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**CERTIFICATE OF APPROVAL  
OF AMENDED AND RESTATED DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF TERRACE FALLS CONDOMINIUM OWNERS' ASSOCIATION**

The undersigned, being duly authorized Officers of the Terrace Falls Condominium Owners' Association, being duly sworn, certify as follows:

1. Attached to this Certification is the AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF TERRACE FALLS CONDOMINIUM OWNERS' ASSOCIATION, a Condominium Development situated in Salt Lake City, Salt Lake County, State of Utah (hereinafter "Amended and Restated Declaration").
2. The prior COMPOSITE COPY OF TERRACE FALLS CONDOMINIUM OWNERS ASSOCIATION'S COVENANTS, CONDITIONS, RESTRICTIONS DECLARATION AND BYLAWS and its other previously recorded amendment(s), composites and restatements were properly amended by the attached Amended and Restated Declaration and the contemporaneously filed AMENDED AND RESTATED BYLAWS OF TERRACE FALLS CONDOMINIUM OWNERS' ASSOCIATION, by the affirmative vote of a majority of the Voting Shares comprising the Association's membership.
3. The Association authorized the recording of the Amended and Restated Declaration with this Certificate.

Dated: February 23, 2023

Terrace Falls Condominium Owners' Association

By: Jonathan Boxer  
Jonathan Boxer, President

By: DeAnna DeBry  
DeAnna DeBry, First Vice President

By: Lark Galley  
Lark Galley, Second Vice President

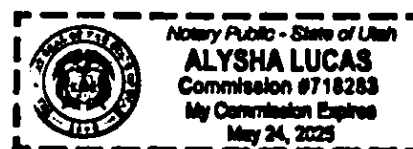
By: Kandace Steadman  
Kandace Steadman, Secretary

By: Norman Waitzman  
Norman Waitzman, Treasurer

STATE OF UTAH                    )  
  ) ss  
COUNTY OF SALT LAKE        )

On the 23 day of February, 2023, personally appeared before me Jonathan Boxer, DeAnna Debry, Lark Galley, Kandace Steadman and Norman Waitzman, each of whom being by me duly sworn did say, for himself or herself or themselves that he or she or they is a duly appointed officer of the Association, and that the foregoing instrument was duly approved in writing by the affirmative vote of more than fifty percent (50%) of the Association's Voting Shares.

Alysha Lucas  
NOTARY PUBLIC



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**AMENDED AND RESTATED DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF TERRACE FALLS CONDOMINIUM OWNERS' ASSOCIATION**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF TERRACE FALLS CONDOMINIUM OWNERS' ASSOCIATION (hereinafter "Declaration") are effective upon recording in the Salt Lake County Recorder's Office pursuant to the Utah Condominium Ownership Act and the Utah Revised Nonprofit Corporation Act.

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## **RECITALS**

This Declaration supersedes and replaces in its entirety all prior declarations of the Association and any other amendments thereto and versions thereof.

The Property described with particularity on Exhibit A attached hereto and incorporated herein by this reference is hereby submitted to the Utah Condominium Ownership Act (the "Act"). It is hereby made subject to, and shall be governed by the Act, this Declaration, and the covenants, conditions and restrictions set forth herein.

## **ARTICLE 1 DEFINITIONS**

**SUMMARY: The purpose of ARTICLE 1 is to define words, titles or phrases that are used in multiple Articles throughout this Declaration and have a particular meaning when used.**

Throughout this Declaration, defined terms are denoted by capitalization. Terms that are applicable only to a single Article typically are defined in that Article, not below. The capitalized terms below have the meaning indicated. Any term used in this Declaration which is defined by the Utah Condominium Act, Utah Code Ann. § 57-8-1 *et seq.*, (hereinafter "the Act"), to the extent permitted by the context of this Declaration, has the meaning given by the Act. This Declaration incorporates all terms defined in the Act under Utah Code Ann. § 57-8-3, to the extent they do not conflict with the Definitions below or elsewhere herein.

### **1.1 "ARTICLES OF INCORPORATION"**

"Articles of Incorporation" shall mean the Articles of Incorporation of Terrace Falls Condominium Owners' Association, as the same may from time to time be duly amended. The Articles of Incorporation, among other things, establish the Terrace Falls Condominium Association, identify its purposes, establish membership and voting rights in the Association, and establish a Board of Directors (hereinafter "the Board") to govern the Association, as well as set forth the number of persons constituting the Board.

### **1.2 "ASSESSMENT"**

"Assessment" shall mean a monetary charge, fine or fee, other than Dues, imposed or levied against a Unit Owner by the Association, as provided in this Declaration or the Bylaws, regardless of whether said assessment is identified as an Operating Shortfall Assessment, a Reserve Shortfall Assessment, an Insurance Shortfall Assessment or an Individual Assessment.

### **1.3 "ASSISTANCE ANIMAL"**

"Assistance Animal" shall mean an animal that works, provides assistance, performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability.

### **1.4 "ASSOCIATION"**

"Association" shall mean Terrace Falls Condominium Owners' Association, a Utah non-profit corporation, incorporated under the laws of the State of Utah, and its successors and assigns.

### **1.5 "ASSOCIATION RULES AND REGULATIONS"**

"Association Rules and Regulations" shall mean the rules and regulations adopted and amended from time to time by the Board pursuant to the Association's Governing Documents. The Association Rules and Regulations shall govern such matters in furtherance of the purposes of the Association, including, without limitation, the use of the Common Areas and Facilities, *provided, however*, that the Association

Rules and Regulations shall not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles of Incorporation, or the Bylaws.

**1.6 "BOARD OF DIRECTORS" OR "BOARD"**

"Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association. The Board is the same entity as the Board of Directors described and appointed in the Association's Articles of Incorporation and as the Management Committee referred to in the Act, and shall consist of five Owners, elected by a vote of the Owners (hereinafter "Owners Vote").

**1.7 "BOARD MEETING"**

"Board Meeting" shall mean a gathering of the Board of Directors, whether in person or by electronic system that allows for oral communication in real time (such as web conferencing, video conferencing, and telephone conferencing), at which the Board can take binding action; communication by email shall not be considered a Board Meeting.

**1.8 "BYLAWS"**

"Bylaws" shall mean the Bylaws of the Association as the same may from time to time be duly amended. The Bylaws, among other things, set forth the method of calling a meeting of Members (hereinafter "Unit Owners" or "Owners") of the Association, the method of calling a meeting of the Board, the method of appointing Officers of the Association, and the method of creating Committees.

**1.9 "CITY"**

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

**1.10 "COMMON AREAS" OR "COMMON AREAS AND FACILITIES"**

"Common Areas" or "Common Areas and Facilities" shall mean and refer to:

- a. the real property, parts of real property, interests in real property, and improvements and fixtures thereto, which are not specifically included within the respective Units as herein defined, including, without limitation, all foundations, columns, girders, concrete floors, concrete walls, concrete ceilings, concrete dividers, perimeter walls, roofs, halls, corridors, vestibules, lobbies, elevators, stairs, stairways, building entrances and exits, closets, custodial rooms, refuse rooms and chutes, maintenance rooms, workshop rooms, storage rooms, the library, the fitness center, locker rooms, saunas, the billiards room, the business center, the meeting room (also known as the "Board Room"), the social room, the social room kitchen and closets, the atrium, the pool and spa and their deck area, the rock scape and decorative falls and pools, the mailroom, the guest room (Unit 300), the sun deck, the office (Unit 221), restrooms, covered and non-covered guest parking, contractor parking, owner/resident parking garages, driveways, walkways, yards, gardens and other landscaped areas;
- b. all installations, apparatuses and associated pumps, motors, hardware and other equipment for the furnishing of central services, which are not specifically included within the respective Units as herein defined, including, without limitation, installations and apparatuses for the furnishing of power, light, gas, hot and cold water, irrigation systems, fire suppression systems, heating, refrigeration, air conditioning, security systems, TV antenna and distribution systems, internet systems, liquid and solid waste removal, garbage removal, and pool and spa maintenance; all pipes, wires, conduits, chimney flues, dryer exhaust vents, gas furnace vents, mechanical equipment chases, gas piping, public utility lines and any similar mechanical or utility equipment or elements that are utilized for or serve more than one particular Unit regardless of whether such items are physically located within the boundaries of a Unit;
- c. all parts of the Property normally in common use or necessary or convenient to the Property's use, existence, maintenance, safety, or management; and

- d. all Common Areas and Facilities specifically set forth and designated as such on the Plat or the Record of Survey Map for Terrace Falls Condominiums (hereinafter "Survey Map") of the Property including, without limitation, Unit 221 (which is shown on the 2<sup>nd</sup> Level Plan of the Survey Map as "MANGR OFFICE 221"), which is hereby reserved for use as an office (hereinafter "Office Unit"), and Unit 300 (which is shown on the 3<sup>rd</sup> Level Plan of the Survey Map as "JAN OFFICE"), which is hereby reserved for use as a guest room (hereinafter "Guest Unit"). Neither the Office Unit nor the Guest Unit shall be used as or for a dwelling Unit, since the Office Unit and Guest Unit are not legal dwelling Units under the condominium approvals for the Property;
- e. all Common Areas and Facilities as defined in the Act, whether or not expressly listed herein or on the Plat of the Property;
- f. all parts of the Property not specifically included within the respective Units; and
- g. all property rights, improvements, fixtures, equipment, furniture, artwork, decorations and other personal property owned by or leased to the Association from time to time for the common use and benefit of the Owners.

#### **1.11 "DECLARATION"**

"Declaration" shall mean the Declaration of Condominium for Terrace Falls Condominium Owners' Association as the same may from time to time be duly amended. The Declaration, among other things, sets forth the nature of membership in the Association, the authority and responsibilities of the Board, and the Owners' general rights and responsibilities.

#### **1.12 "DUES"**

"Dues" shall mean the annual amount charged to a Unit Owner which equals, for that Unit, the sum of A+B, where "A" is the Fractional Undivided Ownership Interest of that Unit multiplied by the annual Operating Budget for such year, or portion of year, as applicable, and "B" is the Fractional Undivided Ownership Interest of that Unit multiplied by the annual Reserve Program Portion of Dues for such year, or portion of year, as applicable. Dues are payable in monthly installments, or may be prepaid in a lump sum.

#### **1.13 "FAMILY"**

"Family" shall mean persons related by blood, marriage, adoption or legal guardianship, including foster children.

#### **1.14 "FRACTIONAL UNDIVIDED OWNERSHIP INTEREST IN THE COMMON AREAS AND FACILITIES" OR "FRACTIONAL UNDIVIDED OWNERSHIP INTEREST" OR "FUOI"**

"Fractional Undivided Ownership Interest in the Common Areas and Facilities" or "Fractional Undivided Ownership Interest" or "FUOI" shall mean the "Par Value" as that term is used in the Act at Utah Code § 57-8-3(21). As set forth in EXHIBIT B hereto, and as further explained in ARTICLE 2 Section 2.7, each Unit has a specific FUOI which is determined under a formula that weights 90% for the total square footage of the Unit and 10% for the Unit's location. Each Unit's FUOI represents the Owner's share of the Common Areas and Facilities of the Property. That FUOI is used to calculate the Owner's Voting Shares as well as the Owner's proportional share of the Association's Dues, Operating Shortfall Assessments, Reserve Shortfall Assessments and Insurance Shortfall Assessments levied against all Owners as set forth in ARTICLE 5.

#### **1.15 "GOVERNING DOCUMENTS"**

"Governing Documents" shall mean those written instruments by which the Association may (a) exercise powers or (b) manage, maintain, or otherwise affect the Property. Governing Documents include the Articles of Incorporation, the Bylaws, the Plat, the Survey Map, this Declaration and the Association



Rules and Regulations and the Guidelines and Contracts referenced therein, all as they may be amended from time to time.

**1.16 "INVITEE"**

"Invitee" shall mean a person invited onto the Property by the Owner or the Occupant of a Unit.

**1.17 "LESSEE"**

"Lessee" shall mean a person entitled to occupy a Unit under the terms of a lease approved by the Board.

**1.18 "LIMITED COMMON AREAS"**

"Limited Common Areas" shall mean and refer to those Common Areas and Facilities designated herein as reserved for the use of a certain Unit or Units to the exclusion of the other Units as further described in this Declaration. They shall include those areas described in Section 2.8 herein.

**1.19 "MEMBER"**

"Member" shall mean every individual or entity who qualifies for membership in the Association, which pursuant to the Articles of Incorporation and ARTICLE 2, means every Unit's Owner. Where a Unit is owned by more than one person or entity, the collective ownership shall constitute a single Member.

**1.20 "MEMBERSHIP"**

"Membership" shall mean the full set of legal rights and obligations belonging to a Member.

**1.21 "OCCUPANT"**

"Occupant" shall mean any person who is entitled to the use and occupancy of a Unit under any legally enforceable instrument or arrangement under which such rights are acquired, and is in fact using and occupying that Unit.

**1.22 "OPERATING EXPENSES"**

"Operating Expenses" shall mean the actual and estimated costs of:

- a. maintenance, management, operation, repair, restoration and replacement of the Common Areas and Facilities;
- b. management and administration of the Association, including, but not limited to, compensation paid by the Association to third party managers, accountants, attorneys and others employed or hired by the Association;
- c. utilities, trash pickup and disposal, landscaping and other services benefiting the Owners and their Units to the extent such services are paid for by the Association;
- d. insurance obtained by the Association to cover all or portions of the Property, the Association, the Board, the Board's delegates and/or the Owners;
- e. taxes paid by the Association;
- f. amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Areas and Facilities or portions thereof; and
- g. any other item or items approved by the Board and incurred in connection with the Common Areas and Facilities, this Declaration, the Articles of Incorporation, the Bylaws or the Association Rules and Regulations, or in furtherance of the purposes of the Association or in the discharge of any obligations imposed on the Association by this Declaration.

**1.23 "OWNER"**

"Owner" shall mean a Member of the Association and shall refer to the legal owner(s) of a Unit along with its corresponding parking space(s), its corresponding storage cage and its corresponding Fractional Undivided Ownership Interest in the Common Areas and Facilities.

#### **1.24 "OWNERS MEETING"**

"Owners Meeting" shall mean a gathering of the Unit Owners, called and conducted by the Board, whether the gathering is in person or by electronic system that allows for oral communication in real time (such as web conferencing, video conferencing, and telephone conferencing); communication by email shall not be considered an Owners' Meeting.

