

RESTATED AND AMENDED DECLARATION OF
COVENANTS, CONDITIONS & RESTRICTIONS
OF
BRIARWOOD SPRINGS CONDOMINIUM PROJECT
(An Expandable Condominium Project)

4365955

This Declaration of Condominium, hereinafter called the "Declaration," is made and executed this 9TH day of DECEMBER, 1986, by WOODBINE LAND CORPORATION, assignee and successor in interest to Sandy Oaks, Incorporated, hereinafter the "Declarant".

RECITALS

A. Description of Land. The Expandable Condominium Project subject of this Declaration is situated in and upon the following described real property, hereinafter referred to as the "Subject Land," located in Salt Lake County, State of Utah.

PHASE 1: Beginning at a point which is N 89° 53' 43" W (measured) N 89° 53' 10" W (record), Basis of Bearings being the section line between the Southeast corner of Section 30 and the East Quarter corner of Section 30 (N 0° 02' 05" E) 792.00 feet along the section line from the Southeast corner of Section 30, Township 2 South, Range 1 East, Salt Lake Base and Meridian, and continuing thence along said section line N 89° 53' 43" W (measured) N 89° 53' 10" W (record) 92.90 feet; thence N 0° 01' 30" W 569.82 feet; thence East 165.11 feet; thence North 133.00 feet; thence N 45° 00' 00" E 26.37 feet; thence N 89° 59' 55" E 113.79 feet; thence North 50.56 feet; thence east 125.00 feet; thence South 136.02 feet; thence S 44° 00' 00" W 305.14 feet; thence S 50° 30' 00" E 211.00 feet; thence S 39° 30' 00" W 38.00 feet; thence S 20° 36' 06" W 117.99 feet; thence S 27° 40' 00" W 124.07 feet; thence N 89° 53' 43" W 115.82 feet; thence S 51° 13' 49" W 52.74 feet to the point of Beginning. Containing 4.753 acres more or less.

PHASE 2A: Beginning at a point which is N 89° 53' 43" W (measured) N 89° 53' 10" W (record), Basis of Bearings being the section line between the Southeast corner of Section 30 and the East Quarter corner of Section 30 (N 0° 02' 05" E) 884.90 feet along the section line from the Southeast corner of Section 30, Township 2 South, Range 1 East, Salt Lake Base and Meridian; thence N 0° 01' 30" W along existing fence line 569.82 feet to the true point of Beginning and running thence N 0° 01' 30" W 86.53 feet; thence N 89° 52' 06" W 50.90 feet; thence N 1° 24' 17" E 85.02 feet; thence N 89° 59' 55" E 233.09 feet; thence S 45° 00' 00" W 26.37 feet; thence South 133.00 feet; thence West 165.11 feet to the true point of Beginning. Containing 0.654 acres more or less.

PHASE 2B: Beginning at a point which is N 89° 53' 43" W (measured) N 89° 53' 10" W (record), Basis of Bearing being the section line between the Southeast corner of Section 30 and the East Quarter corner of Section 30 (N 0° 02' 05" E) 792.00 feet along the section line from the Southeast corner of Section 30, Township 2 South, Range 1 East, Salt Lake Base and Meridian and running thence N 51° 13' 49" W

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52.74 feet; thence S 89°53'43" E 115.82 feet; thence N 27°40'00" E 124.07 feet; thence N 20°36'06" E 117.99 feet; thence N 39°30'00" E 38.00 feet to the true point of Beginning and running thence N 50°30'00" W 211.00 feet; thence N 44°00'00" E 225.00 feet; thence S 44°07'11" E 213.32 feet; thence S 48°05'00" W 125.00 feet; thence S 39°30'00" W 77.00 feet to the true point of Beginning. Containing 1.020 acres more or less.

PHASE 3: Beginning at a point which is N 89°53'43" W (measured) N 89°53'10" W (record), Basis of Bearings being the section line between the Southeast Corner of Section 30 and the East Quarter corner of Section 30 (N 0°02'05" E) 792.00 feet along the section line and N 51°13'49" E 52.74 feet and S 89°53'43" E 115.82 feet and N 27°40'00" E 124.07 feet and N 20°36'06" E 117.99 feet and N 39°30'00" E 115.00 feet and N 48°05'00" E 125.00 feet from the Southeast corner of Section 30, Township 2 South, Range 1 East, Salt Lake Base and Meridian and running thence N 44°07'11" W 213.32 feet; thence N 44°00'00" E 80.14 feet; thence North 41.02 feet; thence East 50.00 feet; thence S 43°24'57" E 216.07 feet; thence S 48°05'00" W 142.00 feet to the point of Beginning. Containing 0.736 acres more or less.

PHASE 4: Beginning at a point which lies N 0°02'05" E 521.70 feet along the section line and West 264.42 feet from the Southeast corner of Section 30, Township 2 South, Range 1 East, Salt Lake Base and Meridian and running thence N 43°24'57" W 216.07 feet; thence West 50.00 feet; thence North 95.00 feet; thence West 20.00 feet; thence North 228.07 feet; thence S 85°00'00" E 148.31 feet; thence East 302.47 feet; thence S 0°02'05" W 80.73 feet; thence S 41°46'04" W 130.36 feet; thence S 20°27'59" W 173.67 feet; thence S 28°36'33" W 37.59 feet; thence S 36°30'00" W 65.72 feet; thence S 67°20'30" E 13.47 feet; thence S 48°05'00" W 53.00 feet to the point of Beginning. Containing 3.212 acres more or less

Together with a R.O.W. for ingress and egress over and across the following described tract: Commencing 336.60 feet South from the Northeast corner of the South 1/2 of the Southeast 1/4 of said Section 30, Township 2 South, Range 1 East and running thence West 335.66 feet; thence South 33.00 feet; thence East 335.66 feet; thence North 33.00 feet to the point of beginning.

Together with a R.O.W. over that portion lying within the Right of Ways for 700 East Street and 7800 South Street.

Together with an easement 33 feet on each side of the existing centerline of the East Jordan Canal.

B. Buildings and Improvements. The Declarant has constructed or will construct certain Buildings and other Improvements upon the Subject Land, as shown on the Map referred to below.

C. Record of Survey Map. The Declarant intends to execute and record in the office of the County Recorder for Salt Lake County, State of Utah, a certain

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instrument pertaining to the Project and entitled "Record of Survey Map for Briarwood Springs Condominium Project, an Expandable Condominium Project". Declarant shall amend such Record of Survey Map in a manner consistent with this Restated and Amended Declaration, if necessary.

D. Association and Bylaws. The Briarwood Springs, Inc., (Homeowner's Association), has been created by filing Articles of Incorporation therefor with the Utah Lieutenant Governor's Office. The said Association shall henceforth be the governing body of the condominium Project subject hereto and shall operate in accordance with the "Bylaws of Briarwood Springs Condominiums, Inc."

E. Title and Encumbrances. Title to the Subject Land is vested in Woodbine Land Corporation, assignee and successor in interest to Sandy Oaks, Inc., a Utah Corporation, the Declarant herein. It is contemplated that the Subject Land will be made subject to the terms of one or more construction loan or loans, which loan or loans will provide for partial conveyances upon payment for each Condominium Unit.

F. Intent and Purpose. The Declarant intends by recording the previous Declaration and this Restated and Amended Declaration and the Map to submit the Subject Land, the Buildings, and all other improvements situated upon the Subject Land, to the provisions of the Condominium Act, as an Expandable Condominium Project and to impose upon said property mutually beneficial restrictions under a general plan of improvement for the benefit of all condominiums within said Project and the Owners thereof.

G. Expandable Project. The Declarant intends to reserve herein the right to expand the Project by adding thereto certain additional land and improvements in accordance with the provisions of this Declaration and the Condominium Act.

ARTICLE I DEFINITIONS

1.01. Defined Terms. Unless the context clearly indicates otherwise, certain terms as used in this Declaration shall have the meanings set forth in this Article I.

1.02. "Additional Land" shall mean all land that may be added to the Project, as provided in Article 2.03, in accordance with the Condominium Act.

1.03. "Association" shall mean the Briarwood Springs Condominiums, Inc., a Utah nonprofit corporation, organized to be the Association referred to herein.

1.04. "Building" shall mean one of those certain buildings that have been or will be constructed on the Subject Land, as such buildings are shown on the Map.

1.05. "Common Areas" shall mean all physical portions of the Project, except all Units.

1.06. "Common Expense Fund" shall mean the fund created or to be created pursuant to the provisions of Article IX of this Declaration and into which all funds of the Association shall be deposited.

1.07. "Common Facilities" shall mean all furniture, furnishings, equipment, facilities, and other personal property owned by the Association for the use and benefit of all Owners and all furniture, furnishings, equipment, facilities, and other personal property hereafter purchased in accordance with this Declaration with monies from the

Common Expense Fund. Except as otherwise expressly provided in this Declaration, Common Facilities shall be deemed to be part of the Common Areas.

1.08. "Condominium" shall mean a Unit and the undivided interest (expressed as a percentage of the entire ownership interest) in the Common Areas appurtenant to such Unit, as set forth in Exhibit "A" attached hereto and by this reference made a part hereof.

1.09. "Condominium Act" shall mean the Utah Condominium Ownership Act and amendments thereto. (Title 57, Chapter 8, Utah Code Annotated).

1.10. "Declarant" shall mean Woodbine Land Corporation, the assignee and successor in interest to Sandy Oaks, Incorporated, its successors or assigns.

1.11. "Expandable Condominium Project" shall mean the Project, and the Additional Land, Condominiums and improvements that may be added to the Project, as provided in Article 2.03, and in accordance with the Condominium Act.

1.12. "Limited Common Areas or Facilities" shall mean any Common Areas or Common Facilities designated for exclusive use by the Owner of a particular Unit. Structural separations between Units or the space which would be occupied by such structural separations may become Limited Common Areas for the exclusive use of the Owner or Owners of the Units on either side thereof as provided in Section 4.03 hereof. Any balconies, porches, or storage facilities that are immediately contiguous to the Unit or area identified on the Map with the same number or other designation by which a Unit is identified or which are otherwise designated on the Map as reserved for use of the Owner of a certain Unit shall be Limited Common Areas for the exclusive use of the Owner of the Unit bearing the same number or designation and/or as specified on the Map and/or in Exhibit "A" attached hereto.

1.13. "Management Committee" shall mean the committee as provided herein and authorized and empowered pursuant to Article VII to make and enforce the rules and regulations prescribed in the Declaration, the Articles and the Bylaws of the Association. The Management Committee shall also be referred to as the Board of Directors in the Bylaws and Articles of Incorporation for Briarwood Springs, Inc.

1.14. "Manager" shall mean the person, firm, or company, if any, designated from time to time by the Association to manage, in whole or in part, the affairs of the Association and the Project.

1.15. "Map" shall mean the Record of Survey Map for Briarwood Springs Condominiums, An Expandable Condominium Project, as amended, pertaining to the Project and recorded or to be recorded in the office of the County Recorder for Salt Lake County, State of Utah.

1.16. "Member" shall mean a member of the Association.

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

1.18. "Mortgagee" shall mean (i) any person named as the mortgagee or beneficiary under any Mortgage by which the interest of any Owner is encumbered, or (ii) any successor to the interest of such person under such Mortgage.

1.19. "Owner" shall mean any person or entity or combination thereof, including the Declarant, at any time owning a Condominium within the Project (inclusive of the undivided interest in the Common Areas and Facilities as specified on Exhibit A.), as shown on the records of Salt Lake County, State of Utah. The term "Owner" shall not refer to any Mortgagee (unless such Mortgagee has acquired title for other than security purposes) or to any person or entity purchasing a Condominium under contract until such contract) is fully performed and legal title conveyed.

1.20. "Project" shall mean the Subject Land, the Buildings, and all improvements submitted by this Declaration and the Map to the provisions of the Condominium Act.

1.21. "Subject Land" shall mean the land upon which the Project is situated, as more particularly described in Paragraph A of the Recitals above.

1.22. "Total Votes of the Association" shall mean the total number of votes appertaining to the Condominiums in the Project, as shown in Exhibit "A" attached hereto.

1.23. "Unit" shall mean an individual air space unit, consisting of enclosed rooms occupying part of one of the Buildings and bounded by the interior surfaces of the walls, floors, ceilings, windows, doors, and built-in fireplaces, if any, along the perimeter boundaries of the air space which is intended for individual use, as said boundaries are shown on the Map, together with all fixtures and improvements therein contained. Paint and other wall, ceiling, or floor coverings on interior surfaces shall be deemed to be a portion of the Unit. Notwithstanding the fact that they may be within the boundaries of such air space, the following are not part of a Unit insofar as they are necessary for the support or use and enjoyment of another Unit: Bearing walls, floors, ceilings, and roofs (except the interior surfaces thereof), foundations, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances and exits of the building, basements and storage spaces, ceiling equipment, tanks, pumps, pipes, vents, ducts, shafts, flues, chutes, conduits, wires, and other installations of central services and utility installations for common use, except the outlets thereof when located within the Unit. The interior surface of a window or door is the point at which such surface is located when the window or door is fully closed.

ARTICLE II

SUBMISSION AND DIVISION OF PROJECT, EXPANDABLE CONDOMINIUM

2.01. Submission to Condominium. The Declarant hereby submits the Subject Land, the Buildings, and all other improvements now or hereafter made in or upon the Subject Land to the provisions of the Condominium Act and the Condominium Act shall apply thereto. All of said property is and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, and improved as a condominium project to be known as the Briarwood Springs Condominium, An Expandable Condominium Project. All of said property is and shall be subject to the covenants, conditions, restrictions, uses, limitations, and obligations set forth herein, each and all of which are declared and agreed to be for the benefit of the Project and in furtherance of a plan for improvement of said property and division thereof into Condominiums; further, each and all of the provisions hereof shall be deemed to run with the land and shall be a burden and a benefit to the Declarant, its successors and assigns, and any person acquiring, leasing, or owning an interest in the real property and improvements comprising the Project, their assigns, lessees, heirs, executors, administrators, devisees, and successors.

