

WHEN RECORDED RETURN TO:

13897859 B: 11309 P: 6817 Total Pages: 66
02/24/2022 11:38 AM By: salvarado Fees: \$40.00
DECLAR - DECLARATION
Rashelle Hobbs, Recorder, Salt Lake County, Utah
Return To: SOUTH TEMPLE PLACE LLC

The South Temple Place LLC
2219 East Fisher Lane
Salt Lake City, UT 84109
Attn: Mr. Tariq Mughal



DECLARATION OF CONDOMINIUM
OF
THE SOUTH TEMPLE PLACE CONDOMINIUMS
IN
SALT LAKE COUNTY, UTAH
Feb 24th, 2021

**DECLARATION OF CONDOMINIUM
OF
THE SOUTH TEMPLE PLACE CONDOMINIUMS**

THIS DECLARATION OF CONDOMINIUM (this “**Declaration**”) is made as of the date of the recording of this Declaration in the Salt Lake County Recorder’s Office by **THE SOUTH TEMPLE PLACE LLC**, a Utah limited liability company (“**Declarant**”).

RECITALS:

A. Declarant is the owner of that certain real property (the “**Parcel**”) located at 1117 E. South Temple, in the City of Salt Lake, Salt Lake County, Utah, which is more particularly described in **Exhibit A**, attached to and incorporated herein by this reference.

B. Declarant now desires to submit the Parcel, together with the building and improvements now or hereafter constructed on the Parcel, and all easements and rights appurtenant thereto (collectively, the “**Property**”), to the Utah Condominium Ownership Act as a condominium project (“**Condominium Project**”) consisting of four (4) residential Units and related Common Area (as defined herein).

C. Declarant desires to establish for its own benefit and for the mutual benefit of all future Owners or Occupants of the Condominium Project, certain covenants, conditions, restrictions, easements, rights, privileges, assessments and liens as set forth herein (collectively, the “**Restrictions**” which shall run with, and be a burden upon, the Property).

D. Declarant intends that the Owners, Occupants, Lenders (as those terms are defined in **Article 1** below) and all other persons hereafter acquiring any interest in the Property shall at all times enjoy the benefits of, and shall hold their interest subject to this Declaration, which is recorded in furtherance of establishing a general plan of condominium ownership for the Property, and for establishing rules for the use, occupancy, management, maintenance, and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability and attractiveness of the Condominium Project and the quality of life therein.

E. Declarant plans to construct, or cause the construction of the Common Area and Units (within the building) comprising the Condominium Project, all in accordance with the Plat (as defined in **Article 1**).

F. The South Temple Place Homeowners Association, Inc., a Utah non-profit corporation (the “**Association**”), has been created concurrently herewith by filing Articles of Incorporation therefor (the “**Articles**”) with the Utah Division of Corporations and Commercial Code. The Association shall be the governing body of the Condominium Project created hereby and shall operate in accordance with the Association’s Bylaws attached hereto as **Exhibit C** (the “**Bylaws**”), this Declaration and applicable Utah law.

NOW, THEREFORE, Declarant hereby declares as follows:

1.
DEFINITIONS

1.1 **Defined Terms.** Unless the context clearly indicates otherwise, certain terms used in this Declaration shall have the meanings set forth in this Article. All terms defined in the Recitals shall have the meanings set forth in the Recitals and in this Article.

“**Act**” shall mean the Condominium Ownership Act, codified at Title 57, Chapter 8, of the Utah Code, pertaining to the lawful creation, ownership and management of a condominium project in the State of Utah, as the same may be amended, from time to time.

“**Allocated Interest**” shall mean the proportionate interest in the Common Area and the Common Expenses appurtenant and allocable to a Unit.

“**Articles**” shall mean the Articles of Incorporation by which the Association is formed under the Utah Revised Nonprofit Corporation Act, codified at Title 16, Chapter 6a, Utah Code Annotated, as the same may be amended.

“**Assessments**” shall mean the charges against Owners to defray the Common Expenses as well as miscellaneous special assessments, special assessments for capital improvements, and special assessments for the purpose of restoring and reconstructing the Condominium Project in the event of casualty, all as provided in this Declaration.

“**Association**” shall refer to The South Temple Place Homeowners Association, Inc., whose membership shall include each Owner of a Unit in the Condominium Project, as required by the Act. The Association will be incorporated as a Utah nonprofit corporation prior to the conveyance of the first Unit in the Condominium Project by Declarant.

“**Association Rules**” shall mean and refer to the rules and regulations adopted by the Association pursuant to this Declaration and in furtherance of Section 57-8-8 of the Act.

“**Board**” shall mean the Board of the Association elected pursuant to the Bylaws and serving as the management body of the Association. The Board shall have the same meaning as a “management committee” under the Act.

“**Bylaws**” shall mean the Bylaws adopted by the Association pursuant to Section 57-8-15 of the Act for the purpose of regulating the affairs of the Association, as the same may be amended from time to time. The form of the Bylaws is attached to and incorporated herein by reference in this Declaration as **Exhibit C**.

“**Common Area**” shall mean:

- (a) The land included within the Condominium Project;
- (b) As applicable, the foundations, columns, girders, beams, supports, main walls, roofs, and other common elements of the building in the Condominium Project;

(c) The yards, gardens, common patios, sitting areas, gathering spaces, parking areas, and storage spaces not part of the Limited Common Area or part of a Unit;

(d) As applicable, the installations of any central facilities or services such as common power, service panels, gas meters, hot and cold water, heating, refrigeration, air conditioning, and incinerating, if any;

(e) As applicable, the tanks, pumps, motors, fans, compressors, ducts, water lines, sprinkler systems, valve boxes, shut-off valves, and in general all apparatus, facilities, and installations existing for common use;

(f) All utility installations, facilities, and all equipment connected with or in any way related to the furnishing of utilities to the Condominium Project and intended for the common use of all Owners, such as conduits, wiring, and pathways for telephone, electricity, natural gas, water, cable television, and sewer;

(g) Any recreational areas or facilities, shared or common meeting or communal spaces; and

(h) All other parts of the Condominium Project (excepting the Units) necessary or convenient to its existence, maintenance, and safety, or normally in common use.

The undivided interest in the Common Area appurtenant to each Unit, as owned by each Owner, is described in **Section 3.4** of this Declaration and is set forth on **Exhibit B** attached to and incorporated in this Declaration by reference.

“Common Expenses” shall mean the actual and estimated costs for: maintenance, management, operation, repair and replacement of the Common Area components which will be maintained by the Association hereunder; deficiencies arising by reason of unpaid Assessments; reasonable management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees; any common utilities (other than separately metered utilities for the Units), including common lighting, water charges, trash collection and sewer service charges, extermination, security, gardening, landscaping and other related services; insurance required by this Declaration or any additional insurance obtained by the Association in its discretion; the establishment of reasonable and lawful reserves as the Board shall deem appropriate in its discretion for the periodic and long-term funding of the maintenance, repair and replacement of the Common Area, as required by applicable law and city ordinance; expenses agreed upon as Common Expenses by the Association; and other miscellaneous charges incurred by the Association or the Board pursuant to the Act, this Declaration, or the Association Rules in furtherance of the purposes of the Association or in discharge of the duties and powers of the Association under the Act.

“Condominium Project” shall mean this real estate condominium project wherein fee simple title to single units in a multi-unit project, together with an undivided interest in the Common Area of the Property, are owned separately, as provided in the Act.

“Design Guidelines” shall mean, if applicable, any future design guidelines as established and promulgated by the Board from time to time.

“Eligible Mortgagee” shall mean and refer to a First Mortgagee which has requested notice of certain matters from the Association in accordance with **Section 13.1** of this Declaration.

“FNMA” shall mean and refer to the Federal National Mortgage Association.

“First Mortgage” shall mean any mortgage or deed of trust against a Unit which is not subject to any lien or encumbrance except liens for taxes or other liens which are given priority by statute.

“First Mortgagee” shall mean any person named as a Lender under a First Mortgage, or any successor to the interest of any such person under a First Mortgage, which First Mortgage is not subject to any lien or encumbrance except liens for taxes or other liens which are given priority by statute.

“Insurance Trustee” shall mean any trustee with which the Association may enter into an Insurance Trust Agreement, and which shall have exclusive authority to negotiate losses under the policies of insurance in accordance with such agreement.

“Lender” shall mean a holder of a mortgage or deed of trust on a Unit (e.g., bank, credit union, or other mortgage holder).

“Limited Common Area” shall mean a portion of the Common Area specifically designated as a Limited Common Area in this Declaration and/or the Plat and allocated by this Declaration or the Plat for the exclusive use of one or more Units to the exclusion of other Units.

“Occupant” shall mean a Person or Persons, other than an Owner, in possession of, or using a Unit, including, without limitation, family members, tenants, guests, or invitees.

“Owner” shall mean the Person or Persons who are vested with record title of a Unit, and whose interest in the Unit is held in fee simple, according to the records of the County Recorder of Salt Lake County, Utah; however, Owner shall not include a Person who holds an interest in a Unit merely as security for the performance of an obligation.

“Person” shall mean a natural individual, corporation, estate, partnership, trustee, association, joint venture, government, governmental subdivision or agency or other legal entity capable of holding title to real property.

“Plat” shall mean the plat constituting a record of survey map of the Property submitted with respect to the Condominium Project and entitled “*THE SOUTH TEMPLE PLACE CONDOMINIUMS*” and recorded in the records of the County Recorder of Salt Lake County, Utah and all amendments thereto.

“Property” shall mean the Parcel, together with all the buildings, improvements and fixtures located thereon, and all easements and rights appurtenant thereto.

“Restrictions” shall mean the covenants, conditions, assessments, easements, liens and restrictions set forth in this Declaration.

“**Supplemental Declaration**” shall mean a written instrument recorded in the records of the County Recorder of Salt Lake County, Utah, which refers to this Declaration and which amends, modifies, or supplements this Declaration in accordance with its terms.

“**Unit**” shall mean and refer to any of the separately and individually described units now or hereafter shown on the Plat. Except where the context specifically requires otherwise, reference to a Unit shall include reference to the Allocated Interest in the Common Area appurtenant to such Unit. Each Unit shall be owned by the Owner or Owners of such Unit subject to all of the terms, covenants, conditions, restrictions and easements of this Declaration and applicable Utah law.

“**Unit Designation**” shall mean the number, letter (i.e., A, B, C or D), or address that identifies one Unit in the Condominium Project.

2.

CREATION OF THE CONDOMINIUM PROJECT

2.1. **Submission.** Declarant hereby submits and subjects the Parcel to be a Condominium Project pursuant to the Act, and in furtherance thereof, makes and declares the Restrictions contained in this Declaration, and Declarant hereby declares and agrees that the Condominium Project and all of the Units shall be held, conveyed, transferred, sold, leased, mortgaged, encumbered, occupied, used and improved subject to the Restrictions, which Restrictions shall constitute covenants and conditions running with the land and shall be binding upon and inure to the benefit of Declarant the Association, and each Owner, as their interests may appear, including their respective heirs, executors, administrators, personal representatives, successors and assigns.

2.2. **Name and Location.** The Condominium Project shall be named and known as *THE SOUTH TEMPLE PLACE CONDOMINIUMS*; provided, however, in Declarant’s sole discretion, the Condominium Project may be commonly or popularly referred to, for marketing, advertising, and other purposes, by a name or names other than such name. The Condominium Project is located in Salt Lake County, Utah, and the legal description of the real estate included in the Condominium Project is the Parcel set forth on **Exhibit A**. The name of the Association is The South Temple Place Homeowners Association, Inc.

2.3. **Interpretation of Declaration and Applicability of the Act.** Declarant intends that the Condominium Project shall be governed by the Act, except where (in compliance with the Act) Declarant has included specific provisions in this Declaration which legally vary, supersede or supplement the Act, in which event such specific provisions of this Declaration which are contrary to the Act shall govern the Condominium Project.

2.4. **Agent for Service of Process.** Mr. Tariq M. Mughal, with offices at: 2219 East Fisher Lane, Salt Lake City, UT 84109, shall be the initial person to receive service of process for the Condominium Project pursuant to Section 57-8-10(2)(d)(iii) of the Act, until such time as the Board shall duly appoint a new agent and file a Supplemental Declaration to that effect.

3.

DESCRIPTION OF THE UNITS, LIMITED COMMON AREA COMMON AREA, ALLOCATED INTERESTS AND PLAT

3.1. **Description of Boundaries of Each Unit and Unit Designation.** The cubic content space and Unit Designation of each of the Units within the Condominium Project are set forth on the Plat. The vertical boundaries of each Unit shall be the underside of the finished but undecorated ceiling of each Unit and the top of the finished but undecorated floor of the first floor or basement of each Unit, as applicable, as shown on the Plat. The horizontal boundaries of each Unit shall be the interior of the finished but undecorated walls located on the perimeter lines of the respective Units as shown on the Plat. All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and other materials constituting any part of the finished surfaces are part of the Unit, and all other materials constituting any part of the finished surfaces are part of the Unit, and all other and structural portions of the walls, floors, columns, or ceilings are part of the Common Area. If any pipes, wires, conduits, chutes, flues, ducts, shafts, public utility, water or sewer lines, or any other similar fixtures lies partially or wholly within or outside the designated boundaries of a Unit, any portion serving only that Unit is a Limited Common Area allocated solely to that Unit and any portion serving more than one Unit or any portion of the Common Area is part of the Common Area. Subject to the preceding sentence, each Unit shall consist of the space enclosed and bounded by the horizontal and vertical planes as shown on the Plat, and all interior partitions and other fixtures and improvements within such boundaries shall be part of the Unit. Conveyance of a Unit includes the use of the Limited Common Area appurtenant to the applicable Unit(s), as applicable.

3.2. **Description of Limited Common Area for Parking and Vehicular Access.** The pathways, garages, driveways, parking space or spaces, if any, set forth on the Plat and designated for the respective Unit shall be an exclusive Limited Common Area for the Unit and such Owner. Such Limited Common Area shall be appurtenant to each respective Unit and may not be severed from the ownership of the Unit. The Common Area that provides a Unit(s) with vehicular access from a public right-of-way shall be appurtenant to all of the Units using such Limited Common Area for vehicular access to and from such private drive or public right-of-way.

3.3. **Description of Limited Common Area for Patios, Backyard, Balconies, Entryways, Fireplaces and Storage Areas.** The rooftop space, patio, porch, deck, backyard, balcony, exterior screens and shutters and entryway, if any, which are adjacent to a respective Unit as set forth and depicted on the Plat shall be exclusive Limited Common Area for the Unit(s) to which they pertain. The Limited Common Area shall be appurtenant to each respective Unit where so identified and may not be severed from the ownership of the Unit.

3.4. **Division into Units, Minimum and Maximum Ownership Interests.** The Condominium Project is hereby divided into the Units as set forth on the Plat together with each Units' equal and appurtenant undivided interest in and to the Common Area. The Plat

and **Exhibit B** hereto contain the Unit Designations and **Exhibit B** sets forth the initial undivided interest of each Unit in the Common Area.

3.5. **Allocation of Votes of the Association.** Except as provided in **Section 5.3** of this Declaration, each Unit shall have one vote for all matters of the Association.

3.6. **Allocated Interest of Each Unit in the Common Expenses of the Condominium Project.** The designation of the Allocated Interest which each Unit bears in the Common Expenses of the Condominium Project is deemed to be equally divided; thus, each Unit will have a 1/4th Allocated Interest in the Common Expenses.

3.7. **Plat.** The Plat is hereby incorporated into, and made an integral part of, this Declaration and all requirements and specifications set forth on the Plat and which are required by the Act are deemed included in this Declaration.

4.

MAINTENANCE AND UTILITIES

4.1. **Maintenance of Units and Exclusive Limited Common Area.** Each Owner shall furnish and be responsible for, at the Owner's own cost and expense, all of the maintenance, repairs and replacements within the Owner's Unit and within any exclusive Limited Common Area appurtenant to the Owner's Unit, subject to **Section 4.2(e)** below. Such obligation shall include, without limitation: all fixtures, furnishings, windows, doors, patios, rooftop patio area, balconies, decks, garage doors, driveways, steps, cement or flatwork, and walls, utilities, internal wiring, internal utility lines, etc., unless such responsibility is otherwise assumed by or assigned to the Association pursuant to any supplemental declaration or additional covenants or Association Rules applicable to such Unit. In addition, each Owner shall maintain and be permitted to non-structurally alter or remodel the interior non-supporting walls, the materials (such as, but not limited to, plaster, gypsum drywall, paneling, wall paper, paint, wall and floor tile and flooring) making up the finished surfaces of the perimeter walls, ceilings, and floors within such Owner's Unit, and all doors and windows on the respective Owner's Unit in accordance with Salt Lake City Historic Landmark Commission's requirements. Each Owner shall be responsible for the maintenance, repair and replacement of utility lines (such as power, natural gas, water, sewer, telecommunications, cable and any other future utility lines) that serve his or her Unit from the point of connection. Each Owner shall keep their Unit at a sufficient temperature to prevent freezing of pipes and/or flooding within their Unit when such Owner is away. An Owner shall not alter any utility lines, pipes, wires, conduits, or systems which serve one or more other Units. Such utilities shall not be disturbed or relocated by an Owner without the written consent and approval of the Board. Such right to repair, alter, and remodel is coupled with the obligation to replace any materials removed with similar types or kinds of materials.

