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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF

SILVER BIRCH CONDOMINIUM PROJECT

THIS DECLARATION is made and executed as of the 27th day of August, 1984, by Silver Birch Condominium, a Utah Corporation, (hereinafter referred to as "Declarant"), pursuant to the provisions of the Utah Condominium Ownership Act (Sections 57-8-1 through 57-8-36, Utah Code Annotated (1953), as amended).

R E C I T A L S:

A. Declarant is the owner of the tract of real property more particularly described in Exhibit "A" hereof.

B. Declarant has constructed, or is in the process of constructing, upon said tract a Condominium Project, including certain Units and other improvements. All of such construction has been, or is to be, performed in accordance with the plans and specifications contained 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 now or hereafter constructed thereon to the provisions of the Act as a Condominium Project to be known as the "Silver Birch Condominium Project."

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

NOW, THEREFORE, for the foregoing purposes, Declarant hereby makes the following Declaration:

I. DEFINITIONS

When used in this Declaration (including in that portion hereof headed "Recitals") the following terms shall have the meaning indicated. Any term used herein which is

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defined by the Act shall, to the extent permitted by the context hereof, have the meaning ascribed by the Act.

1. Act shall mean and refer to the Utah Condominium Ownership Act (Sections 57-8-1 through 57-8-36, Utah Code Annotated (1953), as the same may be amended from time to time.

2. Declaration shall mean and refer to this Declaration.

3. Declarant shall mean and refer to Silver Birch Condominium, a Utah Corporation.

4. Record of Survey Map and Map shall mean and refer to the Record of Survey Map filed herewith, prepared and certified to by ROBERT D. DUDLEY, a duly registered Utah land surveyor with certificate no. 3553. Professional Engineer No. 4017.

5. Property shall mean and refer to the land, the buildings, all improvements and the structures thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

6. Management Committee and Commitee shall mean and refer to the Management Committee of the Silver Birch Condominium Project.

7. Common Areas and Facilities and Common Areas shall mean, refer to, and include:

(a) The real property and interests in real property which this Declaration submits to the terms of the Act.

(b) All Common Areas and Facilities designated as such in the Survey Map.

(c) All Limited Common Areas and Facilities.

(d) All foundations, columns, girders, beams, supports, perimeter walls and roofs constituting a portion of or included in the improvements which comprise a part of the Project.

(e) All apparatus, installations, and facilities included within the Project and existing for common use.

(f) All portions of the Project not specifically included within the individual Units.

(g) All other parts of the Project normally in common use or necessary or convenient to its use, existence, maintenance, safety, or management.

(h) All "Common Areas and facilities" so defined in the Act, whether or not expressly listed herein.

8. Limited Common Areas and Facilities and Limited Common Area shall mean and refer to those Common Areas and Facilities designated herein or in the Survey Map as reserved for the use of a certain Unit or Units to the exclusion of the other Units. Limited Common Areas consist of balconies, patios and the entrances and exits of each Unit although not indicated on the Map.

9. Condominium Unit and Unit means and refers to one of the Units intended for independent use as defined in the Act and as shown in the Map. 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 coolers and other air cooling apparatus, fixtures and the like, shall be considered part of the Unit, as shall all decorated interiors, all surfaces of interior structural walls, floors and ceilings, windows and window frames, doors and door frames, and trim, consisting of, inter alia and as appropriate, wallpaper, paint, flooring, carpeting and tile. All pipes, wires, conduits, or other public utility lines or installations constituting a part of the Unit and serving only the Unit and any structural members or any other property of any kind, including fixtures and appliances within any Unit, which are 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.

10. Unit Number shall mean and refer to the number which designated a Unit in the attached Exhibit "B" and in the Map.

11. Unit Owner or Owner shall mean and refer to the Owner of the fee in a unit and the Percentage Interest in the Common Areas which is appurtenant thereto. The Declarant shall be deemed the owner of all unconstructed or unsold Units. In the event a Unit is the subject of an executory contract of sale, the contract purchaser shall, unless the seller and the purchaser have otherwise agreed and have informed the Committee in writing of such agreement, be considered the Unit Owner for purposes of voting and Committee membership.

12. Common Expenses shall mean and refer to all sums which are expended on behalf of all the Unit Owners and all sums which are required by the Management Committee to perform or exercise its functions, duties, or rights under the Act, this Declaration, the Management Agreement for operation of the Project, and such rules and regulations as the Management Committee may from time to time make and adopt.

13. Common Profits shall mean and refer to the balance of income, rents, profits, and revenues from the Common Areas remaining after deduction of the Common Expenses.