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2.02. Division into Condominiums. The Project is hereby divided into Condominiums, each such Condominium consisting of a Unit and an appurtenant undivided interest in the Common Areas, as set forth in Exhibit "A" attached hereto. The undivided interest in the Common Areas and Facilities appurtenant to each Unit shall be the fraction whose numerator equals the square footage of the applicable Unit and whose denominator equals the aggregate square footage of all Units within the Project and any Units on Additional Lands, if annexed hereto.

2.03. Option to Expand the Condominium Project. The Declarant hereby expressly reserves the option, until the date seven (7) years from the recordation of this Declaration, to expand the Project from time to time, in compliance with the applicable provisions of the Condominium Act, by filing in the office of the Salt Lake County Recorder, State of Utah, a new or supplemental Record of Survey Map and an amendment to this Declaration without consent of any Owner or Mortgagee and without any other limitation. Such new or supplemental Record of Survey Map shall be duly executed and acknowledged by the Declarant, and by any and all other owners and lessees of that part of the Additional Land added to the Project, and shall contain the information required by Section 57-8-13(1) of the Condominium Act. The required amendment to this Declaration: (1) shall also be duly executed and acknowledged by the Declarant, and by any and all other owners and lessees of that part of the Additional Land added to the Project; (2) shall contain a metes and bounds description of that part of the Additional Land added to the Project; and (3) shall reallocate undivided interests in the Common Areas in accordance with the provisions of this Declaration and the Condominium Act. The option to expand may be terminated prior to such date only upon the filing by the Declarant of an amendment to this Declaration in accordance with the applicable provisions of this Declaration. The Declarant expressly reserves the right to add all, part or more of the Additional Land at any time, at different times, in any order, without limitation; provided, however, that the Additional Land shall not exceed the area described in Section 2.04. There are no other limitations on the option to expand. The Declarant makes no assurances as to the location of any Buildings or Units or other improvements on the Additional Land. In no event shall more than 144 units be constructed upon the additional land (assuming 100% of the additional land is annexed to the project) nor will more than 14.67 units per acre nor less than four (4) units acre be constructed upon the Additional Land assuming less than 100% of the Additional Land is annexed to the project. Any such Buildings or Units that may be constructed on the Additional Land added to the Project will, be restricted to residential condominiums or residential purposes. The Declarant makes no assurances as to whether any Buildings or Units or other improvements will be constructed on the Additional Land, or if constructed, whether such Buildings or Units or other improvements will be constructed in principal materials or architectural style compatible with the other Buildings and Units in the Project nor does Declarant offer any assurance that any units built upon the additional land will be substantially identical to the units located on land within the project. However, any additional buildings will be constructed in terms of quality of construction in a manner consistent with initial improvements. The Declarant expressly reserves the right and option to create and designate Common Areas and Facilities, and Limited Common Areas on the Additional Land. The Declarant makes no assurances as to type, size or maximum number of such Common Areas and Facilities, and Limited Common Areas, or as to whether such Common Areas and Facilities, and Limited Common Areas will be restricted solely to residential purposes. The allocation of undivided interests in the Common Areas and Facilities which may be located on the Additional Land shall be computed and assigned on the basis of square footage as required by the Condominium Act. In the event the Declarant shall not add any part or all of the Additional Land, the Declarant shall nevertheless have the right to construct all or any portion of any building, condominium, unit or other structure of any kind and operate the same without restriction.

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2.04. Description of Additional Land. The Additional Land, any portion or all of which may be added to the Project, is situated in and upon the following real property located in Salt Lake County, State of Utah:

EXPANDABLE AREA: Beginning at a point which is N 0°02'05" E 723.08 feet along the section line and West 934.93 feet from the Southeast Corner of Section 30, Township 2 South, Range 1 East, Salt Lake Base and Meridian and running thence N 1°24'17" E 382.31 feet; thence N 1°24'17" E 224.80 feet; thence East 315.64 feet; thence South 106.60 feet; thence East 190.22 feet; thence South 117.14 feet; thence N 89°53'18" E 78.89 feet; thence South 117.63 feet; thence N 85°00'00" W 148.31 feet; thence South 228.07 feet; thence West 105.00 feet; thence South 50.56 feet; thence S 89°59'55" W 346.88 feet to the point of Beginning. Containing 6.335 acres more or less.

2.05. Phasing of Project. The Declarant reserves the option to add any part or all of the Additional Land in Phases to the Project in accordance with Article 2.03, and to construct any future non-exclusive common facilities, in accordance with Article 4.08, as such Phases are completed.

2.06. Easements. The Declarant, its successors and assigns, shall have a transferrable easement over and on the common areas and facilities, including roads providing ingress and egress to the Project, for the purpose of making improvements on the land within the Condominium Project or on any additional land under the Declaration, or upon lands owned or subsequently owned by the Declarant appurtenant to the Project for the purpose of doing all things reasonably necessary and proper for the construction, completion and expansion of such lands. Such easement shall entitle Declarant to the use of all access roads within the project and to tie into, and if necessary, to install and construct upon the real property of the development, all utility lines, sewage and drainage systems and any other similar public or quasi-public improvements or facilities within or transversing the project.

ARTICLE III

IMPROVEMENTS

3.01. Description of Improvements. The Improvements included in the Project are now or will be located upon the Subject Land. The Map shows the basement, if any, the number of stories, and the number of Units which are to be contained in each of the Buildings which comprise a part of such improvements. Each of the Buildings has been or shall be principally constructed of a wood frame, brick, masonry and siding exteriors sheetrock interiors and cedar shingle roofs.

3.02. Description and Legal Status of Units. The Map shows the Unit Number of each Unit, its location, dimensions from which its size may be determined, and those Limited Common Areas or Facilities which are reserved for use of its Owner. All Condominiums shall be capable of being independently owned, encumbered, and conveyed.

3.03. Contents of Exhibit "A". Exhibit "A" to this Declaration furnishes the following information with respect to each Condominium: (a) The Unit number; (b) the Unit's approximate size; (c) the Unit's appurtenant percentage of undivided ownership interest in the Common Areas and Common Facilities; and (d) the number of votes of the Owner of the Condominium as a member of the Association.

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ARTICLE IV

NATURE AND INCIDENTS OF CONDOMINIUM OWNERSHIP

4.01. Interior of Units. Each Owner shall have the exclusive right to paint, repaint, tile, wax, paper, carpet, or otherwise decorate the interior surfaces of the walls, ceilings, floors, and doors forming the boundaries of his Unit and the surfaces of all walls, ceilings, floors, and doors within such boundaries.

4.02. Maintenance of Units, Limited Common Areas, and Limited Common Facilities. Each Owner shall, at his sole cost, keep the interior of his Unit, including without limitation, interior walls, windows, ceilings, floors, and permanent fixtures and appurtenances thereto, and the Limited Common Areas and Limited Common Facilities, the use of which is limited to use by such Owner, including but not limited to patio(s) and/or deck(s), in a clean and sanitary condition and in a state of good repair. In the event that any Unit or such Limited Common Area or Limited Common Facility should develop an unsanitary or unclean condition or fall into a state of disrepair, and in the event that the Owner of such Unit or the Unit to which the exclusive right to use the Limited Common Area or Limited Common Facility appertains should fail to correct such condition or state of disrepair promptly following written notice from the Association, the Association shall have the right, at the expense of the Owner and without liability to the Owner for trespass or otherwise, to enter said Unit, Limited Common Area, or Limited Common Facility and correct or eliminate said unsanitary or unclean condition or state of disrepair.

4.03. Right to Combine Units. With the prior written consent of the Association, two Units may be utilized by the Owner or Owners thereof as if they were one Unit. To the extent permitted in the written consent of the Association, any walls, floors, or other structural separations between any two such Units, or any space which would be occupied by such structural separations but for the utilization of the two Units as one Unit, may, for as long as the two Units are utilized as one Unit, be utilized by the Owner or Owners of the adjoining Units as Limited Common Areas, except to the extent that any such structural separations are necessary or contain facilities necessary for the support, use, or enjoyment of other parts of the Project. At any time, upon the request of the Owner of one of such adjoining Units, any opening between the two Units which, but for joint utilization of the two Units, would have been occupied by such structural separations, shall be closed, at the equal expense of the Owner or Owners of each of the two Units and the structural separations between the two Units shall thereupon revert to Common Areas.

4.04. Title. Title to a Condominium within the Project may be held or owned by any person or entity or any combination thereof and in any manner in which title to any other real property may be held or owned in the State of Utah, including without limitation, joint tenancy or tenancy in common.

4.05. Prohibition Against Subdivision of Unit. Except as provided in this Article IV, no Unit Owner, by deed, plat or otherwise, shall subdivide or in any manner cause his Unit to be separated into physical tracts or parcels smaller than the whole Unit as shown on the Map.

4.06. Ownership of Common Areas and Common Facilities. The undivided interest in the Common Areas and Common Facilities appurtenant to each Unit in the Project shall be as set forth in Exhibit "A" attached hereto. The percentages appurtenant to each Unit as shown in Exhibit "A" shall have a permanent character and

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shall not be altered without the unanimous written consent of all Owners expressed in a duly recorded amendment to this Declaration or pursuant to declarant's right to expand the project as provided herein. Except as otherwise provided in this Declaration, any Owner shall be entitled to the nonexclusive use of the Common Areas and Common Facilities (other than Limited Common Areas and Facilities) in any manner that does not hinder or encroach upon the rights of other Owners and is not contrary to any rules or regulations promulgated by the Association. Except as otherwise provided in this Declaration, any Owner shall have the exclusive right to use and enjoy the Limited Common Areas and Facilities that may be designated for exclusive use by such Owner. The Unit Owners will each be responsible for the taxes, insurance, maintenance and all other costs relating to non-exclusive Common Areas in proportion to their respective individual interests in the Common Areas, until such time as other Phases may be completed and occupied. If said future Phases are completed and occupied, the aforesaid taxes, insurance, maintenance and all other costs relating to such non-exclusive Common Areas will be shared by each Unit Owner based on the square footage of the Condominium Units in All Phases that may become a part of the Project.

4.07. Limited Common Areas. Each balcony and each patio, as shown on the Map, shall be Limited Common Areas for exclusive use by the Owner of the particular Unit which is contiguous with such balcony or patio. Notwithstanding anything on the Map to the contrary, the parking spaces shown and designated on the Map with the same Unit number shall be Limited Common Areas for exclusive use by the Owner of the respective Unit. All undesignated parking stalls upon the Map shall constitute Common Areas.

4.08. Future Non-Exclusive Common Areas. Declarant reserves the right to add future non-exclusive Common Areas by filing an Amended Record of Survey Map with the Salt Lake County Recorder. Although there is no assurance any additional Common Areas will be added to the Project. The Unit Owners in the Project will each initially be responsible for their proportionate share of the taxes, insurance, maintenance and all other costs relation to such future non-exclusive Common Areas based upon the square footage of all of the Condominium Units within the project, including additional land, if any. If such future Phases are completed and occupied the aforesaid taxes, insurance, maintenance and all other costs relating to such non-exclusive Common Areas will be shared by all owners based upon the square footage of all of the Condominium Units in the project. For the purpose of filing an Amended Record of Survey Map, each Owner as set forth in this paragraph 4.08 hereby designates Declarant as its attorney in fact, to make, execute and deliver for recording the aforesaid Record of Survey Map.

4.09. Inseparability. Title to no part of a Condominium within the Project may be separated from any other part thereof and each Unit and the undivided interest in the Common Areas and Common Facilities appurtenant to each Unit shall always be conveyed, devised, encumbered, and otherwise affected only as a complete Condominium. Every devise, encumbrance, conveyance, or other disposition of a Condominium, or any part thereof, shall be construed to be a devise, encumbrance, conveyance, or other disposition, respectively, of the entire Condominium, together with all appurtenant rights created by law or by this Declaration, including appurtenant membership in the Association as hereinafter set forth.

4.10. No Partition. The Common Areas and Common Facilities shall be owned in common by all of the Owners, and no Owner may bring any action for partition thereof except as provided under Section 58-8-7(3) of the Act.

4.11. Separate Mortgages by Owners. Each Owner shall have the right separately to mortgage or otherwise encumber his Condominium. No Owner shall attempt to or shall have the right to mortgage or otherwise encumber the Common Areas, the Common Facilities or any part thereof, except the undivided interest therein appurtenant to his Condominium. Any mortgage or other encumbrance of any Condominium within the Project shall be subordinate to all of the provision of this Declaration, and in the event of foreclosure the provisions of this Declaration shall be binding upon any Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.

4.12. Separate Taxation. Each Condominium within the Project shall be deemed to be a parcel and shall be assessed separately for all taxes, assessments, and other charges of the State of Utah or of any political subdivision thereof or of any special improvement district or of any other taxing or assessing authority. For purposes of such assessment, the valuation of the Common Areas and/or Common Facilities shall be apportioned among the Units in proportion to the undivided interests in the Common Areas and Common Facilities appurtenant to such Units. All such taxes, assessments, and other charges on each respective Condominium shall be separately levied against the Owner thereof. No forfeiture or sale of any Condominium for delinquent taxes, assessments, or other governmental charges shall divest or in any way affect the title to any other Condominium.