#### **1.25 "OWNERS VOTE"**

"Owners Vote" shall mean a vote by written or electronic ballot of the "Weighted Votes" (see Section 1.38 below) of the Owners, called and conducted by the Board, with proper notice delivered to Owners. Unless otherwise stated in the Governing Documents, approval of a measure presented for Owners Vote requires the affirmative vote of at least fifty-one percent (51%) of the Association's Voting Shares.

#### **1.26 "PLAT"**

"Plat" shall mean the plat of the condominium project that is known as Terrace Falls Condominiums which has been recorded in the Salt Lake County Recorder's Office on December 13, 1985 as Entry No. 4176098 in Book 85-12 of Plats at page 208.

#### **1.27 "PROPERTY"**

"Property" shall mean the real property described in EXHIBIT A hereto and all buildings, improvements and appurtenances now or hereafter located thereon or belonging thereto. The Property's building structure, windows, fences, walls, landscaping, automatic sprinkling system and lighting systems are described in the Survey Map. Other Property features are more specifically described as follows:

- a. the structure has a post-tensioned concrete frame with brick facing;
- b. the structure is oriented primarily south-facing on Third Avenue with a wing extending northward to Fourth Avenue, and contains eighty (80) condominium Units;
- c. the structure is seven stories high with two units located at the 8th level;
- d. the structure is fireproof, meeting the applicable requirements for Type I construction;
- e. there are three elevators, five stairways, and two trash chutes;
- f. centrally located in the structure is an atrium at the 5<sup>th</sup> level containing a rock-scape, a swimming pool, pool deck and a heated jet-action spa;
- g. located elsewhere at the 5<sup>th</sup> level and close to the atrium are many of the other amenities, such as a fitness center, saunas, locker rooms, library, billiards room, meeting room and social room with kitchen;
- h. on the roof at the 7<sup>th</sup> level are a sundeck, restrooms and other improvements for outdoor activities;
- i. the entire structure is secured with entrances controlled by an electronic security system;
- j. the Property uses natural gas as the primary energy source; each Unit has its own forced air gas furnace, air conditioning unit and hot water heater(s); most Units also have gas fireplaces;
- k. guest parking and enclosed Owner parking are available on the grounds;
- l. electric car charging stations; and
- m. a fire sprinkling system has been installed in the enclosed parking areas, in the balcony-corridors surrounding the atrium, in the tops of the refuse chutes and in the Owners' storage cage areas.

#### **1.28 "QUORUM"**

"Quorum" shall mean, in the case of a Board Meeting, the presence of at least three Board Members, and in the case of an Owners Vote for election of Board Members, the casting of at least forty-one (41) ballots that, to the Board acting in good faith, appear on their face to be valid as further set forth in Utah Code Section 16-6a-713 and Bylaws Section 7.6.e.

**1.29 "RESERVES" OR "RESERVE FUND"**

"Reserves or Reserve Fund" shall mean the financial account maintained separately from other financial accounts, deposits and investments of the Association into which the Board shall deposit the Reserve Program Portion of the Dues, Reserve Shortfall Assessments and other funds as set forth in the Declaration and Bylaws, and from which the Board may use funds to pay for the projects identified in the Reserve Study.

**1.30 "RESERVE PROGRAM"**

"Reserve Program" shall mean the Association's program for analyzing, reviewing and updating its Reserve Study, for conducting maintenance, repair, restoration, replacement and renovation work on Reserve Study components, and for administering, managing and investing its Reserve Fund.

**1.31 "RESERVE STUDY"**

"Reserve Study" shall mean the professionally prepared Reserve Program study created for the Association by a reliable independent person or organization at the Board's request that identifies and estimates the costs for the future periodic maintenance, repair, restoration, replacement and renovation of the components of the Common Areas and Facilities.

**1.32 "RESIDENT"**

"Resident" shall mean an Occupant who is using and occupying a Unit as his long-term or permanent residence.

**1.33 "SURVEY MAP"**

"Survey Map" shall mean the Record of Survey Map for Terrace Falls Condominiums as filed with the Salt Lake County Recorder on December 13, 1985 as Entry No. 4176098 in Book 85-12 of Plats at Page 208.

**1.34 "UNIT"**

"Unit" shall mean each or any of the dwelling parts of the Property which is designated as "RESIDENTIAL UNIT" on the Survey Map, as more particularly described in this Declaration, together with the parking stall(s), storage cage and the Fractional Undivided Ownership Interest in and to the Common Areas and Facilities appertaining to that Unit. Further:

- a. the boundary lines of each Unit (other than its appurtenant parking stall(s) and storage cage) are the interior surfaces of its perimeter walls, its lowermost floor (above the concrete), its uppermost ceiling (below the concrete), all window frames and panes, all patio/deck/balcony doors and frames, and the interior surfaces and frames of the hallway entry doors; each Unit shall include both the portions of the building that are not Common Areas and Facilities within such boundary lines and the space so encompassed;
- b. each Unit includes all surfaces of interior walls, floors and ceilings (such as wallboard, paneling, wallpaper, paint, flooring, carpeting and tile), all windowpanes and window frames, all interior doors and door frames, all patio/deck/balcony doors and door frames, the interior surface of the hallway entry doors, all trim and all cabinets and other fixtures within the boundaries of the Unit; and
- c. each Unit includes the pipes, wires, conduits, flues, vents, electrical panels, electrical receptacles and outlets, heating and air conditioning equipment, and other mechanical equipment and appurtenances servicing that Unit, whether they are located inside or outside of that Unit, but only if they are designated and assigned to serve only that Unit (pipes, wires, conduits, flues, vents, electrical panels, mechanical equipment chases, public utility lines and any similar mechanical or utility equipment or elements that are utilized for or serve more than one particular Unit are not

part of that Unit regardless of whether such items are physically located within the boundaries of that Unit or elsewhere; such shared appurtenances are considered Common Areas and Facilities).

- d. Excluded from a Unit are the building's structural elements, that is, all foundations, columns, girders, concrete floors, concrete walls, concrete ceilings, concrete dividers, perimeter walls, roofs and other structural members whether inside or outside the Unit's boundaries.
- e. Also included within the boundary lines of each Unit are its appurtenant, contiguous and interconnected balcony, if any (many of which are now enclosed), deck, if any, and patio (for Units 101, 102, 103, 104 and 514), if any, as designated by Unit number and square footage area as set forth in EXHIBIT B hereto, and its appurtenant and non-contiguous assigned and/or acquired parking stall(s) (located separately in a garage area or areas within the Property and designated as "OWNERS' PARKING" or "PARKING" on the Survey Map) and storage cage (located separately in a designated storage area or areas within the Property and designated as "OWNERS' STORAGE" or "OWNERS' STOR" on the Survey Map) as listed in the most current record maintained by the Board.

### **1.35 "UNIT OWNER"**

"Unit Owner" shall mean Owner, as defined above.

### **1.36 "UTAH CONDOMINIUM OWNERSHIP ACT" OR THE "ACT"**

"Utah Condominium Ownership Act" or the "Act" shall refer to the applicable provisions of the Condominium Ownership Act described in Utah Code § 57-8-1 *et seq.*, as amended from time to time.

### **1.37 "VOTING SHARES"**

"Voting Shares" shall refer to the number of ownership shares that can be voted by a Unit Owner, which varies based on the size and location of the Owner's Unit. A Unit's Voting Shares is calculated under the following formula:  $\text{Voting Shares} = (\text{FUOI (rounded to four decimal places)}) \times 10,000$ . Each Unit's square footage, FUOI and Voting Shares are set forth in EXHIBIT B, as amended from time to time. Voting Shares range from a low of eighty-nine (89) to a high of one hundred eighty-five (185).

### **1.38 "WEIGHTED VOTE"**

"Weighted Vote" shall refer to the Unit Owner's vote. Each Unit has one Weighted Vote to be cast by its Owner or co-Owners. The weight of the Unit's Weighted Vote equals the number of Voting Shares attributed to that Unit in EXHIBIT B, as amended from time to time. Weighted Votes must be cast through written or electronic ballots pursuant to an Owners Vote properly called and conducted by the Board.

## **ARTICLE 2 MEMBERSHIP IN THE ASSOCIATION**

**SUMMARY:** The purpose of ARTICLE 2 is to describe basic tenets of Membership in the Terrace Falls Condominium Owners' Association. Membership, which exists on a one-per-condominium basis, belongs only to those who own a condominium at Terrace Falls. Condominium ownership brings with it a fractional undivided ownership interest in all of the common areas at Terrace Falls. The size of that interest varies with the size and location of the owner's condominium, and impacts the owner's voting rights and payment obligations; in short, owners of larger condominiums pay more and have a larger weighted vote than do owners of smaller condominiums. Memberships can only be transferred through the conveyance of the condominium itself; the Membership cannot be split into pieces among any co-owners, nor can the condominium itself, with certain exceptions, be divided. Under certain circumstances, nominal portions of the common areas can be partitioned and sold to individual owners.

## **2.1 MEMBERSHIP**

Membership in the Association belongs only to Unit Owners, and such Membership is subject to the terms of this Declaration, the Articles of Incorporation, the Bylaws and the Association Rules and Regulations, which are binding upon all Owners. To the extent the provisions thereof are in conflict, the terms of the Declaration shall govern. One, and only one, Membership in the Association shall be appurtenant to each Unit, for a total of eighty (80) Memberships in the Association. Each Unit's Membership shall belong to and be shared by the legal Owners of that Unit, and may not be separated from the interest of an Owner in any Unit. The Board of Directors may for all purposes act and rely on current Unit ownership information on file with the County Recorder of Salt Lake County, Utah.

## **2.2 TRANSFER OF MEMBERSHIP**

Association Memberships shall not be transferred, pledged or alienated in any way, except upon the conveyance of a Unit and then only to the transferee of that Unit. Any attempt to separate the Membership in the Association from the Unit to which it is appurtenant shall be void. *Notwithstanding the foregoing*, and subject to this Declaration, the Bylaws and Association Rules and Regulations, an Owner may lease his or her or their Unit to a Lessee, whereupon the Owner's Membership remains with the Owner, but the Membership rights of exclusive use and enjoyment of the Unit and the Common Areas and Facilities shall transfer from the Owner to the Lessee, to remain exclusively with the Lessee for the duration of the leasehold, except that during the term of the Lease, the Owner may use the Common Areas and Facilities to attend Association meetings and to manage the leased Unit.

## **2.3 PARTITION OF MEMBERSHIP**

Any attempt to partition the Membership and separate the ownership of a Unit from the ownership of the Fractional Undivided Ownership Interest in and to the Common Areas and Facilities appurtenant to such Unit, shall be void.

## **2.4 TRANSFER OF PORTIONS OF UNIT UPON WHICH MEMBERSHIP IS BASED**

Units may not be partitioned and transferred except as follows:

- a. a Unit Owner may separate a portion of his or her or their Unit and transfer it to an adjacent Unit Owner on the same floor for physical incorporation into the buying Unit Owner's Unit, but only after demonstrating to the Board of Directors, to its satisfaction, that: (a) the load-bearing capability of load-bearing walls will not be compromised; (b) no Unit will decrease in size to below one thousand (1000) square feet; and (c) all Units will retain at a minimum, a main entry door consistent with all other main entry doors on the Property, a kitchen area, a dining area, a living area, a bedroom area, one bathroom, laundry facilities and a utility/mechanical area, which satisfaction shall be evidenced in a written approval by the Board;
- b. although an Owner must retain ownership rights to at least one parking stall per Unit owned, the Owner shall have the right to separate from his or her or their Unit and transfer to another Unit's Owner, whether by gift, trade or sale, any additional parking stall assigned to the transferring Owner's Unit, which parking stall shall then become appurtenant to the receiving Owner's Unit;
- c. although an Owner must retain ownership rights to at least one parking stall and one storage cage per Unit owned, an Owner shall have the right to lend or rent the parking stall(s) and/or the storage cage to a Resident of Terrace Falls for periods ending not later than the earlier of the date on which the Resident ceases to be a Resident of Terrace Falls or the date of conveyance of the Unit to which the stall(s) and/or storage cage are appurtenant;
- d. a Unit Owner may trade storage cages with another Unit Owner;
- e. Unit Owners who sell, rent or trade parking stalls and/or rent or trade storage cages must promptly advise the Board of the same so that the Board can maintain accurate parking stall and storage cage ownership and use records; and

- f. Unit Owners involved in transfer of title to their parking stalls and/or storage cages must promptly record the changes in title with the Salt Lake County Recorder's office.

## **2.5 VOTING RIGHTS**

All voting rights shall be subject to the restrictions and limitations provided herein and in the Articles of Incorporation, the Bylaws, and the Association Rules and Regulations. Each Unit shall be entitled to one Weighted Vote. In the case of shared ownership of a Unit, the Weighted Vote for the Unit must be cast as a whole. Voting shall be as set forth in the Bylaws. Each Unit's Weighted Vote equals the number of Voting Shares assigned to that Unit, which is a function of the Fractional Undivided Ownership Interest in Common Areas and Facilities ("FUOI") assigned to the Unit, as described in ARTICLE 1 Section 1.14 above and further in Section 2.7 below. Each Unit's Voting Shares are set forth in EXHIBIT B.

## **2.6 APPROVAL BY OWNERS**

Approval by Owners may occur only through Owners Votes, properly called and conducted by the Board of Directors, in which Weighted Votes are cast by written or electronic ballot, as specified by the Board. Unless specifically stated otherwise in this Declaration, the Articles of Incorporation, or the Bylaws, approval of any matter placed before the Owners for vote requires the affirmative vote of at least fifty-one percent (51%) of the Association's Voting Shares.

## **2.7 FRACTIONAL UNDIVIDED OWNERSHIP INTEREST IN COMMON AREAS AND FACILITIES (WEIGHTED FACTOR)**

The Owner(s) of a Unit shall have, for that Unit, a Fractional Undivided Ownership Interest in and to the Common Areas and Facilities (hereinafter "FUOI"). Each Unit's FUOI is set forth in EXHIBIT B. The FUOI is based upon two factors: (1) the Unit's square footage (weighted at 90%) and (2) the Unit's "location" (weighted at 10%). The square footage of each Unit includes, in addition to the space within its interior walls, its appurtenant balconies, decks and patios but excludes its parking stalls and storage cages. The square footage measurement is taken from the Property Site Plan recorded with the Salt Lake County Recorder, and modified, where applicable, by the subsequent incorporation into the Unit of nominal portions of Common Area or Limited Common Area. Such a modification slightly increases the FUOI of the enlarged Unit and slightly decreases the FUOI of all remaining Units. The "location" of the Unit was determined by the Association at its inception, has not changed over time, and cannot be changed. Units of substantially the same size with substantially similar locations have substantially the same FUOI. The Unit's FUOI is used to calculate the Unit's Voting Shares as well as the Unit's proportional share of the Association's Dues and Assessments levied against all Units as set forth in ARTICLE 5.