14. Condominium Project and Project shall mean and refer to the Silver Birch Condominium Project.

15. Mortgage shall mean any mortgage, deed of trust or other security instrument by which a Unit or any part thereof is encumbered.

16. Mortgagee shall mean any person named as a Mortgagee or beneficiary under or holder of a deed of trust.

17. Percentage Interest shall mean and refer to the appurtenant undivided interest of each Unit as Tenants in common in the Common Areas of the Project as set forth in Exhibit "B" annexed hereto.

18. Size shall mean and refer to the square footage of each Unit, exclusive of basement and garage, as depicted on the Map and shown in said Exhibit "B".

19. Association shall mean and refer to the Association of Unit Owners of Silver Birch Condominium Project. Every Unit Owner shall be a member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to the Unit in which the Owner has the necessary interest, and shall not be separated from the Unit to which it appertains. The property, business and affairs of the Association shall be governed by the Management Committee. The Association may, but need not, be incorporated as a non-profit corporation.

II. SUBMISSION

Declarant hereby submits to the provisions of the Act the real property situated in the city of Payson, Utah County, State of Utah described in Exhibit "A" to this Declaration, and incorporated herein as if here set forth in full.

III. COVENANTS, CONDITIONS AND RESTRICTIONS

1. Description of Improvements. The improvements included in the project are now or will be located on the tract of real property described in Article II hereof, and all such improvements are described in the Map. The Map indicates the number of stories, the number of Units which are contained in the buildings, which comprise a part of such improvements, the dimensions of the Units, the recreational areas and facilities and all other Common Areas. There are five (5) Units in the Project contained in one (1) five-plex. The buildings are of wood frame construction with brick veneer exterior and vinyl siding.

2. Description and Legal Status of Units. The Map shows the Unit designation, its location, dimensions from which its area may be determined and the Common Areas and Facilities to which it has immediate access. All Units are residential Units. All Units are capable of being independently owned, encumbered and conveyed.

3. Contents of Exhibit "B". Exhibit "B" to this Declaration furnishes the following information with respect to each Unit: (a) Unit Designation; (b) Its size; and (c) Its Percentage Interest.

4. Common and Limited Common Areas and Facilities. The Common Areas contained in the Project are identified on the Map and are described in Exhibit "A". Neither the Percentage Interest in the Common Areas nor the right of exclusive use of a Limited Common Area and Facility shall be separated from the Unit to which it appertains; and, even though not specifically mentioned in the instrument of transfer, such Percentage Interest and such right of exclusive use shall automatically accompany the transfer of the Unit to which they relate. Each Unit Owner shall, at its own cost, keep any Limited Common Areas designed for exclusive use in connection with his Unit in a clean, sanitary and attractive condition at all times.

5. Computation of Percentage Interests. All Unit owners hold identical Percentage Interests in the Common Areas of the Project based on the fact that the Units are substantially equal in size. The Percentage Interest in the Common Areas shall be for all purposes including, but not limited to, participation in Common Profits, and assessments for Common Expenses.

6. Unit Maintenance. Each Owner shall at his own cost and expense maintain, repair, paint, tile, wax, paper or otherwise refinish and decorate the interior surfaces of the walls, ceilings, floors, windows, including the exterior thereof, and doors forming the boundaries of his Unit and all walls, ceiling, 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 cooler, lighting fixtures, refrigerator, dishwasher, disposal equipment, range, or other appliances or fixtures that may be in, or connected with, his Unit. Each Unit shall be maintained so as not to detract from the appearance of the Project and so as not to affect adversely the value or use of any other Unit.

7. Easement for Encroachment. If any part of the Common Areas encroaches or shall hereafter encroach upon a Unit or Units, an easement for such encroachment and for the maintenance for the same shall and does exist. If any part of a Unit encroaches 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 the maintenance shall and does exist. Such encroachments shall not be considered to be encumbrances either to the Common Areas or the Units. Encroachments referred to herein include, but are not limited to encroachments caused by error in the original construction of the building(s) on the tract, by error in the Map, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

8. Access for Repair of Common Areas. Some of the Common Areas are or may be located within 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 its 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 to another Unit or Units. The Committee shall also have such rights independent of the agency relationship. Damage to the interior of any part of a 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 insistence of the Committee or of Unit Owners, shall be repaired and the property shall be restored substantially to the same condition as existed prior to damage, (provided, that if such damage is the result of negligence of the Owner of a Unit, then such Owner shall be financially responsible for all such damage. Amounts owing by Owners pursuant hereto shall be collected by the Committee by assessment.

