeast corner of Lot 1, Block 14, Plat B, Salt Lake City Survey, said point being on the South line of said Block, and running thence North 89° 54' 59" West, 132.01 feet; thence North 00° 01' 52" East, 165.01 feet; thence South 89° 54' 51" East, 132.01 feet; thence South 00° 01' 54" West, 165.00 feet to the POINT OF BEGINNING; said described tract containing 21,783 Square feet, or 0.50 Acres, more or less.

EXHIBIT B

Interests in Common Areas and Facilities

Each Unit in Berkley Manor Condominiums shares an equal, undivided interest in and to the Common Areas and Facilities as illustrated in the table below:

Total Common Area	4,016 square feet
Number of Units	18
Each Unit's equal, undivided interest in and to the Common Areas and Facilities	5.556 %

Exhibit "B"

**BYLAWS
OF
BERKLEY MANOR HOMEOWNERS' ASSOCIATION, INC.**

(A Utah Non-Profit Corporation)

ARTICLE I

APPLICABILITY

These Bylaws govern the management of the business and the conduct of the affairs of the Berkley Manor Condominiums, a Utah condominium project except as otherwise provided by statute, the Declaration of Condominium for Berkley Manor Condominiums (hereinafter referred to as the "Declaration"), or the Articles of Incorporation. In the event of any conflict between the Declaration and these Bylaws, the Declaration shall govern.

ARTICLE II

DEFINITIONS

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

ARTICLE III

MEMBERS

Section 1. Annual Meetings. The Annual Meeting of members of the Association shall be held before April 1st each year for the purpose of electing Management Committee Members and transacting such other business as may come before the meeting. If the election of Management Committee Members shall not be held on the day designated herein for the Annual Meeting of the members, or at any adjournment thereof, the Management Committee shall cause the election to be held at a special meeting of the members to be convened as soon thereafter as may be convenient. The Management Committee may from time to time by resolution change the date and time for the Annual Meeting of the members. Management Committee Members shall be elected pursuant to Article IV Section 3 herein.

Section 2. Special Meetings. Special meetings of the members for any purpose or purposes, unless otherwise prescribed by statute, may be called from time to time by the Management Committee or by the president, and shall be immediately called by the president upon the written request of members holding not less than ten percent (10%) of the total votes of the Association. Such written request shall state the purpose or purposes of the meeting and shall be delivered to

the Management Committee or the president. In case of failure to call such meeting within twenty (20) days after such request, such members may call the same.

Section 3. Place of Meetings. The Management Committee may designate any place in Salt Lake County, State of Utah, as the place of meeting for any Annual Meeting or for any special meeting called by the Management Committee. A waiver of notice signed by all of the members of the Association may designate any place, within the State of Utah, as the place for holding such meeting.

Section 4. Notice of Meetings. The Management Committee shall cause written or printed notice of the time, place, and purpose of all meetings of the members, whether annual or special, to be delivered, not more than fifty (50) nor less than ten (10) days prior to the meeting, to each member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to have been delivered when deposited in the U.S. mail addressed to the member at his registered address, with first class postage thereon prepaid. If emailed, such notice shall be deemed to have been delivered when sent to the member at his registered email address. Each member shall register with the Association such member's current mailing address or email address for purposes of notice hereunder. Such registered address may be changed from time to time by notice in writing to the Association. If no address is registered with the Association, the member's Unit address shall be deemed to be his registered address for purposes of notice hereunder.

Section 5. Fixing of Record Date. Upon purchasing a Unit in the Project, each Owner shall promptly furnish to the Association a certified copy of the recorded instrument by which ownership of such Unit has been vested in such Owner, which copy shall be maintained in the records of the Association. For the purpose of determining members entitled to notice of or to vote at any meeting of the members, or any adjournment thereof, the Management Committee may designate a record date, which shall be no more than fifty (50) and no less than ten (10) days prior to the meeting. If no record date is designated, the date on which notice of the meeting is mailed shall be deemed to be the record date for determining members entitled to notice of or to vote at the meeting. The persons or entities appearing in the records of the Association on such record date as the Owners of record of Units in the Project shall be deemed to be the members of record entitled to notice of and to vote at the meeting of the members and any adjournments thereof.

Section 6. Quorum. At any meeting of the members, the presence of members holding, or holders of proxies entitled to cast, more than fifty percent (50%) of the total votes of the Association shall constitute a quorum for the transaction of business. In the event a quorum is not present at a meeting, the members present (whether represented in person or by proxy), though less than a quorum, may adjourn the meeting to a later date. Notice thereof shall be delivered to the members as provided above. At the reconvened meeting, the members and proxy holders present shall constitute a quorum for the transaction of business.

