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WHEN RECORDED RETURN TO:

Harry E. McCoy II, Esq.  
JONES, WALDO, HOLBROOK & McDONOUGH  
170 South Main Street, Suite 1500  
Salt Lake City, UT 84101

6746247  
09/23/97 11:50 AM 79.00  
NANCY WORKMAN  
RECORDER, SALT LAKE COUNTY, UTAH  
KIMBALL CONDOMINIUMS O.A.  
404 E 4500 S A-34  
SLC, UT 84107  
REC BY: R JORDAN DEPUTY - WI

6746247

SIXTH AMENDMENT TO THE SECOND AMENDED  
DECLARATION OF CONDOMINIUM  
OF THE  
KIMBALL CONDOMINIUMS, A CONDOMINIUM PROJECT  
AND  
FIFTH AMENDMENT TO AMENDED AND RESTATED USE AND  
OCCUPANCY AGREEMENT

THIS SIXTH AMENDMENT TO THE SECOND AMENDED  
DECLARATION OF CONDOMINIUM OF THE KIMBALL CONDOMINIUMS AND  
FIFTH AMENDMENT TO AMENDED AND RESTATED USE AND OCCUPANCY  
AGREEMENT, (collectively "Sixth Amendment"), is made and entered into this 25<sup>th</sup> day of  
March, 1996, by the Kimball Condominium Owners Association, a Utah non-profit  
corporation (the "Association").

WITNESSETH:

WHEREAS, pursuant to that certain Second Amended Declaration of  
Condominium of the Kimball Condominiums dated December 10, 1981, recorded on January  
12, 1982, as Entry No. 3638967, in Book 5330, beginning at Page 1324, official records of  
the Salt Lake County, Utah, Recorder (the "Second Amended Declaration"), Franklin  
Financial, a Utah corporation ("Franklin"), subjected that certain real property and  
improvements located at 150 North Main Street, in Salt Lake City, Salt Lake County, Utah,  
described as follows:

Beginning at the SW corner of Lot 4, Block 93, Plat A, Salt Lake City Survey, thence S 0°02'13" E, 37.25 feet; thence N 89°57'47" E, 298.0 feet; thence N 0°02'13" W 136.25 feet; thence S 89°57'47" W, 298.0 feet; thence S 0°02'13" E, 99.0 feet to the Point of Beginning, containing 0.932 Acres together with and subject to a 10-foot right-of-way 5 feet on each side and parallel to the north property line.

(the "Property") to the provisions of the Utah Condominium Ownership Act, Utah Code Ann. Sections 57-8-1 et seq. (the "Act"), and to the covenants, conditions and restrictions set forth in the Second Amended Declaration; and

WHEREAS, the Second Amended Declaration was amended by the following instruments recorded with the Salt Lake County, Utah, Recorder:

<u>Instrument</u>	<u>Date</u>	<u>Recording Information</u>
Amendment to the Second Amended Declaration	2/24/82	Recorded 3/5/82 Entry No. 3654014 Book 5347 Beginning at Page 1092
Second Amendment to the Second Amended Declaration	12/1/83	Recorded 12/5/83 Entry No. 3877150 Book 5512 Beginning at Page 1056
Third Amendment to the Second Amended Declaration	7/3/84	Recorded 8/31/84 Entry No. 3987819 Book 5586 Beginning at Page 2427
Fourth Amendment to the Second Amended Declaration	2/27/89	Recorded 3/14/89 Entry No. 4746199 Book 6110 Beginning at Page 355
Fifth Amendment to the Second Amended Declaration ("Fifth Amendment")	5/27/94	Recorded 6/3/94 Entry No. 5840857 Book 6954 Beginning at Page 2004

All of the foregoing amendments, including the Second Amended Declaration, are hereinafter sometimes referred to collectively as the "Second Amended Declaration, as Amended"; and