9. Right of Ingress, Egress, Lateral 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 the Limited Common Areas designated for use in connection with his Unit, and each Owner shall have the right to the horizontal and lateral support of a Unit, and such rights shall be appurtenant to and pass with the title to each Unit.

10. Easement to 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.

11. Easement for Utility Services. There is hereby created a blanket easement upon, across, over and under the Tract above described in Article II for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to, water, sewers, gas, telephones, electricity and other utility services.

12. Use of Condominium and Common Areas.

(a) Each of the Units in the Project is intended to be used for single family residential housing and is restricted to such use. No unit shall be occupied by anyone who is under the age of twenty-two (22) years, either as a Unit owner or as a family member in a Unit.

(b) There shall be no obstructions of the Common Areas by the Owners, their tenants, guests or invitees without the prior written consent of the Committee. The Committee may by rules and regulations prohibit or limit the use of the Common Areas 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 Committee, except as specifically provided herein. Nothing shall be altered on, constructed in or removed from the Common Areas except upon the prior written consent of the Committee.

(c) 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 on the Project or any part thereof or increase of the rate of the insurance on the Project or any part thereof over what the committee, but for such activity, would pay, without the prior written consent of the 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 requirement 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 Committee and the 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.

(d) No Owner shall violate the rules and regulations for the use of the Units and of the Common Areas as adopted from time to time by the Management Committee.

(e) No structural alterations to any Unit shall be made by any Owner without the Prior written consent of the Committee.

(f) No signs whatsoever shall be erected or maintained in the Common Areas without the prior written consent of the Committee, except: (i) Such signs as may be required by legal proceedings; (ii) such signs as Declarant may erect or maintain incident to sale of Units, and (iii) such signs as the Committee may by resolution permit.

(g) Notwithstanding anything contained herein to the contrary, until the Declarant has completed and sold all of the Units, neither the Unit Owners who have purchased Units from the Declarant nor the Committee shall interfere with the completion of improvements and sale of the remaining Units. The Declarant may make such use of the unsold Units and Common Areas as may facilitate such completion and sale, including but not limited to, the maintenance of the sales office and personnel in any building or Unit, the showing of the Units, showing of the Common Areas, and the conducting of Advertising and promotion programs.

13. Status and General Authority of Committee. The Condominium Project shall be managed, operated, and maintained by the Management Committee as agent for the Association. The Committee shall, in connection with its exercise of any of the powers delineated in subparagraphs (a) through (k) 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) The authority, without the vote or consent of the Unit Owners or of any other person(s), to grant, or create, on such 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 the Unit Owners, any amendment to the Declaration or Map which has been approved by the vote or consent necessary to authorize such amendment.

(c) The power to sue and be sued.

(d) The authority to enter into contracts which in any way concern the Project, so long as any vote or consent of the Unit Owners necessitated by the Subject matter of the agreement has been obtained.

(e) The power and authority to convey or transfer any interest in real property, so long as any vote or consent necessary under the circumstances has been obtained.

(f) The power and authority to purchase, 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 power and authority to add any interest in real property obtained pursuant to subparagraph (f) above to the Silver Birch Condominium Project, so long as such action has been authorized by the necessary vote or consent.

(h) The authority to license persons not otherwise entitled to use any of the recreational areas and facilities to use the same from time to time as the Committee deems appropriate upon payment of fees prescribed by it to help defray the cost of maintenance thereof.

(i) The authority to promulgate such reasonable rules, regulations, 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 interests of the Unit Owners.

(j) The power and authority to borrow money so long as such action has been authorized by any vote or consent which is necessary under the circumstances.

(k) The power and authority to perform any other acts and to enter into any other transactions which may be

reasonably necessary for the Management Committee to perform its functions as agent for the Unit Owners.

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.

14. Manager. The Committee may carry out any of its functions which are capable of delegation through a Project Manager. Any Manager retained for such purposes must be an individual or entity experienced and qualified in the field of property management. The Manager so engaged shall be responsible for managing the Project for the benefit of the Unit owners and shall, to the extent permitted by law and the terms of the agreement with the Committee, be authorized to perform any of the functions or acts required or permitted to be performed by the Committee itself.

