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WHEN RECORDED, MAIL TO:
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Salt Lake City, Utah 84111

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR

BRISTOL POINTE
a Planned Residential Development
situated in
Orem, Utah County, Utah

THIS DECLARATION is made on the date hereinafter set forth by DAVID R. HARMAN, an individual, hereinafter referred to as "Declarant."

R E C I T A L S

WHEREAS, Declarant is the owner of certain property in the City of Orem, County of Utah, State of Utah, which is more particularly described on Exhibit A attached hereto and by this reference made a part hereof; and

WHEREAS, Declarant desires to develop the property described on Exhibit A attached hereto as a planned residential development to be known as Bristol Pointe (hereinafter referred to as the "Project") under and in accordance with the ordinances of the City of Orem, to construct freestanding homes (hereinafter referred to as the "Homes") on certain lots thereof, to construct townhomes (hereinafter referred to as the "Townhomes") and related amenities on other lots thereof, and to sell the individual lots and Homes or Townhomes and related amenities within the Project to the public; and

WHEREAS, Declarant deems it desirable to establish covenants, conditions and restrictions upon the Project and each and every part thereof which will constitute a general scheme for the use, occupancy, enjoyment and maintenance thereof, all for the purpose of enhancing and protecting the value, desirability and attractiveness of the Project and enhancing the quality of life within the Project; and

WHEREAS, Declarant deems it desirable for the efficient management of the Project, and the preservation of the value, desirability and attractiveness of the Project to create a corporation to which will be conveyed title of all of the Common Area of the Project and to which will be delegated and assigned the powers and duties of managing the Project, of maintaining and administering the Common Area and other portions of the Project specified in this Declaration, of administering and enforcing these covenants, conditions and

restrictions, of collecting and disbursing funds pursuant to the assessments and charges hereafter created, and of performing such other acts as will generally benefit the Project; and

WHEREAS, Declarant has caused BRISTOL POINTE OWNERS ASSOCIATION, INC., a Utah nonprofit corporation, to be incorporated under the laws of the State of Utah for the purpose of exercising the above-mentioned powers, duties and functions; and

WHEREAS, Declarant will hereafter hold and convey title to all of the property described on Exhibit A attached hereto and the Project subject to the covenants, conditions and restrictions hereinafter set forth;

W I T N E S S E T H

NOW, THEREFORE, Declarant hereby declares that all of the property described on Exhibit A attached hereto shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I DEFINITIONS

Unless the context clearly indicates otherwise, the following terms used in this Declaration shall have the following meanings:

Section 1. "Association" shall mean and refer to BRISTOL POINTE OWNERS ASSOCIATION, INC., a Utah nonprofit corporation, its successors and assigns.

Section 2. "Board" shall mean and refer to the Board of Trustees of the Association.

Section 3. "Common Area" shall mean and refer to all property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is described as follows:

BRISTOL POINTE, PHASE 1, a Planned Residential Development, according to the Official Plat thereof on file and of record

in the Utah County Recorder's Office,
EXCLUDING Lots A-1 through A-5 and Lots B-1
through B-6 thereof, inclusive.

"Class B Common Area" shall mean and refer to any Common Area intended solely for the use and enjoyment of Class B Lot Owners including, without limitation, private driveways, accessways, parking spaces, walkways and landscaped areas in front of or adjacent to the Class B Lots, but excluding any portion of the Common Area specifically designated for recreational vehicle parking.

Section 4. "Declarant" shall mean and refer to DAVID R. HARMAN, an individual, his successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 5. "Institutional Mortgagee" shall mean and refer to a Mortgagee which is a bank, or savings and loan association or established mortgage company, or other entity chartered under Federal or state laws, any corporation or insurance company, any Federal or state agency, or any other institution specified by the Board in a recorded instrument.

Section 6. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area. A "Class A Lot" shall mean and refer to any Lot having an alphanumeric designation upon any recorded subdivision map of the Properties which includes the letter "A." A "Class B Lot" shall mean and refer to any Lot having an alphanumeric designation upon any recorded subdivision map of the Properties which includes the letter "B."

Section 7. "Mortgage" shall mean and refer to any duly recorded mortgage or deed of trust encumbering a Lot.

Section 8. "Mortgagee" shall mean and refer to the mortgagee or beneficiary under any Mortgage. A "First Mortgagee" shall refer to a Mortgagee whose Mortgage has priority over any other Mortgage encumbering a specific Lot.

Section 9. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including Declarant and contract sellers, but excluding those having such interest merely as security for the performance of an obligation. "Owners" shall mean and refer to all such persons and entities collectively.

Section 10. "Properties" shall mean and refer to that certain real property described on Exhibit A attached hereto,

and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

ARTICLE II
PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded.

(d) The right of individual Owners to the exclusive use of parking spaces as provided in this Article.

(e) Any other provisions of this Declaration to the contrary notwithstanding, no Class A Lot Owner shall have any right or easement whatsoever in or to any Class B Common Area.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who resides on the property.

Section 3. Parking Rights. Ownership of each Class B Lot shall entitle the Owner thereof to the use of not more than two (2) automobile parking spaces, which shall be as near and convenient to said Lot as reasonably possible, together with the right of ingress and egress in and upon said parking area. The Association shall permanently assign one (1) vehicle parking space for each Townhome.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have three classes of voting membership:

Class A. Class A members shall be all Class A Lot Owners, with the exception of the Declarant, and shall be entitled one (1) vote for each Class A Lot owned. When more than one person holds an interest in any Class A Lot, all such persons shall be members. The vote for such Class A Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Class A Lot.

Class B. Class B members shall be all Class B Lot Owners, with the exception of the Declarant, and shall be entitled one (1) vote for each Class B Lot owned. When more than one person holds an interest in any Class B Lot, all such persons shall be members. The vote for such Class B Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Class B Lot.