## **2.8 LIMITED COMMON AREAS AND RE-DESIGNATION OF COMMON AREAS AND FACILITIES**

The Common Areas and Facilities shall be owned in common by all Unit Owners, in proportion to their Units' FUOIs.

- a. *Notwithstanding this*, An Owner of any of the following Units may petition the Association to change the designation of portions of the sloped roof immediately outside the exterior wall of his or her or their Unit from Common Areas and Facilities to Limited Common Areas, and to grant the Owner and subsequent purchasers of the Owner's Unit an exclusive and irrevocable license to use and occupy that portion of the sloped roof for reasonable value paid: Units 509, 511, 513, 601, 609, 611, 613, 701, 713, 801 and 802. All such petitions shall be in writing with supporting documentation. If the Board of Directors, in its discretion, believes there is satisfactory evidence that (1) the sought-after license would not damage the function, utility, enjoyment, soundness, safety, appearance of or access to the Common Areas and Facilities, or any other Unit, or otherwise negatively impact the Association, and (2) the proposed value to be paid is reasonable, the Board may approve the petition. If the Board denies the petition, its decision is final. If the

Board approves the petition, the Board shall have unilateral authority to approve and record an amendment to this Declaration for the sole purpose of memorializing the re-designation of the subject Common Areas and Facilities to Limited Common Areas. The Board shall deposit into the Reserve Fund all payments received from the Unit Owner for the license described herein. To the extent the partition and transfer results in an increase in square footage in the Unit, the Board promptly shall recalculate the Voting Shares and FUOI for that Unit and for all other Units, amend EXHIBIT B accordingly, and record the amendment with the Salt Lake County Recorder. The Board thereafter shall apply the new FUOIs to all subsequent Dues and Assessments levied against all Units, and shall apply the new Voting Shares to all subsequent Owner Votes.

- b. Unit Owners cannot make Improvements to any portion of any Limited Common Areas unless those Improvements are approved in advance and in writing by the Board and meet all Association, City and County requirements.

## **2.9 USE OF UNITS**

Each Owner shall have the exclusive right to use and occupy the Owner's Unit, subject to this Declaration, the Bylaws and the Association Rules and Regulations. In the event of lease of a Unit, the right of use of the Unit is held by the Lessee, not the Owner.

## **2.10 USE OF COMMON AREAS AND FACILITIES**

Each Owner shall have the non-exclusive right to use for the benefit of himself or herself or themselves and the Owner's Invitees, the Common Areas and Facilities, subject to this Declaration, the Bylaws and the Association Rules and Regulations. This right of use of Common Areas and Facilities shall be appurtenant to and run with the right of use of the Unit. Accordingly, in the event of lease of a Unit, the right of use of Common Areas and Facilities is held by the Lessee, not the Owner.

# **ARTICLE 3 POWERS AND DUTIES OF THE ASSOCIATION**

**SUMMARY:** The purpose of ARTICLE 3 is to describe the general powers and duties of the Association, which are exercised through the Board of Directors. The Board is entrusted with the overall management of the physical and financial aspects of the Terrace Falls property for the benefit of all Terrace Falls condominium owners. Effective management requires that the Board has the authority and the obligation to do many different things -- such as making and enforcing rules, entering contracts for utility services, repairing, restoring and renovating the common areas, controlling access to the premises, setting up bank accounts, collecting dues, buying insurance, getting outside help, and so forth.

## **3.1 GENERAL POWERS AND DUTIES OF THE ASSOCIATION**

In addition to the duties and powers enumerated in its Articles of Incorporation and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association, acting through its Board of Directors, which shall function as an agent of the Owners with fiduciary responsibilities thereto, shall do the following:

- a. Enforce the Governing Documents. The Board of Directors shall enforce the provisions of the Declaration, the Articles of Incorporation, the Bylaws and the Association Rules and Regulations by appropriate means and carry out the obligations of the Association thereunder;
- b. Enter into Binding Agreements on Behalf of the Association. The Board of Directors shall:
  - i. enter into leases, contracts, deeds, and other legal documents on behalf of the Association;
  - ii. purchase, hold, sell, convey, mortgage, or lease for a limited time, any one or more Units in the name of the Association;
- c. Manage the Physical Property. The Board of Directors shall:

- i. regulate the type, nature and extent of use (including, but not limited to, the timing of use) of the Common Areas and Facilities;
- ii. establish requirements and procedures for the leasing of Units by Owners;
- iii. obtain, for the benefit of the Common Areas and Facilities, all water, gas, electric, refuse and sewage collections, and other services;
- iv. arrange for gas and electric services that are separately metered for each Unit, as well as water and sewage services that are provided to each Unit by the Association;
- v. contract for communication services (e.g., cable television, Internet, telephone, intercom entry system, etc.) for the Common Areas and Facilities and for the benefit of the Owners who have subscribed to the service;
- vi. provide snow removal on the Property sidewalks and driveways;
- vii. manage all of the Common Areas and Facilities;
- viii. acquire, manage and dispose of Association personal property for the benefit of the Association; and
- ix. establish requirements and procedures for maintenance, repair, restoration, replacement and renovation of Units and Common Areas and Facilities;
- d. Maintain, Repair, Restore, Replace and Renovate Common Areas and Facilities. The Board of Directors shall have the power and duty:
  - i. to maintain, repair, restore and replace the Common Areas and Facilities to ensure that they are kept in a clean, safe, functional and attractive condition at all times;
  - ii. to renovate the Common Areas and Facilities in a manner and at such times as set forth in the Association Bylaws;
  - iii. to require Contractors to follow the Construction Guidelines for Common Area Improvements;
  - iv. to maintain all other areas in the vicinity of the Property which the Board deems appropriate to maintain or is obligated to maintain, as provided in this Declaration or pursuant to law; and
  - v. to expect and require the cooperation of Owners when and as reasonably needed to facilitate maintenance, repair, restoration, replacement and renovation work on Common Areas and Facilities, including without limitation, plumbing, electrical, ventilation and other shared systems.
- e. Protect the Physical Property and the Owners' Investment in It. The Board of Directors shall:
  - i. provide for the security of the Common Areas and Facilities, including, but not limited to, the placement and use of locks, access card readers, and cameras;
  - ii. control access to and use of the Property, including, but not limited to, controls to ensure that no environmental damage to the Property takes place by virtue of the acts of Owners or any of their Families, Invitees and Lessees;
  - iii. contract for and maintain such policy or policies of insurance as may be required by this Declaration or as the Board deems necessary or desirable in furthering the purposes of and protecting the interest of the Association and the Owners; and
  - iv. commence and defend legal actions on behalf of the Association;
- f. Manage the Financial Operations of the Association. The Board of Directors shall:
  - i. expend monies from the Association Operational Fund and Reserve Fund on behalf of the Association;
  - ii. open, manage and close bank accounts and lines of credit on behalf of the Association;
  - iii. cause a Reserve Study to be prepared no less frequently than every three years, and to review and, if necessary, update that previously prepared Reserve Study every year;
  - iv. establish, maintain and manage an Operational Fund and a Reserve Fund in accordance with the Bylaws and audit those Funds when the Board, in its discretion, deems it necessary or prudent to do so;
  - v. establish annual Operating Budgets;



- vi. determine, assign, collect, manage and invest Dues, Assessments, Fees and Deposits from Owners for the Operational Fund and Reserve Fund;
- vii. borrow money for the operation of the Association pending receipt of scheduled Dues and Operating Shortfall Assessments;
- viii. borrow money to maintain, repair, restore, replace or renovate Common Areas and Facilities, and/or individual Units damaged in connection with such work, pending receipt of Reserve Shortfall Assessments and/or Insurance Shortfall Assessments, as applicable; and
- ix. pay all taxes and other charges assessed against the Common Areas and Facilities unless the same are separately assessed to the Owners; and
- g. Obtain Appropriate Assistance From Others.
  - i. The Board of Directors shall have the right according to law, to delegate any of its powers under this Declaration, the Articles of Incorporation, the Bylaws and the Association Rules and Regulations to its Members, the Officers, Assistant Officers, Board-appointed Committees and their Committee Chairs, Committee Members and Committee Volunteers, employees, independent contractors, and others; *provided, however*, no such delegation shall relieve the Board of its obligation to perform such delegated duty.
  - ii. In the event of delegation, the Board of Directors shall retain appropriate levels of supervision over employee and Owner delegates or, in the case of independent contractor delegates, appropriate levels of interaction, to ensure that such delegates comply with legal requirements and the Association's Governing Documents, and to ensure that the Board's responsibilities and fiduciary duties to the Owners are reasonably met.
  - iii. The Board of Directors has the right and the duty, when appropriate, to engage the services through contract or hire, of independent accountants, attorneys, consultants, other professional agents and employees, and to pay reasonable compensation to all such persons, all in conformance with legal requirements.

### **3.2 BOARD ACCESS TO COMMON AREAS AND UNITS**

The Board of Directors shall have the power to access the Common Areas and Facilities and any Unit when the Board, in its discretion, deems it necessary (a) in connection with maintenance, repair, restoration, replacement and renovation of the Common Areas and Facilities, (b) to correct an emergency situation endangering any Common Area and Facility or any Unit, or (c) to determine compliance with construction and/or safety-related Bylaws and Association Rules and Regulations. Entry upon individual Units shall not occur without reasonable notice. Whenever the Board finds it necessary to enter upon an individual Unit to accomplish its duties, the Board shall repair as promptly as possible any damage caused thereby. When damage to an individual Unit is caused by failure of a Common Area component, or by the Board's maintenance, repair, restoration or replacement work, or by the Board's entry, the Board's repair shall bring the individual's Unit back to its prior condition.

### **3.3 ASSOCIATION RULES AND REGULATIONS**

The Board of Directors shall have the power to adopt, amend and repeal the Association Rules and Regulations. The Board of Directors shall deliver a copy of the Association Rules and Regulations, as they may from time to time be adopted or amended, to each Owner in the same manner established in this Declaration or the Bylaws for the delivering of notices. Upon such delivery, the Association Rules and Regulations shall have the same force and effect as if they were set forth in and were part of this Declaration. In the event of a repeal, the Board shall deliver to each Owner notice of the same. The Board of Directors shall make the Association Rules and Regulations, as adopted or amended, and any notice of repeal available at the Property in a designated location. In the event of any conflict between the Association Rules and Regulations and any provision of the Articles of Incorporation, this Declaration or the Bylaws, the conflicting provisions of the Association Rules and Regulations shall be deemed to be

superseded by those documents to the extent of any such inconsistency.

### **3.4 FEES, FINES, PENALTIES AND OTHER CHARGES**

The Board of Directors has the authority to set forth in the Association Rules and Regulations a schedule of fees and fines, penalties and other charges for violations of the Association's Governing Documents. In assessing such fees, fines, penalties and other charges, the Board shall follow the provisions set forth in the Bylaws and the Association Rules and Regulations, and otherwise as provided by law.

## **ARTICLE 4 COVENANTS, CONDITIONS, AND RESTRICTIONS**

**SUMMARY:** The purpose of ARTICLE 4 is to state fundamental obligations that come with owning a condominium at Terrace Falls and impact daily life in the Terrace Falls community. These obligations – addressing things such as rule compliance, permitted use, guests, leases, smoking, pets, parking, harassment, mass-notifications, hazardous activities, waste disposal and aesthetics – are designed to create and maintain a high-end, single-family, residential community that provides a safe, secure, attractive and pleasant living environment for all occupants.

### **4.1 COMPLIANCE WITH LAWS AND GOVERNING DOCUMENTS**

Each Owner and the Owner's Family, Invitees and Lessees shall:

- a. comply with all applicable laws, statutes, ordinances, rules, regulations, permits, orders and other validly imposed requirements of any local, county, state or federal governmental or judicial body pertaining to ownership of, use of, and activity in or on the Property, including all and any part of its Units and Common Areas and Facilities; and
- b. comply with all applicable provisions of this Declaration, the Bylaws and Association Rules and Regulations, as they may be amended from time to time, for the governance of the Property, including all and any part of its Units and Common Areas and Facilities.

Each Owner shall be held responsible for his or her or their own noncompliance of the same as well as for the non-compliance by the Owner's Family, Invitees and Lessees.

### **4.2 PERMITTED USE**

- a. Single-Family Residential Purposes. No Unit shall be used except for Single-Family, residential purposes.
  - i. For such purposes, "Single-Family" shall mean:
    1. one or more persons related by blood, marriage, adoption, or legal guardianship, including foster children, living together as a Single Housekeeping Unit in a dwelling unit;
    2. a group of not more than three persons not related by blood, marriage, adoption, or legal guardianship living together as a Single Housekeeping Unit in a dwelling unit; or
    3. two unrelated persons and children thereof living together as a Single Housekeeping Unit in a dwelling unit.
    4. A Single Family in a Unit may not consist of more occupants than two persons per bathroom, unless an exception is granted in writing by the Board.
  - ii. "Single Housekeeping Unit" shall mean people who operate as a household, sharing maintenance and housekeeping responsibilities.

The occupancy limits in Section 4.2.a.i above shall not apply to an Occupant's compensated or volunteer caregiver; such person may reside indefinitely in a Unit with the Occupant(s) without impacting the Single-Family designation.

- b. Supervision. Each Owner and the Owner's Family, Invitees and Lessees must provide appropriate supervision for those who are using the Common Areas and Facilities but lack the

ability to substantially understand and comply with the provisions in the Declaration, Bylaws and Association Rules and Regulations applicable to their use.

- c. Authorized Occupants. Persons authorized to occupy a Unit ("Authorized Occupants") are as follows:
- i. in the case of a Unit owned by an Individual, Authorized Occupants are the Owner and/or his or her or their Family, and his or her or their Single Family as defined above, subject to these exceptions:
  - ii. in the case of a Unit owned by a Trust, Authorized Occupants are the Trustor and/or his or her or their Family, the Trustee and/or his or her or their Family, and his or her or their Single Family as defined above; and
  - iii. in the case of a Unit owned by a corporation, limited corporation, partnership, sole proprietorship or other legal entity, Authorized Occupants are the entity's owner and/or his or her or their Family, officers and/or top tier management and/or his or her or their Single Family as defined above; and
  - iv. in the case of a Lease authorized under Section 4.4 below, Authorized Occupants are the Lessee and/or his or her or their Family, and his or her or their Single Family as defined above.