Each Owner shall be liable to the Association or other Owners for damages to person or property in the Condominium Project caused by such Owner's negligence or the negligence of his family members, guests, visitors or invitees.

4.2. Maintenance of Common Area and Nonexclusive Limited Common Area.

Subject to the Owners' payment of Assessments hereunder, the Association, or its fully delegated representative and/or property manager, shall promptly and properly maintain and otherwise manage the Common Area and nonexclusive Limited Common Area (e.g., all areas of the Condominium Project outside of the Owner's respective Units and outside of any Limited Common Area appurtenant to an Owner's Unit), including, but not limited to, all shared/common utility lines (common water and sewer lines), facilities, or appurtenances, the building's structural elements (other than roofing, which shall be each respective Owner's responsibility as to their own Unit), the landscaping, open areas and communal areas, if any, located thereon and maintain all open areas, common walkway and landscape area lights, the structural support components of the roofs and flashings, as well as:

- (a) Replace injured and diseased trees or other vegetation in any Common Area, and plant trees, shrubs and ground cover to the extent that the Board deems necessary for the conservation of water and soil or for aesthetic purposes;
- (b) Place and maintain upon any Common Area, such signs, numbering and lights as the Board may deem appropriate for the proper identification use and regulation thereof, subject to the approval of the Board;
- (c) Pay all common electrical, water, natural gas, sanitary sewer, and other utility charges or fees for services furnished to the Common Area as the same become due and payable;
- (d) Push snow from driveways and sidewalks in the Condominium Project; and
- (e) Do all such other and further acts which the Board deems necessary to preserve and protect the Common Area and the beauty thereof, in accordance with the general purposes specified in this Declaration.

The Association shall operate and maintain any common sewer laterals associated with the Condominium Project (as opposed to sewer lines solely servicing individual Units which shall be maintained by the respective Owner). Billings received from the local sewer district for common sewer service (if billed collectively) will be paid by the Association and equitably charged to the Owners as part of Assessments hereunder. In addition, the Association shall be responsible for the repair and the damages associated with any common sewer lateral back up. All costs of maintenance by the Association, as described in this Section, shall be borne prorata by each of the Owners, and each Owner shall promptly pay its prorata share of such repair and maintenance costs when invoiced by the Association, or otherwise as collected by the Association as part of Assessments under Section 6 below.

The Board of the Association shall determine, in its reasonable discretion, the appropriate maintenance, repair and management of the Common Area, including the selection and timely payment of all third-party vendors and contractors. If the need for maintenance or repair is caused through the willful or negligent act of an Owner, the Owner's family, guests, licensees, lessees or invitees, the Board may cause the maintenance or repair to be made. The Association shall invoice the Owner for the cost of such maintenance or repair. The Owner shall be deemed

to have waived any objection to the invoice if the Owner does not, within thirty (30) days after receipt of the invoice, deliver a written objection to the Board. The Owner's right to object is governed by the provisions of **Section 5.13** of this Declaration. In the event the Board determines that the Owner is liable for the maintenance or repair costs, the Association may enforce collection of such amounts as provided below for the collection of Assessments.

4.3. Default in Maintenance. If an Owner or Occupant fails to maintain a Unit or exclusive Limited Common Area pursuant to **Section 4.1** above, or make repairs thereto in such a manner as may be deemed reasonably necessary in the judgment of the Board to preserve and protect the attractive appearance and value of the Condominium Project, or if an Owner or Occupant fails to observe any Restrictions imposed on such Owner or Occupant by the terms of this Declaration, the Board or its authorized representative shall give written notice to such Owner or Occupant stating with particularity the nature of the default and the corrective action which the Board determines to be required and requesting that the same be carried out within a period of fourteen (14) days after the giving of such written notice. The Owner or Occupant shall be deemed to have waived any objection to the notice if the Owner or Occupant does not, within such fourteen (14) day period, deliver a written objection to the Board. The Owner's or Occupant's right to object to the requested corrective action is governed by the provisions of **Section 5.13** of this Declaration. If the Owner or Occupant fails to carry out such action within the period specified by the notice or as required following hearing before the Board under **Section 5.13**, the Board may cause corrective action to be taken and may levy a special Assessment for the cost thereof on the Owner. The special Assessment shall be due and payable within thirty (30) days after the Board gives written notice thereof and shall be secured by an Assessment lien created/authorized in **Section 6.1** of this Declaration.

4.4. Utilities. All utilities for individual Units (except those utility costs which are metered collectively and paid by the Association as a Common Expense item, if any) will be metered separately to each Unit and such utility charges shall be the responsibility of the respective Owners. Each Owner shall pay any applicable utility hook-up charges and any applicable utility deposits to the applicable utility provider.

5.

MANAGEMENT

5.1. Organization of Association. The Association shall serve as the governing body for all Owners and the Condominium Project. The Association shall oversee and govern the maintenance, repair, replacement, administration and operation of the Common Area, assessment of expenses, acquisition of hazard insurance and disposition of such hazard insurance proceeds, and other matters as provided in the Act, this Declaration and the Bylaws. The Association shall have all rights and powers granted to it under the Act and in this Declaration, the Articles and Bylaws. The Association shall not be deemed to be conducting a business of any kind (i.e., it shall be a non-profit), and all funds received by the Association shall be held and applied by it for the Owners in accordance with this Declaration, the Articles the Bylaws, and applicable Utah law.

5.2. Membership. Membership in the Association shall at all times consist exclusively of the Owners and each Owner shall be a member of the Association so long as such Owner owns a Unit and such membership shall automatically terminate when the Owner ceases to own a Unit. Upon the transfer of an ownership interest in a Unit, the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association. If title to a Unit is held by more than one Person, the membership appurtenant to that Unit shall be shared by all such Persons in the same proportional interest and by the same type of tenancy in which title to the Unit is held. The Association shall make available to the Owners, and, upon written request therefor, to the Lenders, holders, insurers and guarantors of the First Mortgage on any Unit, and any prospective purchaser of a Unit, current copies of this Declaration, Articles, Bylaws and other rules governing the Condominium Project and other books, records and financial statements of the Association so requested. The term "available" as used in this **Section 5.2** shall mean available for inspection, upon reasonable written request, during normal business hours or under other reasonable circumstances.

5.3. Voting. At any meeting of the Association, each Owner of a Unit, including Declarant, either in person or by proxy, shall be entitled to one vote for each Unit owned. When more than one Person owns an interest in a Unit, such Persons shall designate to the Association, in writing, a representative who shall exercise the vote for such Unit on behalf of all co-Owners of the Unit. In no event shall fractional votes be exercised in respect to any Unit. The voting rights appurtenant to each Unit shall vest upon execution and recording of this Declaration and shall not be altered without the unanimous consent of all Owners expressed in a duly recorded amendment to this Declaration.

5.4. Board. The governing body of the Association shall be the Board elected pursuant to the Bylaws. The Board shall consist of not less than three (3) members. Except as otherwise provided in this Declaration, the Bylaws, or Association Rules, the Board may act in all instances on behalf of the Association. The Board may, as it deems appropriate, recommend amendments to the Bylaws and adopt, amend and repeal the Association Rules.

5.5. Qualification of Board Members. Except for Board members elected or appointed by Declarant, each Board Member shall be an Owner or the spouse of an Owner (or if an Owner is a corporation, partnership, limited liability company, or trust, a Board member may be an officer, partner, member, manager, trustee or beneficiary of such Owner). If a Board member ceases to meet such qualifications during their term, such person, in the discretion of the Board, may continue to serve as a Board Member until such Person's replacement has been duly qualified and approved by the remaining Board members. The replacement shall serve for the remainder of the departing Board member's term.

5.6. Reserved.

5.7. Annual Meeting. The Association shall conduct an annual meeting as provided in the Bylaws.

5.8. Right of Association to Enter Units. The Association acting through the Board or its duly authorized agent shall have the right at all times upon reasonable notice (and at any time in case of an emergency) to enter upon or into any Unit to abate any infractions, to make

repairs or correct any violation of any of the Restrictions herein set forth, and in connection therewith shall have the further right to assess all costs incurred against the Owner, such assessment to be secured by the lien provided in **Section 6.1**.

5.9. **Association Rules**. The Board may from time to time adopt and administer Association Rules in furtherance of the Bylaws for the regulation and operation of the Condominium Project.

5.10. **Reserved**.

5.11. **Reserve Fund**. In accordance with all applicable laws, the Association shall maintain an adequate reserve fund for maintenance, repair and replacement of the Common Area and nonexclusive Limited Common Area that must be replaced on a periodic basis, and such reserve shall be part of the monthly Assessments. The reserve fund shall also be funded by the Reinvestment Fees collected hereunder pursuant to Section 17.16 below. To the extent the Board deems necessary, surplus monies of the Association may be retained as additional reserves rather than refunded to the Owners or credited to future Assessments.

5.12. **Managing Agent**. The Board may contract with a professional management agent or property manager to assist the Board in the management and operation of the Condominium Project and may delegate such of its powers and duties to the management agent as it deems appropriate; provided, however, that only the Board shall have the right to approve Association budgets, to impose a special Assessment and to authorize foreclosure of a lien for unpaid Assessments. Any management agreement must be terminable for cause upon thirty (30) days' notice, have a term not to exceed two years, and may be renewed with the consent of the manager and the Board.

5.13. **Hearing before Board**. In the event the Board, under the terms of this Declaration, proposes to take action against an Owner, Occupant or Unit for a violation of the terms of this Declaration or the Association Rules, the Board shall first give the applicable Owner or Occupant written notice of the proposed action and afford the Owner or Occupant the right to file an objection in writing to the proposed action. Unless otherwise provided in this Declaration, the Owner or Occupant shall have not less than twenty (20) days to respond in writing to the notice received from the Board. If the Owner or Occupant timely objects to any proposed action by the Board, the Board shall, within the next twenty (20) days at a regular meeting of the Board or at a special meeting convened for such purpose, consider the matter. The Owner or Occupant shall have an opportunity to appear before the Board and provide testimony or evidence in support of the Owner's or Occupant's position. The Board shall have authority to resolve the matter.

5.14. **Declarant Control of Association**. There is hereby established a period of Declarant control of the Association, during which period Declarant or persons designated by Declarant shall have the authority to appoint and remove the Association officers and Board members. The period of Declarant control shall terminate upon the earlier to occur of:

(a) One (1) year following the date upon which all four (4) Units have been conveyed to third party Unit purchasers (and Declarant no longer owns a Unit); or

(b) When, in its discretion, Declarant so determines and declares in a written instrument.

Notwithstanding anything in this Declaration that may be construed to the contrary with respect to Declarant's ability to voluntarily terminate its period of control of the Association as set forth above, and subject to applicable Utah law, Declarant may (in the exercise of its sole and absolute discretion) voluntarily terminate its period of control in whole or in part, with respect to all or any portion of any Unit, any Common Area, any Limited Common Area, with respect to any issue, matter or subject whatsoever. Declarant's decision to voluntarily terminate its period of control with respect to all or any portion of any Unit, Common Area, or Limited Common Area, or with respect to any issue, matter or subject shall in no event affect, modify, or act to waive its authority under the period of its control of the Association except with respect to such Unit, Common Area, Limited Common Area, or such issue, matter or subject.

6.

COVENANT FOR ASSESSMENTS

6.1. Creation of Lien and Personal Obligation for Assessment. Each Owner of any Unit, by acceptance of a deed or other instrument 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 instrument, is deemed to covenant and agree with each other and with the Association to pay to the Association such Assessments to be fixed, established and collected from time to time as provided in this Declaration. The Assessments, together with interest thereon, collection charges, attorneys' fees, court costs and other costs of collection as hereinafter provided shall be secured by a continuing lien upon the Unit against which each such Assessment is made in favor of the Association. Each such Assessment, together with such interest, collection charges, costs and attorneys' fees, shall also be the personal obligation of the Owner of such Unit at the time the Assessment becomes due. However, a lien to secure unpaid Assessments shall not be affected by the sale or transfer of the Unit unless foreclosure by a prior recorded encumbrance is involved, in which case: (a) the foreclosure will extinguish the lien for any Assessments that were payable before the foreclosure sale, but shall not relieve any subsequent Owner from paying further Assessments; and (b) the prorated share of any extinguished Association lien may be redistributed to the other Units in the Condominium Project.

6.2. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purposes of promoting the safety and welfare of the Owners, the management, maintenance, care, preservation and protection of the Condominium Project, enhancing the quality of life in the Condominium Project and the value of the Condominium Project including, without limitation, the improvement and maintenance of the services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, or in furtherance of any other duty or power of the Association.

6.3. Regular Assessment. The Board is expressly authorized to adopt and amend budgets from time to time. Not later than sixty (60) days prior to the beginning of each fiscal year, the Board shall adopt a pro forma operating statement or budget for the upcoming fiscal year which shall, among other things, estimate the total Common Expenses to be incurred for such

fiscal year. The Board may, but is not required to, send a written summary of the budget to all Owners within thirty (30) days after the adoption of the proposed budget. The Board shall at that time determine the amount of the regular Assessments to be paid by each Owner. Each Owner shall thereafter pay to the Association the Owner's regular Assessment in equal monthly installments on the first day of each month. In the event the Board determines 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 then promptly determine the approximate amount of such inadequacy and issue a supplemental estimate of the Common Expenses and determine the revised amount of the regular Assessment against each Owner, and the date or dates when due. The Owners shall have no right to ratify any budget, or amendment thereof, adopted by the Board.

6.4. Capital Improvement Assessments. In addition to regular Assessments, the Board 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 (other than due to destruction) of a described capital improvement upon the Common Area, including the fixtures and personal property related thereto. The Board shall not impose a capital improvement Assessment exceeding ten percent (10%) of the then estimated annual Common Expenses without the approval of Owners holding a majority of the votes of the Association. All amounts collected as capital improvement Assessments may only be used for capital improvements and shall be deposited by the Board in a separate bank account or the Association's account for reserve funds, to be held in trust for such purposes and said funds shall not be commingled with any other funds (other than reserve funds) of the Association.

6.5. Percentage Assessments. Except as otherwise provided herein, all Assessments (other than special Assessments) shall be in an amount based on the percentage interest for each Unit stated in **Section 3.6** of this Declaration.

6.6. Rules Regarding Billing and Collection Procedures. The Board shall have the right and responsibility to adopt rules and regulations setting forth procedures for the purpose of making the Assessments provided in this Declaration and for the billing and collection of regular and special Assessments, provided that such procedures are not inconsistent with the provisions hereof. The failure of the Association to send a bill to an Owner shall not relieve any Owner of liability for any Assessment or charge under this Declaration, but the Assessment lien therefor shall not be foreclosed or otherwise enforced until the Owner has been given not less than thirty (30) days' written notice prior to such foreclosure or enforcement, at the address of the Owner on the records of the Association, that the Assessment or any installment thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after delinquency of such payment.

6.7. Certificate of Payment. The Association shall, within ten (10) business days after written demand, furnish to any Owner liable for Assessments or to the Lender or a potential Lender for such Unit, a written statement or certificate signed by an officer or authorized agent of the Association setting forth whether the Assessments relating to a specified Unit have been paid and the amount of delinquency, if any. To the extent permitted by law, a reasonable charge may be collected by the Board for the issuance of each such certificate.

Each certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

6.8. **Special Assessments.** Special Assessments may be levied by the Board against a Unit and its Owner to reimburse the Association for:

(a) Costs incurred in bringing an Owner or the Owner's Unit into compliance with the provisions of the Declaration or the Association Rules;

(b) Costs associated with the maintenance, repair or replacement of a Limited Common Area assigned to such Unit;

(c) Any other charge designated as a special Assessment in this Declaration or the Association Rules; and

(d) Reasonable attorneys' fees, interest and other charges relating thereto as provided in this Declaration.

In the event the Association undertakes to provide materials or services which benefit individual Units and which can be accepted or not by individual Owners, such Owners, in accepting such materials or services, agree that the costs thereof shall be a special Assessment to such Owners and their Units.

6.9. **Date of Commencement of Assessments.** Regular and special Assessments as to Units within the Condominium Project for which construction has been substantially completed shall commence as to all such substantially completed Units on the first day of the month following the conveyance of the first Unit by Declarant to an Owner. Thereafter, regular and other Assessments shall commence as to newly completed Units within the Condominium Project on the first day of the month following the substantial completion of construction for each respective Unit.

6.10. **Application of Excess Assessments.** In the event the amount budgeted to meet Common Expenses for a particular fiscal year proves to be excessive in light of the actual Common Expenses, the Board in its discretion may apply the excess to reserves, credit the excess against future Assessments or pay the excess to the Owners in proportion to the Allocated Interests of each Unit in the Common Expenses of the Condominium Project, as the Board deems appropriate. The decision of the Board shall be binding and conclusive. In addition, the Association shall not be obligated to reduce the amount of Assessments in succeeding years if an excess exists for a prior year.

