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**NORTHPOINT ESTATES
AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND
RESTRICTIONS, AND BY LAWS**

**NORTHPOINT *ESTATES HOMEOWNERS ASSOCIATION, INC.*
*a Utah non-profit corporation,***

DECLARANT

BK 8336 PG 5599

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AMENDED AND RESTATED DECLARATION OF
NORTHPOINT ESTATES CONDOMINIUMS

THIS AMENDED AND RESTATED DECLARATION OF NORTHPOINT ESTATES CONDOMINIUMS, hereinafter referred to as the "**Declarant**," is made and executed by the NORTHPOINT ESTATES HOMEOWNERS ASSOCIATION, INC., a Utah not-for-profit corporation, of 798 Northpoint Drive, Salt Lake City, Utah 84108, pursuant to the provisions of the original Declaration and the Utah Condominium Ownership Act Utah Code Annotated, Section 57-8-1, et. seq., (1963) as amended and supplemented, hereinafter referred to as the "**Act**."

1. Recitals

1.1. The original Declaration for Northpoint Estates Condominiums was recorded in the Office of the County Recorder of Salt Lake County, Utah on May 6, 1980, as Entry No. 3431442 in Book No. 5097, Page No. 1271 of the official records (the "**Declaration**").

1.2 This Declaration, upon execution, consent, approval and filing for record, shall supersede and replace the original declaration, as heretofore amended.

1.3. Management and control of the Northpoint Estates Condominiums Project (the "**Project**") have been transferred by the **Declarant** to the **Association**.

1.4. All of the **Units** in the **Project** have been sold by the **Declarant**.

1.5. The **Property** is subject to each of the covenants, conditions and restrictions contained in the original declaration, as amended, and in the appendices hereto, all of which it is intended shall continue to be enforceable equitable servitudes and shall run with the land.

1.6. The administration of the **Property** shall be governed by the **Bylaws** which are embodied in a separate instrument, a true copy of which is attached to and recorded with this **Declaration** as Appendix A, and incorporated herein by this reference.

1.7. Declarant has heretofore filed a Record of Survey Map (the "**Map**"), as required by the **Act**.

1.8 Article 10 of the **Declaration** provides that said documents may be amended by the affirmative vote of not less than 66.67% of the **Total Votes of the Association**.

1.9. The proposed Amended and Restated Declaration for Northpoint Estates Condominiums and Bylaws have been approved by the required **Total Votes of the Association**.

1.10. The **Association** desires, by filing this **Declaration** to re-submit the **Tract** and all Improvements now or hereafter constructed thereon to the provisions of the **Act**.

1.11. The **Project** shall continue to be known as the "NORTHPOINT ESTATES CONDOMINIUMS."

NOW, THEREFORE, for the reasons recited above and subject to the covenants, conditions and restrictions set forth below, the Association hereby makes the following Declaration:

2. Definitions

When used in this Declaration (including in that portion hereof entitled "Recitals"), each of the following terms shall have the meaning indicated. Terms used in this Declaration and the appended Bylaws shall have the same definitions and meanings as set forth in the **Act**, unless expressly modified hereby or the context clearly requires otherwise.

2.1 **Act** shall mean and refer to Utah Code Annotated, Sections 57-8-1 et seq. (1963) as amended and supplemented.

2.2. **Additional Charges** shall mean and refer cumulatively to all collection and administrative costs, including but not limited to all attorney's fees, late charges, default interest, service fees, lien filing and recordation fees, fines, and other expenditures incurred or charged by the **Association**.

2.3. **Articles of Incorporation** shall mean and refer to the **Articles of Incorporation** of the NORTHPOINT ESTATES HOMEOWNERS ASSOCIATION, INC. on file with the Utah Department of Commerce.

2.4. **Assessment** shall mean and refer to any amount imposed upon, levied against or charged a **Unit Owner** or **Resident** at the **Project**.

2.5. **Association** shall mean and refer to the of **Unit Owners** in the **Project** taken, or acting as a group in accordance with the **Declaration**.

2.6. **Business or Trade** shall mean and refer to any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether such activity is engaged in full or part-time, such activity is intended to or does generate a profit, or a license is required therefor.

2.7. **Building** shall mean and refer to any of the structures constructed in the **Project**.

2.8. **Bylaws** shall mean and refer to the document attached as Appendix A.

2.9. **Capital Improvement** shall mean and refer to all nonrecurring expenses (as opposed to day-to-day expenses) to repair, maintain or replace significant fixed assets in the **Project**, intended to restore, enhance, improve or ameliorate the utility, value or beauty of the Common Areas or Facilities, including without limitation the roofs, **Building** exteriors, roads, recreational amenities, parking facilities and landscaping.

2.10. **Committee** shall mean and refer to the Management Committee unless the context clearly requires otherwise.

2.11. **Common Areas** shall mean and refer to all real property in the **Project** owned in common by the **Unit Owners** including but not limited to the following items:

- a) The real property and interests in real property submitted hereby, including the entirety of the Tract and all Improvements constructed thereon, excluding the individual **Units**.
- b) All **Common Areas** and Facilities designated as such in the **Survey Map** or **Maps**;
- c) All **Limited Common Areas**;
- d) All utility installations and all equipment connected with or in any way related to the furnishing of utilities to the **Project** and intended for the common use of all **Unit Owners**, such as telephone, electricity, gas, water, and sewer;
- e) The **Project's** outdoor grounds, lighting, perimeter fences, landscaping, sidewalks, common parking spaces, and roadways;
- f) All portions of the **Project** not specifically included within the individual **Units**; and
- g) All other parts of the **Project** normally in common use or necessary or convenient to the common use, existence, maintenance, safety, operation or management of the **Property**.

2.12. **Common Expense** shall mean and refer to: (a) All sums lawfully assessed against the **Owners**; (b) Expenses of administration, maintenance, repair or replacement of the **Project**; (c) Expenses allocated by the **Association** among the **Owners**; (d) Expenses agreed upon as common expenses by the **Association**; and (e) Expenses declared common expenses by the **Declaration**.

2.13. **Community** shall mean and refer to the **Project**.

2.14. **Community Wide Standard** shall mean and refer to the standard of conduct, maintenance, or other activity generally prevailing in the **Community**, as determined by the Management Committee from time to time.

2.15. **Declarant** shall mean and refer to the NORTHPOINT ESTATES HOMEOWNERS ASSOCIATION, INC.

2.16. **Declaration** shall mean and refer to this AMENDED AND RESTATED DECLARATION FOR THE NORTHPOINT ESTATES CONDOMINIUM PROJECT.

2.17. **Eligible Insurer** shall mean and refer to an insurer or governmental guarantor of a **Mortgage** or trust deed who has requested notice in writing of certain matters from the **Association** in accordance with this **Declaration**.

2.18. **Eligible Mortgagee** shall mean and refer to a **Mortgagee**, beneficiary under a trust deed, or lender who has requested notice in writing of certain matters from the **Association** in accordance with this **Declaration**.

2.19. **Eligible Votes** shall mean and refer to those votes available to be cast on any issue before the **Association** or the **Committee**. A vote which is for any reason suspended is not an "eligible vote".

2.20. **Guest** shall mean and refer to an invitee, temporary visitor or any person whose presence within the **Project** is approved by or is at the request of a particular **Resident**.

2.21. **Improvement** shall mean and refer to every structure and all appurtenances thereto of every type and kind, including but not limited to, buildings, mailboxes, aerials, antennas, satellite dishes, roads, driveways, garages, parking areas, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreak, planting, planted trees and shrubs, poles, signs, exterior air conditioning units, swamp coolers, water softener fixtures or equipment, pumps, wells, tanks, reservoirs, pipes, lines, meters, towers, and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

2.22. **Land** shall mean and refer to all of the real property subject to this **Declaration**.

2.23. **Limited Common Area** shall mean and refer to those **Common Areas** designated in this **Declaration** or in the **Record of Survey Map** as reserved for the use of a certain **Unit Owner** to the exclusion of the other **Unit Owners**. Any storage area, doorsteps, porches, balconies, patios, private fenced or walled yard areas, or other Improvements intended to serve a single Unit, shall constitute **Limited Common Area** appertaining to that Unit exclusively, whether or not the Survey Map makes such a designation.

2.24. **Majority** shall mean and refer to those Eligible Votes of Owners or other groups as the context may indicate totaling more than fifty (50%) percent of the total eligible number.

2.25. **Management Committee** shall mean and refer to the **Committee** of Owners elected to manage, operate and control the **Project**, and regulate the **Association**.

2.26. **Manager** shall mean and refer to the person or entity appointed or hired by the **Association** to manage and operate the **Project** and/or assist in the administration of the **Association**.

2.27. **Map** shall mean and refer to the **Record of Survey Map** on file in the office of the County Recorder of Salt Lake County, Utah.

2.28. **Member** shall mean and refer to the owner of a **Unit**, unless the context clearly requires otherwise.