Unit Owners identified in subsections i, ii, and iii above may permit their Authorized Occupants to reside in their Units with or without charge. Other Occupants, however, may only reside in a Unit under the terms of a Lease authorized under Section 4.4 below.

- d. Short-term Guests. In the absence of its Authorized Occupants, a Unit may be occupied for up to fourteen (14) consecutive days by a non-paying Invitee(s) with whom the Authorized Occupant has a social relationship of more than one year's standing. Owners and Lessees must notify the Association in writing, in advance, of the presence of such Short-term Guests in accordance with Association Rules and Regulations so that appropriate security measures can be taken and appropriate emergency contact information can be maintained. There is no limit on the length or number of visits by Guests who visit when the Authorized Occupants are present.
- e. No Timeshares, Rentals or Trades. There shall be no time-sharing of a Unit (meaning the occupancy of a Unit cannot be circulated among various individuals for recurring periods of time, whether on a set or flexible schedule) and this is the case even if all of those individuals would otherwise be Authorized Occupants as set forth in Section 4.2.c above. Further, there shall be no rentals, leases or trades of a Unit (including but not limited to Airbnb, VRBO, etc.), whether paid or unpaid, other than as set forth in Sections 4.2.c and 4.2.d above and Section 4.4 below.

#### **4.3 COMMERCIAL BUSINESS**

No Owner, his Family, Invitees or Lessees shall operate from and/or within the Property a "Commercial Business," which is defined as an activity, trade, profession or calling engaged in and carried on for the purpose of gain or economic benefit. This prohibition does not preclude the performance of work on the Property for Owners or Lessees or their Families by Invitees who operate Commercial Businesses outside of the Property and are visiting the Property in furtherance of that off-site business. *Notwithstanding the foregoing*, operating a "home business" in a Unit, as that term is defined in Salt Lake City ordinance 19.85.010, is permitted as long as that business is clearly incidental, secondary and in addition to the residential use of the Unit, and the home business:

- a. does not involve frequent or regular entry upon the Property by non-Resident clients, customers, employees, suppliers, other work-related Invitees, equipment or vehicles (other than normal USPS, UPS, FedEx or similar mail delivery vehicles);
- b. does not result in a materially greater use of the Common Areas and Facilities or Association services by the Resident or his or her or their non-Resident clients, customers, employees, suppliers, other work-related Invitees, equipment or vehicles;
- c. does not otherwise violate the provisions of this Declaration, the Bylaws or the Association Rules and Regulations; and

- d. is approved, in advance, by the Board.

#### **4.4 LEASES**

- a. An Owner who meets the requirements in Section 4.4.b below is eligible to apply to the Board of Directors for the opportunity to lease the Owner's Unit, which opportunity, if granted, will be granted to the Owner in a three-year block. Within that three-year block, the Owner may lease the Owner's Unit one or more times, as long as each written lease agreement is approved by the Board and has a minimum duration of one year. Notwithstanding this requirement, the Owner can renew or extend an existing lease with the same Lessee without the need for further Board approval as long as any lease, lease renewal or lease extension terminates on or before the expiration of the Owner's three-year leasing opportunity block. An Owner who wishes to lease the Owner's Unit after expiration of the Owner's original three-year leasing opportunity block must apply to the Board for a new opportunity to lease the Owner's Unit.
- b. To Lease a Unit, the Unit Owner:
  - 1. Must have resided at Terrace Falls as his or her or their primary residence for at least twelve consecutive months or must have owned that Unit at Terrace Falls for at least three years;
  - 2. Must lease the entire Unit; partitioned leasing and subleasing are not permitted (except that parking stalls and storage cages may be leased without the Unit, but only to other Terrace Falls Residents);
  - 3. Must lease the Unit for a term of not less than one full year and not more than three full years;
  - 4. Must begin leasing the Unit within 90 days of the Board's approval of the leasing opportunity;
  - 5. Must not be leasing another Unit simultaneously during any portion of the lease term;
  - 6. Must be seeking to lease at a time when (a) fewer than eight other Units are being leased and (b) no other Owner with higher priority on the Board-maintained Waiting List (see Section 4.4.e below) wishes to commence a lease of the other Owner's Unit within 90 days. An Owner who has previously leased is not automatically precluded from leasing again, but must re-apply for Board approval to lease; and
  - 7. Must be current in the payment of his Dues and Assessments.
- c. The Board may make, and if required by law will make, an emergency exception to the above Sections 4.4.a, 4.4.b.1 and Sections 4.4.b.3 through 4.4.b.6 in a case in which a living Owner cannot occupy the Unit because the Owner:
  - 1. is, in the professional opinion of the Owner's healthcare provider, suffering from a severe mental or physical illness or injury; or
  - 2. is called to active duty in the military; or
  - 3. is required by the Owner's employer to temporarily relocate to a distant place of employment; or
  - 4. voluntarily vacates the Owner's Unit in order to render full-time temporary and uncompensated service to an ill or injured spouse, domestic partner or Relative or to a tax-exempt organization or governmental body; or
  - 5. needs to temporarily vacate the Owner's Unit due to any other event found by the Board to be of like urgency;

Any emergency exception shall not be for more than three years, unless extended by the unanimous Board or required by law; and there shall not be more than two emergency exceptions at any one time, unless allowed by the unanimous Board or required by law.
- d. Every Lease must be in writing, must be approved by the Board of Directors and must be signed by both the Owner and the Lessee, all prior to possession of the Unit by the Lessee, and
  - 1. must contain, at a minimum, all of the provisions identified as mandatory in the Association's Sample Lease, and

2. may contain the provisions identified as optional in the Sample Lease and/or any additional provisions desired by the Owner if those provisions
  - i. are lawful,
  - ii. do not undermine the Association's desired compliance with the Federal Fair Housing Act, and
  - iii. do not conflict with the Association's Governing Documents.
- e. The Board will consider requests for leasing opportunities on a first-come first-served basis, and will maintain a Waiting List in the event that more than eight Owners wish to lease their Units. Waiting List priority will be given in reverse order of leasing history, *e.g.*: one who has never leased will have priority over one who has previously leased; one whose last lease expired 5 years ago will have priority over one whose last lease expired 4 years ago, and so on.
- f. If a Lessee, or the Lessee's Family or Invitee, fails to comply with applicable provisions of the Bylaws and/or the Association Rules and Regulations, the Board may ask the Unit Owner to cure the violation. The Owner also may be asked to evict the Lessee. An Owner who fails to cure the situation to the satisfaction of the Board will be subject to Non-Compliance Fines as set forth in the Bylaws and the Association Rules and Regulations.

#### **4.5 TOBACCO, SMOKING, VAPING**

There shall be no use of tobacco in any form and no smoking or vaping of any substances, on or within the Units or the Common Areas and Facilities except to the extent required by law. Smoking and/or vaping includes, but is not limited to, the use of cigarettes, cigars, pipes, e-cigarettes, vaping devices, and any similar devices designed for use in inhaling heated, ignited, or vaporized substances.

#### **4.6 PETS AND ANIMALS**

- a. Restriction. No animals, livestock or poultry of any kind shall be raised, bred, kept or permitted in any Unit or in or on the Common Areas and Facilities, except that Assistance Animals of Owners and/or their Family, Lessees and Invitees may enter upon the Property, and Assistance Animals of Residents may be kept on the Property as required by law and pursuant to any Assistance Animal Guidelines adopted by the Board.
- a. Remedial Action. Each Resident who keeps or permits an Assistance Animal on the Property shall promptly remove, and properly dispose of, all animal waste from their Unit and the Common Areas and Facilities, and shall clean the affected area so that it is restored to its original condition. If the animal causes damage or unsanitary conditions requiring professional repair and/or cleaning, the Owner of the Unit in which the Resident resides must pay for this repair and/or cleaning to restore the area to its original state. Each Owner who keeps or permits the presence of an Assistance Animal on the Property shall indemnify and hold all other Owners and the Association harmless against any loss or liability of any kind or character whatsoever arising from or as a result of having the Assistance Animal on the Property. If an Assistance Animal disturbs another Owner or that Owner's Family, Invitees and/or Lessees by barking or biting or in other ways becoming obnoxious or dangerous, the Board of Directors will give notice to the Owner to cause the obnoxious or dangerous situation to be resolved; and if the situation is not promptly corrected, the Association may take whatever steps are appropriate, including, to the extent permitted by law, revoking its permission to keep the Assistance Animal on the Property and having the Assistance Animal removed from the Property.

#### **4.7 VEHICLE AND PARKING RESTRICTIONS**

- a. Vehicle Placement. All vehicles kept and parked on the Property shall be parked only in parking stalls. Oversize vehicles which do not fit fully within the Association-established parking stall lines, or which unduly impede access to a neighboring parking stall or vehicle, or which unduly impede the flow of traffic within the garage or Guest Parking area, are prohibited. Residents

normally should park in Owner Parking, but when necessary may park in Guest Parking stalls for up to one hour.

- b. Abandoned Vehicles. All abandoned vehicles left on the Property over seven days may be removed from the Property by the Association at the expense of the vehicle's owner.
- c. Recreational Vehicles. No boat, mobile home, snowmobile, trailer, camper, recreational vehicle, ATV, or similar thing of any kind may be parked or stored within the Property, without prior approval of the Board of Directors.
- d. Repair of Vehicles on Property. Vehicles may not be maintained, repaired or reconstructed on the Property. *Notwithstanding the foregoing*, minor maintenance work that does not unduly interfere with parking garage use or traffic flow or carry the risk of site contamination, such as washing and vacuuming the vehicle, refilling windshield washer fluid, and changing lightbulbs is allowed.
- e. Painting of Parking Stall Lines. No one except the Board is permitted to paint or repaint, or oversee the painting or repainting, of parking stall lines.

#### **4.8 NO DISCOURTEOUS, HARASSING, NOXIOUS OR OFFENSIVE ACTIVITY**

No activity shall be carried out in any Unit or the Common Areas and Facilities if that activity would be seen by a reasonable person as discourteous, harassing, noxious or offensive and if that activity actually does detract from the reasonable enjoyment of the Property by others.

#### **4.9 UTILITY SERVICE**

For the purpose of addressing safety and aesthetic concerns, the Association shall have authority to regulate the placement on the Property of power collection, generation and transmission equipment such as solar panels, generators and electric car charging outlets or stations, and the placement of communications equipment, such as satellite dishes, outdoor antennas, and other similar devices. No such equipment or its attendant lines, wires and other connective devices, shall be erected, placed or maintained anywhere in or upon any portion of the Property unless the same has been approved by the Board of Directors and is consistent with all applicable legal restrictions.

#### **4.10 ALTERATIONS TO COMMON AREAS**

No Owner or his or her or their Family, Invitees or Lessees shall, without the prior written consent of the Board of Directors in each specific instance, make, or cause to be made any alteration, addition, removal, or improvement in or to the Common Areas and Facilities or any part thereof.

#### **4.11 MASS NOTIFICATIONS, SOLICITATIONS AND DISTRIBUTIONS**

Mass notifications, solicitations and distributions are inconsiderate and to be avoided. Thus, no Owner or his or her or their Family, Invitees or Lessees, shall put, or permit to be put, in mass-distribution fashion, on or under the Unit doors, or circulate, or permit to be circulated, by mass mailing or mass e-mailing to Owners and/or their Families, Invitees or Lessees, any material without prior authorization by the Board of Directors. Posting of notices, solicitations and the like anywhere other than on Board-designated community bulletin boards is likewise prohibited without prior Board authorization. This Section does not apply to the Board acting in its official capacity. *Notwithstanding the foregoing*, Residents may place greeting cards and small gifts outside or under some or all Unit doors in connection with holidays or otherwise as long as such activity is not reasonably interpreted as a business, political, religious, civic or other solicitation of any kind.

#### **4.12 HAZARDOUS ACTIVITY**

No Hazardous Activity may be conducted in any Unit or in or on the Common Areas and Facilities. For purposes of this Article, "Hazardous Activity" is activity that is, or would be considered by a reasonable person to be, unreasonably dangerous or hazardous.

- a. Examples. Hazardous Activity includes, without limitation:

- i. Generating, storing, using, treating, disposing or releasing Hazardous Materials in a manner which does not comply with applicable federal, state, county or local environmental regulations (hereinafter referred to as "creation of a Hazardous Condition"). For purposes of this Article, "Hazardous Materials" means
    1. any waste, material or substance, in any form, which is a pollutant or a contaminant or is hazardous, toxic, ignitable, reactive, corrosive, dangerous, harmful or injurious to public health or to the environment, and which is or may be regulated by governmental entities under environmental regulations;
    2. petroleum;
    3. gasoline;
    4. propane;
    5. asbestos;
    6. polychlorinated biphenyls; and
    7. any radioactive material.
  - ii. Storing caustic, toxic, flammable, explosive or Hazardous Materials in excess of those reasonable and customary for household uses;
  - iii. Discharging firearms (including but not limited to guns, pistols, handguns, rifles, automatic weapons, semi-automatic weapons, BB guns, pellet guns, sling shots, wrist-rockets, blow-dart guns, and other devices of all types that fire or sling projectiles, regardless of size);
  - iv. Using incendiary or explosive devices;
  - v. Setting off fireworks;
  - vi. Discharging glare or heat, subsonic or ultrasonic sounds, or atomic, electromagnetic, microwave, ultra-violet, laser or other radiation which may be detrimental
    1. to the health, safety, welfare, or comfort of any person outside of the Unit of origination,
    2. to the condition of any other portion of the Property, or
    3. to any vegetation within the Property;
  - vii. Operating commercial machinery or equipment (other than by trained and licensed operators in connection with the construction of improvements);
  - viii. Skateboarding, longboarding, rollerblading, roller skating, scootering or the like in the parking areas, on the Sun Deck or in hallways or other Common Areas; and
  - ix. Other activity unauthorized by the Association that reasonably could result in
    1. an increase in the rate of insurance on the Property or any part thereof, or
    2. the cancellation of the insurance on the Property or any part thereof.
- b. Remedial Action for Hazardous Conditions. Any Owner who is involved in the creation of a Hazardous Condition or permits the creation of a Hazardous Condition by his or her or their Family, Invitee or Lessee shall promptly take all actions at the Owner's sole expense as are reasonably necessary to correct promptly the condition and any harm caused thereby to the satisfaction of the Board of Directors and any regulating entity. Should the Board conclude that the Owner's reparations are inadequate, the Board may take remedial action and assess fines against the Owner, all as further set forth in the Bylaws and Association Rules and Regulations.