6.11. **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.

7.

EFFECT OF NONPAYMENT OF ASSESSMENTS AND REMEDIES

7.1. **Due Date and Delinquency.** The first day of each month shall be the Assessment due date for that month. Any Assessment which is not paid within thirty (30) days after it becomes due shall be delinquent. Whenever an Assessment is delinquent, the Board may at its option invoke any or all of the sanctions granted in this **Article 7.**

7.2. **Collection Charge.** If any Assessment is delinquent, the Owner shall be obligated to pay the collection charge then provided for in the Association Rules or otherwise reasonably established by the Board. The amount of such collection charge until paid shall constitute part of the Assessment lien as provided for in **Section 6.1** of this Declaration.

7.3. **Interest.** If any Assessment is delinquent, interest at the rate of twelve percent (12%) per annum may be assessed on the amount owing from the date due until such time as it is paid.

7.4. **Action at Law.** The Association may bring an action to recover a delinquent Assessment either personally against the Owner obligated to pay the same or foreclose the Assessment lien; provided, however, the Owner shall have the right to object to the nature or amount of a delinquent Assessment as provided in **Section 5.13** of this Declaration. In addition, the Association's choice of one remedy shall not prejudice or constitute a waiver of the Association's right to exercise any other remedy. The costs of preparing and filing the complaint shall be assessed against the delinquent Owner and the Owner's Unit and reasonable attorneys' fees and court costs will thereafter be added to the amount in delinquency (plus interest and collection charges, if appropriate) in the event that a judgment is obtained by the Association. Each Owner vests in the Association or its successors or assigns the right and power to bring actions at law or lien foreclosures against such Owner or Owners for the collection of delinquent Assessments.

7.5. **Foreclosure Sale.** Any foreclosure provided for in this Declaration is to be conducted in compliance with applicable provisions relating to the foreclosures of deeds of trust on real property in the State of Utah. In any foreclosure or sale, the Owner of the affected Unit shall pay the costs and expenses of such proceedings and reasonable attorneys' fees related thereto. The Association, upon approval by a majority vote of the Association, may through its duly authorized agents have and exercise the power to bid on the Unit at the foreclosure or other sale and to acquire, hold, lease, mortgage and convey such Unit.

7.6. **Suspension of Votes.** The Board may suspend: (a) the obligated Owner's right to vote on any matter at regular or special meetings of the Association; (b) the Owner's right to use all or any portion of the Common Area (exclusive of the Limited Common Area appurtenant to the Owner's Unit), or right to receive any services or amenities provided to the Owners or Units by the Association for the entire period during which an Assessment or other amount due under any of the provisions of the Declaration remains delinquent. Prior to suspending the Owner's right to vote or right to obtain services or amenities, the Board shall afford the Owner the right to a hearing before the Board as provided in **Section 5.13** of this Declaration.

8.

PROPERTY RIGHTS IN COMMON AREA

8.1. General Easements to Common Area and Units.

(a) Subject to this Declaration and the Association Rules, each Owner shall have an equal undivided interest, right and easement of use and enjoyment in and to the Common Area. Each Owner shall have an unrestricted right of ingress or egress to and from the Owner's Unit over and across such Common Area (exclusive of the Limited Common Area), and the nonexclusive right to the use of the Common Area for their purpose. Each Owner shall also have the exclusive right to use and enjoy any Limited Common Area that may be designated for exclusive use by such Owner. Such rights and easements shall be appurtenant to and shall pass with title to each Unit and in no event shall such appurtenant rights be separated therefrom. Any Owner may delegate the right and easement of use and enjoyment described herein to any family members, household guest, tenant, lessee, contract purchaser, Occupant or other Person who resides in such Owner's Unit.

(b) The Association, acting through the Board or its authorized agent, and public utility companies providing service to the Condominium Project, shall have nonexclusive easements with the right of access to each Unit to make inspections, to maintain, repair, replace or effectuate the restoration of the Common Area accessible from such Unit. Such rights shall be exercised in a reasonable manner and at reasonable times with prior notification, unless emergency situations demand immediate access. The Association, acting through the Board or its authorized agent, shall have a nonexclusive right to grant permits, licenses and easements upon, across, over, under and through the Common Area for purposes necessary for the proper operation of the Condominium Project; provided, however, such rights shall be exercised in a reasonable manner and at reasonable times with reasonable prior notification, unless emergency situations demand immediate access.

8.2. Public Utilities. Easements and rights-of-way over the Condominium Project for the installation and maintenance of electricity lines, telephone lines, cable television, water lines, gas lines, sanitary sewer lines, drainage facilities, and such other public utilities needed to serve the Condominium Project are hereby granted to the Association, together with the right to grant and transfer the same; provided, however, such easements and rights-of-way shall not unreasonably interfere with the use of the Common Area and the Units by the Owners or Occupants. The Association shall have the power to grant and convey, in the name of all of the Owners as their attorney-in-fact, to any other person easements and rights-of-way in, on, over or under the Common Area for the purpose of constructing, erecting, operating or maintaining lines, cables, wires, conduits, or other devices for electricity, cable television, power, telephone, public sewers, storm water drains and pipes, water systems, sprinkling systems, water heating and gas lines or pipes and any similar public or quasi public improvements or facilities, and each Owner in accepting the deed to a Unit expressly consents to such easements and rights-of-way and authorizes and appoints the Association as attorney-in-fact for such Owner to execute any and all instruments conveying or creating such easements or right-of-way. Such Owner and those claiming by, through or under an Owner agree to execute promptly all such documents and instruments and to do such other things as may be necessary or convenient to effect the same at the request of the Association.

No such easement, however, shall be granted if it would permanently and materially interfere with the use, occupancy or enjoyment by any Owner of such Owner's Unit.

8.3. Easements for Encroachments. If any portion of the Common Area now or from time to time encroaches upon any Unit, or if any Unit now or from time to time encroaches upon any other Unit or the Common Area, or if any such encroachment shall occur hereafter as a result of the manner in which the buildings are constructed or due to settling, shifting, alteration, replacement, repair or restoration by Declarant or the Association, a valid easement for encroachment, and maintenance of such encroachment, shall exist so long as the applicable building(s) stand.

8.4. Development Easements. Until all Units have been sold by Declarant to third-party purchasers, there are hereby reserved to Declarant, together with the right to grant and transfer the same to others, including their respective sales agents, representatives, successors and assigns, easements and rights upon, across, over, under and through the Condominium Project:

(a) For the purpose of completing all improvements contemplated by this Declaration and the Plat;

(b) To use any Unit owned by Declarant or any other Unit, with the express permission by the Owner of such Unit, as a sales model, or as a management, maintenance or sales office (including the use of signs and other advertising devices) in connection with the erection, remodeling and sale or lease of Units within the Condominium Project, and to relocate such models and offices to other Units or Common Area at any time; and

(c) To create and cause noise, dust, vibration and other nuisances or temporary annoyances created by and resulting from any work connected with or incidental to the development, construction and sale of any Unit or other improvement to the Condominium Project and each Owner or Occupant in such Owner's Unit waives any and all rights, claims or actions that might otherwise be asserted against Declarant, its agents, contractors, employees, licensees, successors and assigns, based on any such noise, dust, vibration and other nuisances or annoyances;

provided, however, that no such use by Declarant or its agents and contractors shall otherwise restrict Owners or Occupants in the reasonable use and enjoyment of their Units.

8.5. Limitation on Easement. An Owner's undivided interest in, and right and easement of use and enjoyment concerning, the Common Area shall be subject to the following:

(a) The right of the Association, subject to the provisions of **Section 5.13** of this Declaration, to suspend the Owner's voting right in the Association and the Owner's right to the use of any facilities, common spaces or amenities, included in the Common Area for any period during which (i) an assessment on such Owner's Unit remains unpaid; (ii) for a period not exceeding sixty (60) days for any infraction by such Owner of the provisions of this Declaration or any Association Rule; and (iii) for successive 60-day periods if any such infraction is not corrected during any prior 60-day suspension period;

(b) The right of the Association to impose reasonable limitations on the number of guests per Owner or Occupant who at any given time are permitted to use the Common Area; and

(c) The right of any governmental or quasi-governmental body having jurisdiction over the Property to access and to have rights of ingress and egress over and across any street, parking areas, walkway or open areas contained within the Common Area for purposes of providing police and fire protection, transporting school children and providing other governmental or municipal services, as applicable.

8.6. **Party Walls.** Each wall or ceiling-floor physical boundary which is built as part of the original construction (or reconstruction) of the Units and placed on the dividing line (whether horizontal or vertical) between the Units shall constitute a “Party Wall” and, to the extent not inconsistent with the provisions of this **Section 8.6**, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to all Party Walls within the Condominium Project. The cost of reasonable repair and maintenance of a Party Wall shall be shared equally by the Owners who make use of such Party Wall. If a Party Wall is destroyed or damaged by fire or other casualty, the provisions of **Article 11** shall apply. Notwithstanding any other provision of this **Section 8.6**, an Owner who by negligent or willful act causes a Party Wall to be damaged shall bear the entire cost of furnishing repairs to such Party Wall. The right of any Owner to contribution from any other Owner under this **Section 8.6** shall be appurtenant to the land and shall pass to such Owner’s successors in title.

8.7. **Description of Unit for Conveyance.** Any deed, lease, mortgage, deed of trust or other instrument conveying or encumbering title to a Unit may describe the interest or estate involved substantially as follows:

Unit [A, B, C or D] of The South Temple Place Condominiums, as said Unit is identified in the Plat of said development recorded _____, 2021, as Entry Number _____, in Book _____, at Page _____ of the official records of the Salt Lake County Recorder, State of Utah, and as identified and described in the Declaration of Condominium of The South Temple Place Condominiums, recorded _____, 2021, as Entry Number _____, in Book _____, at Page _____ of the official records of the Salt Lake County Recorder, State of Utah.

TOGETHER WITH an undivided interest in, and a right and easement of use and enjoyment, to the Common Area described in, as provided for, and in the percentage shown in said Declaration. This conveyance is subject to the provisions of said Declaration, including any amendments thereto.

Whether or not the description employed in any such instrument is in the above specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Unit.

8.8.**Transfer of Title.** At the time of the first conveyance of each Unit from Declarant to a third-party purchaser, Declarant shall convey such Unit free and clear of all liens (other than the lien of current general taxes and the lien of any assessments, charges, or taxes imposed by governmental or quasi-governmental authorities), and Declarant's applicable percentage of undivided interest in the Common Area shall have been released therefrom by partial release duly recorded.

8.9.**Views.** Views from a Unit and the Condominium Project are not assured or guaranteed in any way. There is no warranty concerning the preservation of any view or view plane from the Condominium Project and each Owner and Occupant in such Owner's Unit acknowledges and agrees that:

(a) Completion of the Condominium Project and the future development of land adjacent to or in the vicinity of the Condominium Project may have a detrimental effect on the views from the Unit and other parts of the Condominium Project; and

(b) There are no view easements or sun, light or air rights appurtenant to the Unit or the Condominium Project.

9.

USE RESTRICTIONS

9.1.**Rules and Regulations.** The Association shall have authority to promulgate and enforce such reasonable rules, regulations and procedures as may be necessary or desirable to aid the Association in carrying out any of its functions or to ensure that the Condominium Project is maintained and used in a manner consistent with the interest of the Owners.

9.2.**Design Guidelines.** The Condominium Project may be subject to certain "Design Guidelines" more particularly described herein. The Association shall have the authority to implement and enforce the Design Guidelines for the Condominium Project.

9.3.**Reserved.**

9.4.**Signs.** No signs (including, but not limited to commercial, political, sale or rental and similar signs) shall be erected or maintained on the Property whether in a window or otherwise without the approval of the Association and the Salt Lake City Historic Landmark Commission, except:

(a) Such signs as many be required by legal proceedings;

(b) house number identification as originally placed by Declarant;

(c) Such signs, the nature, number and location of which have been approved by the Board and the Salt Lake City Historic Landmark Commission in advance; and

(d) Street identification signs erected on or adjacent to the Condominium Project by Salt Lake City/County, or any other municipal entity, which signs shall not require prior approval from the Board.

Nothing included herein shall prevent Declarant or its agents and assigns from utilizing reasonable and tasteful signs, flags, or markers in furtherance of sales activities until all Units have been sold by Declarant and such signs of customary and reasonable dimensions as may be displayed on a Unit advertising a Unit for sale or lease.

9.5. **Nuisance.** No noxious or offensive activity shall be carried on upon the Condominium Project, nor shall any activity which might be or become an annoyance or nuisance to the Owners or Occupants be permitted to interfere with their rights of quiet enjoyment or increase the rate of any insurance or decrease the value of the Units. No Owner or Occupant shall engage in activity within the Condominium Project in violation of any law, ordinance, statute, rule or regulation of any local, county, state or federal body. In accordance with **Section 8.4**, nothing included herein shall be construed to prevent Declarant and its respective agents from engaging in all forms of construction and sales activities until all Units have been sold by Declarant.

9.6. **Temporary Structures.** No structure or building of a temporary character, including a tent, yurt, or shack, shall be placed anywhere upon the Condominium Project or used therein unless the same and its proposed use are approved by the Board. Nothing included herein shall be construed as preventing Declarant from using temporary structures or trailers for construction or sales purposes or engaging in all forms of construction and sales activities within the Condominium Project.

9.7. **Parking and Use of Open Parking/Visitor Parking.** Unless otherwise permitted by the Association, and except for "Customary Parking" and "Temporary Parking," as defined in and permitted by this **Section 9.7**, no automobiles or other vehicles of any type (including, without limitation, motorcycles, trailers, campers, vans, recreational vehicles or boats) shall be parked, stored or located within any portion of the Limited Common Area (i.e., shared driveways and accessways to Unit garages). Owners shall reasonably coordinate in good faith on the use of the common driveway/drive areas, so as to not create unreasonable blockages or other access difficulties. "**Customary Parking**" shall mean the parking of operable automobiles, motorcycles, small trucks and vans (each of which must not be used for commercial purposes and each of which must not exceed 3/4 ton in size and seven (7) feet in height measured from ground level and eighteen (18) feet in length) within the parking spaces designated as an exclusive Limited Common Area for each respective Unit. The Association may adopt Association Rules relating to the admission and temporary parking of vehicles within the Limited Common Area, including, without limitation, the right to remove or cause to be removed any vehicles that are improperly parked, and the assessment of charges to Owners and Occupants who violate, or whose invitees violate, such rules. Any charges so assessed shall be special Assessments. Until all the Units are sold, nothing included herein shall be construed to prevent Declarant from using temporary structures or trailers for construction or sales purposes or from engaging in all forms of construction and sales activities within the Condominium Project.

9.8. **External Fixtures.** No external items such as, but not limited to, television and radio antennas, satellite dishes, flag poles, clotheslines, wiring, insulation, air conditioning equipment, water softening equipment, fences, awnings, ornamental screens, screen doors, porch or patio or balcony enclosures, sunshades, lighting fixtures, walls, landscaping and

planting, other than those provided in connection with the original construction for the Condominium Project, and any replacements thereof, and other than those approved by the Board and the Salt Lake City Historic Landmarks Commission (if applicable), and any replacements thereof, shall be constructed, erected or maintained on the Condominium Project. The foregoing notwithstanding, until all the Units are sold, nothing included herein shall be construed as preventing Declarant or its agents and assigns from engaging in all forms of construction and sales activities within the Condominium Project.

9.9. **Window Coverings**. Each Unit shall have window coverings. Only curtains, drapes, shades, shutters and blinds may be installed as window coverings, and all such window coverings shall be approved in advance by the Board. No window shall be covered by paint, foil, newspaper, sheets or similar items. The Board may adopt Association Rules regulating the type, color and design of the external surface of window coverings.

9.10. **External Laundering**. External laundering and (non-clothesline) drying of clothing and other items is permitted only on the garden level of any Unit and provided, however, that such drying items shall not be visible from the street or from other Units.

9.11. **Outside Speakers and Amplifiers**. No radio, stereo, broadcast or loudspeaker units and no amplifiers of any kind shall be placed upon or outside, or be directed to the outside of, any Unit without the prior written approval of the Board.

9.12. **Repairs**. No repairs of any detached machinery, equipment or fixtures, including without limitation, motor vehicles, shall be made upon the Condominium Project.

9.13. **Unightly Items**. All rubbish, debris or unsightly materials or objects of any kind shall be regularly removed from Units and shall not be allowed to accumulate therein or thereon. Refuse containers and machinery and equipment not a part of the Units, shall be prohibited upon any Unit unless obscured from view of adjoining Units and Common Area. Trash and garbage shall be properly disposed of by Owners and Occupants in refuse containers approved by Salt Lake County or its subcontractor for regularly scheduled pick up and removal, in accordance with the Association Rules, if any, applicable thereto adopted by the Board. The Board may adopt additional rules applicable to the provisions of this Section and their enforcement, including, subject to the provisions of **Section 5.13** of this Declaration, the assessment of charges to Owners and Occupants who violate, or whose invitees violate, such rules. Any charges so assessed shall be special Assessments. The foregoing notwithstanding, nothing included herein shall be construed as preventing Declarant and its agents and assigns from engaging in all forms of construction and sales activities within the Condominium Project.