15. Composition of Management Committee. Except as hereinafter provided, the Committee shall be composed of five members. At the first regular Association meeting three Committee members shall be elected for two-year terms and two members for a one-year term. At each annual Association meeting thereafter any vacant seat on the Committee shall be filled with a member elected for a two-year term. Members shall serve on the Committee until their successors are elected and qualify. Only Unit Owners and officers and agents of corporate owners shall be eligible for Committee membership. At the annual Association meeting each Unit Owner may cast his vote in favor of as many candidates for Committee membership as there are seats on the Committee to be filled; provided, however, that until the first regular Association meeting held, Declarant alone shall be entitled to select all Committee members. Declarant reserves the right to relinquish said reserved rights accorded herein at any time prior to said first meeting of Unit Owners, in the manner hereinafter provided in paragraph 24 captioned "Transfer of Management". Until the first annual meeting of the Owners, the members of the Committee shall be the following persons and each shall hold the office indicated opposite his name:

Chairman
Vice-Chairman
Secretary-Treasurer

In the event a Committee seat which was filled by Declarant becomes vacant, Declarant shall have 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. Committee members shall be reimbursed for all expenses reasonably incurred in connection with Committee business. The Committee may fix such compensation for any member as may be reasonable in light of the Committee duties which that member is required to perform.

16. 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. The officers of the Committee, and their respective powers and functions, shall be as follows:

(a) Chairman. The Chairman shall be the chief executive of the Committee and shall exercise general supervision over the property and affairs of the Project. He shall preside over all meetings of the Committee and of the Association. He shall execute all instruments on behalf of the Committee.

(b) Vice-Chairman. The Vice-Chairman 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 of the Unit Owners and 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. He shall furnish the Committee with a bond, in the amount specified by the committee, conditioned upon the faithful performance of his duties.

The offices of Secretary and Treasurer may be held by the same Committee member.

(e) Other Officers. The Committee may appoint such other officers, in addition to the officers hereinabove expressly made, as it shall deem necessary, who shall have authority to perform such duties as may be prescribed from time to time by the Committee.

(f) Removal of Officers and Agents. All officers and agents shall be subject to removal, with or without

cause, at any time by the affirmative vote of the majority of the then members of the Committee.

17. Committee Meetings. (a) A regular meeting of the Committee shall be held immediately after the adjournment of each annual Association meeting. Other regular meetings shall be held at regular intervals at such time and place as the Committee may provide. No notice need be given of regular Committee meetings.

(b) Special Committee meetings shall be held whenever called by the Chairman or a majority of the Committee. Either oral or written notice of special meetings shall, unless a waiver of such notice is signed by all members, be given to each committee member at least 24 hours before the time fixed for the meeting. Any meeting attended by all Committee members shall be valid for all purposes.

(c) A quorum for the transaction of business at any Committee meeting shall consist of a majority of all the members then in office.

(d) Members of the Committee, as such, shall not receive any stated salary or compensation; provided that nothing herein contained shall be construed to preclude any member thereof from serving the Project in any other capacity and receiving compensation therefor.

(e) For or at any meeting of the Committee, any member thereof, may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Committee at any meeting thereof shall be deemed waiver of notice by him of the time and place thereof.

(f) The Committee may adjourn any meeting from day to day or for such other time as may be prudent or necessary, provided that no meeting may be adjourned for longer than 30 days.

18. Meeting of Unit Owners. (a) The first regular meeting of the Association shall be held at 7:00 p.m. on the second Tuesday in January, 1985, and the subsequent regular meetings shall be held on the second Tuesday in January of each succeeding year. Whenever such day is a legal holiday, the meeting shall occur on the first business day thereafter. The place of meeting shall be at a location in Utah County, Utah specified in the Notice of Meeting. At least ten days before the date of the regular meeting a written notice thereof shall be personally delivered or mailed postage prepaid to each Unit Owner

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at his last known address. Such notice shall state the time, place, and general purpose of the meeting.

(b) Special Meetings. Special meetings of the Association may be called by the Chairman of the Committee, by a majority of the Committee members, or by Unit Owners cumulatively holding at least forty percent Percentage Interest in the Project. At least four days before the date set for a special meeting, written notice such as that described in the immediately preceding paragraph, shall be personally delivered or mailed postage prepaid to each Unit Owner at his last known address.

(c) Waiver of Notice. No notice of any Association's meeting shall be required if a waiver of such notice is signed by all of the Owners. Whenever all the Owners meet in person or by proxy such meeting shall be valid for all purposes. A quorum for the transaction of business at an Owners' meeting shall consist of a majority of all the Percentage Interest. In the event a quorum is not present at an Association meeting, whether regular or special, the meeting may be adjourned and rescheduled for a time no earlier than 48 hours, and no later than 30 days, after the time set for the original meeting. No notice of such rescheduled meeting shall be required. A quorum for the transaction of business at the rescheduled meeting shall be 25 percent of the members entitled to vote.