#### **4.13 WASTE DISPOSAL**

- a. Accumulation. No trash, garbage or waste material, including, but not limited to, scraps, debris, lumber, metals and plant waste, shall be kept, stored or allowed to accumulate on any portion of the Property except in a Board-approved area, Board-approved composting, waste or recycling bin, or Board-approved enclosed structure appropriately screened from view.
- b. Proper Disposal. All trash, garbage and other waste materials shall be regularly removed from each Unit and the Common Areas and Facilities and properly disposed of into trash chutes,

dumpsters or recycling bins, as appropriate, in accordance with Association Rules and Regulations.

- c. Plumbing. Nothing shall be flushed down the toilet or placed in any drain other than human waste, toilet paper, and household toilet bowl and drain cleaning gels and liquids. The toilet, the toilet plumbing and the sewer system are not designed to handle anything else. Paper towels, paper tissues, baby wipes, diapers, Band-Aids, Q-Tips, cotton balls, cotton pads, menstrual pads and tampons, condoms, food, gum, dental floss, hair and other items must not be flushed down the toilet; properly dispose of all of these items into the trash. Nothing shall be put down a bathroom, kitchen or other drain that the drain and the sewer system were not designed to handle. This includes, among other things, fats, oils, grease, flour, pasta and rice, food waste, produce stickers, coffee grounds, eggshells, car fluids, cleaning products, solvents, corrosive liquids and flammable or explosive substances. Use of garbage disposals shall be kept to a minimum; whenever possible, solid kitchen waste should be disposed of directly into the trash can rather than down the drain or through the garbage disposal.

#### **4.14 AESTHETICS**

- a. Personal Property Placement. The stairways, hallways and any other part of the Common Areas and Facilities (except the storage cages) shall not be used in whole or part for the storage of any personal property. Clothes or other items of personal property shall not be placed in or on any outside portion of the Property or in the Common Areas and Facilities for drying, airing or other purposes. All furnishings or items on private balconies, decks and patios visible from the street or Common Areas must be neat and well-maintained. Use of such areas for drying laundry, or as closets or for visible storage of unused furniture or other such items is prohibited.
- b. Decorations. Decorations or other displays, tables, rugs, or door mats shall not be erected, placed, maintained, affixed or used by Owners or their Family, Invitees or Lessees in their Unit entryway, or on the walls, the floor or any other portion of the Common Areas and Facilities, except that:
  - i. A wreath, door knocker or similar decorative item may be hung on the outside of the Unit door. This item shall be reasonable in size and shall not protrude more than 5 inches out from the door.
  - ii. The Common Areas and Facilities may be decorated in celebration of various holidays under the direction of the Board of Directors.
- c. Unit Numbers. Unit doors shall not be renumbered, nor shall the style of Unit door numbers be changed from the Board-approved style in use throughout the Property.
- d. Unit Door and Doorway Trim and Hardware. The exterior surface of the Unit door, the exterior doorway trim and the doorway exterior hardware, including the door's hinges, handle, lock, doorbell, peephole and lighting, are part of the Common Area and Facilities, and are not the property of the Unit Owner. Accordingly, these items shall not be altered or changed from the Board-approved style, type, material and color in use throughout the Property, nor shall additional hardware be affixed. As further set forth in the Bylaws, the Board may permit exceptions to this provision for good cause, such as to accommodate disabilities or to address security concerns. The Association shall maintain, repair, restore, and as necessary, replace, these items so as to ensure their clean, safe, attractive and uniform condition at all times.
- e. Doorway Coverings. Screen doors, fabric screens, beaded curtains, fabric curtains and similar entry door coverings are not permitted in Unit doorways that access Common Area hallways.
- f. Flags, Signs, Banners and Flyers. No flags, signs, banners, flyers, or similar devices shall be placed, hung, erected or maintained by any individual Owner or his or her or their Family, Invitee or Lessee: (a) in any Unit window; (b) on any Unit balcony or patio, or (c) in the Common Areas and Facilities. There are two exceptions to this: first, appropriate signage may be utilized to the extent necessary temporarily to caution or warn of danger; and second, in accordance with state and federal law, Residents may display the American flag, the Utah flag and/or a flag that denotes



the Resident's service in a branch of the United States military, as long as that display is in a reasonable place and manner within an area over which the Resident has exclusive control.

- g. Sales, Open Houses and Leasing Opportunities. Yard sales, garage sales, estate sales, open houses, leasing opportunities and signage announcing these and similar events are not permitted without the prior consent of the Board of Directors.
- h. Garage Storage. Items that are not motor vehicles and are stored in garage parking spaces must be contained in approved, closed, metal storage cabinets and/or in plastic tubs on top of or beside those cabinets, with the exception that bicycles may be stored on the pavement or suspended on wall racks, as long as their storage is tidy. Parking stalls shall be kept clean by each Owner and his or her or their Family, Invitees and Lessees.
- i. Artwork, Games and Graffiti. The painting or drawing of figures, symbols, words or other graffiti in any medium, is not permitted on surfaces in the Common Areas and Facilities, including but not limited to sidewalks, driveways, parking places, parking garages or the Sun Deck.
- j. Persisting Unsightly Condition. Owners shall not permit any Persisting Unsightly Condition to exist on or in any Unit or parking space if that condition is visible from any street or any other portion of the Property. A condition is unsightly if the unanimous Board determines it is aesthetically unacceptable in light of the general form, fit and finish of the Common Areas and Facilities. An unsightly condition is a Persisting Unsightly Condition if it has existed for more than ten days.

## **ARTICLE 5 DUES AND ASSESSMENTS**

**SUMMARY:** The purpose of ARTICLE 5 is to state the financial obligations that come with ownership of a condominium at Terrace Falls. Each year, all Owners must pay Dues, which are designed to cover that year's Operating Expenses and expected Reserve Fund needs. In addition, when the Board of Directors believes it is necessary, all Owners must pay certain Assessments designed to cover shortfalls in the Operating Fund, the Reserve Fund and/or insurance proceeds. Further, an Owner who is non-compliant with Association requirements or damages Association property must pay any Individual Assessment levied against him or her or them by the Board. All Dues and Assessments are both personal obligations and liens on the Owner's condominium. Also included are the manner in which Dues and Assessments are calculated, when they become delinquent and how collection may be enforced.

### **5.1 PERSONAL OBLIGATION OF DUES AND ASSESSMENTS**

Each Owner of any Unit by acceptance of a delivered deed or other written conveyance creating in such Owner the interest required to be deemed an Owner, immediately upon closing and recording, is deemed to covenant and agree to pay when due to the Association all Dues and Assessments (including all Operating Shortfall Assessments, Reserve Shortfall Assessments, Insurance Shortfall Assessments and Individual Assessments) to be fixed, established and collected from time to time as provided in this Declaration, the Bylaws and the Association Rules and Regulations, regardless of whether or not this covenant and agreement to pay shall be so expressed in the deed or other conveyance. Such Dues and Assessments, together with such interest, late charges and costs and reasonable attorney's fees incurred in collection, shall also be the personal obligation of the Owner of such Unit at the time when each such Dues and Assessments fell due, and of each subsequent Owner. Any subsequent Owner of a Unit shall be deemed to have notice of the unpaid Dues and Assessments. No Owner may waive or otherwise escape liability for Dues and Assessments by lease or abandonment of the Unit. In the event of the Owner's death, the liability for Dues and Assessments shall carry over to the Owner's estate.

## **5.2 PURPOSE OF DUES AND ASSESSMENTS**

The Dues and Assessments levied by the Association shall be used exclusively to perform the duties and exercise the powers of the Association enumerated in its Articles of Incorporation, the Bylaws, and this Declaration.

## **5.3 ASSOCIATION DUES**

The amount and timing of payment of Association Dues ("Dues") shall be determined by the Board of Directors pursuant to the Articles of Incorporation and the Bylaws after giving reasonable consideration to the current maintenance, operational, and other costs and the future needs of the Association. Prior to the beginning of each fiscal year of the Association, the Board, working in conjunction with the Board-appointed Committee Chairs, shall prepare an Operating Budget which shall include estimates of line item expenses as well as the total Operating Expenses to be incurred for the upcoming fiscal year. As described further in Section 5.4 below, the Board shall also review the most current Reserve Study to determine an appropriate level of funding to collect for the Reserve Fund for the upcoming fiscal year. The Board shall then determine the amount of money to be paid by each Unit in the fiscal year to cover both the Operating Expenses and Reserve Fund needs; this amount shall be known as "Dues." Written notice of the annual Dues shall be sent to every Owner; provided that failure to provide adequate notice does not relieve the Owner's obligation to pay the established Dues.

## **5.4 RESERVE PROGRAM PORTION OF DUES**

As mentioned in Section 5.3 above, the Dues shall include reasonable amounts, as determined by the Board of Directors, earmarked for the Reserve Fund for the future periodic maintenance, repair, restoration, replacement or renovation of the components of the Common Areas and Facilities based upon estimates in a current, professionally prepared Reserve Study that is reviewed and adjusted, as needed, by the Board and members of the Reserve Fund Committee at least annually. The Board shall earmark the Reserve Program Portion of the Dues collected and deposit it into a Reserve Fund maintained separately from other financial accounts, deposits and investments of the Association. The Board shall use funds from the Reserve Fund, supplemented as necessary by Reserve Shortfall Assessments and/or bank loans, to pay for the projects identified in the Reserve Study, subject to Section 5.6.b below and the Bylaws. The Board shall not use funds from the Reserve Fund to pay for Operating Expenses without the approval of the Owners as set forth in the Bylaws.

## **5.5 RATE OF DUES**

The Dues shall be fixed by the Board of Directors at a rate computed and assessed with respect to each Unit at a percentage equal to that Unit's FUOI. The Dues may be collected at intervals selected by the Board. Notwithstanding the foregoing, the current fiscal year's Dues shall not exceed the previous fiscal year's Dues (determined for an entire 12-month period) by more than ten percent (10%) without the approval of the Owners as set forth in the Bylaws.

## **5.6 ASSESSMENTS**

In addition to the Dues authorized above in Section 5.3, the Association may levy Assessments from time to time. Assessments fall into four categories: (1) Operating Shortfall Assessments; (2) Reserve Shortfall Assessments; (3) Insurance Shortfall Assessments; and (4) Individual Assessments. More specifically:

- a. Operating Shortfall Assessments. An "Operating Shortfall Assessment" shall mean a charge to cover unexpected expenses, operating shortfalls and/or major repairs of components that are not identified within the Reserve Study. Operating Shortfall Assessments are intended to cover circumstances that were not reasonably foreseeable at the time the Operating Budget was approved. Operating Shortfall Assessments shall be payable in such manner and at such times as determined by the Board.
- b. Reserve Shortfall Assessments. A "Reserve Shortfall Assessment" shall mean a charge to cover maintenance, repair, restoration, replacement and/or renovation work contemplated by the

Reserve Study to be performed when Reserve Funds are inadequate to pay for that work in that fiscal year. Promptly upon determining that Reserve Funds are likely to be inadequate, and prior to taking a bank loan or levying any Reserve Shortfall Assessment, the Board must seek Owner input concerning the maintenance, repair, restoration, replacement and/or renovation work, as further set forth in the Bylaws. Reserve Shortfall Assessments shall be payable in such amount, such manner and at such times as determined by the Board.

- c. Insurance Shortfall Assessments. An "Insurance Shortfall Assessment" shall mean a charge to pay for loss or damage to the Association and/or its Common Areas and Facilities when a claim is covered by Association insurance but the proceeds from that insurance are insufficient to fully pay for the loss or damage. Insurance Shortfall Assessments shall be payable in such amount, such manner and at such times as determined by the Board.
- d. Individual Assessments. An "Individual Assessment" shall mean a charge levied against a Unit and/or an Owner individually, as opposed to a charge levied against all Units collectively.

Individual Assessments fall into five categories:

- i. Reinvestment Fees. To be paid by the Buyer of a Unit to the Association for the benefit of Terrace Falls upon and as a result of the transfer of that Unit, in an amount fixed by the Board and set forth in the Association Rules and Regulations which will not exceed the amount permitted by law, and will not be imposed in circumstances where precluded by Title 57, Chapter 16, Section 46(8) of the Utah Code.
- ii. Impact Fees. To reimburse and compensate the Association for additional expenses and damage due to extraordinary usage, wear and tear on Common Areas resulting from, or likely to result from, household moves and Unit Improvements.
- iii. Damage Reimbursement. To reimburse the Association for all costs and expenses incurred, including attorney's fees, interest and other charges related thereto, in repairing damage caused to Common Areas and Facilities by that Unit's Owner and/or the Owner's Family, Invitees and Lessees;
- iv. Non-Compliance Reimbursement. To reimburse the Association for all costs and expenses incurred, including attorney's fees, interest and other charges related thereto, in bringing an Owner and/or the Owner's Unit into compliance with the provisions of this Declaration, the Articles of Incorporation, the Bylaws and/or the Association Rules and Regulations; and
- v. Non-Compliance Fine. To penalize an Owner for his or her or their own, and/or the Owner's Family's, Invitees' or Lessees' noncompliance with the provisions of this Declaration, the Articles of Incorporation, the Bylaws and/or the Association Rules and Regulations.

Individual Assessments shall be payable in such amount, such manner and at such times as determined by the Board.

## **5.7 RATE OF ASSESSMENTS**

Operating Shortfall Assessments, Reserve Shortfall Assessments and Insurance Shortfall Assessments shall be fixed by the Board at a rate computed and assessed with respect to each Unit at a percentage equal to that Unit's FUOI. Individual Assessments shall be fixed by the Board in accordance with the Bylaws. All Assessments may be collected in lump sums or in intervals selected by the Board, as further set forth in the Bylaws.

## **5.8 BOARD'S DISCRETION TO REDUCE OR ABATE DUES**

In the event the Operating Budget or the Reserve Portion of the Dues collected for any fiscal year proves to be excessive in light of the actual Operating Expenses or Reserve Fund expenditures for that fiscal year, the Board has no authority to reduce the amount of the Dues or abate collection of Dues in that fiscal year; rather, the Board shall deposit such excessive amounts into the Reserve Fund.

### **5.9 NO OFFSETS**

All Dues and Assessments shall be payable in the amount specified by the Dues and Assessments and no reductions of or offsets against such amounts 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.