2.29. **Mortgage** shall mean and refer exclusively to either a first mortgage or first deed of trust on any **Unit**, but shall not mean or refer to a uniform real estate contract, land sales contract, an executory contract of sale or the like.

2.30. **Mortgagee** shall mean and refer exclusively to either a **Mortgagee** under a first **Mortgage** or a beneficiary under a first deed of trust on any **Unit**, but shall not mean or refer to a seller under a uniform real estate contract, land sales contract, an executory contract of sale or the like.

2.31. **Owner** shall mean and refer to the person who is the **Owner** of record of a fee or an undivided fee interest in a **Unit** (in the office of the County Recorder of Salt Lake County, Utah), excluding a **Mortgagee** or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

2.32. **Partition** shall mean and refer to the dividing of land or an interest in land into separate and distinct portions, by a document of conveyance, by joint tenants, tenants-in-common or the like so that they may hold them in severalty.

2.33. **Person** shall mean and refer to a natural person, corporation, partnership, trust, limited liability company, or other legal entity.

2.34. **Project Documents** shall mean and refer to the **Act, Declaration, Bylaws**, and the Administrative and/or House Rules and Regulations.

2.35. **Project** shall mean and refer to the NORTHPOINT ESTATES CONDOMINIUMS PROJECT.

2.36. **Property** shall mean and refer to all of the **Land** or real estate, Improvements and appurtenances submitted to the **Act** and this **Declaration**.

2.37. **Record of Survey Map** shall mean and refer to the "**Record of Survey Map** or Maps of the NORTHPOINT ESTATES CONDOMINIUM PROJECT" on file in the office of the County Recorder of Salt Lake County, Utah.

2.38. **Recreational, Oversized or Commercial Vehicle** shall mean and refer to any recreational, commercial or oversized car, van, truck, vehicle, motor home, tractor, trailer, golf cart, mobile home (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, or any other recreational, oversized or commercial transportation device of any kind.

2.39. **Resident** shall mean and refer to any person who resides in the **Project** for more than four (4) consecutive weeks or for more than eight (8) weeks in any calendar year. This includes but is not limited to all lessees, tenants and the family members, agents, representatives, or employees of **Owners**, tenants or lessees.

2.40. **Rules and Regulations** shall mean and refer to the House and/or Administrative **Rules and Regulations** adopted by the **Management Committee** from time to time.

2.41. **Single Family Residence** shall mean and refer to both the architectural style of a **Unit** and the nature of the residential uses and activities permitted therein.

2.42. **Subdivision** shall have the meaning given the term by the applicable Salt Lake County Building and Zoning Ordinances, including without limitation the dividing of a **Unit** into two or more **Units**.

2.43. **Survey Map** shall mean and refer to the **Record of Survey Map**.

2.44. **Total Votes of the Association** shall mean and refer to the votes of the forty-nine(49) **Unit** Owners.

2.45. **Unit** shall mean and refer to a separate physical part of the **Property** intended for independent use, including one or more rooms or spaces located in one or more floors or part or parts of floors in a **Building**. Mechanical equipment and appurtenances located within any one **Unit**, or located without said **Unit** but designated and designed to serve only that **Unit**, such as appliances, electrical receptacles and outlets, air conditioning compressors, furnaces, water heaters, apparatus, systems or equipment, fixtures and the like, shall be considered part of the **Unit**; so shall all decorated surfaces of interior walls, floors and ceilings, including but not limited to all paint, wallpaper, wall coverings, windows and window frames, doors and door frames,

weatherstripping, trim, carpeting, tile and linoleum. All pipes, wires, conduits, or other utility lines or installations constituting a part of the **Unit** or serving only the **Unit**, and any structural members, parts, components or any other property of any kind, including fixtures or appliances within any **Unit**, which are removable without jeopardizing the integrity, soundness, safety or usefulness of the remainder of the **Building** within which the **Unit** is located shall be deemed to be part of the **Unit**.

2.46. **Unit Number** shall mean and refer to the number, letter or combination thereof designating a particular **Unit**.

2.47. **Unit Owner** shall mean and refer to the **Owner** of a **Unit**.

2.48. **Votes Present at a Duly Called Meeting** shall mean and refer to the votes of those **Unit Owners** present, in person or by proxy, at any meeting of the **Association**.

3. Improvements

The **Project** consists of forty-nine (49) separate residential **Units**, a Clubhouse, Managers's **Unit**, Swimming pool, Tennis Court, and landscaping,, as more particularly described in the **Map** and in this **Declaration**.

4. Description of the Land

The **Land** on which the **Buildings** and other Improvements are located is in Salt Lake City, Salt Lake County, State of Utah, and is more particularly described as follows:

Beginning at the northeast corner of block 188, plat "D" Salt Lake City, Survey, said point also being N 0° 00' 24" W along the monument line 369.25 feet and N 89° 51'43" W 41.69 feet from the monument at the intersection of 13th Avenue and 'F' Street and running thence S 89° 51'43" E 130.00 feet, thence N 0° 00' 24" W 559.62 feet to a point on the southerly line of Lot 11, North Hills Plat "A", a recorded subdivision; thence N 80° 00' W along said southerly line 19.50 feet to a point of a 400.00 foot radius curve to the right; thence northwesterly along said southerly line and the arc of said curve 91.00 feet; thence N 89° 59'10" W 923.98 feet; thence S 0° 00' 24" E 180.00 feet; thence S 48° 30' W 260.00 feet; thence S 0° 00' 24" E 50.00 feet; thence S 89° 51' 43" E 50.00 feet to a point of a 75.00 foot radius curve to the right; thence southeasterly along the arc of said curve 117.62 feet to a point of tangency; thence S 0° 00' 24" E 109.00 feet; thence S 89° 51' 43" E 224.53 feet; thence N 0° 00' 24" W 100.00 feet; thence S 89° 51' 43" E 571.72 feet; thence S 60° 00' E 200.84 feet to the point of beginning.

5. Description of the Buildings

The **Project** consists of fifteen (15) **Buildings** containing forty-nine (49) **Units**, all located within the boundaries of the **Land** described in Paragraph 2 hereof, together with a Clubhouse,

Manager's **Unit**, (which shall be used as a **Single Family Residence** at all times), swimming pool, tennis court, and other "**Common Areas and Facilities**." Nine (9) of the **Buildings** house three (3) **Units** each, five (5) **Buildings** house four (4) **Units** each, and one (1) **Building** houses two (2) **Units**. All **Buildings** have concrete foundations and basements, are either two or three stories, include two-car garages for each **Unit** therein, and are of frame construction with a brick veneer exterior.

6. Description of Units

There are a variety of **Units** and **Models** at the **Project**. The location and the particular description of each **Unit** is more particularly described in the **Map**.

7. Percentages of Undivided Interest in Common Areas and Facilities

The appurtenant percentage of undivided ownership interest of each **Unit** in and to the **Common Areas and Facilities** is 1/49 of the total.

8. Purpose of the Property and Units/ Restrictions on Use

8.1. The purpose of the **Property** and the respective **Units** thereon is to provide residential housing, parking and recreational facilities for **Unit Owners**, their respective family members, tenants, guests, invitees and servants. No business, commercial or mixed uses are permitted unless allowed by Section 8.2.27 below.

8.2. The **Units** and **Common Areas** and facilities shall be occupied and used as follows: **Units** are to be occupied as **Single Family Residences** and a **Unit Owner** shall not permit his **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. Notwithstanding anything herein to the contrary, each **Unit Owner** shall use or occupy his **Unit** in a manner consistent with all applicable federal, state, county, city, and local laws, regulations and ordinances.

8.2.1. The driving, parking, standing and storing of motor vehicles in, on or about the **Project** shall be subject to the following use restrictions:

8.2.1.1. The parking rules and regulations adopted by the **Committee** from time to time;

8.2.1.2. Since the parking areas are not designed for Recreational, Commercial or Oversized Vehicles, such vehicles must be parked or stored outside the **Project**, except for loading or unloading purposes.

8.2.1.3. No motor vehicle or trailer, including but not limited to any car, automobile, truck, van, boat, trailer, motor home, camper, Recreational, Commercial or Oversized vehicle, or any other transportation device of any kind may be parked or stationed in such a manner

so as to create an obstacle or potentially dangerous situation, or along any street or road, or in front of any carport, walkway, driveway, **Building or Unit**, or in an unauthorized portion of the **Common Area**.

8.2.1.4. **Residents** may only park their motor vehicles within their garages or on their driveways.

8.2.1.5. **Residents** may not park their personal motor vehicles in guest parking areas, except under rare and pressing circumstances and then for only a very limited period of time. Parking in "fire lanes," or unauthorized areas and the roadway is strictly prohibited.

8.2.1.6. Visitors or **Guests** shall only park their motor vehicles in **Common Areas** designated for "**Guest**" or "**Visitor**" parking and driveways with permission of the **Unit Owner**.

8.2.1.7. No **Owners** or **Residents** shall disassemble, assemble, repair or restore any vehicle of any kind in, on or about any **Unit** or the **Common Area**, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.

