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DECLARATION OF CONDOMINIUMS  
OF  
SCANDIA VILLAGE CONDOMINIUMS

[A Condominium Project (Expandable)]

DECLARATION OF CONDOMINIUM

OF

SCANDIA VILLAGE CONDOMINIUMS

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THIS DECLARATION is made as of this \_\_\_\_ day of September, 1992, by R.E. Miller (hereinafter referred to as "Declarant"), pursuant to the provisions of Sections 57-8-1 et suite of the Utah Code, as amended, known as the Condominium Ownership Act (the "Act").

RECITALS:

A. Declarant is the record owner of that certain Tract of land described in Exhibit "A" attached hereto.

B. Declarant has constructed, or is in the process of constructing, upon said Tract a Condominium Project, including certain Units and other improvements in accordance with the plans and drawings reflected in the Record of Survey Map.

C. Declarant desires, by filing this Declaration and the Record of Survey Map, to submit said Tract and all improvements constructed thereon to the provisions of the Act as a Condominium Project to be known as "SCANDIA VILLAGE CONDOMINIUMS".

D. Declarant intends to sell to various purchasers fee title to the individual Units contained in the Project, together with an undivided percentage interest in and to the Common Areas and Facilities appurtenant to such Units, subject to the covenants, conditions, restrictions, limitations, and easements herein set forth.

E. Declarant is the record owner of additional lands, described in Exhibit "B", attached hereto and made a part hereof, which are currently undeveloped and is reserved for further expansion of the project.

**NOW, THEREFORE,** for the foregoing purposes, Declarant hereby declares as follows:

ARTICLE I

DEFINITIONS

When used in this Declaration (including that portion hereof captioned "Recitals") each of the following terms used shall have the meaning indicated. Any term used herein which is defined by the Act shall, to the extent permitted by the context hereof, have the meaning ascribed by the Act.

1.01 Act shall mean and refer to the Condominium Ownership Act, Title 57, Chapter 8, Utah Code (1953), as the same may be amended from time to time, including any successor statutory provisions thereof.

1.02 Association of Unit Owners of the Association shall mean and refer to the Unit Owners acting as a group in Accordance with this Declaration and the Act.

1.03 Building shall mean and refer to a structure containing Units and comprising a part of the Project.

1.04 Bylaws shall mean and refer to the Bylaws of the Association as set forth in Exhibit "C" hereto.

1.05 Common Areas or Common Areas and Facilities shall mean, refer to and include:

(a) The Real property and interests in real property which this Declaration submits to the provisions of the Act, including the entirety of the Tract and all landscaping, sidewalks, walkways, parking areas, private drives or roadways located thereon, but excluding all Condominium Units;

(b) Those Common Areas and Facilities and Limited Common Areas and Facilities specifically set forth and designated as such on the Map;

(c) All other parts of the project normally in common use or necessary or convenient to its use, existence, maintenance, safety or management, including any central services such as power, water, gas and light; and

(d) All Common Areas and Facilities and all Limited Common Areas and Facilities as defined in the Act, whether or not expressly listed herein or on the Map.

1.06 Common Expenses shall mean and refer to all items and sums described in the Act which are lawfully assessed against the Unit owners in accordance with the provisions of the Act, this Declaration such rules, regulations and other determinations and

agreements pertaining to the Condominium Project as the Management Committee or the Association may from time to time adopt.

1.07 Condominium Project or Project shall mean and refer to SCANDIA VILLAGE CONDOMINIUMS.

1.08 Condominium Unit or Unit shall mean and refer to one of the residential living units in the Project intended for independent use as defined in the Act, together with the undivided interest in and to the Common Areas and Facilities appertaining to that Unit, and shall include anything located within or without said Unit but designated and designed to serve only that Unit, such as decks, appliances, electrical receptacles and outlets, air conditioning compressors and other air condition apparatus, but specifically excluding the exterior surfaces of Buildings and Units. Fixtures and the like shall also be considered part of the Unit, as shall all decorated interiors, all surfaces or interior structural walls, floors and ceilings, windows and window frames, doors and door frames, and trim consisting of, among other things and as appropriate, wallpaper, paint, flooring, carpeting and tile. All pipes, wires, conduits, or other public utility lines or installation constituting part of a particular Unit or serving only that Unit, and any structural members of any other property of any kind, including fixtures and appliances within any unit, which are not removable without jeopardizing the soundness, safety or usefulness of the remainder of the Building within which the Unit is situated, shall be considered part of the Unit.

1.09 Declaration shall mean and refer to this Declaration as the same may hereafter be amended in accordance with law and the provisions hereof. Any ambiguities, omissions, and/or conflict herein shall be construed to comply with the provisions of the Act.

1.10 Limited Common Areas and Facilities or Limited Common Areas shall mean and refer tot those Common Areas designated in this Declaration or the Act or shown on the Map as reserved for the exclusive use of a certain Unit or Units to the exclusive use of a certain Unit or Units to the exclusion of other Units.

1.11 Management Committee or Committee shall mean and refer to the Committee as provided in this Declaration charged with and having the responsibility and authority to administer the Project and to make and to enforce reasonable rules and regulations covering the operation and maintenance thereof.

1.12 Member shall mean and refer to an Owner as a member of the Association

1.13 Mortgage shall mean and include both a recorded first

mortgage on one or more Condominium Units and a recorded first deed of trust on one or more Condominium Units.

1.14 Mortgagee shall mean and include both a mortgagee and a beneficiary under a recorded Mortgage as defined in Section 1.13, above.

1.15 Record of Survey Map, Survey Map or Map shall mean and refer to the Record of Survey Map filed concurrently herewith entitled "Scandia Village Condominiums, Provo City, Utah County Utah", executed and acknowledged by Declarant, consisting of one (1) sheet prepared by Kenneth W. Watson, a duly registered Utah Land Surveyor holding Certificate No. 5190, as said Map may hereafter be modified or amended in accordance with law and the provisions hereof.

1.16 Tract or Entire Tract shall mean and refer to the real property described in Section 2.01, below, which Article II of this Declaration submits to the Act.

1.17 Unit Number shall mean and refer to the number, letter or combination thereof which designates a Unit on the Map.

1.18 Unit Owner or Owner shall mean and refer to the person who is the owner of the record of a fee simple interest in a Condominium Unit and an undivided interest in the fee simple estate of the common areas and facilities in the percentage specified and established in the declaration. The Declarant shall be deemed to be the Owner of all completed but unsold Units. In the event a Unit is the subject of an executory contract of sale, the buyer shall, unless the seller and the buyer have otherwise agreed and have informed the Committee in writing of such agreement, be considered the Unit Owner for all purposes.

## ARTICLE II

### SUBMISSION OF THE PROJECT

2.01 Submission, and Description, and Reservations. Declarant hereby submits to the provisions of the Act that certain tract of land described in Exhibit "A".

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.

RESERVING UNTO DECLARANT, however such easements and rights of ingress and egress over, across, through, and under the above-described Tract and any improvements (other than a Building) now or hereafter constructed thereon as may be reasonably necessary

for Declarant to construct and complete a Building and all of the other improvements described in this Declaration or in the Survey Map recorded concurrently herewith, and to do all things reasonably necessary or proper in connecting therewith. If, pursuant to the foregoing reservations, the above-described Tract 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 five (5) years after the date on which this Declaration is filed for record in the office of the County Recorder of Utah County, Utah.

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 reservations and exclusions; all 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 (and nothing in this paragraph shall be deemed to modify or amend such Mortgage); all visible easements and rights-of-way; all easements and rights-of-way, encroachments, or discrepancies shown on or revealed by the Survey Map 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 Tract as 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; AND TO EACH OF THE COVENANTS, EASEMENTS CONDITIONS, AND RESTRICTIONS CONTAINED IN THIS DECLARATION.

3.02 Division into Condominium Units. The Project is hereby divided into Condominium Units, each such Condominium Unit consisting of a Unit and an appurtenant undivided interest in and to the Common Areas and Facilities in a proportion equal to the percentage allocated to each respective unit as set for in Exhibit "D", as maybe revised from time to time and, without notice as the project expands.

### ARTICLE III

#### IMPROVEMENTS

3.01 Improvements. The improvements included in the Project are now or will be located on the Tract and all of such improvements are describe on the Map, including the number of Units which are to be contained in the Building which comprises a part of such improvements, the dimensions of the Units, and other

significant facts relating to such Building, Units and to the Common Areas and Facilities.