### **5.10 DELINQUENCY**

All Dues and Assessments provided for in this Declaration, the Bylaws and/or the Association Rules and Regulations which are not paid within thirty (30) days after their due date are delinquent and subject to late fees and interest charges in amounts determined by the Board and set forth in Association Rules and Regulations. The Board may waive any or all late fees and interest charges for good cause shown.

### **5.11 LIENS**

- a. Creation of a Lien. Unpaid Dues and/or Assessments, together with pertinent late fees and interest, shall be continuing liens upon the Unit against which such Dues and/or Assessments are levied. Any subsequent Owner of a Unit shall be deemed to have notice of the unpaid Dues and/or Assessments and pertinent late fees and interest charges, whether or not a lien has been recorded.
- b. Foreclosure of a Lien. The Association may foreclose the Association's lien against the Unit for the unpaid Dues and/or Assessments, pertinent late fees, interest charges, costs and attorney's fees pursuant to the Act, or other applicable law.
- c. Release of Lien. Upon payment or other satisfaction of delinquent Dues and/or Assessments concerning which the Association has recorded a notice of lien, the Association shall cause to be recorded in the same manner as the notice of lien a further notice stating the satisfaction and release of the lien for the delinquency.

### **5.12 ENFORCEMENT**

The Association shall have the right to take any or all of the following actions against a Unit Owner(s) who is delinquent in his or her or their Dues and/or Assessments:

- a. Action. The Association may bring an action to obtain, and take all necessary steps to enforce, a money judgment against the Owner for unpaid Dues and/or Assessments, pertinent late fees, interest charges, costs, and attorney's fees;
- b. Direction of Payment. Subject to the Act, or other applicable law, the Association may require Lessees of a Unit to make future lease payments directly to the Association rather than to the Unit Owner, so long as Dues, Assessments, pertinent late fees and/or interest charges remain unpaid for such Unit, and such payments to the Association by the Lessee shall not constitute a default under the terms of the lease with the Unit Owner; and
- c. Other Remedies. The Association shall have all other rights and remedies available by applicable law, including but not limited to the right to levy fines in the form of Individual Assessments and to suspend voting rights for any period during which any Dues, Assessments, and/or pertinent late fees and interest charges against an Owner and/or the Owner's Unit remain unpaid.

### **5.13 INTENT**

No provision of this Article shall be interpreted so as to limit in any way the rights of the Association for collection of Dues, Assessments and pertinent late fees and interest charges.

**ARTICLE 6**  
**UNIT MAINTENANCE, REPAIRS, RESTORATIONS AND RENOVATIONS**  
**(IMPROVEMENTS)**  
**GENERAL CONSTRUCTION REQUIREMENTS**

**SUMMARY:** The purpose of ARTICLE 6 is to state the general requirements applicable to construction work on individual condominiums at Terrace Falls. The requirements include procedural ones and contractual ones, and also include specific construction guidelines. They address not only the work that an Owner does inside his or her or their own condominium, but also the access to and work he or she or they may need to do in and from an adjacent Owner's condominium. The requirements are intended to facilitate cooperative and considerate ownership and cohabitation in a shared community. With that in mind, ARTICLE 6's provisions are designed to respect and safeguard: (1) the Owners' shared interest in maintaining a safe, secure and pleasant living environment and attractive Common Areas and Facilities; and (2) each individual Owner's interest in having individual control and aesthetic license over the interior layout, form, fit and finish of that Owner's Unit.

**6.1 BOARD AUTHORITY AND DUTIES**

- a. Procedural Requirements. The Board of Directors has the authority and the duty to establish, manage and enforce the process (hereinafter "Improvements Process") through which maintenance, repairs, restoration, replacements and renovations (including any preparation/demolition work and/or clean-up work associated therewith) (hereinafter collectively and individually referred to as "Improvements") in, on or to a Unit are made, and shall establish in the Bylaws the procedural requirements to be met by Owners who are required to make or wish to make Improvements in or on their Units, and by the Contractors and Workmen whom Owners may hire or engage in connection with those Improvements. Improvements made outside of the Improvements Process may result in demands by the Board that the Owner cease, modify or remove any Improvements that would not have been approved had the Improvements Process been followed, as well as in the imposition by the Board of fines for non-compliance in the amounts set forth in Association Rules and Regulations.
- b. Construction Guidelines and Contractual Requirements. The Board of Directors has the authority and the duty to establish, manage and enforce Construction Guidelines to be followed by, and Contractual Requirements to be met by, Owners who are required to make or wish to make Improvements in, on or to their Units, and by the Contractors and Workmen whom Owners may hire or engage in connection with those Improvements.
  - i. "Construction Guidelines" shall mean the guidelines adopted and amended from time to time by the Board (or by the Architectural Review Committee as provided for herein) to protect the Terrace Falls shared community, regarding the exterior layout, form, fit and finish, the building materials and their staging, Property and building access and security, waste removal, the approval and inspection processes and other matters relating to Improvements on the Property. Separate Construction Guidelines may be created for Unit and Common Area Improvements.
  - ii. "Contractual Requirements" shall mean the contractual requirements adopted and amended from time to time by the Board (or by the Architectural Review Committee as provided for herein) to protect the Terrace Falls shared community and which are imposed upon Owners and their Contractors and Workman as a prerequisite to making Improvements.
- c. Architectural Review Committee. The Board of Directors has the authority and the duty to appoint an Architectural Review Committee ("ARC"). The ARC may be comprised of any number and combination of Owners and Board Members that the Board deems appropriate, as long as at least one ARC member is an Owner who is not on the Board. The ARC shall

participate in the Improvements Process, and shall have such authority as delegated to it by the Board concerning approvals, inspections, non-compliance notifications and other matters.

- d. **Impact Fees and Compliance Deposits.** The Board of Directors has the authority and the duty to charge Owners who wish to make Improvements in, on or to their Units with reasonable Impact Fees, and the authority and the duty to charge the Contractors and Workmen whom Owners may hire or engage in connection with those Improvements, with reasonable Compliance Deposits, the amounts and refundable extent of which shall be as set forth in Association Rules and Regulations and/or the Construction Guidelines.

## **6.2 OWNER AND CONTRACTOR OBLIGATIONS WHEN MAKING IMPROVEMENTS**

### **a. Compliance with Section 6.1 Requirements, Fees and Deposits.**

- i. The Owner shall comply with the Improvements Process.
- ii. Owners, Contractors and Workmen must enter into signed contracts with Terrace Falls in the form(s) required by the Board pursuant to Section 6.1.b.ii above prior to the commencement of any Improvements.
- iii. Owners, Contractors and Workmen must submit any Impact Fees and Compliance Deposits required by the Board pursuant to Section 6.1.d above prior to the commencement of any Improvements.

### **b. Quality, Conformance, Minimizing Impact, Shared Lines and Facilities and Utility Service.**

- i. **Quality of Work.** All work performed during any Improvement in, on or to a Unit shall be done in a good and workmanlike manner in accordance with the then-current building codes of all applicable legal authorities. Certain types of work, including, but not limited to, structural, gas, electrical and plumbing work, must be performed by those with an appropriate professional license and appropriate levels of insurance. Other specialized types of work subject to this licensing requirement may be set forth in the Construction Guidelines.
- ii. **Conformance with Legal Requirements.** All work performed during any Improvement in, on or to a Unit shall be done in compliance with all applicable laws, rules, regulations, orders and ordinances of the city, county, state and federal governments, or any department or agency thereof and no such work shall cause any other Unit to be in violation of any laws, rules, regulations, orders or ordinances.
- iii. **Conformance with Construction Guidelines and Contractual Requirements.** All work performed during any Improvement in, on or to a Unit shall be done in conformance with the Construction Guidelines and the applicable Contractual Requirements.
- iv. **Minimizing Impact on Others.** All work performed during any Improvement in, on or to a Unit shall be done as expeditiously as possible and in such a manner as not to, unreasonably, interfere with, obstruct or delay: (a) access to or from any other Unit, any parking stall or parking area, or Common Areas and Facilities; (b) Improvement work being performed in any other Unit; or (c) the use, enjoyment or occupancy of any other Unit or Common Area. Where a Plan has been approved by the ARC pursuant to Section 6.6 below, that Plan shall govern the impact on "Adjacent Owners" as defined therein.
- v. **Shared Lines and Facilities.** Wherever sanitary sewer, water, electricity, gas, telephone or communication lines or drainage facilities or vents and/or flues are present within a Unit and serve more than one Unit (hereinafter "Shared Lines and Facilities"), the Owner of each Unit served by the Shared Lines and Facilities shall be entitled to the continued full use and enjoyment of all portions of the Shared Lines and Facilities which service such Owner's Unit, except during short periods of time when, after reasonable notice has been given to the ARC and to all other Owners sharing the Line or Facility, the Shared Lines and Facilities may be disabled in order to perform the Improvement Work.
- vi. **Utility Service.** The foregoing provisions of this Section 6.2 shall not be deemed to give any Owner the right to connect to any utility service without first complying with all the

requirements of any relevant utility company providing the service in question, including without limitation, the payment of all required connection fees and related charges.

- c. Structure Boundary Arrangement of Units. Any changes to the structure boundary arrangement of Units shall comply with applicable building and zoning ordinances. No such change may increase or decrease the present number of 80 residential Units.
- d. Liability for Damage and/or Contamination and Lien. All costs incurred by the Association in remedying any damage to or contamination of the Common Areas and Facilities and/or other Units caused by or in connection with an Owner's Improvements, if not completely covered by the Impact Fees and Compliance Deposits otherwise charged in connection with those Improvements, shall be charged to and reimbursed by the Owner and/or the Owner's Contractor or Workmen. Such costs, until so paid, shall constitute a lien against the Owner's Unit.
- e. Obligation to Cure and Payment of Fine for Non-Compliance. The Owner promptly shall cure to the Board's satisfaction, at the Owner's expense, any demand by the Board pursuant to Section 6.1.a above that the Owner cease, modify or remove any Improvements that would not have been approved had the Improvements Process been followed, and promptly shall pay any fine for non-compliance assessed by the Board of Directors pursuant to Section 6.1.a above.

### **6.3 OWNER OBLIGATION TO MAINTAIN, REPAIR, RESTORE AND REPLACE PORTIONS OF THE OWNER'S UNIT**

- a. Functional, Clean, Safe and Attractive Condition. Every Owner shall maintain, repair, restore, and as necessary, replace, those portions of such Owner's Unit including, without limitation: walls; ceilings; floors; plumbing fixtures; plumbing pipes and drains servicing only that Owner's Unit; water heaters; heating equipment; air conditioner; lighting fixtures; appliances; window glass; interior and exterior window frames; interior doors and doorframes; interior of the Unit's hallway entry door(s) and doorframe(s); exterior balcony/deck/patio doors, doorframes, railings, fencing and surfaces; and lighting, so as to ensure the Unit's functional, clean, safe, and attractive condition at all times (other than when that Unit is undergoing Improvements or Impacting Work or Restoration Work as set forth in Section 6.6 below), and in compliance with this Declaration, the Articles of Incorporation, the Bylaws and the Association Rules and Regulations.
- b. Related Destruction, Alteration or Work on Common Areas. When maintenance, repair, restoration, replacement or other work on a Unit requires destruction, alteration or other work on Common Areas, including but not limited to Common Area walls, ceilings, floors or fixtures, the Owner must obtain approval from the Board for that Common Area work and the Owner's workmen prior to its commencement, which approval shall not be unreasonably withheld. The Board's approval of such work carries with it the Owner's obligation to restore, within a reasonable time, the Common Area to the condition it was in prior to the work.

### **6.4 RIGHT OF ASSOCIATION TO MAINTAIN, REPAIR, RESTORE AND REPLACE PORTIONS OF THE OWNER'S UNIT**

In the event any Owner fails to meet his or her or their obligations as set forth in Section 6.3 above or Section 6.5 below, the Board may demand that he or she or they do so, and if the failure is not cured within a reasonable time as determined by the Board, the Board may cause the maintenance, repair, restoration and, as necessary, replacement work to be accomplished at the Owner's expense. All costs incurred by the Association to effect the cure shall be charged to and reimbursed by the Owner and shall constitute a lien against the Owner's Unit until paid.

### **6.5 CONDITION OF OWNER'S UNIT AND OBLIGATION TO ADDRESS DAMAGE TO OTHER AREAS**

- a. Condition of Owner Unit. Except when Improvements, or Impacting Work or Restoration Work as set forth in Section 6.6 below, to a Unit are underway, the Unit shall at all times be maintained in a functional, clean, safe and attractive condition. At all times, whether during Improvements,

Impacting Work, Restoration Work, or otherwise, proper care must be taken to keep the Unit free of safety hazards. In the event of failure of, damage to or destruction of all or any portion of the Unit that is not an intentional part of that Unit Owner's Improvement, or that is not part of Impacting Work or Restoration Work, the Owner shall promptly cause the same to be repaired, restored, and if necessary, replaced, to achieve a condition that is equivalent to or better than its condition prior to such damage or destruction and that is compliant with all applicable laws and building codes.

- b. Owner Obligation to Address Damage to Other Areas. If failure of, damage to or destruction of all or any portion of the Owner's Unit causes damage to or destruction of all or any portion of the Common Area, the Owner is obligated to repair and restore, within a reasonable time, the Common Area to the condition it was in prior to the damage or destruction. Prior to commencing such repair and restoration work, the Owner must obtain approval of the work and the Owner's workmen from the Board, which approval shall not be unreasonably withheld. If failure of, damage to or destruction of all or any portion of the Owner's Unit causes damage to or destruction of all or any portion of another Unit, the Owner who caused or whose Unit caused the damage or destruction is obligated to restore, within a reasonable time, the other Unit to the condition it was in prior to the damage or destruction, and shall do so under the process set forth for "Restoration Work" in Section 6.6 below.