8.2.1.8. No garage may be altered in such a manner that the number of motor vehicles which may reasonably be parked therein after the alteration is less than the number of motor vehicles that could have been reasonably parked in the garage as originally designed and constructed.

8.2.1.9. No motor vehicle shall be parked in such a manner as to inhibit or block access to a **Building, Unit**, garage, road, street, private way, common pathway, entrance, exit or parking area.

8.2.1.10. All parking areas shall be used solely for the parking and storage of motor vehicles used for personal transportation. Disabled or inoperable motor vehicles are not allowed, nor are vehicles which are not currently licensed or registered; such vehicles must be parked or stored off-site.

8.2.1.11. Motor vehicles parked or stored in violation hereof may, without further notice, be immobilized, impounded, towed and stored, at the **Owner's** sole risk and expense. By virtue of driving or bringing a motor vehicle onto the **Project**, the owner consents to save, hold harmless and indemnify the **Association, Management Committee** and members of the **Committee** from any loss, damage or claim caused by or arising out of the immobilization, impounding, towing or storing of a motor vehicle pursuant hereto.

8.2.2. A **Unit Owner** shall keep his patio, balcony or deck clean and sightly at all times and shall not use said patio and/or balcony for storage except with the express written approval

of the **Management Committee**. Patio furniture and a BBQ are allowed. The storage of household furniture, furnishings, appliances, exercise equipment, boxes, bicycles or unsightly items is prohibited.

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 except in the **Limited Common Area** and/or Facility specifically designated or approved for storage.

8.2.4. 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 **Unit** or in the **Common Areas** and Facilities appurtenant to his **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.

8.2.5. Without prior written consent of the **Management Committee** or its designee a **Unit Owner** shall not permit any sign of any kind to be displayed to the public view from his **Unit** or from the **Common Areas** and Facilities appurtenant to his **Unit**.

8.2.6. Antennas and satellite dishes shall be prohibited within the Property, except (a) antennas or satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter; (b) antennas or satellite dishes designed to receive video programming services via multipoint distribution services which are one meter or less in diameter or diagonal measurement; or (c) antennas or satellite dishes designed to receive television broadcast signals ("Permitted Devices") shall be permitted, provided that any such Permitted Device is located in the attic, crawl space, or other interior spaces of the **Unit**, or another location approved by the **Management Committee**.

The **Management Committee** may adopt rules establishing a preferred hierarchy of alternative locations and requiring screening of all Permitted Devices, so long as such rules do not unreasonably increase the cost of installation, maintenance, or use of the Permitted Device. Anything to the contrary notwithstanding, it is the intent of this document to at all times comply with the applicable federal, state and local laws, and regulations adopted by the FCC -- as they may be amended from time to time.

8.2.7. A **Unit Owner** shall not permit animals of any kind to be raised, bred or kept in his **Unit** or in the **Limited Common Areas** and facilities appurtenant to that **Unit**, except that the **Management Committee** may provide in its rules and regulations for the keeping of dogs, cats and other household pets, subject to the rules and regulations adopted by the **Management Committee**. Pets in the **Common Area** shall be kept in a cage or on a leash and under the control of a responsible person at all times. **Residents** shall clean up immediately after their pets. Pets may not create a nuisance. The following acts of a pet may constitute a nuisance: (1) it causes damage to the property of anyone other than its owner; (2) it causes unreasonable fouling of the air by odors; (3) it causes unsanitary conditions; (4) it defecates on any **Common Area** and the feces are not immediately cleaned up by the responsible party; (5) it barks, whines or howls, or makes other disturbing noises

in an excessive, continuous or untimely fashion; (6) it molests or harasses passersby by lunging at them or chasing passing vehicles; (7) it attacks people or other domestic animals; (8) it otherwise acts so as to bother, annoy or disturb other reasonable **Residents** or interferes with their right to the peaceful and quiet enjoyment of their property; or (9) by virtue of the number of pets maintained, they are offensive or dangerous to the health, welfare or safety of other **Residents**. The **Management Committee** may fine or cite pet owners for each violation of this subsection and/or any **Pet Rules and Regulations** adopted by the Committee from time to time.

8.2.8. A **Unit Owner** shall not permit any noxious or offensive activity or nuisance to be carried on in or around his **Unit** or in the **Common Areas** and Facilities appurtenant to his **Unit**. The term "nuisance" includes but is not limited to the following:

8.2.8.1. The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about his **Unit** or the **Common Areas**;

8.2.8.2. The storage of any item, property or thing that causes any **Unit** or the **Common Area** to appear to be in an unclean or untidy condition or that will be noxious to the senses;

8.2.8.3. The storage of any substance, thing or material upon any **Unit** or in the **Common Areas** that emits any foul, unpleasant or noxious odors, or that causes any noise or other condition that disturbs or might disturb the peace, quiet, safety, comfort, or serenity of the other **Residents** at the **Project**;

8.2.8.4. The creation or maintenance of any noxious or offensive condition or activity in or about any **Unit** or the **Common Areas**;

8.2.8.5. Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other **Residents**, their **Guests** or invitees, particularly if the police or sheriff must be called to restore order;

8.2.8.6. Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the **Community** by other **Residents**, their **Guests** or invitees;

8.2.8.7. Creating an unreasonable amount of noise in, on or about any **Unit** or the **Common Area**, especially after 10:00 p.m. and before 8:00 a.m.;

8.2.8.8. Allowing an unreasonable amount of traffic in, on or about any **Unit** or the **Common Area**, especially after 10:00 p.m. and before 8:00 a.m.; and

8.2.8.9. Gang or gang related activities.

8.2.9. A **Unit Owner** shall not alter, construct in or remove anything from the **Limited Common Areas** contiguous to his **Unit** except with the prior written consent of the **Management Committee** or its designee and in compliance with any laws or ordinances of Salt Lake City or Salt Lake County applicable thereto. Upon presentation to the **Management Committee** of proposed plans, receiving its written consent and within applicable laws, however, **Unit Owners** are specifically allowed to erect or construct appropriate walls or fences around the **Limited Common Areas** contiguous to their **Unit** and to improve, alter, decorate and/or landscape such **Limited Common Areas** in such a manner as will complement their **Unit** and others surrounding it.

8.2.10. No **Unit Owner**, **Guest**, employee, or other person shall either walk, run, or ride in any vehicle, or otherwise have access to the Western slope adjacent to the **Property** which is owned by Salt Lake City Corporation, due to its fragile nature, ecosystem and propensity for erosion.

8.2.11. No newspapers, aluminum foil, reflective film coatings, or any other similar materials may be used to cover the exterior windows of any residential structure on a **Unit**. Sun shades and tinted windows are allowed subject to the prior written consent of the **Management Committee**.

8.2.12. All doors, garage doors, windows and window panes in the **Project** shall be harmonious, and comparable in size, design, color and quality so as not to detract from uniformity in appearance and quality of construction.

8.2.13. Capturing, trapping or killing wildlife within the **Property** is prohibited, except (a) in circumstances posing an imminent threat to the safety of persons or pets using the **Property**; (b) when authorized and supervised by the **Management Committee** in accordance with a game management program.

8.2.14. Activities which materially disturb or destroy the vegetation, wildlife, or air quality within the **Property** or which result in unreasonable levels of sound or light pollution are prohibited.

8.2.15. Disposal of any oil, gas, or lubricants, and the storage or disposal of other hazardous materials (as may be determined in the **Management Committee's** reasonable discretion and as defined by applicable law) anywhere within the **Property** is prohibited.

8.2.16. Behavior which causes erosion or unreasonable amounts of dust or pollen is prohibited.

8.2.17. Nothing shall be done or kept in, on or about any **Unit** or in the **Common Areas** or **Limited Common Areas** which may result in the cancellation of the insurance on the **Property** or increase the rate of the insurance on the **Property**, over what the **Management Committee**, but for such activity, would pay.

8.2.18. Nothing shall be done or kept in, on or about any **Unit** or **Common Areas**, or any part thereof, which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

8.2.19. No damage to, or waste of, the **Common Areas** or **Limited Common Areas** shall be committed by any **Owner** or **Resident**, their **Guests** or invitees; and each **Owner** and **Resident** shall indemnify and hold the **Management Committee** and the other **Owners** in the **Project** harmless against all loss resulting from any such damage or waste caused by that **Owner** or **Resident**, their **Guests** or invitees.

8.2.20. The pursuit of hobbies or other activities which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the **Project**.

8.2.21. All rubbish, trash, refuse, waste, dust, debris and garbage shall be promptly and regularly removed from the **Unit** and shall not be allowed to accumulate thereon.

8.2.22. No **Unit** shall be Subdivided or **Partitioned**.

8.2.23. The use of firearms and incendiary devices, or the painting of graffiti, within the **Project** is prohibited. The term firearms includes but is not limited to all guns, pistols, handguns, rifles, automatic weapons, semi-automatic weapons, BB guns, pellet guns, sling shots, wrist-rockets, blow-dart guns, and other firearms of all types, regardless of size.