3.02 Description of Building and Units. There is one (1) Building, containing four (4) Units. Each Unit has two (2) levels of living area and a basement. The Construction will consist of wood and aluminum siding. The Common Areas will consist of parking areas, sidewalks and landscaped area throughout the Project. The Limited Common Areas will consist of private fenced backyards appurtenant to each unit. Each Unit is basically of the same size (approximately 1320 sq. ft. including the basement).

3.03 Description and Legal Status of Units. The Map shows the Unit Number of each Unit, its location and dimensions from which its areas may be determined, the Limited Common Areas which are reserved for its use, and the Common Areas of the Project. Each Unit is also legally designated and described on the Map by a street number.

3.04 Common and Limited Common Areas. The Common Areas contained in the Project are described and identified in Article I hereof and on the Map. Neither the ownership of undivided interests in and to the Common Areas nor the right of exclusive use of a Limited Common Area shall be separated from the Unit to which they appertain, and even though not specifically mentioned in the instrument of conveyance, such percentage of undivided interest and such right of exclusive use shall automatically accompany the conveyance of the Unit to which they relate.

3.05 Conveyance Description of a Unit. Each conveyance or contract for the sale of a Unit and every other instrument affecting title to a Unit may describe that Unit by the Unit Number shown on the Map with the appropriate reference to the Map and to this Declaration, as each shall appear on the Records of the County Recorder of Utah County, Utah, and in substantially the following form:

Unit \_\_\_\_ contained within SCANDIA VILLAGE CONDOMINIUMS as the same is identified in the Record of Survey Map therefore recorded in Utah County, Utah as Entry No. \_\_\_\_\_ (as said Record of Survey Map may have heretofore been amended or supplemented) and in the Declaration of Condominium Scandia Village Condominiums recorded in Utah County, Utah as Entry No. \_\_\_\_ in Book \_\_\_\_, Page \_\_\_\_ (as said Declaration may have heretofore been amended or supplemented). TOGETHER WITH the undivided ownership interest in and to the Common Areas and Facilities which is appurtenant to said Unit as more particularly described in said Declaration (as said Declaration may have heretofore been amended or supplemented).

Such description will be construed to describe the Unit, together with an equal undivided interest in and to the Common Areas and Facilities as the same are established and identified in the Declaration and on the Map, and to incorporate all the rights incident to ownership of a Unit and all the limitations of such ownership as described in this Declaration. Each such conveyance shall be subject to all the provisions of this Declaration.

#### ARTICLE IV

##### NATURE AND INCIDENTS OF OWNERSHIP

4.01 Holding Titles. Title to a Unit may be held or owned by any person or entity and in any manner to which title to any other real property may be held or owned in the State of Utah, including, but without limitation, joint tenancy or tenancy in common.

4.02 No Separation. No part of a Unit, nor any part of the legal rights comprising ownership of a Unit, may be separated from any other part thereof during the period of condominium ownership described herein, so that each Unit, the undivided interest in and to the Common Areas appurtenant to such Unit, and the exclusive right to use and occupy the Limited Common Areas appurtenant to each Unit, shall always be conveyed, devised, encumbered, and otherwise effected only together and may never be separated from one another. Every gift, devise, bequest, transfer, encumbrance or other disposition of a Unit or any part thereof, shall constitute a gift, devise, bequest, transfer, encumbrance, or conveyance, respectively, of the entire Unit, together with all appurtenant rights created by law or by this Declaration.

4.03 Membership in Association. Every Unit Owner shall be a Member of the Association of Unit Owners. Membership in the Association shall be mandatory, shall be appurtenant to, and shall not be separated from the Unit to which it appertains.

4.04 Undivided Interest in Common Areas. Each Unit Owner shall have, for each Unit owned, an equal, undivided ownership interest in and to the Common Areas in a proportion equal to the percentage allocated to each respective unit as set forth in Exhibit "D".

4.05 No Partition. The Common Areas and Facilities shall be owned in common by all the Owners of Units and no Unit Owner may bring action for partition thereof.

4.06 Use of Common Areas and Limited Common Areas. Subject to the limitations contained in this Declaration, each Unit Owner shall have the non-exclusive right to use and enjoy the Common



Areas and shall have the exclusive right to use and enjoy the Limited Common Areas designated herein or on the Map or inferred by the Act which appertain to his Unit.

4.07 Duty of Owner to Pay Taxes on Unit Owned. It is understood that under the Act each Unit (and its percentage of undivided interest in and to the Common Areas) in the Project is subject to separate assessment and taxation of each taxing authority and special district which has such jurisdiction over the Project for all types of taxes and assessments authorized by law, and that as a result thereof no taxes will be assessed or levied against the Project as such. Accordingly, each Unit Owner will pay and discharge any and all taxes and assessments which may be assessed against such owner relative to his Condominium Unit.

4.08 Duty to Pay Association Assessments. Each Unit Owner is obligated to pay and discharge all assessments and charges levied by the Association as set for herein.

4.09 Unit Maintenance. Each Owner shall at his own cost and expense maintain, repair, paint, re-paint, tile, was, paper or otherwise finish and decorate the interior walls and trim the interior surfaces of the walls, ceilings, floors, and windows and doors forming the boundaries of his Unit and all walls, ceilings, floors, windows and doors within such boundaries. In addition to decorating and keeping the interior of his Unit in good repair and in a clean and sanitary condition, he shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heater, heating equipment, air conditioner, lighting fixtures, refrigerator, dishwasher, disposal equipment, range, or other appliances or fixtures that may be in, or connected with his Unit.

4.10 Maintenance of Limited Common Areas. Each Owner shall keep the Limited Common Areas designed for use in connection with his Unit in a clean, sanitary and attractive condition at all times.

## ARTICLE V

### EASEMENTS

5.01 Encroachment. If any part of the Common Areas encroaches or shall hereafter encroach upon a Unit or Units, an easement for such encroachment for the maintenance for the same, shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas, or upon an adjoining Unit or Units, an easement for such encroachment and for maintenance shall and does exist. Such encroachments shall not be considered to be encumbrances either in the Common Areas or

the Units. Encroachments referred to herein include, but are limited to, encroachments caused by error in the original construction of the Building on the Tract, by error in the Map, by settling, raising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

5.02 Repair of Common Areas. If any of the Common Areas are or may be located within any of the Units or may be conveniently accessible only through the Units, the Owners of the other Units shall have the irrevocable right, to be exercised by the Committee as their agent, to have access to each Unit and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Areas located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Areas or another Unit or Units. The Committee shall also have such rights independent of the agency relationship. Damage to the interior of any part of the Unit or Units resulting from the maintenance, repair, emergency repair, or replacement of any of the Common Areas or as a result of emergency repairs within another Unit at the instance of the Committee or of Unit Owners, shall be an expense of all the Unit Owners and assessed proportionately; provided, that if such damage is the result of negligence of the Owner of the Unit, then such Owner shall be financially responsible for all such damage. Amounts owing by the Owners pursuant hereto shall be collected by the Committee by assessment pursuant to this Declaration.

5.03 Management Committee. The Management Committee shall have non-exclusive easements to make such use of the Common Areas as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration.

5.04 Utility Services. There is hereby created a blanket easement upon, across, over and under the Tract for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to, water, sewer, gas, telephone, electricity, and other utility services.

5.05 Right of Ingress, Egress, and Support. Each Owner shall have the right to ingress and egress over, upon and across the Common Areas necessary for access to his Unit, and to any Limited Common Areas designated for use in connection with his Unit, and each Owner shall have the right to the horizontal, vertical and lateral support of his and any adjoining Unit, and such rights shall be appurtenant to and pass with the title to each Unit.

ARTICLE VI

RESTRICTIONS

6.01 Residential Use. The Tract is zoned R-3. Except as otherwise provided in Article II hereof, each Building shall contain three (3) or four (4) Units, which Units may be occupied or used by Owner(s), or by the tenants of any such Owner(s), as Dwelling Units and occupied by one Family per Unit, or three (3) single individuals, provided, however, that to the extent such use is not prohibited by Provo City Ordinances, a Unit may be occupied and used by family, or social guest of any such Owner or Tenant but no social guests shall be allowed to remain as a social guest at a unit longer than twenty one (21) days:

6.02 Leasing. A Unit Owner may lease his Unit for an initial term of not less than six (6) months evidenced by a writing executed by the Owner and lessee/tenant and containing a specific statement that such is subject to the provisions of this Declaration. No Owner shall lease less than his entire Unit; provided, however, that "housing contracts" entered into with not more than four (4) tenants per Unit shall be permitted.

