

*Updated  
for recording*

DECLARATION OF CONDOMINIUM AND BYLAWS OF  
MILLCREEK TERRACE CONDOMINIUMS

THIS DECLARATION is made and executed by Dennis L. Carlson and Arlene Carlson of Sandy, Salt Lake County, State of Utah ( hereinafter collectively referred to as the "Declarants") pursuant to the provisions of the Condominium Ownership Act, Title 57, Chapter 8 of the Utah Code Annotated, 1953 as amended, hereafter referred to as the "Act".

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1. RECITALS

- 1.1 Declarants Dennis L. Carlson and Arlene Carlson are the Trustees of the Dennis Lee Carlson Family Protection Trust which owns the real property and improvements ("Property") located at 4097 & 4099 Highland Drive Salt Lake City, Salt Lake County, Utah. The Property is more particularly described in Attachment A.
- 1.2 Declarants, by recording this Declaration, submit the Property to the provisions of the Act.
- 1.3 The covenants, conditions and restrictions contained in this Declaration and in the Appendices hereto shall be enforceable equitable servitude's and shall run with the land.
- 1.4 Recorded simultaneously herewith is a record of survey map ("Map") of the Property as required by the Act.
- 1.5 The administration of the Property shall be governed by this Declaration and the Bylaws.
- 1.6 All terms used in this Declaration shall have the same definition as the terms defined in the Act unless the Act allows for a variation of the terms and such variation is contained herein.
- 1.7 The Property shall be known as "Millcreek Terrace Condominiums".

2. DESCRIPTION OF THE LAND

- 2.1 The Land on which the buildings and improvements are ("Land") is particularly described on the Record of Survey Map.

3. DESCRIPTION OF THE BUILDINGS

- 3.1 The buildings consist of one (1) 2 1/2 - story Six plex building and one (1) 2 1/2 - story Three plex building. Total of Nine (9) units
- 3.2 The buildings are constructed of Brick and Siding. The location and description of each unit is more fully depicted on the Map. The buildings are supplied with electricity, water, natural gas and sewage services. Each unit is individually metered for Electricity and Natural gas.

4. DECIPTION OF UNITS

- 4.1 Each unit has access to the outside common areas and facilities. Attachment B hereto is a table setting forth the percentage of undivided interest in the common areas and facilities pertaining to said unit. The location of each unit is shown on the Map.
- 4.2 The boundary lines of each unit are the interior surfaces of perimeter walls surrounding each unit, lowermost floors, uppermost ceilings and interior surfaces of windows and doors. Each unit shall include both the portions of the building that are not common areas and facilities

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which such boundary lines and the space so encompass, excepting common areas and facilities. Without limitation, a unit shall include any finishing material applied or affixed to the interior surfaces of the interior walls, floors and ceilings, non-supporting interior walls, and all utility pipes, lines, systems, fixtures or appliances found within the boundary lines of the unit and servicing only that unit.

#### 5. DESCRIPTION OF COMMON AREAS AND FACILITIES

5.1 The common areas and facilities shall mean and include the land on which the buildings are located and all the portions of the Property not contained within any unit, including, but not by any way of limitation, the foundation, columns, girders, beams, supports, mainwalls, roofs, stairs, stairways and entrances and exits of the buildings; the grounds, parking areas and storage spaces; the areas used for storage, if any, of janitorial supplies and maintenance equipment and materials; installations of all central services, if any including power, light, gas, hot and cold water and any garbage collections; tanks, pumps, motors, fans, ducts and in general, all apparatuses and installations existing for common use; all driveways; any utility pipes, lines or systems, conduits and other accessories in utility installations to the outlets used therewith; all other existence, maintenance and safety or normally in common use, or which have been designated as common areas and facilities on the Map; and all repairs and replacements of any of the foregoing.

#### 6. DESCRIPTION OF LIMITED COMMON AREAS AND FACILITIES

6.1 Limited common areas and facilities shall mean and include those portions of the common areas and facilities reserved for the use and maintenance of certain units to the exclusion of other units. The limited common areas and facilities shall be any assigned parking spaces. The use and occupancy of designated limited common areas and facilities shall be reserved to its associated units of order; and each unit owner is hereby granted an irrevocable license to use and occupy said limited common areas and facilities, and, further, shall have the responsibility to maintain such limited common areas and facilities as hereinafter provided.

