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RECORDER, SALT LAKE COUNTY, UTAH  
MDM CORPORATION  
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SLC UT 84117  
REC BY:V ASHBY ,DEPUTY - WI

AFTER RECORDING PLEASE RETURN TO:  
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Salt Lake City, Utah 84107

6550639

SIXTH AMENDMENT: AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS  
FOR JEFFERSON PLACE,  
A Condominium Project

This Sixth Amendment: The Amended and Restated Declaration of Covenants, Conditions and Restrictions is made and executed this 3rd day of October, 1996, by JEFFERSON PLACE CONDOMINIUM HOMEOWNERS ASSOCIATION of 9400 South 700 West, Sandy, Utah 84070 (hereinafter referred to as the "Association") and MDM CORPORATION, a Utah corporation of 3826 South 2300 East, Salt Lake City, Utah 84109 (hereinafter referred to as the "Declarant").

RECITALS:

A. Association. The Association is the authorized representative of the owners of certain real property known as the JEFFERSON PLACE CONDOMINIUM PROJECT, located in Salt Lake County, Utah, and more particularly described on Exhibit "B" attached hereto and incorporated herein by this reference ("the Land").

B. Existing Project. The Land includes the three (3) completed Phases at Jefferson Place Condominium Project consisting of twelve (12) Buildings (including Buildings 15 and 16 in Phase 3 recently completed) and ninety-six (96) Units, and certain Common Area and Facilities; and

ALL easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described parcel of real property.

PROVIDED, HOWEVER, the foregoing is subject to: All liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi governmental authorities; all Patent reservations and exclusions, any mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described Land or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible easements and rights-of-way; all easements and rights-of-way of record; and easements, rights-of-way,

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encroachments, or discrepancies shown on or revealed by the Survey Maps or otherwise existing; an easement for each and every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the above-described Land at such time as construction of all Project improvements is complete; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cables, wires, utility lines, and similar facilities.

RESERVING UNTO Declarant, however, such easements and rights of ingress and egress over, across, through, and under the above-described Land and any improvements now or hereafter constructed thereon as may be reasonably necessary for Declarant or for any assignee or successor of Declarant (in a manner which is reasonable and not inconsistent with the provisions of this Amended and Restated Declaration): (I) to construct and complete each of the Buildings and all of the other improvements described in this Declaration or in the Maps previously recorded, and to do all things reasonably necessary or proper in connection therewith; (ii) to construct and complete on the Additional Land or any portion thereof such improvements as Declarant or said assignee or successor shall determine to build in its sole discretion (and whether or not the Additional Land or said portion has been or thereafter will be added to the Project); (iii) to improve portions of the Additional Land with such other or additional improvements, facilities, or landscaping designed for the use and enjoyment of all the Owners as Declarant or as such assignee or successor may reasonably determine to be appropriate. If, pursuant, to the forgoing reservations, the above-described Land or any improvement thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements, the reservations hereby effected shall, unless sooner terminated in accordance with their terms, expire seven (7) years from the date following the first conveyance of a Unit constructed on the Additional Land to a Unit purchaser.

(hereinafter referred to as the "Tract")

C. Original Declaration. The original Declaration was recorded in the office of the County Recorder of Salt Lake County, Utah on the 19th day of August, 1982 as Entry No. 3703854, in Book 5403, at Page 2988 of the Official Records (the "Original Declaration").

D. First Amendment. The Original Declaration was amended by a written instrument entitled "Amendment to Declaration of Condominium," recorded in the office of the County Recorder of Salt Lake County, Utah on the 12th day of April, 1983, as Entry No.

3779649, in Book 5450, at Page 2003, of the Official Records.

E. Second Amendment. The Original Declaration was amended by a written instrument entitled "Second Amendment to Declaration of Condominium," recorded in the office of the County Recorder of Salt Lake County, Utah on the 25th day of April, 1983, as Entry No. 3784837, in Book 5453, at Page 2572 of the Official Records.

F. Third Amendment. The Original Declaration was amended by a written instrument entitled "Third Amendment to Declaration of Condominium," recorded in the office of the County Recorder of Salt Lake County, Utah on the 6th day of October, 1983, as Entry No. 3853600, in Book 5496, at Page 2936 of the Official Records.

G. Fifth Amendment. The Original Declaration was amended by a written instrument entitled "Fifth Amendment to Declaration of Condominium," recorded in the office of the County Recorder of Salt Lake County, Utah on the 15th day of March, 1985, as Entry No. 4086681, in Book 5654, at Page 2389 of the Official Records.

H. Second Fifth Amendment. The Original Declaration was amended by a written instrument also entitled "Fifth Amendment to Declaration of Condominium," recorded in the office of the County Recorder of Salt Lake County, Utah on the 10th day of July, 1985, as Entry No. 4108502, in Book 5670, at Page 292 of the Official Records.

I. Resubmission of Phases 1, 2 and 3; Submission of Phase 4 and the Amenities. Declarant desires, by filing this Amended and Restated Declaration and Record of Survey Map, to resubmit Phases 1-3, inclusive, and to submit Phase 4, the Amenities, and all improvements now or hereafter constructed thereon to the provisions of the Utah Condominium Ownership Act (the "Act").

J. Name of Project. The Project is known and shall continue to be known as "JEFFERSON PLACE."

K. Additional Land. This Amended and Restated Declaration also affects that certain additional real property located in Salt Lake County, Utah (hereinafter referred to as the "Additional Land").

L. Expandable Project. Declarant desires by filing this Amended and Restated Declaration to make JEFFERSON PLACE an expandable condominium project and to effect a merger of all prior phases of the Project with the Additional Land (as that property is added to the Project). The intent of the Association and the Declarant is to create a single condominium regime under Utah law.

M. Owner of Additional Land. Declarant is the sole owner of the Additional Land and, as such, is empowered to execute this Amended and Restated Declaration.

N. Residential Project. Declarant, or its predecessor in interest, has constructed, is in the process of constructing, or will construct upon the Tract or the Additional Land a residential condominium project which shall include certain Units, Limited Common Area, Common Area, and other improvements. All of such construction has been, or is to be, performed in accordance with the plans contained in the Record of Survey Map to be recorded concurrently herewith.

O. Intent to Sell Units. Declarant intends to sell to various purchasers the fee title to the individual Units constructed, together with an appurtenant undivided ownership interest in the Common Area and a corresponding membership interest in the Association of Unit Owners, subject to the Record of Survey Map, and the covenants, conditions and restrictions set forth herein.

P. Amenities. There has been a dispute between the Association and the Declarant regarding the title to, use and ownership of certain land, recreational amenities and facilities, including but not limited to the swimming pool, tennis court, clubhouse and other recreational amenities (the "Amenities").

Q. Intent to Resolve Dispute. The parties desire to resolve the disagreement over the Amenities hereby. In consideration of the unanimous consent of the Unit Owners to the expansion of the Project and to the execution and recordation of this Amended and Restated Declaration, the Declarant has agreed to submit the Amenities to the Act and this Declaration hereby.

R. Unanimous Consent of Unit Owners. The Association has obtained, pursuant to U.C.A., Section 57-8-7(2) (1953), the written consent of One Hundred Per Cent (100%) of the current Unit Owners in the Project, which is attached hereto as Exhibit "D" and incorporated herein by this reference; and, therefore, is empowered to execute this Amended and Restated Declaration. One hundred percent (100%) of the Unit Owners in the Project have voted in favor of and consented in writing to this Amended and Restated Declaration.

S. Consent of Eligible Mortgagees. The consent of at least sixty-seven percent (67%) of all Eligible First Mortgagees has also been obtained.

T. Declaratory Judgment. A Declaratory Judgment has been entered in the Third Judicial District Court in and for Salt Lake County, Utah authorizing this Amended and Restated Declaration.

## DECLARATION

NOW, THEREFORE, for the reasons recited above and subject to the covenants, conditions and restrictions set forth below, Declarant hereby makes the following Declaration:

### I. DEFINITIONS

When used in this Declaration (including in that portion hereof entitled "Recitals"), each of the following terms shall have the meaning indicated.

1. Additional Charges shall mean and refer cumulatively to all collection and administrative costs, including but not limited to all attorney's fees, late charges, accruing interest, service fees, filing and recordation fees, and other expenditures incurred or charged by the Association.

2. Additional Land shall mean and refer to additional real property subject to Declarant's unilateral right of annexation as provided elsewhere in this Declaration, which property is more particularly described in Exhibit "C" attached hereto and incorporated herein by this reference.

3. Articles of Incorporation shall mean and refer to the Articles of Incorporation of the Jefferson Place Homeowners Association on file or to be filed with the Utah Department of Commerce.

4. Assessment shall mean and refer to any amount imposed upon, assessed or charged a Unit Owner or Resident at the Project.

5. Association shall mean and refer to the Jefferson Place Homeowners Association, a mandatory association of all of the Unit Owners in the Project taken as, or acting as, a group, responsible for the preservation and maintenance of the Property, regulation of the Project, and the enforcement of the Act, Declaration and By-Laws.

6. Building shall mean and refer to any of the structures constructed in the Project.

7. By Laws shall mean and refer to the By Laws of the Jefferson Place Homeowners Association.

8. Capital Improvement shall mean and refer to all non-recurring expenses (as opposed to day-to-day expenses) to repair, maintain or replace significant fixed assets in the Project (e.g. the entryway and exits to and from the Project, private roads, sidewalks, exterior lighting, swimming pool, tennis court, playground and water retention area, and clubhouse) intended to

restore, enhance, improve or ameliorate the utility, value or beauty of the Common Areas or Facilities.

9. Committee shall mean and refer to the Management Committee of Jefferson Place as duly constituted.

10. Common Areas shall mean and refer to all real property in the Project owned in common by the Unit Owners including but not limited to the following items:

a) The real property and interests in real property submitted hereby, including the entirety of the Tract and all improvements constructed thereon, excluding the individual Units.

b) All Common Areas and Facilities designated as such in the Survey Map or Maps;

c) All Limited Common Areas designated as such in the Survey Map or Maps;

d) All utility installations and all equipment connected with or in any way related to the furnishing of utilities to the Project and intended for the common use of all Unit Owners, such as telephone, electricity, gas, water, and sewer;

e) The Project's outdoor grounds, lighting, perimeter fences, landscaping, sidewalks, open parking spaces, and roadways;

f) All portions of the Project not specifically included within the individual Units; and

g) All other parts of the Project normally in common use or necessary or convenient to the use, existence, maintenance, safety, operation or management of the Property owned by the Association for the common benefit of its Members.

11. Common Area Assessments shall mean and refer the amounts assessed by the Management Committee to pay for the common expenses incurred in the operation, maintenance and regulation of the Project.

12. Community shall mean and refer to the Project.

13. Community Wide Standard shall mean and refer to the standard of conduct, maintenance, or other activity generally prevailing in the Community, as determined by the Management Committee from time to time.

14. Declaration shall mean and refer to this Sixth Amendment: The Amended and Restated Declaration of Covenants, Conditions and Restrictions of JEFFERSON PLACE, a Condominium Project.

15. Dwelling Unit shall mean and refer to a Unit.

16. Eligible Insurer shall mean and refer to an insurer or governmental guarantor of a mortgage or trust deed who has requested notice in writing of certain matters from the Association in accordance with this Declaration.

17. Eligible Mortgagee shall mean and refer to a mortgagee, beneficiary under a trust deed, or lender who has requested notice in writing of certain matters from the Association in accordance with this Declaration.

18. Eligible Votes shall mean and refer to those votes available to be cast on any issue before the Association or the Committee. A vote which is for any reason suspended is not an "eligible vote".

19. Guest shall mean and refer to an invitee, temporary visitor or any person whose presence within the Project is approved by or is at the request of a particular Resident.

20. Improvement shall mean and refer to any physical change or addition to the Land to make it more valuable.

21. Land shall mean and refer to all of the real property subject to this Declaration.

22. Limited Common Areas shall mean and refer to those Common Areas designated in this Declaration or in the Record of Survey Map as reserved for the use of a certain Unit Owner to the exclusion of the other Unit Owners. Any doorsteps, porches, balconies, patios, private yard areas, or other improvements intended to serve a single Unit, shall constitute Limited Common Area appertaining to that Unit exclusively, whether or not the Survey Map makes such a designation.

23. Majority shall mean and refer to those eligible votes of Owners or other groups as the context may indicate totaling more than fifty (50%) percent of the total eligible number.

24. Management Committee shall mean and refer to the committee of Owners elected to manage, operate and control the Project, and regulate the Association.

25. Manager shall mean and refer to the person or entity appointed or hired by the Association to manage and operate the Project and/or assist in the administration of the Association.

26. Map shall mean and refer to the Record of Survey Map on

file in the office of the County Recorder of Salt Lake County in and for the State of Utah.

27. Member shall mean and refer to an Owner. Each Owner is obligated, by virtue of his Ownership, to be a member of the Association.

28. Mortgage shall mean and refer to both a first mortgage or first deed of trust on any Unit, but shall not mean or refer to an executory contract of sale.

29. Mortgagee shall mean and refer to a mortgagee under a first mortgage or a beneficiary under a first deed of trust on any Unit, but shall not mean or refer to a seller under an executory contract of sale.

30. Notice and Hearing shall mean and refer to the procedure which gives an Owner notice of an alleged violation of the Declaration, By Laws, or administrative rules and regulations adopted by the Management Committee from time to time; and the right to a hearing before the Committee or its designated agent.

31. Owner shall mean and refer to the person who is the Owner of record (in the office of the County Recorder of Salt Lake County, Utah) of a fee or an undivided fee interest in a Unit, excluding a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof, but including both the seller and buyer under an executory contract of sale.

32. Par Value shall mean the number of dollars or points assigned to each Unit by the Declaration in Exhibit "A" attached. The statement of value may not be considered to reflect or control the sales prices or fair market value of any unit, and no opinion, appraisal, or fair market transaction at a different figure may affect the par value of any Unit, or any undivided interest in the Common Areas and Facilities, voting rights in the Association, liability for Common Expenses, or the rights to Common Profits, assigned on the basis thereof.

33. Permanent Resident shall mean and refer to anyone who resides in the Project for more than four (4) consecutive weeks or for more than eight (8) weeks in any calendar year.

34. Person shall mean and refer to a natural person, corporation, partnership, trust, limited liability company, or other legal entity.

