

DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS

2412081

THE LODGE AT SNOWBIRD

This Declaration of Covenants, Conditions, and Restrictions, hereinafter called "Declaration", is made and executed in Salt Lake County, State of Utah, this 27 day of September, 1971, by Snowbird, Ltd., a Utah limited partnership, hereinafter called "Declarant," pursuant to the provisions of the Utah Condominium Ownership Act,

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in Little Cottonwood Canyon at Snowbird Resort, Salt Lake County, State of Utah, and more particularly described as follows:

Beginning at a point South 80°30' West 194.28 feet from an aluminum capped rebar marked "Aria C-2, Hecla C-3, Mascot C-2", said point being a common corner to Hecla & Mascot Claims, No. 5152 and Anna Claim, No. 5913; said cap being approximately 1120 feet West and 4590 feet South of the South 1/4 corner of Section 31, T. 2 S., R. 3 E., SL&M and located in the unsurveyed land in T. 3 S., R. 2 & 3 E., SL&M; running thence N. 22°15' W. 19.7 feet; thence N. 81°17' W. 199.25 feet; thence N. 67°15' W. 37.0 feet; thence N. 22°45' E. 68.2 feet; thence S. 67°15' E. 37.0 feet; thence S. 81°17' E. 134.0 feet; thence N. 67°45' E. 28.4 feet; thence N. 22°45' E. 78.5 feet; thence S. 67°15' E. 77.5 feet; thence N. 22°45' E. 95.8 feet; thence S. 67°15' E. 71.5 feet; thence S. 22°45' W. 41.0 feet; thence S. 36°47' W. 175.7 feet; thence S. 67°45' W. 69.6 feet to the point of beginning. Containing 0.846 acres.

Subject to an easement along the boundary lines of said parcel extending from the said boundary lines to the face of the existing building, in favor of Snowbird, Ltd., its successors or assigns, for purposes of connecting the proposed central plaza structure to the "Lodge at Snowbird", together with appurtenant utilities, means of access and related structures.

and

WHEREAS, Declarant is the owner of a certain condominium apartment lodge building and certain other improvements heretofore constructed or hereafter to be constructed upon the aforesaid premises, which property constitutes a "Condominium Project" under the terms of the provisions of the Utah Condominium Ownership Act, (Title 57, Chapter 6, Utah Code Annotated 1953), and it is the desire and the intention of the Declarant to divide the project into condominiums and to sell and convey the same to the various purchasers, subject to the covenants, conditions, and restrictions herein reserved to be kept and observed; and

WHEREAS, on the 24 day of September, 1971, Declarant filed for record in the office of the County Recorder of Salt Lake County, State of Utah, a certain instrument entitled "Record of Survey Map of The Lodge at Snowbird", hereinafter referred to as "Map", which Map is filed of record herewith; and

WHEREAS, Declarant desires and intends by filing this Declaration and the aforesaid Map to submit the above-described property and the condominium apartment lodge building and other improvements constructed thereon, together with all appurtenances thereto, to the provisions of the aforesaid act as a condominium project and to impose upon said property mutually beneficial restrictions under a general plan of improvement for the benefit of all of said condominiums and the owners thereof,

NOW, THEREFORE, the Declarant does hereby publish and declare that all of the property described above is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the following covenants, conditions, restrictions, uses, limitations and obligations, all of which are declared and agreed to be in furtherance of a plan for the improvement of said property and the division thereof into condominiums, and shall be deemed to run with the land and shall be a burden and a benefit to Declarant, its successors and assigns and any person acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees and assigns.

1. Definitions. Certain terms as used in this Declaration shall be defined as follows, unless the context clearly indicates a different meaning therefor:

- (a) "Declarant" shall mean Snowbird, Ltd., a Utah limited partnership, which has made and executed this Declaration;
- (b) "Declaration" shall mean this instrument by which The Lodge at Snowbird Condominium Project is established as provided for under the Utah Condominium Ownership Act;
- (c) "Project" shall mean the entire parcel of real property referred to in this Declaration to be divided into condominiums, including all structures thereon;
- (d) "Map" shall mean the Record of Survey Map of The Lodge at Snowbird filed for record herewith by Declarant;
- (e) "Unit" shall mean the elements of a condominium which are not owned in common with the Owners of other condominiums in the project as shown on the Map. The boundary lines of each Unit are the interior surfaces of its perimeter walls, bearing walls, floors, ceilings, windows and window frames, doors and door frames, and trim, and includes both the portions of the building so described and the space so encompassed;
- (f) "Common Area" shall mean all land and all portions of the property not located within any Unit; and also includes, but not by way of limitation, roofs, foundations, pipes, ducts, flues, chutes, conduits, wires and other utility installations to the outlets, bearing walls, perimeter walls, columns and girders, to the interior surfaces thereof, regardless of location, elevator, stairways, hallways, foyers, lobbies, walkways, gardens, balconies, patios, garage, storage areas, recreational areas and facilities, club room and recreation room, offices, all installations of power, lights, gas, hot and cold water and heating existing for common use and all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use;

Recorded SEP 28 1971 at 2:31 P.M.  
Request of Robert G. Pruitt Jr.  
Fee Paid JERADEAN MARTIN  
Recorder, Salt Lake County, Utah  
By W. G. [Signature] Deputy  
Ref 900 ET PASO NATURAL GAS BLDG

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(g) "Condominium" shall mean the entire estate in the real property owned by any Owner, consisting of an undivided interest in the Common Area and ownership of a separate interest in a Unit;