#### 7. UNIT OWNERSHIP

7.1 The percentage of undivided interest in the common areas and facilities appertaining to each unit and its owner for all purposes is set forth in Attachment B. Such percentages have been computed by taking as a basis the approximate square footage of the individual units in relation to the total approximate square footage of all units in the Property.

7.2 A unit owner shall have the exclusive ownership and use of his or her unit, subject to the provisions of this Declaration and Bylaws, and shall have a common right to share with other unit owners in the common areas and facilities of the Property.

#### 8. PURPOSE OF THE PROPERTY

8.1 The purpose of the Property is to provide residential housing for unit owners, their respective families, guests and servants.

8.2 The units in common areas and facilities shall be occupied and used as follows:

8.2.1 A unit owner shall not permit his or her unit to be occupied or used other than as a private residence for a single family without the express approval of the management committee or its designee.

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8.2.2 A unit owner shall not permit his or her parking space(s) to be used for any other purpose except to park a motor vehicle, motorcycle or other wheeled conveyance. No other storage shall be allowed in such parking spaces. Each unit owner, in addition to this assigned parking space, may park no more than one (1) vehicle on the common parking areas which are unassigned. No vehicles which are not operable shall be parked or stored in any unit or any common parking area. Motor homes, recreational vehicles or special purpose vehicles such as those used for business purposes shall not be parked at the Property excepts on off-street parking pads designated for such parking.

8.2.3 A unit owner shall not obstruct the common areas and facilities. A unit owner shall not place or store anything within the common areas and facilities without the prior written consent of the management committee or its designee.

8.2.4 A unit owner shall not make any changes or modifications, including but not limited to painting or decorating, to the exterior of any unit without the prior written consent of the management committee or its designee. No storage units, sheds, buildings, fences, or other structures shall be constructed by any unit owners.

8.2.5 Without the prior written consent of the management committee or its designee, a unit owner shall not permit anything to be done or kept in his or her unit or in the limited common areas and facilities pertinent to his or her unit that would result in an increase in the cost of insurance on the Property, or that would result in the cancellation of insurance with respect to all or any part of the Property, or that would be in violation of any governmental law, ordinance or regulation.

8.2.6 Without prior written consent of the management committee or its designee, a unit owner shall not permit any sign, pictures, banners, posters or other object of any kind to be displayed in the public view from his or her unit or from the limited common areas and facilities pertinent to his or her unit.

8.2.7 A unit owner shall not permit any animals of any kind to be raised, bred or kept in the limited common areas and facilities pertinent to his or her unit. A unit owner may keep small animals (dogs or cats) in his or her unit with the prior written consent of the management committee or its designee.

8.2.8 A unit owner shall not alter, construct or remove anything from the common areas and facilities except with the prior written consent of the management committee or its designee.

8.2.9 A unit owner shall not violate any of the rules or regulations for the use of the units, common areas and facilities, or limited common areas and facilities adopted by the management committee and furnished in writing to the unit owners.

## 9. ASSOCIATION OF UNIT OWNERS; MANAGEMENT COMMITTEE

9.1 The persons or entities who are at the time of reference the unit owners constitute a non-profit corporation, the characteristics and nature of which are determined by the Act, the Articles of Incorporation, this Declaration and the Bylaws of the Association. The name in which contracts shall be entered into, title shall be acquired, held, dealt with, disposed of or as agent for the units owners in the manner specified by the Act, this Declaration and/or the Bylaws is "The Millcreek Terrace Homeowners Association".