8.2.24. No **Owner** or **Resident** shall place upon any part of the **Project** any temporary structures including but not limited to tents, trailers, or sheds, without the prior written consent of the **Committee**.

8.2.25. No solar energy collector panels, other energy conservation equipment or attendant hardware shall be constructed or installed on the **Project** without the prior written consent of the **Committee**.

8.2.26. No commercial **Business or Trade** may be conducted in or from any **Unit** unless: a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the residence; b) the business activity conforms to all zoning requirements for the **Project**; c) the business activity does not involve door-to-door solicitation of **Residents** of the **Project**; and d) the business activity is consistent with the residential character of the **Project** and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other **Residents** of the **Project**, as may be determined in the sole discretion of the **Committee**. Notwithstanding the above, the leasing of a residence shall not be considered a **Business or Trade** within the meaning of this subsection.

9. Agent for Service of Process

The chairman of the **Association** shall be the registered agent for service of process. The office of the registered agent shall be 798 Northpoint Drive, Salt Lake City, Utah 84108.

10. Amendments

10.1. The **Declaration** may be amended by the affirmative vote of those holding at least 66.67% of the **Total Votes of the Association**. Any amendment so authorized shall be accomplished by recordation of an instrument executed by the **Management Committee**. In such instrument said **Committee** shall certify that the vote required hereby for amendment has been obtained.

11. Association of Unit Owners; Management Committee

11.1. The management and maintenance of the **Property** and the business affairs of the **Association** shall be managed by a Management Committee as provided in the **Bylaws**. The Management Committee shall be elected as provided in the **Bylaws**. All agreements and determinations with respect to the **Property** lawfully made or entered into by the **Management Committee** shall be binding upon all of the **Residents** and **Unit Owners**, and their successors and assigns.

11.2. The **Management Committee** shall have all the powers, duties and responsibilities which are now or may hereafter be provided by the **Act**, this **Declaration** and the **Bylaws**, including but not limited-to the following:

11.2.1. To make and enforce all house rules and administrative rules and regulations covering the operation and maintenance of the **Property**.

11.2.2. To engage the services of a **Manager**, accountants, attorneys or other employees or agents and to pay to said persons a reasonable compensation for their services; provided however, that any management agreement may be terminable by the **Management Committee** for cause upon thirty (30) days' written notice and that the term of any said management agreement may not exceed one (1) year, renewable by agreement for successive one (1) year periods.

11.2.3. To operate, maintain, repair, improve, and replace the **Common Areas** and **Facilities**, including the entering into of agreements for the use and maintenance of the **Common Areas** and **Facilities** and adjacent contiguous property for the benefit of the **Association**. The **Management Committee** shall, as part of the responsibilities outlined in this subparagraph, make arrangements for the removal of snow and ice, including applying sand and/or ice melting chemicals as needed, in an effort to keep the streets and roadways on the **Property** substantially clear and passable.

11.2.4. To determine and pay the **Common Expenses**,

11.2.5. To allocate, assess and collect proportionate share (1/49 share per **Unit**) of **Common Expenses** from the **Unit Owners**.

11.2.6. To enter into contracts, deeds, leases, and/or other written instruments or documents and to authorize the execution and delivery thereof by the appropriate officers.

11.2.7. To open bank accounts on behalf of the **Association** and to designate the signatures therefore.

11.2.8. To purchase, hold, sell, convey, mortgage, or lease any one or more **Units** in the name of the **Association** or its designee.

11.2.9. To bring, prosecute and settle litigation for itself, the **Association** and the **Property**, provided that it shall make no settlement which results in liability against the **Management Committee**, the **Association** or the **Property** in excess of \$15,000.00 (said amount being subject to amendment by approval of those holding 66.67% of those **Unit Owners** present in person or by proxy at a meeting duly called for this purpose) without prior approval by a **Majority** of the **Total Votes of the Association**..

11.2.10. To obtain insurance for the **Association** with respect to the **Units** and **Common Areas** and facilities as well as workmen's compensation insurance.

11.2.11. To repair or restore the **Property** following damage or destruction or a permanent taking by a 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**.

11.2.12. 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 in the management of the business and affairs of the **Association** and the **Management Committee** and in the operation of the **Property**.

11.2.13. To keep adequate books and records.

11.2.14. With the prior written consent of at least 66.67% of the **Total Votes of the Association**, the **Management Committee** may add real property to the **Project** and/or lease, rent or license portions of the **Common Area** (e.g., parking spaces, clubhouse, swimming pool, tennis court, etc.).

11.2.15. To do all other acts necessary for the operation and maintenance of the **Property**, including the maintenance and repair of any **Unit** if the same is necessary to protect or

preserve the Property.

11.3. The **Management Committee** shall initially employ professional or full-time management to manage the **Project**. In the event the **Management Committee** decides to terminate professional or full-time management and assume self-management of the **Project**, the prior written approval of each **Eligible Mortgagee** must be obtained.

11.4. The **Management Committee** may delegate to a **Manager** or managing company any of its foregoing powers, duties and responsibilities referred to above except: the final determination of **Common Expenses**, budgets and **Assessments** based thereon; the promulgation of house rules and administrative rules and regulations; the power to enter into any contract involving more than \$10,000.00, in any one fiscal year; the power to purchase, hold, sell, convey, mortgage, or lease any **Units** in the name of the **Association**; to bring, prosecute and settle litigation; or any other power, duty or responsibility nondelegable by law, which must be approved by the affirmative vote of at least 66.67% of those **Unit Owners** present in person or by proxy at a meeting of the **Association** duly called for that purpose.

11.5. **Members** of the **Management Committee**, the officers, and any assistant officer, agents and employees of the **Association**: a) 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; b) shall have no personal liability in contract to a **Unit Owner** or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the **Association** in their capacity as such; c) shall have no personal liability in tort to any **Unit Owner** or any person or entity direct or imputed by virtue of acts performed by them except for their own willful misconduct or bad faith or acts performed by them in their capacity as such; d) 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.

11.6. The **Unit Owners** shall indemnify and hold harmless any person, his heirs and personal representatives from and against all personal liability and all expenses, including attorney's 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 or entities to which he shall be or shall be threatened to be made a party by reason of the fact that he 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, such liability or expense shall be attributable to his willful misconduct or bad faith; provided, further that in the case of any settlement that the **Management Committee** shall have approved, the indemnification shall apply only when the **Management Committee** approves the settlement as being in the best interests of the **Association**. 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 or vote of **Unit Owners** or of the **Management Committee** or otherwise. The indemnification by the **Unit Owners** as contained herein shall be paid by the **Management Committee** on behalf of the **Unit Owners** and shall

constitute a **Common Expense** and shall be assessed and collectable as such.

12. Maintenance, Alteration and Improvement

The Property, including all **Units, Limited Common Area** and **Common Area** and Facilities shall be maintained in a usable, clean, functional, attractive and good condition, consistent with **Community Standards**, subject to the following conditions.

12.1. Area of Common Responsibility: The maintenance, alteration, replacement and repair of the **Common Areas** and Facilities, including **Limited Common Areas**, except as provided in Subparagraph 12.2, shall be the responsibility of the **Management Committee** and the cost thereof shall be a **Common Expense**. The removal of snow from all driveways and the entry way to one entry point per **Unit** shall be the responsibility of the **Management Committee**. The **Management Committee** shall also maintain, alter, replace and repair all outside parking areas, concrete walks and patios and all conduits, ducts, plumbing and wiring and other facilities for the furnishing of heat, gas, light, power, air conditioning, water and sewer that may be contained in portions of the **Units**, but which service part or parts of the **Property** other than the **Unit** in which they are contained. The **Management Committee** shall be responsible for cleaning and general maintenance of all general parking areas.

12.2. Area of Personal Responsibility: **Unit Owners** shall, at their own cost and expense, maintain, repair, replace, paint, wax, tile, paper or otherwise refinish and decorate the interior surfaces of the walls, ceilings and floors forming the boundaries of their **Units**, as well as all exterior windows, doors and weatherstripping (including all regular, sliding, and garage doors) located within the boundaries of or exclusively serving their **Unit**; provided, however, the **Association** shall be responsible for painting the outsides of all exterior windows and doors. All replacement windows and doors visible by the public must be approved by the **Management Committee** in writing in order to maintain uniformity of appearance and quality of construction. In addition each **Unit Owner** shall otherwise keep the interior of his **Unit** in good repair, in a clean and sanitary condition, and shall be responsible for the maintenance, repair or replacement of any cabinetry, plumbing fixtures, water heaters, heating equipment, air conditioner, lighting fixtures, refrigerator, dishwasher, disposal equipment, range, or other appliances or fixtures that may be in or are used for his **Unit**, even though not within its boundaries.