4.13. Mechanics Liens. No labor performed or material furnished for use in connection with any Unit, Limited Common Area, or Limited Common Facility with the consent or at the request of an Owner or his agent or subcontractor shall create any right to file a statement, claim, or notice of mechanic's lien against the Condominium of any other Owner not expressly consenting to or requesting the same or against any interest in the Common Areas or Common Facilities, except the undivided interest therein appurtenant to the Unit of the Owner for whom such labor shall have been performed or such materials shall have been furnished.

4.14. Description of Condominium. Every contract for the sale of a Condominium and every other instrument affecting title to a Condominium within the Project may describe a Unit by its identifying number or symbol as indicated in this Declaration or as shown on the Map. Such description will be construed to describe the Unit, together with the appurtenant undivided interest in the Common Areas and Common Facilities, and to incorporate all the rights incident to ownership of a Condominium within the Project and all of the limitations on such ownership.

4.15. Non-Exclusive Easements. All entrances to and exits from the Project providing access to public roads outside the Project have been designated on the Map as Access Easements. Notwithstanding anything on the Map to the contrary, these Easements are for the non-exclusive use of the Owners of the respective Units, reserving to the Declarant the right to grant other Owners of Units on the Additional Lands that may be added to the Project a right to use such Easements on a non-exclusive basis with the Unit Owners.

ARTICLE V

EASEMENTS

5.01. Easements for Encroachments. If any part of the Common Areas encroaches or shall hereafter encroach upon any Unit, an easement for such encroachment and for the maintenance of 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, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of the Common Areas or any part of a Unit shall hereafter encroach on real property now owned by the Declarant outside the boundaries of the Subject Land, an easement for such encroachment shall and does exist. Such encroachments shall not be considered to be encumbrances either on 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 one or more of the Buildings or any improvements constructed or to be constructed within the Project, 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.

5.02. Easements for Maintenance, Cleaning, and Repair. Some of the Common Areas, Common Facilities and/or Limited Common Areas and Facilities are or may be located within the Units or may be conveniently accessible only through the Units. The Association shall have the irrevocable right to have access to each Unit and to all Common Areas, Common Facilities and/or Limited Common Areas and Facilities from time to time upon giving notice to the Owner and during such reasonable hours as may be necessary for the maintenance, cleaning, repair, or replacement thereof or for making emergency repairs at any time herein necessary to prevent damage to the Common Areas, Common Facilities, or to any Unit. In addition, upon giving notice to the Owner and during such reasonable hours as may be necessary, the Association or its agents may enter any Unit when necessary in connection with any cleaning, maintenance, repair, replacement, landscaping, construction, or reconstruction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Association with funds from the Common Expense Fund.

5.03. Right to Ingress, Egress, and Support. Each Owner shall have the right to ingress and egress over, upon, and across the Common Areas (other than Limited Common Areas) as necessary for access to such Owner's Unit and to any Limited Common Areas appurtenant to such Unit, and shall have the right to horizontal, vertical, and lateral support of such Unit, and such rights shall be appurtenant to and pass with the title to each Condominium.

5.04. Association's Right to Use Common Areas and Common Facilities. The Association shall have an easement to make such use of the Common Areas and Common Facilities as may be necessary or convenient to perform the duties and functions that it is obligated or permitted to perform pursuant to this Declaration, including, without limitation, the right to construct and maintain in the Common Areas (other than Limited Common Areas) facilities for use by Owners generally or by the Association and its agents exclusively.

5.05. Easement for Completion of Project. The Declarant shall have a transferable easement over and on the Common Areas for the purpose of completing construction of the Project and improvements therein as shown on the Map and for the purpose of doing all things reasonably necessary or appropriate in connection therewith. To the extent that damage is inflicted on any part of the Project by any person utilizing said easement, the Declarant and the person causing the damage shall be liable for the prompt repair of such damage.

5.06. Easements Deemed Created. All conveyances of Condominiums within the Project hereafter made, whether by the Declarant or otherwise, shall be construed to grant and reserve such reciprocal easements as are provided herein, even though no

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specific reference to such easements appears in any such conveyance.

5.07. Easements Reserved by Declarant and Association. The Association shall have power to grant and convey to any third party and the Declarant hereby reserves unto itself easements and rights of way, including but not limited to rights of ingress and egress, in, on, over and/or under the Common Areas and Common Facilities for the purpose of constructing, erecting, operating or maintaining lines, cables, wires, conduits or other devices for electricity, cable television, power, telephone and other purposes, public sewers, storm drains and pipe, water systems, sprinkling systems, water, heating and gas lines or pipes, and any similar public or quasi-public improvements or facilities to provide common utility services to the Project, the Additional Land or upon lands owned by Declarant, its successors or assigns appurtenant to the Project or upon Additional Land. Further Declarant reserves unto itself a transferable easement over and upon the Common Areas and Common Facilities, access roads or similar property within the Project (including additional lands) for the purpose of constructing, developing, maintaining, improving or expanding the Project, the additional land or properties owned by the Declarant, its successors or assigns which are adjacent to the Project or Additional Land. Such easement shall entitle Declarant the use of all access roads within the Project and Additional Land and to tie into all utility lines, sewage and drainage systems within or transversing the Project and/or additional lands.

ARTICLE VI

RESTRICTIONS ON USE

6.01. Residential Uses Only. Each Unit contained in the Project is intended to be used for single family residential housing and is restricted to such use except for such Units, as are designated upon the Map for commercial use and purposes. Owners of Commercial units shall strictly limit the use and occupation of their Commercial Units to the Commercial Areas designated upon the Map and shall be subject to the Rules and Regulations applicable to Commercial Units as designated by the Association. No Residential Unit shall be used for business or commercial activity; provided, however, that nothing herein shall be deemed to prevent (a) the Declarant or its duly authorized agent from using any Units owned by the Declarant as sales models or property management offices, or (b) any Owner or his duly authorized agent from freely renting or leasing his Unit from time to time.

6.02. No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on, in, or upon any part of the Project, nor shall anything be done or placed in or upon any part of the Project which is or may become a nuisance or may cause embarrassment, disturbance, or annoyance to Owners. No activities shall be conducted, nor improvements constructed, in or upon any part of the Project which are or may become unsafe or hazardous to any person or property.

6.03. Restriction on Recreational Vehicles, etc.. No boats, trailers, recreational vehicles, trucks, commercial vehicles, or inoperable vehicles belonging to Owners or other residents of the Property shall be parked or stored in or upon any of the Common Areas, except in such portions of the Common Areas as the Association may specify, and subject to such rules and regulations as the Association may from time to time promulgate.

6.04. Restriction on Signs. Except as may be temporarily necessary to caution or warn of danger, no signs, flags, or advertising devices of any nature, including without limitation commercial, political, informational, or directional signs or devices, shall be erected or maintained on any Residential Portion of the Project, without the prior

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inspection and written approval of the Association. If the Association consents to the erection of any such signs or devices, the same shall be promptly removed at the request of the Association. None of the foregoing shall be construed as to limit in any way, Declarants right and easement to locate and relocate its sales offices and all similar signs, banners or similar sales devices upon the Common Areas and Common Facilities as permitted under Article 15, hereof.

6.05. No Structural Alterations. No owner shall, without the prior written consent of the Association, make or permit to be made any structural alteration, improvement, or addition in or to his Unit or to the Common Areas. No Owner shall, without the prior written consent of the Association, do any act that would impair the structural soundness or integrity of one or more of the Buildings or the safety of property or impair any easement or hereditament appurtenant to the Project.

6.06. No Obstructions. There shall be no obstruction of the Common Areas by any Owner. Except with the prior written consent of the Association, Owners shall neither store nor leave any of their property in the Common Areas, except the Limited Common Areas.

6.07. Prohibition of Damage and Certain Activities. Except with the prior written consent of the Association, nothing shall be done or kept in any Unit, in the Common Areas, or in any other part of the Project which may result in cancellation of any insurance on the Project or any part thereof, nor shall anything be done or kept in any Unit which may increase the rate of insurance on the Project or any part hereof over that which the Association, but for such activity, would have to pay. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would be in violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental authority. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or guest of any Owner, and each Owner shall indemnify and hold the Association and other Owners harmless against all loss resulting from any such damage or waste caused by such Owner, his guests, lessees, licensees, or invitees.

6.08. Rules and Regulations. The Owners shall comply with all of the rules and regulations governing use of the Units, Common Areas, and/or Common Facilities, as such rules and regulations may from time to time be adopted, amended, or revised by the Association, in the sole discretion of its Board of Trustees.

6.09. Construction Period Exemption. During the course of actual construction of any structures or improvements which are permitted to be located on the Subject Property, the Additional Land, and Land owned by the Declarant, its successors or assigns, adjacent to the Project or Additional Lands, the provisions, covenants, conditions, and restrictions contained in this Declaration shall be deemed waived to the extent necessary or convenient to permit such construction; provided, however, that during the course of such construction, nothing shall be done which would result in a violation of any of said provisions, covenants, conditions, or restrictions following completion of such construction.

6.10 Pets and Animals. No animals or birds of any kind shall be raised, bred or kept in any unit or in the Common Areas and Facilities, except that dogs, cats and other household pets may be kept in units, subject to the rules adopted by the Association and provided that they are not kept, bred, or maintained for any commercial purpose and provided further that any such pet causing or creating a nuisance or disturbance shall be permanently removed from the property upon ten (10) days written notice from the

Association.

ARTICLE VII

THE ASSOCIATION

7.01. Membership. Each Owner shall be entitled and required to be a member of the Association; membership shall begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner. If title to a Condominium is held by more than one person, the membership appurtenant to that Condominium shall be shared by all such persons in the same proportionate interests and by the same type of tenancy in which title to the Condominium is held. An Owner shall be entitled to one membership for each Condominium owned by him. Each membership shall be appurtenant to the Condominium to which it relates and shall be transferred automatically by conveyance of that Condominium. Ownership of a Condominium within the Project cannot be separated from membership in the Association appurtenant thereto, and any devise, encumbrance, conveyance, or other disposition of a Condominium shall be construed to be a devise, encumbrance, conveyance or other disposition, respectively, of the Owner's membership in the Association, and the rights appurtenant thereto. No person or entity other than an Owner may be a member of the Association, and membership in the Association may not be transferred except in connection with the transfer of a Condominium.

7.02. Management Committee. The Management Committee shall initially consist of three (3) members which can be increased up to as many as five (5) members upon the majority vote of the existing Management Committee, without further amendment of this Declaration. Members of the Management Committee may be removed at any time without cause by the person appointing or electing such member as provided herein. Declarant reserves the right to appoint some or all of the Management Committee and to exercise all powers and responsibilities associated with committee membership until the first of the following occurs:

- (a) Six years from the Date of Recordation of the Declaration.
- (b) 75% of the undivided interest in the common areas and facilities have been conveyed to Unit Owners other than the Declarant or all additional properties have been annexed to the Project pursuant to Article II, which ever occurs last.

7.03. Voting. The Association shall have two (2) classes of voting membership:

Class A. Class A Members shall be all Owners, with the exception of the Declarant. Each Class A members shall be entitled to the number of votes appurtenant to each respective Unit as shown on Exhibit A. In the event more than one Class A Member owns an interest in a Condominium, the votes of such Condominium shall be exercised as they themselves determine, but in no case shall more than the applicable number of votes designated on Exhibit A be cast with respect to any one Condominium by Class A members.

Class B. The Class B Member shall be the Declarant who shall be entitled to three time (3x) the number of votes appurtenant to each respective Unit as shown on Exhibit A for each Condominium owned by the Declarant.

7.04. Bylaws. The initial Bylaws of the Association shall be in the form

attached hereto as Exhibit "B" and by this reference made a part hereof.

7.05. Amplification. The provisions of this Article VII may be amplified by the Articles of Incorporation and Bylaws of the Association; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth in this Declaration.

7.06. Association as Manager. All duties, responsibilities, powers, and authority imposed upon or granted to the "Management Committee" or the "Manager" by the Condominium Act shall be duties, responsibilities, powers, and authority of the Association as the case may be. In the event, the Association contracts for management services with the Declarant or an affiliate of the Declarant such contract shall not exceed a period in excess of one year and terminable, without cause, upon thirty (30) days written notice.

ARTICLE VIII

CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

8.01. The Common Areas. The Association, subject to the rights and duties of the Owners as set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas and Common Facilities and all improvements thereon including the assignment of parking stalls to Association members, annually or otherwise which have not been previously assigned pursuant to this Declaration or upon the Map and shall keep the same in a good, clean, attractive, safe, and sanitary condition, order, and repair; provided, however, that each Owner shall keep the Limited Common Areas designated for use in connection with his Unit, if any, in a good, clean, safe, sanitary, and attractive condition. Except as otherwise herein provided with respect to Limited Common Areas and Limited Common Facilities, the Association shall be responsible for the maintenance and repair of the exterior of the Buildings and the grounds, including without limitation painting thereof, repair and replacement of exterior trim and roofs, and maintenance of landscape, walkways, and driveways. In particular, the Association shall be responsible for the maintenance of the road and associated improvements located or to be located in part upon the nonexclusive easement for ingress and egress described in Recital A of this Declaration. The Association shall also be responsible for maintenance, repair, and replacement of all Common Facilities, except Limited Common Facilities, improvements, or other material located within or used in connection with the Common Areas. The specification of duties of the Association with respect to particular Common Areas shall not be construed to limit its duties with respect to other Common Areas, as set forth in the first sentence of this Section. All goods and services procured by the Association in performing its responsibilities under this Section shall be paid for with funds from the Common Expense Fund.

8.02. Manager. The Association may by written contract delegate in whole or in part to a professional Manager such of the Association's duties, responsibilities, functions, and powers hereunder as are properly delegable. The services of any Manager retained by the Association shall be paid for with funds from the Common Expense Fund.