Section 7. Proxies. At each meeting of the members, each member entitled to vote shall be entitled to vote in person or by proxy; provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the member himself or by his attorney thereunto duly authorized in writing. If a membership is jointly held, the instrument authorizing a proxy to act must have been executed by all holders of such membership or their attorneys thereunto duly authorized in writing. Such instrument authorizing a proxy to act shall be delivered at the beginning of the meeting to the secretary of the Association or to such other officer or person who may be acting as secretary of the meeting. The secretary of the meeting shall enter a record of all such proxies in the minutes of the meeting.

Section 8. Votes. With respect to each matter submitted to a vote of the members, each member entitled to vote at the meeting shall have the right to cast, in person or by proxy, the number of votes appertaining to the Unit of such member, as shown in the Declaration. The affirmative vote of a majority of the votes entitled to be cast by the members present or represented by proxy at a meeting at which a quorum is present shall be necessary for the adoption of any matter voted on by the members, unless a greater proportion is required by the Articles of Incorporation, these Bylaws, the Declaration, or Utah law.

Section 9. Waiver of irregularities. All inaccuracies and irregularities in calls or notices of meetings and in the manner of voting, form of proxies, and method of ascertaining members present shall be deemed waived if no objection thereto is made at the meeting.

Section 10. Informal Action by Members. Any action that is required or permitted to be taken at a meeting of the members may be taken without a meeting, if a consent in writing, setting forth the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter thereof.

ARTICLE IV

MANAGEMENT COMMITTEE

Section 1. General Powers. The property, affairs, and business of the Association shall be managed by the Management Committee. The Management Committee may exercise all of the powers of the Association, whether derived from law, the Articles of Incorporation, these Bylaws, or the Declaration, except those powers which are by law or by the foregoing documents vested solely in the members. The Management Committee shall, among other things, prepare or cause to be prepared, plan and adopt an estimated annual budget for the estimated annual common expenses, provide the manner of assessing and collecting assessments, and keep or cause to be kept sufficient books and records with a detailed account of the receipts and expenditures affecting the Project and its administration, and specifying the maintenance and repair expenses of the Common Areas. The books and records shall be available for examination by all members at convenient hours on working days that shall be set and announced for general

knowledge. All books and records shall be kept in accordance with generally accepted accounting principles and shall be audited at least once a year by an auditor independent of the organization, as required by the Declaration. The Management Committee may by written contract delegate, in whole or in part, to a professional management organization or person such of its duties, responsibilities, functions, and powers as are properly delegable.

Section 2. Management Committee Members. The Management Committee shall be composed of no less than three (3) and no more than five (5) Management Committee Members. The Management Committee Members must be members of the Association.

Section 3. Election of Management Committee Members and Terms. The members of the Association shall determine how many Committee Members to elect (within the limitations of this Article IV, Section 2) and shall elect persons to fill vacancies on the Management Committee at each Annual Meeting or as otherwise provided herein. All nominees for positions on the Management Committee shall be submitted by petition filed with the secretary of the Association prior to or at the Annual Meeting. The members of the Association shall determine how many Committee Members to elect by voice before electing Members of the Management Committee. As to the number of Management Committee Members, the proposition receiving the most votes shall pass. The Members of the Management Committee shall be elected either by a voice vote or by secret written ballot. Association Members or their proxies shall vote in accordance with the provisions of the Declaration and these Bylaws. The persons receiving the most votes shall be elected. Cumulative voting is not permitted. Each Management Committee Member shall hold his position for one (1) year or until his successor shall have been chosen and qualified, or until his death, or until his resignation, disqualification, or removal in the manner provided in these Bylaws, whichever first occurs.

Section 4. Regular Meetings. The Management Committee may provide by resolution the time and place, within Salt Lake County, State of Utah, for the holding of additional regular meetings without notice other than such resolution.

Section 5. Special Meetings. Special meetings of the Management Committee may be called by or at the request of any of the Management Committee Members. The person or persons authorized to call special meetings of the Management Committee may fix any place, within Salt Lake County, State of Utah, as the place for holding any special meeting of the Management Committee called by such person or persons. Notice of any special meeting shall be given at least five (5) days prior thereto by written notice delivered personally, or mailed to each Management Committee Member at his registered address, or by email. If mailed, such notice shall be deemed to have been delivered when deposited in the U.S. mail so addressed, with first class postage thereon prepaid. If notice is given by email, such notice shall be deemed to have been delivered when the email is delivered to the email address on file. Any Management Committee Member may waive notice of a meeting. The attendance of a Management Committee Member at a meeting shall constitute a waiver of notice of such meeting, except

where a Management Committee Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

Section 6. Quorum and Manner of Acting. A majority of the then authorized number of Management Committee Members shall constitute a quorum for the transaction of business at any meeting of the Management Committee. Except as otherwise required in these Bylaws, the Articles of Incorporation, or the Declaration, the act of a majority of the Management Committee Members present at any meeting at which a quorum is present shall be the act of the Management Committee. The Management Committee Members shall act only as a Management Committee, and individual Management Committee Members shall have no powers as such.