9.14. **Reserved**.

9.15. **Animals**. Pets shall be permitted. Notwithstanding the foregoing, no animal or fowl may be kept within a Unit which, in the good faith judgment of the Board, results in an unreasonable annoyance or is obnoxious to the other Owners or Occupants within the Condominium Project and the Board may exercise its judgment for specific pets even though others may be permitted to remain. All animals permitted to be kept by this **Section 9.15**

shall be kept on a leash when outside of its residing Unit, and all fecal matter shall be immediately cleaned up on any portion of the Common Area. The Board may adopt Association Rules applicable to the provisions of this **Section 9.15**, and their enforcement, including the assessment of charges to Owners and Occupants who violate such rules. Any charges so assessed shall be special Assessments.

9.16. **Leases.** The leasing, rental, and/or occupancy of a Unit (a “Lease”) shall be permitted. Prior to a tenant’s occupancy of a Unit with a term of 6 months or more, the Owner must provide to the Association with the name, address and telephone number of the tenant. Every Lease shall provide that the terms of such Lease shall be subject in all respects to the provisions of this Declaration and the Association Rules. Each Lease shall further provide that any failure by the Occupant thereunder to comply with the terms of the foregoing documents shall be a default under the Lease. If any Lease does not contain the foregoing provisions, such provisions shall nevertheless be deemed to be a part of the Lease and binding on the Owner and Occupant by virtue of their inclusion in this Declaration. No Owner may lease less than the Owner’s entire Unit. The Association may further reasonably regulate, limit, or prohibit rentals of Units. Any Owner who shall lease the Owner’s Unit shall be responsible for compliance by the Occupant with this Declaration and the Association Rules. Notwithstanding the foregoing, the Association shall have the right and the obligation to enforce compliance with this Declaration against any Owner and/or occupant of any Unit, and shall have all rights and remedies available under state or local law, in addition to its rights and remedies as a third party beneficiary under any lease agreement, to enforce such compliance. Failure by an Owner to take legal action, including the institution of a forcible entry and detainer proceeding against the Occupant who is in violation of this Declaration, or the Association Rules within ten (10) days after receipt of written demand so to do from the Board, shall entitle the Association, through the Board, to take any and all such action including the institution of proceedings in forcible entry and detainer on behalf of such Owner against the Occupant. Neither the Association nor any agent retained by the Association to manage the Condominium Project shall be liable to the Owner or Occupant for any eviction under this **Section 9.16** that is made in good faith. Any expenses incurred by the Association, including attorneys’ fees and costs of suit, shall be repaid by such Owner. Failure by such Owner to make such repayment within ten (10) days after receipt of a written demand therefor shall entitle the Board to levy a special Assessment against such Owner and the Owner’s Unit for all such expenses incurred by the Association. In the event such special Assessment is not paid within thirty (30) days of its due date, the Board, subject to the provisions of **Section 5.13** of this Declaration, may resort to all remedies of the Association for the collection thereof.

(a) **Additional Unit Leasing Provisions:** prior to long-term renting of any Unit, the applicable Owner and the tenant shall execute a written lease agreement which shall include the following provisions: (1) The tenant shall agree to comply with all of the terms and conditions of the condominium declaration; (2) The tenant shall agree not to allow or commit any nuisance, waste, unlawful or illegal act upon the premises; and (3) The owner and the tenant shall acknowledge that the homeowners’ association is an intended third party beneficiary of the lease agreement, that the homeowners’ association shall have the right to enforce compliance with the condominium declaration and to abate any nuisance, waste,

unlawful or illegal activity upon the premises; and that the homeowners' association shall be entitled to exercise all of the owner's rights and remedies under the lease agreement to do so;

9.17. **Landscape Maintenance.** The Association shall have the right to maintain all landscaping in the Condominium Project (after initial installation of such landscaping by Declarant or its contractors). The Association shall have the right of access to all portions of the Condominium Project which are necessary for such landscape maintenance.

9.18. **Floor Load.** There shall be no floor load in excess of the weight for which the Unit or balcony was designed, unless special arrangements are made, and an engineering determination of floor load capacity in the areas of the heavy use is approved in writing by the Board. Additionally, no Jacuzzis shall be permitted on the roof garden area due to weight.

9.19. **Single Family Occupancy.** The use of each Unit is restricted to single family occupancy, as required by local zoning and code.

9.20. **No Subdivision of Units or Further Restrictions.** No Unit shall be split, subdivided or separated into two (2) or more Units, and no Owner of a Unit shall sell or lease less than all of the Unit. An Owner of two (2) or more adjacent Units may, however, combine those Units to make a single Unit and then separate the single Unit into the original Units for purposes of selling one or more of the Units; provided however, that no such combination or subsequent separation shall be allowed until the Board has approved such combination or separation, in the Board's sole discretion, in writing. No subdivision plat or covenants, conditions or restrictions shall be recorded by any owner or other Person with respect to any Unit unless the Board has first approved the plat or the proposed covenants, conditions or restrictions, such approval to be evidenced by the Association's signature on the final recorded plat or instrument imposing the covenants, conditions or restrictions. Any plat or covenants, conditions, or restrictions recorded in violation of this **Section 9.20** shall be absolutely null and void. The Board's review shall be for the purpose of assuring, in the sole and absolute discretion of the Board, that the plat or covenants, conditions and restrictions are consistent and compatible with the overall plan of development of the Property. In no event, however, shall the approval of the Board of any plat or covenant, condition or restriction be an abandonment or waiver of any provision of this Declaration. The provisions of this Declaration shall be and remain superior to any such plat or covenants, conditions or restrictions.

9.21. **Architectural Control.** No aesthetic or structural exterior changes whatsoever shall be commenced, erected, maintained, made or done to any Unit without the prior written approval of the Board together with the written approval the Salt Lake City Historic Landmark Commission and otherwise in compliance with the original architectural and technical design specifications and requirements of the building at the time of original construction. By way of illustration, but not of limitation, the following are considered exterior changes; roofing, roofing materials and systems, masonry, painting, landscaping, excavation, patio covers, screens, doors, evaporative coolers, fireplaces, skylights, storage buildings, solar collectors/panels, shade screens, awnings, window coating or tinting, decorative alterations or other work which in any way alters the exterior appearance of the

Property. The Board may designate the design, style, model and manufacturer of any exterior improvement or alteration which is acceptable to the Board. Such designations shall be for the purpose of achieving uniformity of appearance and preservation of property values. No interior structural changes whatsoever shall be commenced, erected, maintained, made or done without the prior written approval of the Board. By way of illustration, but not of limitation, the following are considered interior structural changes: moving, removing, adding, or altering walls, doorways, and the like.

9.22. **Lighting.** Exterior lighting fixtures and walkway and landscaping lights shall be allowed only to the extent approved by the Board.

9.23. **Reserved.**

9.24. **Variances.** The Board may, at its option and in extenuating circumstances, grant variances from the Restrictions set forth in this **Article 9** if the Board determines in its discretion: (a) either (i) that a Restriction would create an unreasonable hardship or burden on an Owner or Occupant, or (ii) that a change of circumstances since the recordation of this Declaration has rendered such Restriction obsolete; and (b) that the activity permitted under the variance will not have any substantial adverse effect on the Owners or Occupants of the Condominium Project and is consistent with the high quality of life intended for residents of the Condominium Project.

9.25. **Hazardous Substances.**

(a) The Owners shall comply with applicable Environmental Laws (as defined below), and shall not cause or permit the presence, use, disposal, storage or release of any Hazardous Substances (as defined below), on or within the Condominium Project which are not properly controlled, safeguarded and disposed of. The Owners shall not do, nor allow anyone else to do, anything affecting the Condominium Project that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use of storage on the Condominium Project of small quantities of Hazardous Substances that are generally recognized to be appropriate to maintenance of a Unit or the Condominium Project.

(b) Each Owner shall indemnify, defend and hold the Association and each and every other Owner harmless from and against any and all claims and proceedings (whether brought by private party or governmental agency) for bodily injury, property damage, abatement or remediation, environmental damage or impairment, or any other injury or damage resulting from or relating to any Hazardous Substances located under or upon or migrating into, under, from or through the Condominium Project, which the Association or the other Owners may incur due to the actions or omissions of an indemnifying Owner. The foregoing indemnity shall apply: (i) whether or not the release of the Hazardous Substances was caused by an indemnifying Owner, a tenant, invitee or otherwise of an indemnifying Owner; and (ii) whether or not the alleged liability is attributable to the handling, storage, generation, transportation or disposal of Hazardous Substances on the Condominium Project. The obligations of each Owner under this **Section 9.25** shall survive any subsequent sale by an indemnifying Owner.

(c) As used in this **Section 9.25**, “Hazardous Substances” are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde and radioactive materials. As used in this **Section 9.25**, “Environmental Law” means federal laws and laws of the jurisdiction where the Condominium Project is located that relate to health, safety or environmental protection.

10. INSURANCE

10.1. **Property Insurance.** Commencing not later than the date a Unit is conveyed to a Person other than Declarant, the Association shall obtain and maintain the insurance specified in this Declaration; provided, however, the Association shall always comply with the insurance requirements of the Act. All insurance policies shall be issued by generally acceptable insurance carriers.

(a) **Hazard Insurance.** A “master” or “blanket” type policy of property insurance shall be maintained covering the entire Condominium Project, including: the Common Area; all buildings including all Units (other than the interior content thereof); fixtures, building service equipment, personal property and supplies comprising a part of the Common Area or owned by the Association, and which are of a class typically encumbered by First Mortgages held by FNMA or other similar institutional mortgage investors; but excluding land, foundations, excavations, and other items not normally covered by such policies. References herein to a “master” or “blanket” type of policy of property insurance are intended to denote single entity insurance coverage. At a minimum, such “master” or “blanket” policy shall afford protection against loss or damage by fire, by other perils normally covered by the standard extended coverage endorsement, and by all other perils which are customarily covered with respect to projects similar to the Condominium Project in construction, location and use, including, without limitation, all perils normally covered by the standard “all risk” endorsement, where such endorsement is available. Such “master” or “blanket” policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all elements of the Condominium Project covered by such policy, exclusive of land, foundations, excavation and other items normally excluded from coverage. The insurance policy shall include either of the following endorsements to assure full insurable value replacement cost coverage: (1) a Guaranteed Replacement Cost Endorsement (under which the insurer agrees to replace the insurable property regardless of the cost) and, if the policy includes a coinsurance clause, an Agreed Amount Endorsement (which waives the requirement for coinsurance); or (2) a Replacement Cost Endorsement (under which the insurer agrees to pay up to one hundred percent (100%) of the Property’s insurable replacement cost but not more) and, if the policy includes a coinsurance clause, an Agreed Amount Endorsement (which waives the requirement for coinsurance). The maximum deductible amount for such policy covering the Common Area shall be the lesser of Ten Thousand Dollars (\$10,000) or one percent (1%) of the policy face amount. However, for losses related to Units that are covered by such a

policy, the deductible related to each Unit shall be One Thousand Dollars (\$1,000). Funds to cover these deductible amounts shall be included in the Association's operating reserve account.

(1) The name of the insured under each policy required to be maintained by the foregoing (a) and (b) shall be the Association for the use and benefit of the individual Owners (the Owners shall be designated by name, if required). Notwithstanding the requirement of the immediately foregoing sentence, each such policy may be issued in the name of an authorized representative of the Association, including any Insurance Trustee with whom the Association has entered into an insurance trust agreement, or any successor to such Insurance Trustee, for the use and benefit of the individual Owners. Loss payable shall be in favor of the Association (or Insurance Trustee), as a trustee for each Owner and each Owner's Lender in the percentage of common ownership. Each Owner and each Owner's Lender, if any, shall be beneficiaries of such policy. Evidence of insurance shall be issued to each Owner and Lender upon request.

(2) Each policy required to be maintained by the foregoing items (a) and (b) shall contain the standard mortgage clause, or equivalent endorsement (without contribution), commonly accepted by private institutional mortgage investors in the area in which the Condominium Project is located. If FNMA is a holder of one or more First Mortgages on Units within the Condominium Project, such mortgage clause shall name FNMA or FNMA's servicer of such mortgages as mortgagee. If FNMA's servicer is named as mortgagee in such mortgage clause, such servicer's name shall be followed therein by the phrase "its successors and assigns." In addition, such mortgage clause or another appropriate provision of each such policy shall provide that the policy may not be canceled or substantially modified without at least ten (10) days' prior written notice to the Association and to each Lender which is listed as a scheduled holder of a mortgage in the policy.

(3) Each policy required to be maintained by the foregoing items (a) and (b), shall provide, if available, for the following: recognition of any insurance trust agreement; a waiver of the right of subrogation against Owners individually; the insurance is not prejudiced by any act or neglect of individual Owners which is not in the control of such Owners collectively; and the policy is primary in the event the Owner has other insurance covering the same loss.

(4) Each policy required to be maintained by the foregoing item (a) shall also contain or provide the following: (i) "Inflation Guard Endorsement," if available; (ii) "Building Ordinance or Law Endorsement," if the enforcement of any building, zoning or land use law will result in loss or damage, increased cost of repairs or reconstruction, or additional demolition and removal costs (the endorsement must provide for contingent liability from the operation of building laws, demolition costs and increased costs of reconstruction); and (iii) "Steam Boiler and Machinery Coverage Endorsement," if the project has central heating or cooling, which shall provide that the insurer's minimum liability per accident

at least equals the lesser of Two Million Dollars (\$2,000,000) or the insurable value of the building containing the boiler or machinery. In lieu of obtaining this coverage as an endorsement to the commercial package property, the Association may purchase separate stand-alone boiler and machinery coverage.

10.2. **Comprehensive Public Liability Insurance.** To the extent available, the Association shall obtain comprehensive general liability insurance insuring the Association, Declarant, the agents and employees of the Association and Declarant, the Owners and Occupants and the respective family members, guests and invitees of the Owners and Occupants, against liability incident to the use, ownership or maintenance of the Common Area or membership in the Association. The coverage limits under such policy shall be in amounts generally required by private institutional mortgage investors for projects similar to the Condominium Project in construction, location and use. Nevertheless, such coverage shall not be less than One Million Dollars (\$1,000,000) covering all claims for death of or injury to any one person or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which would preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or another Owner or Occupant. Such insurance shall also include protection against water damage liability, liability for non-owned and hired automobiles and liability for the property of others. Such insurance must provide that, despite any provisions giving the carrier the right to elect to restore damage in lieu of a cash settlement, such option shall not be exercisable without the approval of the Association. The Board shall adjust the amount of the insurance carried under this **Section 10.2** from time to time. The insurance policy carried under this **Section 10.2** shall provide that the policy may not be cancelled or substantially modified without at least ten (10) days' prior written notice to the Association and to each Lender.

10.3. **Reserved.**

10.4. **Fidelity Insurance.** The Board shall obtain fidelity coverage against dishonest acts on the part of Board members, officers, employees or volunteers who handle or who are responsible for handling funds of the Association. Such fidelity bonds shall name the Association as obligee and shall be written in an amount equal to one hundred fifty percent (150%) of the estimated current annual Common Expenses of the Association, including reserves, and shall contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar terms or expressions.

10.5. **Premiums.** Premiums upon insurance policies purchased by the Board on behalf of the Association shall be paid by the Association as part of the Common Expenses.

10.6. **Policy Provisions.**

(a) Any insurer that has issued an insurance policy to the Association under this Article shall be a generally acceptable insurance carrier according to guidelines set forth in FNMA's Conventional Home Mortgage Selling Contract Supplement or the Federal Home Loan Corporation's Sellers Guide. In addition, any insurer that has issued an

insurance policy to the Association under this Article shall issue a certificate or memoranda of insurance to the Association and upon request, to any Owner or Lender.

(b) The named insured under any policy of insurance shall be the Association, as trustee for the Owners, or its authorized representative, including an Insurance Trustee, who shall have exclusive authority to negotiate losses under the policies. The policy shall provide that each Owner shall be an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area or membership in the Association. Each Owner hereby appoints the Association, or any Insurance Trustee, as attorney-in-fact for the purpose of purchasing and maintaining insurance required by this Declaration, and adjustment of all losses related thereto, including: the collection and appropriate disposition of all insurance proceeds, the negotiation of all losses and execution of releases of liability, the execution of all documents and the performance of all other acts necessary to administer such insurance. The Association shall receive, hold, or otherwise properly dispose of any proceeds of insurance in trust for the Owners and their Lenders, as their interests may appear. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors or assigns of an Owner.

(c) The Association's insurance shall contain the "Special Condominium Endorsement" or its equivalent. Insurance coverage obtained by the Association shall be primary insurance and may not be brought into contribution with insurance purchased by the Owners.

(d) Coverage must not be limited by (i) any act or neglect by Owners or Occupants which is not within control of the Association, or (ii) any failure of the Association to comply with any warranty or condition regarding any portion of the Condominium Project over which the Association has no control.