6.03 Restrictions Concerning Common Areas. There shall be no obstructions of the Common Areas by the Owners, their tenants, guest or invitees without the prior written consent of the Management Committee. The Management Committee may by rules and regulations prohibit or limit the use of the Common Areas and Facilities as may be reasonably necessary for protecting the interests of all the Owners or protecting the Units or the Common Areas. Nothing shall be kept or stored on any part of the Common Areas without the prior written consent of the Management Committee, except as specifically provided herein. Nothing shall be altered on, constructed in or removed from the Common Areas except upon consent of the Management Committee.

6.04 Miscellaneous Restrictions. Nothing shall be done or kept in any unit or in the Common Areas or any part thereof which would result in the cancellation of the insurance of the Project or any part thereof or increase of the rate of the insurance on the Project or any part thereof over what the Management Committee, but for such activity, would pay, without the prior written consent of the Management Committee. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Management Committee and the other Owners harmless against all loss resulting from any such damage or waste caused by him or his invitees; provided, however, that any

invitee of the Declarant shall not, under any circumstances, be deemed to be an invitee of any other Owner. No noxious, destructive or offensive activity shall be carried on in any Unit or in the Common Areas or any part thereof, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any person at any time lawfully residing in the Project.

6.05 Animals. No livestock or poultry of any kind shall be raised, bred, or kept in any Unit or in the Common Areas, except that household pets may be kept in Units, subject to strict observance of rules and regulations adopted by the Management Committee.

6.06 No Violation of Rules and Regulations. No Owner shall violate the rules and regulations for the use of the Units and the Common Areas as adopted from time to time by the Management Committee.

6.07 Restrictions on Alterations. No structural alterations to any Unit shall be made by any Owner without the prior written consent of the Management Committee.

6.08 Declarant's Right to Sell Units. Notwithstanding anything contained herein to the contrary, until the Declarant has completed and sold all of the Units, the Unit Owners who have purchased Units from the Declarant shall not interfere with the completion of the contemplated improvements and sale of the remaining Units. The Declarant may make such use of the unsold Units and the Common Areas as may facilitate such completion and sale, including but not limited to, the maintenance of a sales office, the showing of the Units, and the display of signs.

6.09 Signs. No signs or other advertising shall be displayed which are visible from the exterior of any Unit or on the Common Areas, including "For Sale" signs, except in conformity with the rules and regulations promulgated by the Management Committee.

6.10 Parking. The parking of recreational vehicles or boats or other than operational passenger vehicles within the Project is prohibited unless approved in writing by the Management Committee.

## ARTICLE VII

### MANAGEMENT COMMITTEE

7.01 Status and General Authority. Except as otherwise herein provided, the Condominium Project shall be managed, operated, and maintained by the Management Committee as agent for

the Association of Unit Owners. The Committee shall, in connection with its exercise of any of the powers hereinafter provided, constitute a legal entity capable of dealing in the Committee's name. The Management Committee shall have, and is hereby granted, the following authority and powers:

(a) The authority without the vote or consent of the Unit Owners or of any other person, except for Mortgages if required by the terms of their Mortgage, to grant or create on such reasonable terms as it deems advisable, utility and similar easements over, under, across, and through the Common Areas and Facilities;

(b) The authority to execute and record, on behalf of all Unit Owners, any amendments to the Declaration or the Map which have been approved by the vote or consent of Unit Owners necessary to authorize such amendments as set for in Section 13.03;

(c) The power to sue and be sued.

(d) The authority to enter into contracts relating to the Common Areas and other matters over which it has jurisdiction, so long as any vote or consent of the Unit Owners necessitated by the subject matter of the agreement has been obtained; specifically including the power to contract for common cable services to be paid for out of the annual assessments.

(e) The power and authority to convey or transfer any interest in real property, so long as the vote or consent necessary under the circumstances has been obtained, including that of any Mortgagee if required by the terms of its Mortgage;

(f) The power and authority to purchase, or otherwise acquire, and accept title to, any interest in real property so long as such action has been authorized by any vote or consent which is necessary under the circumstances;

(g) The authority to promulgate such reasonable rules, regulations, and procedures as may be necessary or desirable to aid the Committee in carrying out its functions or to insure that the Project is maintained and used in a manner consistent with the interests of the Unit Owners; and

(h) The power and authority to perform any other acts and to enter into any other transactions, subject to the rights of the Association, which may be reasonably necessary for the Management Committee to perform its functions as agent for the Association of Unit Owners. Any instrument executed by the Management Committee relating to the Common

Areas of the Project 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.

7.02 Composition of Committee, Election, Declarant Control.

The Management Committee shall be composed of three Members elected in the manner provided in the Association Bylaws as set forth in Article VIII herein; provided, however, that until the happening of the first of two events, namely either title to Units representing seventy-five (75%) of the total votes of Unit Owners shall have been conveyed by Declarant to the purchasers thereof, or the expiration of three years after the first conveyance of title to any Unit purchaser, whichever shall first occur, the Declarant alone shall have the right to select the Management Committee. However, Declarant may waive such right at any time prior to the occurrence of either or both of the aforesaid events by (i) notifying Unit Owners in writing of such waiver, and (ii) filing for record in the Office of the Utah County Recorder a written notice of waiver of such right, whereupon Unit Owners shall promptly hold a meeting to elect a new Management Committee, it being established hereby that the control of the Unit Owners in the Management Committee shall automatically vest thirty (30) days following the date such waiver is recorded by Declarant. In the event a Committee seat which was filled by an appointee of or by the Declarant becomes vacant, Declarant has the right to select a replacement member to sit on the Committee for the balance of the term associated with the vacated seat. In all other cases of vacancy the remaining Committee members shall elect a replacement to sit on the Committee until the expiration of the term for which the member being replaced was elected.

7.03 Rights and Duties. The Management Committee, subject to the rights and duties of the Association, this Declaration, and the Bylaws, shall be responsible for the general management and administration of the Project. It is understood that the Committee has the obligation to maintain the Common Areas. However, and notwithstanding anything contained herein to the contrary, in the event of the failure or refusal of the Committee to maintain all the Common Areas of this Project, as contemplated in this Declaration, then the Association shall maintain the same.

7.04 Exterior Maintenance. In connection with its duty to maintain Common Areas, the Committee will provide maintenance upon the exterior of the Building and Units, fencing, including fencing around Common Areas, limited Common Areas of each individual Unit, and perimeter, carports, and the Common Area as follows: Paint, repair, replace, and care for roofs, gutters,

downspouts, exterior building surfaces, trees, shrubs, grass, walks, driveways, parking areas and other exterior improvements except glass surfaces.

7.05 Right of Delegation to Manager. The Management Committee may carry out any of its functions which are capable of delegation through a Manager. The Manager so engaged shall be responsible for managing the Common Areas and shall, to the extent permitted by law and the terms of the agreement with the Management Committee, be authorized to perform any of the functions or acts required or permitted to be performed by the Management Committee itself. Any such management agreement shall be terminable for cause upon thirty (30) days notice and may run for a reasonable period of from one (1) to three (3) years, renewable by consent of the Association and the Committee. A management agreement negotiated by Declarant shall not exceed two (2) years duration.

7.06 Payment for Services, Etc. The Management Committee may obtain and pay for the services of such personnel as the Management Committee shall determine to be necessary or desirable for the proper operation of its function in the Project, including the enforcement of this Declaration. The Committee may also hire other person to furnish snow removal, ground maintenance and other common services to the Project.

7.07 Personal Property Ownership Use. The Management Committee may acquire and hold for the use and the benefit of all of the Owners tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners in the same proportion as their respective interest in and to the Common Areas and transferable only with the transfer of a Unit.

7.08 Rules and Regulations. The Management Committee may make reasonable rules and regulations governing the operation and use of the Common Areas and of other matters over which it has jurisdiction, which rules and regulations shall be consistent with the rights and duties established in this Declaration. The Management Committee may suspend any Owner's voting rights at any meeting of Unit Owners during any period or such periods during which such Owners fails to comply with such rules and regulations, or with any other obligations under this Declaration. The Management Committee may also take judicial action against any Owner to enforce compliance with such rules and regulations or other obligations or to obtain damages for noncompliance, all to the extent provided by law.

7.09 Capital Improvements. There shall be no structural alterations, capital additions to, or capital improvements of the Common Areas without the prior approval of the Unit Owners

holding a majority of the voting power.