(d) Voting. Unit Owners shall be entitled to a single vote for each unit owned. When a quorum, as provided herein, is present at any meeting, the vote of Unit Owners representing more than 50 percent of the units, present in person or represented by proxy, shall decide any question of business brought before such meeting, including the elections of the Committee, unless the question is one upon which, by express provisions of the statutes or the Declaration a different vote is required, in which case such express provision shall govern and control the decision of such question. All votes may be cast either in person or by proxy. All proxies shall be in writing, and in the case of proxies for the annual meeting, they shall be delivered to the Secretary of the Committee at least five days prior thereto. Proxies for special Unit Owners' meetings must be of record with the Secretary of the Committee at least two days prior to such meeting.

19. Accounting. (a) The books and accounts of the Committee shall be kept under the direction of the Treasurer and in accordance with the reasonable standards of accounting procedures.

(b) Report. At the close of each accounting year, the books and records of the Committee shall be reviewed by a person or firm selected by the Committee. Report of such review shall be prepared and submitted to the Unit Owners at or before the annual meeting of the Unit Owners; provided, however, that a certified audit by a Certified Public Accountant approved by the Unit Owners shall be made if at least 67 percent of the Owners of Percentage Interest determine so to do.

(c) Inspection of Books. Financial reports, such as are required to be furnished, shall be available at the principal office of the Committee or the manager for inspection at reasonable times by any Unit Owner.

20. Capital Improvements. Additions or capital improvements to the Project which cost no more than \$5,000.00 may be authorized by the Management Committee alone. Additions or Capital Improvements the cost of which will exceed such amount must, prior to being constructed, be authorized by at least a majority of the Percentage Interest in the Project. Any addition or Capital Improvement which would materially alter the nature of the Project must, regardless of its cost and prior to being constructed, be authorized by at least 67 percent of the Project's undivided ownership interest.

21. Operation and Maintenance; Apportionment of Common Expenses. The Committee shall provide for such maintenance and operation of the Common and Limited Common Areas and Facilities as may be reasonably necessary to keep them clean, functional, attractive, and generally in good condition and repair. The Committee shall have no obligation regarding maintenance or care of Units. Expenses attributable to the Common Areas and to the Project as a whole shall be apportioned among all Units in proportion to their Percentage Interest, provided, however, that until a Unit has been both fully improved with all utilities installed and occupied for the first time as a residence, the monthly assessment applicable to such Unit shall be 10 percent of the monthly assessment fixed for other Units.

22. Payment of Expenses. Before the end of each calendar year the Committee shall prepare a budget which sets forth an itemization of the Common Expenses which are anticipated for the coming year. Such budget shall take into account any deficit or surplus realized during the current year. The total of such expenses shall be apportioned among all the Units on the basis of their appurtenant Percentage Interest. Prior to the first day of each month during the year covered by the budget each Unit Owner shall pay to the Committee as his share of the Common Expenses one-twelfth of the amount so apportioned to his Unit. If such monthly payments are too large or too small as a

result of unanticipated income or expenses, the Committee may effect an equitable change in the amount of said payments. The dates and manner of payment shall be determined by the Committee. The foregoing method of assessing the Common Expenses to the Unit Owners may be altered by the Committee so long as the method it adopts is consistent with good accounting practices and requires that the portion of Common Expenses borne by each Owner during a 12-month period be determined on the basis of his Percentage Interest.

23. Remedies for Nonpayment. Should any Unit Owner fail to pay when due his share of the Common Expenses, the Committee may enforce any remedy provided in the Act or otherwise available for collection of delinquent Common Expense assessments including, but not limited to, imposition of lien on Units of Owners who are in default. The Committee is empowered to impose late payment penalties against Unit Owners of not to exceed 5 percent of each delinquent amount due hereunder. Regardless of the terms of any agreement to which the Committee is not a party, liability for the payment of Common Expense assessments shall be joint and several, and any remedy for the collection of such assessments may be enforced against any person holding an ownership interest in the Unit concerned, against the interest which is held by him, against either or both the seller or purchaser under an executory contract of sale covering the Unit concerned, against the interests in the Unit which are held by any such seller or purchaser, and against any combination or all of such persons or interests. Any relief obtained, whether or not through foreclosure, proceedings shall include the Committee's costs and expenses and a reasonable attorney's fee. In the event of foreclosure after the institution of the action the Unit Owner shall pay a reasonable rental for his use of the Unit, and the Committee shall, without regard to the value of the Unit, be entitled to the appointment of a receiver to collect any rentals due from the Owner or any other person.