35. Phase shall mean and refer to a particular stage or area of development within the Project designated by the Developer.

36. Project shall mean and refer to the Jefferson Place



Condominium Project.

37. Property shall mean and refer to all of the real estate, improvements and appurtenances submitted to the Act and this Declaration.

38. Record of Survey Map shall mean and refer to the "Record of Survey Map or Maps of the Jefferson Place Condominium Project" on file in the office of the County Recorder of Salt Lake County.

39. Recreational, Oversized or Commercial Vehicle shall mean and refer to any recreational, commercial or oversized vehicle, motor home, commercial vehicle, tractor, golf cart, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, or any other recreational or commercial transportation device of any kind.

40. Resident shall mean and refer to any person living or staying at the Project. This includes but is not limited to all lessees, tenants and the family members, agents, representatives, or employees of Owners, tenants or lessees.

41. Single Family Residence shall mean and refer to both the architectural style of a Unit and the nature of the residential use permitted.

42. Size shall mean and refer to the square footage of a Unit, rounded to the nearest whole number ending in zero. Size shall be computed and determined on the basis of dimensions shown on the Survey Map or Maps. So long as the measurement substantially complies with the provisions of this section and is not arbitrary, the Association's determination of Size shall be conclusive.

43. Survey Map shall mean and refer to the Record of Survey Map filed in the office of the County Recorder of Salt Lake County.

44. Unit shall mean and refer to the residential units, which are separate physical parts of the Property intended for independent use and ownership. The term Unit may include one or more rooms or spaces located in one or more floors or part or parts of floors in a building. Mechanical equipment and appurtenances located within any one Unit, or located without said Unit but designated and designed to serve only that Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors, furnaces, water heaters, apparatus, systems or equipment, fixtures and the like, shall be considered part of the Unit; so shall all decorated surfaces of interior walls, floors and ceilings, including but not limited to all paint, wallpaper, wall coverings, windows and window frames, doors and door frames, trim, carpeting, tile and linoleum. All pipes, wires, conduits, or other utility lines or installations constituting a part of the Unit or serving only the Unit, and any structural members, parts, components or any other property of

any kind, including fixtures or appliances within any Unit, which are removable without jeopardizing the integrity, soundness, safety or usefulness of the remainder of the Building within which the Unit is located shall be deemed to be part of the Unit.

45. Unit Number shall mean and refer to the number, letter or combination thereof designating a particular Unit.

## II. SUBMISSION

The following real property is hereby submitted or resubmitted to the Act:

1. Phases 1, 2 and 3. The real property described with particularity on Exhibit "B-1, B-2, B-3" attached hereto and incorporated herein by this reference are hereby resubmitted to the Act.

2. Phase 4 and the Amenities. The Phase 4 real property described in Exhibit "B-4" and the Amenities described in Exhibit "D" are hereby submitted to the Act.

3. Easements and Rights of Way. The real property submitted to the Act is hereby made subject to, and shall be governed by the Act, and the covenants, conditions and restrictions set forth herein, subject to the described easements and rights of way.

TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described parcel of real property.

ALL OF THE FOREGOING IS SUBJECT TO: All liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all Patent reservation and exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described Tract or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible and necessary easements and rights-of-way; all easements and rights-of-way of record; any easements, rights of-way, encroachments, or discrepancies shown on or revealed by the Survey Maps or otherwise existing; an easement for each and every common area improvement, equipment, pipes, lines, cables, wires, utility systems, or similar facilities which traverse or partially occupy the above-described Tract; and all easements necessary for servicing, repairing, ingress to, egress from, maintenance of, and replacement of all such common area improvements, equipment, pipes, lines, cables, wires, utility

systems, and similar facilities.

4. Conveyance of Amenities. Declarant hereby quit claims all of its right, title and interest in and to the Amenities to all of the Unit Owners in the Project as tenants in common according to their undivided percentages of ownership interest in and to the Common Areas appurtenant to their Units, as amended from time to time during expansion of the Project.

### III. COVENANTS, CONDITIONS, AND RESTRICTIONS

The foregoing submission is made upon, under and subject to the following covenants, conditions, and restrictions:

1. Description of Improvements. The Units are constructed principally of concrete foundations with exterior walls of brick, vinyl or wood composition siding, asphalt shingle roofing, interior walls of wood studs, plywood and dry wall plaster. Each unit has an assigned parking space. The Project also includes landscaping, swimming pool, tennis court, clubhouse building, guest parking and other facilities located substantially as shown in the Maps and will be subject to easements which are reserved through the Project as may be required for utility services.

2. Description and Legal Status of the Property. The Map shows the Unit Number of each Unit, its location, those Limited Common Areas and Facilities which are reserved for its use, and the Common Areas and Facilities to which it has immediate access. The residential Units are capable of being independently owned, encumbered and conveyed; and shall have an appurtenant undivided percentage of ownership interest in the Common Areas and Facilities.

3. Membership in the Association. Membership in the Association is mandatory. Each Unit Owner shall be a member of the Association. Membership in the Association may not be partitioned from the ownership of a Unit. The percentage of ownership interest of each Owner in the Association is set forth on Exhibit "A" attached hereto and incorporated herein by this reference. Size has been determined by the Developer based upon square foot estimates. Minor adjustments in the par value and percentage of ownership interest estimates have made for the purpose of assuring that the total undivided ownership interest in the Association equals 100.00%.

4. Limited Common Areas. Limited Common Area may not be partitioned from the Unit to which it is appurtenant. The exclusive use of Limited Common Area is reserved to the Unit to which it is assigned.

5. Conveyancing. Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering a Unit shall describe the interest or estate involved substantially as follows:

All of UNIT NO. \_\_\_\_\_ contained within the Jefferson Place CONDOMINIUM PROJECT, as the same is identified in the Amended Record of Survey Map recorded in Salt Lake County, Utah as Entry No. \_\_\_\_\_, in Book \_\_\_\_\_, at Page \_\_\_\_\_ (as said Record of Survey Map may have heretofore been amended or supplemented) and in the Amended Declaration of Covenants, Conditions and Restrictions of the Jefferson Place Condominium Project recorded in Salt Lake County, Utah as Entry No. \_\_\_\_\_, in Book \_\_\_\_\_, at Page \_\_\_\_\_, (as said Declaration may have heretofore been supplemented), together with an undivided percentage of ownership interest in the common areas and facilities.

Regardless of whether or not the description employed in any such instrument is in the above-specified form, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Unit. Neither the membership in the Association, nor percentage of ownership interest in the Common Areas, nor the right of exclusive use of a Limited Common Area shall be separated from the Unit to which it appertains; and, even though not specifically mentioned in the instrument of transfer, such mandatory membership in the Association and such right of exclusive use shall automatically accompany the transfer of the Unit to which they relate.

6. Ownership and Use. Each Owner, of whatever kind, shall be entitled to the exclusive ownership and possession of his Unit, to an undivided percentage of Ownership interest in the Common Areas, and to membership in the Association as set forth herein and subject to the following:

a) Nature and Restrictions on Ownership and Use in General. Each Owner shall have and enjoy the privileges of fee simple Ownership of his Unit. There shall be no requirements concerning who may own a Unit, it being intended that they may and shall be owned as any other property rights by persons. The Common Areas shall only be used in a manner consistent with the residential nature of the Project.

b) Title to the Common Area. Each Unit Owner shall be entitled to a percentage of undivided ownership interest in and to the Common Areas and Facilities, free and clear of all liens (other than current years taxes, if any) prior to the Declarant's first conveyance of a Unit.

c) Mandatory Association. Each purchaser of a Unit shall automatically become a member of the Association.

d) Member's Easements and Rights of Way. Every Member of the Association shall as an Owner have the right and non-exclusive easement to use and enjoy the Common Area. Such right and easement shall be appurtenant to and shall pass with the title to

every Unit, subject to the following restrictions:

(1) The right of the Association to limit the number of guests, and to adopt administrative rules and regulations from time to time governing the use and enjoyment of the Common Area;

(2) The right of the Association to suspend the voting rights and the privilege to use the clubhouse, tennis court, swimming pool or playground and water retention area by a member for: a) any period during which his Common Area Assessment remains delinquent, and b) a period not to exceed thirty (30) days after notice and hearing as may be set forth hereinafter for any infraction of the Association rules;

(3) Subject to the prior written consent of the Secretary of Veterans Affairs, 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 the purpose of providing utilities and similar or related purposes. During the Developer's period of development of the Project, any such dedication or transfer of land or any interest therein on the new phases added to the Project subsequent to the execution and recording of this document shall be effective only if approved in writing by the Declarant; and

(4) The right of the Association to assign open parking garages, carports or spaces, lease any portion of the Common Area or Facilities, or charge a reasonable admission or other fee for the use thereof.

e) Rules and Regulations. The Association, acting through its Management Committee, shall have the power and authority to adopt administrative rules and regulations and, in its sole discretion, to impose reasonable user fees for the amenities. Such rules, regulations and use restrictions shall be binding upon all Owners and Residents, their guests and invitees.

f) Restrictions and Limitations of Use. The use of the Units, of whatever kind, is subject to the following guidelines, limitations and restrictions:

(1) Parties Bound. All provisions of the Declaration, By-Laws, Rules and Regulations shall be binding upon all Owners and Residents, their families, guests and invitees.

(2) Nuisance. It shall be the responsibility of each Owner and Resident to prevent the creation or maintenance of a nuisance in, on or about the Project. The term "nuisance" includes but is not limited to the following:

a. The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about his

Unit or the Common Areas;

b. The storage of any item, property or thing that causes any Unit or the Common Area to appear to be in an unclean or untidy condition or that will be noxious to the senses;

c. The storage of any substance, thing or material upon any Unit or in the Common Areas that emits any foul, unpleasant or noxious odors, or that causes any noise or other condition that disturbs or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;

d. The creation or maintenance of any noxious or offensive condition or activity in or about any Unit or the Common Areas;

e. Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents, their guests or invitees, particularly if the police or sheriff must be called to restore order;

f. Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community by other residents, their guests or invitees;

g. Too much noise in, on or about any Unit or the Common Area, especially after 10:00 p.m. and before 8:00 a.m.; and

h. Too much traffic in, on or about any Unit or the Common Area, especially after 10:00 p.m. and before 8:00 a.m.;

(3) Unsightly Work, Hobbies or Unkempt Condition. The pursuit of hobbies or other activities, including but not limited to the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Project.

(4) Removing Garbage, Dust & Debris. All rubbish, trash, refuse, waste, dust, debris and garbage shall be regularly removed from the Unit and shall not be allowed to accumulate thereon.

(5) Subdivision of a Unit. No Unit shall be subdivided or partitioned.

(6) Firearms, Incendiary Devices and Graffiti.

The use of firearms and incendiary devices, or the painting or graffiti, within the Project is prohibited. The term firearms includes but is not limited to all guns, pistols, handguns, rifles, automatic weapons, semi-automatic weapons, BB guns, pellet guns, sling shots, wrist-rockets, blow-dart guns, and other firearms of all types, regardless of size.

(7) Temporary Structures.

No Owner or occupant shall place upon any part of the Project any temporary structures including but not limited to tents, trailers, or sheds, without the prior written consent of the Committee.

(8) Trees, Shrubs and Bushes; Maintenance of

Proper Sight Distance at Intersections. All property located at or near driveways, entrances, exits, walkways, paths and street intersections or corners shall be landscaped so as to remove any obstructions and to permit safe sight. No fence, wall, hedge, shrub, bush, tree or monument, real or artificial, shall be planted or placed by any Owner or occupant in, on or about the Common Areas without the prior written consent of the Committee. The Management Committee may alter or remove any objects planted or placed in violation of this subsection and shall not be guilty of a trespass.

(9) Energy Conservation Equipment.

No solar energy collector panels, other energy conservation equipment or attendant hardware shall be constructed or installed on the Project without the prior written consent of the Committee.

(10) Business Use.

No commercial trade or business may be conducted in or from any Unit unless: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the residence; (b) the business activity conforms to all zoning requirements for the Project; (c) the business activity does not involve persons coming onto the Project who do not reside in the Project or door-to-door solicitation of residents of the Project; and (d) the business activity is consistent with the residential character of the Project and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Project, as may be determined in the sole discretion of the Committee.

The terms business and trade, as used in this subsection, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (a) such activity is engaged in full or part-time; (b)

such activity is intended to or does generate a profit; or a license is required therefor.

Notwithstanding the above, the leasing of a residence shall not be considered a trade or business within the meaning of this sub-Section.

(11) Storage and Parking of Vehicles. The driving, parking, standing and storing of motor vehicles in, on or about the Project shall be subject to the following:

a. The parking rules and regulations adopted by the Committee from time to time;

b. The general parking areas are not designed for recreational, commercial or oversized motor vehicles and the Management Committee has the right to make rules and regulations restricting or prohibiting their use. Since parking spaces are limited and there is a Recreational and Commercial Vehicle (hereinafter referred to collectively as "RV") parking lot, all RV's shall be parked there, except for purposes of loading and unloading.

c. No motor vehicle or trailer, including but not limited to any car, automobile, truck, van, RV or any other transportation device of any kind may be parked or stationed (except for purposes of loading or unloading), in such a manner so as to create an obstacle or potentially dangerous situation, or along any street or road, or in front of any garage, walkway, driveway, Building or Unit, or in an unauthorized Common Areas.

d. Residents may only park their motor vehicles within their driveways, garages or carports, or in other designated Common Areas.

e. Residents may not park their motor vehicles in "red zones," "fire lanes," or unauthorized areas.

f. Visitors or guests shall park their motor vehicles in Common Areas designated for "guest" or "visitor" parking.

g. No Owners or Residents shall repair or restore any vehicle of any kind in, on or about any Unit or the Common Area, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.

h. No parking space may be altered in such a manner that the number of motor vehicles which may reasonably be parked therein after the alteration is less than the number of motor vehicles that could have been reasonably parked in the space



as originally designed and constructed.

i. No motor vehicle shall be parked in such a manner as to inhibit or block access to a Unit, driveway, carport, entrance, exit or parking area.

j. All parking areas shall be used solely for the parking and storage of motor vehicles used for personal transportation.

k. Notice of any alleged parking violations shall be posted on the vehicle. Except in the case of an emergency, the notice shall provide the vehicle owner with the right to a hearing with the Management Committee or Manager. Vehicles parked in violation of this Declaration or parking Rules and Regulations adopted by the Committee may, after notice and the opportunity to be heard, be impounded, towed and stored, at the Owner's sole expense. The Association, Committee and members of the Committee shall be indemnified and held harmless from any loss, damage or claim caused by or arising out of the impounding, towing or storing of a motor vehicle pursuant hereto.