Class C. The Class C member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class C membership shall cease and be converted to Class A or Class B membership, whichever is applicable, on the happening of either of the following events, whichever occurs earlier:

(a) the date which is five (5) years after the date this Declaration is recorded; or

(b) the later to occur of:

(i) when the total votes outstanding in the Class A and Class B membership equal the total votes outstanding in the Class C membership, or

(ii) the date all additional land described in Exhibit B attached hereto has been annexed to the Project by Declarant.

ARTICLE IV
DUTIES AND POWERS OF THE ASSOCIATION

Section 1. General Duties and Powers 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 shall:

(a) enforce the provisions of this Declaration, the Articles of Incorporation and the Bylaws by appropriate means and carry out the obligations of the Association hereunder, including without limitation, the expenditure of funds of the Association, the employment of legal counsel, the commencement of actions, the promulgation of the Association Rules as provided in the Bylaws and Section 2 of this Article;

(b) acquire, maintain and otherwise manage all of the Common Area and all facilities, improvements and landscaping thereon, and all personal property acquired by the Association;

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

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

(e) grant easements where necessary for utilities and sewer facilities over the Common Area to serve the Properties;

(f) 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 its members;

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

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

(i) have the duty to maintain architectural control over the Properties and appoint the architectural committee in connection therewith, pursuant to the Article hereof entitled "Architectural Control";

(j) have the power of entry upon any Lot where necessary in connection with inspection, construction, maintenance or repair for the benefit of the Common Area, or the Owners;

(k) provide trash pick up and disposal service and snowplowing service for the benefit of the Class B Owners and their Class B Lots;

(l) acquire real property by lease or purchase for offices or other facilities that may be necessary or convenient for the management of the Common Area, the administration of the affairs of the Association or for the benefit of the members;

(m) negotiate contracts for portions of the Common Area, provided that any such contract with an affiliate of Declarant having a term of more than one (1) year shall require the majority vote or written approval of the Class A and Class B members;

(n) have the power to establish in cooperation with Orem City a special tax assessment district for the performance of all or a portion of the maintenance and other functions now within the responsibility of the Association, together with the right to convey or lease, with or without the payment of monetary consideration, all or any portion of the Common Area to said district; and

Section 2. Association Rules. The Board shall also have the power pursuant to the procedures set forth in the Bylaws to adopt, amend, and repeal such rules and regulations as it deems reasonable (the "Association Rules"). The Association Rules shall govern such matters in furtherance of the purposes of the Association, including, without limitation, the use of the Common Area; provided, however, that the Association Rules may not discriminate among Class A Lot Owners or among Class B Lot Owners and shall not be inconsistent with this Declaration, the Articles or Bylaws. A copy of the Association Rules as they may from time to time be adopted, amended or repealed, shall be delivered to each Owner in the same manner established in this Declaration for the delivering of notices. Upon such delivery, said Association Rules shall have the same force and effect as if they were set forth in and were part of this Declaration. The Association Rules, as adopted, amended or repealed, shall be available at the principal office of the Association to each Owner and Institutional Mortgagee upon request. In the event of any conflict between any such Association Rules and any other provisions of this Declaration, the Articles or the Bylaws, the provisions of the Association Rules shall be deemed to be superseded by the provisions of this Declaration, the Articles or the Bylaws to the extent of any such inconsistency.

Section 3. Delegation of Powers. The Association shall have the right according to law, to delegate any of its powers under this Declaration, the Articles and Bylaws, provided, however, no such delegation, whether to a professional management company, the architectural committee or otherwise shall relieve the Association of its obligation to perform such delegated duty.

ARTICLE V
EXTERIOR MAINTENANCE

In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Class B Lot which is subject to assessment hereunder, as follows: paint, repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces and the exterior side of all fences, and all trees, shrubs, grass, walks and other exterior improvements located outside of, but only those located outside of, fences. Such exterior maintenance shall not include glass surfaces.

In the event that the need for maintenance or repair of a Class B Lot or improvements thereon is caused through the willful or negligent acts of its Owner, or through the willful or negligent acts of the family, guests or invitees of the Owner of the Class B Lot needing such maintenance or repair, the cost of such exterior maintenance shall be added to and become part of the assessment to which such Class B Lot is subject.

ARTICLE VI
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorneys fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments.

(a) The assessments levied by the Association with respect to all Lots (hereinafter referred to as "General Assessments") shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area, excluding the Class B Common Area.

(b) The assessments levied by the Association with respect to Class B Lots only (hereinafter referred to as the "Class B Assessments") shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Class B Lots within the Properties and for the improvement and maintenance of the Class B Common Area and of the Townhomes situated upon the Class B Lots within the Properties.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner:

(a) The maximum annual General Assessment shall be likely five dollars and $\frac{22}{100}$ Dollars (\$55⁰⁰) per Lot;

(b) The maximum annual Class B Assessment shall be _____ Dollars (\$ _____) per Class B Lot.

(c) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than five percent (5%) above the maximum assessment for the previous year without a vote of the membership.

(d) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above five percent (5%) by a vote of two-thirds (2/3) of each class of members to which the assessment in question applies who are voting in person or by proxy, at a meeting duly called for this purpose.

(e) The Board may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment (either General or Class B) applicable to that year only for the purpose of defraying, in whole or in

part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto; provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members to which the assessment in question applies who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for any action Authorized under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members to which the assessment in question applies not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of the all the votes of each class of membership to which the assessment in question applies shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held for more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. With respect to General Assessments, both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis. With respect to Class B Assessments, both annual and special assessments must be fixed at a uniform rate for all Class B Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessment provided for therein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 8. No Waiver of Assessments. No Owner may waive or otherwise escape liability for the assessments

provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages.