8.03. Miscellaneous Goods and Services. The Association may obtain and pay for the services of such personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project, the enforcement

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of this Declaration, or any other matter. In addition to the foregoing, the Association may acquire and pay for out of the Common Expense Fund water, sewer, garbage collection, electrical, gas, and other necessary or desirable utility services for the Common Areas (and for the Units to the extent not separately metered or billed), and insurance, bonds, and other goods and services common to the Units.

8.04. Real and Personal Property. The Association may acquire and hold real, personal, and mixed property of all types for the use or benefit of all of the Owners and may dispose of such property by sale or otherwise. All such property, including Common Facilities, shall be paid for out of the Common Expense Fund and all proceeds from the disposition thereof shall become part of such Fund.

8.05. Rules and Regulations. The Association, by action of its Board of Trustees, may make reasonable rules and regulations governing the use of the Units and of the Common Areas and Common Facilities, which rules and regulations shall be consistent with the rights and duties established in this Declaration. The Association may take judicial action against any Owner to enforce compliance with such rules and regulations or other obligations of Owners arising hereunder, or to obtain damages for noncompliance therewith, as permitted by law. In the event of such judicial action, the Association shall be entitled to recover its costs, including reasonable attorney's fees, from the offending Owner.

8.06. Granting of Easements. The Association may, without the vote or consent of the Owners or of any other person, grant or create, on such terms as it deems advisable, utility, ingress, egress, construction and similar easements over, under, across, and through the Common Areas.

8.07. Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonably implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

8.08. Reserves. The Association shall maintain an adequate reserve fund for maintenance, repairs and replacement of those common elements that must be replaced on a periodic basis, and such reserves shall be funded by monthly assessments.

ARTICLE IX

ASSESSMENTS

9.01 Agreement to Pay Assessments. The Declarant, upon completion and construction of each Condominium Unit owned by it within the Project, and for and as the owner of the project and every part thereof, hereby covenants, and each Owner of any Condominium by the acceptance of instruments of conveyance and transfer therefor, whether or not it be so expressed in said instruments, shall be deemed to covenant and agree with each other and with the Association to pay to the Association all assessments, both Regular and Special, made by the Association for the purposes provided in this Declaration. Such assessments shall be fixed, established, and collected from time to time as provided in this Article IX.

9.02. Regular Assessments. Regular Assessments shall be computed and assessed against all Condominiums in the Project as follows:

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(a) Common Expenses.

(1) Annual Budget. On or before the 1st day of December of each year, the Association shall prepare, or cause to be prepared, an operating budget setting forth an itemized statement of the anticipated receipts and disbursements for the coming calendar year and taking into account the general condition of the Project. Each such budget, together with a written statement from the Association outlining a plan of operation for the year in question and justifying in every important particular the estimates made, shall be submitted to the Members in final draft on or before the 15th day of December of each year. Such budget, with any changes therein, shall be adopted by the Members at each annual meeting of of the Members. Said operating budget shall serve as the basis for the schedule of proposed monthly assessments for the annual period for which it is prepared. Said budget shall also constitute a major guideline under which the Association shall operate during such annual period.

(2) Basis of Annual Budget. The annual budget shall be based upon the Association's advance estimates of the Association's cash requirements to provide for payment of estimated expenses, arising out of or connected with maintenance and operation of the Common Areas and provision of utility services (to the extent not separately metered or billed) and other common items to the Units. Such actual expenses and estimated expenses may include, among other things, the the following: Expenses of management, governmental taxes and special assessments, unless and until Condominiums are separately assessed; premiums for all insurance that the Association is required or permitted to maintain; repairs and maintenance; wages for Association employees, including fees for a Manager, if any; utility charges (including charges for utility services to the Units to the extent not separately metered or billed); legal and accounting fees; any deficit remaining from a previous period; creation of a reasonable contingency reserve; surplus, and/or sinking funds; and any other expenses and liabilities which may be incurred by the Association for the benefit of all of the Owners or by reason of this Declaration.

(3) Annual Assessments. The Annual Assessment shall be payable in one of two options as follows: (1) The full Assessment may be paid prior to the 25th day of January of each year, or (2) the Assessment may be paid in monthly installments equal to one-twelfth (1/12) of the amount of the Annual Assessment so apportioned to the Owner. The dates and manner of payment shall be determined by the Association. The foregoing method of assessing the Common Expenses to the Owners may be altered by the Association so long as the method it adopts is consistent with good accounting practice and requires that the portion of Common Expenses borne by each Owner during a twelve-month period be determined on the basis of his undivided ownership interest. Each monthly installment of the annual Assessment shall bear interest at the rate of one and one-half percent (1-1 1/2) per month from the date it becomes due and payable until paid. Failure of the Association to give timely notice of any assessment as provided herein shall not affect the liability of the Owner of any condominium for such assessment.

(b) Inadequate Funds. In the event that the Common Expense Fund proves inadequate at any time for whatever reason, including nonpayment of any Owner's assessment, the Association may levy additional assessments in accordance with the procedure set forth in Section 9.03 below, except that the vote therein specified shall not be necessary.

9.03 Special Assessments. In addition to the Regular Assessments authorized by this Article, the Association may levy, at any time and from time to time, upon

affirmative vote of at least fifty-one percent (51%) of the total votes of the Association, special assessments, payable over such periods as the Association 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 Project or any 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 Association to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections or Articles hereof. Any amounts assessed pursuant hereto shall be assessed to Owners on the basis provided for in Section 9.04 below. Notice in writing of the amount of such special assessments and the time for payment thereof shall be given promptly to the Owners; no payment shall be due less than thirty (30) days after such notice shall have been mailed. All unpaid portions of any special assessment shall bear interest at the rate of one and one-half percent (1- 1/2%) per month from the date such portions become due until paid.

9.04. Apportionment of Assessments. All assessments made under Section 9.02 and 9.03 shall be apportioned among and assessed to all Owners in the proportion which their respective undivided interest in the Common Areas bears to the total of the undivided interest in the Common Areas of all owners provided, however, that for purposes of this Section 9.04, the Declarant shall be deemed the Owner of a Condominium only after the construction thereof has been completed to the extent that it is ready for occupancy.

9.05. Lien for Assessments. All sums assessed to the Owner of any Condominium within the Project pursuant to the provisions of this Article IX, together with interest thereon as provided herein, shall be secured by a lien on such Condominium in favor of the Association. To evidence a lien for sums assessed pursuant to this Article IX, the Association may prepare a written notice of lien setting forth the amount of the Assessment, the date due, the amount remaining unpaid, the name of the Owner of the Condominium, and a description of the Condominium. Such a notice shall be signed and acknowledged by a duly authorized officer of the Association and may be recorded in the office of the County Recorder for Washington County, State of Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in the State of Utah. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding, including reasonable attorneys' fees, and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessments against the Condominium, which shall become due during the period of foreclosure. The Association shall have the right and power to bid in at any foreclosure sale, and to hold, lease, mortgage or convey the subject Condominium.

9.06. Personal Obligation of Owner. The amount of any regular or special assessment against any Condominium shall be the personal obligation of the Owner of such Condominium to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Areas and/or Common Facilities by abandonment of this Condominium, or by waiving any services of amenities. In the event of any suit to recover a money judgment for unpaid assessments hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including a reasonable attorney's fees.

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9.07 Statement of Account. Upon payment of a reasonable fee not to exceed Ten Dollars (\$10.00) or such greater amount as may be allowed by the Condominium Act, and upon written request of any Owner, Mortgagee, prospective Mortgagee, or prospective purchaser of a Condominium, the Association shall issue a written statement setting forth the following: (a) The amount of the unpaid assessments, if any with respect to such condominium; (b) the amount of the assessment under the start-up budget or the amount of the current regular assessment with respect to such condominium and the date such assessment becomes or became due; and (c) credit for advanced payments or prepaid items, including without limitation the Owner's share of prepaid insurance premiums. Such statement shall be conclusive upon the Association in favor of persons who rely thereon in good faith.

9.08 Personal Liability of a Purchaser. Subject to the provisions of Section 9.06, a purchaser of a Condominium shall be jointly and severally liable with the seller thereof for all unpaid assessments against such Condominium up to the time of the grant of conveyance; provided, however, that the provisions of this Section shall not prejudice the purchaser's right to recovery from the seller the amount paid by the purchaser for such assessments.

9.09 Assessments Part of Common Expense Fund. All funds received from assessments under this Article IX shall be a part of the Common Expense Fund.

9.10 Amendment of Article. Except as may be necessary to conform to the law, as it may be amended from time to time, this Article IX shall not be amended unless the Owners of all Condominiums in the Project unanimously consent and agree to such amendment by a duly recorded instrument.

ARTICLE X

INSURANCE

10.01 Types of Insurance. The Association shall obtain and keep in full force and effect at all times the following types of insurance coverage, provided by companies licensed to do business in the State of Utah.

(a) Fire and Casualty Insurance. A policy or policies of insurance on the Project in such amounts as shall provide for replacement thereof in the event of damage or destruction from the casualty against which such insurance is customarily maintained by other condominium projects similar in construction, design, and use. Such insurance shall include fire and extended coverage, vandalism and malicious mischief, and such other risks and hazards against which the Association shall deem it appropriate to provide insurance protection. The Association may comply with the above requirements by the purchase of blanket coverage and may elect such "deductible" provisions as in the Association's opinion are consistent with good business practice.

(b) Public Liability and Property Damage Insurance. The Association shall obtain a broad form of comprehensive liability insurance coverage, in such amounts and in such forms as it deems advisable to provide adequate protection against liability for personal injury, death and property damage. Coverage shall include without limitation, liability for operation of automobiles on behalf of the Association and all activities in connection with the ownership, operation, maintenance, and other use of the Project.

(c) Flood Hazard Insurance. If the Project is or comes to be situated in a locale identified by the Secretary of Housing and Urban Development as an area having special flood hazard and the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, a "blanket" policy of flood insurance on the Condominium Project shall be obtained and maintained. The minimum amount of coverage afforded by such policy shall be the lesser of the maximum amount of insurance available under the said Act or the aggregate of the unpaid principal balances of the Mortgages affecting the individual Units. Such policy shall be in the form of the standard policy issued by members of the National Flood Insurers Association or in the form of a policy which meets the criteria established by the Flood Insurance Administration.

(d) Workmen's Compensation Insurance. Workmen's compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by law.

(e) Fidelity Insurance or Bond. Fidelity insurance or a bond in such amounts and in such forms as the Association deems appropriate to cover against dishonesty of employees, destruction or disappearance of money or securities, and forgery.

10.02 Form of Insurance. Insurance coverage on the Project, insofar as possible, shall be in the following form:

(a) Casualty and Flood Hazard Insurance. Casualty and flood hazard insurance in a form or forms naming the Association as the insured, as trustee for the Owners and for the Declarant, whether or not the Declarant is an Owner, and which policy or policies shall specify the interest of each Owner (Owner's name, Unit number and the appurtenant undivided interest in the Common Areas) and shall contain a standard, noncontributory mortgagee clause in favor of each Mortgagee which from time to time shall give notice to the association of its Mortgage. The Association shall furnish to each Owner, and to each Mortgagee requesting in writing the same, a certificate of coverage, including an identification of the Owner's interest.

(b) Public Liability and Property Damage Insurance. Public liability and property damage insurance which names the Association as the insured, as trustee for each Owner, for the Manager, if any, and for the Declarant, whether or not the Declarant is an Owner, and which protects each Owner, the Manager, if any, and the Declarant against liability for acts or omissions of any of them in connection with the ownership, operation, maintenance, or other use of the Project.

(c) Policies. Insurance policies which provide for the following:

(i) That the insurer shall waive subrogation as to any claims against the Association, the Manager, if any, the Owners, the Declarant, and their respective servants, agents, and guests.

(ii) That the policy or policies cannot be cancelled, invalidated, or suspended on account of the conduct of any one or more individual owners;

(iii) That the policy or policies cannot be cancelled, invalidated, or suspended on account of the conduct of any trustee, officer, or employee of the Association, without a prior demand in writing that the Association cure the defect;

(iv) That any "no other insurance" clause in the policy or policies shall not apply to individual Owners' policies of insurance; and

(v) That the policy or policies cannot be cancelled either by the insured or the insurance company until after ten (10) days written notice to the Association, to each Owner, to the Declarant, and to each Mortgagee who has made a written request for such notice.

10.03 Additional Coverage. The provisions of this Declaration shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage in addition to any insurance coverage required by this Declaration in such amounts and in such forms as the Association may from time to time deem appropriate.

10.04 Adjustment and Contribution. Exclusive authority to adjust losses under the insurance policies hereafter in force on the Project shall be vested in the association. In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Owners or their Mortgagees.

10.05 Owner's Own Insurance. Notwithstanding the provisions of this Article X, each Owner may obtain insurance at his own expense providing coverage upon his Condominium, his personal property, for his personal liability, and covering such other risks as he may deem appropriate; provided that if the insurer under said policy is the insurer under any policy issued pursuant to Section 10.01 through 10.03 above, then any insurance policy obtained by an Owner shall provide that it does not diminish the insurance carrier's coverage for liability arising under any of the insurance policies obtained by the Association pursuant to this Article. If such insurance obtained by an Owner can be obtained in the normal practice without additional premium charge for a waiver of subrogation rights, then all such insurance shall waive the insurance company's right of subrogation against the Association, other Owners, the Manager, if any, the Declarant, and the servants, agents, and guests of any of them.

10.06 Review of Insurance. The Association shall review annually the coverage and policy limits of all insurance on the Project and shall adjust the same at its discretion. Such annual review may include an appraisal of the improvements in the Project by a representative of the insurance carrier or carriers providing the policy or policies on the Project, or such other qualified appraisers as the Association may select.