(h) "Owner" shall mean any person with an ownership interest in a condominium in the project;

(i) "Management Committee" shall mean the governing body of the Project, elected pursuant to Paragraph 5 hereof;

(j) "Manager" shall mean the person or firm designated by the Management Committee to manage the affairs of the Project; initial Manager shall be Condotel, see below;

(k) "Mortgage" shall mean a deed of trust as well as a mortgage;

(l) "Mortgagee" shall mean a beneficiary under or holder of a deed of trust as well as a mortgagee;

(m) "Record" means to file of record with the office of the County Recorder of Salt Lake County, State of Utah;

(n) "Condominium Act" shall mean the Utah Condominium Ownership Act (Title 57, Chapter 8, Utah Code Annotated 1953);

(o) "Condotel" shall mean Condotel Management Corporation or its successor organization, a qualified professional management firm sometimes also referred to herein as Manager.

2. **Voting.** At any meeting of the Owners, each Owner, including Declarant, shall be entitled to cast a number of votes as shown on Exhibit A, attached hereto and incorporated herein by reference thereto. Any Owner may attend and vote at such meeting in person, or by an agent duly appointed by an instrument in writing signed by the Owner and filed with the Management Committee or the Manager. Any designation of an agent to act for an Owner may be revoked at any time by written notice to the Management Committee or Manager, and shall be deemed revoked when the Management Committee or the Manager shall receive actual notice of the death or judicially declared incompetence of such Owner or of the conveyance by such Owner of his condominium. Where there is more than one record Owner, any or all of such persons may attend any meeting of the Owners, but it shall be necessary for those present to act unanimously in order to cast the votes to which they are entitled. Any designation of an agent to act for such persons must be signed by all such persons. Declarant shall be entitled to vote with respect to any condominium owned by Declarant.

In the event that a notice of default is recorded by any mortgagee who holds a mortgage which is a first lien on a condominium against the Owner of the condominium covered by the mortgage, then and in that event and until the default is cured, the right of the Owner of such condominium to vote shall be transferred to the mortgagee recording the notice of default.

3. **Meetings.** The presence at any meeting of Owners having a majority of the total votes shall constitute a quorum. In the event that a quorum is not present at any meeting, the Owners present, though less than a quorum, may adjourn the meeting to a later date and give notice thereof to all the Owners in accordance with the provisions of Paragraph 4 hereof, and at that meeting the presence of Owners holding in excess of thirty per cent of the total votes shall constitute a quorum for the transaction of business; but in the event a quorum is not present at that meeting, the Owners present, though less than a quorum, may give notice to all the Owners in accordance with Paragraph 4 of an adjourned meeting, and, at that meeting, whatever Owners are present shall constitute a quorum. Unless otherwise expressly provided in this Declaration, any action may be taken at any meeting of the Owners upon the affirmative vote of a majority of the voting power of the Owners present and voting provided that a quorum is present as provided for above.

(a) **Annual Meeting.** There shall be a meeting of the Owners on the Second Friday of February, of each year at 8:00 P.M. upon the Common Area or at such other reasonable place or time (not more than sixty (60) days before or after such date) as may be designated by written notice of the Management Committee delivered to the Owners not less than ten (10) days prior to the date fixed for said meeting. At the annual meeting, the Management Committee shall present an audit of the common expenses, itemizing receipts and disbursements for the preceding calendar year, the allocation thereof to each Owner, and the estimated common expenses for the current calendar year. Within ten (10) days after the annual meeting, said statement shall be delivered to the Owners not present at said meeting. A quorum shall constitute a simple majority of the total voting power among Owners, and action may be taken by a simple majority of the voting power present at the meeting, unless elsewhere provided.

(b) **Special Meetings.** Special meetings of the Owners may be called at any time for the purpose of considering matters which, by the terms of this Declaration require the approval of all or some of the Owners, or for any other reasonable purpose. Said meetings shall be called by written notice, signed by a majority of the Management Committee, or by the Owners having one-third (1/3) of the total votes and delivered not less than fifteen (15) days prior to the date fixed for said meeting. Said notices shall specify the date, time and place of the meeting, and the matters to be considered thereat.

4. **Notices.** Any notice permitted or required to be delivered as provided herein may be either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered twenty-four (24) hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed to each such person at the address given by such person to the Management Committee or Manager for the purpose of service of such notice or to the Unit of such person if no address has been given to the Manager. Such address may be changed from time to time by notice in writing to the Management Committee or the Manager.

5. **Membership, Election and Proceedings of the Management Committee.**

(a) **Membership.** The Management Committee shall consist of five members, three of whom shall be appointed by the Declarant and two of whom shall be elected by the Owners. Only Owners, or part-owners owning a Unit as co-tenant or joint tenant, shall be eligible to be elected by Owners. The Declarant shall have the option at any time after a date three years from the date of execution of this Declaration, to turn over to the Owners the responsibility of electing all of the members of the Management Committee.

(b) **Election.** On alternate annual meetings, the Owners shall elect two members of the Management Committee for the forthcoming years; provided, however, that the Owners' representatives on the first Management Committee elected hereunder may be elected at a special meeting duly called, said representatives to serve until the second annual meeting held thereafter. Every Owner entitled to vote at any election of members of the Management Committee may cumulate his votes and give one

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candidate a number of votes equal to the number of members of the Management Committee to be elected, multiplied by the number of votes to which such Owner is otherwise entitled, or distribute his votes on the same principle among as many candidates as he thinks fit. The candidates receiving the highest number of votes up to the number of members of the Management Committee to be elected shall be deemed elected.