(e) Coverage may not be canceled or substantially modified (including cancellation for nonpayment of premium) and the insurer may not refuse to renew the policy without at least thirty (30) days' prior written notice to the Association and all Lenders, and to any Owner to whom a certificate has been issued.

(f) All policies must contain a waiver of subrogation by the insurer as to any and all claims against the Association, the Owners, Occupants and their respective agents and employees, and any defenses based on coinsurance or on invalidity arising from acts of the insured.

10.7. **Supplemental Insurance.** The Board may obtain such other policies of insurance in the name of the Association as the Board deems appropriate to protect the Association and Owners. The Board shall obtain and officer's liability insurance for officers and Board members of the Association in accordance with this Declaration. Notwithstanding any of the provisions herein, the Association shall continuously maintain in effect such casualty, flood (only to the extent required), and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for condominium projects established by FNMA, the Department of Housing and Urban Development, the Department of Veterans

Affairs and the Government National Mortgage Association, so long as any is a mortgagee or Owner of a Unit, except to the extent such coverage is not available or has been waived in writing by FNMA, the Department of Housing and Urban Development, the Department of Veterans Affairs or the Government National Mortgage Association.

10.8. **Annual Insurance Report.** Not later than sixty (60) days prior to the beginning of each fiscal year, the Board may obtain a written report by a reputable independent insurance broker or consultant setting forth the existing insurance obtained pursuant to this Declaration and stating whether, in the opinion of such broker or consultant, the insurance complies with the requirements of this Declaration and the Act. Such report may also set forth recommendations regarding current policy provisions and for additional insurance reasonably required for the protection of the Owners and the Lenders in light of the insurance then available and the prevailing practice with respect to other similar condominium projects. The Board shall be fully protected in relying on the written report furnished pursuant to this **Section 10.8** provided reasonable care and prudence were exercised in selecting such independent insurance broker or consultant.

10.9. **Insurance Obtained by Owners.** Notwithstanding the above, and pursuant to applicable Utah law, an Owner or Occupant shall be permitted to insure the Owner's Unit for the Owner's own benefit.

11.

DESTRUCTION OF IMPROVEMENTS

11.1. **Reconstruction.** In the event of partial or total destruction of the building any portion of the Common Area within the Condominium Project, the Board shall promptly take the following actions:

(a) The Board shall ascertain the cost of reconstruction by obtaining fixed price bids from at least two (2) reputable contractors, including the obligation to obtain performance and lien payment bonds.

(b) The Board shall determine the amount of insurance proceeds, if any, payable by contacting the appropriate representative of the insurer carrying the policy covering the Condominium Project.

(c) If the insurance proceeds are sufficient to reconstruct the building, such proceeds shall be applied to such reconstruction.

(d) If the Board determines: (i) that insurance proceeds will cover eighty-five percent (85%) or more, but not all, of the estimated cost of reconstruction, or (ii) that available insurance proceeds together with available reserves and a Special Assessment equal to twenty-five percent (25%) or less of the then aggregate annual regular Assessments for all Units will completely cover the estimated cost of reconstruction, then the Board shall cause notice to be sent to all Owners and to all Lenders encumbering Units within the Condominium Project setting forth such findings and informing the Owners and Lenders that the Board intends to commence reconstruction pursuant to this

Declaration. In the event that Owners representing at least twenty percent (20%) of the votes of the Association object in writing to such reconstruction as indicated in such notice, the Board shall call a special meeting of the Owners pursuant to **Section 11.2**. In the event that the foregoing requirements are satisfied and the requisite number of Owners do not object in writing to such reconstruction, the Board shall cause reconstruction to take place as promptly as practicable thereafter. In connection with such reconstruction, the Board shall levy a uniform special Assessment against each Owner at such time and in such amount as the Board shall determine is necessary to cover the costs of reconstruction in excess of insurance proceeds and available reserves.

(e) If the Board in good faith determines that none of the bids submitted under this **Section 11.1** reasonably reflects the anticipated reconstruction costs, the Board shall continue to attempt to obtain an additional bid which it determines reasonably reflects such costs. Such determination shall be made by the Board as soon as possible. However, if such determination cannot be made within ninety (90) days after the date of such destruction because of the unavailability or unacceptability of an insurance estimate or reconstruction bid, or otherwise, the Board shall immediately call a meeting of the affected Owners and all Lenders pursuant to **Section 11.2**.

(f) If the Board determines that any Unit is uninhabitable by reason of its total or partial destruction, the Board may abate Assessments against the Owner thereof until the Board determines that habitability has been restored.

11.2. **Reconstruction by Vote.** If reconstruction is not to take place pursuant to **Section 11.1**, as soon as practicable after the same has been determined, the Board shall call a special meeting of the Owners by mailing a notice of such meeting to each such Owner. Such meeting shall be held not less than ten (10) days and not more than sixty (60) days after the date of such notice. Unless the Owners, by a vote at such meeting or by the written consent of not less than seventy-five percent (75%) of the votes of the Association (including every Owner of a Unit or an allocated Limited Common Area which will not be rebuilt) determine not to proceed with such reconstruction, reconstruction must take place and the Board shall levy a uniform special Assessment against each Owner at such time and in such amount as the Board shall determine is necessary to cover the costs of reconstruction in excess of insurance proceeds and available reserves.

11.3. **Procedure for Minor Reconstruction.** If the cost of reconstruction is equal to or less than ten percent (10%) of the estimated fair market value of all of the Units in the Condominium Project, then the Board shall contract with a licensed contractor or contractors to rebuild or repair such damaged or destroyed portions of the Condominium Project in conformance with the original plans and specifications, or if the Board determines that adherence to such original plans and specifications is impracticable or is not in conformance with applicable laws, ordinances, building codes or other governmental rules or regulations then in effect, then such repairs or rebuilding shall be of a kind and quality substantially equivalent to the original construction of such improvements.

11.4. **Procedure for Major Reconstruction.** If the cost of reconstruction is greater than ten percent (10%) of the estimated fair market value of all of the Units in the

Condominium Project, all insurance proceeds, together with such amounts from available reserves or special Assessments as are needed to complete the cost of reconstruction, shall be paid directly to an Insurance Trustee, to be designated by the Board, as trustee for all Owners and Lenders. The Insurance Trustee shall be a bank or savings and loan association with an office in Salt Lake County, Utah, whose accounts are insured by the Federal Deposit Insurance Corporation or the successor to such agency. Such proceeds shall be received, held and administered by the Insurance Trustee subject to the provisions of an insurance trust agreement which shall be consistent with the provisions of this Declaration and which shall be entered into between the Insurance Trustee and the Board. Disbursement of such funds shall be made only upon the signatures of two Board members and upon the terms and conditions provided in this **Section 11.4**. As soon as practicable after notification of the receipt of insurance proceeds by the Insurance Trustee, the Board shall enter into a contract with a licensed contractor or contractors for the repair or rebuilding of all of the damaged or destroyed Units and Common Area according to the original plan and specifications of said improvements or, if the Board determines that adherence to such original plans and specifications is impracticable or not in conformity with applicable statutes, ordinances, building codes or other governmental rules and regulations then in effect, then of a quality and kind substantially equivalent to the original construction of such improvements. The contract with such licensed contractor or contractors shall provide for payment to the contractor or contractors a specified sum for performance and execution of the work therein described, and shall have provisions for periodic disbursement of funds by the Insurance Trustee, which shall be consistent with procedures then followed by prudent lending institutions doing business in Salt Lake County, Utah. Such periodic disbursements of funds shall be for specific dollar amounts and shall not be paid until the contractor who is engaged by the Board shall furnish to the Board before the commencement of construction a full performance and lien payment bond written by a good and responsible corporate surety. Disbursements to the contractor shall be made subject to the prior presentation of an architect's certificate or other documentation containing such provisions as may be appropriate in the circumstances and deemed suitable by the Board. The Board may employ a licensed architect to supervise the repair and rebuilding to ensure that all work, services and supplies are in conformity with the requirements of the construction contract.

11.5. Determination not to Reconstruct Without Termination. If: (a) Owners holding not less than seventy-five percent (75%) of the votes of the Association (including every Owner of a Unit or an allocated Limited Common Area which will not be rebuilt after a casualty) and Eligible Mortgagees on Units (to which at least fifty-one percent (51%) of the Allocated Interests in the Common Area are attributable) vote not to rebuild; (b) the entire Condominium Project is not repaired or replaced; and (c) the Condominium Project is not terminated in accordance with the Act, then, the insurance proceeds shall be distributed as provided by the Act and the Allocated Interests in the Common Area shall be automatically reallocated as provided by the Act. In such event, the Association shall promptly prepare, execute and record an amendment to the Declaration reflecting such reallocation.

11.6. Negotiations with Insurer. The Association shall have full authority to negotiate in good faith with representatives of the insurer of any totally or partially destroyed building or any other portion of the Common Area, and to make settlements with the insurer for less than full insurance coverage on the damage to such building or any other portion of the

Common Area. Any settlement made by the Association in good faith shall be binding upon all Owners and Lenders.

11.7. **Repair of Units.** Installation of improvements to, and repair of any damage to, the interior of a Unit shall be made by and at the individual expense of the Owner of that Unit and, in the event of a determination to reconstruct after partial or total destruction, shall be completed as promptly as practicable and in a lawful, good, and workmanlike manner.

11.8. **Priority.** Nothing contained in this Article shall entitle an Owner to priority over any Lender under a lien encumbering the Owner's Unit as to any portion of insurance proceeds allocated to such Unit.

12.

EMINENT DOMAIN

12.1. **Total Taking of a Unit.** If a Unit is taken by eminent domain, or sold under threat thereof, or if part of a Unit is taken by eminent domain, or sold under threat thereof, leaving the Owner with a remnant which may not be practically or lawfully used for any purpose permitted by this Declaration, the award must compensate the Owner for the Owner's Unit and Allocated Interest in the Common Area, regardless of whether any Common Area is taken. Upon such a taking, unless the decree otherwise provides, that Unit's Allocated Interest in the Common Area shall automatically be reallocated to the remaining Units in proportion to their respective interests immediately before the taking. Upon such a taking, the Association shall prepare, execute and record an amendment to the Declaration in compliance with the Act. Any remnant of a Unit remaining after part of a Unit is taken shall become part of the Common Area.

12.2. **Partial Taking of a Unit.** Except as provided in **Section 12.1**, if part of a Unit is taken by eminent domain, or sold under threat thereof, so that such Unit may still be practically and lawfully used under this Declaration, the award must compensate the Owner for the reduction in the value of the Owner's Unit and Allocated Interest in the Common Area, regardless of whether any Common Area is taken. Upon such a taking, unless the decree otherwise provides, that Unit's Allocated Interest in the Common Area shall remain the same, but if the decree provides for a reduction of the Allocated Interest for such Unit, the reduced amount shall automatically be reallocated to that Unit and the remaining Units in proportion to their respective Allocated Interests immediately before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced Allocated Interest.

12.3. **Taking of Limited Common Area.** If the portion of the Condominium Project taken by eminent domain, or sold under threat thereof, is comprised of or includes any Limited Common Area or portion thereof, the portion of the award attributable to the Limited Common Area so taken shall be divided among the Owners of the Units to which such Limited Common Area was allocated at the time of the acquisition.

12.4. **Taking of Common Area.** If the portion of the Condominium Project taken by eminent domain, or sold under threat thereof, is not comprised of or includes any Unit or

Limited Common Area, the Board shall, as soon as practicable, cause the award to be utilized for the purpose of repairing or restoring the portion of the Condominium Project so taken, and the portion of the award not used for restoration shall be divided among the owners in proportion to their Allocated Interest in the Common Area before the taking.

12.5. **Taking of Entire Condominium Project.** In the event the Condominium Project, in its entirety, is taken by eminent domain, or sold under threat thereof, the Condominium Project shall be terminated and the applicable provisions of the Act shall apply.

12.6. **Priority and Power of Attorney.** Nothing contained in this **Article 12** shall entitle an Owner to priority over any Lender under a lien encumbering the Owner's Unit as to any portion of any condemnation award allocated to such Unit. Each Owner hereby appoints the Association as attorney-in-fact for the purpose of negotiations and settlement with the condemning authority for the acquisition of the Common Area, or any part thereof. In the event the taking involves all or part of any Unit or the Common Area or Limited Common Area, the award or proceeds shall be payable to the Association for the use and benefit of the Owners and their Lenders as their interests may appear. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors or assigns of an Owner.

13.

RIGHTS OF LENDERS

13.1. **Notice to Lenders.** A Lender shall not be entitled to receive any notice which this Declaration requires the Association to provide Lenders for notice, approval or consent regarding a proposed action or otherwise, unless and until such Lender or its mortgage servicing contractor, has delivered to the Association a written notice stating that such Lender is the holder of a loan encumbering a Unit within the Condominium Project, in accordance with **Section 13.6**. Notwithstanding the foregoing, if any right of a Lender under this Declaration is conditioned on a specific written request to the Association, in addition to the above, a Lender must also make such request in writing delivered to the Association. Except as provided in this **Section 13.1**, a Lender's rights pursuant to this Declaration, including, without limitation, the priority of any mortgage lien over the lien of Assessments levied by the Association hereunder shall not be affected by the failure to deliver a notice or request to the Association.

13.2. **Priority of Lenders.** No breach of the Restrictions herein contained, nor the enforcement of any lien provision herein, shall affect, impair, defeat or render invalid the lien or charge of any Lender made in good faith and for value encumbering any Unit, but all of such Restrictions shall be binding upon and effective against any Owner whose title to a Unit is derived through foreclosure or trustee's sale, or otherwise.

13.3. **Relationship with Assessment Liens.**

(a) The lien provided for in **Article 6** for the payment of Assessments shall be subordinate to the lien of any Lender which was recorded prior to the date any such Assessment becomes due.

(b) If any Unit which is subject to a monetary lien created by this Declaration is also subject to the lien of a Lender, then: (i) the foreclosure of any lien created by this Declaration shall not operate to affect or impair the lien of such Lender; and (ii) the foreclosure of the lien of a Lender or the sale under a power of sale included in a deed of trust shall not operate to affect or impair the lien hereof, except that any person who obtains an interest thereafter shall take title free of any lien created by this Declaration for any Assessments which became due after the recordation of the deed of trust, or any personal obligation for such charges, but such Person shall remain subject to the lien hereof for all charges that shall accrue subsequent to such foreclosure.

(c) Without limiting the provisions of **Section 13.3(b)**, any Lender who obtains title to a Unit by reason of any foreclosure, or deed or assignment in lieu of foreclosure, or any person who obtains title 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 accrued prior to the time such Lender or purchaser takes title to such Unit, except for liens or claims for a share of such Assessments resulting from a pro rata reallocation of such Assessments to all Units within the Condominium Project.

(d) Nothing in this **Section 13.3** shall be construed as releasing any Person from the personal obligation to pay for any Assessments levied pursuant to this Declaration during the period such Person is an Owner.

13.4. Required Lender Approval. Except upon the prior written approval or deemed approval of seventy-five percent (75%) of all Lenders which have provided notice to the Association as described in **Section 13.1** and **Section 13.6**, based on one vote for each Unit encumbered by a loan, neither the Association nor the Board shall be entitled by action or inaction to do any of the following:

(a) Abandon or terminate by an act or omission the legal status of the Condominium Project; or

(b) Except as specifically provided by this Declaration, amend any provisions governing the following:

(1) Voting rights;

(2) Increases in Assessments that raise the previously assessed amount by more than twenty-five percent (25%), Assessment liens, or the priority of Assessment liens;

(3) Reductions in reserves for maintenance, repair and replacement of the Common Area;

- (4) Reallocation of interests in the Common Area and the Limited Common Area, or rights to their use;
- (5) Redefinition of any Unit boundaries;
- (6) Convertibility of Units into Common Area or vice versa;
- (7) Hazard or fidelity insurance requirements;
- (8) Imposition of any restrictions on the leasing of Units;
- (9) Imposition of any restrictions on an Owner's right to sell or transfer such Owner's Unit;
- (10) Restoration or repair of the Condominium Project (after damage or particular condemnation) in a manner other than that specified in this Declaration, the Articles, the Bylaws or applicable Utah law;
- (11) Responsibility for maintenance and repair of the general portions of the Condominium Project;
- (12) Establishing self-management by the Association where professional management has been required by the Department of Veterans Affairs, the Department of Housing and Urban Development or FNMA; or
- (13) Any provision that expressly benefits Lenders (including their insurers or guarantors).

Any Lender, other than the Department of Veterans Affairs, the Department of Housing and Urban Development or FNMA, who, in accordance with the applicable provisions of Utah law, receives, by certified or registered mail, a written request, with a return receipt requested, to approve a change and who does not return a negative response within sixty (60) days shall be deemed to have approved such request.

13.5. **Other Rights of Lenders.** Any Lender (and such Lender's insurer or guarantor) shall, upon written request to the Association, be entitled:

(a) To inspect current copies of this Declaration (and any amendments), the Association's Articles, Bylaws, Association Rules and other books and records of the Association during normal business hours; and

(b) To receive, upon written request therefor, an annual financial statement of the Association following the end of the Association's fiscal year. Upon written request by a Lender, the Association shall furnish the Lender, within a reasonable time, an audited financial statement of the Association for the immediately preceding fiscal year.