7.10 Extended Rights. The Management Committee may exercise any other right or privilege given to it expressly by this Declaration or by law and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

7.11 Architectural Control. The Committee shall act in all matters pertaining to the architectural control and shall establish rules and procedures for submitting plans for approval of any proposed construction, alteration, remodeling, etc. involving any Unit.

7.12 Indemnification of Management Committee. Each member of the Management Committee shall be indemnified and held harmless by the Unit Owners against all costs, expenses, and liabilities whatsoever (excluding fraudulent and/or criminal actions) including, without limitation, attorney's fees reasonably incurred by him in connection with any proceeding to which he may become involved by reason of his being or having been a member of said Committee.

## ARTICLE VIII

### ASSESSMENTS

8.01 Agreement to Pay Assessments. Each Owner of a Unit, by the acceptance of a deed or contract therefore, whether or not it be so expressed in the deed or contract, shall be deemed to covenant and agree with all other Unit Owners and with the Management Committee to pay annual assessments for the purposes provided in this Declaration, and special assessments for capital improvements and other matters as provided in this Declaration, and special assessments for capital improvements and other matters as provided in this Declaration. Such assessments shall be fixed, established and collected from time to time in the manner provided herein by the Management Committee which along shall have such power to assess.

8.02 Basis of Assessments. All assessments shall be uniform in application. The total annual assessments against all Units shall be based upon a budget of advance estimates of cash requirements by the Management Committee to provide for the payment of all estimated Common Expenses growing out of or connected with the maintenance and operation of the Common Areas and/or the Project, which estimates may include among other things, expenses of management, taxes and special assessments, if any, levied by governmental authorities; premiums for all insurance which the Management Committee is required or permitted



to maintain pursuant hereto; common lighting, water, repair and maintenance of the Common Areas; wages for employees of the Committee; legal and accounting fees; any deficit remaining from a previous period; creation of a reasonable contingency reserve; surplus and/or sinking fund; and any other expenses and liabilities which may be incurred by the Committee for the benefit of the Owners or by reason of this Declaration.

8.03 Apportionment of Expenses. Expenses attributable to the Common Areas and to the Project as a whole shall be apportioned among all Units in proportion to their respective undivided interest in and to the Common Areas; provided, however, that for this purpose Declarant shall be deemed to own only the undivided interest in the common Areas based upon Units which have been completed but not yet conveyed by Declarant.

8.04 Method, Payment of Assessments, Etc. Annual assessments shall be made on a calendar year basis. The Committee shall give written notice to each Owner as to the amount of the annual assessment with respect to his Unit not less than thirty (30) days nor more than sixty (60) days prior to the beginning of the next calendar year; provided, however, that the first annual assessment shall be for the balance of the calendar year remaining after the day fixed by the Committee as the date of commencement of the assessment. Such annual assessment may be paid in twelve (12) equal monthly payments. The first such monthly assessment shall become due and payable upon the date a Unit Owner purchases his Unit, whether by conveyance of title or by entering into a contract of sale and purchase, and thereafter each monthly payment shall be due and payable on the first day of each and every month in advance. The Committee may, if it is deemed best to alleviate administrative time and effort, require that the annual assessment be paid in four (4) quarterly installments, in advance. Each monthly payment shall bear interest at the rate of twelve percent (12%) per annum from the date it becomes due and payable if not paid within fifteen (15) days after such date.

8.05 Initial Prepayment. In addition, each Owner (other than Declarant), shall be required to prepay at the time of initial Unit purchase, whether as a first time or subsequent Owner, a sum equal to three times the then monthly installment of the annual assessment. such fees shall become part of the Association's general fund to be utilized as necessary.

8.06 Maximum Annual Assessment. Until January 1 of the calendar year immediately following the conveyance of the first Unit to an Owner, the maximum annual assessment shall be \$540 (\$45.00 per month) per Unit. From and after January 1 of the calendar year immediately following the conveyance of the first Unit to an Owner the maximum annual assessment may be increased each calendar year thereafter by not than fifteen percent (15%)

above the maximum annual assessment for the previous year without the vote of the Owners entitled to cast a majority of the Association votes.

8.07 Special Assessments. In addition to the annual assessments authorized hereunder, the Management Committee may levy in any assessment year special assessments, subject to the provisions of Section 7.09, above, payable over such period as the Management Committee may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Common Areas of the Project or any other part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration. This Section shall not be construed as an independent source of authority for the Management Committee to incur expenses but shall be construed to prescribe the manner of assessing for expenses authorized herein. Any amount assessed pursuant hereto shall be assessed to Owners in proportion to their respective undivided interest in and to the Common Areas. Declarant's interest in and to the Common Areas shall be determined on the same basis set forth in Section 9.03, above. Notice in writing of the amount of such special assessment and the time for payment thereof shall be given promptly to the Owners, and no payment shall be due less than thirty (30) days after such date.

8.08 Liens for Unpaid Assessments. All sums assessed to any Unit pursuant to this Article, together with interest thereon as provided herein, and all costs and expenses incurred, with or without suit or before or after judgment, in collecting delinquent accounts or foreclosing against the Condominium Units concerned, shall be secured by a lien in such Unit in favor of the Association and, upon recording of a notice of lien by the Management Committee, shall be a lien upon the Unit prior to all other liens and encumbrances, recorded or unrecorded, except:

(a) Tax and special assessment liens on the Unit in favor of any assessing agency or special improvement district; and

(b) Liens of Mortgagees; and

(c) Any other encumbrances on the interest of the Unit Owner recorded prior to the date notice of the lien provided for herein recorded, which by law would be a lien prior to subsequently recorded encumbrances.

To evidence a lien for sums assessed pursuant to this Article, the Management Committee shall prepare a written notice of lien setting for the amount of the assessment, the due date, the amount remaining unpaid, the name of the Owner of the Unit, and a description of the Unit. Such notice shall be signed by or on

behalf of the Management Committee and may be recorded in the Office of the County Recorder of Utah County, Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by foreclosure by the Management Committee in the same manner in which a mortgage or trust deed on real property may be foreclosed in Utah. In any such foreclosure, the Owner shall be required to pay the cost and expenses of such proceeding, the cost and expenses of filing the notice of lien, and all reasonable attorney's fees. All such costs, expenses and fees shall be secured by the lien being foreclosed. The lien shall also secure, and the Owner shall also be required to pay to the Management Committee any assessments against the Unit which shall become due during the period of foreclosure. The Management Committee shall have the right and the power to bid an amount equal to its then existing lien at the foreclosure sale or other legal sale and, if it is the purchaser, to acquire, hold, convey, lease, rent encumber, use and otherwise deal with the subject Condominium Unit as the Owner thereof.

8.09 Release of Lien. A release of lien shall be executed by the Management Committee and recorded in the Office of the County Recorder of Utah County, Utah, upon payment of all sums owed and secured by a lien which has been made the subject of a recorded notice of lien.

8.10 Payment by Encumbrancer. Any encumbrancer holding a lien on a Unit may, but shall not be required to, pay any amounts secured by the lien created by this Article, and upon such payments such encumbrancer shall be subrogated to all rights of the Management Committee with respect to such lien, including priority. The Management Committee, upon written request and evidence of such encumbrance, shall report to any encumbrancer of a Unit any unpaid assessments remaining unpaid for longer than thirty (30) days after the same shall have become due.

8.11 Personal Obligation of Owner. The amount of any annual or special assessment against any Unit shall be the personal obligation of the Owner thereof to the Association. A suit to recover a money judgment for such personal obligation shall be maintainable by the Management Committee, as agent for the Association, without foreclosing or waiving the lien securing the same. No Owner may avoid, diminish or abate such personal obligation by waiver of the use and enjoyment of any of the Common Areas, by abandonment of his Unit, or by making a claim for inconvenience or discomfort caused by construction or repairs within the Project.

8.12 Information Concerning Unpaid Assessments. Upon payment of reasonable fee not to exceed Ten Dollars (\$10.00) and upon written request of any Owner, Mortgagee, prospective Mortgagee or prospective purchaser of a Unit, the Management Committee shall issue a written statement setting forth the

amount of the unpaid assessments, if any, with respect to such Unit; the amount of the current annual assessment and the portion thereof, if any, which has theretofore been paid; and credit for advance payments of prepaid items, including but not limited to, an Owner's share of prepaid insurance premiums. Such statement shall be conclusive upon the Management Committee in favor of person who rely thereon in good faith.