(c) Term. Members of the Management Committee shall serve for a term of two (2) years. The members of the Management Committee shall serve until their respective successors are elected, or until their death, resignation or removal; provided that if any member ceases to be an Owner, his membership on the Management Committee shall thereupon terminate.

(d) Resignation and Removal. Any member may resign at any time by giving written notice to the Manager, and any member may be removed from membership on the Management Committee by two-thirds (2/3) vote of the Owners. In the event of removal or resignation of a member of the Management Committee, a majority of the remaining members shall appoint a successor to serve for the unexpired term of the removed or resigned member.

(e) Proceedings. Three (3) members of the Management Committee shall constitute a quorum and, if a quorum is present, the decision of a majority of those present shall be the act of the Management Committee. The Management Committee shall elect a chairman, who shall preside over both its meetings and those of the Owners. Meetings of the Management Committee may be called, held and conducted in accordance with such regulations as the Management Committee may adopt. The Management Committee may also act without a meeting by unanimous written consent of its members.

(f) Notice of Election. After the first election of the Management Committee Declarant shall execute, acknowledge and record an affidavit stating the names of all of the members of the Management Committee. Thereafter, any two persons who are designated of record as being members of the most recent Management Committee (regardless of whether or not they shall still be members) may execute, acknowledge and record an affidavit stating the names of all of the members of the then current Management Committee. The most recently recorded of such affidavits shall be prima facie evidence that the persons named therein are all of the incumbent members of the Management Committee and shall be conclusive evidence thereof in favor of all persons who rely thereon in good faith.

6. Authority of the Management Committee. The Management Committee, for the benefit of the condominiums and the Owners, shall enforce the provisions hereof and shall acquire and shall pay for out of the common expense fund hereinafter provided for, the following:

(a) Water, sewer, garbage collection, snow removal, electrical, telephone and gas and other necessary utility service for the Common Area (and to the extent not separately metered or charged, for the Units);

(b) A policy or policies of fire insurance as the same are more fully set forth in Paragraph 21 of this Declaration, with extended coverage endorsement, for the full insurable replacement value of the Units and Common Area, payable as provided in Paragraph 23, or such other fire and casualty insurance as the Management Committee shall determine gives substantially equal or greater protection to the Owners, and their mortgagees, as their respective interest may appear, which said policy or policies shall provide for a separate loss payable endorsement in favor of the mortgagee or mortgagees of each condominium if any;

(c) A policy or policies as the same are more fully set forth in Paragraph 21 of this Declaration insuring the Management Committee, the Owners and the Manager against any liability to the public or to the Owners (of Units and of the Common Area, and their invitees, or tenants), incident to the ownership and/or use of the project, and including the personal liability exposure of the Owners. Limits of liability under such insurance shall not be less than Three Hundred Thousand Dollars (\$300,000.00) for any one person injured, for any one accident, and shall not be less than One Hundred Thousand Dollars (\$100,000.00) for property damage each occurrence (such limits and coverage to be reviewed at least annually by the Management Committee and increased in its discretion). Said policy or policies shall be issued on a comprehensive liability basis and shall provide cross liability endorsement wherein the rights of named insured under the policy or policies shall not be prejudiced as respects his, her or their action against another named insured;

(d) Workmen's compensation insurance to the extent necessary to comply with any applicable laws;

(e) The services of a single professional management organization ("Manager") to manage and maintain the entire condominium known as The Lodge at Snowbird and to serve as the sole and exclusive agent of Owners for the purpose of renting and leasing of units in The Lodge at Snowbird. Initially the Manager shall be Condotel Management Corporation, and Condotel shall manage and maintain the condominium pursuant to a Management Agreement for an initial term of five (5) years or until a successor is designated. For those Owners desiring to rent or lease their respective units, Condotel shall act as sole and exclusive agent for said Owners pursuant to a Rental Pool Agreement for an initial term of five (5) years or until a successor is designated. A successor single professional management organization may be designated by the Management Committee if accepted by majority vote of Owners at a meeting called for such purpose within six (6) months after designation by the Management Committee. Formal designation of a successor Manager shall be effective on July 1 following acceptance of Owners unless the then Manager has earlier resigned, in which event the successor Manager may function immediately upon designation by the Management Committee, subject to Owner acceptance;

(f) Legal and accounting services necessary or proper in the operation of the Common Area or the enforcement of this Declaration;

(g) A fidelity bond naming the Manager, and such other persons as may be designated by the Management Committee as principals and the Owners as obligees, for the first year in an amount at least equal to fifty percent (50%) of the estimated cash requirement for that year as determined under Paragraph 9 hereof, and for each year thereafter in an amount at least equal to fifty percent (50%) of the total sum collected through the common expense fund during the preceding year;

(h) Painting, maintenance, repair and all landscaping of the Common Area, and such furnishings and equipment for the Common Area as the Management Committee shall determine are necessary and proper, and the Management Committee shall have the exclusive right and duty to acquire the same for the Common Area; provided, however, that the interior surfaces of each Unit shall be painted, maintained and repaired by the Owners thereof, all such maintenance to be at the sole cost and expense of the particular Owner;

(i) Any other materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the Management Committee is required to secure or pay for pursuant to the terms of this Declaration or by law or which in its opinion shall be necessary or proper for the operation of the Common Area or for the enforcement of this Declaration, provided that if any such materials, supplies, labor, services, maintenance, repairs, structural alterations

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insurance, taxes or assessments are provided for particular Units, the cost thereof shall be specially assessed to the Owners of such Units.