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VII
NONPAYMENT OF ASSESSMENTS

Section 1. Delinquency. Any assessment provided for in this Declaration which is not paid when due shall be delinquent on said due date (the "delinquency date"). If any such assessment is not paid within thirty (30) days after the delinquency date, a late charge of Twenty and No/100 Dollars (\$20.00) shall be levied and the assessment shall bear interest from the delinquency date, at the rate of eighteen percent (18%) per annum. The Association may, at its option, and without waiving the right to foreclose its lien against the Lot, bring an action at law against the member personally obligated to pay the same, and/or upon compliance with the notice provisions set forth in Section 2 of this Article, to foreclose the lien against the Lot. If action is commenced, there shall be added to the amount of such assessment the late charge, interest, the costs of preparing and filing the complaint in such action, and attorneys' fees incurred in connection with the commencement of such action and in the event a judgment is obtained, such judgment shall include said late charge, interest and a reasonable attorney's fee, together with the costs of action. Each member vests in the Association or its assigns, the right and power to bring all actions at law and/or for lien foreclosure against such member or members for the collection of such delinquent assessments.

Section 2. Notice of Lien. No action shall be brought to foreclose said assessment lien or to proceed under the power of sale herein provided until thirty (30) days after the date a notice of claim of lien is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of said Lot, and a copy thereof is recorded by the Association in the office of the County Recorder of the County in which the Covered Property is located. Said notice of claim of lien must recite a good and sufficient legal description of any such Lot, the record Owner or reputed Owner thereof, the

amount claimed (which shall include interest on the unpaid assessment at the rate of eighteen percent (18%) per annum, a late charge of Twenty and No/100 Dollars (\$20.00), plus reasonable attorneys' fees and expenses of collection in connection with the debt secured by said lien), and the name and address of the claimant.

Section 3. Foreclosure Sale. Said assessment lien may be enforced by sale by the Association, its attorney or any other person authorized to make the sale after failure of the Owner to make the payments specified in the notice of claim of lien within said thirty (30) day period. Any such sale provided for above is to be conducted in accordance with the provisions of the statutes of the State of Utah as said statutes may from time to time be amended, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted or provided by law. The Association may appoint as the trustee to conduct said deed of trust sale, any person or entity qualified to act as a trustee under the Utah deed of trust statutes. The Association, through its duly authorized agents, shall have the power to bid on the Lot, using Association funds, or funds borrowed for such purpose, at the sale, and to acquire and hold, lease, mortgage and convey the same.

Section 4. Curing of Default. Upon the timely payment, or other satisfaction, of (i) all delinquent assessments specified in the notice of claim of lien, (ii) all other assessments which have become due and payable with respect to the Lot as to which such notice of claim of lien was recorded and (iii) interest, late charges and attorneys' fees pursuant to this Declaration and the notice of claim of lien which have accrued, officers of the Association or any other persons designated by the Board are hereby authorized to file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting Owner of a fee, to be determined by the Association, to cover the costs of preparing and filing or recording such release.

Section 5. Cumulative Remedies. The assessment lien and the rights to foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments, as above provided.

ARTICLE VIII ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall

any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE IX PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful acts causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provision of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be made by a majority of all the arbitrators.

ARTICLE X
INSURANCE

Section 1. Hazard Insurance. The Association shall at all times maintain in force hazard insurance meeting the following requirements:

(a) A multi-peril type policy covering, except for the Homes, the entire Project (both Townhomes and Common Area, including, without limitation, fixtures, machinery, equipment and supplies maintained for the service of the Project and fixtures, improvements, alterations and equipment within the individual Townhomes) shall be maintained. Such policy shall provide coverage against loss or damage by fire and other hazards covered by the standard extended coverage blanket "all risk" endorsement and by debris removal, cost of demolition, vandalism, malicious mischief, windstorm, water damage, and such other risks as customarily are covered with respect to planned unit developments projects similar to the Project in construction, location, and use. As a minimum, such policy shall provide coverage on a replacement cost basis in an amount not less than that necessary to comply with any co-insurance percentage specified in the policy, but not less than one hundred percent (100%) of the full insurable value of the Project (based upon replacement cost). The deductible for losses to an individual Townhome shall not exceed the lower of \$1,000 or one percent of the Townhome's insurable value. Funds for such deductibles shall be included in the Association's reserves and shall be so designated. Such policy shall include an "Agreed Amount Endorsement" or its equivalent, and, if necessary or appropriate, an "Increased Cost of Construction Endorsement" or its equivalent.

(b) If the Project is or comes to be situated in a locale identified by the Director of the Federal Emergency Management Agency (FEMA) as a Special Flood Hazard Area, flood insurance on the Project shall be obtained and maintained providing coverage at least equivalent to that provided under the National Flood Insurance Program (NFIP) for buildings (including equipment and machinery), detached Common Area, and contents not part of buildings (including equipment and machinery owned by the Association) of not less than one hundred percent (100%) of their insurable value, with deductibles not to exceed the lower of \$5,000 or one percent of

the applicable amount of coverage. Funds for such deductibles shall be included in the Association's reserves and shall be so designated.

(c) The named insured under each policy required to be maintained by the foregoing paragraphs (a) and (b) shall be in form and substance essentially as follows: "Timpview Village Owners Association, Inc. for the use and benefit of the individual Owners."

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

Section 2. Fidelity Insurance. The Association shall maintain in force fidelity insurance covering losses resulting from dishonest or fraudulent acts committed by the Association's managers, trustees, employees, officers, committee members, or volunteers who manage the funds collected and held for the benefit of the Association. The fidelity insurance shall name the Association as the insured and shall be in an amount at least equal to the maximum amount of funds in the Association's custody at any one time, but in no event less than the sum of three (3) months of assessments on the entire Project plus reserves. An appropriate endorsement to the policy shall be secured to cover persons who serve without compensation if the policy would not otherwise cover volunteers. Any professional management firm retained by the Association shall also maintain in force such fidelity insurance at said firm's sole cost and expense and shall submit evidence of such coverage to the Association.