13.6. **Notices of Action.** Upon written request to the Association identifying the name and address of the Lender (and the name and address of the Lender's insurer or guarantor, if

desired) and the Unit Designation or address, any such Lender (or any such insurer or guarantor) will be entitled to timely written notice of:

(a) Any condemnation or casualty loss which affects a material portion of the Condominium Project or any Unit on which there is a First Mortgage held by such Lender;

(b) Any delinquency in the payment of Assessments or charges owed by an Owner of a Unit subject to the lien of a Lender, which remains uncured for a period of sixty (60) days;

(c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and

(d) Any proposed action by the Owners or the Association which would amount to a material change in the Declaration as identified in **Section 13.4** of the Declaration.

14.

TERMINATION

14.1. **Required Vote.** Except as otherwise provided in **Article 11** and **Article 12**, the Condominium Project may be terminated only by unanimous agreement of Owners of all Units.

14.2. **Termination Agreement.** An agreement to terminate shall be evidenced by the execution or ratification of a termination agreement, in the same manner as a deed, by the requisite number of Owners. Such an agreement to terminate shall also be approved by unanimous consent of all Lenders with a loan secured by a Unit. Such approval (and any other approval related to an amendment to this Declaration) shall be deemed given when a Lender (except for the Department of Veterans Affairs, the Department of Housing and Urban Development and FNMA) fails to submit a response within sixty (60) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested. The termination agreement shall specify a date after which the agreement will be void unless it is recorded before that date. A termination agreement, including all ratifications of such termination agreement, shall be recorded in the records of the County Recorder in Salt Lake County, Utah and is effective only on recordation.

14.3. **Sale of Condominium Project.** A termination agreement may provide that the entire Condominium Project shall be sold following termination. If, pursuant to such agreement, any real estate in the Condominium Project is to be sold following termination, the termination agreement shall set forth the minimum terms of the sale.

14.4. **Association Duties.** The Association, on behalf of the Owners, may contract for the sale of real estate in the Condominium Project, but the contract shall not be binding on the Owners until approved pursuant to **Sections 14.1** and **14.2** of this Declaration. If any real estate in the Condominium Project is to be sold following termination, title to that real estate

on termination vests in the Association as trustee for all Owners. Thereafter, the Association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds of the sale distributed, the Association continues in existence with all powers it had before termination. Proceeds of the sale shall be distributed to Owners and Lenders as their interests may appear, based on the relative value of each Unit and the Condominium Project. Unless otherwise specified in the termination agreement, as long as the Association holds title to the real estate, each Owner and their successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted their Unit in accordance with the terms of this Declaration. During the period of that occupancy right, each Owner and their successors in interest remain liable for all Assessments and other obligations imposed on Owners by this Declaration.

14.5. **Proceeds of Sale.** Following termination of the Condominium Project, the proceeds of any sale of real estate, together with the assets of the Association, shall be held by the Association as trustee for Owners and Lenders as their interests may appear. The interest of any Owner in such proceeds shall not be distributed to such Owner except upon the prior payment in full of any Assessment lien or lien of a Lender encumbering such proceeds. Following termination, Lenders holding notes on the Units which were recorded before termination may enforce those liens in the same manner as any lienholder.

15. AMENDMENTS

15.1. **Amendments by Declarant Prior to First Sale.** Prior to the conveyance of the first Unit by Declarant to an Owner, this Declaration and any amendments thereto may be amended or revoked by the execution of Declarant of an instrument amending or revoking the same.

15.2. **Amendments by Declarant After First Sale.** Except as provided elsewhere in this Declaration or by applicable Utah law, Declarant (without obtaining the approval of Owners, the Association, or existing Lenders) may unilaterally amend or modify this Declaration in the exercise of its rights set forth in this Declaration. Also, notwithstanding anything herein to the contrary, during the period in which Declarant controls the Association (as described in **Section 5.14**), Declarant shall have the unilateral right (without obtaining the approval of the Owners or existing Lenders) to amend this Declaration, if such amendment is required solely: (a) to comply with applicable law or to correct any error or inconsistency of this Declaration and if such amendment does not adversely affect the rights of any Owner or Lender; or (b) to comply with the rules or guidelines, in effect from time to time, of any governmental or quasi-governmental entity or federal corporation guaranteeing or insuring mortgage loans or governing transactions involving mortgage instruments. If such amendment bears recitation that it is recorded based on such technical error or the requirements of any applicable agencies, such amendment shall not require approval of any Owners or Lenders.

15.3. **General Amendment Requirements.** Except as permitted by **Article 3, Section 15.1, Section 15.2,** or as otherwise permitted or required by the Act, this Declaration may be amended only by vote or agreement of Owners of Units to which at least sixty-seven percent

(67%) of the votes in the Association are allocated. In addition, during the period in which Declarant controls the Association (as described in **Section 5.14**), this Declaration shall not be amended without Declarant's prior written consent.

15.4. **Protection of Declarant Rights.** An amendment shall not terminate or decrease any unexpired development right, special Declarant right, or period of Declarant control unless the Declarant approves or consents in writing.

15.5. **Execution of Amendments.** An amendment or revocation which only requires the execution of an instrument by Declarant as hereinabove provided shall be effective when executed by Declarant and when recorded in the office of the County Recorder of Salt Lake County, Utah. An amendment which requires the affirmative vote of the Owners as provided above shall be effective when executed by the President and Secretary of the Association who shall certify that the amendment has been so approved and Declarant if Declarant's consent is also required, and when the amendment has been recorded in the office of the County Recorder of Salt Lake County, Utah.

15.6. **Lender Approval.** Subject to the foregoing, any provision of this Declaration which expressly requires the approval of a specified percentage of the Lenders for action to be taken under such provision can be amended only with the affirmative written assent or vote of not less than the same percentage of the Lenders; provided that in the event approval is requested in writing from a Lender with respect to a proposed amendment and a negative response is not returned within sixty (60) days following the Lender's receipt, in accordance with applicable Utah law, of the request, by certified or registered mail, with a return receipt requested, the Lender shall be deemed to have approved the proposed amendment.

16.

DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

16.1. **Alternative Dispute Resolution Without Litigation.**

(a) **Bound Parties.** Declarant, the Association, the Owners, the officers, directors, managers, members, employees, representatives, agents, successors and assigns of any of the foregoing, any other person subject to this Declaration, and any other person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, the "**Bound Parties**"), agree that it is in the best interest of all Bound Parties to encourage the amicable resolution of Claims (defined below) without the emotional and financial costs of litigation or the toll or market taint such litigation can have on the value of the Condominium Project and/or the Units that may be involved or impacted. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim defined in subsections (b) and (c), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 16.2 in a good faith effort to resolve such Claim.

(b) **Claims.** As used in this Article, the term "**Claim**" means any claim, grievance, or dispute arising out of or relating to:

- (i) the interpretation, application, or enforcement of the governing documents of the Association and the Condominium Project, including, without limitation, this Declaration, the Articles, and the Bylaws (the “**Governing Documents**”);
 - (ii) the rights, obligations, and duties of any Bound Party under the Governing Documents; or
 - (iii) the design or construction of improvements on the Project.
- (c) Exclusion from Definition of Claims. The following shall not be considered “Claims” unless all Parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 16.2:
- (i) any suit by the Association to collect assessments or other amounts due from any Owner;
 - (ii) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association’s ability to enforce the provisions of this Declaration (relating to the design guidelines);
 - (iii) any suit that does not include the Declarant or the Association as a party, if such suit asserts a Claim that would constitute a cause of action independent of the Governing Documents;
 - (iv) any dispute that affects the material rights or obligations of a party who is not a Bound Party and has not agreed to submit to the procedures set forth in Section 16.2;
 - (v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 16.2(a), unless the party or parties against whom the Claim is made agree to toll, or extend, the Claim’s statute of limitations to comply with this Article;
 - (vi) any suit or dispute between Declarant (or its affiliates) on the one hand; and any contractor(s), subcontractor(s), or any other party (other than the Association and/or Owner(s)) contracted by Declarant (or its affiliates) on the other hand, in connection with the Condominium Project; and
 - (vii) any suit or dispute involving a governmental entity as a party.

16.2. **16.2 Dispute Resolution Procedures.**

- (a) Notice. The Bound Party asserting a Claim (a “**Claimant**”) against another Bound Party (the “**Respondent**”) shall give written notice (a “**Notice**”) by mail or personal delivery to each Respondent and to the Board, stating plainly and concisely:
- (i) the nature of the Claim, including the date upon which the Claim was first discovered,

the persons involved and the Respondent's role in the Claim; (ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises); (iii) the Claimant's proposed resolution or remedy; (iv) that the person alleged to be responsible for the acts giving rise to the Claim shall have six months to cure or resolve the Claim and the dates and times when the Association, Owner, or their agent, as applicable, will be available during ordinary business hours, so that service calls or inspections by Respondent, or its agent, can be scheduled; and (v) the Claimant's desire to meet with the Respondent to discuss, in good faith, ways to resolve the Claim.

(b) Right to Cure. For any Claim arising from a dispute over the construction of improvements within the Condominium Project, the Claimant shall provide Respondent six months to rectify, alter, or fix the claimed defect(s) in the improvements. The expiration of this six-month cure period shall be a prerequisite to Claimant's ability to initiate litigation as permitted under Section 16.3 below. For all Claims involving alleged defects in construction, the negotiation, mediation, and settlement requirements shall remain in effect during the cure period, however, the mediation deadline set forth in subsection (d) below shall be extended to expire on the same date the cure period expires. In its sole discretion, Declarant shall be entitled to inspect the applicable Unit and cure the circumstances giving rise to such Claim(s). Nothing contained in this Section shall obligate the Respondent to perform any such inspection or repair, nor shall this Section be deemed to increase or alter in any way Respondent's (including Declarant's) legal obligations to the Association or to any Owner. Written notice delivered to Respondent shall be a condition precedent to any Bound Party's right to pursue any other remedies available to it at law or otherwise, including without limitation, mediation or litigation of a Claim, until Respondent has had the reasonable opportunity to inspect and cure any claimed defect. During the term of any warranty provided to the original Owner of a Unit by Declarant, any conflict between the provisions of this Section and the warranty shall be resolved in favor of the warranty. The Respondent shall not be liable for any general, special, or consequential damage, cost, diminution in value or other loss which the Association or any Owner may suffer as a result of any claimed defect in a Unit or Common Area which reasonably might have been avoided had the Association or the applicable Owner given Respondent the notice and opportunity to cure as described above within a reasonable time of discovering the claimed defect. Nothing contained herein shall establish any contractual duty or obligation on the part of any Respondent to repair, replace, or cure any claimed defect. The Owners' and the Association's continuing obligation under this covenant shall be binding upon all Owners and their successors and assigns. The Claimant shall accept Respondent's reasonable measures to cure any claimed defect.

(c) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Association's Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(d) Mediation. If the parties have not resolved the Claim through negotiation within 30 days of the date of the Notice (or within such other agreed upon period), the Claimant shall have 30 additional days to submit the Claim to mediation with an individual or entity designated by the Association (if the Association is not a party to the Claim) or to an independent mediator providing dispute resolution services predominately in Utah. Each Bound Party shall present the mediator with a written summary of the Claim or will otherwise comply with the mediator's proscribed procedures and requirements for mediating claims.

(i) Waiver of Claim for Failure to Appear or Participate. If the Claimant does not submit the Claim to mediation within such time, or does not appear for and participate in good faith in the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

(ii) Termination of Mediation Proceedings. If the parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

(iii) Costs of Mediation. Each Bound Party shall bear its own costs of the mediation, including attorneys' fees, and each party shall pay an equal share of the mediator's fees.

(e) Settlement. Any Claim settlement through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate such proceedings as are necessary to enforce such agreement without the need to comply again with the procedures set forth in this Article. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorney fees and court costs.

16.3. Initiation of Litigation by Association. The requirements of this Section are intended to be in addition to those requirements set forth in Section 57-8a-228 of the Utah Code. After expiration of Declarant's period of control, the Association may not bring a legal action against a Declarant, a member of the Board, an employee, an independent contractor, an agent of Declarant, or the previous member of the Board related to Declarant's period of control unless:

(a) The Right to Cure period set forth in Section 16.2(b) above has expired;

(b) the legal action is approved in advance at a meeting by Owners holding at least 75% of the total allocated voting interests of the Owners in the Association:

(i) Owners may be represented by a proxy specifically assigned for the purpose of voting to approve or deny the proposed legal action at the meeting. Any such proxy shall not be valid unless the proxy is notarized with each Owner certifying that they have received and reviewed the information required by Section 16.4(a) and (b) below.

(c) the Association provides each Owner with the items described in Section 16.4(a) and (b), below;

(d) the Association establishes a trust account, described in Section 16.4(c) below; and

(e) the Association first goes through the procedures described in Section 16.2 above, giving notice and an opportunity to resolve the dispute that is the basis of the Claim and proposed legal action.

(f) The procedures and approval required in the preceding subsections (a) through (e) shall not be required for actions or proceedings: (i) initiated by Declarant during Declarant's period of control on behalf of the Association; (ii) initiated to enforce the provisions of this Declaration, including collection of assessments and foreclosure of liens; (iii) initiated to challenge ad valorem taxation or condemnation proceedings (including bringing an action for inverse condemnation); (iv) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or (v) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

This Section shall not be amended without the written consent of the Declarant for a period of 10 years following the expiration Declarant's period of control. Any such amendment shall also be approved by a vote of 75% of the total votes of the Association.

16.4. **Informed Vote.** Before the Owners, as members of the Association, may vote to approve (or otherwise approve) any legal action or any claim of legal action, the Association shall first provide each Owner with a written notice stating: (i) that the Association is contemplating legal action; (ii) the percentage vote required for approval of the litigation; (iii) the date, time, and location of any Member meeting that has been scheduled to discuss the litigation or to vote on the approval of the litigation; (iv) a description of the claims that the Association desires to pursue in sufficient detail to permit each Member to reach an informed decision on the litigation matter; and (b) a written report/opinion from an attorney licensed to practice in Utah having at least ten (10) years of experience in litigation practice, which provides an assessment of: (i) the likelihood that the legal action will succeed; (ii) the likely amount in controversy in the legal action; (iii) the likely cost of resolving the legal action to the Association's satisfaction; and (iv) the likely effect the stigma of a legal action will have on value or on an Owner's ability to market for sale, or a prospective Unit buyer's

ability to obtain financing for a lot due to a pending legal action. In providing this report/opinion, the attorney shall obtain and rely on reports and assessments from experts in their field such as construction, real property, sales, or any other relevant factor in the contemplated litigation. Before the Association commences any legal action as authorized above, the Association shall allocate an amount equal to 50% of the cost estimated to resolve the legal action not including attorney fees; and place the 50% allocated funds in a trust account that the Association may only use to pay the costs to resolve the legal action.

Sections 16.3 and 16.4 do not apply if the Association brings a legal action that has an amount in controversy of less than \$25,000.00.

16.5. **Strict Compliance Required.** Any post-turnover litigation involving the Bound Parties shall strictly comply with each of the provisions in this Article. The Bound Parties hereby covenant, stipulate, and agree that in the event the Bound Parties fail to satisfy the prerequisites set forth herein, the non-compliant Party will indemnify, defend, hold harmless, and exculpate the other Bound Party to the fullest extent permissible by law, and the non-breaching Bound Party shall be entitled to recover any and all reasonable attorneys' fees and costs expended as a result of enforcing this Article 16, which fees and costs may include, without limitation, pre-litigation attorneys' fees, costs incurred in connection with investigation of potential claims, including expert and consultant fees, testing fees, contractor fees, and insurance deductibles. If any claims or actions falling within the scope of this Article are filed without satisfying all of the requirements set forth above, such claims or actions shall be dismissed without prejudice and shall not be re-filed unless and until all such requirements have been satisfied.

16.6. **Owner Warranties.** Declarant may provide certain warranties to the Owners related to a Unit purchased. The first Owner of a Unit to whom any warranty is issued, or with whom a legal warranty arises, and only that Owner, shall have the right to directly enforce and seek performance from Declarant of any terms of the warranty, and only consistent with the warranty itself. The Association shall have no right to seek the performance of or take assignment of any rights in any warranties against Declarant, and the Owner shall have no right to assign any rights of any kind to the Association related to pursuing litigation against the Declarant.

16.7. **Additional Provisions.** ALL PARTIES HEREBY AGREE TO RESOLVE ANY CLAIM ACCORDING TO THE PROVISIONS OF THIS ARTICLE AND SUCH PARTIES WAIVE THEIR RESPECTIVE RIGHTS TO PURSUE THE CLAIM IN ANY MANNER OTHER THAN AS PROVIDED IN THIS ARTICLE.

17.

GENERAL PROVISIONS

17.1. **Enforcement.** The Association or any Owner shall have the right to enforce, by proceedings at law or in equity, all Restrictions and other provisions now or hereafter imposed by this Declaration, or any amendments thereto, including the right to prevent the violation of any such Restrictions, and the right to recover damages and other sums for such

violation. The Association or any Owner shall also have the right to enforce by proceedings at law or in equity the provisions of the Association Rules and any respective amendments thereto.