(12) Aerials, Antennas, and Satellite Systems. No aerials, antennas, satellite dishes, or satellite systems (hereinafter referred to collectively as "Satellite Dish") shall be erected, maintained or used in, on or about any Unit, the Common Areas, outdoors and above ground, whether attached to a building, structure, the exterior of a Unit or otherwise, within the Project without the prior written consent of the Management Committee.

(13) Window Coverings. No-aluminum foil, newspapers, reflective film coatings, or any other similar materials may be used to cover the exterior windows of any residential structure on a Unit. Sun shades are allowed.

(14) Windows. All windows and window panes in the Project shall be harmonious, and comparable in size, design and quality so as not to detract from uniformity in appearance and quality of construction.

(15) Pets. Unless written approval is received from the Management Committee, one (1) domestic pet per Unit is allowed, provided the resident abides by any pet rules and regulations, if any, adopted by the Committee from time to time. No pets, animals, livestock or poultry of any kind shall be bred in, on or about the Project. Dangerous pets or pets which constitute a nuisance (e.g. unreasonable barking, whining or scratching) will not be tolerated within the Community. Owners and Residents shall clean up after their pets in the Common Area and pets in the Common Area shall be kept on a leash at all times.

(16) Insurance. Nothing shall be done or kept in, on or about any Unit or in the Common Areas or Limited Common Areas which may result in the cancellation of the insurance on the Property or an increase in the rate of the insurance on the Property, over what the Management Committee, but for such activity, would pay.

(17) Laws. Nothing shall be done or kept in, on or about any Unit or Common Areas, or any part thereof, which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

(18) Damage or Waste. No damage to, or waste of, the Common Areas or Limited common Areas or shall be committed by any Owner or Resident, their guests or invitees; and each Owner and Resident shall indemnify and hold the Management Committee and the other Owners in the Project harmless against all loss resulting from any such damage or waste caused by that Owner or Resident, their guests or invitees; provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee or any other Owner.

(19) Structural Alterations. Except in the case of an emergency repair, no structural alterations, plumbing, electrical or similar work within the Common Areas or Limited Common Areas shall be done or permitted by any Owner without the prior written consent of the Management Committee.

7. Leases. Any agreement for the leasing, rental, or occupancy of a Unit (hereinafter in this Section referred to as a "lease") shall be in writing and a copy thereof shall be delivered to the Association before the term of the Lease commences. Every lease shall provide that the terms of such lease shall be subject in all respects to the provisions of the Project Documents. Said lease shall further provide that any failure by the Resident thereunder to comply with the terms of the foregoing documents shall be a default under the lease. If any lease does not contain the foregoing provisions, such provisions shall nevertheless be deemed to be a part of the lease and binding upon the Owner and Resident by virtue of their inclusion in this Declaration. No Owner shall be permitted to lease his Unit for transient, hotel, seasonal, rental pool or corporate/executive use purposes. The initial term of all leases or rental agreements shall be at least one (1) year. Daily or weekly rentals are prohibited. The leasing or renting of individual rooms to separate persons or less than an entire Unit is also prohibited. Any Owner who shall lease his Unit shall be responsible for assuring compliance by the Resident with the Project Documents. Other than as stated in this Section, there is no restriction on the right of any Owner to lease or otherwise grant occupancy rights to a Unit.

8. Easement -- Support, Maintenance and Repair. There is hereby RESERVED and the Association is hereby GRANTED a non-exclusive easement over, across, through, above and under the Units and the Common Area for the operation, maintenance and regulation of the Common Area and Facilities.

9. Liability of Owners and Residents For Damages. Each Owner or Resident shall be liable to the Association, or other Owners or Residents for damages to person or property in the Community caused by his negligence.

10. Encroachments. If any portion of Common Area, Limited Common Area, or a Unit encroaches or comes to encroach upon other Common Area, Limited Common Area, or a Unit as a result of construction, reconstruction, repair, shifting, settling, or movement, an easement for such encroachment is created hereby and shall exist so long as such encroachment exists.

11. Management Committee. The Association shall be managed by a Management Committee subject to the following:

a) Members. The Management Committee shall be comprised of five (5) Association Members who shall be duly qualified and elected.

b) Composition of Committee. At the Annual meeting the percentage of undivided ownership interest appurtenant to a Unit may be voted in favor of as many candidates for Committee membership as there are seats on the Committee to be filled; provided, however, notwithstanding anything herein to the contrary, Declarant alone shall be entitled to select two (2) of the five (5) Committee Members until the earlier of the following events (hereinafter referred to as the "Events") at which time control of the Management Committee shall be transferred by Declarant to the Association;

(1) One hundred twenty (120) days after the date by which seventy five percent (75%) of the Units have been conveyed to a Unit purchaser; or

(2) Seven (7) years after the first Unit in the Project is conveyed by Declarant; or

(3) One hundred twenty (120) days after the date that Declarant abandons Phasing of the Additional Land by recording of a waiver as set forth below.

c) Voting Restrictions. The following additional restrictions apply to voting on Association issues, including but not limited to the election of Committee Members:

(1) Subject To Assessment. No vote shall be cast

or counted for any Unit not subject to assessment.

(2) Multiple Owners. When more than one person or entity holds such interest in a Unit, the vote for such Unit shall be exercised as those persons or entities themselves determine and advise the Secretary of the Association prior to any meeting. In the absence of such advice, the vote of the Unit shall be suspended in the event more than one person or entity seeks to exercise it.

(3) Leased Unit. Any Owner of a Unit which has been leased may, in the lease or other written instrument, assign the voting right appurtenant to that Unit to the lessee, provided that a copy of such instrument is furnished to the Secretary at least three days prior to any meeting.

d) Terms. At the first Annual Homeowners Meeting following the recordation of this Declaration, the three (3) members of the Management Committee to be elected by the Members of the Association at large shall be elected for two (2) year terms and the two (2) Members of the Management Committee to be appointed by the Declarant shall be appointed for a one (1) year term. Thereafter, all Committee Members appointed or elected shall serve for two (2) year terms. This staggering feature will provide continuity to the management of the Association.

e) Qualify. To qualify, a Member of the Committee must be an individual Owner, or the legal representative of an organizational Owner in good standing.

f) Vacancies. Any vacant seat on the Committee shall be filled with a an Association Member duly elected or appointed.

g) Meetings. The Committee shall meet at least one (1) time every calendar month.

h) Dismissal. Any Committee member who fails on three (3) successive occasions to attend Committee meetings (whether regular or special) or who has failed to attend at least twenty-five percent (25%) of all Committee meetings (whether regular or special) held during any twelve (12) month period shall automatically forfeit his seat. In such cases, the remaining Committee Members shall elect a replacement to sit on the Committee until the next meeting of the Association.

i) Removal of Committee Member/Declarant's Rights. Except for Committee Members appointed by the Declarant prior to the occurrence of the Events, Committee Members may be removed at any time by the affirmative vote of a majority of the Members of the Association.

j) Replacement. Committee Members dismissed in the

manner set forth in above or who resign, shall be replaced by an appointment of the remaining Members of the Committee. Committee Members removed by the affirmative majority vote of the Association shall be replaced by the Association. Anything to the contrary notwithstanding, Committee Members appointed by the Declarant prior to the occurrence of the Events shall be replaced by another appointment of the Declarant.

k) Completion of Term. Unless he forfeits or otherwise loses his seat as herein provided, a member shall serve on the Committee until his successor qualifies and is properly elected by the Association.

l) No Compensation. Committee members shall not be compensated for their services but shall be reimbursed for all expenses reasonably incurred in connection with Committee business and approved by the Committee.

12. Committee Officers and Agents. The Committee shall perform its functions through those Members who are elected as officers by the Committee and through such agents or employees as the Committee may appoint. Any Committee officer, agent, or employee may at any time be removed, with or without cause, by the vote of a majority of the Committee Members. Provided, however, if a Member of the Committee is removed as an officer, he shall continue to be Member of the Committee. One Member may hold more than one office except that of President and Secretary. The officers of the Committee, and their respective powers and functions, shall be as follows:

a) President. The President shall be the chief executive of the Committee and shall exercise general supervision over the property and affairs of the Project. The President shall preside over all meetings of both the Committee and the Association. The President shall execute all instruments on behalf of the Committee, unless he chooses to delegate that authority to another Committee member.

b) Vice-President. The Vice-President shall have all the powers of the President in the event of the latter's absence or inability to act.

c) Secretary. The Secretary shall keep minutes of meetings of the Committee and the Association. The Secretary shall keep all records which are required or made necessary by the Act, this Declaration, or the Committee.

d) Treasurer. The Treasurer shall have custody and control of the funds available to the Committee. The Treasurer shall cause to be prepared an annual financial statement for each fiscal year of Project operation. The offices of Secretary and Treasurer may be held by the same Committee member.

13. Committee Meetings. A regular meeting of the Committee shall be held immediately after the adjournment of each annual Owners meeting or at such other time as the members of the Committee may decide. Other regular meetings shall be held at periodic intervals at such time and place as the Committee may determine, but no less than one time per calendar month. No notice need be given of regular Committee meetings. Special Committee meetings shall be held whenever called by the President or by any two (2) members of the Committee. Written notice of all special meetings shall be delivered to each Committee Member at least twenty-four (24) hours before the time fixed for the meeting. The propriety of holding any meeting which is attended by all Committee Members may not be challenged on grounds of inadequate notice. A quorum for the transaction of business at any Committee meeting shall consist of a majority of all the Committee Members then in office.

14. Status and General Authority of Committee. Any instrument executed by the Management Committee that recites facts which, if true, would establish the Committee's power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument. The Association shall, in connection with its exercise of any of the powers delineated in subparagraphs (a) through (j) below, constitute a legal entity capable of dealing in its Committee name. The Management Committee shall have, and is hereby granted, the following authority and powers:

a) To Enter. The power and authority to enter into or upon any Unit to make repairs and to do other work necessary for the proper maintenance and operation of the Project. Except in the case of an emergency, Residents shall be given at least twenty-four (24) hours prior notice.

b) Grant Easements. The authority, without the vote or consent of the Owners, Mortgagees, insurers or guarantors of any Mortgage, or of any other person, to grant or create, on such terms as it deems advisable, reasonable permits, licenses, and non-exclusive easements over, under, across, and through the Common Areas for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance, operation or regulation of the Project.

c) Execute Documents. The authority to execute and record, on behalf of all Owners, any amendment to the Declaration or Record of Survey Map which has been approved by the vote or consent necessary to authorize such amendment.

d) Standing. The power to sue and be sued.

e) Enter Into Contracts. The authority to enter into contracts which in any way concern the Project, so long as any vote or consent necessitated by the subject matter of the agreement has been obtained.

f) Transfer Interests in Real Property. The power and authority to exchange, lease, convey or transfer any interest in real property, so long as it has been approved by at least seventy five percent (75%) of the Association Members.

g) To Purchase. The power and authority to purchase, otherwise acquire, and accept title to, any interest in real property, so long as it has been approved by at least seventy five percent (75%) of the Association Members.

h) To Add Property. The power and authority to add any real property, or interest therein, obtained pursuant to subparagraph (g) above to the Project, so long as it has been approved by at least seventy five (75%) of the Association Members.

i) Promulgate Rules. The authority to promulgate such reasonable administrative guidelines, rules, regulations, policies and procedures as may be necessary or desirable to aid the Committee in carrying out any of its functions or to insure that the Project is maintained and used in a manner consistent with the Act and this Declaration.

j) Meetings. The authority to establish procedures for the conduct of its meetings, including but not limited to the power to decide what portion of the meeting shall be open or closed to Owners or Residents not on the Committee, to retire to executive session, to regulate record keeping, and to allow, control or prohibit the electronic reproduction (video or audio) of Committee meetings.

k) Delegation of Authority. The power and authority to delegate its responsibilities over the management and control of the Common Areas and regulation of the Project to a professional manager, reserving the right, power and authority, however, to control and oversee the administration thereof.

l) All other Acts. The power and authority to perform any and all other acts, and to enter into any other transactions which may be reasonably necessary for the Management Committee to perform its functions on behalf of the Owners.

Anything to the contrary notwithstanding, before the occurrence of the Events described herein, any amendments to the Declaration or mergers must be approved in writing and in advance by the Secretary of Veterans Affairs.

15. Professional Management. Unless approval for self management is obtained from at least seventy five percent (75%) of the Members of the Association, the Committee shall delegate and carry out through a professional manager, professional management company or experienced on site manager those of its functions which may be delegated subject to the following:

a) The individual or entity so engaged shall be an independent contractor and not an employee of the Association;

b) All management contracts shall be in writing, shall not be for a term in excess of one (1) year, and shall provide that either party, with or without cause and without payment of any termination fee or being subject to any penalty, may elect to terminate the contract upon at least thirty (30) days prior written notice to the other party thereto.

c) The Manager shall be responsible for operating and managing the Project, subject to the direction and guidance of the Committee, and for the benefit of the Owners.

d) The Association may also employ maintenance and clerical personnel as necessary to properly operate, maintain and regulate the Project.

16. Owners Meetings. The Association Members shall meet as follows:

a) Annual Meeting. The annual meeting of the Owners shall be held at 7:00 o'clock p.m. on the second Tuesday in October of each year, unless otherwise determined by the Management Committee. Whenever such day is a legal holiday, the meeting shall occur on the first business day thereafter. The place of meeting shall be at the clubhouse unless otherwise specified in the notice of meeting. At least ten (10) but not more than thirty (30) days before the date of the annual meeting, a written notice thereof shall be personally delivered or mailed postage prepaid to each person who appears as an Owner, at his last known address. The notice shall state the time, place, and general purpose of the meeting.

b) Special Meetings. Special meetings of the Association may be called at any time by the Management Committee or by Unit Owners who collectively hold at least thirty (30%) of the total vote. Such meeting shall be held at such place as the Management Committee may specify and the notice thereof shall state the date, time, and matters to be considered.

c) Waiver of Notice. No notice of any Owners meeting shall be required if a waiver of such notice is signed by all of the Owners. Whenever all of the Owners meet in person or by proxy such meeting may not be challenged on grounds of inadequate



notice.

d) Quorum. The presence of a majority of the undivided ownership interest in the Project entitled to cast a vote shall constitute a quorum for the transaction of business at any Owner's meeting.