Section 3. Liability Insurance. The Association shall at all times maintain in force comprehensive general liability (CGL) insurance covering all of the Common Area. Such insurance shall include a "Severability of Interest Endorsement" or its equivalent which shall preclude the insurer from denying the claim of an Owner because of negligent acts of other Owners, the Board of Trustees, or the Association of Unit Owners. The Association shall also maintain in force any additional coverage commonly required by private mortgage investors for developments similar to the Project in construction, location and use, including the following where applicable and available: comprehensive automobile liability, bailee's liability, elevator collision liability, garage keeper's liability, host liquor liability, worker's compensation and employer's liability and contractual liability. The limits of liability under such insurance shall

not be less than One Million Dollars (\$1,000,000.00) for personal injury, bodily injury or property damage arising out of a single occurrence.

Section 4. General Requirements Concerning Insurance. Each insurance policy maintained pursuant to the foregoing Sections 1 through 3 shall be written by an insurance carrier which is licensed to transact business in the State of Utah and which has a general policyholders rating of B+ or better and a financial category rating of Class XII or better in Best's Insurance Guide and shall contain the standard mortgagee clause commonly used by private institutional mortgage investors. No such policy shall be maintained where:

(a) under the terms of the carrier's charter, bylaws or policy, contributions may be required from, or assessments may be made against, an Owner, a Mortgagee, the Board, the Association, a Townhome, the Common Area, or the Project;

(b) by the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members;

(c) the policy includes any limiting clauses (other than insurance conditions) which could prevent the party entitled from collecting insurance proceeds; or

(d) the policy provides that the insurance thereunder shall be brought into contribution with insurance purchased by the individual Owners or their Mortgagees.

Each such policy shall provide that:

(e) coverage shall not be prejudiced by any act or neglect of the Owners when such act or neglect is not within the control of the Association or the Board;

(f) coverage shall not be prejudiced by any failure by the Association or Board to comply with any warranty or condition with regard to any portion of the Project over which the Association and Board have no control;

(g) coverage may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days' prior written notice to any and all insureds named therein, including any mortgagee named as an insured; and

(d) the insurer waives any right of subrogation it might have to any and all claims against the Association, the Board, any Owner, and/or their respective agents, employees or

tenants, and any defense it might have based upon co-insurance or upon invalidity arising from acts of the insured.

If, due to changed circumstances, excessive cost, or any other reason, any of the insurance coverage required to be obtained and maintained under Sections 1 through 3 of this Article X cannot reasonably be secured, with respect to such coverage the Association or the Board shall obtain and maintain such substitute, different or other coverage as may be reasonable and prudent under the circumstances as they then exist.

Section 5. Other Insurance; Annual Review. The Association may purchase such other insurance as it may deem necessary, including, but not limited to, plate-glass insurance, officers' and directors' liability, and errors and omission insurance. The Board shall annually determine whether the amounts and types of insurance it has obtained provide adequate coverage for the Common Area in light of increased construction costs, inflation, practice in the area in which the Properties are located, or any other factor which tends to indicate that either additional insurance policies or increased coverage under existing policies are necessary or desirable to protect the interests of the Association. If the Board determines that increased coverage or additional insurance is appropriate, it shall obtain the same.

Section 6. Premiums and Proceeds. Insurance premiums for any such blanket insurance coverage obtained by the Association and any other insurance deemed necessary by the Association shall be a common expense to be included in the annual General or Class B Assessments levied by the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried, or otherwise disposed of at the discretion of the Board. The Association is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers. Any two (2) trustees of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on the Association and the members.

Section 7. Abandonment of Replacement Cost Insurance. Unless at least seventy-five percent (75%) of the Institutional Mortgagees based on one (1) vote for each First Mortgage have given their prior written approval, the Association shall not be entitled to fail to maintain the extended coverage fire and casualty insurance required by this Article on less than a one hundred percent (100%) current replacement cost basis.

Section 8. Payment of Taxes or Premiums by First Mortgagees. First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area, unless such taxes or charges are separately assessed against the Owners, in which case the rights of First Mortgagees shall be governed by the provisions of their Mortgages. First Mortgagees may, jointly or singly, also pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Area and First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association. Entitlement to such reimbursement shall be reflected in an agreement in favor of any First Mortgagee which requests the same to be executed by the Association.

ARTICLE XI
EMINENT DOMAIN

The term "taking" as used in this Article shall mean condemnation by eminent domain or sale under threat of condemnation. In the event of a threatened taking of all or any portion of the Common Area, the members hereby appoint the Board and such persons as the Board may delegate to represent all of the members in connection with the taking. The Board shall act in its sole discretion with respect to any awards being made in connection with the taking and shall be entitled to make a voluntary sale to the condemnor in lieu of engaging in a condemnation action. Any awards received on account of the taking shall be paid to the Association.

ARTICLE XII
USE RESTRICTIONS

Section 1. Single Family Residential. All Lots shall be known and described as residential Lots, and each and every Lot shall be used for residential purposes only by not more than one (1) family, as the term "family" is defined in the Orem City Ordinances. No building shall be erected, altered, placed or permitted to remain on any Lot other than one single family Home or Townhome and related amenities.

Section 2. No Further Subdivision. No further subdivision of any Lot shall be permitted at any time, whether by physically subdividing a lot or by dividing up ownership into different time periods.

Section 3. Commercial Use. Subject to the Section entitled "Construction and Sales" of the Article hereof entitled "Easements," no part of a Lot, Home or Townhome shall be used or caused to be used or allowed or authorized in any

way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other such nonresidential purposes; provided, however, that the Association shall have the right to provide or authorize such services on the Common Area as it deems appropriate for the enjoyment of the Common Area or for the benefit of the members.

Section 4. Signs. No sign or billboard of any kind shall be displayed to the public view on any portion of the Properties except such signs as may be used by Declarant or its sales agents in connection with the development of the Properties and sale of the Homes and Townhomes; provided, however, that a member may display in his Lot a sign advertising its sale or lease by him so long as such shall comply with any customary and reasonable standards promulgated by the Board as to the size, color, shape or other qualifications for permitted signs.