17.2. **No Waiver.** Failure by the Association or by any Owner to enforce any Restriction or provision herein contained, or contained in the Association Rules, in any certain instance or on any particular occasion shall not be deemed a waiver of such right of enforcement as to any such future breach of the same or any other Restriction or provision.

17.3. **Cumulative Remedies.** All rights, options and remedies of Declarant, the Association, the Owners or the Lenders under this Declaration are cumulative, and no one of them shall be exclusive of any other, and Declarant, the Association, the Owners and the Lenders shall have the right to pursue any one or all of such rights, options and remedies or any other remedy or relief which may be provided by law, whether or not stated in this Declaration.

17.4. **Severability.** Invalidation of any one or a portion of the Restrictions or provisions set forth in this Declaration or in the Bylaws or the Association Rules by judgment or court order shall in no way affect any other Restrictions or provisions contained herein or therein which shall remain in full force and effect.

17.5. **Covenants to Run with the Land; Term.** The Restrictions and other provisions of this Declaration shall run with and bind the Condominium Project as equitable servitudes and also as covenants running with the land and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors and assigns for a term of fifty (50) years from the date this Declaration is recorded, after which time the Restrictions and other provisions shall be automatically extended for successive periods of ten (10) years, unless an instrument, signed and acknowledged by Owners of not less than seventy-five percent (75%) of the votes of the Association and their Lenders, has been recorded prior to the end of any such period agreeing to change or revoke the Restrictions and other provisions of this Declaration in whole or in part. By acquiring any interest in a Unit, such Owner consents to, and agrees to be bound by, each and every provision of this Declaration.

17.6. **Allocation upon Termination.** Unless provided otherwise herein, upon any liquidation or termination of all or part of the Condominium Project, the Association shall represent the Owners in any proceedings, negotiations, settlements or agreements related thereto. Each Owner hereby appoints the Association as attorney-in-fact for such purpose, including the allocation of any losses, awards or proceeds resulting from such termination or liquidation. Any proceeds generated by such a termination or liquidation shall be made payable to the Association, which will hold such proceeds for the benefit of the Owners and their Lenders. Owners shall share in the proceeds of such termination or liquidation in the same proportion as their Allocated Interest in the Common Area (or as otherwise provided by the Act), but in such event, the liens and provisions of all lenders or Assessment liens encumbering Units within the Condominium Project so encumbered shall extend to each applicable Owner's Interest in such proceeds. The interest of an Owner in such proceeds

shall not be distributed to such Owner except upon the prior payment in full of any Assessment lien or lien of a Lender encumbering such proceeds.

17.7. **Construction**. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a plan for the development of a condominium community and for the maintenance of the Condominium Project. 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. References in this Declaration to Articles and Section numbers, unless otherwise expressly provided, are to the Articles and Sections of this Declaration.

17.8. **Gender and Number**. Whenever the context of this Declaration requires, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and the neuter, and vice versa.

17.9. **Nuisance**. The result of every act or omission whereby any provision or Restriction contained in this Declaration or any provision contained in the Association Rules is violated in whole or in part is hereby declared to be and shall constitute a nuisance, and every remedy allowed at law or in equity against a nuisance, either public or private, shall be applicable with respect to the abatement thereof and may be exercised by the Association or any Owner. Such remedy shall be deemed cumulative to all other remedies set forth in this Declaration and shall not be deemed exclusive.

17.10. **Attorneys' Fees**. In the event any action is instituted to enforce any of the provisions contained in this Declaration, the Bylaws or the Association Rules, 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 suit.

17.11. **Notices**. Any notice to be given to an Owner, a Lender or the Association under the provisions of this Declaration shall be in writing and shall be delivered as follows:

(a) Notice to an Owner shall be delivered personally 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 so deposited in the mail shall be deemed delivered seventy-two (72) hours after such deposit. 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 to all such co-Owners.

(b) Notice to a Lender shall be delivered by first class United States mail, postage prepaid, to the most recent address furnished by such Lender in writing to the Association for the purpose of notice or, if no such address shall have been furnished, to any office of the Lender in Salt Lake County, Utah, or if no such office is located in Salt Lake County, to any office of such Lender. Any notice so deposited in the mail shall be deemed delivered seventy-two (72) hours after such deposit.

(c) The declaration of an officer or authorized agent of the Association declaring under penalty of perjury that a notice has been mailed to any Owner or Owners, or to any Lender or Lenders, to the address or addresses for the giving of notice pursuant to this **Section 17.11**, shall be deemed conclusive proof of such mailing.

(d) Notice to the Association shall be delivered by registered or certified United States mail, postage prepaid, addressed to the office of the statutory agent of the Association or as follows:

The South Temple Place Homeowners Association, Inc.
2219 East Fisher Lane
Salt Lake City, UT 84109
Attn: Mr. Tariq M. Mughal

The Association shall, however, have the right to designate a successor or substitute address for receipt of notices hereunder by filing a Supplemental Declaration.

17.12. **Effect of Declaration**. This Declaration is made for the purposes set forth in the recitals in this Declaration and Declarant 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, regulations and the like applicable thereto. Declarant shall have no liability whatsoever if any of the provisions of this Declaration, the Bylaws or the Association Rules are determined to be unenforceable in whole or in part or under certain circumstances.

17.13. **Personal Covenant**. To the extent the acceptance of a conveyance of a Unit creates a personal covenant between the Owner of such Unit and Declarant, other Owners or the Association, such personal covenant shall terminate and be of no further force or effect from and after the date when a Person ceases to be an Owner except to the extent this Declaration provides for personal liability with respect to the Assessments incurred during the period a Person is an Owner.

17.14. **Non-liability of Officials**. To the fullest extent permitted by law, neither the Board nor any officer of the Association shall be liable to any Owner or the Association for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval, course of action, act, omission, error or negligence if such Board member or officer acted in good faith within the scope of such Person's duties.

17.15. **Use of Funds Collected by the Association**. All funds collected by the Association, including Assessments and contributions to the Association paid by the Owners, if any, shall be held by the Association in a fiduciary capacity to be expended in their entirety for nonprofit purposes of the Association in managing, maintaining, caring for and preserving the Common Area and for other permitted purposes as set forth in this Declaration. No part of said funds shall inure to the benefit of any Owner (other than as a result of the Association managing, maintaining, caring for and preserving the Common Area and other than as a result of expenditures made for other permitted purposes as set forth in this Declaration).

17.16. **Notification of Sale and Reinvestment Fee.** Concurrently with the consummation of the sale or other transfer of any Unit, or within fourteen (14) days after the date of such transfer, the transferee shall notify the Association in writing of such transfer and shall accompany such written notice with the applicable Reinvestment Fee (defined below) payable pursuant hereto. The written notice shall set forth the name of the transferee and the transferor, the street address of the Unit purchased or acquired by the transferee, the transferee's mailing address, the date of the sale or transfer and the name and address of the transferee's Lender, if any. Prior to the receipt of such written notice, all notices required or permitted to be given by the Association to the Owner shall be deemed to be duly made or given to the transferee if duly and timely made and given to the transferee's predecessor in interest. The Reinvestment Fee shall be the personal obligation of the selling Owner and shall be secured by the lien in **Section 17.16.6.** Notwithstanding the other provisions of this Declaration, this **Section 17.16** shall not apply to a Lender who becomes an Owner by a foreclosure proceeding or any deed or assignment in lieu of foreclosure.

17.16.1 **Reinvestment Fee Covenant.** An additional source of funding for the Association's activities and responsibilities shall be a project-wide "Reinvestment Fee" to be collected upon each non-exempt transfer of a Unit. The fee shall be charged to the seller of the Unit, shall be payable at the closing of the transfer of title, and shall be secured by a lien in favor of the Association as provided below.

17.16.2 **Amount of Fee.** The Association shall have the sole discretion to determine the amount and method of calculating the Reinvestment Fee. The fee may be based upon the gross selling price of the property or such other factors as the Association deems reasonably appropriate. The fee for transfers by an Owner (other than Declarant), shall not exceed 0.5% of the gross sales price of the real property transferred, or in the case of a transfer other than a sale at fair market value, 0.5% of the appraised value of the real property being transferred. For purposes of this Section, the "gross sales price" means the total amount paid by the purchaser of the Unit.

17.16.3 **Purpose of Fee.** In accordance with applicable law, all Reinvestment Fees shall be used for purposes consistent with the Association's mission and with the purposes for which the Association was created. Specifically, all Reinvestment Fees shall be used by the Association for payment of the following (to the extent applicable to the Condominium Project):

- (A) common planning, facilities, and infrastructure;
- (B) obligations arising from any environmental covenant;
- (C) open space;
- (F) recreation amenities;
- (G) charitable purposes; or
- (H) association expenses.

17.16.4 **Exempt Transfers.** No Reinvestment Fee shall be levied upon transfer of title to property: (A) to Declarant or a Declarant affiliate; (B) by a co-owner to a person who was a co-owner immediately prior to such transfer; (C) to a family trust or a family limited partnership controlled by the grantor, or to the owner's estate (for estate planning

purposes), surviving spouse, or child upon the death of the owner; (D) to an entity wholly owned by the grantor, provided that upon a subsequent transfer of an ownership interest in such entity, the Reinvestment Fee shall become due; (E) to an institutional lender pursuant to a mortgage/trust deed, or upon foreclosure of a mortgage or trust deed; (F) in connection with an involuntary transfer, or a transfer that results from a court order; (G) a transfer or change of interest due to death, whether provided in a will, trust, or decree of distribution; or (H) the transfer of a Unit by a financial institution. In addition, Declarant and/or the Association may grant other exemptions to certain Persons qualifying for tax-exempt status under Section 501 (c) of the Internal Revenue Code so long as such Persons own property subject to this covenant for purposes listed in Section 501(c).

17.16.5 **Statement of Account.** Upon written request of an Owner or prospective purchaser of, or the holder or prospective holder of a mortgage on, any Unit, delivered personally or sent by certified mail, first class postage prepaid, return receipt requested to the Association's registered agent or designee, the Association shall issue a written statement setting forth the amount of any unpaid Reinvestment Fee(s) and the amount of any Reinvestment Fee due upon a transfer of title to the Unit that occurs within 30 days of the date of such statement. Such statement shall be delivered personally or by certified mail, first-class postage prepaid, return receipt requested. The Association may require the payment of a reasonable processing for issuance of such statement. Such statement shall be binding upon the Association as to Persons who rely on the statement in good faith. If a written request for a statement of account is not processed within ten (10) business days after the Association's receipt of the request, all amounts that became due before the date of such request shall be subordinate to the lien of any institutional holder of a first mortgage on the Unit that acquired its interest after requesting such statement.

17.16.6 **Obligation for Payment.** No Person subject to the Reinvestment Fee or any assessment or other charges authorized under this Declaration is exempt from liability for payment because they do not use services, programs, property, facilities, or for any other reason. The obligation to pay is a separate and independent covenant and payments may not be reduced or setoff due to an alleged failure of the Association to take some action or perform certain function or from acting in a certain manner. The Association has a lien against each Unit to secure payment of delinquent Reinvestment Fees as well as interest on the past due amount, late charges, and costs of collection (including reasonable attorneys' fees). The Association's lien is superior to all other liens, except (i) the liens of all taxes, bonds, assessments, and other levies which by law would be superior; and (ii) the lien or charge of any recorded first mortgage (meaning any recorded mortgage with first priority over other mortgages) made in good faith and for value.

17.17. **Owner Liability and Indemnification.** Subject to the provisions of **Section 5.13** of this Declaration, each Owner shall be liable to the remaining Owners and to the Association for any damage to the Common Area that may be sustained by reason of the negligence of that Owner or such Owner's family members, tenants, guests or invitees, but only to the extent that any such damage is not covered by casualty insurance in favor of the Association. Each Owner, by acceptance of a deed for a Unit, agrees personally and for family members, tenants, guests and invitees to indemnify each and every other Owner, and to hold such other Owners harmless from, and to defend such Owners against, any claim of

any person for personal injury or property damage occurring within the Unit of that particular Owner, including Limited Common Area, if any, except to the extent: (a) that such injury or damage is covered by liability insurance in favor of the Association or any other Owner; or (b) the injury or damage occurred by reason of the willful or negligent act or omission of the Association or other Owner or other Person temporarily visiting such Unit. To the fullest extent permitted by law, the Association shall indemnify the following persons and entities against all expenses and liabilities including, but not limited to, attorneys' fees, reasonably incurred by or imposed upon such person in connection with any proceeding to which such person may be a party, or in which such person may become involved, by reason of such person being or having served in any capacity on behalf of the Association (or by reason of having appointed, removed or controlled or failed to control members of the Board: (a) every director and officer of the Association and every Board member; (b); and (c) every person serving as an employee of the Association. Any such person shall be entitled to indemnification whether or not such person is a director, officer or member of the Association or of the Board of the Association or is serving in any other such specified capacity at the time such expenses are incurred, provided that the Board shall determine, in good faith, that the person to be indemnified hereunder did not act, fail to act, or refuse to act with gross negligence or fraudulent or criminal intent in the performance of its duties. The foregoing rights of indemnification shall be in addition to, and not in place of, all other rights to which such persons may be entitled at law or otherwise.

17.18. **Conflicting Provisions.** In the case of any conflict between this Declaration and the Bylaws, or the Association Rules, this Declaration shall control. In the case of any conflict between this Declaration and the Act, to the extent the Act does not legally allow this Declaration to contain provisions contrary to the Act, the Act shall control and this Declaration shall be deemed modified accordingly. Notwithstanding the above, this Declaration shall be deemed modified and amended only to the extent necessary to come into compliance with the Act.

17.19. **Consent, Power of Attorney, Waiver.** By acceptance of a deed, lease or other conveyance of an interest in Unit, each Owner or Occupant of such Owner's Unit consents to the rights reserved to Declarant and the Association in this Declaration, including but not limited to, the right to prepare, execute, file, process and record necessary and appropriate documents and other items to establish and grant easements and to make necessary and appropriate amendments of this Declaration, the Plat and the Bylaws. By such acceptance, each Owner or Occupant agrees to execute all documents and to do all other things as may be necessary or convenient to effect the same; and such acceptance shall be deemed an appointment of Declarant, during the period in which Declarant controls the Association (as described in **Section 5.14**), and the Association thereafter, with full right of substitution, as the attorney-in-fact of such Owner or Occupant to execute such documents and to do such things on such Owner's or Occupant's behalf; and such appointment, being coupled with an interest, shall be irrevocable for the specific period of Declarant's and the Association's reserved rights as set forth in this Declaration and shall not be affected by the disability of any such Owner or Occupant.

17.20. **Security.** The Association and Declarant shall in no way be considered insurers or guarantors of security within or relating to the Condominium Project, including any

Common Area in which the Association may have an obligation to maintain, and the Association, Declarant shall not be held liable for any loss or damage by reason of any failure to provide adequate security or any ineffectiveness of security measures undertaken. Each Owner or Occupant acknowledges and understands that Declarant, the Association and the Board are not insurers of the safety or well being of Owners or Occupants or of their personal property, and that each Owner or Occupant assumes all risks for loss or damage to persons, the Units, the Common Area, and to the contents of improvements located thereon to the extent not insured by the Association pursuant to **Article 10** above. EACH OWNER AND OCCUPANT UNDERSTANDS AND ACKNOWLEDGES THAT DECLARANT THE ASSOCIATION AND THE BOARD HAVE NOT MADE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND AND THAT EACH OWNER OR OCCUPANT HAS NOT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO THE SECURITY OF THE CONDOMINIUM PROJECT.

[Signatures on following page]

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration to be effective as of the day and year first above written.

“Declarant”: **THE SOUTH TEMPLE PLACE LLC**,
a Utah limited liability company

By: _____
Tariq M. Mughal, Manager

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

On _____, 2021 personally appeared before me, a Notary Public, Tariq M. Mughal, the Manager of The South Temple Place LLC, a Utah limited liability company, personally known or proved to me to be the person whose name is subscribed to the above instrument who acknowledged to me that he executed the above instrument on behalf of The South Temple Place LLC, a Utah limited liability company.

WITNESS my hand and official Seal.

Notary Public in and for said State

My commission expires: _____

[SEAL]

EXHIBIT A

LEGAL DESCRIPTION

The following described real property, located in Salt Lake County, Utah, is the Parcel referred to in the Declaration:

Beginning at the Southeast corner of Lot 2, Block 5, Plat "G", Salt Lake City Survey and running thence West 49.5 feet, thence North 165 feet, thence East 50 feet, thence South 165 feet, thence West 1/2 foot to the place of beginning.

Commonly known as: 1117 E. South Temple, Salt Lake City, UT 84102

APN: 09-32-459-014-0000

Also being the same property known as:

All of the real property described on that certain plat entitled "THE SOUTH TEMPLE PLACE CONDOMINIUMS," on file and of record in the office of the Salt Lake County Recorder.