(1) Quorum Not Present. If a quorum is not present at any Owners meeting, whether regular or special, the meeting may be adjourned and rescheduled for a time no earlier than forty-eight (48) hours and no later than thirty (30) days, after the time set for the original meeting.

(2) Quorum at Rescheduled Meeting. The presence of at least twenty five percent (25%) of the members of the Association entitled to vote shall constitute a quorum at the rescheduled meeting.

(3) Percentage Approval Requirement. Anything to the contrary notwithstanding, in any instance in which the Act or this Declaration requires the affirmative vote of a certain percentage of Ownership interest for authorization or approval of a matter, their consent, in person by proxy or in writing is required for authorization or approval of the item, regardless of the quorum requirements.

17. Lists of Unit Owners, Eligible Mortgagees, and Eligible Insurers or Guarantors. The Committee shall maintain up-to-date records showing:

a) the name of each person who is an Owner, the address of such person, and the Unit which is owned by him or her;

b) the name and address of each Resident;

c) the name of each person or entity who is an Eligible Mortgagee, the address of such person or entity, and the Unit which is encumbered by the Mortgage held by such person or entity; and

d) the name of each person or entity who is an Eligible Insurer or Guarantor, the address of such person or entity, and the Unit which is encumbered by the Mortgage insured or guaranteed by such person or entity.

In the event of any transfer of a fee or undivided fee interest in a Unit, either the transferor or transferee shall furnish the Committee with written evidence verifying that the transfer has occurred, that the Deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Salt Lake County, Utah, and that the transferee has received a copy of the Declaration and By-Laws then in force.

The Committee may for all purposes act and rely on the information concerning Unit ownership in its records or, at its option, the records of the county recorder.

The address of any Owner shall be deemed to be the address of the Unit owned by such person unless the Committee is otherwise advised in writing.

18. Capital Improvements. All expenses for capital improvements shall be governed by and subject to the following conditions, limitations and restrictions:

a) Committee Discretion/Expenditure Limit. Any capital improvement to the Project for which sufficient funds are already on deposit in the reserve account or which costs ten percent (10%) or less of the Total Annual Budget, and does not alter the nature of the Project, may be authorized by the Management Committee alone (the "Capital Improvement Ceiling").

b) Homeowner Approval/Expenditure Limit. Any capital improvement, the cost of which will exceed the Capital Improvement Ceiling (unless sufficient funds are already on deposit in the reserve account), must, prior to the commencement of construction, be authorized by at least a majority of the percentage of undivided ownership interest in the Common Area.

c) Homeowner Approval/Changing the Nature of the Project. Any capital improvement which would materially alter the nature of the Project must, regardless of its cost and prior to being constructed or accomplished, be authorized by at least sixty-seven (67%) percent of the undivided ownership interest in the Common Areas.

19. Operation, maintenance and Alterations. Each Unit, the Limited Common Area and the Common Area shall be maintained, repaired and replaced in accordance with the following covenants, conditions and restrictions:

a) Clean & Attractive Condition. The Units, Limited Common Area and Common Area shall be maintained in a usable, clean, functional, attractive and good condition, consistent with Community Standards.

b) Neglect. If the Committee determines that any Owner has failed or refused to discharge properly his obligation with regard to the maintenance, repair, or replacement of items for which he is responsible hereunder; or that the need for maintenance, repair, or replacement of the Common Area is caused through the willful or negligent act of any Owner, his family, guests, lessees, or invitees, and it is not covered or paid by insurance, in whole or in part, then the Association may, but is not obligated to, provide such maintenance, repair or

replacement at the Owner's sole cost and expense, subject to the following:

(1) Assessment/Lien. Such costs shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against his Unit, as provided below.

(2) Notice of Intent to Repair. Except in an emergency situation, the Association shall give the Owner written notice of the Association's intent to provide necessary maintenance, repair, or replacement at Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Committee. The Owner shall have ten (10) days after receipt of notice within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days.

(3) Emergency Situation. If the Committee determines that an emergency exists, then notice and the opportunity to cure the default is not necessary.

(4) Optional Repairs. The Association may, but is not obligated to, provide any such maintenance, repair, or replacement in the manner described above.

(5) Right of Entry. The Association or its agents or employees shall have a right to entry upon or into any Unit or Limited Common Area as necessary to perform such work and shall not be liable for trespass for such entry or work.

c) Alterations to the Common Area. The Declarant may make changes to the design and construction of the improvements located in or on the Common Areas without the consent of the Committee or Members of the Association. Provided, however, no Owner or Resident may make any structural alterations to the Common Area (including the Limited Common Area) without the prior written consent of the Committee.

d) Landscaping. All landscaping in the Project shall be maintained and cared for in a manner consistent with the standards of design and quality originally established by Declarant and in accordance with Community Standards. Specific written guidelines, standards, controls, and restrictions on landscaping may be adopted or amended by the Committee from time to time. All landscaping shall be maintained in a neat and orderly condition. Any weeds or diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced. All lawn areas shall be neatly mowed and trees, shrubs and bushes shall be neatly trimmed. In a word, all landscaping shall be tasteful, so as not to affect adversely the value or use of any other Unit, or

to detract from the uniform design and appearance of the Project.

e) Area of Common Responsibility. The Association shall maintain, repair and replace all of the Area of Common Responsibility which shall include but is not limited to the clubhouse, swimming pool, tennis court, recreational amenities, playground and water retention area, common landscaping and green space, common sprinkler system, the entrance to and exit from the Project, all private roads and roadways, and the stacked Unit foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances and exits of the Building, and any Common Area item not included in the Area of Personal Responsibility. The Association shall repair and replace all Limited Common Area improvements.

f) Area of Personal Responsibility. Each Owner shall maintain, repair and replace his Unit and Limited Common Area which shall include but is not limited to all individual services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, fixtures, windows, doors, patios, balconies and decks. Each Unit Owner shall be responsible for keeping his Limited Common Area clean, attractive, tidy, uncluttered, safe, sanitary and functional so as not to detract from the uniform appearance or design of the Project and in a manner consistent with Community Standards.

20. Common Area Expenses. Each Owner shall pay his Common Area Assessments subject to and in accordance with the procedures set forth below.

a) Declarant. Anything to the contrary notwithstanding, the Declarant shall not be obligated to pay Common Area Assessments on any Units owned by it until such time as: (1) the physical structures are substantially completed; (2) certificates of permanent occupancy are issued and the Units are sold or rented; or (3) Declarant elects in writing to pay the Assessments, whichever first occurs.

b) Purpose of Common Area Expenses. The Common Area Assessments provided for herein shall be used for the general purpose of operating the Project, promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and residents, including the maintenance of any real and personal property owned by the Association, and regulating the Community, all as may be more specifically authorized from time to time by the Committee.

c) Creation of Common Area Assessments. Since the Common Area Assessments shall pay for the common expenses of the Association, as shall be determined by the Management Committee from time to time, each Owner, by acceptance of a deed to a Unit, whether or not it shall be so expressed in such deed, covenants and agrees

to pay to the Association in a timely manner all Common Area Assessments assessed by the Committee.

d) Budget. At least thirty (30) days prior to the Annual Homeowners Meeting, the Management Committee shall prepare and deliver to the Owners a proposed Budget which:

(1) Itemization. Shall set forth an itemization of the anticipated Common Expenses for the twelve (12) month calendar year, commencing with the following January 1.

(2) Basis. Shall be based upon advance estimates of cash requirements by the Management Committee to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Areas and regulation of the Association, which estimate shall include but is not limited to expenses of management, grounds maintenance, taxes and special assessments, premiums for all insurance which the Committee is required or permitted to maintain, common lighting and heating, water charges, trash collection, sewer service charges, carpeting, painting, repairs and maintenance of the Common Areas and replacement of those elements of the Common Areas that must be replaced on a periodic basis, wages for Management Committee employees, legal and accounting fees, any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus or sinking fund, capital improvement reserve, and other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under and by reason of this Declaration. Until the Project is completed, and all Phases are added, this estimate may need to be adjusted periodically as each new Phase is completed.

e) Apportionment. The common profits of the Project shall be distributed among and the common expenses shall be charged to the Unit Owners according to their respective percentage of or fractional undivided interest in the Common Area.

f) Approval of Budget and Assessments. The proposed Budget and the Common Area Assessments shall become effective unless disapproved at the Annual Meeting by a vote of at least a majority of the percentage of ownership interest in the Common Areas. Notwithstanding the foregoing, however, if the membership disapproves the proposed budget and Common Area Assessments or the Management Committee fails for any reason to establish the Budget and Common Area Assessments for the succeeding year, then and until such time as a new budget and new Common Area Assessment schedule shall have been established, the Budget and the Common Area Assessments in affect for the then current year shall continue for the succeeding year.

g) Payment of Common Area Assessments. The Management Committee has the sole authority and discretion to determine how and

when the annual Common Area Assessments are paid.

h) Personal Obligation of Owner. Owners are liable to pay all Common Area Assessments assessed and Additional Charges; provided, however, no first mortgagee or beneficiary under a first deed of trust (but not the Seller under a uniform real estate contract, land sales contract, or other similar instrument), who obtains title to a Unit pursuant to the remedies provided in the mortgage or trust deed shall be liable for unpaid Common Area Assessments which accrued prior to the acquisition of title. For purposes of this Section, the term "Owner" shall mean and refer jointly and severally to: (1) the Owner of both the legal and equitable interest in any Unit; (2) the owner of record in the offices of the County Recorder of Salt Lake County, Utah; and (3) both the Buyer and Seller under any executory sales contract or other similar instrument.

i) Equitable Changes. If the aggregate of all monthly payments on all of the Units is too large or too small as a result of unanticipated income or expenses, the Committee may from time to time effect an equitable change in the amount of said payments, but, without the prior approval of a majority of the percentage of ownership interest in the Common Area, not greater than fifteen (15%) percent of the Common Area Assessment in any calendar year. Owners shall be given at least thirty (30) days written notice of any changes.

j) Dates and Manner of Payments. The dates and manner of payment shall be determined by the Committee.

k) Reserve Account. The Committee shall establish and maintain a reserve account to pay for unexpected operating expenses and capital improvements. The reserve account shall be funded out of regular Common Area Assessments and the contributions from the Working Capital Fund.

l) Capital Improvement Table. The Committee shall establish and update at least annually a Capital Improvement Table which shall list each major capital improvement in the Project (e.g. roofs, roads, clubhouse, swimming pool, tennis court, playground and water retention area, recreational amenities, etc.), each item's expected useful life, the present cost of replacement, the estimated cost to replace the item at the end of its useful life, the percentage and amount of the Common Area Assessment currently set aside in the reserve account to replace the item at the end of its useful life, and the amount of money currently set aside in the reserve account for the replacement of the item.

m) Acceleration. Common Area Assessments shall be paid in the manner and on dates fixed by the Committee who may, at its option and in its sole discretion, elect to accelerate the entire annual Common Area Assessment for delinquent Owners. If, however,

the Common Area Assessment is accelerated and an Owner subsequently files bankruptcy or the Committee otherwise decides acceleration is not in its best interest, the committee, at its option and in its sole discretion, may elect to de-accelerate the obligation.

n) Statement of Common Area Assessments Due. Upon written request, the Committee shall furnish to any Owner a statement of Common Area Assessments due, if any, on his Unit. Failure to provide the certificate within ten (10) days after a written request, shall be deemed conclusive evidence that all Common Area Assessments are paid current. The Association may require the advance payment of a processing charge not to exceed \$15.00 for the issuance of such certificate.

o) Superiority of Common Area Assessments. All Common Area Assessments and liens created to secure the obligation to pay Common Area Assessments are superior to any homestead exemptions to which an Owner may be entitled.

p) Termination of Right to Use Amenities for Non-Payment. At the discretion of the Committee, the right to use any amenities in the Project, including but not limited to the clubhouse, swimming pool, tennis court, recreational amenities, and playground and water retention area may be terminated if the Owner is in arrears on his obligation to pay Common Area Assessments and has failed to cure or make satisfactory arrangements to cure the default after reasonable notice of at least ten (10) days.

q) Suspension of Right to Vote for Non-Payment. At the discretion of the Committee, the right of an Owner to vote on issues concerning the Association may be suspended if the Owner is delinquent in the payment of his Common Area Assessments, and has failed to cure or make satisfactory arrangements to cure the default after reasonable notice of at least ten (10) days.

21. Special Assessments. The Association may levy special assessments in any year, subject to the following:

a). Committee Based Assessment. So long as the special assessment does not exceed the sum of Five Hundred and 00/100s Dollars (\$500.00) (the "Special Assessment Limit") per Unit in any one fiscal year, the Committee may impose the special assessment without any additional approval.

b) Association Approval. Any special assessment which would exceed the Special Assessment Limit shall be effective only if approved by a majority of the members of the Association. The Committee in its discretion may allow any special assessment to be paid in installments.

22. Specific Assessments. If the Unit Owners have the choice to accept or reject the benefit, and it is not a regular maintenance

item, the Management Committee may as, in its discretion, it shall deem necessary or appropriate, subject to the following:

(1) Benefit only To Specific Unit. If the expense benefits less than all of the Units, then those Units benefitted may be specifically assessed, and the specific assessment shall be equitably apportioned among those Units according to the benefit received.

(2) Unequal or Disproportionate Benefit. If the expense benefits all Units, but does not provide an equal benefit to all Units, then all Units shall be specifically assessed, but the specific assessment shall be equitably apportioned among all Units according to the benefit received.

Failure of the Committee to exercise its authority under this Section shall not be grounds for any action against the Association or the Committee and shall not constitute a waiver of the Committee's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Committee has not previously exercised its authority under this Section.