24. Transfer of Management. Notwithstanding anything to the contrary contained in paragraph 15 above, Declarant may at any time relinquish its reserved right to select the members of the Committee and to transfer the management of the Project to the Committee elected by Unit Owners. If and when Declarant elects so to do, Declarant shall send written notification of the effective date of such transfer (transfer date) at least 40 days prior thereto. Thereupon, Unit Owners shall call a meeting to elect the members of a new Management Committee to take office as of the transfer date. Declarant covenants to cooperate with Unit Owners in effecting orderly transition of management. Moreover, Declarant shall cause all obligations for Common Expenses of the Committee prior to the transfer date to be anticipated that the cash position of the Committee as of the transfer date will be zero.

25. Insurance. The Management Committee shall secure and at all times maintain the following insurance coverages:

(a) A multi-peril policy or policies of fire and casualty insurance, with extended coverage and all other coverage in the kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use on a replacement cost basis in an amount not less than 100 percent of the insurable value (based upon replacement cost). Each such policy shall contain the standard mortgagee clause which must be endorsed to provide that any proceeds shall be paid to the Association of Unit Owners of the Silver Birch Condominium for the use and benefit of Mortgagees as their interests may appear.

(b) A comprehensive policy of public liability insurance insuring the Association, the Committee, the Manager, and the Unit Owners against any liability incident to the ownership, use, or operation of the Common Areas and public ways of the Project or of any Unit which may arise among themselves, to the public, or to any invitees, or tenants of the Project, or of the Unit Owners. Limits of liability under such insurance shall be no less than \$1,000,000.00 per occurrence, for personal property injury and/or property damage. Such insurance policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of the Unit Owner because of negligent acts of the Association or other Unit Owners.

(c) The Association shall maintain fidelity coverage to protect against dishonest acts on the part of Committee Members, Manager, employees or volunteers responsible for handling funds belonging to or administered by the Association. The fidelity bond or insurance must name the Association as the named insured and shall be written in an amount sufficient to provide protection which in no event shall be less than one and one-half times the insured's estimated annual operating expenses and reserved. In connection with such coverage an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

The following provisions shall apply with respect to insurance:

(a) In addition to the insurance and bond coverages 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 all condominium projects similar to the Project in construction, nature and use.

(b) All policies shall be written by a company holding a rating of "AA" or better from Best's Insurance Reports.

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

(d) Insurance Secured and maintained by the Committee shall not be brought into contribution with insurance held by the individual Unit Owners or their mortgagees.

(e) Each policy of insurance obtained by the Committee shall, if possible, provide: a standard mortgagee clause commonly accepted by private institutional mortgage investors in the Area in which the Project is located; 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 cancelled, suspended, or invalidated due to the conduct of any particular Unit Owner or Owners; that it cannot be cancelled, suspended, or invalidated due to the conduct of any member, officer, or employee of the Committee or of the Manager without a 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; and that a mortgagee clause endorsement providing that there shall be not less than 10 days notice of reduction or cancellation relating to any of the policies.

(f) 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 shall supply the Committee with a copy of his policy within 30 days after he acquires such insurance.

(g) The Project is not located in an area identified by the Housing and Urban Development as an area having special flood hazards. In the event that at some future time the Project should be declared to be in such flood area, a blanket policy of flood insurance on the project shall be maintained in the amount of the aggregate

of the outstanding principal balances of the mortgage loans on the Units comprising the Project or the maximum limit of coverage available under the National Flood Insurance Act of 1968, as amended, whichever is less. The name of the insured under each required policy must be in form and substance as that required by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association at any given time.

26. Damage to Project. In the event of damage of 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 damage or destroyed improvement, such repair or reconstruction shall be carried out.

(b) If less than 75 percent 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 all the Unit Owners shall be assessed for any deficiency on the basis of their respective Percentage Interest in the Common Areas and Facilities.

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

(d) If 75 percent or more of the Project's improvements are destroyed or substantially damaged, if proceeds of the insurance maintained by the committee are insufficient to accomplish restoration, and if the Unit Owners do not, within 100 days after the destruction or damage and by a vote of at least 75 percent 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 subsections (1) through (4) of Section 57-8-31, Utah Code Annotated (1953), shall apply and shall govern the rights of all parties having an interest in the Project or any of the Units.

Any reconstruction or repair which is required to be carried out by this Paragraph 26 regarding the extent of damage to or destruction or Project improvements shall be made by three MAI appraisers selected by the Management Committee. The decision of any two such appraisers shall be conclusive.