(j) Maintenance and repair of any Unit, if such maintenance or repair is reasonably necessary in the discretion of the Management Committee to protect the Common Area or preserve the appearance and value of the project, and the Owner or Owners of said Unit have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Management Committee to said Owner or Owners, provided that the Management Committee shall levy a special assessment against the condominium of such Owner or Owners for the cost of said maintenance or repair.

The Management Committee's power hereinabove enumerated shall be limited in that the Management Committee shall have no authority to acquire and pay for out of the common expense fund capital additions and improvements (other than for purposes of replacing portions of the Common Area, subject to all the provisions of this Declaration) having a cost in excess of Three Thousand Dollars (\$3,000.00) except as expressly provided herein.

7. Management Committee Powers. The Management Committee shall have the right, subject to any Management Agreement with Manager, to contract for all goods, services and insurance, payment for which is to be made from the common expense fund.

The Management Committee shall initially delegate all management relating to the renting and leasing of Owner's units and the Common Area to a single professional manager, Condotel Management Corporation, or until a successor single professional manager is selected as provided herein. Thereafter the Owners may for an initial term of five (5) years, or until a successor management is selected as provided herein. At the end of each succeeding five (5) year period, the Owners may by two-thirds (2/3) vote select a single professional manager to replace Condotel and perform the duties of a manager renting and leasing the Owners' units. If any manager should resign, the Management Committee may assume the duties of management for the remainder of the five (5) year term, or may appoint a single professional manager to complete the remainder of the five (5) year term and thereafter until a successor is selected by two-thirds (2/3) vote of the Owners.

8. Alterations, Additions and Improvements of Common Area. There shall be no structural alterations, capital addition to, or capital improvements of the Common Area requiring an expenditure in excess of Ten Thousand Dollars (\$10,000.00) without prior approval of Owners holding a majority of the total votes unless said capital improvements are paid for by the Manager and recouped out of gross proceeds from rentals and leases over a period of not less than two (2) years nor more than five (5) years.

9. Common Expenses: Assessments.

(a) Within thirty (30) days prior to the beginning of each fiscal year the Management Committee shall estimate the net charges to be paid during such year (including a reasonable provision for contingencies and replacements and less any expected income and any surplus from the prior year's fund). Said "estimated cash requirement" shall be assessed to the Owners pursuant to the percentages set forth in the schedule attached hereto and marked Exhibit A. Declarant will be liable for the amount of any assessment against completed Units owned by Declarant. If said sum estimated proves inadequate for any reason, including nonpayment of any Owner's assessment, the Management Committee may at any time levy a further assessment, which shall be assessed to the Owners in like proportions, unless otherwise provided herein. Each Owner shall be obligated to pay assessments made pursuant to this paragraph to the Management Committee in equal monthly installments on or before the first day of each month during such year, or in such other reasonable manner as the Management Committee shall designate.

(b) The rights, duties and functions of the Management Committee set forth in this paragraph shall be exercised by Declarant for the period ending thirty (30) days after the election of the first Management Committee hereunder;

(c) All funds collected hereunder shall be expended for the purposes designated herein.

(d) The omission by the Management Committee, before the expiration of any year, to fix the assessments hereunder for that or the next year, shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of the Owner from the obligation to pay the assessments, or any installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed. Amendments to this paragraph shall be effective only upon unanimous written consent of the Owners and their mortgagees. No Owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the Common Area or by abandonment of his Unit.

(e) The Manager or Management Committee shall keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the Common Area, specifying and itemizing the maintenance and repair expenses of the Common Area and any other expenses incurred. Records and vouchers authorizing the payments involved shall be available for examination by the Owner at convenient hours of week days.

10. Default in Payment of Assessments. Each monthly assessment and each special assessment shall be separate, distinct and personal debts and obligations of the Owner against whom the same are assessed at the time the assessment is made and shall be collectible as such. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same. The amount of any assessment, whether regular or special, assessed to the Owner of any condominium plus interest at ten percent (10%), and costs, including reasonable attorney's fees, shall become a lien upon such condominium upon recordation of a notice of assessment as provided in Section 57-9-20 of The Condominium Act. The said lien for nonpayment of common expenses shall have priority over all other liens and encumbrances, recorded or unrecorded, except only

(1) Tax and special assessment liens on the unit in favor of any assessment unit, and special district, and

(2) Encumbrances on the Owner's condominium recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

A certificate executed and acknowledged by a majority of the Management Committee stating the indebtedness secured by the lien upon any condominium created hereunder, shall be conclusive upon the Management Committee and the Owners as to the amount of such indebtedness on the date of the certificate, in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Owner or any encumbrancer or prospective encumbrancer of a condominium upon request at a reasonable fee not to exceed Twenty Five Dollars (\$25.00). Unless, the request for a certificate of indebtedness shall be complied with within ten (10) days, all unpaid common expenses which become due prior to the date of the making of such request shall be subordinate to the lien held by the person

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making the request. Any encumbrancer holding a lien on a condominium may pay any unpaid common expenses payable with respect to such condominium and upon such payment such encumbrance shall have a lien on such condominium for the amounts paid of the same rank as the lien of his encumbrance.