ARTICLE XI

DAMAGE OR DESTRUCTION

11.01 Association as Attorney in Fact. All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney in fact in their name, place and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Declarant or any Owner shall constitute an appointment by said grantee of the Association as his attorney in fact as herein provided. As attorney in fact, the Association shall have full and complete authorization, right, and power to make, execute, and deliver any contract, deed or other instrument with respect to the interest of an Owner which may be necessary or appropriate to execute the powers herein granted.

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11.02 Definition of Repair and Reconstruction. Repair and reconstruction of the improvements as used herein means restoring the Project to substantially the same condition in which it existed prior to damage, with each Unit and the Common Areas having substantially the same vertical and horizontal boundaries as before.

11.03 Procedure. In the event of damage to or destruction of any part of the Project, the following procedures shall apply.

(a) Estimate of Costs. As soon as practicable after an event causing damage to or destruction of any part of the project, the Association shall obtain complete and reliable estimates of the costs of repair or reconstruction of that part of the Project damaged or destroyed.

(b) Insurance Sufficient. If the proceeds of the insurance maintained by the Association equal or exceed the estimated costs to repair or reconstruct the damaged part of the Project.

(c) Insurance Insufficient - Less than Seventy-Five Percent Destroyed. If less than seventy-five percent (75%) of the Project is destroyed or damaged, and if the proceeds of the insurance maintained by the Association do not equal or exceed the estimated costs to accomplish repair or reconstruction, restoration shall be carried out and all the Owners shall be assessed a special assessment for any deficiency. Such special assessment shall be allocated and collected as provided in Section 9.03 hereof, except that the vote therein specified shall not be necessary. Further assessments may be made in a like manner if the amounts collected prove insufficient to complete the repair or reconstruction.

(d) Insurance Insufficient - Seventy Five Percent or More Destroyed. If seventy-five percent (75%) or more of the Project is destroyed or damaged, if the proceeds of the insurance maintained by the Association do not equal or exceed the estimated costs to accomplish repair or reconstruction, and if the Owners within one hundred (100) days after the destruction or damage by a vote of at least seventy-five percent (75%) of the total votes of the Association elect to repair or reconstruct the affected improvements, restoration shall be accomplished in the manner directed under subsection (c) above. In the event that Owners holding at least seventy-five percent (75%) of the total votes of the Association do not vote, within one hundred days (100) after destruction of or damage to three-fourths of the Project, to repair or rebuild the affected improvements, the Associations shall file with the County Recorder for Washington County, State of Utah, a notice setting forth such facts. Upon filing of such notice, the following shall occur:

(i) The Project shall be deemed to be owned in common by the Owners;

(ii) The undivided interest in the Project owned in common which shall appertain to each Owner shall be the percentage of undivided interest of the respective Owner in the Common Areas;

(iii) Any liens affecting any of the Condominiums shall be deemed to be transferred, in accordance with the existing priorities, to the undivided interest of the respective Owner in the Project; and

(iv) The Project shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of any sale resulting from such suit

for partition, together with the net proceeds of the insurance on the Project, if any, shall be considered as one fund and shall be divided among all the Owners in a percentage equal to the percentage of undivided interest owned by each respective Owner in the Common Areas, as set forth in Exhibit "A" attached hereto, after first paying out of the respective share of each Owner, to the extent sufficient for such purpose, all liens on the undivided interest in the Project owned by such Owner.

11.04 Repair or Reconstruction. As soon as practicable after receiving estimates on the cost of repair or reconstruction, the Association shall, if repair or restoration is to occur, diligently pursue to completion the repair or reconstruction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair or reconstruction, as attorney in fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith. The Project shall be restored or repaired to substantially the same condition in which it existed prior to the fire or other disaster, with each Unit and the Common Areas having substantially the same vertical and horizontal boundaries as before such fire or disaster.

11.05 Disbursement of Funds for Repair or Reconstruction. If repair or reconstruction is to occur, then the insurance proceeds held by the Association and any amounts received from assessments made pursuant to Section 11.03(c) hereof shall constitute a fund for the payment of the costs of such repair and reconstruction. It shall be deemed that the first month disbursed in payment for the costs of such repair or reconstruction shall be made from insurance proceeds; if there is a balance after payment of all of the costs of such repair or reconstruction, such balance shall be distributed to the Owners in proportion to their respective percentages of ownership of the Common Areas.

11.06 Amendment of Article. This Article XI shall not be amended unless the Owners of all Condominiums in the Project unanimously consent and agree to such amendment by duly executed and recorded instruments.

ARTICLE XII

OBSOLESCENCE, SALE OF PROJECT, AND REMOVAL FROM ACT

12.01 Adoption of Plan. Owners holding eighty-five percent (85%) or more of the total votes of the Association may agree that the Project is obsolete and adopt a written plan for the renewal and reconstruction of the Project provided that such plan has the unanimous approval of all of the holders of first mortgages on Condominiums in the Project of record at the time such plan is adopted. Written notice of adoption of such plan, together with a copy of the plan, shall be given to all Owners.

12.02 Payment for Renewal and Reconstruction. The expense of renewal and reconstruction shall be payable by all of the Owners as assessments against their respective Condominiums. Such assessments shall be levied in advance and shall be allocated and collected as provided in Section 9.03 above, except that the vote therein specified shall not be necessary. Further levies may be made in a like manner if the amount collected prove insufficient to pay all costs of renewal or reconstruction. In the event amounts collected pursuant hereto as in excess of the amounts required for renewal and reconstruction, the excess shall be returned to the Owners by the Association by a distribution to each Owner in proportion to their respective percentages of ownership of the Common Areas.

12.03 Sale of Project. Notwithstanding all other provisions of this Declaration, the Owners may, by an affirmative vote of at least eighty-five percent (85%) of the total votes of the Association, at a meeting of Owners duly called for such purpose, elect to sell or otherwise dispose of the Project. Such action shall be binding upon all Owners and it shall thereupon become the duty of every Owner to execute and deliver such instruments and to perform all acts in such manner and form as may be necessary to effect such sale. The proceeds of any such sale shall be divided among all Owners in proportion to the undivided interest in the Common Areas owned by each respective Owner, as set forth in Exhibit "A" attached hereto, after first paying out of the respective share of each Owner, to the extent sufficient for such purpose, all liens on the interest of such Owner in the Project.

12.04 Removal of Project from Act. Notwithstanding all other provisions of this Declaration, all of the Owners may remove the Project from the provisions of the Condominium Act if (i) the holders of all liens affecting any of the Condominiums consent or agree by duly recorded instruments that their liens be transferred to the percentage of the undivided interest of the Owner in the Project owning the affected Condominium and (ii) all Owners execute an instrument provided for such removal of the Project and the same is duly recorded. Upon removal of the Project from the provisions of the Condominium Act the Project shall be deemed to be owned in common by the Owners. The undivided interest in the Project which shall appertain to each Owner shall be the percentage of undivided interest owned by such Owner as set forth in Exhibit "A" attached hereto.

12.05 Amendment of Article. This Article XII shall not be amended unless the Owners of all Condominiums in the Project unanimously consent and agree to such amendment by duly executed and recorded instruments.

ARTICLE XIII

CONDEMNATION

13.01 Condemnation. If at any time or times all or any part of the Project shall be taken or condemned by any public authority under power of eminent domain, the provisions of this Article shall apply. A voluntary sale or conveyance of all or any part of the Project in lieu of condemnation, but under threat of condemnation, shall be deemed to be taken by power of eminent domain.

13.02 Proceeds. All compensation, damages, and other proceeds from any such taking by power of eminent domain (hereinafter the "condemnation award") shall be made payable to the association and shall be distributed by the Association as herein provided.

13.03 Complete Taking. In the event the entire Project is taken by power of eminent domain, condominium ownership with respect to the Project shall terminate and the condemnation award shall be allocated among and distributed to the Owners in proportion to their respective undivided interests in the Common Areas. Such distribution shall be made by check payable jointly to the respective Owners and their respective Mortgagees, as appropriate.

13.04 Partial Taking. In the event that less than the entire Project is taken by power of eminent domain, the following shall occur:

(a) Allocation of Award. As soon as practicable, the Association shall, reasonably and in good faith, apportion the condemnation award between compensation,

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severance damages, or other proceeds, and shall allocate such apportioned amounts and pay the same to the Owners as follows:

(i) The total amount apportioned to the taking of or injury to the Common Areas shall be allocated and distributed to all Owners (including Owners whose entire Units have been taken) in proportion to their respective undivided interest in the Common Areas.

(ii) The respective amounts apportioned to the taking of or injury to a particular Unit shall be allocated and distributed to the Owner of such Unit;

(iii) The respective amounts apportioned to the taking of or injury to a particular Unit shall be allocated and distributed to the Owner of such Unit;

(iv) The total amount apportioned to consequential damages and any other takings or injuries shall be allocated and distributed as the Association determines to be equitable under the circumstances;

(v) If apportionment or allocation is already established by negotiation, judicial decree, statute, or otherwise, the Association shall employ such apportionment and allocation to the extent it is relevant and applicable; and

(vi) Distribution of allocated proceeds shall be made by check payable jointly to the respective Owners and their respective Mortgagees, as appropriate.

(b) Continuation and Reorganization. If less than the entire Project is taken by power of eminent domain, condominium ownership with respect to the Project shall not terminate, but shall continue. If any partial taking results in the taking of an entire Unit, the Owner thereof shall cease to be a member of the Association. The Association shall reallocate the voting rights and the undivided interest in the Common Areas appertaining to such Unit in accordance with the Condominium Act. If any partial taking results in the taking of a portion of Unit and a determination is made by judicial decree with respect to whether the Owner of such Unit shall continue to be an Owner in the Project and/or to what extent such Owner's undivided interest in the Common Areas should be reduced and apportioned among the Owners in the Project, then the Association shall take all steps necessary to effectuate such judicial decree. If any partial taking results in the taking of a portion of a Unit and there shall be no judicial decree with respect to such matters, then the Association shall determine the fair market value of the portion or portions of the Unit not taken and the undivided interest in the Common Areas appertaining to any such Unit shall be reduced in proportion to the diminution of the fair market value of the Unit resulting from the partial taking. The portion of the undivided interest in the Common Areas thus divested from the Owner shall be reallocated among all Units in the Project, including the Unit of which only a portion is taken, in proportion to their undivided interests in the Common Areas with any unit, a portion or portions of which are taken, participating thereon on the basis of the undivided interest in the Common Areas as reduced as provided herein. If any partial taking results in the taking of a portion of a Unit such that it is impractical to use the remaining portion of the Unit for any lawful purpose permitted by this Declaration, then the entire undivided interest in the Common Areas appertaining to such Unit shall thenceforth appertain to the remaining Units in the Project, being allocated to such Units in proportion to their respective undivided interests in the Common Areas, and the remaining portion of such partially taken Unit shall thenceforth be a Common Area in the Project.

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(c) Reconstruction or Repair. Any reconstruction or repair necessitated by condemnation shall be governed by the procedures specified in Article XI hereof for cases of damage or destruction.

ARTICLE XIV

COMPLIANCE WITH DECLARATION AND BYLAWS

14.01 Compliance. Each Owner shall comply with the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association, rules and regulations promulgated by the Association, and the decisions and resolutions of the Association adopted pursuant thereto, as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due and for damages or injunctive relief or both, maintainable by the Association or, in a proper place, by an aggrieved Owner.

14.02 Enforcement and Remedies. The obligations, provisions, covenants, restrictions and conditions contained in this Declaration, or in any Supplemental or Amended Declaration, with respect to the Association or Condominiums within the Project shall be enforceable by the Declarant or by any Owner of a Condominium with the Project subject to this Declaration, by a proceeding for a prohibitive or mandatory injunction. The obligations, provisions, covenants, restrictions and conditions contained in this declaration, or in any Supplemental or Amended Declaration, with respect to a person or entity or property of a person or entity other than the Association or the Declarant shall be enforceable by the Declarant or the Association by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages or to recover any amount due or unpaid.

ARTICLE XV

DECLARANT'S SALES PROGRAM

15.01 Declarant's Right to Promote and Sell the Project. Notwithstanding any other provisions of this Declaration, until Declarant ceases to be a Unit owner or the expiration of seven (7) years after the date on which this Declaration is filed for record in the office of the County Recorder of Washington County, State of Utah, whichever occurs first (hereinafter referred to as the "Occurrence"), Declarant, its successors or assigns shall have the following rights in furtherance of any sales, promotional, or other activities designed to accomplish or facilitate the sale of all units owned by Declarant:

(a) Sales Offices and Model Units. Declarant, its successor or assigns shall have the right to maintain a sales office and/or model Units. Such office and/or model Units may be Units (at any location) owned by Declarant.

(b) Promotional Devices. Declarant, its successor or assigns, shall have the right to maintain a reasonable number of promotional, advertising, and/or directional signs, banners or similar devices at any place or places on the Project, or upon additional land, but any such device shall be of a size and in a location as is reasonable and customary.

(c) Right to Use the Common Areas and Facilities. Declarant shall have the right to use the Common Areas and Facilities of the Project to entertain prospective purchasers or to otherwise facilitate Unit sales, provided said use is reasonable as to both time and manner.

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15.02 Declarant's Rights to Relocate Sales and Promotional Activities. Declarant shall have the right from time to time to locate or relocate its sales office, model units and/or signs, banners or similar devices, but in connection with each such location or relocation shall observe the limitations imposed by the preceding portion of this Article. With a reasonable period of time after the happening of the Occurrence, Declarant shall have the right to remove from the Project, any signs, banners or similar devices.