23. Individual Assessments. Individual Assessments may be levied by the Management Committee against a Unit and its Owner to reimburse the Association for:

a) service fees and administrative costs incurred in enforcing the Project Documents;

b) costs associated with the maintenance, repair or replacement of Common Area for which the Unit Owner is responsible;

c) any other charge, fee, due, expense, or cost designated as an Individual Assessment in the Project Documents; and

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

24. Collection of Common Area Assessments. Since it is important that all Owners pay their Common Area Assessments in a timely manner, the Assessments shall be collected as follows:

a) Delinquent Assessments. Any Common Area Assessments which are not paid when due are delinquent and a lien to secure the obligation shall attach to the Unit automatically, regardless of whether a notice is recorded.

b) Late Assessments and Accruing Interest. Any Common Area Assessments delinquent for a period of more than ten (10) days shall incur a late charge of Twenty-Five Dollars (\$25.00) or five percent (5%) of the delinquent amount, whichever is greater.



Simple interest at the rate of One and  $\frac{1}{2}$  percent (1.5%) per month shall accrue on all delinquent accounts. The Committee may, in its sole discretion, waive late fees and accruing interest but is not required to do so.

c) Notice of Delinquency. The Association shall give a written notice of delinquency to any Owner who has not paid his Common Area Assessments in a timely manner and the opportunity to cure the default.

d) Notice of Lien. If the Common Area Assessments are not paid in a timely manner, and no satisfactory arrangements have been made to pay the debt, a notice of lien evidencing the unpaid amounts, accruing Assessments, and any other Additional Charges permitted by law should be filed in the office of the County Recorder. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other Owners. It may be executed by the Association's attorney, manager, any Committee Member, or other designated agent.

e) Foreclosure of Lien and/or Collection Action. If the Common Area Assessments remain unpaid, the Association may, as determined by the Committee, institute suit to collect the amounts due and/or to foreclose the lien.

f) Personal Obligation. Each Owner, by acceptance of a deed or as a party to any other type of conveyance, vests in the Association or its agents the right and power to bring all actions against him personally for the collection of the charges as a debt or to foreclose the lien in the same manner as mechanics liens, mortgages, trust deeds or encumbrances may be foreclosed.

g) No Waiver. No Owner may waive or otherwise exempt himself or herself from liability for the Common Area Assessments provided for herein, including but not limited to the non-use of Common Areas or the abandonment of his Unit.

h) Duty to Pay Independent. No reduction or abatement of Common Area Assessments shall be claimed or allowed by reason of any alleged failure of the Association or Committee to take some action or perform some function required to be taken or performed by the Association or committee under this Declaration or the By Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay Common Area Assessments being a separate and independent covenant on the part of each Owner.

g) Application of Payments. All payments shall be applied as follows: Additional Charges, Delinquent Common Area

Assessments and Current Common Area Assessments.

h) Foreclosure of Lien as Mortgage or Trust Deed. The lien for nonpayment of Common Area Assessments may be enforced by sale or foreclosure of the Owner's interest therein by the Committee. The sale or foreclosure shall be conducted in the same manner as foreclosures in deeds of trust or mortgages or in any other manner permitted by law. In any foreclosure or sale, the Owner shall pay the costs and expenses of such proceedings, including but not limited to the cost of a foreclosure report, reasonable attorney's fees, and a reasonable rental for the Unit during the pendency of the foreclosure action. The Association in the foreclosure action may require the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The Committee may bid for the Unit at foreclosure or other sale and hold, lease, mortgage, or convey the same.

i) Appointment of Trustee. If the Committee elects to foreclose the lien in the same manner as foreclosures in deeds of trust, then the Owner by accepting a deed to the Unit hereby irrevocably appoints the attorney of the Association, provided s/he is a member of the Utah State Bar, as Trustee, and hereby confers upon said Trustee the power of sale set forth with particularity in Utah Code Annotated, Section 57-1-23 (1953), as amended. In addition, Owner hereby transfers in trust to said Trustee all of his right, title and interest in and to the real property for the purpose of securing his performance of the obligations set forth herein.

j) Attorney in Fact. Each Owner by accepting a deed to a Unit hereby irrevocably appoints the Association as his attorney in fact to collect rent from any person renting his Unit, if the Unit is rented and Owner is delinquent in his Common Area Assessments. Rent due shall be paid directly to the Association, upon written demand, until such time as the Owner's Common Area Assessments are current; and the Owner shall credit the Renter, against rent due, for the amount of money paid to the Association.

25. Liability of Management Committee. The Association shall indemnify every officer and member of the Committee against any and all expenses, including but not limited to attorney's fees reasonably incurred by or imposed upon any officer or member of the Committee in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Committee) to which he or she may be a party by reason of being or having been an officer or member of the Committee. The officers and members of the Committee shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and members of the Committee shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the

Association (except to the extent that such officers or members of the Committee may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and member of the Committee free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall be exclusive of any other rights to which any officer or member of the Committee, or former officer or member of the Committee, may be entitled. The Association shall, as a common expense, maintain adequate general liability and officer's and director's insurance coverage to fund this obligation, if such insurance is reasonably available.

26. Insurance. The Management Committee shall at all times purchase, maintain in force, and pay the premiums for, if reasonably available, insurance on the Common Areas satisfying at least the following requirements:

a) Property Insurance. Blanket property insurance using the standard "Special" or "All-Risk" building form. Loss adjustment shall be based upon replacement cost. For purposes of this sub-section, the term "casualty insurance" shall not mean or refer to "earthquake" or other special risks not included in the standard condominium casualty policy. This additional coverage may be added by the Committee as it deems necessary in its best judgment and in its sole discretion.

b) Flood Insurance. If the property is or comes to be situated in an area having special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program ("NFIP"), or any successor program, a policy of flood insurance shall be maintained covering the property in an amount deemed appropriate, but not less than the lesser of: (1) the maximum limit of coverage available under NFIP for Insurable Property within a designated flood hazard area; or (2) one hundred percent (100%) of current replacement cost of the Insurable Property. Such policy shall be in a form which meets the criteria set forth in the most current Guidelines on the subject issued by the Federal Insurance Administrator.

c) Liability Insurance. Liability insurance with adequate limits of liability for bodily injury and property damage. If possible, the policy should be written on the comprehensive form and shall include not-owned and hired automobile liability protection.

d) Director's and Officer's Insurance. Adequate director's and officer's liability insurance (aka Errors and Omissions or E & O insurance).

e) Fidelity Bond. A separate fidelity bond in a reasonable amount to be determined by the Management Committee to

cover all non-compensated officers as well as all employees for theft of Association funds, subject to the following:

(1) Agents. Furthermore, where the Committee or the Association has delegated some or all of the responsibility for the handling of funds to a management agent, such bonds are required for the management agent's officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Committee or the Association.

(2) Amount of Coverage. The total amount of fidelity bond coverage required shall be based upon the Committee's best business judgment, but shall not be less than the estimated maximum amount of funds, including reserve funds, in the custody of the Committee, the Association, or the management agent, as the case may be, at any given time during the term of each bond. Nevertheless, in no event may the amount of such bonds be less than a sum equal to three (3) months' aggregate assessments on all Units, plus reserve funds.

(3) Quality of Coverage. The bonds required shall meet the following additional requirements:

a. they shall name the Committee, the Owners Association, and the Property Manager as obligee;

b. if the insurance contract or bond excludes coverage for damages caused by persons serving without compensation, and may use that exclusion as a defense or reason not to pay a claim, the insurance company shall, if possible, be required to waive that exclusion or defense;

c. the premiums on all bonds required herein for the Committee and the Association (except for premiums on fidelity bonds maintained by a management agent for its officers, employees and agents) shall be paid by the Committee or the Association as part of the Common Expenses; and

d. the bonds shall provide that they may not be canceled or substantially modified, including cancellation for nonpayment of premium, without at least ten days' prior written notice to the Committee and the Association, to any Insurance Trustee, and to each service of loans on behalf of any Mortgagee, the VA, FHA and FNMA.

f) Earthquake Insurance shall not be required unless requested by a least Seventy five percent (75%) of the Members of the Association.

g) Miscellaneous Items. The following provisions shall apply to all insurance coverage:

(1) The Insured. The name of the insured under each policy required to be maintained hereby shall be set forth therein substantially as follows: "Association of Unit Owners of the Jefferson Place, a Condominium Project, for the use and benefit of the individual Owners."

(2) Designated Representative. The Association may designate an authorized representative of the Association, including any Insurance Trustee with whom the Association has entered into an Insurance Trust Agreement, or any successor to such Trustee, for the use and benefit of the individual Owners.

(3) Beneficiary. In any policy covering the entire Project, each Owner and his Mortgagee, if any, shall be beneficiaries of the policy in an amount equal to the Owner's percentage of undivided ownership interest in the Common Areas and Facilities.

(4) Certificate of Insurance. Evidence of insurance shall be issued to each Owner and Mortgagee upon request.

(5) Mortgage Provisions. Each policy shall contain a standard mortgage clause or its equivalent and shall provide that the policy may not be canceled or substantially modified without at least ten (10) days prior written notice to the Association and to each Mortgagee.

(6) Waiver of Subrogation. Each policy shall contain a waiver of the right of a subrogation against Owners individually;

(7) Individual Neglect. Each policy shall contain a provision that the insurance is not prejudiced by any act or neglect of any individual Owner; and

(8) Deductible. The deductible on a claim made against the Association's liability insurance policy shall be paid by the party who would be liable for the loss, damage, claim or repair in the absence of insurance, and in the event of multiple responsible parties, the loss shall be allocated in relation to the amount each party's responsibility bears to the total. Provided, however, if the loss is caused by an act of god or nature, or by an element beyond the control of the Association, then the Owner shall be responsible for and shall pay the deductible.

(9) Individual Insurance. No Owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association, on behalf of all the Owners and their mortgagees, may realize under any insurance policy which the Association may have in force on

the Property at any particular time.

(10) Primary Coverage. Anything to the contrary notwithstanding, the insurance coverage of an Owner shall, in the event the Association also has insurance covering the loss, be primary and the insurance of the Association shall be secondary.

(11) Prompt Repair. Each Owner further covenants and agrees that in the event of any partial loss, damage or destruction of his Unit, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction.

(12) Disbursement of Proceeds. Proceeds of insurance policies shall be disbursed to repair promptly and reasonably the damages. Any excess proceeds shall be paid and distributed to the Owners in proportion to their respective undivided interests in the Common Areas. Payment to any Owner whose Unit is the subject of a Mortgage shall be made jointly to such Owner and the interested Mortgagee.

(13) Special Endorsements. Each policy shall also contain or provide those endorsements commonly purchased by other Condominium Homeowners Associations in Salt Lake County, Utah.

(14) Quality of Insurance Carrier. Each insurance policy required hereby shall be written by an insurance carrier licensed to transact business in the State of Utah and who has the highest rating by Best's Key Rating Guide.

(15) Restrictions on Policies. No such insurance policy shall be maintained where:

a. Individual Assessments Prohibited. Under the term of the carrier's charter, By-Laws, or policy, contributions may be required from, or assessments may be made against, an Owner, a borrower, a Mortgagee, the Management Committee, the Association, FNMA, or the designee of FNMA.

b. Payments Contingent. By the terms of the Declaration, By-Laws, or policy, payments are contingent upon action by the carrier's board of directors, policyholder, or member; or

c. Mortgagee Limitation Provisions. The policy includes any limited clauses (other than insurance conditions) which could prevent the party entitled (including, without limitation, the Committee, the Association, an Owner, FNMA, or the borrowers) from collecting insurance proceeds.

(16) Intent. The foregoing provisions shall not be construed to limit the power or authority of the Association,

Committee or Owners to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Management Committee or Association may deem appropriate from time to time.

27. Destruction, Condemnation, and Obsolescence. The following provisions shall apply with respect to the destruction, condemnation, or obsolescence of the Project.

a) Definitions. Each of the following terms shall have the meaning indicated:

(1) "Substantial Destruction" shall exist whenever, as a result of any damage or destruction to the Project or any part thereof, the excess of the estimated cost of restoration over the funds available is Twenty five percent (25%) percent or more of the estimated restored value of the Project.

(2) "Partial Destruction" shall mean any other damage or destruction to the Project or any part thereof.

(3) "Substantial Condemnation" shall exist whenever a complete taking of the Project or a taking of part of the Project has occurred under eminent domain or by grant or conveyance in lieu of condemnation, and the excess of the estimated cost of restoration over the funds available is Twenty five (25%) percent or more of the estimated restored value of the Project.

(4) "Partial Condemnation" shall mean any other such taken by eminent domain or grant or conveyance in lieu thereof.

(5) "Substantial Obsolescence" shall exist whenever the Project or any part thereof has reached such a state of obsolescence or disrepair that the excess of the estimated cost of restoration over the funds available is Twenty five percent (25%) percent or more of the estimated restored value of the Project.

(6) "Partial Obsolescence" shall mean any state of obsolescence or disrepair which does not constitute Substantial Obsolescence.

(7) "Restored Value" shall mean the fair market value of the Project after Restoration as determined by an MAI or other qualified appraisal.

(8) "Estimated Cost of Restoration" shall mean the estimated costs of restoring the Project to its former condition.