WHEREAS, pursuant to that certain Amended and Restated Use and Occupancy Agreement dated May 3, 1983, recorded on May 3, 1983, as Entry No. 3788556, in Book 5456, beginning at Page 560, official records of the Salt Lake County, Utah, Recorder (the "Amended Use and Occupancy Agreement"), Franklin subjected the Property to certain additional restrictive covenants; and

WHEREAS, the Amended Use and Occupancy Agreement was amended by the following instruments recorded with the Salt Lake County, Utah, Recorder:

<u>Instrument</u>	<u>Date</u>	<u>Recording Information</u>
First Amendment to Amended and Restated Use and Occupancy Agreement	11/30/83	Recorded 12/5/83 Entry No. 3877149 Book 5512 Beginning at Page 1048
Second Amendment to Amended and Restated Use and Occupancy Agreement	7/3/84	Recorded 8/31/84 Entry No. 3987818 Book 5586 Beginning at Page 2421
Third Amendment to Amended and Restated Use and Occupancy Agreement	2/27/89	Recorded 3/14/89 Entry No. 4746199 Book 6110 Page 355
Fourth Amendment to Amended and Restated Use and Occupancy Agreement	5/27/94	Recorded 6/3/94 Entry No. 5840857 Book 6954 Beginning at Page 2004

All of the foregoing amendments, including the Amended Use and Occupancy Agreement, are hereinafter sometimes referred to collectively as the "Amended Use and Occupancy Agreement, as Amended"; and

WHEREAS, subsequent to recordation of the Second Amended Declaration, as Amended, and the Amended Use and Occupancy Agreement, as Amended, all of Franklin's right, title and interest in and to the property and as "Declarant" under the Second Amended Declaration, as Amended, and the Amended Use and Occupancy Agreement, as Amended, was transferred, conveyed and assigned by mesne instruments of record to Kimball Associates, Inc., a Utah corporation ("Debtor"); and

WHEREAS, on July 9, 1986, Debtor filed a Petition For Relief under Title 11 of the United States Code, in the United States Bankruptcy Court for the District of Utah, Central Division, Captioned In Re Kimball Associates Inc., Bankruptcy No. 86C-02890 (the "Bankruptcy Case"); and

WHEREAS, pursuant to that certain Third Amended Plan of Reorganization filed in the Bankruptcy Case on November 18, 1988 (the "Plan"), by the Association and First Federal of Pittsburgh, which Plan was confirmed by order of the United States Bankruptcy Court for the District of Utah, Central Division, entered on December 22, 1988 (the "Order"), all of the right, title and interest of Debtor in and to the Property, and as "Declarant" under the Second Amended Declaration, as Amended, and the Amended Use and Occupancy Agreement, as Amended, was transferred, conveyed and assigned to the Association, subject to the rights of certain "Timeshare Purchasers" and other liabilities, as defined and described in the Plan; and

WHEREAS, pursuant to the Plan and the Order, the Association, on behalf of itself and as the attorney-in-fact for the Timeshare Purchasers, was authorized to and did amend the Second Amended Declaration, as previously amended, and the Amended Use and Occupancy Agreement, as previously amended; and

WHEREAS, pursuant to the Plan and the Order, the Association, on behalf of itself and as the attorney-in-fact for the Timeshare Purchasers, was authorized, to record and did record and, simultaneously with the recording of the Fourth Amendment, that certain Amended and Restated Survey Map of the Kimball Condominiums, with the Salt Lake County, Utah, Recorder (the "Amended Survey Map"), recorded March 14, 1989 as Entry No. 4746198 at Book 89-3, page 16, which superseded and amended in its entirety all previously recorded Record of Survey Maps with respect to the Property, recorded for the purpose of establishing an as-built survey of the project as it then existed, to eliminate the south building and condominium estates created under the original Survey Map (recorded October 20, 1978, as Entry No. 3185155, in Book 78-10 at page 297), to eliminate certain units that did not exist, and to amend the configuration of the existing units, all consistent with the terms of the Plan and the Order; and