Unit Owners shall also have the responsibility to maintain and repair or replace all improvements to their **Units** and to their **Limited Common Areas** which have been added to the original base construction of the **Unit**. These improvements include all developer-constructed options as well as all **Unit Owners** additions subsequent to the original construction. Such improvements include, but are not limited to, the following:

- Stairs;
- Decks;
- Wooden, concrete, brick or cobblestone patios or walks;

- Privacy walls, gates and fences;
- Skylights.

Whether such an improvement and its maintenance, repair and replacement is an **Association** or **Unit Owner** responsibility will be determined solely by the **Committee** in accordance with the foregoing policy and the record of construction.

The **Unit Owners** shall keep clean and in a sanitary condition their storage areas, garages, patios and walkways.

12.3. The **Management Committee**, with the prior written consent of at least a **Majority** of the **Total Votes of the Association** may, from time to time, modify the Areas of Common and Personal Responsibility. Owners shall be given at least thirty (30) days prior written notice of any such changes.

12.4. The **Management Committee** or **Manager** shall have the irrevocable right to have access to each **Unit** from time to time during reasonable hours as may be necessary for the maintenance, repair, or replacement of any of the **Common Areas** and facilities or for making emergency repairs necessary to prevent damage to the **Common Areas** and facilities or to another **Unit** or **Units**, although there shall be no affirmative duty to do so. Each **Unit Owner** and **Resident** shall deposit a key to the **Unit** with the **Management Committee** or **Manager** to be used for emergency access to the **Unit**.

12.5. If the **Committee** determines that any **Owner** has failed or refused to discharge properly his obligation with regard to the maintenance, repair, or replacement of items for which he is responsible hereunder; or that the need for maintenance, repair, or replacement of the **Common Area** is caused through the willful or negligent act of any **Owner**, his family, **Guests**, lessees, or invitees, and it is not covered or paid by insurance, in whole or in part, then the **Association** may, but is not obligated to, provide such maintenance, repair or replacement at the **Owner's** sole cost and expense, subject to the following:

12.5.1 Such costs shall be added to and become a part of the **Assessment** to which such **Owner** is subject and shall become a lien against his **Unit**, as provided below.

12.5.2 Except in an emergency situation, the **Association** shall give the **Owner** written notice of the **Association's** intent to provide necessary maintenance, repair, or replacement at **Owner's** cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the **Committee**. The **Owner** shall have ten (10) days after receipt of notice within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days.

12.5.3 If the **Committee** determines that an emergency exists, then notice and the opportunity to cure the default is not necessary.

12.5.4 The **Association** may, but is not obligated to, provide any such maintenance, repair, or replacement in the manner described above.

12.5.5 The **Association** or its agents or employees shall have a right to enter upon or into any **Unit** or **Limited Common Area** as necessary to perform such work and shall not be liable for trespass for such entry or work.

12.6. All landscaping in the **Project** shall be maintained and cared for in a manner consistent with the standards of design and quality originally established by **Declarant** and in accordance with Community Standards. Specific written guidelines, standards, controls, and restrictions on landscaping may be adopted or amended by the **Committee** from time to time. All landscaping shall be maintained in a neat and orderly condition. Any weeds or diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced. All lawn areas shall be neatly mowed and trees, shrubs and bushes shall be neatly trimmed. All landscaping shall be tasteful, so as not to affect adversely the value or use of any other **Unit**, or to detract from the uniform design and appearance of the **Project**.

13. Insurance.

If reasonably available, the **Management Committee** shall at all times purchase, maintain in force, and pay the premiums for insurance on the **Common Areas** satisfying at least the following requirements:

13.1. Blanket property insurance using the standard "Special" or "All-Risk" Building form. Loss adjustment shall be based upon replacement cost. For purposes of this sub-section, the term "casualty insurance" shall not mean or refer to "earthquake" or other special risks not included in the standard condominium casualty policy. This additional coverage may be added by the **Committee** as it deems necessary in its best judgment and in its sole discretion.

13.2. If any part of the **Project's** Improvements are in a Special Flood Hazard Area -- which is designated as A, AE, AH, AO, A1-30, A-99, V, VE, or V1-30 on a Flood Insurance Rate **Map** (FIRM) -- the **Association** shall obtain a "master" or "blanket" policy of flood insurance and provide for the premiums to be paid as a **Common Expense**. The policy should cover any common element **Buildings** and any other common property. The **Unit Owner** may also be required to purchase an individual policy. The amount of flood insurance should be at least equal to the lesser of 100% of the insurable value of the facilities or the maximum coverage available under the appropriate National Flood Insurance Administration program.

13.3. A public liability policy covering the Common Area, the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents.

The public liability policy shall have at least a One Million (\$1,000,000) Dollar single person limit as respects bodily injury and property damage, a Two Million (\$2,000,000) Dollar limit per occurrence, if reasonably available, and a One Million (\$1,000,000) Dollar minimum property damage limit. If possible, the policy should be written on the comprehensive form and shall include non-owned and hired automobile liability protection.

13.4. A director's and officer's liability or errors and omissions policy, if reasonably available, with at least One Million (\$1,000,000) Dollars in coverage.

13.5. A fidelity bond in a reasonable amount to be determined by the **Committee** to cover all non-compensated officers as well as all employees for theft of **Association** funds, provided:

13.5.1. Where the **Committee** or the **Association** has delegated some or all of the responsibility for the handling of funds to a management agent, the bond shall also cover the management agent's officers, employees and agents handling or responsible for funds of, or administered on behalf of, the **Committee** or the **Association**.

13.5.2. The total amount of fidelity bond coverage shall be based upon the **Committee's** best business judgment, but shall not be less than the estimated maximum amount of funds, including reserve funds, in the custody of the **Committee**, the **Association**, or the management agent, as the case may be, at any given time during the term of each bond. Nevertheless, in no event may the amount of such bonds be less than a sum equal to three (3) months' aggregate **Assessments** on all **Units**, plus reserve funds.

13.5.3 Any bonds purchased shall meet the following additional requirements:

13.5.3.1. They shall name the **Committee** and the **Association** as obligee;

13.5.3.2. If the insurance contract or bond excludes coverage for damages caused by persons serving without compensation, and may use that exclusion as a defense or reason not to pay a claim, the insurance company shall, if possible, be required to waive that exclusion or defense;

13.5.3.3. The premiums on all bonds required herein for the **Committee** and the **Association** (except for premiums on fidelity bonds maintained by a management agent for its officers, employees and agents) shall be paid by the **Committee** or the **Association** as part of the **Common Expenses**; and

13.5.3.4 The bonds shall provide that they may not be canceled or substantially modified, including cancellation for nonpayment of premium, without at least ten days' prior written notice to the **Committee** and the **Association**, to any Insurance Trustee, and to each service of loans on behalf of any **Mortgagee** or FNMA.

13.5.4. Earthquake Insurance shall be required unless the purchase is affirmatively disapproved by a vote of at least Seventy five percent (75%) of the **Total Votes of the Association**.

13.5.5. The following provisions shall apply to all insurance coverage:

13.5.5.1. The name of the insured under each policy required to be maintained hereby shall be set forth therein substantially as follows: "**Association of Unit Owners** of the NORTHPOINT ESTATES CONDOMINIUMS, a Condominium Project, for the use and benefit of the individual Owners."

13.5.5.2. The **Association** may designate an authorized representative of the **Association**, including any Insurance Trustee with whom the **Association** has entered into an Insurance Trust Agreement, or any successor to such Trustee, for the use and benefit of the individual **Owners**.

13.5.5.3. In any policy covering the entire **Project**, each **Owner** and his **Mortgagee**, if any, shall be beneficiaries of the policy in an amount equal to the **Owner's** percentage of undivided ownership interest in the **Common Areas** and Facilities.

13.5.5.4. Evidence of insurance shall be issued to each **Owner** and **Mortgagee** upon request.

13.5.5.5. Each policy shall contain a standard mortgage clause or its equivalent and shall provide that the policy may not be canceled or substantially modified without at least ten (10) days prior written notice to the **Association** and to each **Mortgagee**.

13.5.5.6. Each policy shall contain a waiver of the right of a subrogation against **Owners** individually;

13.5.5.7. Each policy shall contain a provision that the insurance is not prejudiced by any act or neglect of any individual **Owner**; and

13.5.5.8. The deductible on a claim made against the **Association's** liability insurance policy shall be paid by the party who would be liable for the loss, damage, claim or repair in the absence of insurance, and in the event of multiple responsible parties, the loss shall be allocated in relation to the amount each party's responsibility bears to the total. Provided, however, if the loss is caused by an act of god or nature, or by an element beyond the control of the **Association**, then the **Owner** shall be responsible for and shall pay the deductible.

13.5.5.9. No **Owner** shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the **Association**, on behalf of all the **Owners** and their **Mortgagees**, may realize under any insurance policy which the **Association** may have in force on the **Property** at any particular time.

13.5.5.10. If there is duplicate coverage of a claim, the insurance coverage of an **Owner** shall be deemed to be primary and the insurance of the **Association** shall be secondary.

13.5.5.11. Each **Owner** further covenants and agrees that in the event of any partial loss, damage or destruction of his **Unit**, the **Owner** shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction.