Upon payment of a delinquent assessment concerning which such a certificate has been so recorded, or other satisfaction thereof, the Management Committee shall cause to be recorded in the same manner as the certificate of indebtedness a further certificate stating the satisfaction and the release of the lien thereof. Such lien for nonpayment of assessment may be enforced by sale by the Management Committee or by a bank or trust company or title insurance company authorized by the Management Committee, such sale to be conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any manner permitted by law. In any foreclosure or sale, the Owner shall be required to pay the costs and expenses of such proceedings and reasonable attorney's fees.

In case of foreclosure, the Owner shall be required to pay a reasonable rental for the condominium and the plaintiff in the foreclosure action shall be entitled to the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The Management Committee or Manager shall have the power to bid in the condominium at foreclosure or other sale and to hold, lease, mortgage and convey the condominium.

11. Mortgage Protection. Notwithstanding all other provisions hereof;

(a) The liens created hereunder upon any condominium shall be subject and subordinate to, and shall not affect the rights of the holder of the indebtedness secured by any recorded first mortgage (meaning a mortgage with first priority over other mortgages) upon such interest made in good faith and for value, provided that after the foreclosure of any such mortgage there may be a lien created pursuant to Paragraph 10 hereof on the interest of the purchaser at such foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such purchaser as an Owner after the date of such foreclosure sale, which said lien, if any claimed, shall have the same effect and be enforced in the same manner as provided herein;

(b) No amendment to this paragraph shall affect the rights of the holder of any such mortgage recorded prior to recordation of such amendment who does not join in the execution thereof;

(c) By subordination agreement executed by a majority of the Management Committee, the benefits of (a) and (b) above may be extended to mortgages not otherwise entitled thereto.

12. Delegation to Manager. Management of The Lodge at Snowbird shall at all times be vested in a single professional management organization, herein called Manager, pursuant to a written Management Agreement such as entered into between Declarant and Condotel. Said Manager may be replaced at the end of the primary term of said Management Agreement or any extensions thereof as provided in Section 7 hereof. The Management Committee shall not be liable for any omission or improper exercise by Manager of any such duty, power or function so delegated. In the absence of any appointment of a Manager, or if a Manager should resign without a successor, the Management Committee, through its Chairman, shall act as Manager.

13. Exclusive Ownership and Possession by Owner. Each Owner shall be entitled to exclusive ownership and possession of his Unit. Each Owner shall be entitled to an undivided interest in the Common Area in the percentage expressed in Exhibit A of this Declaration. The percentage of the undivided interest of each Owner in the Common Area as expressed in Exhibit A shall have a permanent character and shall not be altered without the consent of all owners expressed in an amended declaration duly recorded. The percentage of the undivided interest in the Common Area shall not be separated from the Unit to which it appertains and shall be deemed to be conveyed or encumbered or released from liens with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. Each Owner may use the Common Area in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of the other Owners.

An Owner shall not be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, floors, ceilings, windows and doors bounding his Unit, nor shall the Owner be deemed to own the utilities running through his Unit which are utilized for, or serve more than one Unit, except as a tenant in common with the other Owners. An Owner, however, shall be deemed to own and shall have the right to paint, repaint, tile, wax, paper or otherwise refinish and decorate the inner surfaces of the walls, floors, ceilings, windows and doors bounding his Unit, but only acting through competent professional personnel approved by Manager.

14. Owner's Obligation to Repair. Except for those portions which the Management Committee is required to maintain and repair hereunder (if any), each Owner shall at the Owner's expense keep the interior of his Unit and its equipment and appurtenances in good order, condition and repair and in a clean and sanitary condition, and shall do all redecorating, painting and varnishing which may at any time be necessary to maintain the good appearance and condition in his Unit. In addition to decorating and keeping the interior of the Unit in good repair, the Owner shall be responsible for the maintenance, repair or replacement of any plumbing, fixtures, water heaters, heating equipment, lighting fixtures, refrigerators, dishwashers, disposals or ranges that may be in, or connected with the Unit.

The Owner shall also, at the Owner's own expense, keep the balcony and storage area which have been assigned to his Unit in a clean and sanitary condition. The Management Committee and Manager shall not be responsible to the Owner for loss or damage by theft or otherwise of articles which may be stored by the Owner in the balcony, storage area or Unit.

The Owner shall promptly discharge any lien which may hereafter be filed against his condominium and shall otherwise abide by the provisions of Section 57-8-19 of The Condominium Act.

15. Prohibition Against Structural Changes by Owner. The Owner shall not, without first obtaining written consent of the Management Committee, make or permit to be made any structural alteration, improvement or addition in or to his Unit or in or to the exterior of the buildings or other Common Area. The Owner shall do no act nor any work that will impair the structural soundness or integrity of the buildings or safety of the property or impair any easement or hereditament without the written consent of all owners. The Owner shall not paint or decorate any portion of the exterior of the buildings or other Common Area or any portion of any balcony, patio, or storage area, without first obtaining written consent of the Management Committee.

16. Limitation on Use of Units and Common Area. The Units and Common Area shall be occupied and used as follows:

(a) No Owner shall permit more than four (4) persons to occupy each designated modular Unit except by advance permission of Manager, nor shall any Owner permit use of his Unit(s) for purposes other than residence or lodging, it being expressly understood that renters, lessees or paying

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guests occupying such Unit(s) can do so only by authority of Manager and subject to the terms and conditions of the Rental Pool Agreement.