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- 9.2 The management and maintenance of the Property and the administration of the affairs of the Millcreek Terrace Homeowners ("Association") shall be conducted by a management committee consisting of three (3) natural persons. The management committee shall be elected as provided in the Bylaws of the Association.
- 9.3 The management committee shall have all the powers, duties and responsibilities as are now or may hereafter be provided by the Act, this Declaration and Bylaws, including but not limited to the following:
- 9.3.1 To make and enforce all rules and regulations covering the operation and maintenance of the Property.
  - 9.3.2 To engage the services of a manager or managing company, accountants, attorneys or other employees or agents and to pay said persons a reasonable compensation therefor.
  - 9.3.3 To operate, maintain, repair, improve and replace the common areas and facilities.
  - 9.3.4 To determine and pay common expenses.
  - 9.3.5 To assess and collect a proportionate share of common expenses from unit owners.
  - 9.3.6 To enter into contracts, deeds, leases and/or other written instruments or documents and to authorize their execution and delivery thereby by the appropriate officers.
  - 9.3.7 To open bank accounts on behalf of the Association and to designate the signatures therefor.
  - 9.3.8 To purchase, hold, sell, convey, mortgage or lease (if leasing is otherwise permitted under all other pertinent legal documents) any one or more units in the name of the Association or its designee.
  - 9.3.9 To bring, prosecute and settle litigation for itself, the Association and the Property, provided that it shall make no settlement which results in a liability against the management committee, the Association or the Property in excess of \$1000.00 without prior approval of a majority of unit owners.
  - 9.3.10 To obtain insurance for the Association with respect to the units in the common areas and facilities. In the event the Association has employees, the management committee may obtain worker's compensation insurance and other insurance required or advisable for employees.
  - 9.3.11 To repair or restore the Property following damage or destruction or a permanent taking by the power in the nature of eminent domain or by an action or deed in lieu of condemnation not resulting in the removal of the Property from the provisions of the Act.
  - 9.3.12 To own, purchase or lease, hold and sell or otherwise dispose of, on behalf of the unit owners, items of personal property necessary to or convenient to the management of the business affairs of the Association and the management committee and in the operation of the Property, including without limitation, furniture, fixtures, furnishings, maintenance equipment, appliances and office supplies.

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9.3.13 To keep adequate books and records.

9.3.14 To form a non-profit corporation to conduct the affairs of the Association.

9.3.15 To do all other acts necessary for the operation and maintenance of the Property, including the maintenance and repairs of any unit if the same is necessary to protect and preserve the Property.

9.4 The management committee may delegate to a manager or managing company all of the foregoing powers and responsibilities referred to in paragraph 9.3 above except the final determination of common expenses, budgets and assessments based thereon; the enforcement of rules and regulations; the power to enter into any contract involving more than \$2000.00 in any one fiscal year; the opening of bank accounts; the power to purchase, hold, sell, convey, mortgage or lease any units in the name of the Association; or the authority to bring, prosecute and settle litigation.

9.5 Members of the management committee, the officers and any assistant officers, agents and employees of the Association shall not be liable to the unit owners as a result of their activities as such for any mistake of judgment, negligence or otherwise, except for their own willful misconduct or bad faith: i) shall have no personal liability in contract to a unit owner or to any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Association in the capacity as such; ii) shall have no personal liability in tort to any unit owner or to any person or entity, direct or indirect, by virtue of acts performed by them, except for their own willful misconduct or bad faith, nor for acts performed for them in their capacity as such; and iii) shall have no personal liability arising out of the use, misuse or condition of the Property, which might in any way be assessed against or imputed to them as a result of or by virtue of their capacity as such.

9.6 The unit owner shall indemnify and hold harmless any person, his heirs and personal representatives from and against all personal liability and all expenses, including attorneys fees, incurred or imposed, or arising out of or in settlement of any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, instituted by any one or more unit owners, or any other persons entities, to which he or she shall be or shall be threatened to be made a party by reason of the fact that he or she is or was a member of the management committee or an officer or assistant officer, agent or employee of the Association, other than to the extent, if any, that such liability or expense shall be attributable to his or her willful misconduct or bad faith, provided that in the case of any settlement, the management committee shall have approved the settlement, which approval is not to be unreasonably withheld. Such right of indemnification shall not be deemed exclusive of any other rights to which such person may be entitled as a matter of law or agreement, vote of unit owners or the management committee or otherwise by the unit owners as contained herein and shall be paid by the management committee on behalf of the unit owners and shall constitute a common expense and shall be assessed and collectible as such.

9.7 Meetings of the unit owners shall be called and conducted as provided in the Bylaws of the Association. In the absence of a provision for the call of meetings, meetings of the unit owners shall be called by the management committee or by the owners of three (3) or more units. In the absence of a provision establishing a quorum, owners of at least three (3) units shall constitute a quorum. Each unit owner shall have one (1) vote at any meetings of the unit owners.