Section 5. Nuisance. No noxious or offensive trade or activity shall be carried on upon any Lot, or any part of the Properties nor shall anything be done thereon which may be, or may become an annoyance or nuisance to the neighborhood, or which shall, in any way, interfere with the quiet enjoyment of each of the Owners of his respective Home, Townhome or Lot, or which shall in any way increase the rate of insurance.

Section 6. Temporary Structures. No building of a temporary character, tent, shack, shed, barn or other out-building shall hereafter be used on any Lot at any time, either temporarily or permanently.

Section 7. Vehicles. No automobile, truck, pickup, motorbike, motorcycle, trailbike, tractor, golf cart, mobile home, trailer, camper, recreational vehicle, snowmobile, all-terrain vehicle, boat or similar equipment shall be parked, other than temporarily, upon any Lot, unless placed within the enclosed garage which constitutes part of the Home situated on a Class A Lot. Further, no commercial vehicle, tractor, mobile home, trailer, camper, recreational vehicle, snowmobile, all-terrain vehicle, boat or similar equipment shall be parked, other than temporarily, on any driveway, parking space, or other portion of the Common Area within the Properties, other than that portion of the Common Area specifically designated for recreational vehicle parking. Temporary parking shall mean parking of vehicles belonging to guests of Owners, delivery trucks, service vehicles and other commercial vehicles being used in the furnishing of services to the Association or the Owners and parking of vehicles belonging to or being used by Owners for loading and unloading purposes. The Board may adopt rules for the regulation of the admission and parking of vehicles within the Properties, including the assessment of

charges to Owners who violate or whose invitees violate, such rules. Any charges so assessed shall be added to and become part of the assessments against such Owners' respective Lots.

Section 8. Animals. No animals, horses, livestock or poultry of any kind, shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept on the Lots, provided they are not kept, bred or maintained for any commercial purpose, or in numbers deemed unreasonable by the Board. Notwithstanding the foregoing, no animals or fowl may be kept on the Lots which in the good faith judgment of the Board or a committee selected by the Board for this purpose, result in an annoyance or are obnoxious to residents in the vicinity. All animals permitted to be kept by this Section shall be kept on a leash when on any portion of the Properties except within a Lot.

Section 9. Unsightly Items. All weeds, rubbish, debris, or unsightly materials or objects of any kind shall be regularly removed from the Lots and shall not be allowed to accumulate thereon. All clotheslines, refuse containers, woodpiles, storage areas, machinery and equipment shall be prohibited upon any Lot unless completely obscured from view of adjoining streets, Lots, Common Area and adjoining properties from a height of at least six (6) feet. Any fence or screen required by this Section shall comply with any standards promulgated by the Board as to size, color or other qualifications for permitted fences or screens.

Section 10. Antennae; Satellite Dishes. No television, radio, or other electronic antenna, satellite dish, or device of any type shall be erected, constructed, placed or permitted to remain on any of the Lots, or upon any of the buildings or structures constructed on such Lots, unless the same are completely contained within a house or building.

ARTICLE XIII EASEMENTS

Section 1. Amendment to Eliminate Easements. This Declaration cannot be amended to modify or eliminate the easements reserved to Declarant herein without prior written approval of Declarant and any attempt to do so shall have no effect. Any attempt to modify or eliminate this Section shall likewise require the prior written approval of Declarant.

Section 2. Owners' Rights and Duties: Utilities and Cable Television. The rights and duties of the Owner with respect to water, sewer, electricity, gas, telephone, cable television lines and drainage facilities shall be governed by the following:

(a) Wherever sanitary sewer house connections, water house connections, electricity, gas, telephone and cable television lines or drainage facilities are installed within the Properties, the Owner of any Lot served by said connections, lines or facilities shall have the right, and there is hereby reserved to Declarant, together with the right to grant and transfer the same to Owners, an easement to the full extent necessary therefor, to enter upon the Lots owned by others, or to have utility companies enter upon the Lots owned by others, in or upon which said connections, lines or facilities, or any portion thereof lie, to repair, replace and generally maintain said connections as and when the same may be necessary as set forth below, provided that such Owner or utility company shall promptly repair any damage to a Lot caused by such entry as promptly as possible after completion of work thereon.

(b) Wherever sanitary sewer house connections, water house connections, electricity, gas, telephone or cable television lines or drainage facilities are installed within the Properties, which connections serve more than one (1) Lot, the Owner of each Lot served by said connections shall be entitled to the full use and enjoyment of such portions of said connections which service his Lot.

Section 3. Utilities. Easements over the Properties for the installation and maintenance of electric, telephone, cable television, water, gas, sanitary sewer lines and drainage facilities as shown on the recorded subdivision maps or plats of the Properties are hereby reserved by Declarant, together with the right to grant and transfer the same.

Section 4. Oil and Mineral Rights. There is hereby reserved to Declarant, together with the right to grant and transfer the same, all oil, oil rights, minerals, mineral rights, natural gas rights, and other hydrocarbons by whatsoever name known, geothermal steam, and all products derived from any of the foregoing, that may be within or under that portion of the Properties owned by Declarant together with the perpetual right of drilling, mining, exploring and operating therefor and storing in and removing the same from said land or any other land, including the right to whipstock or directionally drill and mine from lands other than the Properties oil or gas wells, tunnels and shafts into, through or across the subsurface of the Properties and to bottom such whipstocked or directionally drilled wells, tunnels and shafts under and beneath or beyond the exterior limits thereof, and to redrill, retunnel, equip, maintain, repair, deepen and operate any such wells or mines without, however, the right to drill, mine, store, explore and operate through the surface or the upper 500 feet of the subsurface of the Properties.

Section 5. Construction and Sales. There is hereby reserved to Declarant, including, without limitation, its sales agents and representatives and prospective purchasers of Lots, Homes and Townhomes together with the right in Declarant to grant and transfer the same, over the Common Area as the same may from time to time exist, easements for construction, display and exhibit purposes in connection with the sale of Lots, Homes and Townhomes and erection of Homes and Townhomes within the Properties; provided, however, that such use shall not be for a period beyond the sale by Declarant of all Lots within the Properties, and provided further that no such use by Declarant and others shall otherwise restrict the Owners in the reasonable use and enjoyment of the Common Area.