(b) There shall be no obstruction of the Common Area. Except in the case of designated storage areas, nothing shall be stored in the Common Area without the prior consent of the Management Committee. Garbage cans may be placed only in designated areas. Washing or clothing may not be hung on balconies or Common Areas. No fixed or permanent small appliances, and no major appliances may be installed in any unit or Common Area without advance permission by Manager. No outside or balcony television or radio antennas may be installed by Owners.

(c) Nothing shall be done or kept in any Unit or in the Common Area which will increase the rate of insurance on the Common Area or other Units, without the prior written consent of the Management Committee. No Owner shall permit anything to be done or kept in his Unit or in the Common Area which will result in the cancellation of insurance on any Unit or any part of the Common Area, or which would be in violation of any law. No waste will be committed in the Common Area.

(d) No sign or flag of any kind shall be displayed to the public view on or from any Unit or the Common Area, without the prior consent of the Manager.

(e) No animals, livestock or poultry of any kind shall be raised, bred, or kept in any Unit or in the Common Area.

(f) No noxious or offensive activity shall be carried on in any Unit or in the Common Area, nor shall anything be done therein which may be or become an annoyance or nuisance to the other Owners.

(g) Nothing shall be altered or constructed in or removed from the Common Area, except upon the written consent of the Management Committee.

(h) There shall be no violation of rules for the use of the Common Area adopted by the Management Committee and furnished in writing to the Owners, and the Management Committee is authorized to adapt such rules.

(i) None of the rights and obligations of the Owners created herein, or by the Deed creating the condominiums, shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful conduct of said Owner or Owners.

17. Entry for Repairs. The Manager, the Management Committee or its agents may enter any Unit when necessary in connection with any maintenance, landscaping or construction for which the Management Committee is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Management Committee out of the common expense fund.

18. Failure of Management Committee to Insist on Strict Performance; No Waiver. The failure of the Management Committee or Manager to insist in any one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or to exercise any right or option herein contained, or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment for the future, of such term, covenant, condition or restriction but such term, covenant, condition or restriction shall remain in full force and effect. The receipt by the Management Committee or Manager of any assessment from an Owner, with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by the Management Committee or Manager of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Management Committee or Manager.

19. Limitation of Management Committee's Liability. The Manager or the Management Committee shall not be liable for any failure of water supply or other service to be obtained and paid for by the Management Committee hereunder, or for injury or damage to person or property caused by the elements or by another Owner or person in the project, or resulting from electricity, water, rain, snow or ice which may leak or flow from outside or from any parts of the building, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other place unless caused by gross negligence of the Management Committee. No diminution or abatement of common expense assessments shall be claimed or allowed for inconveniences or discomfort arising from the making of repairs or improvements to the Common Area or from any action taken to comply with any law, ordinance or orders of a governmental authority.

20. Indemnification of Management Committee Members. Each member of the Management Committee shall be indemnified by the Owners against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a member of the Management Committee, or any settlement thereof, whether or not he is a member of the Management Committee, at the time such expenses are incurred, except in such cases wherein the member of the Management Committee is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification shall apply only when the Management Committee approves such settlement and reimbursement as being for the best interests of the Management Committee.

21. Insurance. The Management Committee shall obtain and maintain at all times insurance of the type and kind and in at least the amounts provided hereinabove, and including insurance for such other risks, of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other condominium projects similar in construction, design and use which insurance shall be governed by the following provisions.

(a) All policies shall be written with a company licensed to do business in the State of Utah and holding a rating of "AAA" or better by Best's Insurance Reports;

(b) Exclusive authority to adjust losses under policies hereafter in force in the project shall be vested in the Management Committee or its authorized representative;

(c) In no event shall the insurance coverage obtained and maintained by the Management Committee hereunder, be brought into contribution with insurance purchased by individual owners or their mortgagees;

(d) Each Owner may obtain additional insurance at his own expense over and above coverage provided in the master policy; provided, however, that no Owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Management Committee, in behalf of all of the Owners, may realize under any insurance policy which the Management Committee may have in force on the project at any particular time;

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(e) Each Owner shall be required to notify the Management Committee of all improvements made by the Owner to his Unit, the value of which is in excess of One Thousand Dollars (\$1,000.00);

(f) Any Owner who obtains individual insurance policies covering any portion of the project other than personal property belonging to such Owner, shall be required to file a copy of such individual policy or policies with the Management Committee within thirty (30) days after purchase of such insurance;

(g) The Management Committee shall be required to make every effort to secure insurance policies that will provide for the following:

(1) A waiver of subrogation by the insurer as to any claims against the Management Committee, the Manager, the Owners and their respective servants, agents, and guests;

(2) That the master policy on the project cannot be cancelled, invalidated or suspended on account of the conduct of any one or more individual Owners;

(3) That the master policy on the project cannot be cancelled, invalidated or suspended on account of the conduct of any officer or employee of the Management Committee or Manager without a prior demand in writing that the Management Committee or Manager cure the defect;

(4) That any "no other insurance" clause in the master policy exclude individual owners' policies from consideration;

(h) The annual insurance review which the Management Committee is required to conduct as provided in Paragraph 6 above shall include an appraisal of the improvements in the project by a representative of the insurance carrier writing the master policy.

22. No Partition. There shall be no judicial partition of the project or any part thereof, nor shall Declarant or any person acquiring any interest in the project or any part thereof seek any such judicial partition, until the happening of the conditions set forth in Paragraph 23 hereof in the case of damage or destruction or unless the property has been removed from the provisions of the Condominium Act as provided in Section 57-8-22 thereof; provided, however, that if any condominium shall be owned by two or more co-tenants as tenants-in-common or as joint tenants, nothing herein contained shall be deemed to prevent a judicial partition as between such co-tenants. But such partition shall not affect any other condominium.