EXHIBIT B

THE SOUTH TEMPLE PLACE CONDOMINIUMS

Schedule of Units, Square Footage,
Votes and Undivided Interests in Common Area

Unit Identifying Number*	Unit Type	Approx. Sq. Footage of Unit**	Undivided Interest Per Unit	No. of Votes Per Unit
Unit A	condo	3,162 s.f.	1/4th	1
Unit B	condo	2,651 s.f.	1/4th	1
Unit C	condo	2,965 s.f.	1/4th	1
Unit D	condo	3,888 s.f.	1/4th	1

* All references to Unit designations refer to such numbers and designations as contained in the Plat.

** All square footages are approximate and may vary by up to as much as 10% per unit (based on final constructed dimensions).

EXHIBIT C
FORM BYLAWS
BY-LAWS
OF
THE SOUTH TEMPLE PLACE HOMEOWNERS
ASSOCIATION, INC.

ARTICLE I
OFFICES

The South Temple Place Condominium Association, Inc., a Utah nonprofit corporation (the "Association") shall have its principal office in Salt Lake County, Utah and may have such other offices, within the State of Utah, as the Board of Directors (the "Board") may designate or as the business of the Association may require from time to time.

ARTICLE II
DEFINITIONS

Except as otherwise provided herein or as otherwise required by the context, all terms defined in the Declaration of Condominium of The South Temple Place Condominiums, as amended and/or supplemented from time to time (the "Declaration"), shall have such defined meanings when used in these By-Laws.

ARTICLE III
MEMBERS

Section 1. Membership. The Association shall have two classes of membership, Owner membership and Declarant membership. Declarant holds the sole Declarant membership, which membership shall terminate after expiration of the Declarant Control Period (as defined herein) or on such earlier date as Declarant determines.

Section 2. Annual Meetings. The annual meeting of members of the Association shall occur within ninety (90) days before or after the close of the Association's fiscal year, beginning with the year following the year in which the Articles of Incorporation are filed, for the purpose of electing Directors (if the members then have responsibility for so doing) and transacting such other business as may come before the meeting.

Section 3. Special Meetings. Special meetings of the members for any reasonable or necessary purpose or purposes, unless otherwise prescribed by statute, may be called from time to time by the president. In addition, the president or the secretary shall immediately call a special meeting if so directed by a resolution of the Board or upon the written request of members holding not less than twenty-five percent (25%) of the Total Votes of the Association, such written request to state the purpose or purposes of the meeting and to be delivered to the

Board or the president. No business shall be transacted at a special meeting except as stated in the notice.

Section 4. Place of Meetings. The Board 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 Board. A waiver of notice signed by all of the members may designate any place, within the State of Utah, as the place for holding such meeting.

Section 5. Notice of Meetings. The Board, president or secretary 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 it is emailed to the member at the member's registered email address; provided, however, that if a member requests mailed notice in writing and provides a postal address, then notice is deemed to have been delivered according to the provision hereto with respect to postal delivery. Each member shall register with the Association such member's current mailing 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/her registered address for purposes of notice hereunder. If a member may participate by means of electronic communication, the notice shall provide the information necessary to allow the member to participate by the available means of electronic communication.

Section 6. Waiver of Notice. Waiver of notice of an Association meeting shall be deemed the equivalent of proper notice. Any member may waive, in writing, notice of any Association meeting, either before or after such meeting. A member's attendance at a meeting shall be deemed a waiver by such member of notice of the time, date, purpose, and place thereof, unless the member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed a waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

Section 7. Fixing of Record Date. Upon purchasing a Unit in the Project, each Owner shall promptly furnish to the Association a 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 Board may designate a record date, which shall not be more than fifty (50) nor 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 8. Quorum. At any meeting of the members, the presence of members holding, or holders of proxies entitled to cast, at least 75 percent (75%) 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 and immediately reconvene establishing a quorum with the number of members present (in person or by proxy) or reconvene at 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 9. 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.

Section 10. Votes. Each Unit shall have one vote, to be cast in person or by proxy, with respect to each matter submitted to a vote of the members. No vote shall be exercised for Units that Declarant or an affiliate of Declarant owns; rather, Declarant's consent shall be required for various actions of the Board as specifically provided for in these Bylaws and 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 was initially present shall be necessary for the adoption of any matter voted on by the members, unless a greater proportion is required by these By-Laws, the Declaration, or Utah law.

Section 11. 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 12. 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 more than fifty percent (50%) of the members entitled to vote with respect to the subject matter thereof.

Section 13. Electronic Meeting. Any action that is required or permitted to be taken at a meeting of the members may be taken by means of electronic communication, including by (i) web conferencing, (ii) video conferencing, and (iii) telephone conferencing; provided that such electronic meeting does not violate any laws, ordinances, regulations and codes of the United States of America, the State of Utah, or any other agency or entity which may then have jurisdiction over the affairs of the property, affairs, and business of the Association, as the same may change from time to time.

ARTICLE IV BOARD OF DIRECTORS

Section 1. General Powers. The property, affairs, and business of the Association shall be managed by the Board. The Board may exercise all of the powers of the Association, whether derived from law, the Articles of Incorporation, these By-Laws, or the Declaration, except those powers which are by law or by the foregoing documents vested solely in the members. The Board shall, among other things, prepare or cause to be prepared, plan and adopt an annual budget in accordance with and as set forth in the Declaration, 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. The books and records shall be available for examination by all members by appointment and 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 good accounting procedures and shall be audited as required by the Declaration, if applicable. The Board 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. The Board's duties shall also include, but shall not be limited to, the following:

(a) Subject to reimbursement by the Owners (in the form of monthly "Assessments"), maintaining, replacing, and repairing the landscaping and related landscaping improvements within the Common Area, contracting for snow removal and waste disposal, obtaining and maintaining hazard insurance on the condominium building and general liability insurance on the entire project outside of the Units, and providing for common water service and sewer service for the project, all in accordance with the Declaration;

(b) designating, hiring, and dismissing personnel necessary to carry out the Association's rights and responsibilities and where appropriate, providing for compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(c) depositing all funds received on the Association's behalf in a bank depository which it shall approve, and using such funds to operate the Association; however, in the Board of Director's business judgment any reserve funds may be deposited in depositories other than banks;

(d) opening bank accounts on the Association's behalf and designating the signatories required;

(e) making, adopting, amending or revising rules and regulations pertaining to the Project in accordance with the Declaration;

(f) enforcing by legal means the provisions of the Declaration and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association; however, the Association's obligation in this regard shall be conditioned in the manner provided in the Declaration;

(g) obtaining and carrying property and liability insurance, paying the cost thereof, and filing and adjusting claims, as appropriate and in accordance with the Declaration;

(h) paying the cost of all services rendered to the Association; and

(i) indemnifying a Director, officer or Board member, or former Director, officer or Board member of the Association, to the extent such indemnity is required by Utah law, the Declaration and these By-Laws.

Section 2. Initial Board. The initial Board shall be composed of three (3) Directors. The Directors specified in the Articles of Incorporation shall serve as the initial Board until any successors or replacements are appointed by Declarant. The three-Director initial Board, with any replacements or successors as appointed by Declarant, shall serve until termination of the Declarant Control Period. Until the termination of the Declarant Control Period, Declarant may appoint, remove, and replace Directors in its sole and absolute discretion, and the initial Directors may be replaced as Units are initially sold by Declarant. As used herein, the "Declarant Control Period" shall refer to the period of time that Declarant is entitled to appoint the members of the Association's Board and direct the same. The Declarant Control Period begins on the date of the Association's incorporation and terminates as specified in the Declaration.

Notwithstanding anything in these Bylaws or the Declaration that may be construed to the contrary with respect to Declarant's ability to voluntarily terminate the Declarant Control Period, Declarant may (in the exercise of its sole and absolute discretion) voluntarily terminate the Declarant Control Period in whole or in part, with respect to all or any portion of any Unit, any Common Area, any Limited Common Area, or with respect to any issue, matter or subject whatsoever. Declarant's decision to voluntarily terminate the Declarant Control Period with respect to all or any portion of any Unit, Common Area, Limited Common Area, or with respect to any issue, matter or subject shall in no event affect, modify, or act to waive its authority under the Declarant Control Period except with respect to such Unit, Common Area, Limited Common Area, or such issue, matter or subject.

Section 3. Permanent Board.

(a) Following the termination of the Declarant Control Period, the Board shall be composed of three (3) Directors, elected by the Owners, but can be increased up to as many as four (4) members upon the majority vote of the existing Board or the majority vote of the Owners at a duly called meeting of the Owners. Directors elected by the Owners are referred to hereinafter as "Owner Directors."

(b) So long as Declarant is a member of the Association pursuant to Article III hereof, Declarant shall be entitled to appoint, remove, and replace one Director on the Board for each Unit owned by Declarant. Thereafter, the Director(s) elected by Declarant shall resign and the remaining Directors shall be entitled to appoint a Director to serve until the next annual meeting, at which time the Owners shall be entitled to elect a Director to fill such position. In addition, the Directors of the Board shall serve staggered, three (3)-year terms. At each annual meeting, the members, by plurality vote, shall elect a Director to replace the Director(s) whose terms has/have expired and all such Directors shall be elected for a term of three (3) years, except that the Board shall have the right to cause a Director to be elected for less than a three (3) year term if it becomes reasonably necessary to re-establish the intended staggered terms. If the Board increases the number of Directors, the newly appointed Directors shall serve until the first

annual meeting after such increase, at which time the terms of the new directorships shall be designated by the Board.

Section 4. Organizational Meetings. The Board shall hold an organizational meeting within ten (10) days following each annual Association meeting at such time and place as the Board shall fix.

Section 5. Regular Meetings. The Board shall hold regular meetings at such time and place as a majority of the Directors shall determine, but the Board shall meet at least twice during each fiscal year.

Section 6. Special Meetings. The Board shall hold special meetings when called by written notice of the President, or when any two Directors sign such written notice.

Section 7. Notice; Waiver of Notice. Notices of Board meetings shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. The Board shall notify each Director of meetings by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone communication, either directly to the Director or to a person at the Director's office or home who would reasonably be expected to communicate such notice promptly to the Director; or (iv) facsimile, electronic mail, or other electronic communication device, with confirmation of transmission. All such notices shall be given at or sent to the Director's telephone number, fax number, electronic mail address, or sent to the Director's address as shown on the Association's records. The Board shall deposit notices sent by first class mail into a United States mailbox at least ten business days before the day of the meeting. The Board shall give notices by personal delivery, telephone, or other device at least seventy-two (72) hours before the time set for the meeting.

Transactions of any Board meeting, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting each Director not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any Director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 8. Quorum and Manner of Acting. A majority of the then authorized number of Directors shall constitute a quorum for the transaction of business at any meeting of the Board. Except as otherwise required in these By-Laws, the Declaration, or by Utah law, the act of a majority of the Directors present at any meeting at which a quorum is present shall be the act of the Board. The Directors shall act only as a Board, and individual Directors shall have no powers as such. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the departure of Directors, if at least a majority of the required quorum for that meeting approves any action taken. If the Board cannot hold a meeting because a quorum is not present, a majority of the Directors present may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the date of the original meeting. At the reconvened meeting, if a quorum is present the Board may transact, without further notice, any business it might have transacted at the original meeting.

Section 9. Compensation. No Director shall receive compensation for any services that he may render to the Association as a Director; provided, however, that a Director may be reimbursed for expenses incurred in performance of his duties as a Director to the extent such expenses are approved by the Board and (except as otherwise provided in these By-Laws) may be compensated for services rendered to the Association other than in his capacity as a Director.

Section 10. Resignation and Removal. A Director may resign at any time by delivering a written resignation to either the president or the Board. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Owner Director may be removed at any time, for or without cause, by the affirmative vote of the Owners holding more than sixty-six percent (66%) of the Total Votes of the Association, at a special meeting of the members duly called for such purpose. Any Director whose removal is sought shall be given notice prior to any meeting called for that purpose.

Section 11. Vacancies. If vacancies shall occur in the Board by reason of death, resignation, or disqualification of an Owner Director, the Directors then in office shall continue to act, and such vacancies shall be filled by a vote of the Directors then in office, until the next annual meeting, at which time the Owners shall elect a successor for the remainder of the term. Any vacancy in the Board occurring by reason of removal of a Director by the members shall be filled upon such removal by the election of a successor for the remainder of the term of such Director. If vacancies shall occur in the Board by reason of death, resignation, or removal of a Director appointed by the Declarant, such vacancies shall be filled by appointments to be made by Declarant.

Section 12. Informal Action by Directors. Any action that is required or permitted to be taken at a meeting of the Board, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors.

ARTICLE V OFFICERS

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

Section 2. Election, Tenure, and Qualifications. The officers of the Association shall be chosen by the Board annually at the regular annual meeting of the Board. In the event of failure to choose officers at such regular annual meeting of the Board, officers may be chosen at any regular or special meeting of the Board. Each such officer (whether chosen at a regular annual meeting of the Board or otherwise) shall hold his office until the next ensuing regular annual meeting of the Board 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 By-Laws, whichever first occurs. Any one person may hold any two (2) or more of such offices; provided, however, that the president may not also be the secretary. No person holding two (2) or more offices shall act in or execute any instrument in the capacity of more than one office.

Section 3. Subordinate Officers. The Board 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 Board may from time to time determine, subject to the terms of this By-laws. The Board 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 offices need not be Directors 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 Board. Any officer or agent may be removed by the Board 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 Board 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 Board, 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 Board. He may sign, with the secretary or any other proper officer of the Association thereunto authorized by the Board, any, contracts or other instruments the Association has authority to execute and which the Board has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board or by these By-Laws 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 prescribed by the Board from time to time.

Section 7. Secretary. The secretary shall (a) keep the minutes of the Association and of the Board in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law; (c) be custodian of the corporate records of the Association; 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/her by the president or by the Board.

Section 8. Vice President/Treasurer. A Vice President or Treasurer, if appointed, shall: (a) have charge and custody of and be responsible for all funds of the Association and have primary responsibility to prepare the Association's budget; (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 Board; 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/her by the president or by the Board.

Section 9. Assistant Secretaries and Treasurers. The assistant secretaries and treasurers, if any and 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 Board.

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 Board and (except as otherwise provided in these By-Laws) may be compensated for services rendered to the Association other than in his capacity as an officer.

ARTICLE VI
RESERVED

ARTICLE VII
INDEMNIFICATION

Section 1. Indemnification. To the fullest extent permitted by law, the Association shall indemnify the following persons and entities against all expenses and liabilities including, but not limited to, attorneys' fees, costs and expenses reasonably incurred by or imposed upon such person in connection with any proceeding to which such person may be a party, or in which such person may become involved, by reason of such person being or having served in any capacity on behalf of the Association (or by reason of having appointed, removed or controlled or failed to control members of the Board):

- (a) every director and officer of the Association;
- (b) every director, officer and employee of Declarant; and
- (c) every person serving as an employee of the Association.

Any such person shall be entitled to indemnification whether or not such a person is a Director, officer or member of the Association or is serving in any other such specified capacity at the time such expenses are incurred, provided that the Board shall determine, in good faith, that the person to be indemnified hereunder did not act, fail to act, or refuse to act with gross negligence or fraudulent or criminal intent in the performance of its duties. The foregoing rights of indemnification shall be in addition to, and not in place of, all other rights to which such persons may be entitled at law or otherwise.

Section 2. Insurance. The Association may purchase and maintain insurance on behalf of any person who was or is a Director, officer, employee, or agent of the Association, or who was or is serving at the request of the Association as a trustee, 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 3. 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 Association funds pursuant to 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 Board 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 By-Laws. The members shall be provided with copies of all rules and regulations adopted by the Board, and with copies of any amendments and revisions thereof.

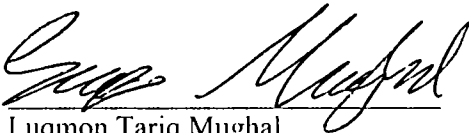
ARTICLE X
AMENDMENTS

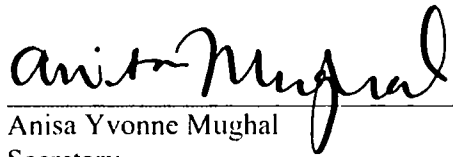
Prior to termination of the Declarant Control Period, Declarant may unilaterally amend these By-Laws. Thereafter, Declarant may unilaterally amend these By-Laws at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; or (iii) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Units.

Except as otherwise provided above or by law, the Articles of Incorporation, the Declaration, or these By-Laws, these By-Laws may be amended, modified, or repealed and new bylaws may be made and adopted by the members upon the affirmative vote (which may be evidenced by electronic ballot or electronic vote if permitted by then-applicable state law), of at least fifty-one percent (51%) of the Total Votes of the Association and the consent of Declarant; provided, however, that such action shall not be effective unless and until a written instrument setting forth (a) the amended, modified, repealed, or new bylaw, (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 mailed to each member of the Association.

Adopted by action of the Board of Directors this 24th day of February, 2021.

By: 
Print Name: Tariq Mahamood Mughal
Title: President

By: 
Print Name: Luqmon Tariq Mughal
Title: Treasurer

By: 
Print Name: Anisa Yvonne Mughal
Title: Secretary