27. Amendment. Except as provided below, the vote of at least 67 percent of the Percentage Interest in the Common Areas shall be required to amend this Declaration or the 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 Paragraph for amendment has occurred. The foregoing right of amendment shall be subject to the following paramount rights:

(a) Until Units representing 90 percent of the Percentage Interest of the Project have been sold, Declarant shall have, and is hereby vested with, the right to amend this Declaration or the Map. Such right shall obtain without regard to the subject matter of amendment, so long as the amendment involved is consistent with law, and approved by a majority of the persons who have purchased Units prior to the Amendment.

(b) Notwithstanding anything to the contrary contained in the Declaration, neither the insurance provisions of Paragraph 25, nor the mortgagee protection provisions of Paragraph 30, shall be amended without the written approval of all institutional first Mortgagees.

28. Consent Equivalent to Vote. In those cases in which the Act or this Declaration requires the vote of a stated Percentage Interest of the Project 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 Interest.

29. Service of Process. Clinton Dansie, whose address is 2440 West Salem Canal Road, Payson, Utah 84651, is the person to receive Service of Process in cases authorized by the Act. The Management Committee shall, however, have the right to appoint a successor substitute process agent. Such successor or substitute agent and his address shall be specified by an appropriate instrument filed in the office of the County Recorder of Utah County, State of Utah.

30. Mortgagee Protection. Notwithstanding anything to the contrary contained in the Declaration:

(a) An adequate reserve fund for repair, maintenance and replacement of the Common Areas must be established and shall be funded by regular monthly payments rather than by special assessments.

(b) There shall be established a working capital fund for the initial months of operation of the Project equal to a minimum amount of two months' estimated Common Area charge for each Unit.

(c) Any mortgage holder which comes into possession of the Unit pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage or deed (or assignment in lieu of foreclosure) shall be exempt from any "right of first refusal", or other provisions which may exist relating to sale or lease of the Units in the Project.

(d) Any agreement for professional management of the Project, or any other contract providing for services by the declarant must provide for termination by either party without cause or payment of a termination fee of 90 days or less written notice and a maximum contract term of three years.

(e) In the event of damage to or destruction of any Unit, which loss exceeds \$1,000.00, or any part of the Common Areas, which loss exceeds \$10,000.00, the institutional holder of any first mortgage on a Unit shall be entitled to timely written notice to any such damage or destruction. No Unit Owner or other party shall be entitled to priority over such institutional holder with respect to the distribution to such Unit of any insurance proceeds regardless of the amount of loss.

(f) If any Unit or portion thereof or the Common Areas or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, which taking of Common areas exceeds \$10,000.00, or which taking of Units exceeds \$1,000.00, the institutional holder of any first mortgage of a Unit shall be entitled to timely written notice of any such proceeding or proposed acquisition. No Unit Owner or other party shall have priority over such institutional holder regardless of the amount of the condemnation award with respect to the distribution to such Unit of the proceeds of any award or settlement.

(g) With the exception of a lender in possession of a Unit following a default in the first mortgage, a foreclosure proceeding or any deed or other arrangement in

lieu of foreclosure, no Unit Owner shall be permitted to lease his Unit for transient or hotel purposes. No Unit Owner may lease less than the entire Unit. Any lease agreement shall provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration and Bylaws and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be in writing.

(h) Each holder of a first mortgage lien on a Unit who comes into possession of a 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 accrue prior to the acquisition of title of such Unit by Mortgagee. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the family units, including such person acquiring title, his successors and assigns.

(i) Any holder of the Mortgage is entitled to written notification from the Management Committee of any default by the Mortgagor or such Unit in the performance of such Mortgagor's obligation under the Declaration which is not cured within 30 days.

(j) Any lien which the Management Committee may have on any Unit in the Project for the payment of Common Expense assessments attributable to such Unit will be subordinate to the lien or equivalent security interest of any first mortgage on the Unit.

(k) Unless at least 75 percent of the first Mortgagees (based on one vote for each Mortgage owned) of Units have given their prior written approval neither the Management Committee, Declarant, nor the Association shall:

(1) By act or omission, seek to abandon or terminate the Project.

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

(3) Partition or subdivide any Unit.

(4) Make any material amendment to the Declaration or to the Bylaws of the Management Committee, including, but not limited to, any amendment which would change the percentage interests of the Unit Owners in the Common Areas, except as provided in Paragraph 26 relating to expansion of the Project and Paragraph 27 concerning certain rights reserved to Declarant.