8.13 Obligation of Purchaser/Grantee. A purchaser/grantee of a Unit shall be jointly and severally liable with the seller/grantor thereof for all unpaid assessments against the Unit up to the time of the grant or conveyance, without prejudice to the right of the purchaser/grantee to recover from the seller/grantor the amount paid by the purchaser/grantee for such assessments.

## ARTICLE IX

### INSURANCE

9.01 Insurance and Bonds. The Management Committee shall secure or caused to be secured and maintained at all times the following insurance and bond coverage with respect to the Project:

(a) A policy or policies of fire and casualty insurance with extended coverage endorsement, for the full insurable replacement value of the entire Project including the Building and Units, but excluding Unit contents, the insurance of which shall be the obligation and responsibility of individual Owners or occupants. Such policy or policies shall be made payable to the Committee and all persons holding an interest in the Project or any of the Units, as their interests may appear.

(b) An appropriate fidelity bond coverage for any person or entity handling funds of the Management Committee, including, but not limited to, employees of a professional manager, if any, the amount of such coverage to be not less than the estimated maximum of funds, including reserves, in the custody of such person or entity at any given time during the bond term, all as determined by the Management Committee, but in no event less than a sum equal to three months' aggregate assessments on all Units, plus reserve funds.

(c) A policy or policies insuring the Committee, the Manager, and the Unit Owners against any liability incident to the ownership, use or operation of the Project, or of any Unit, which may arise among themselves, to the public, and to any invitees or tenants of the Project or of the Unit

Owners. Such policies shall be issued on a comprehensive liability basis and shall provide a cross liability endorsement pursuant to which the rights of the named insured as between themselves are not prejudiced. All such insurance shall comply in all respects with all insurance requirements of the Federal National Mortgage Association and the Department of Veterans Affairs.

9.02 Additional Insurance Provisions. The following additional provisions shall apply with respect to such insurance:

(a) In addition to the insurance described above, the Committee shall secure and at all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with condominium projects similar to the Project in construction, nature and use.

(b) The Committee shall have the authority to adjust losses.

(c) Insurance secured and maintained by the Committee shall not be brought into contribution with insurance held by the individual Unit Owners or their Mortgagees.

(d) Each policy of insurance obtained by the Committee shall, if possible, provide: A waiver of the insurer's subrogation rights with respect to the Committee, the Manager, the Unit Owners, and their respective servants, agents, and guests; that it cannot be canceled, suspended, or invalidated due to the conduct of any member, officer, or employee of the Committee or of the Manager without prior written demand that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Unit Owners.

(e) Any Unit Owner may obtain additional insurance at his own expense, so long as such additional insurance does not have the effect of decreasing the amount which may be realized under any policy maintained by the Committee. Any Unit Owner who individually obtains insurance covering any portion of the Project (other than for Unit contents) shall supply the Committee with a copy of his policy within thirty (30) days after he acquires such insurance.

(f) Notwithstanding anything herein contained to the contrary, insurance coverage must be in such amounts and meet other requirements of the Federal National Mortgage Association and the Department of Veterans Affairs.

ARTICLE X

DAMAGE, DESTRUCTION AND RESTORATION

In the event of damage to or destruction of part or all of the improvements in the Condominium Project, the following procedures shall apply:

(a) If proceeds of the insurance maintained by the Management Committee are alone sufficient to repair or reconstruct the damaged or destroyed improvement, such repair or reconstruction shall be carried out as quickly as possible.

(b) If less than seventy-five percent (75%) of the Project's improvements are destroyed or substantially damaged, and if proceeds of the insurance maintained by the Committee are not alone sufficient to accomplish repair or reconstruction, restoration shall be carried out, and, upon approval of at least 50 percent of the affected Unit Owners all affected Owners shall be assessed equally for any deficiency.

(c) If seventy-five percent (75%) or more of the Project's improvements are destroyed or substantially damaged, and if proceeds of insurance maintained by the Management Committee are not alone sufficient to accomplish restoration, and if the Unit Owners within one hundred (100) days after the destruction or damage by a vote of at least seventy-five percent (75%) elect to repair or reconstruct the affected improvements, restoration and assessment therefor shall be accomplished in the manner directed under subsection (b), above.

(d) If seventy-five percent (75%) or more of the Project's improvements are destroyed or substantially damaged, and if proceeds of insurance maintained by the Committee are insufficient to accomplish restoration, and if the Unit Owners do not, within one hundred (100) days after the destruction or damage and by a vote of at least seventy-five percent (75%), elect to repair or reconstruct the affected improvements, the Management Committee shall promptly record with the Utah County Recorder a notice setting forth such facts. Upon the recording of such notice, the provisions of Section 57-8-31 (1) through (4) of the act shall apply and govern the rights of all parties having an interest in the Project or any of the Units.

(e) Any of the reconstruction or repair which is required to be carried out by this Article shall be accomplished at the instance and direction of the Management Committee. Any determination which is required to be made

by this Article regarding the extent of the damage to or destruction of Project improvements, shall be made by three qualified appraisers selected by the Management Committee. The decision of any two such appraisers shall be conclusive.

## ARTICLE XI

### MORTGAGES AND MORTGAGEE PROTECTION

11.01 Notice of Mortgage. Any Owner who mortgages his Unit shall furnish the Committee the name and address for such Mortgagee, and the Committee shall maintain such information in a book entitled "Mortgages of Units." The Committee shall report to such Mortgagee any unpaid assessments due from the Owner of such Unit at the same time as the Committee makes demand on the Owner thereof for payment of such assessment. Each Mortgagee shall also be entitled to written notification from the Committee of any other default by its Owner-Mortgagor in the performance of such Owner's obligations under the term and provisions of this Declaration which shall not have been cured within thirty (30) days after written notice to such Owner-Mortgagor by the Committee specifying such default.

11.02 Right to Examine. A Mortgagee shall have the right to examine the books and records of the Association and Committee upon request and to require annual reports of the financial status of the Association.

11.03 Notice of Damage. In the event of substantial damage to or destruction of any Unit or any part of the Common Areas, the Mortgagee of any Unit shall be entitled to timely written notice of any such damage or destruction. No Owner or other party shall be entitled to priority over such Mortgagee with respect to the distribution to such Unit of any insurance proceeds.

11.04 Notice of Default. Any Mortgagee is entitled to written notification from the Management Committee of any default by the Owner of such Unit in the performance of any obligation under the Declaration which is not cured within thirty (30) days.

11.05 Effect of Foreclosure on Liens. Each Mortgagee of a Unit who comes into possession of such Unit by virtue of foreclosure of the Mortgage, or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Unit free of any unpaid claims or assessments and charges against the Unit which accrued prior to the time such holder comes into possession of the Unit, except for claims for a pro-rata share of such assessments or charges resulting from a pro-rata reallocation of such assessments or charges to all Units in the Project, including the mortgaged Unit.

11.06 General Mortgagee Protection. Unless at least seventy-five percent (75%) of the Mortgagees (based of one vote for each Mortgage owned) of Units have given their prior written approval, neither the Management Committee nor the Association of Unit Owners shall:

(a) By act or omission, seek to abandon or terminate the Project, except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;

(b) Change the pro-rata interest or obligations of any Unit for (i) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards or (ii) determining the pro-rata share of ownership of each Unit in the Common Areas;

(c) Make any material amendment to the Declaration or to the Bylaws of the Association including but not limited to, any amendment which would change the percentage interest of the Unit Owners in the Common Areas;

(d) By act or omission, seek to amend, partition, subdivide, encumber, sell, or transfer the Common Areas. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas of the Project shall not be deemed a transfer within the meaning of this Section; or

(e) Use hazard insurance proceeds for losses to any Project property (whether to Units or to the Common Areas) for other than the repair, replacement or reconstruction of such improvements, except as provided by the Act in cases of substantial loss to the Units and/or the Common Areas of the Project.

## ARTICLE XII

### GENERAL PROVISIONS

12.01 Enforcement. Each Unit Owner shall comply strictly with the provisions of this Declaration, the administrative rules and regulations promulgated pursuant thereto, as the same may be lawfully adopted from time to time, and with the decisions adopted pursuant to this Declaration and such administrative rules and regulations. Defaulting Unit Owners shall pay all costs and expenses incurred in enforcing the provisions hereof, including reasonable attorney's fees and costs and moneys paid and due for damages or injunctive relief, or both, maintainable by the Management Committee on behalf of the Association of the



Unit Owners, or in a proper case, by an aggrieved Unit Owner.