23. Damage and Destruction. In case of fire, casualty or any other disaster, the insurance proceeds, if sufficient to reconstruct the buildings, shall be applied to such reconstruction. Reconstruction of the buildings, as used in this paragraph means restoring the buildings to substantially the same condition in which they existed prior to the fire, casualty or other disaster, with each Unit and the Common Area having the same vertical and horizontal boundaries as before. Such reconstruction shall be accomplished by the Manager or Management Committee.

If the insurance proceeds are insufficient to reconstruct the building, damage to or destruction of the building shall be promptly repaired and restored by the Manager or Management Committee, using proceeds of insurance, if any, on the buildings for that purpose, and the Unit owners shall be liable for assessment for any deficiency. However, if three-fourths (3/4) or more of the buildings are destroyed or substantially damaged and if the Owners, by a vote of at least three-fourths (3/4) of the voting power, do not voluntarily, within one hundred (100) days after such destruction or damage, make provision for reconstruction, the Manager or Management Committee shall record, with the county recorder, a notice setting forth such facts, and upon the recording of such notice:

(1) The property shall be deemed to be owned in common by the Owners;

(2) The undivided interest in the property owned in common which shall appertain to each Owner shall be the percentage of undivided interest previously owned by such Owner in the Common Area;

(3) Any liens affecting any of the condominiums shall be deemed to be transferred in accordance with the existing priorities to the undivided interest of the Owner in the property; and

(4) The property shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all the Owners in a percentage equal to the percentage of undivided interest owned by each Owner in the Common Area, after first paying out of the respective shares of the Owners, to the extent sufficient for the purposes, all liens on the undivided interest in the property owned by each Owner.

Notwithstanding all other provisions hereof, the owners may, by an affirmative vote of at least three-fourths (3/4) of the voting power, at a meeting of Unit Owners duly called for such purpose, elect to sell or otherwise dispose of the property. Such action shall be binding upon all Unit Owners and it shall thereupon become the duty of every Unit Owner to execute and deliver such instruments and to perform all acts as in manner and form may be necessary to effect the sale.

24. Enforcement. Each Owner shall comply strictly with the provisions of this Declaration and with the administrative rules and regulations drafted pursuant thereto as the same may be lawfully amended from time to time and with decisions adopted pursuant to said Declaration and administrative rules and regulations, and failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Management Committee or Manager on behalf of the Owners, or in a proper case, by an aggrieved Owner.

25. Personal Property. The Management Committee or Manager may acquire and hold, for the benefit of the Owners, tangible and intangible personal property and may dispose of the same by sale or otherwise; and the beneficial interest in such personal property shall be owned by the Owners in the same proportion as their respective interests in the Common Area, and shall not be transferable except with a transfer of a condominium. A transfer of a condominium shall transfer to the transferee ownership of the transferor's beneficial interest in such personal property.

Within thirty (30) days following the completion of construction of the project, the Declarant shall execute and deliver a bill of sale to the Management Committee in behalf of all the Owners, transferring all items of personal property located on the project and furnished by the Declarant, which property is intended for the common use and enjoyment of the Owners.

26. Audit. Any Owner may at any time at his own expense cause an audit or inspection to be made of the books and records of the Manager or Management Committee. The Management Committee, at the expense of the common expenses, shall obtain an audit of all books and records pertaining to the project at no greater than annual intervals and furnish copies thereof to the Owners.

THE LODGE AT SNOWBIRD

27. Sale of Condominium. In the event any Owner shall desire to offer his Unit(s) or an interest therein for sale within a period of twenty-one (21) years from date hereof, such Owner shall notify Snowbird, Ltd. thirty (30) days in advance of the sale and Snowbird, Ltd. or its nominee shall have a first right to acquire such offered Unit(s) or interest therein by paying to Owner an amount in cash equal to any bona fide offer such Owner proposes to accept, provided Snowbird, Ltd. or its nominee shall have the right to terms equivalent to said bona fide offer.

28. Real Estate Agent. Each owner desiring to employ a real estate agent to handle the sale of his Unit(s) or an interest therein, shall first offer to Snowbird Realty, a subsidiary organization of Snowbird, Ltd., the opportunity to handle said sale upon the same terms and conditions as prevail among licensed real estate brokers in Salt Lake County, Utah properly authorized and engaged in handling comparable sales.

29. Transformer Room. The portion of the Common Area of The Lodge at Snowbird identified on the Level 1 Floor Plan as "Panel Room" and "Transformer Room", together with concealed passageways leading to and from said rooms on the Pool Deck Level or Level 1, shall be set aside forever without cost or expense for the installation of central electric switches and connections, cables, heavy duty transformers and related equipment to be utilized by The Lodge at Snowbird and all other facilities in Snowbird Village at the discretion and direction of Declarant.

30. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a condominium project. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

31. Amendment. Except as otherwise provided herein, the provisions of this Declaration may be amended by an instrument in writing signed and acknowledged by record Owners holding seventy-five percent (75%) of the total vote hereunder, which amendment shall be effective upon recordation in the Office of the Recorder of Salt Lake County, State of Utah.

32. Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

33. Effective Date. This Declaration shall take effect upon recording.

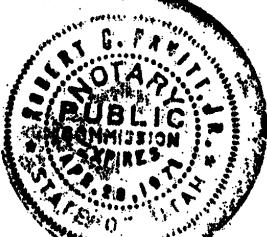
IN WITNESS WHEREOF, the undersigned has executed this instrument this 27<sup>th</sup> day of September, 1971

SNOWBIRD, LTD.

Richard D. Bass  
Richard D. Bass, General Partner

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

On the 27<sup>th</sup> day of September, 1971, personally appeared before me RICHARD D. BASS, who being by me duly sworn, did say, for himself, that he, the said RICHARD D. BASS is the General Partner of SNOWBIRD, LTD. and that the within and foregoing instrument was signed in behalf of said SNOWBIRD, LTD., a Utah Limited Partnership.



My Commission Expires:

ROBERT G. PRUITT, JR.  
Notary Public residing at  
Salt Lake City, Utah  
My Commission Expires  
April 28, 1975

Robert G. Pruitt, Jr.  
NOTARY PUBLIC, residing at  
Salt Lake City, Utah

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## EXHIBIT "A"

## THE LODGE AT SNOWBIRD - CONDOMINIUM PROJECT

COMMON AREA OWNERSHIP AND VOTING ENTITLEMENT  
FOR EACH CONDOMINIUM GROUP

<u>Units Numbered*</u>	<u>% Ownership In Common-Area</u>	<u>Votes</u>
11, 12, 13, 14, 15, 16, 17, 18 19 and 20**	4.88%	8
101, 102 and S-101	1.16%	2
103, 104 and S-103	1.16%	2
105, 106, 205 and S-105	1.74%	3
107, 108 and S-107	1.16%	2
109, 110 and S-110	1.16%	2
111***	0.58%	1
112***	0.58%	1
113***	0.58%	1
114***	0.58%	1
201, 202, 301 and S-201	1.74%	3
203, 204, 303 and S-203	1.74%	3
206 and S-206	0.58%	1
207, 208 and S-207	1.16%	2
209	0.58%	1
210 and S-210	0.58%	1
211, 212 and S-211	1.16%	2
213, 214, 313 and S-213	1.74%	3
215, 216 and S-215	1.16%	2
217, 218 and S-217	1.16%	2
219, 220 and S-220	1.16%	2
221, 222 and S-221	1.16%	2
223, 224, 323 and S-223	1.74%	3
225, 226 and S-226	1.16%	2
302 and S-302	0.58%	1
304 and S-304	0.58%	1
305, 306 and S-305	1.16%	2
307, 308, 407 and S-307	1.74%	3
309, 310, 410 and S-310	1.74%	3
311, 312 and S-311	1.16%	2
314 and S-314	0.58%	1
315, 316 and S-315	1.16%	2
317, 318 and S-317	1.16%	2
319, 320, 420 and S-320	1.74%	3
321, 322 and S-321	1.16%	2
324 and S-324	0.58%	1
325, 326 and S-326	1.16%	2
401, 402 and S-401	1.16%	2
403, 404 and S-403	1.16%	2
405, 406, 505 and S-405	1.74%	3
408 and S-408	0.58%	1

\*Unit numbers correspond to Unit designation on Floor Plan. Prefix "S" denotes storage spaces appurtenant to each apartment grouping.

\*\*Sub-standard sized Units owned by Snowbird, Ltd. for rental to employees at Snowbird.

\*\*\*Commercial Units to be operated as private business enterprises by Snowbird, Ltd. or its assigns for commercial shop-space; provision has been made to remodel units at owner's expense for conversion to standard apartment units at a later date, if desired.

9/24/71

<u>Units Numbered</u>	<u>% Ownership In Common Area</u>	<u>Votes</u>
409 and S-409	0.58%	1
411, 412, 511, 512 and S-411	2.32%	4
413, 414 and S-413	1.16%	2
419 and S-419	0.58%	1
421, 521 and S-421	1.16%	2
422, 522 and S-422	1.16%	2
423, 424 and S-423	1.16%	2
425, 426, 525, 526 and S-526	2.32%	4
501, 502 and S-501	1.16%	2
503, 504 and S-503	1.16%	2
506 and S-506	0.58%	1
507, 508 and S-507	1.16%	2
509, 510 and S-510	1.16%	2
513, 514 and S-513	1.16%	2
517, 518 and S-517	1.16%	2
519, 520 and S-520	1.16%	2
523, 524 and S-523	1.16%	2
601, 602, 701, 702 and S-601	2.32%	4
603, 604 and S-603	1.16%	2
605, 606 and S-605	1.16%	2
607, 608, 707 and S-607	1.74%	3
609, 610, 709, 710 and S-610	2.32%	4
611, 612, 711, 712, S-611 and S-712	2.32%	4
613, 614, 713 and S-613	1.74%	3
615, 715 and S-615	1.16%	2
616, 617 and S-616	1.16%	2
618, 619, 620, 719, 720 and S-620	2.90%	5
621, 622, 721, 722 and S-621	2.32%	4
623, 723 and S-623	1.16%	2
624, 724 and S-624	1.16%	2
625, 626, 726 and S-626	1.74%	3
703, 704 and S-703	1.16%	2
705, 706 and S-705	1.16%	2
708 and S-708	0.58%	1
714 and S-714	0.58%	1
716 and S-716	0.58%	1
717, 718 and S-717	1.16%	2
725 and S-725	0.58%	1
	100.00%	172

All other spaces on the Floor Plan, whether designated by numbers or not, are Common Areas.

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