13.5.5.12. Proceeds of insurance policies shall be disbursed to repair promptly and reasonably the damages. Any excess proceeds shall be paid and distributed to the **Owners** in proportion to their respective undivided interests in the **Common Areas**. Payment to any **Owner** whose **Unit** is the subject of a **Mortgage** shall be made jointly to such **Owner** and the interested **Mortgagee**.

13.5.5.13. Each policy shall also contain or provide those endorsements commonly purchased by other **Associations** in similarly situated first class subdivisions in the county, including but not limited to a guaranteed replacement cost endorsement under which the insurer agrees to replace the insurable property regardless of the cost and,; or a Replacement Cost Endorsement under which the insurer agrees to pay up to 100% of the Property's insurable replacement cost, but no more, and, if the policy includes a coinsurance clause, an Agreed Amount Endorsement which waives the requirement for coinsurance; an Inflation Guard Endorsement when it can be obtained, a Building Ordinance or Law Endorsement, if the enforcement of any building, zoning or land-use law will result in loss or damage, increased cost of repairs or reconstruction, or additional demolition and removal costs, and increased costs of reconstruction; Steam Boiler and Machinery Coverage Endorsement if the **Project** has any central heating or cooling. Each policy shall also contain or provide those endorsements commonly purchased by other condominium projects located in Salt Lake County, Utah if they are reasonably available.

13.5.5.14. A "B" or better general policyholder's rating or a "6" or better financial performance index rating in Best's Insurance Reports, an "A" or better general policyholder's rating and a financial size category of "VIII" or better in Best's Insurance Reports -- International Edition, an "A" or better rating in Demotech's Hazard Insurance Financial Stability Ratings, a "BBBq" qualified solvency ratio or a "BBB" or better claims-paying ability rating in Standard and Poor's Insurers Solvency Review, or a "BBB" or better claims-paying ability rating in Standard and Poor's International Confidential Rating Service -- if the carrier is issuing a master policy or an insurance policy for the common elements in the **Project**.

13.5.5.15. No such insurance policy shall be maintained where:

13.5.5.15.1. Under the term of the carrier's charter, **Bylaws**, or policy, contributions may be required from, or **Assessments** may be made against, an **Owner**, a borrower, a **Mortgagee**, the **Management Committee**, the **Association**, FNMA, or the designee of FNMA.

13.5.5.15.2. By the terms of the **Declaration**, **Bylaws**, or policy,

payments are contingent upon action by the carrier's board of directors, policyholder, or **Member**; or

13.5.5.15.3. The policy includes any limited clauses (other than insurance conditions) which could prevent the party entitled (including, without limitation, the **Committee**, the **Association**, an **Owner**, FNMA, or the borrowers) from collecting insurance proceeds.

13.5.5.16. The foregoing provisions shall not be construed to limit the power or authority of the **Association**, **Committee** or **Owners** to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the **Management Committee** or **Association** may deem appropriate from time to time.

14. **Destruction, Damage or Obsolescence; Association as Attorney-in-Fact**

14.1. This **Declaration** hereby makes mandatory the irrevocable appointment of an attorney-in-fact to deal with the **Property** upon its damage, destruction, obsolescence, condemnation or abandonment, for its repair, reconstruction or sale, and to maintain, repair and improve the **Units**, **Buildings**, **Common Area** and **Limited Common Areas**. Title to any **Unit** is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed or other instrument of conveyance from the **Declarant** or from any **Owner** or grantor shall constitute appointment of the attorney-in-fact herein provided. All of the **Owners** irrevocably constitute and appoint the **Association** by and through the **Management Committee**, their true and lawful attorney in their name, place and stead for the purpose of dealing with the **Property** upon its damage or destruction or obsolescence as is hereafter provided. As attorney-in-fact, the **Association**, by and through the **Management Committee**, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument with respect to the interests of a **Unit Owner** which are necessary and appropriate to exercise the powers herein granted. Repair and reconstruction of the Improvements as used in the succeeding subparagraphs means restoring the Improvements to substantially the same condition in which they existed prior to the damage, with each residence, the **Common Area** and **Limited Common Areas** having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the **Association** for the purpose of repair, restoration reconstruction or replacement unless the **Owners** and holders of first lien **Mortgages** or first lien deeds of trust agree not to rebuild in accordance with the provisions set forth hereinafter. In the event of substantial damage to or destruction of any **Unit** or any part of the common elements ("substantial" being seventy-five percent (75%) or more of the replacement cost thereof) the **Association** will give timely written notice of such damage or destruction to each holder of a first **Mortgage** or first deed of trust of the affected **Unit** or **Units**.

14.1.1 In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the Improvements, shall be applied by the **Association**, as attorney-in-fact, to such reconstruction and the Improvements shall be promptly repaired and reconstructed. The **Association** shall have full authority, right and power, as attorney-in-fact, to cause the repair and restoration of the Improvements. **Assessments** for **Common Expense** shall not be abated during the period of insurance adjustment and repair and reconstruction.

14.1.2. If the insurance proceeds are insufficient to repair and reconstruct the Improvements and if such damage is not more than seventy-five percent (75%) of the total replacement cost of all of the **Units** in this **Project**, not including **Land**, such damage or destruction shall be promptly repaired and reconstructed by the **Association**, as attorney-in-fact, using the proceeds of insurance and the proceeds of a special **Assessment** to be made against all of the **Owners** and their **Units**. Such deficiency **Assessment** shall be a **Common Expense** and made pro rata (1/49 of the whole per **Unit**) according to each **Owner's** interest in the general **Common Areas** and shall be due and payable within thirty (30) days after written notice thereof. The **Association** shall have full authority, right and power, as attorney-in-fact, to cause the repair, replacement or restoration of the Improvements using all of the insurance proceeds for such purpose, notwithstanding the failure of an **Owner** to pay the **Assessment**. The **Assessment** provided for herein shall be a debt of each **Owner** and a lien on his **Unit** and may be enforced and collected as is hereinafter provided. In addition thereto, the **Association**, as attorney-in-fact, shall have the absolute right and power to sell the **Unit** of any **Owner** refusing or failing to pay such deficiency **Assessment** within the time provided, and if not so paid, the **Association**, shall cause to be recorded a notice that the **Unit** of the delinquent **Owner** shall be sold by the **Association**, as attorney-in-fact, pursuant to the provisions of this paragraph. **Assessments** for **Common Expenses** shall not be abated during the period of insurance adjustment and repair and reconstruction. The delinquent **Owner** shall be required to pay to the **Association** the costs and expenses for filing the notices, interest at the then current treasury bill rate per annum on the amount of the **Assessment** and all reasonable attorney's fees. The proceeds derived from the sale of such **Unit** shall be used and disbursed by the **Association**, as attorney-in-fact, in the following order: (a) For payment of taxes and special **Assessment** liens in favor of any governmental assessing entity; (b) For payment of the balance of the lien of any first lien **Mortgage** on the **Unit**; (c) For payment of the customary expenses of sale; (d) For payment of unpaid **Common Expenses**, special **Assessments**, and all costs, expenses and fees incurred by the **Association**; (e) For payment of junior liens and encumbrances on the **Unit** in the order of and to the extent of their priority; and (f) The balance remaining, if any, shall be paid to the **Unit Owner**,

14.1.3. If the insurance proceeds are insufficient to repair and reconstruct the damaged Improvements, and if such damage is more than seventy-five percent (75%) of the total replacement cost of all of the **Units** in the **Project**, not including **Land**, and if the **Owners** holding seventy-five percent (75%), or more of the voting power do not voluntarily, within one hundred (100) days thereafter, make provisions for a plan of reconstruction, as to which plan each of the holders of first lien **Mortgages** or first lien deeds of trust of record shall be notified, then the **Association** shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the **Association** and with the written consent of each of the holders of recorded first lien **Mortgages** or first lien deeds of trust, unless otherwise provided by law, the entire remaining premises shall be sold by the **Association** pursuant to the provisions of this paragraph, as attorney-in-fact, for all of the **Owners**, free and clear of the provisions contained in this **Declaration**, the **Map** and the **Bylaws**. **Assessments** for **Common Expenses** shall not be abated during the period prior to sale. The insurance settlement proceeds shall be collected by the **Association**, and such proceeds shall be divided by the **Association** according to each **Owner's** interest in the general **Common Areas** (1/49th of the total per **Unit**), and such proceeds shall be paid into separate accounts, each such account

representing one of the **Units**. Each such account shall be in the name of the **Association**, and shall be further identified by the **Unit** designation and the name of the **Owner**. From each separate account the **Association**, as attorney-in-fact, shall forthwith use and disburse the total amount of each such account, without contribution from one account to another, toward the partial or full payment of the lien of any first lien **Mortgage** or first lien deed of trust against the **Unit** represented by such separate account. Thereafter, each such account shall be supplemented by the apportioned amount of the proceeds obtained from the sale of the entire Property. Such apportionment shall be based upon each **Unit Owner's** interest in the general **Common Area** (1/49th of the total per **Unit**). The total funds of each account shall be used and disbursed, without contribution from one account to another, by the **Association**, as attorney-in-fact, for the same purposes and in the same order as is provided in subparagraph 14.1.2 (I) through (vi) of this paragraph.