15.03 Limitation on Improvements by Association During Sales Program. Prior to the Occurrence described in this Article, the Association shall not, without the written consent of the Declarant, make any improvement to or alteration in any of the Common Areas and Facilities, other than such repairs, replacements, or similar matters as may be necessary to properly maintain the Common Areas as they existed at the time the Declaration was recorded.

ARTICLE XVI

MORTGAGE PROTECTION

16.01 Mortgage Protection. No breach of any of the covenants, conditions, restrictions, or limitations contained herein shall defeat or render invalid the lien of any Mortgage made in good faith and for value; provided, however, that all such covenants, conditions, restrictions or limitations contained herein shall be binding upon an owner whose title is derived through foreclosure or Trustee's sale.

16.02 Priority of Liens. No enforcement of any lien provision herein contained shall defeat or render invalid the lien of any Mortgage. All sums assessed in accordance with the provisions hereto shall constitute a lien on each respective Condominium prior and superior to all other liens except (1) all taxes, bonds, assessments and other levies which, by law, would be superior thereto; and (2) the lien or charge of any recorded Mortgage on such Condominium made in good faith and for value and recorded prior to the date on which any such assessment or assessments become due.

16.03 Prior Liens Relate Only to Individual Units. All taxes, assessments and charges which may become liens prior to the first Mortgage under local law shall relate only to the individual Condominium and not to the Project as a whole.

16.04 Mortgage Holder Rights in Event of Foreclosure. Whenever the Mortgagee of a Mortgage of record obtains title to a Condominium by the foreclosure of the Mortgage on the Condominium Unit or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, such acquirer shall take the Condominium free of any claims for unpaid assessments and charges against the Condominium which accrued prior to the date of the acquisition of title to such Condominium by such acquirer except for claims for the pro rata reallocation of such assessments or charges to all Condominiums in the Project, including the mortgaged Condominium. Such unpaid share of assessments, shall be deemed to be common expenses collectible prospectively pro rata from all of the Condominiums in the Project, including the Condominium that has been acquired in accordance with the provisions of this Section.

16.05 Notice to First Mortgage Holders. Upon appropriate request, the Association shall give the applicable holder of the first Mortgage, if any, prompt notice of any default in the Condominium mortgagor's obligations under the condominium documents not cured within thirty (30) days of default. From and after the time a mortgagee makes written request to the Management Committee or the Association of

Unit Owners therefor, the Committee or the Association shall notify such Mortgagee in writing in the event that there occurs any damage or loss to, or taking or anticipated condemnation of: (1) the Common Areas involving the amount in excess of, or reasonably estimated to be in excess of, or reasonably estimated to be in excess of Ten Thousand Dollars (\$10,000.00); or, (2) any Unit encumbered by the mortgage held by such mortgagee, if the amount involved in such damage, loss, or taking is in excess of, or reasonably estimated to be in excess of One Thousand Dollars (\$1,000.00). Said notice shall be given within ten (10) days after the Management Committee or said Association learns of such damage, loss, taking or anticipated condemnation.

No provision of this Declaration gives or may give a Unit Owner or any other party priority over any rights of mortgagees pursuant to their respective Mortgages in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards for loss to or taking of Units and/or the Common Areas and Facilities.

Any Mortgagee which obtains title to the Unit encumbered by its Mortgage pursuant to the remedies provided for in said Mortgage, pursuant to foreclosure of said Mortgage, pursuant to exercise of a power of sale available under said mortgage, or pursuant to deed or assignment in lieu of foreclosure, shall be exempt from and shall in no way be governed by or subject to any "right of first refusal" which may be contained in or provided for in this Declaration.

16.06 Matters Requiring Mortgagee Approval. Notwithstanding any other provision contained in this Declaration, at least two-thirds (2/3) (based upon one vote for each first Mortgage owned per Condominium Unit) of the first Mortgagees of any Condominium, as then appears on the official records of Washington County, Utah, shall have given their prior written approval before the Association shall be entitled to:

- (a) By act or omission, seek to abandon or terminate the Project;
- (b) Change the pro rata interest or obligations of any individual Condominium for the purpose of:
 - (i) 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 Condominium in the Common Areas and Common Facilities;
- (c) By act or omission, seek to abandon, encumber, sell or transfer the Common Areas (the granting rights to use by other Phases or of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas and Common Facilities by the Project shall not be deemed a transfer within the meaning of this clause);
- (d) Use hazard insurance proceeds for losses to the Project (whether to Units, Common Areas, or Common facilities) for other than the repair, replacement or reconstruction of such condominium property, except as provided by the Condominium Act and Article XI and XIII in case of substantial loss to the Units, Common Areas and/or Common Facilities of the Project.

16.07 Amendment. No provision of this Article XVI shall be amended without the prior written consent of at least two-thirds (2/3) (based on one vote for each Mortgage) of all first Mortgagees as appears on the official records of Washington County, State of Utah, as of the date of such amendment.

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ARTICLE XVII
GENERAL PROVISIONS

17.01 Intent and Purpose. The provisions of this Declaration and any Supplemental or Amended Declaration, shall be liberally construed to effectuate the purpose of creating a uniform plan of the development and operation of a Condominium project. Failure to enforce any provision, restriction, covenant, or condition in this Declaration, or in any Supplemental or Amended Declaration, shall not operate as a waiver of any such provision, restriction, covenant, or condition or of any other provisions restrictions, covenants, or conditions.

17.02 Construction. The provisions of this Declaration shall be in addition and supplemental to the Condominium Act and to all other provisions of law. Wherever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders. The Article and section headings set forth herein are for convenience and reference only and are not intended to describe, interpret, define, or otherwise affect the context, meaning, or intent of this Declaration or any Article, section, or provision hereof. The provisions hereof shall be deemed independent and severable and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

17.03 Registration of Mailing Address. Each Owner shall register from time to time with the Association his current mailing address. All notices or demands intended to be served upon any Owner may be sent by first class U.S. mail, postage prepaid, addressed to the Owner at his registered mailing address, or, if no address has been registered, to the Unit of such Owner. All notice or demands intended to be served upon the Association may be sent by first class U.S. registered or certified mail, postage prepaid, addressed to the Association at its offices at 66 Exchange Place, Salt Lake City, Utah 84111, or to such other address as the Association may hereafter furnish to the Owners in writing. Any notice or demand referred to in this Declaration shall be deemed given when deposited in the U.S. mail, postage prepaid, and in the form provided for in this Section.

17.04 Audit. Any Owner may at any reasonable time, upon appointment and at his own expense, cause an audit or inspection to be made of the books and records maintained by the Association.

17.05 Amendment. Except as otherwise provided herein, this Declaration may be amended if Owners holding at least fifty-one percent (51%) of the total votes in the Association consent and agree to such amendment by instruments which are duly recorded in the office of the County Recorder for Washington County, State of Utah.

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

17.07 Agent for Service. The person to receive service of process in the cases provided in the Condominium Act shall be the then current registered agent of the association as shown on the corporate records maintained in the office of the Secretary of State of the State of Utah. As of the date of this Declaration of Condominium, the registered agent of the Association is Jeff Morby, 141 Brigham Road, St. George, Utah 84770.

17.08 Limitation on Association's Liability. The Association shall not be liable for any failure of water service or other utility service to be obtained and paid for by the

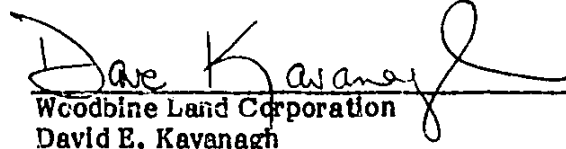
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Association hereunder, or for injury or damage to any person or property caused by the elements or by another Owner or person in the Project, or resulting from electricity, water, rain, snow or ice which may leak or flow from outside or from any parts of one of the Buildings, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other place, unless caused by the grossly negligent or intentional act of the Association. No diminution or abatement of any assessments under this Declaration shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs, maintenance, or improvements to the Project or any part thereof, or from any action taken to comply with any law, ordinance, or orders of a governmental authority.

17.09 Owner's Obligations. All obligations of an Owner under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that he may be leasing, renting, or selling his Condominium under Contract. The Owner of a Condominium within the Project shall have no obligation for expenses or other obligations accruing after he conveys such Condominium.

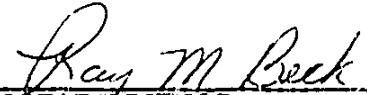
17.10 Counterparts. This Declaration, including Owner's and First Mortgagee consent thereto may be executed in counterparts, each of which when taken as a whole, shall constitute a binding agreement upon the parties.

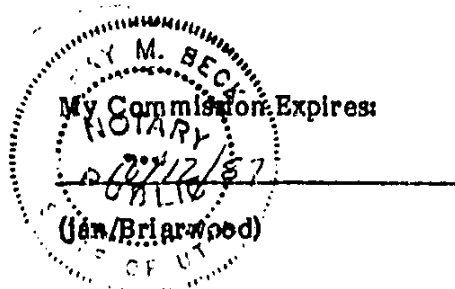
IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration the day and year first above written.


 Woodbine Land Corporation
 David E. Kavanagh
 Attorney in Fact

STATE OF UTAH)
 :SS.
 County of Salt Lake)

On the 9th day of December, 1986, A.D. personally appeared before me David E. Kavanagh, who being by me duly sworn did say that he is an Attorney in Fact on behalf of Woodbine Land Corporation and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors and said David E. Kavanagh duly acknowledged to me that said corporation executed the same and that the seal affixed is the seal of said corporation.


 NOTARY PUBLIC
 Residing in Salt Lake County, Utah



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OWNER'S CERTIFICATE

The undersigned, and each of them do hereby certify that he and/or she is the owner of the designated condominium unit within the Briarwood Springs Condominium Project and does hereby consent to the proposed amendment of the Condominium Documents as set forth in the Restated and Amended Declaration of Covenants, Conditions and Restrictions of Briarwood Springs Condominium Project attached.

Name

Unit Address

Raymond Maxey Hendricks by K.S. Bohannon	7784 Sunbird Way
Raymond Austin	7747 Briar Springs Dr.
Raymond Ann	7737 Briar Springs Drive
Antoinette M. Koenig	7727 Briar Springs
Theresa Ann Smith	7759 " " "
James E. Smith	7779 Briar Springs
Peggy B. Jackson	7715 Briar Springs
Marjorie Roberts	7771 Briar Springs
Janet Upton	7709 Briar Springs Dr.
W. B. Hunt	7748 Sunbird Way
James E. Booth	7780 Sunbird Way #4
John R. Maylor	7767 Sunbird Way
Marjorie Williamson	7719 Briar Springs Dr.
Jane E. Johnson	7768 Sunbird Way
James E. Parker	7768 Sunbird Way
William J. Cullen	7725 Briar Springs Dr.
Robert K. Reynolds	7774 SUNBIRD WAY
Frederic P. Reynolds	7774 SUNBIRD WAY
* MERFORD P. & DAVENET W. SKRVED	7765 Briar Springs Dr. DAVENET W. SKRVED
Wynne M. Sprague	7781 Briar Springs Dr.
* Dorlene M. Craven	7765 Briar Springs Dr.
Betty L. Mathis	7735 Briar Springs Dr.
Andy Paul	7733 BRIARSPRINGS DR.
Margaret B. Beck	7753 Briar Springs Dr. Medvale, UT
John E. Beck	7767 Briar Springs Dr. LINA REYNOLDS
Frances Pland	7772 Sunbird, Medvale
John E. Beck	7777 BRIARSPRINGS DR. MEDVALE
John E. Beck	7766 Sunbird Way Medvale
Anthony James Beck	7786 Sunbird Way Medvale
John E. Beck	7743 Briar Springs Dr

RIARWOOD)

FORM 5851 REV. 3-12-20

OWNER'S CERTIFICATE

The undersigned, and each of them do hereby certify that he and/or she is the owner of the designated condominium unit within the Briarwood Springs Condominium Project and does hereby consent to the proposed amendment of the Condominium Documents as set forth in the Restated and Amended Declaration of Covenants, Conditions and Restrictions of Briarwood Springs Condominium Project attached.