(9) "Available Funds" shall mean any proceeds of

insurance, condemnation awards, payments in lieu of condemnation, and any uncommitted funds of the Management Committee or Association. Available Funds shall not include that portion of insurance proceeds legally required to be paid to any party other than the Association, including a mortgagee, or that portion of any condemnation award or payment in lieu of condemnation payable to the Owner or Mortgagee for the condemnation or taking of the Unit in which they are interested.

b) Determination by Committee. Upon the occurrence of any damage or destruction to the Project or any part thereof, or upon a complete or partial taking of the Project under eminent domain or by grant or conveyance in lieu thereof, the Committee shall make a determination as to whether the excess of Estimated Costs of Restoration over Available Funds is twenty-five percent (25%) or more of the estimated Restored Value of the Project. In addition, the Committee shall, from time to time, review the condition of the Project to determine whether Substantial Obsolescence exists. In making such determinations the Committee may retain and rely upon one or more qualified appraisers or other professionals.

c) Restoration of the Project. Restoration of the Project shall be undertaken by the Committee promptly without a vote of the Owners in the event of Partial Destruction. Partial Condemnation, or Partial Obsolescence and shall also be undertaken in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence unless the failure to make Restoration is consented to by Owners collectively holding at least sixty-seven percent of the Project's undivided Ownership interest and is further consented to by Eligible Mortgagees holding Mortgages on Units which have appurtenant at least fifty-one (51%) percent of the undivided ownership interest in the Common Areas and Facilities which is then subject to Mortgages held by Eligible Mortgagees.

d) Notices of Destruction or Obsolescence. Within thirty (30) days after the Committee has determined that Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence exists, it shall send to each Owner and Eligible Mortgagee a written description of the destruction, condemnation, or state of obsolescence involved, shall take appropriate steps to ascertain the preferences of the Eligible Mortgagees concerning Restoration, and shall, with or without a meeting of the Owners (but in any event in accordance with the applicable provisions of this Declaration), take appropriate steps to determine the preferences of the Owners regarding Restoration.

e) Excess Insurance. In the event insurance proceeds condemnation awards, or payments in lieu of condemnation actually received by the Committee or Association exceed the cost of Restoration when Restoration is undertaken, the excess shall be paid and distributed to the Owners in proportion to their respective



undivided interests in the Common Areas. Payment to any Owner whose Unit is the subject of a Mortgage shall be made jointly to such Owner and the interested Mortgagee.

f) Inadequate Insurance. If the cost of Restoration exceeds Available Funds, the Management Committee may elect to make a special assessment in accordance with Article III, Section 21 above to pay for the deficiency.

g) Reallocation in Event of Partial Restoration. In the event that all or any portion of one or more Units will not be the subject of Restoration (even though the Project will continue as a condominium project) or is taken in a condemnation proceeding or pursuant to any agreement in lieu thereof, the undivided Ownership interest in the Common Areas and Facilities shall be immediately reallocated to the remaining Units.

h) Sale of Project. Unless Restoration is accomplished as set forth above, the Project shall be sold in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence. In the event of such sale, condominium Ownership under this Declaration and the Survey map shall terminate and the proceeds of sale and any Available Funds shall be distributed by the Committee to the Owners in proportion to their respective undivided interests in the Common Areas. Payment to any Owner whose Unit is then the subject of a Mortgage shall be made jointly to such Owner and the interested Mortgagee.

i) Authority of Committee to Represent Owners in Condemnation or to Restore or Sell. The Committee, as attorney-in-fact for each Owner, shall represent all of the Owners and the Association in any condemnation proceeding or in negotiations, settlements, and agreements with the condemning authority for the acquisition of all or any part of the Common Areas and Facilities.

j) Settlement Proceeds. The award in any condemnation proceeding and the proceeds of any settlement related thereto shall be payable to the Association for the use and benefit of the Owners and their mortgagees as their interests may appear.

k) Restoration Power. The Committee, as attorney-in-fact for each Owner, shall have and is hereby granted full power and authority to restore or to sell the Project and each Unit therein whenever Restoration or sale, as the case may be, is undertaken as hereinabove provided.

l) Right of Entry. Such authority shall include the right and power to enter into any contracts, deeds or other instruments which may be necessary or appropriate for Restoration or sale, as the case may be.

28. Consent in Lieu of Vote. In any case in which this

Declaration requires the vote of an Owner for authorization or approval of an act or a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners who collectively hold the required percentages, subject to the following conditions:

a) Ninety-Day Limit. All necessary consents must be obtained prior to the expiration of ninety (90) days from the time the first written consent is obtained; and

b) Change In Ownership. Any change in Ownership of a Unit which occurs after consent has been obtained from the Owner having an interest therein shall not be considered or taken into account for any purpose.

29. Mortgagee Protection. The lien or claim against a Unit for unpaid Common Area Assessments levied by the Management Committee or by the Association pursuant to this Declaration or the Act shall be subordinate to any Mortgage recorded on or before the date such Common Area Assessments become due, subject to the following:

a) Effects of Voluntary and Involuntary Sale. The lien or claim against a Unit for such unpaid Common Area Assessments shall not be affected by any sale or transfer of such Unit, except that a sale or transfer pursuant to a foreclosure of the Mortgage affecting such Unit or the exercise of a power of sale available thereunder shall extinguish any debt payable prior to such sale or transfer. Nevertheless, any such unpaid Common Area Assessments which are extinguished in accordance with the foreclosure or power of sale shall not relieve the purchaser or transferee of such Unit from liability for, nor such Unit the lien of any Common Area Assessments becoming due thereafter.

b) Books and Records Available for Inspection. The Committee or the Association shall make available to the Owners, to Mortgagees, and lenders, and to holders, insurers, or guarantors of any Mortgage current copies of the Declaration, By-Laws, and administrative rules and regulations concerning the Project, as well as the books, records, and financial statements of the Committee and the Association. The term "Available," as used in the Paragraph, shall mean available for reasonable inspection upon request during normal business hours or under other reasonable circumstances. The Association shall have the right to recover its photocopying and service charges incurred in making the inspection and photocopying available.

c) Right to Financial Statement. The holder, insurer or guarantor of any Mortgage shall be entitled, upon written request, to a financial statement for the immediately preceding fiscal year. Any financial statement requested pursuant hereto shall be furnished to the requesting party within a reasonable

time following such request.

d) Management Contracts. Any agreement for professional management of the Project, and any contract for goods or services, or any lease which is entered into by the Management Committee shall provide, or be deemed to provide hereby, that:

(1) either party may terminate the contract with cause upon at least thirty (30) days prior written notice to the other party; and

(2) No contract may be for an initial term greater than one (1) year.

e) Eligible Mortgagee Designation. Upon written request to the Committee or the Association by the holder, insurer, or guarantor of a Mortgage (which request identifies the name and address of such holder, insurer or guarantor and the Unit Number or address of the property encumbered by the Mortgage held or insured by such holder, insurer, or guarantor), such holder insurer, or guarantor shall be deemed thereafter to be an "Eligible Mortgagee" or "Eligible Insurer" or "Eligible Guarantor," as the case may be, shall be included on the appropriate lists maintained by the Association, and shall be entitled to timely written notice of any of the following:

(1) Condemnation Loss or Award. Any condemnation loss or any casualty loss which affects a material portion of the Project or any Unit on which there is a Mortgage held, insured, or guaranteed by such Eligible Insurer or Guarantor.

(2) Delinquency. Any delinquency in the payment of Common Area Assessments owed by an Owner of a Unit subject to a Mortgage held, insured or guaranteed by such Eligible Insurer or Guarantor, which delinquency remains uncured for a period of sixty days.

(3) Lapse of Insurance. Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Committee or the Association.

(4) Consent Required. Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees.

30. Amendment. Anything to the contrary notwithstanding, prior to the occurrence of the Events, the Association may not amend the Declaration or Survey Map without the prior written approval of the Secretary of the Veterans Affairs. After the occurrence of the Events, the affirmative vote of at least sixty seven percent (67%) of the undivided ownership interest in the Common Areas shall be required and shall be sufficient to amend

the Declaration or the Record of Survey Map. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the Management Committee. In such instrument the Committee shall certify that the vote required by this Section for amendment has occurred, and, if approval of a specified percentage of Eligible Mortgagees is required for such amendment, that such approval has been obtained.

The foregoing right of amendment shall, however, be subject to the following:

a) Consent of Eligible Mortgagee. The consent of Eligible Mortgagees holding at least sixty seven percent (67%) of the undivided ownership interest in the Common Areas and shall be required to any amendment which would terminate the legal status of the Project; and the consent of Eligible Mortgagees holding at least fifty-one (51%) percent of the undivided ownership interest in the Common Areas shall be required to add to or amend any material provision of this Declaration or the Survey Map which establishes, provides for, governs, or regulates any of the following:

- (1) voting;
- (2) assessments, assessment liens, or subordination of liens;
- (3) reserves for maintenance, repair, and replacement of the Common Areas;
- (4) insurance or fidelity bonds;
- (5) limitations and restrictions on the right to use of the Common Areas;
- (6) responsibility for maintenance and repair of the several portions of the Project;
- (7) expansion or contraction of the Project or the addition, annexation or withdrawal of property to or from the Project;
- (8) the boundaries of any Unit;
- (9) the percentages of Ownership interest in the Common Areas;
- (10) the conversion of Units into Common Areas, or vice versa, the conversion of Common Areas into Limited Common Area, or vice versa;
- (11) express benefits or rights of Mortgagees, Eligible Mortgagees, or Eligible Insurers or Guarantors; and

(12) the requirement that the Project be professionally managed rather than self managed.

Any addition or amendment shall not be considered material for purposes of this section if it is for the clarification only or to correct a clerical error.

Notice of any proposed amendment to any Eligible Mortgagee to whom a written request to approve an addition or amendment to this Declaration or the Survey Map is required shall be mailed postage prepaid to the address for such Mortgagee shown on the list maintained by the Association.

Except for the Secretary of Veterans Affairs, any Eligible Mortgagee who does not deliver to the Management Committee or the Association a negative response to the notice of the proposed amendment within thirty (30) days from the date of such mailing shall be deemed to have approved the proposal.

The foregoing consent requirements shall not be applicable to amendments to this Declaration and the Survey Map or the termination of the legal status of the Project as a condominium if such amendments or such termination are made or accomplished in accordance with the provisions of this Declaration regarding Condemnation or Substantial Obsolescence.

31. Notice and Hearing. In the event of a claimed violation of the Act, Declaration, By-Laws or administrative rules and regulations as they may be adopted by the Committee from time to time governing the Project, an Owner or Resident shall be entitled to the following:

a) Notice. Written notice specifying the nature of the alleged violation (providing any other appropriate information) and stating the time, date, and place at which the Owner or Resident will have an opportunity to be heard by the Committee. Written notice shall be given at least fifteen (15) days prior to and no longer than thirty (30) days before the date set for the hearing. The notice may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after it has been deposited with the U.S. Postal Service, regular mail, postage prepaid, addressed to the Owner or Resident at the address given by the member to the Committee for the purpose of service of notice, or to the address of the Owner's or Resident's Unit if no other address has been provided. The address of an Owner or Resident for purposes of notice may be changed from time to time by delivery of written notice to the Committee.

b) Costs & Assessments. If the violation, or the failure to correct or remedy a violation, results or may result in the expenditure of funds, the notice shall also state that the

Management Committee may vote to assess the adverse party, or impose other sanctions if the Committee finds that a violation has occurred.

c) Final Determination. After the hearing has taken place, the Committee shall determine whether a violation has occurred and, if so, the Committee may: (1) levy an Assessment or impose conditions which shall become effective not less than five (5) days after the date of the hearing; or (2) take such other action as it may deem appropriate.

The determination of the Committee shall be final.

Nothing herein shall be construed to prevent the Committee from making any emergency repairs or taking any other emergency action it deems necessary and subsequently providing notice to an Owner or Resident and the opportunity to be heard.

32. Declarant's Sales Program. Anything to the contrary notwithstanding, until Declarant has sold all the Units owned by it in the Project or seven (7) years from the date following the first conveyance of a Unit constructed on the Additional Land to a Unit purchaser (herein referred to as the "Events"), neither the Owners, the Association, nor the Management Committee shall interfere with the completion of improvements and sale of all remaining Units, and Declarant shall have the following rights in furtherance of any sales, promotions or other activities designed to accomplish or facilitate the sale of all Units owned by Declarant:

a) Sales Office and Model Units. Declarant shall have the right to maintain one or more sales offices and one or more model Units at any one time. Such office and/or models may be one or more of the Units owned by the Declarant on the land added by Declarant to the Project -- that is, one or more separate structures or facilities placed on the real property added to the Project by the Declarant. The Sales Office or Model Unit shall be used for the purpose of aiding Declarant's sales effort, or any combination of the foregoing.

b) Promotional. Declarant shall have the right to maintain a reasonable number of promotional, advertising and/or directional signs, banners or similar devices at any place or places on the Property.

c) Common Area Use. Declarant shall have the right to use the Common Areas and Facilities of the Project, including but not limited to the clubhouse, swimming pool, tennis court, and RV Parking Area, to facilitate sales.

d) Relocation and Removal. Declarant shall have the right from time to time to locate or relocate any of its sales

offices, models, or signs, banners or similar promotional devices within the boundaries of the real property added by Declarant to the Project. Within a reasonable period of time after the happening of the Event, Declarant shall have the right to remove from the Project any signs, banners or similar devices and any separate structure or facility which was placed on the Property for the purpose of aiding Declarant's sales effort.

f) Assign Garages, Carports and Parking Spaces.  
Declarant, in its sole discretion, shall have the right to assign one or more parking spaces, carports or garages to the Unit Owners.

e) Management Committee. Because of the expansion of the Project, the number of Members of the Management Committee shall be expanded from three (3) to five (5). The Declarant shall have the exclusive right to appoint to and remove from the Management Committee the two (2) Members appointed by it, as in Declarant's sole discretion it deems necessary or appropriate, until the earlier of one hundred twenty (120) days after the date by which seventy-five percent (75%) of all of the new units constructed on the Additional Land have been conveyed or seven (7) years from the date following the first conveyance of a Unit constructed on the Additional Land to a Unit purchaser, whichever first occurs. Provided, however, each member of the Board, including those appointed by the Declarant, shall be an individual Unit Owner or the legal representative of an institutional Unit Owner.

33. Limitation on Improvements by Association. Until the Event described above, neither the Association nor the Management Committee shall, without the written consent of Declarant, make any improvement to or change, modification, or alteration in any of the Common Areas and Facilities created or constructed by Declarant or its predecessor in interest, including but not limited to the clubhouse, swimming pool, tennis court, RV Parking Area, and the like, other than such repairs, replacements, or similar matters as may be necessary to properly maintain the Common Areas as originally created or constructed by Declarant or its predecessor in interest.

34. Completion Obligation. Declarant hereby covenants in favor of each Owner that within two (2) years from the date of any contract of sale on a Unit that the Building within which such Unit is contained or is to be contained, and the appurtenant Limited Common Area shall be substantially constructed, and ready for use or occupancy (as the case may be); and the appurtenant Common Area shall be substantially completed and usable as part of the final plans and specifications approved by Sandy City. This includes but is not limited to all landscaping, green space, sidewalks, parking facilities, roads, fences, outdoor lighting, and utility lines and conduits adjacent to the Unit or Building in

which a Unit is located, and necessary for its use.

35. Declarant's Rights Assignable. All of the rights of Declarant under this Declaration may be assigned or transferred either by operation of law or through a voluntary conveyance, transfer or assignment. Any Mortgage covering all Units or Buildings in the Project title to which is vested in Declarant shall, at any given point in time and whether or not such Mortgage does so by its terms, automatically cover, encumber, and include all of the then unexercised or then unused rights, powers, authority, privileges, protections and controls which are accorded to Declarant (in its capacity as Declarant) herein.