WHEREAS, the Association, on behalf of itself and as the attorney-in-fact for the Timeshare Purchasers, was authorized, to record and did record, simultaneously with the recording of the Fifth Amendment, that certain Second Amended Supplemental Record of Survey Map for the Kimball Condominiums, with the Salt Lake County, Utah Recorder (the "Second Amended Survey Map"), recorded June 3, 1994 as Entry No. 5840856 at Book 94-6, Page 161, which superseded and amended in its entirety all previously-recorded Record of Survey Maps with respect to the Property, recorded for the purpose of establishing an as-built survey of the project as it then existed and to identify certain units as "units for possible reconfiguration", all consistent with the terms of the Plan and the Order; and

WHEREAS, the Association and its successors and assigns, desire and intend to hold, own, convey and lease the Property and the individual condominium Units on the Property, subject to the covenants, conditions and restrictions set forth in the Second

Amended Declaration, as Amended, the Amended Use and Occupancy Agreement, as Amended, the Third Amended Supplemental Record of Survey Map, and this Sixth Amendment.

NOW, THEREFORE, in consideration of the premises and pursuant to the Plan and the Order, as authorized by the Plan and Order, and pursuant to Article 1.1K. of the Fifth Amendment which amended Section 6.2 of the Second Amended Declaration and which amended the Second Amended Survey Map, by executing this Sixth Amendment and the Third Amended Supplemental Record of Survey Map of the Kimball Condominiums ("Third Amended Survey Map"), and pursuant to Section 57-8-13.4 of the Condominium Ownership Act, the Association as successor Declarant hereby reconfigures certain "Back Building Units" as referred to in the Fifth Amendment and as shown on the Second Amended Survey Map as "Units for Possible Reconfiguration."

#### ARTICLE I

Reconfiguration of Units. Pursuant to the provisions of Section 6.2 of the Second Amended Declaration (Article I, Section 1.1K. of the Fifth Amendment), the Association hereby declares that Units 325 and 333 are reconfigured to consist of Units 325, 329 and 333 in accordance with and as shown by the Third Amended Survey Map.

#### ARTICLE II

Designation of Completion of Units. Pursuant to the provisions of Section 6.2 of the Second Amended Declaration (Article I, Section 1.1K. of the Fifth Amendment), the Association hereby declares that the following Units have been completed: 325, 326, 329, 330, 333, 425, 426, 430 and 433. Such Units were identified as Back Building Units in Article I., Section 1.1(t) of the Fifth Amendment, which stated that such Units were so labeled on the Second Amended Survey Map as "Units for Possible Reconfiguration." Such

Units, by this Sixth Amendment, have been removed from the list of Uncompleted Units and Back Building Units.

### ARTICLE III

Undivided Ownership Interest in Common Areas and Facilities. Pursuant to the provisions of Section 6.3 of the Second Amended Declaration (Article I, Section 1.1L of the Fifth Amendment) which authorizes changes in Undivided Interest in the Common Areas, Section 9(e) of the Second Amended Declaration (Article I, Section 1.1L of the Fifth Amendment) is amended to read as follows:

- (e) Undivided Ownership Interest in Common Areas and Facilities: The percentage or fraction of undivided ownership interest in the Common Areas and Facilities appurtenant to each Unit and its Owner, for all purposes, including voting, is set forth on Exhibit "B" attached to this Sixth Amendment, or as set forth on any subsequent amendment duly and properly executed.

IN WITNESS WHEREOF, the undersigned has caused this Sixth Amendment to be executed by its duly authorized agent, pursuant to the Plan and Order, this \_\_\_\_ day of March, 1996.