Name

Unit Address

Woodbine Land Corp
Edward A. Long Pres

BRIARWOOD)

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EXHIBIT "A"

<u>Unit #</u> (Bldg. #/Unit #)	<u>Square Footage</u>	<u>% Ownership</u>	<u>Votes</u>
1-1	1070	.0096	1070
1-2	1070	.0096	1070
1-3	1070	.0096	1070
1-4	1070	.0096	1070
1-5	1070	.0096	1070
1-6	1070	.0096	1070
2-1	1070	.0096	1070
2-1	1070	.0096	1070
2-3	1070	.0096	1070
2-4	1070	.0096	1070
2-5	1070	.0096	1070
2-6	1070	.0096	1070
3-1	1070	.0096	1070
3-2	1070	.0096	1070
3-3	1070	.0096	1070
3-4	1070	.0096	1070
3-5	1070	.0096	1070
3-6	1070	.0096	1070
4-1	1070	.0096	1070
4-2	1070	.0096	1070
4-3	1070	.0096	1070
4-4	1070	.0096	1070
4-5	1070	.0096	1070
4-6	1070	.0096	1070
5-1	1070	.0096	1070
5-2	1070	.0096	1070
5-3	1070	.0096	1070
5-4	1070	.0096	1070
5-5	1070	.0096	1070
5-6	1070	.0096	1070
6-1	1070	.0096	1070
6-2	1070	.0096	1070
6-3	1070	.0096	1070
6-4	1070	.0096	1070
6-5	1070	.0096	1070
6-6	1070	.0096	1070
25-1	1070	.0096	1070
25-2	1070	.0096	1070
25-3	1070	.0096	1070
25-4	1070	.0096	1070
25-5	1070	.0096	1070
25-6	1070	.0096	1070
26-1	1070	.0096	1070
26-2	1070	.0096	1070
26-3	1070	.0096	1070
26-4	1070	.0096	1070
26-5	1070	.0096	1070
26-6	1070	.0096	1070

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<u>Unit #</u> (Bldg. #/Unit #)	<u>Square Footage</u>	<u>% Ownership</u>	<u>Votes</u>
27-1	1070	.0096	1070
27-2	1070	.0096	1070
27-3	1070	.0096	1070
27-4	1070	.0096	1070
27-5	1070	.0096	1070
27-6	1070	.0096	1070
28-1	1070	.0096	1070
28-2	1070	.0096	1070
28-3	1070	.0096	1070
28-4	1070	.0096	1070
28-5	1070	.0096	1070
28-6	1070	.0096	1070
29-1	1546	.0138	1546
29-2	1412	.0126	1412
29-3	1308	.0117	1308
29-4	1546	.0138	1546
29-5	1546	.0138	1546
29-6	1412	.0126	1412
30-1	1412	.0126	1412
30-2	1308	.0117	1308
30-3	1412	.0126	1412
31-1	1412	.0126	1412
31-2	1308	.0117	1308
31-3	1412	.0126	1412
31-4	1546	.0138	1546
32-1	1412	.0126	1412
32-2	1308	.0117	1308
32-3	1412	.0126	1412
32-4	1308	.0117	1308
32-5	1412	.0126	1412
32-6	1412	.0126	1412
33-1	1412	.0126	1412
33-2	1308	.0117	1308
33-3	1412	.0126	1412
33-4	1308	.0117	1308
33-5	1412	.0126	1412
34-1	1546	.0138	1546
34-2	1412	.0126	1412
34-3	1308	.0117	1308
34-4	1412	.0126	1412
34-5	1308	.0117	1308
34-6	1412	.0126	1412
34-7	1308	.0117	1308
34-8	1412	.0126	1412
34-9	1412	.0126	1412
34-10	<u>1546</u>	<u>.0138</u>	<u>1546</u>
TOTAL	111,972	1.00	111,972

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EXHIBIT B

AMENDED & RESTATED BYLAWS OF BRIARWOOD SPRINGS HOMEOWNERS' ASSOCIATION

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RESTATED & AMENDED
BYLAWS OF
BRIARWOOD SPRINGS HOMEOWNERS' ASSOCIATION
A Utah Nonprofit Corporation

1. NAME AND LOCATION.

The name of the Association is Briarwood Springs Homeowners Association ("Association"). The Association is organized as a Utah Nonprofit Corporation. The principal office of the Association shall be located in Salt Lake County, Utah. Meetings of Members shall be held at those places specified in the By-laws.

2. DEFINITIONS.

Terms used in these Bylaws shall have the meaning given to them in the Restated and Amended Declaration of Covenants, Conditions and Restrictions of the Briarwood Springs Condominium Project, recorded on the 11th day of December, 1986, as File No. _____ in the offices of the Salt Lake County Recorder of Salt Lake County, Utah.

3. MEMBERSHIP; VOTING RIGHTS.

3.1 Membership.

3.1.1 Qualifications. Each Owner of a Condominium, including Declarant, shall be a Member of the Association. No Owner shall hold more than one membership in the Association even though such Owner may own, or own an interest in, more than one Condominium. Ownership of a Condominium or interest in it shall be the sole qualification for membership in the Association. Each Owner shall remain a Member of the Association until his ownership or ownership interest in all Condominiums in the Development ceases, at which time his membership in the Association shall automatically cease. Persons or entities who hold an interest in a Condominium merely as security for performance of an obligation are not to be regarded as Members.

3.1.2 Members' Rights and Duties. Each Member shall have the rights, duties, and obligations set forth in these Bylaws, the Articles, the Declaration and the Association rules and all their amendments.

3.1.3 Transfer of Membership. The Association membership of each person or entity who owns, or owns an interest in, one or more Condominiums shall be appurtenant to each such Condominium, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except on a transfer of title to each such Condominium or interest in it and then only to the transferee. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Condominium or interest in it shall operate automatically to transfer the appurtenant membership rights in the Association to the new Owner.

3.2 Voting.

3.2.1 Number of Votes. The Association shall have two (2) classes of voting membership:

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Class A: Class A Members are all Owners, with the exception of Declarant. Each Class A Member shall be entitled to one (1) vote for each Condominium in which such class Member owns an interest. However, when more than one Class A Member owns an interest in a Condominium, the vote for such Condominium shall be exercised as they themselves determine, but in no case shall more than one (1) vote be cast with respect to any one Condominium.

Class B: The Class B Member shall be the Declarant who shall be entitled to three (3) votes for each Condominium owned. The Class B membership shall cease upon completion of construction and upon close of escrow of the last remaining unit.

3.2.2 Approval of Classes. Except as otherwise provided in the Declaration, as long as two classes of Members exist, no action by the Association that must have the prior approval of the Association Members shall be deemed approved by the Members unless approved by the prescribed percentage of both classes of Members.

3.2.3 Joint Owner Votes. The voting rights for each Condominium may not be cast on a fractional basis. If the joint Owners of a Condominium are unable to agree among themselves as to how their voting rights shall be cast, they shall forfeit the vote on the matter in question. If any Owner exercises the voting rights of a particular Condominium, it will be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Condominium. If more than one (1) person or entity exercises the voting rights for a particular Condominium, their votes shall not be counted and shall be deemed void.

3.2.4 Secret Ballot; Cumulative Voting. In any election involving the election or removal of more than one member of the Management Committee voting shall be by cumulative voting. All votes for election to or removal from the Management Committee shall be by secret written ballot. Each Member shall be entitled to vote, in person or by proxy, as many votes as such Member is entitled to exercise as provided in the Declaration. As to removal, unless the entire Management Committee is removed by a vote of Association Members an individual member of the Management Committee shall not be removed unless the number of votes in favor of removal satisfies the requirements of the Utah Nonprofit Corporations Act.

4. MEETINGS OF MEMBERS.

4.1 Annual Meetings. The organizational meeting and the first annual meeting of the Members shall be held as described in the Declaration. Subsequent annual meetings of Members of the Association shall be held in each succeeding year within one week before or after the anniversary date of the first annual meeting on a day to be determined by the Management Committee, which day shall not be a legal holiday.

4.2 Special Meetings. Special meetings of the Members may be called at any time by the President or by a majority of a quorum of the Management Committee, or upon written request of the Members representing at least five percent (5%) of the total voting power.

4.3 Notice of Meetings. Notice of all Members' meetings, annual or special, shall

be given by personal delivery mail or telegram and shall be given not less than ten (10) days nor more than ninety (90) days before the time of the meeting and shall set forth the place (which shall be at the Development or as close thereto as reasonably feasible and, unless unusual circumstances exist, shall not be outside Salt Lake County), date, and hour of the meeting, and the nature of the business to be undertaken. Notices shall be given by, or at the direction of, the secretary or person authorized to call the meeting, and shall be transmitted to each Member entitled to vote and to each Mortgagee who has requested in writing that such notice be sent to it; the notices shall be addressed to the Member's or Mortgagee's address last appearing on the books of the Association, or supplied by the Member or Mortgagee to the Association for the purpose of notice. Mailed notices shall be deemed received forty-eight (48) hours after they are mailed by certified mail, return receipt requested; notice by telegram shall be deemed received twenty-four (24) hours after they are sent. Notices to Members may also be personally delivered and shall be deemed received upon delivery to any occupant of the Member's residence.

4.4 Quorum. The presence at any meeting in person or by proxy of Members entitled to cast at least fifty percent (50%) of the total votes of all Members constitutes a quorum. If any meeting cannot be held because a quorum is not present, a majority of those present, either in person or by proxy, a majority of those present, either in person or by proxy, may adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the time the original meeting was called but may not transact any other business. At any adjourned meeting the quorum requirement shall be at least twenty-five percent (25%) of the total voting power of the Association. Any meeting of the Members at which a quorum is present may be adjourned for any reason to a time not less than forty-eight (48) hours nor more than thirty (30) days from the time of such meeting by Members representing a majority of the votes present either in person or by proxy. If after the adjournment a new date is fixed for the adjourned meeting, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for regular meetings.

4.5 Proxies. At all meetings of Members each Member may be present in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy is revocable and automatically ceases when the ownership interest or interests which entitles a Member to membership in the Association ceases, and at automatically eleven (11) months from the date of its execution unless otherwise provided in the proxy, and in all cases, such proxy shall terminate three (3) years from its date.

4.6 Order of Business. The order of business of all meetings of the Members shall be as follows:

- 4.6.1 roll call;
- 4.6.2 proof of notice of meeting or waiver of notice;
- 4.6.3 reading of minutes or preceding meeting;
- 4.6.4 reports of Management Committee and officers;
- 4.6.5 election of members of the Management Committee, if any are to be elected;
- 4.6.6 unfinished business; and

4.6.7 new business.

4.7 Parliamentary Procedure. All questions of parliamentary procedure shall be decided in accordance with Roberts Rules of Order.

4.8 Majority of Owners. Except as otherwise provided here or in the Declaration, the majority of the total voting power present, in person or by proxy, shall prevail at all meetings.

4.9 Action Without Meeting. Any action other than election of Management Committee Members that may be taken at a meeting of the Members may be taken without a meeting if done in compliance with the provision of Section 18-6-26, et seq. of the Utah Nonprofit Corporation Act.

4.10 Rights of Mortgagees. Any Mortgagee through its designated representative shall be entitled to attend any Members' meeting but shall only be entitled to vote on the matters set forth in the Declaration.

5. SELECTION AND TERM OF OFFICE OF MANAGEMENT COMMITTEE.

5.1 Number. The Management Committee shall consist of three (3) members who need not be Members of the Association.

5.2 Term of Office.

5.2.1 On the date of the first annual meeting of Members, five Management Committee members shall be elected or appointed in accordance with these Bylaws and the Declaration. The initial term of office for these five Management Committee members shall be as follows: (i) two Management Committee Members, who shall serve for a term of three years; (ii) two Management Committee Members shall serve for a term of two years; (iii) one Management Committee Member shall serve for a term of one year. Thereafter, the term of office for a Management Committee Members shall be two years.

5.2.2 Pursuant to the authority given by Section 7.02 of the Declaration, Declarant shall appoint all of the Management Committee Members on the date of the first annual meeting of Members.

5.3 Election, Removal, Vacancies.

(a) When the death, or resignation, of a Management Committee Members occurs, his successor shall be selected by the remaining Members of the Management Committee and shall serve for the unexpired term of his predecessor, except that Declarant shall select a successor for Management Committee Members appointed by Declarant so long as Declarant has the power to appoint Management Committee Members pursuant to Section 7.02 of the Declaration.

(b) The Members by majority vote at any annual or special meeting may remove any Management Committee Member and may elect a new Management Committee Member to serve the unexpired term of any Management Committee Member so removed, provided, however, that unless the entire Management Committee is removed, an individual Management Committee Member shall not be removed if the number of votes against the resolution for his removal or not consenting to removal, would be sufficient to elect said Management Committee Member if voted cumulatively

at an election at which the same total number of votes were cast, and the same number of Management Committee Members were being elected at the time of the most recent election. Provided, further, a Management Committee Member who has been elected to office solely by the votes of Members other than the Declarant may be removed from office prior to the expiration of his term of office only by the vote of at least a simple majority of the voting power residing in the Members other than the Declarant. Provided further, that such rights of removal shall be subject to Declarant's rights of appointment as provided in Section 7.02 of the Declaration.

5.4 Compensation. A Management Committee Member shall not receive any compensation for any services he may render to the Association except upon the prior approval (i) of holders of a majority of the voting power of the Association and (ii) of holders of a majority of the voting power of the Association excluding Declarant. Any Management Committee Member may be reimbursed for actual out-of-pocket expenses incurred by him in the performance of his duties.

6. NOMINATION AND ELECTION OF MANAGEMENT COMMITTEE MEMBER.

6.1 Nomination. Nomination for election to the Management Committee shall be made by a nominating committee consisting of three (3) persons. Nominations also may be made from the floor at each regular meeting. The nominating committee shall consist of a chairman, who shall be a member of the Management Committee, and two (2) other persons who may be either Members of the Association or representatives of Declarant. Each Member of the nominating committee shall be appointed by the Management Committee to serve for a period of one (1) year and vacancies shall be filled by the Management Committee. The nominating committee shall make as many nominations for election to the Management Committee as it may, in its discretion, determine, but not less than the number of vacancies to be filled. Nominations may be made from among Members or non-Members.

6.2 Election. Election to the Management Committee shall be by secret ballot. At the election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to cast under provisions of the Bylaws of the Declaration (and subject to cumulative voting and to the provisions respecting specially elected Management Committee Members as are described therein). The candidates receiving the highest number of votes shall be deemed elected.

7. MEETINGS OF THE MANAGEMENT COMMITTEE.

7.1 Regular Meetings. Regular meetings of the Management Committee shall be held monthly, at such place and hour as may be fixed from time to time by resolution of the Management Committee. Should any such meeting fall on a legal holiday, then that meeting shall be held at the same time on the next day that is not a legal holiday. Notice of the time and place of any such meeting shall be posted at a prominent place or places within the Common Area, and communicated to Management Committee Members not less than four (4) days prior to the meeting; provided, however, that notice of a meeting need not be given to any Management Committee Member who has signed a waiver of notice or a written consent to holding of the meeting. Meetings shall be held at the Development if possible, and if not, as close thereto as possible.