12.02 Party Walls. Each wall which is built as a part of the original construction of the Units upon the Project and placed on the dividing line between Units shall constitute a party wall, and the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

12.03 Amendments. Except as provided below, the vote of at least two-thirds (2/3) of the undivided ownership interest in and to the Common Areas and Facilities shall be required to amend this Declaration (Including the Association Bylaws set forth in Article VIII hereof) 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. Notwithstanding the above, until Units representing two-thirds (2/3) of the undivided ownership interest in the Project have been sold, Declarant alone shall have and is hereby vested with, the right to effect such amendments; provided, however, that during any period of time in which Declarant controls the Association and selects the Management Committee, any such amendments must also be approved by the Administrator of the Department of Veterans Affairs. Such right in Declarant to amend shall obtain without regard to the subject matter of amendment, so long as the amendment involved is consistent with the Act.

12.04 Consent Equivalent to Vote. In those cases in which the Act or this Declaration requires the vote of a stated percentage of the Project's undivided ownership interest for the authorization or approval of a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Unit Owners who collectively hold at least the necessary percentage of undivided ownership interest.

12.05 Consent to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land, and/or equitable servitude, as the case may be, and shall be binding upon and inure to the benefit of Declarant, all parties who hereafter acquire any interest in a Unit or in the Project, and their respective grantees, lessees, transferees, heirs, devisees, personal representatives, 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 the Act, the provisions of this Declaration and the rules, regulations, agreements, instruments, and determinations contemplated by this Declaration, and failure to comply therewith shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Committee on

behalf of the Association of Unit Owners, or, in a proper case, by an aggrieved Unit Owner. By acquiring any interest in a Unit or in the Project, the party acquiring such interest consents and agrees to be bound by each and every provision of this Declaration.

12.06 Agent for Service of Process. R.E. Miller whose address is 3175 N. 140 W. Provo, Utah 84604, is designated initially as the person to receive service of process in cases authorized by the Act; provided, however, that the Management Committee shall have the right to appoint a successor agent for service of process who shall be a resident of Provo, Utah. Such successor and his or her address shall be specified by an appropriate instrument filed in the Office of the Recorder of Utah County, Utah, which references the name and description of the Project.

12.07 Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of time lapse or the number of violations or breaches which may occur.

12.08 Number and Gender. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural and the plural the singular. The use of any gender shall include all genders.

12.09 Severability. If any of the provisions of this Declaration or any Article or Section, sentence, clause, phrase or word or the application thereof in any circumstances be invalidated, such invalidity shall not affect the validity of the remainder of the Declaration, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstance shall not be affected by such invalidity.

12.10 Topical Headings. The headings appearing at the beginning of the Sections or Articles of this Declaration are only for convenience of reference and are not intended to describe, interpret, define or otherwise affect the content, meaning or intent of this Declaration or any Section or provision hereof.

12.11 Effective Date. This Declaration shall take effect upon recording in the Office of the County Recorder of Utah County, Utah.

ARTICLE XIII

EXPANSION RIGHTS OF DECLARANT

13.1 Declarant hereby explicitly reserves an option to expand the Project and to add additional Units to the Project in the future. Declarant is granted hereby an easement over the Common Areas for completion of said expansion and for making repairs to said expansion and for purposes of marketing unsold units. Any such expansion shall be in accordance with the Act and the Department of Veterans Affairs regulations concerning expandable condominiums. The following conditions shall apply to exercise of said options.

(a) It is hereby granted unto Declarant and Declarant hereby reserves the absolute right and option to expand the Project at any time (within the limits herein prescribed) and from time to time by adding to the Project the Additional Land or a portion thereof.

(b) Notwithstanding any provision of the Act or this Declaration which might be construed to the contrary, such right and option may be exercised without obtaining the vote or consent of any other person (including any Unit Owner) and shall be limited only as provided in the Act and in this Declaration.

(c) The Declarant's right to expand the Project shall cease after seven (7) years from the date of recordation of the Original Declaration. There are no circumstances which will terminate the Declarant's option to expand the Project prior to the expiration of the time limit specified herein above.

(d) The Project may be expanded under the provisions of the Declaration and of the Act and shall be deemed to have occurred at such time as this Declaration, duly executed and acknowledged by the Declarant, and a new or supplemental Map containing the information required by the Act has been recorded with respect to the portion of the Additional Land concerned.

(e) All of the Additional Land need not be added to the Project. Rather, a portion of the Additional Land may be added to the Project at any time (within the limits herein prescribed) and from time to time. Such Additional land is described in Exhibit "B".

(f) Except for the limitations and requirements set forth in the following subparagraph (g), there are no limitations or requirements relative to the size, location or configuration of any given portion of the Additional Land which can be added to the Project or relative to the order

in which particular portions of the Additional Land can be added to the Project, and no assurances are made in that regard.

(g) Assuming that the entirety of the Additional Land is added to the Project, the maximum number of Units which may be created on the Additional Land is forty three (43) and the maximum number of Buildings in which those Units may be located is eleven (11). The maximum number of Units per acre which may be created on any portion of the Additional Land added to the condominium Project is 17 Units per acre.

(h) Any Building or other structure erected on any such additional Land shall be constructed in a good and workmanlike manner and shall, in general, be constructed of the same principal materials and of a quality and standard at least equal to those comprising Buildings in the present Phases of the Project. Declarant makes no assurances that such Buildings or Structures to be erected on the Additional Land will be identical in nature or architectural style or size to those Buildings or Units in prior Phases of the Project.

(i) In addition to the Buildings created on the Additional Land added to the Project, the significant improvements made thereto may include asphalt roadways, open parking spaces, concrete sidewalks or walkways, fences, landscaping, any other related improvements including Limited Common Areas. All of the mentioned improvements may be of the type and in the location reasonably determined to be appropriate by Declarant, so long as such determination is not inconsistent with any limitation imposed by this Declaration.

(j) In conjunction with the addition to the Project of the Additional Land, Declarant shall have the right to reserve, in the instruments through which the addition is accomplished, reasonable rights-of-way and or easements for purposes of enabling access to, furnishing utilities to, and facilitating or enabling access to, furnishing utilities to, and facilitating or enabling development of, such of the Additional Land as has then not been added to the Project.

(k) Each Unit created on any portion of the Additional Land which is added to the Project shall be used only for residential purposes.

(l) Any expansion of the Project through the additional thereto of the Additional Land or portions thereof and through the creation of additional Units shall be such that the percentage of undivided Owner's interest in the Common Areas which at any point in time is appurtenant to any Unit then in the Project shall be reallocated.

(m) No expansion of the Project shall adversely affect the rights of the Association, the Committee, any Mortgagee, or any Owner in any Unit or the Common Areas and Facilities created hereunder.

(n) Declarant shall purchase (at Declarant's own expense) a general liability insurance policy in an amount to be determined by the Administrator of Veterans Affairs of the Veterans Administration to cover any liability to which Owners of previously sold Units are exposed as a result of further expansion of the Project.

(o) The Project may not be amended or merged with a successor condominium regime without prior written approval of the Department of Veterans Affairs.

13.2 Procedure for Expansion. Any supplements to this Declaration and the Map by which the Additional Land is added to the Project shall be executed by Declarant, shall be in recordable form, must be filed for record in the office of the County Recorder of Utah County, State of Utah, on or before seven (7) years from the date that the Original Declaration is recorded, and, when taken together, shall contain the following information for that portion of the Additional Land which is being added to the Project.

(a) Data sufficient to identify this Declaration and the Map.

(b) The legal description of the portion of the Additional Land being added to the Project.

(c) A description of the Buildings located or to be located on the Additional Land concerned and all other significant improvements located or to be located on such Additional Land.

(d) The Unit number of each Unit being created within the portion of the Additional Land concerned and other data necessary for the proper identification thereof.

(e) A description of any Limited Common Areas being created within the portion of the Additional Land concerned, together with a designation of the Unit to which each is appurtenant.

(f) Such rights-of-ways and/or easements as are being reserved by Declarant pursuant to subparagraph (j) of the foregoing Section 13.1.

(g) An amendment to Exhibit "D" of this Declaration setting forth the percentage of undivided interest which, after

addition of that portion of the Additional Land concerned, shall appertain to each Unit in the Project. During Phase I of the project, each owner will possess an undivided 25(%) percent interest in the land appurtenant to Phase I. When each of the forty seven (47) Units which will ultimately comprise the entire project are completed the owner of each unit will possess a 2.1 (%) percent interest in the total property.