36. Expansion of the Project. For so long as Declarant continues to own any of the Units in the Project the following provisions shall be deemed to be in full force and effect:

a) Reservation of Option to Expand. Declarant hereby reserves the option to expand the Project to include additional Units in the Project.

(1) Option Period. This option to expand may be exercised from time to time, at different times and in any order, without limitation, provided however, the option shall expire seven (7) years from the date following the first conveyance of a Unit in the Additional Land to a Unit purchaser unless sooner terminated by Declarant's recorded Waiver of such option, there being no other circumstances which will cause the option to expire prior to said seven (7) year period.

(2) Consent of Owners Not Required. Such right may be exercised without first obtaining the consent or vote of Unit Owners and shall be limited only as herein specifically provided.

b) Supplemental Declarations and Supplemental Maps. Such expansion may be accomplished by the filing for record by Declarant in the office of the County Recorder of Salt Lake County, Utah, no later than seven (7) years from the date this Declaration is recorded, a Supplement or Supplements to this Declaration containing a legal description of the site or sites for new Units, together with supplemental Map or Maps containing the same information with respect to the new Units as was required on the Map with respect to the Phase 1, 2 and 3 Units.

c) Phases. The expansion may be accomplished in phases by successive supplements or in one supplemental expansion.

d) Expansion of Definitions. In the event of such expansion the definitions used in this Declaration automatically shall be expanded to encompass and refer to the Project as so expanded. For example, the term "Property" shall mean the real



property initially submitted under the Declaration, plus any Additional Land added to the Project by a Supplemental Declaration or by Supplemental Declarations, and reference to this Declaration shall mean this Declaration as so supplemented. All conveyances of Units after such expansion shall be effective to transfer rights in the Project, as expanded by use of the form of description set forth above, with additional references to the Supplemental Declaration and the Supplemental Map. The recordation in the office of the Salt Lake County Recorder of a Supplemental Map incident to any expansion shall operate automatically to grant, transfer, and convey to then Owners of Units in the Project as it existed before such expansion the respective undivided interests in the new Common Areas added to the Project as a result of such expansion. Such recordation shall also operate to vest in any then mortgagee of any Unit in the Project as it existed, interest so acquired by the Owner of the Unit encumbering the new Common Areas added to the Project as a result of such expansion.

e) Declaration Operative on New Units. The new Units shall be subject to all the terms and conditions of this Declaration and of a Supplemental Declaration, and the Units therein shall be subject to condominium ownership with all the incidents pertaining thereto as specified herein, upon recording the Supplemental Map and Supplemental Declaration in the said office of the Salt Lake County Recorder.

f) Right of Declarant to Adjust Ownership Interest in Common Areas. Each deed of a Unit shall be deemed to irrevocably reserve to the Declarant the power to appoint to Unit Owners, from time to time, the percentages in the Common Areas set forth in Supplemental or Amended Declaration. The proportionate interest of each Unit Owner in the Common Areas after any expansion of the Project shall be an undivided interest of the Project as expanded. A power coupled with an interest is hereby granted to the Declarant, its successors and assigns, as attorney in fact to shift percentages of the Common Areas in accordance with Supplemental or Amended Declarations recorded pursuant hereto and each deed of a Unit in the Project shall be deemed a grant of such power to the Declarant. Various provisions of this Declaration and deeds and mortgages of the Units may contain clauses designed to accomplish a shifting of the Common Areas. None of said provisions shall invalidate the other, but each shall be deemed supplementary to the other toward the end that a valid shifting of the Common Areas can be accomplished. Notwithstanding anything to the contrary herein, no change in the percentage of undivided interest in the Common Areas may be effected more than seven (7) years after the effective date of the Declaration. Declarant shall make available to the Management Committee a copy of the proposed modifications of the percentage of ownership interest contemplated by this subsection prior to the recordation of any Revised Exhibit "A".

Accordingly, upon the recordation of a Supplemental Declaration and Supplemental Map incident to any expansion, the revised schedule of undivided interests in the Common Areas contained therein shall automatically become effective for all purposes and shall fully supersede any similar schedule which was contained in any declaration associated with any prior phase. In the event the provisions of the separate instruments relating to the Project conflict irreconcilably, the terms of that instrument which was recorded most recently shall control.

g) Other Provisions Concerning Expansion. If the Project is expanded as hereinbefore contained, then it is further provided that subject to the discretion of Declarant:

(1) Adding Additional Land. All or any part of the Additional Land may be added to the Project without any limitations.

(2) Adding a Portion of the Additional Land. Portions of the Additional Land may be added to the Project at different times without any limitations.

(3) Access. Declarant shall have the right to the non-exclusive use of the existing roads, easements and rights of way to improve Additional Land added to the Project; provided, however, after the completion of Phase 3, Declarant shall use its best efforts to have all construction vehicles access new phases via the RV Parking Area. The Association shall not allow anything to be built upon or interfere with Declarant's right to use the existing roads, easements, rights of way and RV Parking Area until such time as the expansion of the Project is completed.

(4) Assurances. Declarant makes the following assurances or disclaimers:

a. Harmonious Improvements. No assurances are made concerning the location, type, kind or nature of the improvements to any real property added to the Project by the Declarant, including the quality of workmanship and materials, the landscaping and green space, the construction of the units, the harmony of the exterior design, and the location of the improvements in relation to surrounding structures, topography and finish grade elevations, except to state that Declarant shall only construct multi-family residential housing structures limited to one family per Unit, the improvements shall be compatible, reasonably integrated and architecturally harmonious with existing

improvements in Phases 1, 2 and 3 so as not to jeopardize the soundness or safety of the Project, reduce its value, or impair any easement or hereditament. The quality of materials and construction shall be equal to or better than that in the original Phases. Provided, however, final Plans and Specifications approved by Sandy City and a Certificate of Occupancy issued by Sandy City shall be deemed to satisfy the requirements of this section. No other assurances are made regarding the type, kind or nature of any improvement.

b. Location of Improvements. No assurances are made regarding the exact location of any improvement that may be constructed or installed on any portion of the Additional Land that may be added to the Project.

c. Limited Common Area. No assurances are made regarding the type, size, or maximum number of Limited Common Areas which may be created within any portion of the Additional Land added to the Project.

(5) No Obligation. Notwithstanding anything to the contrary which may be contained herein, the Declaration is not intended, and shall not be construed so as to impose upon Declarant any obligation respecting, or to restrict Declarant in any way with regard to: a) the submission of any portion of the Additional Land to the provisions of the Act as Land under this Declaration; b) the creation, construction, or addition to the Project of any additional property; c) the carrying out in any particular way or within any particular time of any development which may be undertaken except as herein mentioned; or d) the taking of any particular action with respect to the Additional Land, the Project, or any Land.

(6) Number of Units and Percentages of Ownership Interest. Based upon Revised Exhibit "A," and assuming that only Phases 1, 2, 3, and 4 of the Project are completed the minimum number of Units would be 104 and the maximum percentage of ownership interest of any Unit would be 1.09375%. Assuming all Phases are completed and all Additional Land is added to the Project the maximum number of Units would be 176, the maximum number of units per acre would be 17.8, and the minimum percentage of ownership interest of any Unit would be .52603%. Provided, however, the number of Units actually constructed and the actual undivided percentage of ownership interest of each Unit may actually be somewhere in between the numbers and percentages set forth above.

(7) Warranties and Representations. Declarant specifically disclaims any intent to have made any warranty or representation in connection with the Project or the Declaration except as specifically set forth herein or in any agreement for sale of a Unit, and no person shall rely upon any warranty or representation not so specifically made therein.

37. Declarant's Rights Assignable. All of the rights of Declarant under this Declaration may be assigned or transferred either by operation of law or through a voluntary conveyance, transfer or assignment. Any Mortgage covering all Units or Buildings in the Project title to which is vested in Declarant shall, at any given point in time and whether or not such Mortgage does so by its terms, automatically cover, encumber, and include all of the then unexercised or then unused rights, powers, authority, privileges, protections and controls which are accorded to Declarant (in its capacity as Declarant) herein.

38. VA Approval. Until the Event described above, the Declarant shall not annex additional properties or amend the Declaration without the prior written consent of the Secretary of Veterans Affairs.

39. Transfer of Management. Anything to the contrary notwithstanding, the Declarant:

a) Right to Relinquish. May at any time relinquish its reserved right to appoint two (2) members of the Management Committee and may elect to transfer the management of the Project to a Management Committee elected exclusively by the Owners.

b) Transition. Shall transfer management, operation and control of each new Phase as follows:

(1) Events. One hundred twenty (120) days after the date by which all of the new Units constructed upon the Additional Land have been conveyed or seven (7) years from the date this Amended and Restated Declaration is recorded, whichever first occurs, the Declarant shall:

a. Notice. Notify the Association in writing of the effective date of such transfer (the "Transfer Date") at least forty five (45) days prior thereto.

b. Association Meeting. Thereupon, the Association shall call a meeting to elect two (2) members to the Management Committee to take office as of the Transfer Date.

(2) Covenant to Cooperate. Declarant covenants to cooperate with the Owners in effecting an orderly transition of management.

(3) Debts, Obligations and Reserves. Declarant shall cause all obligations for common expenses of the phase to be transferred prior to the Transfer Date to be paid in full on or before such date, and shall transfer to the Association any working capital funds collected by Declarant.

40. Working Capital Fund. A working capital fund shall be established by the Declarant equal to or greater than two (2) months' Common Area Assessments for each Unit sold after the recordation of this Declaration. Each Unit's share of the working capital fund shall be collected and transferred to the Management Committee at the time of closing of the sale of each Unit by Declarant. Notwithstanding the foregoing, the contribution to the working capital fund for each unsold Unit shall be paid to the Management Committee at the time such Unit is first occupied for residential purposes or a certificate of permanent occupancy is issued, whichever first occurs. With respect to each Unit for which the Declarant pays the contribution to the working capital fund, the Declarant shall be reimbursed for such contribution by the buyer of such Unit at the time of closing. The purpose of the working capital fund is to insure that the Management Committee will have cash available to satisfy unforeseen expenses or to acquire additional equipment or services necessary for the operation, control and regulation of the Project. Sums paid into the working capital fund are not to be considered as advance payments or regular monthly payments of Common Expenses.

41. Percentage of Ownership Interest. Percentage of ownership interest shall be based upon Par Value. Common expenses, common profits and voting rights shall be distributed among the unit owners based upon their percentages of ownership interest in the Common Area as set forth on Revised Exhibit "A" attached hereto and incorporated herein by this reference, as it may be amended from time to time due to expansion of the Project.

42. Interpretation. To the extent Utah law is consistent with this Declaration, such provisions shall supplement the terms hereof and are incorporated herein. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. The invalidity or

unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

43. Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Association, all other signatories hereto, all parties who hereafter acquire any interest in a Unit or in the Project, and their respective grantees, transferees, heirs, devisees, personal representative, successors, and assigns. Each Owner or occupant of a Unit shall comply with, and all interests in all Units shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, supplements, amendments, and determinations contemplated by this Declaration. By acquiring any interest in a Unit in the Project, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

44. Enforcement and Right to Recover Attorney's Assessments. Should the Association or Committee be required to take action to enforce the Declaration, By-Laws or any administrative rules and regulations adopted from time to time, or to pursue any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing suit or otherwise, they may recover all Additional Charges, including a reasonable attorney's fee, which may arise or accrue.

45. Mechanics Liens. Mechanics liens shall be filed in the office of the County Recorder of Utah County as follows:

a) Association Goods or Services. Mechanics liens for labor, materials or supplies purchased by the Association shall be filed against ALL UNITS in the Project and their appurtenant interest in the Common Area, and shall be indexed in the public records under the name of the Association and Community. If the Association has encumbered the Common Areas and thereafter defaults on its obligations, the lienholder must exercise its rights against the Common Areas before it may proceed against any particular Unit. Any Owner wishing to release that lien as to his Unit may pay the pro rata share of the total amount of the lien and that shall be sufficient to release the lien against his Unit.

b) Unit Good or Services. Mechanics liens filed for labor, materials or supplies benefitting a particular Unit shall be filed against that Unit and its appurtenant interest in the Common Area.

c) Constructive Consent. Any person or entity who elects to perform labor or provide materials at this Project agrees to be bound by and subject to the terms of this Section.

46. Agent for Service of Process. The President of the Association is the person to receive service of process in the cases authorized by the Act and the office. The initial Registered Agent is Cory Hansen and the initial office of the Registered Agent is at the clubhouse, 9400 South 700 West, Sandy, Utah 84070.

47. Effective Date. This Declaration, any amendment or supplement hereto, and any amendment or supplement to the Survey Map shall take effect upon its being filed for record in the office of the County Recorder of Salt Lake County, Utah.

This Sixth Amendment: The Amended and Restated Declaration of Covenants, Conditions and Restrictions for Jefferson Place, a Condominium Project, was executed the day and year first above written.

ASSOCIATION:  
JEFFERSON PLACE HOMEOWNERS ASSOCIATION  
and MANAGEMENT COMMITTEE

BY: [Signature]  
TITLE: President

JEFFERSON PLACE HOMEOWNERS ASSOCIATION  
And MANAGEMENT COMMITTEE

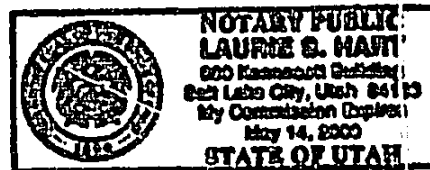
BY: [Signature]  
TITLE: Secretary

STATE OF UTAH )  
COUNTY OF SALT LAKE ) SS:

On the 22<sup>ND</sup> day of October, 1996 personally appeared before me CORY HANSEN and DEBBY CARAPOLZA, who by me being duly sworn, did say that they are the President and Secretary of the JEFFERSON PLACE CONDOMINIUM HOMEOWNERS ASSOCIATION and members of the Management Committee, and that the within and foregoing instrument was signed in behalf of said ASSOCIATION and Management Committee by authority of a resolution of its Management Committee, and said CORY HANSEN and DEBBY CARAPOLZA, duly acknowledged to me that said Company executed the same.