7.2 Special Meetings. Special meetings of the Management Committee for any purpose or purposes shall be called at any time by written notice signed by any two Management Committee Members. Written notice of the time and place of special meetings and the nature of any special business to be considered shall be delivered

personally to all Management Committee Members or the Management Committee Member's residence, or sent to each Management Committee Member by letter or by telegram, charges prepaid, addressed to him at his address as it is shown upon the records of the Association. In case such notice is delivered personally or by telegraph, it shall be delivered at least seventy-two (72) hours prior to the time of holding the meeting; in case such notice is mailed, it shall be deposited in the United States mail, first-class, registered or certified at least four (4) days prior to the time of holding the meeting. Such mailing, telegraphing or delivery as above provided shall be due, legal and personal notice to such Management Committee Member. Additionally, such notice shall be posted at a prominent place within the Common Area at least seventy-two (72) hours prior to the meeting. However, notice of the special meeting need not be given to any Management Committee Member who signed a waiver of notice or a written consent to holding of the meeting.

7.3 Quorum. A majority of the number of Management Committee Members constitutes a quorum for the transaction of business at a meeting of the Management Committee. Every act or decision done or made by a majority of the Management Committee Members present at a duly held meeting at which a quorum is present shall be regarded as the act of the Management Committee.

7.4 Conduct of Meetings. Regular and special meetings of the Management Committee shall be open to all Members of the Association; provided, however, that Association Members who are not on the Management Committee may not participate in any deliberation or discussion unless expressly authorized by the vote of a majority of a quorum of the Management Committee. The Management Committee may, with the approval of a majority of a quorum of the Management Committee Members adjourn a meeting and reconvene in executive session to discuss and vote on personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar or otherwise sensitive nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

8. POWER AND DUTIES OF THE MANAGEMENT COMMITTEE.

8.1 Powers. The Management Committee has all powers conferred upon the Association that are specified here and in the Declaration except those powers expressly reserved to the Members.

8.2 Duties. It shall be the duty of the Management Committee:

8.2.1 to cause to be kept a complete record of all of its acts and doings and to present a statement of them to the Members at each annual meeting of the Members, or at any special meeting when such statement is requested in writing by Members representing one-fourth (1/4) of the Members;

8.2.2 to supervise all officers, agents, and employees of the Association, and to see that their duties are properly performed; and

8.2.3 to delegate its powers as provided in the Declaration.

8.2.4 To formulate and enforce any reasonable requirements pertaining to the use and maintenance of the units, the Common Areas and Facilities to prevent the unreasonable interference of the use of such areas among the respective unit owners. This duty and power shall include the assignment of parking facilities and other facilities within the Common Areas, as necessary.

8.3 Notice of Action by Written Consent.

8.3.1 The Management Committee may take actions without a meeting if all of the Management Committee Members consent in writing to the action to be taken.

8.3.2 If the Management Committee resolves by unanimous written consent to take action, an explanation of the action taken shall be posted at a prominent place or places within the Common Area within three days after the written consents of all directors have been obtained.

9. OFFICERS AND THEIR DUTIES.

9.1 Enumeration of Officers. The officers of the Association shall be a president and vice-president, who shall at all times be Members of the Management Committee a secretary/treasurer, and such other officers as the Management Committee may create from time to time by resolution.

9.2 Election of Officers. The election of officers shall take place at the organizational meeting of the Management Committee and at each meeting of the Management Committee that follows each annual meeting of the Members.

9.3 Term. The officers of this Association shall be elected annually by the Management Committee and each shall hold office for one year unless he resigns, is removed, or becomes otherwise disqualified to serve.

9.4 Special Appointments. The Management Committee may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Management Committee may from time to time determine.

9.5 Resignation and Removal. Any officer may be removed from office with or without cause by the Management Committee. Any officer may resign at any time by giving written notice to the Management Committee, the president, or the secretary. The resignation shall take effect on the date of receipt of such notice or at any later time specified in the notice, and, unless otherwise requested by the notice, the acceptance of the resignation shall not be necessary to make it effective.

9.6 Vacancies. A vacancy in any office may be filled by appointment by the Management Committee. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

9.7 Multiple Offices. The offices of the secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other officers except in the case of special offices created under Section 9.4 of these Bylaws.

9.8 Duties. The duties of the officers are as follows:

9.8.1 President. The president shall preside at all meetings of the Management Committee, shall see that orders and resolutions of the Management Committee are carried out, shall sign all leases, mortgages, deeds and other written instrument and shall cosign all checks and promissory notes.

9.8.2 Vice-President. The vice-president shall act in place of the president in case of his absence, or his inability or refusal to act, and shall exercise and discharge

such other duties as may be required of him by the Management Committee.

9.8.3 Secretary. The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Management Committee and of the Members, shall serve notices of meetings of the Management Committee and of the Members, shall keep appropriate current records showing the Members and their addresses, and shall perform such other duties as required by the Management Committee.

9.8.4 Treasurer. The Chief Financial Officer shall receive and deposit in appropriate bank accounts all money of the Association and shall disburse such funds as directed by resolution of the Management Committee, shall cosign all checks and promissory notes of the Association, shall keep proper books of account, shall cause the financial statement provided in Section 14 of the Bylaws for the Association for its fiscal year to be prepared, and distributed to each Member as required therein.

9.9 Fees and Compensation. Officers shall be entitled to receive reasonable reimbursement for costs as determined by the Management Committee. Nothing herein contained shall be construed or preclude any Officer from serving the Association in any other capacity as an officer, agent, employee or otherwise, and receiving compensation therefor. It is not contemplated that officers will receive compensation for performing their duties as officers, but in the event that the Management Committee decides to pay an officer compensation for his services, such officer, if he is a Member of the Management Committee shall not participate in fixing such compensation, and any compensation paid a Member of the Management Committee (regardless of the services rendered) must be approved by a vote (i) of holders of a majority of the voting power of Association, and (ii) of holders of a majority of the voting power of the Association excluding Declarant.

10. COMMITTEES.

Subject to any contrary provisions of the Declaration and these Bylaws, the Management Committee may appoint a nominating committee as provided in these Bylaws. In addition, the Management Committee may appoint such other committees as it deems appropriate to carry out its purposes.

11. ASSESSMENTS.

11.1 As more fully provided in the Declaration, each Member is obliged to pay to the Association annual and special assessments to be collected as described in that section, all of which is incorporated here by reference.

12. AMENDMENTS.

12.1 These Bylaws can be amended only with the vote or written consent of Members entitled to cast at least fifty-one percent (51%) of the voting power of the membership in the Association, and the vote or written consent of Members entitled to cast at least fifty-one percent (51%) of the voting power of the membership in the Association, excluding Declarant. So long as there is a Class B membership, any amendment to these Bylaws shall require the prior approval of the Veterans Administration.

12.2 Section 12.1 is not intended to limit the percentage of the voting power of the Association or of Members (other than the Declarant) necessary to amend a specific provision in these Bylaws when the specified provision requires a different percentage of

affirmative votes. If more than 51% of the voting power is required by any specific provision of the Bylaws, the percentage in the specific provision shall control.

12.3 The adoption of any amendment to these Bylaws must comply with the provisions of Utah Nonprofit Corporation Act.

13. GENERAL PROVISIONS.

13.1 Conflicting Provisions. In case of any conflict between any provision of the Declaration and these Bylaws, the provisions of the Declaration control.

13.2 Fiscal Year. The fiscal year of the Association shall be a calendar year unless a different fiscal year is adopted by the Members at a duly constituted meeting.

13.3 Proof of Membership. No person can exercise the rights of membership in the Association until satisfactory proof of membership has been furnished to the secretary. Such proof may consist of either a copy of a duly executed and acknowledged grant deed or title insurance policy showing said person to be the Owner of a Condominium entitling him to membership. The deed or policy is conclusive in the absence of a conflicting claim based on a later deed or policy.

13.4 Absentee Ballots. The Management Committee may make such provisions as it considers necessary or desirable for absentee ballots.

13.5 Consent to Waiver of Notice. The transactions at any meeting of the Management Committee, or Members however noticed, shall be valid as though they occurred at a meeting held after regular notice of a quorum is present, and if either before or after the meeting each absent Management Committee member or Member of the Association signs a written waiver of notice or a consent to the holding of such meeting or an approval of its correct minutes. All such waivers, consents, or approvals shall be filed with the records of the Management Committee and made a part of its minutes.

13.6 Reserves. Any amounts collected by or paid to the Association in excess of operational needs shall be set aside as reserves for future financial needs in the manner described in the Declaration and shall be deposited into insured interest-bearing accounts. These sums may include amounts collected by Declarant from Owners through the purchase escrows that represent capital contribution by Owners of the Association.

14. ANNUAL STATEMENT OF CERTAIN TRANSACTIONS AND INDEMNIFICATIONS.

14.1 Budgets and Financial Statements.

14.1.1 The following financial statements for the Association shall be regularly prepared and distributed to all Members regardless of the number of Members or the amount of assets of the Association:

(i) A budget for each fiscal year consisting of at least the following information shall be distributed not less than 45 days prior to the beginning of the fiscal year.

(a) Estimated revenue and expenses on an accrual basis.

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(b) The amount of the total cash reserves of the Association currently available for replacement or major repair of common facilities and for contingencies.

(c) An itemized estimate of the remaining life of, and the methods of funding to defray repair, replacement or additions to major components to the Common Areas and facilities for which the Association is responsible.

(d) A general statement setting forth the procedures used by the Management Committee in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the Common Areas and facilities for which the Association is responsible.

(ii) A balance sheet - as of an accounting date which is the last day of the month closest in time to six months from the date of closing of the first sale of an interest in the subdivision - and an operating statement for the period from the date of the first closing to the said accounting date, shall be distributed within 60 days after the accounting date. This operating statement shall include a schedule of assessments received and receivable identified by the number of the subdivision interest and the name of the entity assessed.

(iii) A report consisting of the following shall be distributed within 120 days after the closing of the fiscal year.

(a) A balance sheet as of the end of the fiscal year.

(b) An operating (income) statement for the fiscal year.

(c) A statement of changes in financial position for the fiscal year.

(d) For any fiscal year in which the gross income to the Association exceeds \$75,000.00, a copy of the review of the annual report prepared in accordance with the generally accepted accounting principles by a licensee of the Utah State Board of Accountancy.

14.1.2 If the report referred to in 14.1.1 (iii) above is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the statement was prepared without independent audit from the books and records of the Association.

14.1.3 In addition to financial statements, the governing body shall annually distribute within 60 days prior to the beginning of the fiscal year a statement of the Association's policies and practices in enforcing its remedies against Members for defaults in the payment of regular and special assessments including the recording and foreclosing of liens against Members' subdivision interests.

14.2 The Management Committee shall cause an annual statement of certain transactions and indemnifications to be sent to its Members not later than sixty (60) days after the close of the fiscal year of the Association. If the Association issues an annual report to all Members, this requirement shall be satisfied by including the required information, as set forth below, in said annual report. Such annual statement shall describe:

(a) the amount and circumstances of any indemnification or advances

aggregating to more than Ten Thousand Dollars (\$10,000.00) paid during the fiscal year of the Association to any officer of the Association; provided, that no such report need be made in the case of indemnification approved by the Members; and

(b) any "covered transaction," as defined herein, during the previous fiscal year of the Association involving (1) more than Forty Thousand Dollars (\$40,000.00) or, (2) which was one of a number of "covered transactions" in which the same "interested person," as defined herein, had a direct or indirect material financial interest, and which transactions in the aggregate involved more than Forty Thousand Dollars (\$40,000.00). The statement shall describe the names of any "interested persons" involved in such covered transactions, including such "interested person's" relationship to the Association, the nature of such person's interest in the transaction, and, where practicable, the amount of such interest; provided, that in the case of a transaction with a partnership of which the interested person is a partner, only the interest of the partnership need be stated. For the purposes of this Section, a "covered transaction" is a transaction in which the Association, or its parent subsidiary, was a party, and in which either of the following had a direct or indirect material financial interest:

(i) Any Management Committee Member or officer of the Association, or its parent or subsidiary; or

(ii) Any holder of more than ten percent (10%) of the voting power of the Association, or of its parent or subsidiary.

For purposes of this Section, any person described in either subparagraph (i) or (ii) above is an "interested person."

14.3 The Association shall provide each new Unit owner with a copy of the most current financial statements which have already been distributed to the previous Unit Owner in accordance with Section 14.1 of these Bylaws.

15. INSPECTION OF ASSOCIATION BOOKS AND RECORDS.

15.1 Any membership register, books of account and minutes of meetings of the Members, the Management Committee and committees of the Board of the Association shall be made available for inspection and copying by any Member of the Association, or his duly appointed representative, or any Mortgagee, at any reasonable time and for a purpose reasonably related to his interest as a Member, at the office of the Association or at such other place within the Development as the Management Committee prescribes.

15.2 The Management Committee shall establish by resolution reasonable rules with respect to:

15.2.1 Notice to be given to the custodian of the records of the Association by the Member, representative or Mortgagee desiring to make an inspection.

15.2.2 Hours and days of the week when inspection may be made.

15.2.3 Payment of the cost of reproducing copies of documents requested by a Member or by a representative or Mortgagee.

15.3 Every Management Committee Member of the Association shall have the absolute right at any reasonable time to inspect all books, records and documents of the

Association and the physical properties owned or controlled by the Association. The right of inspection by a Management Committee Member includes the right to make extracts and copies of documents.

26/99

Bill Bogenschultz
JEDD BOGENSCHULTZ

DEC 12 12 42 PM '86
Ray M. Beck
REC'D OF _____
\$ _____ DEP _____

KATIE L. DIXON
RECORDER
SALT LAKE COUNTY
UTAH

BOOK 5851 PAGE 3137

66 Exchange Place
SLC, ut. 84111

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