#### **6.6 ENTRY BY OTHER OWNERS IN CONNECTION WITH IMPROVEMENTS**

- a. Right of Entry. When, as determined by the Board in its discretion, there is no reasonable alternative way to access the Common Areas and Facilities in which a Unit's mechanical, electrical, gas or plumbing systems are located or to which a Unit's systems are connected, an Owner of a Unit adjacent to the Unit being improved ("Adjacent Owner") shall permit the Owner making Improvements ("Improvements Owner") or the Owner's authorized representatives, pursuant to the written plan referenced below, to enter the Adjacent Owner's Unit for the purpose of maintaining, repairing, restoring, replacing or renovating the mechanical, electrical, gas or plumbing systems that service the Improvements Owner's Unit (the "Impacting Work"). The Improvements Owner's right of entry carries with it the obligation to restore, within a reasonable time, the Adjacent Owner's Unit to the condition it was in prior to the Improvement Owner's entry (the "Restoration Work").
- b. Development of a Plan. The Adjacent Owner and Improvements Owner shall work together to establish a written plan ("Plan") for entering into the Adjacent Owner's Unit to do the Impacting Work, for doing the Impacting Work, and for doing the Restoration Work. The Plan must be signed by both parties and contain, at a minimum, the items set forth in the Bylaws.
- c. ARC's Involvement in Plan and Disputes.
  - i. The completed and agreed upon Plan shall be submitted to the ARC and receive the ARC's approval, which shall not unreasonably be withheld, prior to commencement of the Impacting Work.
  - ii. In the event the Improvements Owner and Adjacent Owner are unable to reach agreement on the Plan after a reasonable time period (no less than two weeks), the Improvements Owner, with notice to the Adjacent Owner, may submit a draft Plan to the ARC for review and approval.
  - iii. The ARC will then review the draft Plan, consult with the Adjacent Owner, and finalize the Plan with the changes and modifications that the ARC deems necessary to protect each party's interests. The ARC will then provide a copy of the final Plan to both Owners, and that Plan shall govern the Impacting Work and the Restoration Work and be binding upon both Owners.
  - iv. The Improvements Owner and Adjacent Owner shall inform the ARC when the Impacting Work and the Restoration Work have been completed to both parties' satisfaction. If disputes arise during the Impacting Work and/or the Restoration Work,



the Owners shall negotiate in good faith to reach a satisfactory resolution. Should an impasse occur, the ARC shall determine what if any re-work shall be done and what, if any, fines for non-compliance shall be assessed.

- d. Right of Review. Either Owner dissatisfied with the ARC's Declaration Section 6.6.c.iii final Plan or Declaration Section 6.6.c.iv resolution may request the Board to review the ARC's determination. The Board's decision shall be final and binding upon the parties.

## **ARTICLE 7 INSURANCE**

**SUMMARY:** The purpose of ARTICLE 7 is to identify and describe the various insurance policies that the Association will purchase and keep in place to protect the Terrace Falls Property, the Owners, the Association and those individuals, such as members of the Board of Directors and Committees, who act in their official capacities as agents of the Association. Liability, property, earthquake, Directors and Officers, workers compensation and other insurances are all addressed. The Board has the obligation annually to notify Owners of salient details about the Association's insurance policies and, as needed, to notify Owners of insurance unavailability. Owners are advised to understand the Association's coverages and to consider buying additional insurance separately if they feel underinsured. All insurance claims, loss determinations and negotiations under Association insurance policies will be handled by the Board, as will the receipt and distribution of insurance proceeds. In the event of less-than-catastrophic damage to Property, the Board will repair and restore it, using insurance proceeds and assessing Owners for any shortfall. However, when seventy-five percent (75%) or more of the Property is damaged and insurance proceeds are unlikely to cover the cost of repair and restoration, the Owners shall vote on whether to repair and restore it.

### **7.1 BOARD'S AUTHORITY AND DUTIES RELATED TO INSURANCE**

The Board has the authority and the duty to do the following, all as further set forth in the Act, this Declaration and the Bylaws:

- a. purchase and keep current all types, specific coverages and coverage limits of insurance required to be maintained by the Association under the law, this Declaration and the Bylaws;
- b. purchase and keep current any additional types, additional specific coverages and increased coverage limits of insurance that the Board deems appropriate;
- c. review annually the types, specific coverages, coverage limits and deductibles of all Association insurance and adjust the same as necessary to comply with the obligations above;
- d. prepare and distribute in the same manner as notices, annually, to the Owners a written schedule of all of the Association's insurances reflecting salient details such as carrier, type of coverage, coverage amounts, deductibles, and the like, along with a reminder to Owners to evaluate their personal situations and consider whether to procure, at their own expense, supplemental insurance to meet their individual needs;
- e. seek, to the extent the Board deems appropriate, the advice of legal counsel with subject matter expertise;
- f. seek, when determining levels of coverage and deductibles, the advice and counsel of insurance consultants with subject matter expertise;
- g. work with insurance carriers and appraisers in connection with claim filing and loss determinations under Association insurance policies, as the spokesperson for all of the named insureds; and
- h. negotiate with insurance carriers in connection with claims under Association insurance policies, as the spokesperson for all named insureds.

## **7.2 PROPERTY INSURANCE**

Subject to Section 7.7.a below, the Association shall maintain blanket property insurance or guaranteed replacement cost insurance covering the entire Property (including Common Areas and Facilities and individual Units and all fixtures, improvements and betterments) against loss or damage. Such policy shall provide coverage against direct physical loss or damage by fire, water, backup sewer, wind storm, other hazards covered by the standard extended coverage blanket "all risk" endorsement, and such other risks as customarily are covered with respect to condominium properties similar to the Property in construction, location and use. The total amount of coverage of the Association's blanket property insurance or guaranteed replacement cost insurance may not be less than one hundred percent (100%) of the full replacement cost of the buildings on the Property at the time the insurance is purchased and at each renewal date, excluding items normally excluded from property insurance policies. The deductible shall be set by the Board, in its discretion, in an amount not less than one tenth of one percent (0.001%) of the policy's coverage amount. Monies equal to the amount of the policy deductible shall be set aside in the Reserve Fund and earmarked for that use. The Association and each Unit Owner shall be insured persons under the policy.

## **7.3 EARTHQUAKE INSURANCE**

Subject to Section 7.7.b below, the Association shall maintain current earthquake insurance coverage insuring the entire Property (including Common Areas and Facilities and individual Units and all fixtures, improvements and betterments) against risks of structural property damage arising out of or in connection with an earthquake. The Association and each Unit Owner shall be insured persons under the policy. The total amount of coverage of the Association's earthquake insurance may not be less than one hundred percent (100%) of the full replacement cost of the buildings on the Property at the time the insurance is purchased and at each renewal date, excluding items normally excluded from earthquake insurance policies. The deductible shall be set by the Board, in its discretion.

## **7.4 LIABILITY INSURANCE**

The Association shall maintain liability insurance, insuring the Association against liability for all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership or maintenance of the Common Areas and Facilities. Each Unit Owner shall be an insured person under the policy, but only for liability arising from (a) the Unit Owner's ownership interest in the Common Areas and Facilities, (b) maintenance, repair or replacement of the Common Areas and Facilities, and (c) the Unit Owner's membership in the Association. The total amount of coverage of the Association's liability insurance and the deductible shall be set by the Board.

## **7.5 DIRECTORS AND OFFICERS INSURANCE**

The Association shall maintain broad-form Directors' and Officers' (D&O) liability insurance defending and protecting the Board and its Members, the Officers, Assistant Officers, Board-appointed Committees and their Committee Chairs, Members and Volunteers and the Association against all D&O risks and claims commonly insured against in the condominium association setting, including without limitation, claims for breach of fiduciary duty, breach of contract, discrimination, employment practices liability, wrongful foreclosure, harassment, negligence, misuse of funds, whether the relief demanded or imposed is monetary and/or non-monetary in nature, and including coverage for insurable damages. The coverage and deductible amounts shall be set by the Board, in its discretion.

## **7.6 WORKERS COMPENSATION INSURANCE**

The Association shall maintain Workers Compensation insurance covering all employees as required by law.

## **7.7 NOTICE OF UNAVAILABILITY OF INSURANCE**

- a. Insurance and Liability Insurance. If the Board becomes aware that the property insurance and/or the liability insurance identified above in Sections 7.2 and 7.4 are/is not “reasonably available” (which means, under the Act, available using typical insurance carriers and markets, *irrespective of the Association’s ability to pay*) the Board shall, within seven calendar days after becoming aware, give all Unit Owners notice of the unavailability, and promptly call an Owners Meeting to address the situation, as set forth in further detail in the Bylaws.
- b. Earthquake Insurance. If the Board becomes aware that the earthquake insurance identified above in Section 7.3 is not “reasonably available” as defined in Section 7.7.a above, or if the Board believes this coverage is “reasonably available” but is cost-prohibitive, the Board shall, within seven calendar days after becoming aware, give all Unit Owners notice of the unavailability or cost-prohibitive nature of the insurance, and promptly call an Owners Meeting to address the situation, as set forth in further detail in the Bylaws.

## **7.8 OWNER OBLIGATIONS REGARDING INSURANCE**

Although Unit Owners are listed as insured persons under the Association's various insurance policies, these policies do not fully cover all risks to which Unit Owners are exposed. Moreover, depending on the nature and extent of a loss covered under an Association policy, the Unit Owner may be responsible to pay some or all of the deductible on that policy. Thus, each Unit Owner should review and understand the Association's insurance coverages and deductibles, should assess whether the Association's insurance is adequate to meet that Unit Owner's individual needs, and should consider procuring at that Unit Owner's own expense, any additional insurance that the Unit Owner feels is necessary. In the event of a loss covered by both the Unit Owner's property insurance policy and the Association's property insurance policy, applicable law will determine whether the Association policy or the Unit Owner's policy will provide primary coverage and who will pay what portion of the Association policy deductible.

## **7.9 WAIVER BY OWNERS**

As to each Association insurance policy which will not be voided or impaired thereby, the Owners hereby waive and release all claims against the Board and its Members, the Officers, Assistant Officers, Board-appointed Committees and their Committee Chairs, Members and Volunteers, and the Association and the delegates and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said persons.

## **7.10 INSURANCE PREMIUMS AND DEDUCTIBLES**

Insurance premiums for any coverage obtained by the Association shall be an Operating Expense to be included in the Dues levied by the Association. The Association shall separately designate and include in its Reserves, funds sufficient to cover the deductible for a claim under the Association's property insurance policy.

## **7.11 INSURANCE ADJUSTMENTS AND PROCEEDS GENERALLY**

- a. Adjustments. Any loss covered by insurance maintained by the Association shall be adjusted with the Association and not separately with individual Owners. The Association, acting through the Board and/or its authorized designee, is hereby granted the exclusive authority to file claims and negotiate loss settlements, on behalf of all named insureds, with the Association's insurance carriers. In connection therewith, the Association shall engage qualified legal counsel and other appropriate subject matter experts, as needed, and may confer with other Owners, as appropriate.
- b. Property Insurance Proceeds. The Association shall hold all property insurance proceeds in trust for the Association and Unit Owners. If damaged property is to be repaired or restored, insurance proceeds shall be disbursed first for the repair and/or restoration of the property for which the insurance was carried. After such disbursements are made and the damaged property has been completely repaired or restored or the project has been terminated, or, if applicable, after the

Ownership interest has voted pursuant to Section 7.12.c below and applicable laws not to repair or restore the damaged property, any surplus proceeds shall be distributed to Owners in proportion to their Fractional Undivided Ownership Interests.

**7.12 REPAIR, RECONSTRUCTION AND USE OF INSURANCE PROCEEDS IN THE EVENT OF DESTRUCTION OF OR DAMAGE TO THE BUILDING**

- a. Determinations. In the event of destruction of or damage to part or all of the building, the Board, with appropriate advice and counsel as set forth above in Sections 7.1.e and f, promptly shall: (1) determine what percentage of the building has been destroyed or substantially damaged; (2) determine the likely costs of repair and restoration to the building; and (3) determine whether the proceeds of Association insurance likely are sufficient to repair or reconstruct the destroyed or substantially damaged building.
- b. Duty To Repair And Restore When Insurance Proceeds Are Anticipated To Be Sufficient. If, in the Board's opinion after making the determinations in Section 7.12.a above, it is likely that the proceeds of the Association's insurance will be sufficient to repair or reconstruct the destroyed or substantially damaged building, such repair or reconstruction shall be carried out under the direction of the Board. If the cost of such repair or reconstruction work is, in actuality, not fully covered by the proceeds of the Association's insurance, the Board may, among other options, levy Insurance Shortfall Assessments as it deems necessary or appropriate.
- c. Duty To Repair, Restore And Assess Owners When Destruction Is Not Total And Insurance Proceeds Are Anticipated To Be Insufficient. If, in the Board's opinion after making the determinations in Section 7.12.a above, less than seventy-five percent (75%) of the building is destroyed or substantially damaged and it is likely that proceeds of the Association's insurance will be insufficient to repair or reconstruct the destroyed or substantially damaged building, repair or restoration nonetheless will be carried out under the direction of the Board, with Insurance Shortfall Assessments levied as the Board deems necessary or appropriate.
- d. Owners Vote on Repair and Restoration. If, in the Board's opinion after making the determinations in Section 7.12.a above, seventy-five percent (75%) or more of the building is destroyed or substantially damaged and it is likely that proceeds of the Association's insurance will be insufficient to repair or reconstruct the destroyed or substantially damaged building, the Board shall call a Special Owners Meeting to discuss whether repair or restoration should be carried out. Thereafter, the Board shall call and conduct an Owners Vote. Repair or restoration shall not be carried out unless at least seventy-five percent (75%) of the Association's Voting Shares are in favor of it.
- e. Action Following Owners Vote. If pursuant to Section 7.12.d above, at least seventy-five percent (75%) of the Association's Voting Shares are in favor of repair or restoration, the Board shall see that repair or restoration is carried out under the direction of the Board, utilizing insurance proceeds and Reserve Fund monies, loans and/or Insurance Shortfall Assessments as the Board deems necessary or appropriate. If pursuant to Section 7.12.d above, less than seventy-five percent (75%) of the Association's Voting Shares are in favor of repair or restoration, the Board shall promptly record with the Salt Lake County Recorder such notice as is required by law, whereupon the rights of all parties having an interest in the Property shall be governed by Utah Code Section 57-8-31, or other law as applicable.

**ARTICLE 8  
EMINENT DOMAIN**

**SUMMARY:** The purpose of ARTICLE 8 is to acknowledge the possibility, however unlikely, of a legal proceeding brought by the government to force the sale to the government of part or all of the Terrace Falls Property, to provide a reference to the law governing that situation, and to provide a process through which the Association shall address the situation, should it occur.

In the event that an eminent domain proceeding is commenced against the Property or any portion thereof, the provisions of Utah Code Section 57-8-32.5, as amended from time to time, shall apply. The Board of Directors promptly shall give written notice of such proceeding to all Owners of record and promptly shall call an Owners' Meeting to further discuss the situation and the development of appropriate responses on behalf of the Association and those Owners, if any, whose Units are individually impacted, as set forth further in the Bylaws.