[Signature]  
NOTARY PUBLIC  
Residing At: SLCOUNTY, UTAH

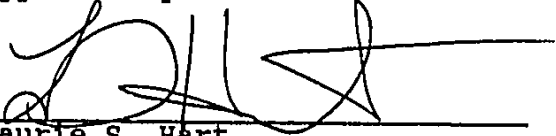
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Continuation of Signature Page  
Sixth Amendment: Amended and Restated Declaration of Covenants,  
Conditions and Restrictions for Jefferson Place Condominium Project

Approved By:



Laurie S. Hart  
Attorney for Jefferson Place  
Homeowners Association and  
Management Committee


DECLARANT:  
MDM CORPORATION  
A Utah corporation

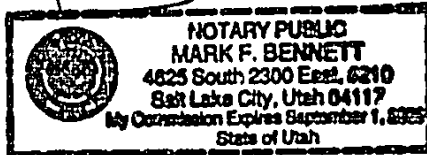
BY:   
TITLE: Preston Miller,

BY:   
TITLE: Tony V. Divino,

STATE OF UTAH                                    )  
  ) ss:  
COUNTY OF SALT LAKE

On the \_\_\_ day of December, 1996 personally appeared before me  
Preston Miller and Tony V. Divino, who by me being duly sworn, did  
say that they are the Members of MDM CORPORATION, a Utah corporation  
and acknowledged to me that the within and foregoing instrument was  
signed in behalf of said Corporation by authority of a resolution of  
its Board of Directors, and said Preston Miller and Tony V. Divino,  
duly acknowledged to me that said corporation executed the same.

  
NOTARY PUBLIC  
Residing At:





FIRST REVISED EXHIBIT "A"  
PERCENTAGES OF UNDIVIDED OWNERSHIP INTEREST  
(This is an Expandable Condominium Project)

BLDG.      SIZE                      PAR                      PERCENTAGE OF  
UNIT NO.   (Square Footage)      VALUE                      OWNERSHIP INTEREST

PHASE NO. 1

ONE

A	921	97	.9135
B	921	97	.9135
C	921	97	.9135
D	921	97	.9135
E	921	97	.9135
F	921	97	.9135
G	921	97	.9135
H	921	97	.9135

TWO

A	921	97	.9135
B	921	97	.9135
C	921	97	.9135
D	921	97	.9135
E	921	97	.9135
F	921	97	.9135
G	921	97	.9135
H	921	97	.9135

THREE

A	921	97	.9135
B	921	97	.9135
C	921	97	.9135
D	921	97	.9135
E	921	97	.9135
F	921	97	.9135
G	921	97	.9135
H	921	97	.9135

FOUR

A	921	97	.9135
B	921	97	.9135
C	921	97	.9135
D	921	97	.9135
E	921	97	.9135
F	921	97	.9135
G	921	97	.9135
H	921	97	.9135

BK 7578PG2971

<u>BLDG.</u> <u>UNIT NO.</u>	<u>SIZE</u> <u>(Square Footage)</u>	<u>PAR</u> <u>VALUE</u>	<u>PERCENTAGE OF</u> <u>OWNERSHIP INTEREST</u>
<b>FIVE</b>			
A	921	97	.9135
B	921	97	.9135
C	1320	119	1.1256
D	1320	119	1.1256
E	921	97	.9135
F	921	97	.9135
G	921	97	.9135
H	921	97	.9135
<b><u>PHASE NO. 2</u></b>			
<b>SIX</b>			
A	921	97	.9135
B	921	97	.9135
C	1320	119	1.1256
D	1320	119	1.1256
E	921	97	.9135
F	921	97	.9135
G	1320	119	1.1256
H	1320	119	1.1256
<b>SEVEN</b>			
A	921	97	.9135
B	921	97	.9135
C	1320	119	1.1256
D	1320	119	1.1256
E	921	97	.9135
F	921	97	.9135
G	1320	119	1.1256
H	1320	119	1.1256
<b><u>PHASE NO. 3</u></b>			
<b>FOURTEEN</b>			
A	921	97	.9135
B	921	97	.9135
C	921	97	.9135
D	921	97	.9135
E	921	97	.9135
F	921	97	.9135
G	921	97	.9135
H	921	97	.9135
<b>FIFTEEN</b>			
A	921	97	.9135
B	921	97	.9135
C	1320	119	1.1256
D	1320	119	1.1256
E	921	97	.9135
F	921	97	.9135

<u>BLDG.</u> <u>UNIT NO.</u>	<u>SIZE</u> <u>(Square Footage)</u>	<u>PAR</u> <u>VALUE</u>	<u>PERCENTAGE OF</u> <u>OWNERSHIP INTEREST</u>
G	1320	119	1.1256
H	1320	119	1.1256
<b>SIXTEEN</b>			
A	921	97	.9135
B	921	97	.9135
C	1320	119	1.1256
D	1320	119	1.1256
E	921	97	.9135
F	921	97	.9135
G	1320	119	1.1256
H	1320	119	1.1256
<b>SEVENTEEN</b>			
A	921	97	.9135
B	921	97	.9135
C	1320	119	1.1256
D	1320	119	1.1256
E	921	97	.9135
F	921	97	.9135
G	1320	119	1.1256
H	1320	119	1.1256
<b>EIGHTEEN</b>			
A	921	97	.9135
B	921	97	.9135
C	921	97	.9135
D	921	97	.9135
E	921	97	.9135
F	921	97	.9135
G	921	97	.9135
H	921	97	.9135
<b>PHASE NO. A</b>			
<b>EIGHT</b>			
A	1026	97	.9135
B	1026	97	.9135
C	1026	97	.9135
D	1026	97	.9135
E	1026	97	.9135
F	1026	97	.9135
G	1026	97	.9135
H	1026	97	.9135
<b>TOTAL</b>			<b>1008</b>

BK 7578PG2973

LEGAL DESCRIPTION OF PHASE 1

EXHIBIT "B-1"

Beginning at a point S.  $0^{\circ}10'27''$  W. 1129.36' and East 17.29' from the East 1/4 cor of Section 2 T.3; R.1.W. Salt Lake Base & Meridian; thence East 154.65; thence South 122.64'; thence East 114.76'; to the West toe-of-bank of the Galena Canal; thence along said toe-of-bank for the following two courses: 1) thence S  $8^{\circ}21'58''$  E. 63.40'; 2) thence S.  $2^{\circ}25'15''$  W. 149.91'; thence West 246.19'; thence N.  $61^{\circ}39'55''$  W. 102.82'; thence S.  $45^{\circ}17'04''$  W. 36.00'; thence N.  $44^{\circ}42'56''$  W. 60.11' to a point on a 735.00' radius curve to the left; thence along the arc of said curve 301.75' (the long chord bears N.  $26^{\circ}12'58''$  E. 299.64') to the Point of Beginning.

BK 7578 PG 2974

EXHIBIT "B-2"

LEGAL DESCRIPTION OF PHASE 2

BEGINNING AT THIS POINT N. 0° 10' 27"  
E. ALONG THE SECTION LINE 1167.01  
FEET, AND EAST 44.45 FEET FROM THE  
SOUTHEAST CORNER OF SECTION 2; T.  
3" S. R. 1/4, S. L. B. & M.; RUNNING  
THENCE EAST, 104.39 FT.; THENCE S. 41°  
42' 36" W. 247.87 FT.; THENCE N. 41°

34' 32" WEST 241.88 FT. TO A POINT ON  
A 735 FOOT RADIUS CURVE TO THE  
RIGHT; SAID POINT BEING ON THE  
EASTERLY R/W LINE OF 700 WEST  
STREET; THENCE ALONG SAID EASTERLY  
LINE AND THE ARC OF SAID CURVE  
104.09 FT. (THE LONG CHORD BEARS N.  
42° 01' 39" E., 104.00 FT.); THENCE S.  
44° 42' 56" E. 60.31 FT.; THENCE N. 45°  
17' 04" E. 36.00 FT.; THENCE S. 61°  
39' 55" E. 102.82 FT. TO THE POINT OF  
BEGINNING. CONTAINS 0.884 ACRES.

BK 7578 PG 2975

EXHIBIT "B-3"

LEGAL DESCRIPTION OF PHASE 3

Beginning at a point South  $0^{\circ}10'27''$  West 873.97' and East  $40.00''$  from the East quarter corner of Section 2, Township 3 South, Range 1 West, Salt Lake Base & Meridian; thence East 173.93' to the West Toe-Of-Bank of the Galena Canal; thence along said Toe-Of-Bank for the following two courses; (1) S  $15^{\circ}57'46''$  E 121.50'; (2) Thence S  $8^{\circ}23'58''$  E. 264.06'; Thence West 114.76'; thence North 122.64'; thence West 154.65' to the East side of 700 West Street; thence Northerly along the arc of a curve to the left having a radius of 735.00'; (long chord of said curve is N.  $7^{\circ}18'57''$  E. 182.73') thence N  $0^{\circ}10'27''$  E. 74.16' to the point of beginning

BK 7578 PG 2976

EXHIBIT "B-4"

LEGAL DESCRIPTION FOR PHASE 4

BEGINNING AT A POINT NORTH 00°10'27" EAST 1167.01 FEET AND EAST 148.20 FEET FROM THE SOUTHEAST CORNER OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN, SAID POINT BEING ON THE SOUTH LINE OF JEFFERSON PLACE CONDOMINIUMS PHASE I AND AT THE NORTHEAST CORNER OF JEFFERSON PLACE CONDOMINIUMS PHASE II AS RECORDED IN THE SALT LAKE COUNTY RECORDERS OFFICE;

THENCE EAST, 142.43 FEET ALONG SAID SOUTH LINE TO A POINT ON THE WESTERLY BERM OF THE GALENA CANAL;  
THENCE S 02°25'15" W, 90.76 FEET ALONG SAID BERM;  
THENCE S 33°28'31" W, 28.92 FEET ALONG SAID BERM;  
THENCE N 79°38'05" W, 99.70 FEET;  
THENCE N 50°41'56" W, 27.34 FEET;  
THENCE S 52°30'23" W, 22.27 FEET;  
THENCE S 42°01'11" W, 72.07 FEET;  
THENCE S 39°57'45" W, 24.36 FEET;  
THENCE S 61°42'32" W, 30.82 FEET;  
THENCE S 41°21'31" W, 27.80 FEET;  
THENCE N 42°22'06" W, 41.52 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF JEFFERSON PLACE CONDOMINIUMS PHASE II AS RECORDED IN THE SALT LAKE COUNTY RECORDERS OFFICE;  
THENCE N 41°42'38" E, 227.89 FEET ALONG SAID SOUTHEASTERLY LINE TO THE POINT OF BEGINNING.

CONTAINING 24,311 SQ. FT. OR 0.5581 ACRES, MORE OR LESS.

BK7578PG2977.

EXHIBIT "C"

LEGAL DESCRIPTION FOR THE ADDITIONAL LAND

The Additional Land identified in the foregoing document is located in Salt Lake County, Utah and is described more particularly as follows:

Beginning at a point North 00° 10' 27" East, 1167.01 feet and East, 390.63 feet and South 02° 25' 15" West, 90.76 feet and South 33° 28' 31" West, 28.92 feet from the southeast corner of Section 2, Township 3 South, Range 1 East, Salt Lake Base and Meridian;

thence South 33° 28' 31" West, 172.12 feet;  
thence South 52° 37' 34" West, 109.18 feet;  
thence South 76° 15' 51" West, 121.15 feet;  
thence South 00° 10' 27" West, 258.31 feet;  
thence South 89° 53' 45" West, 321.44 feet;  
thence North 03° 02' 24" West, 231.59 feet;  
thence North 03° 23' 13" West, 133.47 feet;  
thence North 56° 21' 50" East, 121.47 feet;  
thence South 42° 47' 13" East, 34.93 feet;  
thence South 73° 50' 28" East, 13.56 feet;  
thence South 85° 31' 19" East, 48.94 feet;  
thence North 51° 56' 58" East, 47.38 feet;  
thence North 46° 05' 28" East, 44.67 feet;  
thence South 43° 54' 32" East, 101.57 feet;  
thence North 41° 42' 38" East, 19.98 feet;  
thence South 42° 22' 06" East, 41.52 feet;  
thence North 41° 21' 31" East, 27.80 feet;  
thence North 61° 42' 32" East, 30.82 feet;  
thence North 39° 57' 45" East, 24.36 feet;  
thence North 42° 01' 11" East, 72.07 feet;  
thence North 52° 30' 23" East, 22.28 feet;  
thence South 50° 41' 56" East, 27.34 feet;  
thence South 79° 38' 05" East, 99.70 feet to the point of beginning.

Containing 3.8919 acres, more or less.

BK 7578 PG 2978



EXHIBIT "D"

AMENITIES  
LEGAL DESCRIPTION OF CLUBHOUSE, SWIMMING POOL,  
AND TENNIS COURT AREA

BEGINNING AT A POINT NORTH  $00^{\circ} 10' 27''$  EAST 1155.22 FEET AND WEST 182.85 FEET FROM THE SOUTHEAST CORNER OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN;

RUNNING THENCE S  $43^{\circ} 54' 32''$  E, 139.00 FEET;  
THENCE S  $46^{\circ} 05' 28''$  W, 44.33 FEET TO THE CORNER OF AN EXISTING FENCE;  
THENCE ALONG SAID FENCE S  $51^{\circ} 56' 58''$  W, 47.38 FEET;  
CONTINUING ALONG SAID FENCE N  $85^{\circ} 31' 19''$  W, 48.94 FEET;  
CONTINUING ALONG SAID FENCE N  $73^{\circ} 50' 28''$  W, 13.56 FEET;  
CONTINUING ALONG SAID FENCE N  $42^{\circ} 47' 13''$  W, 34.93 FEET;  
THENCE S  $56^{\circ} 21' 50''$  W, 183.47 FEET;  
THENCE N  $03^{\circ} 23' 13''$  W, 76.45 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF RIVERSIDE DRIVE BEING ON A 735 FOOT RADIUS CURVE;  
THENCE NORTHEASTERLY 203.68 FEET ALONG THE ARC OF SAID CURVE (CHORD BEARS N  $54^{\circ} 21' 36''$  E, 203.03 FEET) TO THE POINT OF BEGINNING

CONTAINS 23,914 SQUARE FEET OR 0.5496 ACRES, MORE OR LESS

BK 7578 PG 2979