Section 7. Compensation. No Management Committee Member shall receive compensation for any services that he may render to the Association as a Management Committee Member; provided, however, that a Management Committee Member may be reimbursed for expenses incurred in performance of his duties as a Management Committee Member to the extent such expenses are approved by the Management Committee and (except as otherwise provided in these Bylaws) may be compensated for services rendered to the Association other than in his capacity as a Management Committee Member.

Section 8. Resignation and Removal. A Management Committee Member may resign at any time by delivering a written resignation to either the president or the Management Committee. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Management Committee Member (other than a Management Committee Member appointed by the Declarant) may be removed at any time, for or without cause, by the affirmative vote of the members holding more than fifty percent (50%) of the total votes of the Association, at a special meeting of the members duly called for such purpose.

Section 9. Vacancies. If vacancies shall occur in the Management Committee by reason of the death, resignation, or disqualification of a Management Committee Member, the Management Committee Members then in office shall continue to act, and such vacancies or newly created Management Committee Memberships shall be filled by a vote of the Management Committee Members then in office, though less than a quorum, in any way approved by such Management Committee Members at the meeting. Any vacancy in the Management Committee occurring by reason of removal of a Management Committee Member by the Association members may be filled by election at the meeting at which such Management Committee Member is removed. Any Management Committee Member elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of his predecessor or for the term of the newly created Management Committee Membership, as the case may be.

Section 10. Informal Action by Management Committee Members. Any action that is required or permitted to be taken at a meeting of the Management Committee, may be taken without a

meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Management Committee Members.

Section 11. Amendments. The provisions of this Article may not be amended, modified, or repealed, unless such amendment, modification, or repeal is approved by the affirmative vote of the members holding more than fifty percent (50%) of the total votes of the Association.

ARTICLE V

OFFICERS

Section 1. Officers. The officers of the Association shall be a president and a secretary, and such other officers as may from time to time be appointed by the Management Committee.

Section 2. Election, Tenure-and Qualification. The officers of the Association shall be chosen by the Management Committee annually at the Annual Meeting of the Management Committee. In the event of failure to choose officers at such Annual Meeting of the Management Committee, officers may be chosen at any regular or special meeting of the Management Committee. Each such officer (whether chosen at an Annual Meeting of the Management Committee or otherwise) shall hold his office until the next ensuing Annual Meeting of the Management Committee and until his successor shall have been chosen and qualified, or until his death, or until his resignation, disqualification, or removal in the manner provided in these Bylaws, whichever first occurs. Any one person may hold any two or more of such offices; provided, however, that the president may not also be the secretary. No person holding two or more offices shall act in or execute any instrument in the capacity of more than one office.

Section 3. Subordinate Officers. The Management Committee may from time to time appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period, have such authority, and perform such duties as the Management Committee or Management Committee Member may from time to time determine. The Management Committee may from time to time delegate to any officer or agent the power to appoint any such subordinate officers or agents and to prescribe their respective titles, terms of office, authorities, and duties. Subordinate officers need not be Management Committee Members or members of the Association.

Section 4. Removal. Any officer may resign at any time by delivering a written resignation to the president or to the Management Committee. Any officer or agent may be removed by the Management Committee whenever, in its judgment, the best interests of the Association will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

Section 5. Vacancies. If any vacancy shall occur in any office by reason of death, resignation, removal, disqualification, or any other cause, or if a new office shall be created, such vacancies or newly created offices may be filled by the Management Committee at any regular or special meeting.

Section 6. President. The president shall be the principal executive officer of the Association and, subject to the control of the Management Committee, shall in general supervise and control all of the business and affairs of the Association. He shall, when present, preside at all meetings of the members and of the Management Committee. He may sign, with the secretary or any other proper officer of the Association thereunto authorized by the Management Committee, any deeds, mortgages, bonds, contracts or other instruments which the Management Committee has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Management Committee or by these Bylaws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of president and such other duties as may be presented by the Management Committee from time to time.