Section 6. Repair and Maintenance. There is hereby reserved to Declarant, together with the right to grant and transfer the same to the Association, an easement for the purposes as provided in the Article of this Declaration entitled "Exterior Maintenance," including, without limitation, maintaining the building roofs, exterior surfaces and fences, and inspecting each Lot at any reasonable time for compliance with said Article.

Section 7. Common Area Easement. There is hereby reserved to Declarant, together with the right to grant and transfer the same to the Owners, a nonexclusive easement for access, parking and enjoyment purposes over the Common Area. Such easement when granted to Owners shall be subject to the rights of the Association with regard to the Common Area as set forth in the Article hereof entitled "Property Rights."

Section 8. Nature of Easements. Any easements reserved to Declarant herein, when transferred to an Owner or the Association in the same instrument conveying a Lot or Common Area to such Owner or the Association, as the case may be, shall be appurtenant to such Owner's interest in said Lot or the Association's interest in the Common Area, as applicable.

Section 9. Transfer of Easements. As to the easements reserved to Declarant, together with the right to grant and transfer the same to Owners, Declarant shall convey said easements to the Owners in the same instrument conveying the interest required to be an Owner by specific description or by reference in said instrument. If such description is not contained in said instrument through inadvertence, mistake or any other cause, such easements shall nevertheless be conveyed to each Owner by such instrument.

ARTICLE XIV
RIGHTS OF LENDERS

Section 1. Filing Notice; Notices and Approvals. A Mortgagee shall not be entitled to receive any notice which this Declaration requires the Association to deliver to Mortgagees unless and until such Mortgagee, or its mortgage servicing contractor, has delivered to the Board a written notice stating that such Mortgagee is the holder of a Mortgage encumbering a Lot within the Properties. Such notice need not state which Lot or Lots are encumbered by such Mortgage, but shall state whether such Mortgagee is a First Mortgagee. Wherever the approval of all or a specified percentage of Mortgagees is required pursuant to this Declaration, it shall be deemed to mean the vote or approval of all or a specified percentage only of those Mortgagees which have delivered such notice to the Board. Notwithstanding the foregoing, if any right of a Mortgagee under this Declaration is conditioned on a specific written request to the Association, in addition to having delivered the notice provided in this Section, a Mortgagee must also make such request, either in a separate writing delivered to the Association or in the notice provided above in this Section, in order to be entitled to such right. Except as provided in this Section, a Mortgagee's rights pursuant to this Declaration, including, without limitation, the priority of the lien of Mortgages over the lien of assessments levied by the Association hereunder shall not be affected by the failure to deliver a notice to the Board. Any notice or request delivered to the Board by a Mortgagee shall remain effective without any further action by such Mortgagee for so long as the facts set forth in such notice or request remain unchanged.

Section 2. Priority of Mortgage Lien. No breach of the covenants, conditions or restrictions herein contained, nor the enforcement of any lien provisions herein, shall affect, impair, defeat or render invalid the lien or charge of any Mortgage made in good faith and for value encumbering any Lot, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise, with respect to a Lot, except as otherwise provided in this Article.

Section 3. Curing Defaults. A Mortgagee or the immediate transferee of such Mortgagee, who acquires title by judicial foreclosure, deed in lieu of foreclosure or trustee's sale, shall not be obligated to cure any breach of the provisions of this Declaration which is noncurable or of a type which is not practical or feasible to cure. The determination of the Board made in good faith as to whether a breach is

noncurable or not feasible to cure shall be final and binding on all Mortgagees.

Section 4. Resale. It is intended that any loan to facilitate the resale of any Lot after judicial foreclosure, deed in lieu of foreclosure or trustee's sale is a loan made in good faith and for value and entitled to all of the rights and protections afforded to other Mortgagees.

Section 5. Relationship With Assessments Liens.

(a) The lien provided for in the Article hereof entitled "Nonpayment of Assessments" for the payment of Assessments shall be subordinate to the lien of any Mortgage which is recorded prior to the date any such assessment becomes due.

(b) If any Lot subject to a monetary lien created by any provision hereof shall be subject to the lien of a Mortgage: (1) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such Mortgage; and (2) the foreclosure of the lien of said Mortgage, the acceptance of a deed in lieu of foreclosure of the Mortgage or sale under a power of sale included in such Mortgage (such events being hereinafter referred to as "Events of Foreclosure") shall not operate to affect or impair the lien hereof, except that any persons who obtain an interest through any of the Events of Foreclosure, and their successors in interest, shall take title free of the lien hereof or any personal obligation for said charges as shall have accrued up to the time of any of the Events of Foreclosure, but subject to the lien hereof for all said charges that shall accrue subsequent to the Events of Foreclosure.

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

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

Section 6. Seventy-Five Percent Vote of Institutional Mortgagees. Except upon the prior written approval of at least seventy-five percent (75%) of Institutional Mortgagees, based

on one (1) vote for each First Mortgage held, neither the Association nor the members shall be entitled to do any of the following:

(a) Dissolve the Association or abandon or terminate the maintenance of the Common Area by the Association; or

(b) Amend a material provision of this Declaration, the Bylaws or the Articles of Incorporation of the Association, and without limiting the generality of the foregoing, the provisions of this Article, or any other rights granted specifically to the Mortgagees pursuant to any other provision of this Declaration; or

(c) Abandon, partition, sell, alienate, subdivide, release, transfer, hypothecate or otherwise encumber the Common Area; provided, however, the granting of easements for public utilities or other public purposes consistent with the intended use of the Common Area shall not require such approval.