(h) The map information required to be furnished by Section 57-8-13(2) of the Act.

(i) Such other matters as may be necessary, desirable, or appropriate and as are not inconsistent with any limitation imposed by this Declaration.

Upon the recordation of any supplements contemplated above, the revised schedule of undivided ownership interest contained therein shall automatically become effective for all purposes and shall completely supersede any similar schedule which was contained in any Declaration or supplement previously recorded in connection with the Project or any portion of the Additional Land. Upon recordation of such supplements, they shall automatically supplement this Declaration, the Map, and any supplements previously recorded. At any point in time, the Declaration and Map for the Project shall consist of this Declaration and the Map initially effective hereunder, as amended and expanded by all supplements therefore recorded pursuant to the terms hereof.

13.3 Additional Land; Miscellaneous. Such parts of the Additional Land which is added to the Project as do not become Units shall be and remain Common Areas. Until such time as any given portion of the Additional Land added to the Project has been fully developed and improved in the manner contemplated by the instruments through which such portion was added, unless Declarant gives its prior written consent thereto, no easement, right-of-way, or similar matter affecting any portion thereof shall be granted or created, no improvement to or work on any part of such portion shall occur, and no other action shall be taken with respect to such portion which would or might impair Declarant's ability to exercise its rights concerning the same.

13.4 No Obligation to Expand. Except to the extent specifically indicated herein, this 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 addition to the Project of any or all of the Additional Land;

(b) The creation or construction of any Unit, Building, or

other improvements;

(c) The carrying out in any particular way or within any particular time of any development or addition to the Project which may be undertaken; or

(d) The taking of any particular action with respect to the Project, or any portion of the Additional Land.

Except to the extent specifically indicated herein, no covenant, restriction, limitation, representation, or commitment in this Declaration concerning anything that is or is not to occur, apply, or be done on or relative to the Additional Land or any portion thereof shall be binding as to such of the Additional Land as is never added to the Project.

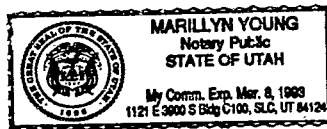
IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed as of the day and year first above set forth.

DECLARANT:

*Richard E. Miller*  
Richard E. Miller

STATE OF UTAH )  
                  : SS.  
COUNTY OF UTAH )

On this *6th* day of *November* 1992, personally appeared before me, Richard E. Miller, the signer of the foregoing instrument who duly acknowledged to me they executed the same.



*Marillyn Young*  
NOTARY PUBLIC

EXHIBIT "A"  
TO  
DECLARATION OF  
CONDOMINIUMS  
SCANDIA VILLAGE, A CONDOMINIUM PROJECT (EXPANDABLE)

TOTAL PARCEL  
SCANDIA VILLAGE CONDOMINIUMS PHASE I  
Provo, Utah  
5-20-92

Commencing at a point located North 393.60 feet and West 1129.10 feet from the Southeast corner of section 7, Township 7 South, range 3 East, Salt Lake Base and meridian; thence West 143.00 feet along the northerly right-of-way of 1140 South Street; thence North 73.000 feet; thence East 157.10 feet to the westerly right-of-way line of 1000 East Street; to the point of a 222.00 foot radius curve to the right. (Chord bearing bears south 02 35'04" East 20.02'); thence along arc of said curve 20.03 feet through a central angle of 05 10'08"; thence continuing along the westerly right-of-way line of 1000 east street south 38.00 feet to the point of a 15.00 foot radius curve to the right (chord bearing bears south 45 00'00" West 21.21'); thence along arc of said curve 23.56 feet through a central angle of 90 00'00" to the point of beginning.

Contains an area of 11,480 square feet more or less.



EXHIBIT "B"  
TO  
DECLARATION OF  
CONDOMINIUMS  
SCANDIA VILLAGE, A CONDOMINIUM PROJECT (EXPANDABLE)

TOTAL PARCEL  
SCANDIA VILLAGE CONDOMINIUMS ADDITIONAL LANDS FOR PHASES II - XII  
Provo, Utah  
4-5-91

Commencing at a point located North 393.60 feet and West 1421.32 feet from the Southeast corner of Section 7, Township 7 South, Range 3 East, Salt Lake Base and Meridian; thence North 00 17'20" East along a fence line 456.26 feet; thence South 89 59'50" East 211.41 feet; thence South 00 10'00" West along the Westerly Right-of-Way line of 1050 East Street 56.11 feet; thence along the arc of a 278.00 foot radius curve to the left 97.45 feet (chord bears South 09 52'30" East 96.95 feet); thence South 29 55'00" East along the Westerly Right-of-Way line of 1050 East Street 187.20 feet; thence along the arc of a 222.00 foot radius curve to the right 77.17 feet (chord bears South 09 57'30" East 76.78 feet); thence South along the Westerly Right-of-Way line 1050 East Street 38.00 feet; thence along the arc of a 15.00 foot radius curve to the right 23.56 feet (chord bears South 45 00'00" West 21.21 feet); thence West along the Northerly Right-of-Way line 1150 South Street 292.22 feet to the point of beginning.

AREA = 2.701 Acres

ENT60681 BK 3035 PG 688

EXHIBIT "C"  
TO  
DECLARATION OF  
CONDOMINIUMS  
SCANDIA VILLAGE, A CONDOMINIUM PROJECT (EXPANDABLE)

BYLAWS  
OF  
SCANDIA VILLAGE CONDOMINIUM OWNERS ASSOCIATION  
Nonprofit Corporation

EXHIBIT "C"  
TO  
DECLARATION OF  
CONDOMINIUMS  
SCANDIA VILLAGE, A CONDOMINIUM PROJECT (EXPANDABLE)

ASSOCIATION BYLAWS

1.01 Management Committee: Composition, Election, Vacancies. The Association, through the Management Committee referred to in Article VII herein, is responsible for the management, operation and maintenance of the Condominium Project. Subject to the provisions of Section 7.02, above, the Committee shall be composed of three members, one to be elected to a three year term, one to a two year term and one to a one year term. As members' terms expire, new members shall be elected for three-year terms. Members shall serve on the Committee until their successors are elected. Committee Members must be Members or officers, directors, agents or employees of non-individual Members. Vacancies in the Committee membership may be filled by appointment by the remaining members or member of the Committee and said appointees shall serve until the next annual meeting when their successor shall be elected for the unexpired term of the member they were appointed to replace.

1.02 Voting. Each Unit Owner shall be entitled to case one vote. Multiple record Owners of a single Unit shall be unanimous in their single vote for such Unit; otherwise such Unit shall not be represented by a vote. Votes may be cast in person or by proxy designated in writing and filed with the Secretary of the Association.

1.03 Place of Meeting. Meetings of the Association shall be held at such suitable place convenient to the Owners as may be designated by the Management Committee in its notice.

1.04 Annual Meetings. Annual meetings of Members of the Association shall be held in October of each year beginning in the year 1992 on such day and time as is set forth in the notice therefor; provided, that after the first such annual meeting, a month other than October may be chosen if it is deemed by the Members to be more convenient. At such annual meetings there shall be elected members of the Management Committee, as needed, pursuant to the provisions of this Declaration. Financial and budget reports shall also be presented at such meetings as well as other business of the Association properly placed before each meeting.

1.05 Special Meetings. The President shall call a special meeting of the Owners as directed by a resolution of the Management Committee or on a petition signed by Owners of a least one-third (1/3) of the Units and having been presented to the Secretary. No business shall be transacted at a special meeting

except as stated in the notice therefor except by consent of two-thirds (2/3) of the Owners present, either in person or by proxy.

1.06 Notice of Meetings. The Secretary shall mail a notice of each annual or special meeting stating the purpose thereof as well as the time and place of the meeting to each Owner of record at least ten (10), but not more than twenty (20), days prior to such meeting. The mailing of notice by prepaid U.S. Mail or by delivery in person shall be considered notice served.

1.07 Quorum. Owners present at any meeting of Members duly called pursuant to notice shall constitute a quorum at all meetings, both annual and special; provided, however, that such Members collectively be entitled to cast at least one-half (1/2) of the total Association votes.

1.08 Adjourned Meetings. If any meeting of Owners cannot be organized because a quorum is not present, the Owners who are present either in person or by proxy may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.