14.1.4. In the event of such damage or destruction under subparagraph 14.1.2. of this paragraph, and if a plan for reconstruction is adopted as therein provided, then all of the **Owners** shall be bound by the terms and other provisions of such plan. Any **Assessment** made in connection with such plan shall be a **Common Expense** and made pro rata according to each **Owner's** interest in the general common elements (1/49th of the total per **Unit**) and shall be due and payable as provided by the terms of such plan, but not sooner than thirty (30) days after written notice thereof. The **Association** shall have full authority, right and power, as attorney-in-fact, to cause the repair, replacement or restoration of Improvements using all or the insurance proceeds for such purpose notwithstanding the failure or an **Owner** to pay the **Assessment**. **Assessments for Common Expenses** shall not be abated during the period or insurance adjustment and repair and reconstruction. The **Assessment** provided for herein shall be a debt of each **Owner** and a lien on his **Unit** and may be enforced and collected as is hereinafter provided. In addition thereto, the **Association**, as attorney-in-fact, shall have the absolute right and power to sell the **Unit** of any **Owner** refusing or failing to pay such **Assessment** within the time provided, and if not so paid, the **Association** shall cause to be recorded a notice that the **Unit** or the delinquent **Owner** shall be sold by the **Association**. The delinquent **Owner** shall be required to pay to the **Association** the costs and expenses for filing the notices, interest at the then current treasury bill rate per annum on the amount of the **Assessment** and all reasonable attorney's fees. The proceeds derived from the sale of such **Unit** shall be used and disbursed by the **Association**, as attorney-in-fact, for the same purposes and in the same order as is provided in subparagraph 14.1.2 (a through f of this paragraph).

14.1.5. **Unit Owners** holding eighty percent (80%) or more, of the **Total Votes of the Association** may agree that the **Common Areas** are obsolete and adopt a plan for renewal and reconstruction, which plan shall have the approval of seventy-five percent (75%) or more, or the holders of first lien **Mortgages** or first lien deeds or trust or record at the time of the adoption of such plan. If a plan for renewal or reconstruction is adopted, notice of such plan shall be recorded, and the expense of renewal and reconstruction shall be payable by all of the **Owners** as a **Common Expense**, whether or not they have previously consented to the plan of renewal and reconstruction. The **Association**, as attorney-in-fact, shall have the absolute right and power to sell the **Unit** of any **Owner** refusing or failing to pay such **Assessment** within the time provided, and if not so paid, the **Association** shall cause to be recorded a notice that the **Unit** of the delinquent **Owner** shall be sold

by the **Association**. The delinquent **Owner** shall be required to pay to the **Association** the costs and expenses for filing the notices, interest at the then current treasury bill rate per annum on the amount of the **Assessment** and all reasonable attorney's fees. The proceeds derived from the sale of such **Unit** shall be used and disbursed by the **Association**, as attorney-in-fact, for the same purposes and in the same order as is provided in subparagraph 14.1.2 (a through f of this paragraph).

14.1.6. The **Owners** holding eighty percent (80%) or more, of the voting power may agree that the **Units** are obsolete or that the **Project** should otherwise be abandoned or terminated and that the same should be sold. Such plan or agreement must have the written unanimous approval of every holder of a first lien **Mortgage** or first lien deed of trust of record. In such instance, the **Management Committee** shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice, the entire premises shall be sold by the **Association**, as attorney-in-fact for all of the **Owners**, free and clear of the provisions contained in this **Declaration**, the **Map** and the **Bylaws**. The sales proceeds shall be apportioned among the **Owners** on the basis of each **Owner's** interest in the **Common Areas** (1/49th of the whole per **Unit**) and such apportioned proceeds shall be paid into separate accounts, each such account representing one **Unit**. Each such account shall be in the name of the **Association**, and shall be further identified by the **Unit** designation and the name of the **Owner**. From each separate account the **Association**, as attorney-in-fact, shall use and disburse the total amount of each such account, without contribution from one account to another, for the same purposes and in the same order as it provided in subparagraph 14.1.2 (a through f of this paragraph). This subparagraph shall not be amended without the consent of all **Unit Owners** and all record **Owners of Mortgages on Units**.

15. Eminent Domain

15.1. Whenever any proceeding is instituted that could result in the temporary or permanent taking, injury or destruction of all or part of the **Common Areas** and facilities or one or more **Units** or portions thereof by the exercise of the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation (all of which shall be defined as "eminent domain"), the **Management Committee**, each **Unit Owner**, and every holder of all liens affecting the **Units**, shall be entitled to timely written notice thereof and the **Management Committee** shall and the **Unit Owners** at their respective expense may participate in the proceedings incident thereto.

15.2. The procedures governing the allocation of awards by reason of eminent domain shall be determined in accordance with Section 57-8-32.5 of the **Act**; provided, that the priority of any **Mortgagee's** lien shall remain undisturbed.

16. Mortgage Protection

16.1. The **Management Committee** shall maintain a roster of **Unit Owners**, which shall include the mailing addresses of **Unit Owners** as well as the name and address of each **Mortgagee** of a **Unit**, which shall be supplied to the **Management Committee** by the **Unit Owner** or **Mortgagee**.

16.2. Any **Eligible Mortgagee** is entitled to written notification from the **Management Committee** of any default by the mortgagor of such **Unit** in the performance of such mortgagor's obligation under the **Declaration** which is not cured within thirty (30) days.

16.3. Any holder of a **Mortgage** shall have the right to examine the books and records of the **Association** during normal business hours and, upon request: a) shall be entitled to receive copies of annual reports, financial statements and other financial data for the preceding fiscal year; and b) shall be entitled to receive written notice of all meetings of the **Association** and may designate a representative to attend all such meetings.

16.4. A **Mortgagee** of any **Unit** who comes into possession of the **Unit** pursuant to the remedies provided in the **Mortgage**, foreclosure of **Mortgage**, or deed (or assignment) in lieu of foreclosure, shall take the **Property** free of any claims or unpaid **Assessments** or charges against the mortgaged **Unit** which accrued prior to the time such **Mortgagee** comes into the possession of the **Unit** (except for claims for a pro rata share of such **Assessments** or charges resulting from a pro rata reallocation of such **Assessments** or charges to all **Units**, including the mortgaged **Unit**.)

16.5. The liens created pursuant to this **Declaration** or the **Bylaws** upon any **Unit** shall be subject and subordinate to, and shall not affect the rights of the holder of a first **Mortgage** or equivalent security interest upon a **Unit**, recorded prior to the date such liens arose and which is made in good faith and for value, provided that after the foreclosure of any such **Mortgage** or equivalent interest, any liens for **Assessments** or other costs created pursuant to this **Declaration** or the **Bylaws** after the date of such sale shall have the same effect and be enforced in the same manner against the Purchaser at such sale as would be the case for any other **Unit Owner**.

16.6. No **Unit** may be **Partitioned** or Subdivided without the prior written approval of the **Mortgagee** of the affected **Unit**.

16.7. No amendment to this paragraph shall affect the rights of the holder of a **Mortgage** recorded prior to the recordation of any such amendment who does not join in the execution thereof.

17. Leasing of Units

17.1. All leases of **Units** shall be in writing and shall provide that (a) the terms of the lease; and lessees, shall be subject in all respects to the provisions of the **Project Documents** and (b) failure of the lessee to comply with the terms of said documents shall be deemed to be a material default under the lease. Prior to execution, all leases must be submitted to the **Management Committee** for its approval of such provision, approval being indicated by authorized signature on the lease document. The **Management Committee** may require that **Owners** use the **Association's** lease form.

17.2. Units shall be leased only for use as single family residences and shall not be leased for short term, transient, hotel, seasonal, vacation or corporate purposes -- which shall be deemed to be any lease the initial term of which is less than six (6) months unless otherwise approved by the **Management Committee**.

17.3 In order for the **Association** to protect the equity of the individual property owners, preserve the character of the **Project** as a homogeneous residential community of predominantly owner-occupied **Units**, prevent the **Project** from assuming the character of an apartment, renter-occupied complex; and comply with the eligibility, requirements for financing in the secondary mortgage market insofar as such criteria provide that the **Project** must be substantially owner-occupied, the **Management Committee** shall be empowered to prohibit the leasing of more than twenty percent (20%) of the **Units**, subject to hardship exceptions and grandfathered rights of those **Owners** currently leasing their **Units**.

17.4. No **Unit Owner** may lease individual rooms or spaces to separate **Persons** and shall lease not less than his entire **Unit**.