## **ARTICLE 9 GENERAL PROVISIONS**

**SUMMARY:** The purpose of ARTICLE 9 is to address the variety of topics relevant to interpretation of this Declaration and the rights and obligations created by it.

### **9.1 INTENT OF DECLARATION**

This Declaration is made with the intent to establish a general scheme for the use, occupancy, preservation and enjoyment of the Property and each and every Unit and portion thereof.

### **9.2 ENFORCEMENT**

The Association shall have the right to enforce by proceedings at law or in equity, all provisions of this Declaration, the Bylaws, the Association Rules and Regulations, and any amendments thereto, including, without limitation, the right to prevent the violation of any such provisions, the right to recover damages for any such violations, the right to enforce liens, and any other remedy provided by law or in equity. Failure to enforce any provision contained in this Declaration, the Bylaws or Association Rules and Regulations, in any certain instance or on any particular occasion, shall not be deemed a waiver of such right on any such future breach of the same provision.

### **9.3 SEVERABILITY**

Notwithstanding invalidation of any one or more of the provisions in this Declaration by judgment or court order, all other provisions hereof shall remain in full force and effect.

### **9.4 TERM**

This Declaration shall be effective for a term of 20 years from the date this Declaration is recorded; after which time it shall be automatically extended for successive periods of ten years.

### **9.5 DOCUMENT CONSTRUCTION**

The provisions of this Declaration shall be liberally construed to effectuate its purpose of facilitating cooperative and considerate ownership and cohabitation in the Terrace Falls shared community by creating a uniform plan for the maintenance and improvement of residential units on the Property and for the maintenance, improvement and management of the Common Areas and Facilities. The Article and Section headings, as well as the Summary paragraphs that appear at the outset of each Article, have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. Whenever the context of this Declaration requires, the singular shall include the plural, the plural shall include the singular, and the masculine and feminine shall include the other, the neuter and any other gender designation.

### **9.6 NUISANCE**

The result of every act or omission, whereby any provision in this Declaration, the Bylaws or the Association Rules and Regulations is violated in whole or in part, is hereby declared to be and constitutes

a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result, and may be exercised by the Association.

#### **9.7 NOTICES**

Each Owner shall inform the Board, in writing, of the Owner's email (if any), fax (if any) and mailing addresses for purposes of notice, and promptly shall notify the Board, in writing, of any changes to those addresses. He or she or they shall also inform the Board as to the Owner's Resident or non-Resident status. Any notice to be given to an Owner under the provisions of this Declaration and/or the Bylaws shall be in writing and shall be deemed to have been properly delivered when delivered by any of the following methods: (1) personally by hand to the Owner; (2) in the case of a Resident Owner, personally by hand to an Occupant of the Owner's Unit or placed under the Owner's Unit door; or (3) sent by fax, email, or first class United States mail, postage prepaid, to the most recent such address furnished by such Owner in writing to the Association for the purpose of giving notice. A Resident Owner whose Unit will be unoccupied for more than a few days may inform the Board of that fact and designate the Owner's preferred notice delivery method for use during the Owner's absence. Any notice placed under the Unit door, or sent by fax or email shall be deemed delivered the earlier of twenty-four (24) hours after being placed or sent or upon confirmed receipt. Any notice deposited in the mail shall be deemed delivered the earlier of forty-eight (48) hours after such deposit or upon confirmed receipt. In the case of co-Owners, proper delivery to any one of the co-Owners shall be deemed proper delivery to all such co-Owners.

#### **9.8 WARRANTIES AND REPRESENTATIONS.**

The Association makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration and/or the Bylaws, or as to the compliance of any of these provisions with public laws, ordinances and regulations applicable thereto.

#### **9.9 PERSONAL COVENANT**

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

#### **9.10 NON-LIABILITY**

To the fullest extent permitted by law, the Board, Board Members, Officers, Assistant Officers, Board-appointed Committees and their Chairs and Members and Volunteers, and Association employees, shall not be liable to any Owner or to the Association for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, omission, error, negligence or the like (but excepting gross negligence, recklessness or intentional malfeasance) made in good faith within what the Board or such individual reasonably believed to be the scope of his or her or their duties.

#### **9.11 REMEDIES CUMULATIVE**

Each remedy provided by this Declaration is cumulative and non-exclusive.

### **ARTICLE 10 REPEAL OR AMENDMENT**

**SUMMARY:** The purpose of ARTICLE 10 is to state the manner in which the Declaration may be repealed or amended.

### **10.1 MANNER OF REPEAL OR AMENDMENT**

This Declaration may be repealed or amended by the affirmative vote of at least fifty-one percent (51%) of the Association's Voting Shares, cast in a properly called and conducted Owners Vote. The fact of any such repeal or amendment shall be reflected in a written instrument signed by three Officers and filed, along with a copy of any pertinent amendment, with the Salt Lake County Recorder. The repeal or amendment shall be effective upon recordation.

### **10.2 REPEAL OR AMENDMENT PROCESS**

- a. Board-led Repeal or Amendment. The Board of Directors, whether acting on its own or acting pursuant to a suggestion from an Owner or Resident, may propose the repeal or amendment of the Declaration. If the Board believes that the Association will or may benefit from such a repeal or amendment, the Board shall call a Special Owners Meeting at which the proposed repeal or amendment shall be discussed. Thereafter, the Board shall call an Owners Vote.
- b. Owner-led Repeal or Amendment. A group of Owners may compel the Board to call a Special Owners Meeting to discuss a proposed repeal or amendment to the Declaration by submitting to the Board a written petition, signed by the Owners of at least twenty-seven (27) different Units, that describes in detail the repeal or amendment sought, as long as the repeal or amendment sought, or one materially similar to it, has not been the topic of a Special Owners Meeting in the prior twelve (12) months. After the Special Owners Meeting is held, the Board shall call an Owners Vote on the proposed repeal or amendment raised by the petition.

**EXHIBIT A  
LEGAL DESCRIPTION**

**Terrace Falls Condominiums**

Beginning at the southwest corner of Lot 2, Block 43, Plat "D", Salt Lake City Survey, and running thence south 89° 26' 45" east 221.00 feet along the south line of said Block 43; thence north 00° 02' 00" east 82.50 feet; thence north 89° 26' 45" west 56.00 feet to the east line of said Lot 2; thence north 00° 02' 00" east 247.50 feet to the northeast corner of Lot 3, said Block 43; thence north 89° 26' 45" west 165.00 feet to the northwest corner of said Lot 3; thence south 00° 02' 00" west 165.00 feet to the southwest corner of said Lot 3; thence north 89° 26' 45" west 165.00 feet to the northwest corner of Lot 1, Block 4, Plat "I", Salt Lake City Survey; thence south 00° 02' 00" west 165.00 feet to the southwest corner of said Lot 1; thence south 89° 26' 45" east 165.00 feet to the point of beginning.

Contains: 1.981 Acres



**EXHIBIT B**

**TERRACE FALLS CONDOMINIUM OWNERS' ASSOCIATION  
FRACTIONAL UNDIVIDED OWNERSHIP INTERESTS  
IN COMMON AREAS AND FACILITIES  
("FUOI") (BASED UPON "PAR VALUES")  
(As of November 1, 2022)**

UNIT	VOTING SHARES	LIVING AREA (SQ. FT.)	BALCONY, DECKS, PATIOS (SQ. FT.)	TOTAL SQUARE FEET	FUOI (WEIGHTED 90% FOR SPACE AND 10% FOR LOCATION AS SET IN 1985)
101	103	1,830.00	171.00	2,001.00	0.010273
102	126	2,080.00	372.00	2,452.00	0.012589
103	113	2,005.00	190.50	2,195.50	0.011271
104	130	2,140.00	391.50	2,531.50	0.012996
201	97	1,800.00	85.50	1,885.50	0.009680
202	115	2,145.00	85.50	2,230.50	0.011451
203	108	2,005.00	93.00	2,098.00	0.010771
204	115	2,140.00	93.00	2,233.00	0.011464
205	103	1,920.00	93.00	2,013.00	0.010335
206	108	2,020.00	93.00	2,113.00	0.010848
301	101	1,800.00	85.50	1,885.50	0.010143
302	119	2,145.00	85.50	2,230.50	0.011914
303	112	2,005.00	93.00	2,098.00	0.011234
304	119	2,140.00	93.00	2,233.00	0.011927
305	112	2,005.00	93.00	2,098.00	0.011234
306	113	2,020.00	93.00	2,113.00	0.011311
307	113	2,000.00	111.00	2,111.00	0.011300
308	114	2,040.00	97.50	2,137.50	0.011437
309	124	2,235.00	95.00	2,330.00	0.012425
310	141	2,440.00	210.00	2,650.00	0.014067
401	107	1,800.00	85.50	1,885.50	0.010606
402	124	2,145.00	85.50	2,230.50	0.012377
403	117	2,005.00	93.00	2,098.00	0.011697
404	124	2,140.00	93.00	2,233.00	0.012390
405	117	2,005.00	93.00	2,098.00	0.011697
406	118	2,020.00	93.00	2,113.00	0.011774
407	132	2,290.00	96.00	2,386.00	0.013175
408	103	1,730.00	88.50	1,818.50	0.010262
409	121	2,005.00	172.50	2,177.50	0.012105

UNIT	VOTING SHARES	LIVING AREA (SQ. FT.)	BALCONY, DECKS, PATIOS (SQ. FT.)	TOTAL SQUARE FEET	FUOI (WEIGHTED 90% FOR SPACE AND 10% FOR LOCATION)
410	121	2,080.00	87.00	2,167.00	0.012051
411	119	1,865.00	274.00	2,139.00	0.011908
412	89	1,465.00	84.00	1,549.00	0.008879
413	145	2,440.00	210.00	2,650.00	0.014530
501	111	1,800.00	85.50	1,885.50	0.011069
502	128	2,145.00	85.50	2,230.50	0.012840
503	122	2,005.00	93.00	2,098.00	0.012160
504	129	2,140.00	93.00	2,233.00	0.012853
505	122	2,005.00	93.00	2,098.00	0.012160
506	122	2,020.00	93.00	2,113.00	0.012237
507	136	2,290.00	96.00	2,386.00	0.013638
508	107	1,730.00	88.50	1,818.50	0.010725
509	116	1,865.00	126.00	1,991.00	0.011610
510	125	2,080.00	87.00	2,167.00	0.012514
511	109	1,775.00	72.00	1,847.00	0.010871
512	112	1,840.00	75.00	1,915.00	0.011220
513	129	2,000.00	248.00	2,248.00	0.012930
514	142	2,100.00	389.50	2,489.50	0.014170
515	137	2,310.00	89.00	2,399.00	0.013705
601	107	1,385.00	335.00	1720.00	0.010682
602	127	1,720.00	397.00	2117.00	0.012721
603	126	2,005.00	93.00	2,098.00	0.012623
604	133	2,140.00	93.00	2,233.00	0.013316
605	126	2,005.00	93.00	2,098.00	0.012623
606	127	2,020.00	93.00	2,113.00	0.012700
607	141	2,290.00	96.00	2,386.00	0.014101
608	112	1,730.00	88.50	1,818.50	0.011188
609	156	2,435.00	236.00	2,671.00	0.015565
610	130	2080.00	87.00	2,167.00	0.012977
611	153	2,455.00	120.00	2,575.00	0.015323
612	117	1,840.00	75.00	1,915.00	0.011683
613	114	1,675.00	188.00	1,863.00	0.011417
614	130	2,100.00	78.00	2,178.00	0.013034
615	142	2,310.00	89.00	2,399.00	0.014168
701	138	1,985.00	253.00	2,238.00	0.013805
702	150	2,180.00	284.50	2,464.50	0.014967
703	134	2,080.00	87.00	2,167.00	0.013440
704	121	1,840.00	75.00	1,915.00	0.012146
705	135	2,100.00	78.00	2,178.00	0.013497
706	132	2,115.00	192.00	2,307.00	0.013233
707	106	1705.00	93.00	1,798.00	0.010619
708	130	2,060.00	198.00	2,258.00	0.012982
709	139	2,230.00	198.00	2,428.00	0.013854

UNIT	VOTING SHARES	LIVING AREA (SQ. FT.)	BALCONY, DECKS, PATIOS (SQ. FT.)	TOTAL SQUARE FEET	FUOI (WEIGHTED 90% FOR SPACE AND 10% FOR LOCATION)
710	114	1,820.00	122.00	1,942.00	0.011359
711	159	1,995.00	654.00	2,649.00	0.015914
712	134	2,145.00	198.00	2,343.00	0.013417
713	184	2,845.00	285.00	3,130.00	0.018384
714	145	2,180.00	200.00	2,380.00	0.014533
715	146	2,310.00	89.00	2,399.00	0.014631
801	142	1,945.00	305.00	2,250.00	0.014229
802	180	2,915.00	88.50	3,003.50	0.018046

**EXHIBIT C**  
**CERTIFICATE OF APPROVAL**  
**OF AMENDED AND RESTATED DECLARATION**  
**OF TERRACE FALLS CONDOMINIUM OWNERS' ASSOCIATION**

The undersigned, being duly authorized Officers of the Terrace Falls Condominium Owners' Association, being duly sworn, certify as follows:

1. Attached to this Certification is the AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF TERRACE FALLS CONDOMINIUM OWNERS' ASSOCIATION, a Condominium Development situated in Salt Lake City, Salt Lake County, State of Utah (hereinafter "Amended and Restated Declaration").
2. The Prior Declaration and its other previously recorded amendment(s), composites and restatements were properly amended by the affirmative vote of a majority of the Voting Shares comprising the Association's membership.
3. The Association authorized the recording of the Amended and Restated Declaration with this Certificate.

Dated: February 23, 2023

Terrace Falls Condominium Owners' Association

By: Jonathan Boxer President  
Officer Name, Title

By: DeAnna DeBry, 1st vice president  
Officer Name, Title

By: Lark Gallery, 2nd vice president  
Officer Name, Title

By: Kandace Steadman, Secretary  
Officer Name, Title

By: Norman Waitzman, Treasurer  
Officer Name, Title

STATE OF UTAH                     )  
  ) ss  
COUNTY OF SALT LAKE        )

On the 23 day of February, 2023, personally appeared before me Jonathan Boxer, Kandace Steadman, DeAnna DeBry, Norman Waitzman, and Lark Gallery each of whom being by me duly sworn did say, for himself or herself or themselves, that he or she or they is a duly appointed officer of the Association, and that the foregoing instrument was duly approved in writing by the affirmative vote of more than 50% of the Association's Voting Shares.

Alysha Lucas  
NOTARY PUBLIC