1.09 Officers. The Association shall have a President, a Vice President and a Secretary/Treasurer all of whom shall be elected by and from the Management Committee. The Committee may appoint an Assistant Secretary and Assistant Treasurer. Only the offices of Secretary and Treasurer may be filled by the same person. The officers shall be elected by the Management Committee in an organizational meeting of the Committee immediately following each annual meeting of Members at which the new Management Committee has been elected.

(a) President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Management Committee. He shall have all of the general powers and duties that are usually vested in the office of President of a similar type association.

(b) Vice President. the Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor Vice President is able to act, the Management Committee shall appoint some other Member of the Committee to do so on an interim basis. the Vice President shall also perform such other duties as shall from time to time be imposed on him by the Management Committee.

(c) Secretary. The Secretary shall keep the minutes of all meetings of the Management Committee and the minutes of all meetings of the Association. He shall have charge of such books and records as the Management Committee may

direct and he shall, in general, perform all duties incident to the office of secretary of a similar type association.

(d) Treasurer. The Treasurer shall have responsibility for Association funds and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all money and any other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Management Committee.

1.10 Amendments. Except as otherwise provided by law, by the Declaration, or by these Bylaws, these Bylaws may be amended, altered or repealed and new Bylaws may be made and adopted by the Members upon the affirmative vote of at least fifty-one percent (51%) of the total votes of the Association, provided, however, that such action shall not be effective unless and until a written instrument setting forth (i) the amended, altered, repealed, or new Bylaw, (ii) the number of votes cast in favor of such action, and (iii) the Total Votes of the Association, shall have been executed and verified by the current President of the Association and recorded in the office of the County Recorder of Utah County, State of Utah.

1.11 Rules and Regulations. The Management Committee may make reasonable rules and regulations governing the operation and use of the Common Areas and of other matters over which it has jurisdiction, which rules and regulations shall be consistent with the rights and duties established in this Declaration. The Management Committee may suspend any Owner's voting rights at any meeting of Unit Owners during any period or such periods during which such Owners fails to comply with such rules and regulations, or with any other obligations under this Declaration. The Management Committee may also take judicial action against any Owner to enforce compliance with such rules and regulations or other obligations or to obtain damages for noncompliance, all to the extent provided by law.

1.12 Miscellaneous Restrictions. Nothing shall be done or kept in any unit or in the Common Areas or any part thereof which would result in the cancellation of the insurance of the Project or any part thereof or increase of the rate of the insurance on the Project or any part thereof over what the Management Committee, but for such activity, would pay, without the prior written consent of the Management Committee. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or any invitee of any Owner, and each Owner shall

indemnify and hold the Management Committee and the other Owners harmless against all loss resulting from any such damage or waste caused by him or his invitees; provided, however, that any invitee of the Declarant shall not, under any circumstances, be deemed to be an invitee of any other Owner. No noxious, destructive or offensive activity shall be carried on in any Unit or in the Common Areas or any part thereof, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any person at any time lawfully residing in the Project.

1.13 Method, Payment of Assessments, Etc. Annual assessments shall be made on a calendar year basis. The Committee shall give written notice to each Owner as to the amount of the annual assessment with respect to his Unit not less than thirty (30) days nor more than sixty (60) days prior to the beginning of the next calendar year; provided, however, that the first annual assessment shall be for the balance of the calendar year remaining after the day fixed by the Committee as the date of commencement of the assessment. Such annual assessment may be paid in twelve (12) equal monthly payments. The first such monthly assessment shall become due and payable upon the date a Unit Owner purchases his Unit, whether by conveyance of title or by entering into a contract of sale and purchase, and thereafter each monthly payment shall be due and payable on the first day of each and every month in advance. The Committee may, if it is deemed best to alleviate administrative time and effort, require that the annual assessment be paid in four (4) quarterly installments, in advance. Each monthly payment shall bear interest at the rate of twelve percent (12%) per annum from the date it becomes due and payable if not paid within fifteen (15) days after such date.

1.14 Rights and Duties. The Management Committee, subject to the rights and duties of the Association, this Declaration, and the Bylaws, shall be responsible for the general management and administration of the Project. It is understood that the Committee has the obligation to maintain the Common Areas. However, and notwithstanding anything contained herein to the contrary, in the event of the failure or refusal of the Committee to maintain all the Common Areas of this Project, as contemplated in this Declaration, then the Association shall maintain the same.

1.15 Exterior Maintenance. In connection with its duty to maintain Common Areas, the Committee will provide maintenance upon the exterior of the Building and Units, fencing, including fencing around Common Areas, limited Common Areas of each individual Unit, and perimeter, carports, and the Common Area as follows: Paint, repair, replace, and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, driveways, parking areas and other exterior improvements

except glass surfaces.

1.16 Right of Delegation to Manager. The Management Committee may carry out any of its functions which are capable of delegation through a Manager. The Manager so engaged shall be responsible for managing the Common Areas and shall, to the extent permitted by law and the terms of the agreement with the Management Committee, be authorized to perform any of the functions or acts required or permitted to be performed by the Management Committee itself. Any such management agreement shall be terminable for cause upon thirty (30) days notice and may run for a reasonable period of from one (1) to three (3) years, renewable by consent of the Association and the Committee. A management agreement negotiated by Declarant shall not exceed two (2) years duration.

1.17 Payment for Services, Etc. The Management Committee may obtain and pay for the services of such personnel as the Management Committee shall determine to be necessary or desirable for the proper operation of its function in the Project, including the enforcement of this Declaration. The Committee may also hire other person to furnish snow removal, ground maintenance and other common services to the Project.

EXHIBIT "D"  
TO  
DECLARATION OF  
CONDOMINIUMS  
SCANDIA VILLAGE, A CONDOMINIUM PROJECT (EXPANDABLE)

ALLOCATION OF UNDIVIDED OWNERSHIP INTEREST

<u>Building Unit Designation</u>	<u>Phase</u>	<u>Percentage Interest</u>
1124 S. 1000 E. #1	I	25%
1124 S. 1000 E. #2	I	25%
1124 S. 1000 E. #3	I	25%
1124 S. 1000 E. #4	I	25%



CONSENT OF OWNERS

The following Owners hereby consent to the foregoing Amended and Restated Declaration of Covenants, Easements, Conditions and Restrictions of Scandia Village Condominiums and collectively comprise at least sixty-seven percent (67%) of the total votes of the Association as required in the Original Declaration:

<u>OWNER(S)</u>	<u>PHASE</u>	<u>UNIT NO.</u>	<u>VOTES</u>
<u><i>Richard Miller</i></u>			
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ACKNOWLEDGEMENTS

STATE OF UTAH )  
                  : SS.  
COUNTY OF UTAH )

I, the undersigned, a Notary Public, hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, personally appeared before me each of the above-named Owners, who, being by me first duly sworn, severally declared that they were the persons who signed the foregoing Consent of Owners as Owners and that the statements therein contained are true.

\_\_\_\_\_  
NOTARY PUBLIC  
RESIDING IN UTAH COUNTY  
STATE OF UTAH

MY COMMISSION EXPIRES

\_\_\_\_\_

STATE OF UTAH )  
                  : SS.  
COUNTY OF UTAH )

I, the undersigned, a Notary Public, hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, personally appeared before me each of the above-named Owners, who, being by me first duly sworn, severally declared that they were the persons who signed the foregoing Consent of Owners as Owners and that the statements therein contained are true.

\_\_\_\_\_  
NOTARY PUBLIC  
RESIDING IN UTAH COUNTY  
STATE OF UTAH

MY COMMISSION EXPIRES

\_\_\_\_\_

CONSENT OF MORTGAGEES

The following Mortgagees hereby consent to the foregoing Amended and restated Declaration of Covenants, Easements, Conditions and Restrictions of Scandia Village and collectively comprise at least fifty-one percent (51%) of the votes of Units that are subject to Mortgages as required in the Original Declaration:

<u>MORTGAGEE</u>	<u>PHASE</u>	<u>UNIT NO.</u>	<u>VOTES</u>
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ACKNOWLEDGEMENT

STATE OF UTAH )  
                  : SS  
COUNTY OF UTAH )

I, the undersigned, A Notary Public, hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, personally appeared before me, \_\_\_\_\_, who being duly sworn did say that he is the \_\_\_\_\_, and that the foregoing instrument was signed pursuant to a resolution of the Board of Directors of said Corporation and that the Corporation executed the same as its official act.

\_\_\_\_\_  
NOTARY PUBLIC  
RESIDING IN UTAH COUNTY  
STATE OF UTAH

MY COMMISSION EXPIRES:

\_\_\_\_\_