Section 7. Other Rights of Institutional Mortgagees.
Any Institutional Mortgagee, or its mortgage servicing contractor, shall, upon written request to the Association, be entitled to:

(a) Inspect the books and records of the Association during normal business hours; and

(b) Receive the annual audited financial statement of the Association ninety (90) days following the end of the Association's fiscal year; and

(c) Receive written notice of all annual and special meetings of the members or of the Board, and Institutional Mortgagees shall further be entitled to designate a representative to attend all such meetings in order to, among other things, draw attention to violations of this Declaration which have not been corrected or made the subject of remedial action by the Association; provided, however, nothing contained in this Section shall give an Institutional Mortgagee the right to call a meeting of the Board or of the members for any purpose or to vote at any such meeting; and

(d) Receive written notification from the Association of any default in the performance of the obligations imposed by this Declaration by the Owner whose Lot is encumbered by such Institutional Mortgage, which default has not been cured within sixty (60) days of a request therefor by the Association; provided, however, the Association shall only be obligated to provide such notice to Institutional Mortgagees whose written

request therefor to the Association specifies the Lot or Lots to which such request relates.

Section 8. Mortgagees Furnishing Information. Mortgagees are hereby authorized to furnish information to the Board concerning the status of any loan encumbering a Lot.

Section 9. Conflicts. In the event of any conflict between any of the provisions of this Article and any of the other provisions of this Declaration, the provisions of this Article shall control.

Section 10. Voting Rights of Institutional Mortgagees. In the event of a default by the Owner of any Lot in any payment due under the terms of any Institutional Mortgage or the promissory note secured thereby, the Institutional Mortgagee or his representative shall have the right, upon giving written notice to such defaulting Owner and the Association and placing of record a notice of default, to exercise the voting rights of such defaulting Owner attributable to such Lot at any regular or special meeting of the Members held during such time as such default may continue. Any such Owner's voting rights shall be restored to him at such time as such default is cured.

Section 11. Notice of Destruction or Taking. In the event that the Common Area, or any portion thereof, are substantially damaged or are made the subject of any condemnation proceeding in eminent domain or are otherwise sought to be acquired by a condemning authority, the Board shall promptly notify any Institutional Mortgagee affected by such destruction, taking or threatened taking. As used herein, "substantially damaged" shall mean exceeding Ten Thousand Dollars (\$10,000). If requested in writing by an Institutional Mortgagee, the Association shall evidence its obligations under this Section in a written agreement in favor of such First Mortgagee.

ARTICLE XV GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or any amendment hereto, including the right to prevent the violation of any such restrictions, conditions, covenants, or reservations and the right to recover damages or other dues for such violation; provided, however, that with respect to assessment liens and Association Rules, the Association shall have the exclusive

right to enforcement thereof. The Association or any Owner shall also have the right to enforce by proceedings at law or in equity the provisions of the Articles of Incorporation or Bylaws of the Association and any amendments thereto. Failure by the Association or by any Owner to enforce any covenant, condition or restriction herein contained, or in the Articles of Incorporation or Bylaws of the Association, shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Term; Amendment. The covenants, conditions and restrictions of this Declaration shall run with and bind the land and bind the Properties, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. Subject to the other provisions of this Declaration, including, without limitation, the rights of Mortgagees and/or First Mortgagees pursuant to the Articles hereof entitled "Insurance" and "Rights of Lenders," this Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation.

(a) Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

(b) Additional land within the area described in Exhibit B attached hereto and by this reference made a part hereof may be annexed by the Declarant without the consent of members within five (5) years of the date this Declaration is recorded, provided that the FHA and the VA determine that the annexation is in accord with the general plan heretofore approved by them.

Section 5. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of the Properties and the Common Area. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

Section 6. Singular Includes Plural. Whenever the context of this Declaration requires same, the singular shall include the plural and the masculine shall include the feminine and neuter.

Section 7. Nuisance. The result of every act or omission, whereby any provision, condition, restriction, covenant, easement, or reservation contained in this Declaration is violated in whole or in part, is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result, and may be exercised by the Association or any member. Such remedy shall be deemed cumulative and not exclusive.

Section 8. Attorneys' Fees. In the event action is instituted to enforce any of the provisions contained in this Declaration, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment, reasonable attorneys' fees and costs of such suit. In the event the Association is a prevailing party in such action, the amount of such attorneys' fees and costs shall be added to and become part of the assessments with respect to the Lot involved in the action.

Section 9. Notices. Any notice to be given to an Owner or a Mortgagee or mortgage servicing contractor under the provisions of this Declaration shall be in writing and may be delivered as follows:

(a) Notice to an Owner shall be deemed to have been properly delivered when delivered personally or placed in the first class United States mail, postage prepaid, to the most recent address furnished by such Owner in writing to the Association for the purpose of giving notice or, if no such address shall have been furnished, then to the street address of such Owner's Lot. Any notice so deposited in the mail within Utah or Salt Lake County, Utah, shall be deemed delivered forty-eight (48) hours after such deposit. In the case of co-Owners, any such notice may be delivered or sent to any one of the co-Owners on behalf of all co-Owners and shall be deemed delivery on all such co-Owners.

(b) Notice to a Mortgagee or its mortgage servicing contractor shall be deemed to have been properly delivered when placed in the first class United States mail, postage prepaid, to the address furnished to the Association by such Mortgagee or such contractor for the purposes of notice or, if no such address is furnished, to any office of the Mortgagee in Utah or Salt Lake County, Utah, or, if no such office is located in said County, to any office of such Mortgagee.

Section 10. Obligations of Declarant. So long as Declarant is utilizing the easement described in the Section entitled "Construction and Sales" of the Article in this Declaration entitled "Easements," Declarant shall not be subject to the provisions of the Article entitled "Architectural Control" or the provisions of the Article entitled "Use Restrictions."

Section 11. Effect of Declaration. This Declaration is made with the intent to establish a general scheme for the use, occupancy and enjoyment of the Properties and each and every Lot and portion thereof. Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration, or as to the compliance of any of these provisions with public laws, ordinances and regulations applicable thereto.