Section 7. Secretary. The secretary- shall (a) keep the minutes of the Association and of the Management Committee in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records and of the seal of the Association, if any, and see that the seal of the Association which may be affixed to all documents, the execution of which on behalf of the Association under its seal, is duly authorized; and (d) in general perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him by the president or by the Management Committee.

Section 8. Treasurer. The treasurer, if appointed, shall: (a) have charge and custody of and be responsible for all funds of the Association (b) receive and give receipt for moneys due and payable to the Association from any source whatsoever, and deposit all such moneys in the name of the Association in such banks, trust companies or other depositories as shall be determined by the Management Committee; and (c) in general perform all of the duties incident to the office of the treasurer and such other duties as from time to time may be assigned to him by the president or by the Management Committee.

Section 9. Assistant Secretaries and Assistant Treasurers. The assistant secretaries and assistant treasurers, in general, shall perform such duties as shall be assigned to them by the secretary or the treasurer, respectively, or by the president or the Management Committee.

Section 10. Compensation. No officer shall receive compensation for any services that he may render to the Association as an officer, provided, however, that an officer may be reimbursed for expenses incurred in performance of his duties as an officer to the extent such expenses are approved by the Management Committee and (except as otherwise provided in these Bylaws)

may be compensated for services rendered to the Association other than in his capacity as an officer.

ARTICLE VI

COMMITTEES

Section 1. Designation of Committees. The Management Committee may from time to time by resolution designate such committees as it may deem appropriate in carrying out its duties, responsibilities, functions, and powers. No committee member shall receive compensation for services that he may render to the Association as a committee member; provided, however, that a committee member may be reimbursed for expenses incurred in performance of his duties as a committee member to the extent that such expenses are approved by the Management Committee and (except as otherwise provided in these Bylaws) may be compensated for services rendered to the Association other than in his capacity as a committee member.

Section 2. Proceedings of Committees. Each committee designated hereunder by the Management Committee may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such committee may from time to time determine. Each such committee shall keep a record of its proceedings and shall regularly report such proceedings to the Management Committee.

Section 3. Quorum and Manner of Acting. At each meeting of any committee designated hereunder by the Management Committee, the presence of members constituting at least a majority of the authorized membership of such committee (but in no event less than two members) shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee. The members of any committee designated by the Management Committee hereunder shall act only as a committee, and the individual members thereof shall have no powers as such.

Section 4. Resignation and Removal. Any member of any committee designated hereunder by the Management Committee may resign at any time by delivering a written resignation to the president, the Management Committee, or the presiding officer of the committee of which he is a member. Unless otherwise specified therein, such resignation shall take effect upon delivery. The Management Committee may at any time, for or without cause, remove any member of any committee.

Section 5. Vacancies. If any vacancy shall occur in any committee designated by the Management Committee hereunder, due to disqualification, death, resignation, removal, or otherwise, the remaining members shall, until the filling of such vacancy, constitute the then total authorized membership of the committee and, provided that two or more members are

remaining, may continue to act until such vacancy is filled at any meeting of the Management Committee.

ARTICLE VII

INDEMNIFICATION

Section 1. Indemnification—Third-Party Actions. The Association shall indemnify any person who was or is a party to any action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association) by reason of the fact that he is or was a Management Committee Member or officer of the Association, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding, if he acted in good faith and in a manner he reasonably believed to be in the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit, or proceeding by an order or settlement, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in the best interests of the Association or with respect to any criminal action or proceeding, that the person had reasonable cause to believe that his conduct was unlawful.

Section 2. Indemnification—Association Actions. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the Association by reason of the fact that he is or was a Management Committee Member or officer of the Association, against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit, if he acted in good faith and in a manner he reasonably believed to be in the best interests of the Association; provided, however, that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for gross negligence or intentional misconduct in the performance of his duty to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability and in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

Section 3. Determination. To the extent that a person has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Sections 1 or 2 of Article VII hereof, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith. Any other indemnification under Sections 1 or 2 of Article VII hereof shall be made by the Association only upon a determination that indemnification of the person is proper in the circumstances and that he has met the applicable standard of conduct set forth respectively in

Sections 1 or 2 hereof. Such determination shall be made by a quorum of Management Committee Members. If the Management Committee cannot authorize indemnification because the number of Management Committee Members who are parties to the proceeding with respect to which indemnification is sought prevents the formation of a quorum of Management Committee Members who are not parties to that proceeding, the disinterested Management Committee Members shall, in their sole discretion, either (a) appoint independent legal counsel who shall make the determination regarding indemnification in a written opinion, or (b) cause that the determination regarding indemnification is made by the members by the affirmative vote of more than fifty percent (50%) of the total votes of the Association at a meeting duly called for such purpose.