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9.8 Common expense assessments and other expenses and assessments of unit owners shall be collected monthly by the management committee. In the event assessments or expenses are not paid when due, a lien, in accordance with the Act, may be recorded and foreclosed. The management committee may also collect expenses and assessments as allowed by law.

9.9 In addition to any expenses or assessments, the management committee may assess and collect a late fee not exceeding five percent (5%) of the amount of the unpaid expenses or assessments not paid within fifteen (15) day of their due date. In the event legal fees and costs are incurred by the management committee or Association in collecting expenses or assessments, the delinquent unit owner shall pay all such legal fees and costs.

#### 10 AMENDMENTS

10.1 This Declaration can be amended by consent of the owners of three-fourths (3/4) or more of the units. The procedures for amending this Declaration shall be established by the Bylaws.

#### 11 AGENT FOR SERVICE OF PROCESS

11.1 The Agent for Service of Process shall be the person appointed as agent for this Association with the Utah Department of Commerce. In the absence of such an appointment, Dennis L. Carlson, 11380 Pepper Circle, Sandy, Utah 84092, shall be the Agent for Service of Process.

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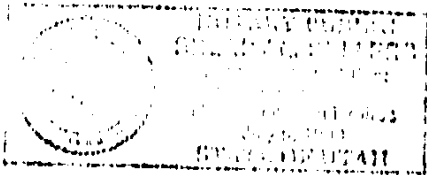
DATED this 6th day of November, 1996

Dennis L. Carlson  
DENNIS L. CARLSON, TRUSTEE

Arlene Carlson  
ARLENE CARLSON, TRUSTEE

STATE OF UTAH                    )  
  :                    ss.  
COUNTY OF SALT LAKE        )

PERSONALLY APPEARED before me this 6 day of November, 1996, Dennis L. Carlson and Arlene Carlson, Trustees, who being first duly sworn and acknowledged, did say that they executed the attached Declaration of Condominium and Bylaws of the Millcreek Terrace Condominiums on behalf of the Dennis Lee Carlson Family Protection Trust.



Dennis L. Sellars  
NOTARY PUBLIC residing at  
Salt Lake City, UTAH

My Commission Expires:  
7-5-99

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**ATTACHEMENT "A"**

**DESCRIPTION**

BEGINNING AT A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF HIGHLAND DRIVE, SAID POINT BEING NORTH 14 DEGREES 27'00" WEST ALONG SAID EASTERLY RIGHT-OF-WAY LINE 3.92 FEET FROM A SANDSTONE MONUMENT WHICH MARKED THE ORIGINAL EAST LINE OF HIGHLAND DRIVE AT STATION NO. 12 AND ON THE TOWNSHIP LINE BETWEEN SECTION 33, TOWNSHIP 1 SOUTH, RANGE 1 EAST AND SECTION 4, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN SAID SANDSTONE MONUMENT BEING LOCATED EAST 67.00 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN AND NORTH 77 DEGREES 11'35" EAST 33.01 FEET FROM AND EXISTING SALT COUNTY MONUMENT IN THE CENTER OF HIGHLAND DRIVE, AND RUNNING THENCE NORTH 14 DEGREES 27'00" WEST ALONG SAID EASTERLY LINE OF HIGHLAND DRIVE 95.380 FEET; THENCE EAST 172.500 FEET; THENCE SOUTH 14 DEGREES 27'00" EAST 41.281 FEET; THENCE SOUTH 13 DEGREES 01'51" EAST 53.977 FEET; THENCE NORTH 89 DEGREES 56'00" WEST 171.171 FEET TO THE POINT OF BEGINNING. CONTAINS .0365 ACRES.

11/22/96

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ATTACHMENT "B"

Percentage of Undivided Interest in Common Areas and Facilities

Millcreek Terrace Condominiums

<u>Building Number</u>	<u>Unit Number</u>	<u>Percentage of Interest</u>
4097	1A	10.1
4097	1B	10.1
4097	2A	10.1
4097	2E	10.1
4097	3A	10.1
4097	3B	10.1
4099	1	13.0
4099	2	13.2
4099	3	13.2
		<hr/>
		100.0 %

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11/22/96 08:39 AM 35.00  
NANCY WORKMAN  
RECORDER, SALT LAKE COUNTY, UTAH  
DENNIS CARLSON  
11380 S PEPPER CIR  
SANDY, UT 84092  
REC BY: B GRAY ,DEPUTY

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