Section 12. Personal Covenant. To the extent the acceptance of a conveyance of a Lot creates a personal covenant between the Owner of such Lot and Declarant, or other Owners, such personal covenant shall terminate and be of no further force or effect from and after the date when a person or entity ceases to be an Owner except to the extent this Declaration may provide otherwise with respect to the payment of money to the Association.

Section 13. Nonliability of Officials. To the fullest extent permitted by law, neither the Board, the architectural committee or any other committee of the Association or any member of such Board or committee shall be liable to any Member or the Association for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, omission, error, negligence or the like made in good faith within which such Board, committees or persons reasonably believed to be the scope of their duties.

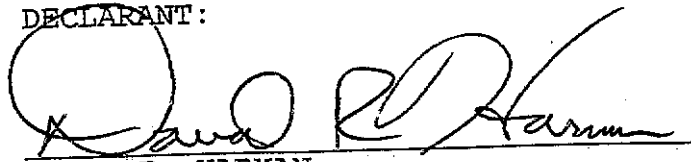
Section 14. Leases. Any agreement for the leasing or rental of a Lot (hereinafter in this Section referred to as a "lease") shall provide that the terms of such lease shall be subject in all respects to the provisions of this Declaration, the Articles of Incorporation and the Bylaws of the Association and the Association Rules. Said lease shall further provide that any failure by the lessee thereunder to comply with the terms of the foregoing documents shall be a default under the lease. All leases shall be in writing. Any Owner who shall lease his Lot shall be responsible for assuring compliance by such Owner's lessee with this Declaration, the Articles of Incorporation and the Bylaws of the Association and Association Rules.

Section 15. Construction By Declarant. Nothing in this Declaration shall limit the right of Declarant and its successors in interest to alter the Common Area or the Lots, or to construct such additional improvements as Declarant and its successors in interest deem advisable prior to completion and sale of the entire phase in which such Lots or Common Area are located. Such right shall include but shall not be limited to erecting, constructing and maintaining on the Properties such structures and displays as may be reasonably necessary for the conduct of its business of completing the work and disposing of the same by sale, lease or otherwise. This Declaration shall not limit the right of Declarant at any time prior to acquisition of title by a purchaser from Declarant to establish on the Properties additional licenses, reservations and rights-of-way to itself, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the Project. Prospective purchasers and Declarant shall have the right to use the Common Area for access to the sale facilities of Declarant, and Declarant reserves the right to alter its construction plans and designs as it deems appropriate. The rights of Declarant hereunder may be assigned to any successor or successors to all or part of said entity's respective interest in the Properties, by an express assignment incorporated in a recorded deed or lease, as the case may be, transferring such interest to such successor. Declarant shall exercise its rights contained in this provision in such a way as not to unreasonably interfere with the Owners' rights to use and enjoy the Common Area and the Lots.

Section 16. FHA/VA Approval. As long as there is a Class C membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of its Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 31 day of March, 1994.

DECLARANT:

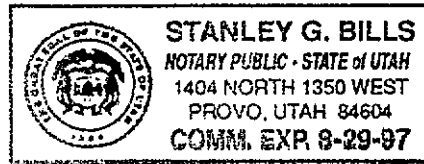

DAVID R. HARMAN

STATE OF UTAH)
)
) : ss.
COUNTY OF Utah)

The foregoing instrument was acknowledged before me
this 31 day of March 1994, by David R. Harman.

Stanley G. Bills
NOTARY PUBLIC
Residing at: Provo UT

My Commission Expires:
8-29-87



7024L
092893

EXHIBIT A

Legal Description of Phase I of the Project

Commencing at a point located South 175.28 feet and West 939.32 feet from the East one-quarter corner of Section 26, Township 6 South, Range 2 East, Salt Lake Base & Meridian, Basis of Bearing is Utah State Plane Coordinate System, Central Utah Zone; thence South 108.53'; thence South 89°57'26" West 11.71'; thence South 00°02'34" East 46.19'; thence South 137.49'; thence West 145.49'; thence North 00°04'39" East 137.57'; thence South 89°57'26" West 62.86'; thence along the arc of a 66.00 foot radius curve to the right 103.65 feet, (chord bears North 45°03'10" West 93.32'); thence North 00°03'46" West 229.09'; thence along the arc of a 20.00 foot radius curve to the left 31.40 feet, (chord bears North 45°01'58" West 28.27'); thence North 89°59'49" East 86.00'; thence along the arc of a 20.00 foot radius curve to the left 31.44 feet, (chord bears South 44°58'02" West 28.30 feet); thence South 0°03'46" East 136.24 feet; thence South 89°50'58" East 139.82 feet; thence South 4.11 feet; thence North 89°45'02" East 100.18 feet to the point of beginning.

Area = 1.63 acres

ALSO KNOWN AS:

BRISTOL POINTE, PHASE I, a Planned Residential Development, according to the Official Plat thereof on file and of record in the Utah County Recorder's Office.

EXHIBIT B

Legal Description of Additional Land Which May Be Added
to the Project Without Consent Pursuant to Section 4(b) of
Article XV of the Declaration to which this Exhibit is Attached

Phase II

Commencing at a point located South 190.93 feet and West 619.32 feet from the East one-quarter corner of Section 26, Township 6 South, Range 2 East, Salt Lake Base & Meridian, Basis of Bearing is Utah State Plane Coordinate System, Central Utah Zone; thence South $0^{\circ}28'43''$ East 108.93 feet; thence West 41.59 feet; thence South 190.64 feet; thence West 218.50 feet; thence North 160.50 feet; thence West 72.50 feet; thence North $0^{\circ}02'34''$ West 46.19 feet; thence North $89^{\circ}57'26''$ East 11.71 feet; thence North 108.53 feet; thence North $89^{\circ}45'02''$ East 178.33 feet; thence South 16.43 feet; thence East 141.68 feet to the point of beginning.

Area = 1.88 acres