Section 4. Advances. Expenses incurred in defending a civil or criminal action, suit, or proceeding as contemplated in this Article may be paid by the Association in advance of the final disposition of such action, suit, or proceeding upon a majority vote of a quorum of the Management Committee and upon receipt of an undertaking by or on behalf of the person to repay such amount or amounts unless it ultimately be determined that he is entitled to be indemnified by the Association as authorized by this article or otherwise.

Section 5. Scope of Indemnification. The indemnification provided for by this article shall not be deemed exclusive of any other rights to which the indemnified may be entitled under any provision in the Association's Articles of Incorporation, Bylaws, agreements, vote of disinterested members or Management Committee Members, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. The indemnification authorized by this article shall apply to all present and future Management Committee Members, officers, employees, and agents of the Association and shall continue as to such persons who cease to be Management Committee Members, officers, employees, or agents of the Association and shall inure to the benefit of the heirs and personal representatives of all such persons and shall be in addition to all other rights to which such persons may be entitled as a matter of law.

Section 6. Insurance. The Association may purchase and maintain insurance on behalf of any person who was or is a Management Committee Member, officer, employee, or agent of the Association, or who was or is serving at the request of the Association as a Management Committee Member, director, officer, employee, or agent of another corporation, entity, or enterprise (whether for profit or not for profit), against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the laws of the State of Utah, as the same may hereafter be amended or modified.

Section 7. Payments and Premiums. All indemnification payments made, and all insurance premiums for insurance maintained, pursuant to this article shall constitute expenses of the

Association and shall be paid with funds from the Common Expense Fund referred to in the Declaration.

ARTICLE VIII

FISCAL YEAR

This fiscal year of the Association shall begin on the 1st day of January of each year and shall end on the 31st day of December next following; provided, however, that the first fiscal year shall begin on the date of incorporation.

ARTICLE IX

RULES AND REGULATIONS

The Management Committee may from time to time adopt, amend, repeal, and enforce reasonable rules and regulations governing the use and operation of the Project provided, however, that such rules and regulations shall not be inconsistent with the rights and duties set forth in the Articles of Incorporation, the Declaration, or these Bylaws. The members shall be provided with copies of all rules and regulations adopted by the Management Committee, and with copies of all amendments and revisions thereof.

ARTICLE X

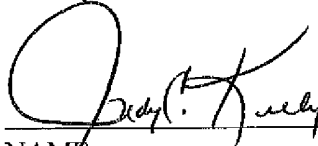
AMENDMENTS

Except as otherwise provided by law, the Articles of Incorporation, the Declaration, or these Bylaws, these Bylaws may be amended, modified, or repealed and new bylaws may be made and adopted by the members upon the affirmative vote of more than fifty percent (50%) of the total votes of the Association; provided, however, that such action shall not be effective unless and until a written instrument setting forth (a) the amended, modified, repealed, or new bylaws, (b) the number of votes cast in favor of such action, and (c) the total votes of the Association, shall have been executed and verified by the current president of the Association and recorded in the office of the County Recorder of Salt Lake County.

[SIGNATURES ON THE NEXT PAGE]

IN WITNESS WHEREOF, an authorized member of the Management Committee has executed this instrument the day and year first herein above-written.

Berkley Manor Homeowners' Association, Inc.:

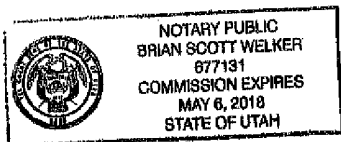


NAME:

Management Committee President

STATE OF UTAH)
 :SS
County of Salt Lake)

On this 26 day of April, 2015, Judy Kelley, the signer(s) of the above instrument, personally appeared before me, a notary public in and for the State of Utah, and duly acknowledged to me that he or she has the authority to execute the within and foregoing instrument on behalf of said company, and that said company executed the same.



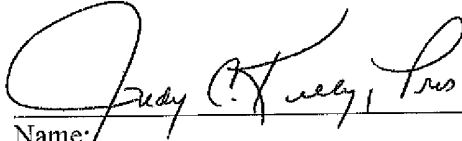
Notary Public for Utah:



CERTIFICATE OF APPROVAL

IN WITNESS WHEREOF, the foregoing amendment(s) was approved by the affirmative vote of not less than sixty-seven percent (67%) of the voting power of the Members of the Association pursuant to the provisions of the Association's governing documents. The signatures and proxies (where applicable) of such Members have been collected and kept by the Association. This Certificate of Approval is hereby signed by the President or Secretary of the Association.

Berkley Manor Condominium Association


Name: _____
Title: _____