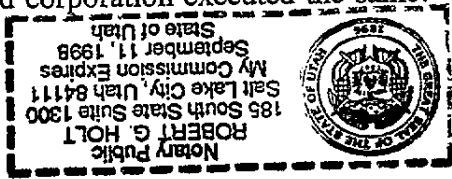
KIMBALL CONDOMINIUM OWNERS  
ASSOCIATION, a Utah non-profit  
corporation

By Teru B. Oberhausky  
\_\_\_\_\_, President

By Chad D. Jensen  
\_\_\_\_\_, Vice President

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

On the 6 day of May, 1996, personally appeared before me Fern B. Oberhansly, who, being by me duly sworn, did say that he is the President of Kimball Condominium Owners Association, a Utah non-profit corporation, that said instrument was signed in behalf of said corporation by authority of its bylaws or a resolution of its board of directors, and said Fern B. Oberhansly acknowledged to me that said corporation executed the same.



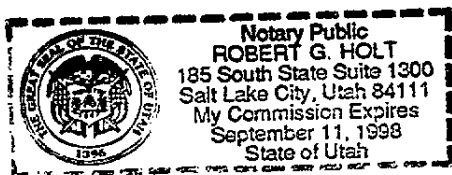
[Signature]  
NOTARY PUBLIC  
Residing at: Salt Lake City

My Commission Expires:

9-11-98

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

On the 3 day of May, 1996, personally appeared before me L. Chad Wilkinson, who, being by me duly sworn, did say that he is the Vice President of Kimball Condominium Owners Association, a Utah non-profit corporation, that said instrument was signed in behalf of said corporation by authority of its bylaws or a resolution of its board of directors, and said L. Chad Wilkinson acknowledged to me that said corporation executed the same.



[Signature]  
NOTARY PUBLIC  
Residing at: Salt Lake City

My Commission Expires:

9-11-98

COPY-  
CO. RECORDER

BK7764PG0858



EXHIBIT "B"

LIST OF UNIT NUMBERS AND  
UNDIVIDED OWNERSHIP INTERESTS IN COMMON AREAS  
AND FACILITIES APPURTENANT TO EACH UNIT

<u>Unit Designation</u>	<u>Unit Size Square Ft.</u>	<u>Undivided Interest in Common Areas and Facilities</u>
125	471	.021
129	473	.021
130	709	.025
133	242	.015
134	713	.025
137	272	.015
138	835	.029
139	555	.021
143	562	.021
144	553	.021
225	742	.029
226	706	.025
230	693	.025
233	747	.030
234	751	.025
237	284	.015
238	867	.029
239	566	.021
243	580	.021
244	572	.021
325	500	.021
326	749	.025
329	500	.021
330	751	.025
333	500	.021
334	771	.025
337	290	.015
338	886	.029
339	584	.021
343	597	.021
344	598	.021
347	300	.015
348	305	.015
425	773	.029
426	749	.025
430	751	.025
433	767	.029
434	766	.025
437	291	.015
438	889	.029
439	586	.021
443	600	.021
444	603	.021
447	299	.015
448	305	.015
	TOTAL	1.000

BK 7764 PG 0859

After recording, return to:

Attn: Mike Moss

Associated Title Company

560 S. 300 E.

Salt Lake City, UT 84111

## CONSENT TO DEDICATE

The undersigned trustee, Associated Title Company, of ICI Funding Corporation under that certain Assignment of Deed of Trust dated November 14, 1995, and recorded as Entry No. 6257807, in Book 7310, at Page 462, who has an equitable or legal interest in the described condominium with the following legal description:

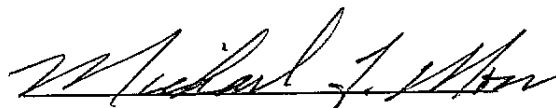
Unit 325, contained within the KIMBALL CONDOMINIUMS, A UTAH CONDOMINIUM PROJECT, as the same is identified in the Record of Survey Map recorded in SALT LAKE COUNTY, Utah as Entry No. 3185155, in Book 78-10, at Page 297, and in the Amended Record of Survey Map recorded in Salt Lake County, Utah as Entry No. 3335080, in Book 79-9, at Page 301, and in the Amended Record of Survey Map recorded in Salt Lake County, Utah as Entry No. 3638966, in Book 82-1, at Page 3, and in the second amended supplemental record of survey map recorded in Salt Lake County, Utah as Entry No. 5840856, in Book 94-6, at Page 161, and in the Declaration of Covenants, Conditions and Restrictions and Bylaws of the KIMBALL CONDOMINIUMS, recorded in SALT LAKE COUNTY, Utah, on October 20, 1978, as Entry No. 3185154, in Book 4758, at Page 303 AND ALL AMENDMENTS THERETO. Together with the undivided ownership interest in said Condominium Project's Common Areas and Facilities which is appurtenant to said Unit.