(5) By act or omission, seek to amend, partition, subdivide, encumber, sell, abandon or transfer, the Common Areas. (The granting or 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 subparagraph).

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

(7) Terminate professional management and assume self-management of the Project.

(l) The holders of first mortgages (or trust deeds) shall have the right to examine the books and records of the Project.

(m) Whenever there is a change of ownership of a Unit, the Committee shall require that the new Unit Owner furnish the Committee with the name of the holder of any first mortgage (or trust deed) affecting such Unit. The Management Committee or Manager shall maintain a current roster of Unit Owners and of the holders of first mortgages (or trust deed) affecting Units in the Project.

31. Duty of Owner to Pay Taxes on Unit Owned. It is understood that under the Act each Unit (and its percentage of interest in the Common Areas) in the Project is subject to separate assessment and taxation of each taxing authority and the special district(s) 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 him on his Unit.

32. Eminent Domain. Whenever all or part of the Common Areas shall be taken, injured or destroyed as the result

of the exercise of the power of Eminent Domain, each Unit Owner shall be entitled to notice thereof and to participate in the proceedings incident thereto, but in any proceeding for the determination of damages, such damages shall be determined for such taking, injury or destruction as a whole and not for each Unit Owner's interest therein. After such determination each Unit Owner shall be entitled to a share in the damages in the same portion as his Percentage Interest in the Common Areas.

33. Covenants to Run With Land; Compliance. 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 Declarant, all parties who hereafter acquire any interest in a Unit or in the Project, and their respective grantees, 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 terms of this Declaration, and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration, and failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Committee on behalf 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 to, and agrees to be bound by, each and every provision of this declaration.

34. Information Regarding Transferee of Unit. Any Unit Owner who sells, leases, or otherwise disposes of his Unit shall submit to the Committee pertinent information concerning the transferee or new occupant within one week of any transfer of title or possession on a form furnished by the Committee.

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

36. 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 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.

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

38. Severability. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word or the application thereof in any circumstance 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 circumstances shall not be affected thereby.

39. Topical Headings. The headings appearing at the beginning of the paragraphs 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 paragraph or provision hereof.

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

IN WITNESS WHEREOF, the undersigned, being the Declarant, has caused this instrument to be executed and its seal be affixed hereto on the 27th day of August, 1984.

SILVER BIRCH CONDOMINIUM ASSOCIATION

BY *[Signature]*
Its President

ATTEST:

[Signature]

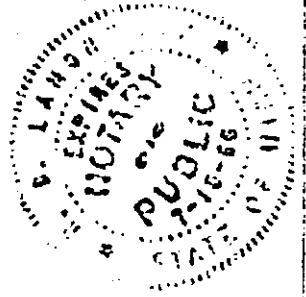
Secretary

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

On this the 27th day of August, 1984, personally appeared before me Christen L. Swanson and Don L. Darnell who being by me duly sworn, did say that they are the President and Secretary, respectively, of Silver Birch Condominium, a Utah Corporation, and that the foregoing instrument was signed by them in behalf of said corporation by authority of a resolution of its Board of Directors and they each duly acknowledged to me that the said Corporation executed the same.

R. D. [Signature]
Notary Public

Residing at: Provo, UT.
My commission expires: 7-15-84



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SILVER BIRCH CONDOMINIUMS ASSOCIATION

EXHIBIT "A"

Commencing 61.5 feet East from the Northwest corner of Lot 3, Block 17, Plat "J", Payson City Survey of Building Lots; thence East 60 feet; thence South 100 feet; thence West 60 feet; thence North 100 feet to the point of beginning.

Commencing 121.5 feet East from the Northwest corner of Lot 3, Block 17, Plat "J", Payson City Survey of Building Lots; thence East 60 feet; thence South 171 feet; thence West 60 feet; thence North 171 feet to the point of beginning.

The above described lots are to be combined into one lot with the following description:

Commencing at a point located East 61.5 feet from the Northwest corner of Lot 3, Block 17, Plat "J" Payson City Survey; thence East 120 feet; thence South 171 feet; thence West 60 feet; thence North 71 feet; thence West 60 feet; thence North 100 feet to point of beginning.

AREA = 0.373 Acres.

SILVER BIRCH COMDOMINIUMS ASSOCIATION

EXHIBIT "B"

Unit # 1	960 Sq. Ft.	20% ownership
Unit #2	960 Sp. Ft.	20% ownership
Unit #3	960 Sq. Ft.	20% ownership
Unit #4	960 Sq. Ft.	20% ownership
Unit #5	960 Sq. Ft.	20% ownership
		<hr/>
		100%

28552

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