For Information Only, Property address:

150 North Main Street #325  
Salt Lake City, Utah 84103

does hereby consent to the dedication by the owner of the Third Amended record of survey map, recorded separately, but made a part herein.

WITNESS the hand of said Trustee's authorized signor this 27<sup>th</sup> day of August, 1997.

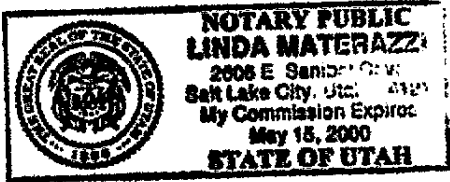


Michael T. Moss  
Corporate Counsel

**CERTIFICATE OF ACKNOWLEDGMENT**

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

On this 27 day of August, 1997, personally appeared before me, Michael T. Moss, who being duly sworn, did say that he is the authorized signor of Associated Title Company and that the foregoing instrument was signed in behalf of said corporation, and said person acknowledged to me that said corporation executed the same.



Linda Materazzi  
Notary  
Residing at: Salt Lake County, Utah  
My commission expires: May 15, 2000

the point of beginning, containing 0.02 acres, more or less.

**OWNERS DEDICATION**

Know all by these presents that we the undersigned owners of the described units being part of the "Kimball Condominiums" which are located on said tract of land, does hereby certify that they have caused a survey to be made and has had this Record of Survey Map consisting of five (5) sheets to be prepared; and does hereby consent to the recordation of the Record of Survey Map in accordance with the Utah Condominium Ownership Act and does hereby consent to the recordation of this THIRD AMENDED SUPPLEMENTAL RECORD OF SURVEY MAP FOR THE KIMBALL CONDOMINIUMS and has caused this instrument to be signed.

In witness whereof, we have hereunto set our hands this 17<sup>th</sup> day of May

19 96.

325 Byron P. Dixon  
Unit No. Byron P. Dixon

Unit No. Astrid Piereder

**ACKNOWLEDGMENT**

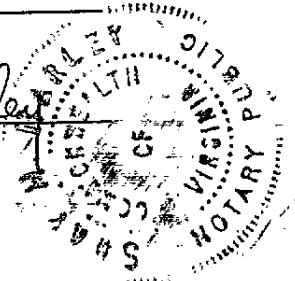
STATE OF VIRGINIA } :SS

COUNTY OF FARFAX

On the 17<sup>th</sup> day of MAY A.D., 19 96, personally appeared before me, the undersigned notary public, the signer (s) of the above Owner's Dedicating, one in number, who duly testified to me that HE, BYRON P. DIXON signed it freely and voluntarily and for the uses and purposes therein mentioned.

Stacy M. Faulkner

My Commission Expires: 12-31-96.



**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ } :SS

COUNTY OF \_\_\_\_\_

On the \_\_\_\_\_ day of \_\_\_\_\_ A.D., 19 \_\_\_\_, personally appeared before me, the undersigned notary public, the signer (s) of the above Owner's Dedicating, \_\_\_\_\_ in number, who duly testified to me that \_\_\_\_\_, \_\_\_\_\_ signed it freely and voluntarily and for the uses and purposes therein mentioned.

My Commission Expires: \_\_\_\_\_

CITY ATTORNEY  
APPROVED AS TO FORM THIS DAY OF \_\_\_\_\_, A. I.

BR 7764 PG0863