18. Encroachments

18.1. None of the rights and obligations of any **Unit Owner** created by this **Declaration**, the **Bylaws** or by any deed conveying a **Unit** shall be affected in any way by an encroachment: a) by any portion of the **Common Areas** and facilities upon any **Unit**; b) by any **Unit** upon another **Unit** or upon the **Common Area** due to settling or shifting of a **Building** or other structure, including the rebuilding of a **Building** or other structure after fire or other casualty or an eminent domain taking or delivery of a deed in lieu of condemnation, unless there occurs an encroachment that results from the willful or negligent act or omission of the **Unit Owner** of the encroaching **Unit**, or of the **Owners** of the **Units** to which the use of the encroaching **Limited Common Areas** and facilities is appurtenant, or of the **Management Committee** in the event of an encroachment by any portion of the **Common Areas** and facilities other than the **Limited Common Areas** and facilities.

18.2. There are hereby created valid easements for the maintenance of any encroachments permitted by this paragraph 18 of this **Declaration** so long as such encroachments exist.

19. Conveyance and Easements

19.1. Every deed, lease, **Mortgage**, instrument of conveyance or sale, or other instrument affecting title to a **Unit** may describe the **Unit** by its identity number and letter designation set forth in the **Map** with appropriate reference to the **Map** and this **Declaration**, as each shall appear on the records of the County Recorder of Salt Lake County, State of Utah. Every such description shall be deemed good and sufficient for all purposes and shall be deemed to convey, transfer, encumber or otherwise affect the **Unit Owner's** corresponding percentage of undivided ownership in the **Common Areas** and facilities, as a tenant-in-common, (1/49th of the total per **Unit**), also

incorporating all rights and limitations incident to ownership described in this **Declaration** and the **Bylaws**, even though the same are not exactly mentioned or described. A description shall be deemed sufficient if it appears in substantially the following form:

Unit No. _____ as shown in the **Record of Survey Map** for Northpoint Estates Condominiums (as Amended) appearing in the Records of the County Recorder of Salt Lake County, State of Utah, in Book No. _____, at Page No. _____ of Plats, and as defined and described in the **Declaration** for Northpoint Estates Condominiums (as Amended), recorded the ___ day of _____ 19 ___, as Entry No. _____, in Book No. _____, at Page No. _____, together with a 1/49th undivided ownership interest in the **Common Areas** and facilities appurtenant hereto.

19.2. Every deed, lease, **Mortgage** or other similar instrument shall be deemed to:

19.2.1. Except and reserve with respect to a **Unit**: a) any portion of the **Common Areas** and facilities lying within said **Unit**; b) easements through said **Unit**, appurtenant to the **Common Areas** and facilities and all other **Units**, for support and repair of the **Common Areas** and facilities and all other **Units**; and c) easements, appurtenant to the **Common Areas** and facilities, for encroachment upon the air space of said **Unit** by those portions of the **Common Areas** and facilities located within said **Unit**.

19.2.2. Include with respect to a **Unit** nonexclusive easements for ingress and support of said **Unit** through the **Common Areas** and Facilities, for the repair of said **Unit** through all other **Units** and through the **Common Areas** and facilities as indicated in the **Map**.

19.2.3. Except and reserve, with respect to the undivided percentage interest in the **Common Areas** and Facilities, nonexclusive easements appurtenant to all **Units** for ingress, egress, support and repair and exclusive easements appurtenant to' each **Unit** for the use of the balcony, patio, and any storage area as set forth in the **Map**.

19.2.4. Include, with respect to the undivided percentage interest in the **Common Areas** and Facilities, nonexclusive easements through each **Unit** for support and repair of the **Common Areas** and Facilities and nonexclusive easements for encroachments upon the air space of all of the **Units** by and for the portions of the **Common Areas** and facilities lying within the **Units**.

20. Combination of Units

20.1. An **Owner** of two or more adjoining **Units** or **Owners** of adjoining **Units** previously combined, shall have the right, upon the approval of the **Management Committee** and the **Mortgagees** of said **Units**, and in compliance with all applicable zoning or other ordinances, to combine or separate one or more adjoining **Units** or portions thereof and to alter or amend the

Declaration and Map to reflect such combination or separation.

20.2. Such amendments may be accomplished by the **Unit Owner** recording an amendment or amendments to this **Declaration**, together with an amended map or maps containing the same information with respect to the altered Units as required in the initial **Declaration and Map** with respect to the initial **Units**. All costs and expenses required in such amendments shall be borne by the **Unit Owner** desiring such combination or separation.

20.3. All such amendments to the **Declaration and Map** must be approved by attorneys employed by the **Management Committee** to insure the continuing legality of the **Declaration** and the **Map**. The cost of such review by the attorneys shall be borne by the person wishing to combine or separate the **Units**.

20.4. Any amendment of the **Declaration** or **Map** pursuant to this paragraph 20 shall reflect the changes occasioned by the alteration. Such changes shall include a change in the percentage of undivided interest in the **Common Areas** and facilities which are appurtenant to the **Units** involved in the alterations. The remaining combined **Unit**, if two or more **Units** are totally combined, will acquire the total of the percentage of undivided interest in the **Common Areas** and facilities appurtenant to said **Units**. If a portion of one **Unit** is combined with another, the resulting **Units** shall acquire a proportionate percentage of the total undivided interest in the **Common Areas** and facilities of the **Units** involved in the combination on the basis of area remaining in the respective, combined **Units**. If a previously combined **Unit** is separated into two **Units** the resulting **Units** shall acquire a proportionate percentage of the total undivided interest in the **Common Areas** and facilities of the original combined **Unit** on the basis of floor area in the two remaining **Units**. The percentage of undivided interest in the **Common Areas** and facilities appurtenant to all other **Units** shall not be changed with respect to any combination or separation. All such amendments must, in all instances, be consented to by the **Management Committee** and also all other persons holding interest in the **Units** affected. The consent of other **Unit Owners** need not be obtained to make such amendments or alterations valid, providing the percentages of undivided interest in the **Common Areas** and facilities of the other **Unit Owners** remain unchanged.

21. Assessments

21.1. Each **Owner** shall pay an equal portion (1/49th of the total) of the **Common Expenses**.

21.1.1. The **Assessments** provided for herein shall be used for the general purpose of operating the **Project**, promoting the recreation, health, safety, welfare, common benefit and enjoyment of the **Owners** and **Residents**, including the maintenance of any real and personal property owned by the **Association**, and regulating the **Community**, all as may be more specifically authorized from time to time by the **Committee**.

21.1.2. Since the **Assessments** shall pay for the **Common Expenses** of the **Association**, as shall be determined by the **Management Committee** from time to time, each **Owner**, by acceptance of a deed to a **Unit**, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the **Association** in a timely manner his **Assessments**.

21.1.3. At least thirty (30) days prior to the Annual Homeowners Meeting, the **Management Committee** shall prepare and deliver to the **Owners** a proposed Budget which:

21.1.3.1. Shall set forth an itemization of the anticipated **Common Expenses** for the twelve (12) month calendar year, commencing with the following February 1.

21.1.3.2. Shall be based upon advance estimates of cash requirements by the **Management Committee** to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the **Common Areas** and regulation of the **Association**, which estimate shall include but is not limited to expenses of management, grounds maintenance, taxes and special **Assessments**, premiums for all insurance which the **Committee** is required or permitted to maintain, common lighting and heating, water charges, trash collection, sewer service charges, carpeting, painting, repairs and maintenance of the **Common Areas** and replacement of those elements of the **Common Areas** that must be replaced on a periodic basis, wages for **Management Committee** employees, legal and accounting fees, any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus or sinking fund, Capital Improvement reserve, and other expenses and liabilities which may be incurred by the **Association** for the benefit of the **Owners** under and by reason of this **Declaration**.

21.1.4. The **Common Expenses** and Common Profits shall be distributed among the **Owners** equally.

21.1.5. The proposed Budget and the **Assessments** shall become effective unless disapproved at the Annual Meeting by a vote of at least a **Majority** of the **Total Votes of the Association**. Notwithstanding the foregoing, however, if the membership disapproves the proposed budget and **Assessments** or the **Management Committee** fails for any reason to establish the budget and **Assessments** for the succeeding year, then and until such time as a new budget and new **Assessment** schedule shall have been established, the budget and the **Assessments** in affect for the then current year shall continue for the succeeding year.

21.1.6. The **Management Committee** has the sole authority and discretion to determine how and when the annual **Assessments** are paid.

21.1.7. **Owners** are personally liable to pay all **Assessments** and **Additional Charges**; provided, however, no first **Mortgagee** or beneficiary under a first deed of trust (but not the Seller under a uniform real estate contract, land sales contract, or other similar instrument), who obtains title to a **Unit** pursuant to the remedies provided in the **Mortgage** or trust deed shall be liable for unpaid **Assessments** which accrued prior to the acquisition of title. For purposes of this Section,

the term "**Owner**" shall mean and refer jointly and severally to:

- 21.1.7.1. The **Owner** of both the legal and equitable interest in any **Unit**;
- 21.1.7.2. The **Owner** of record in the offices of the County Recorder of Salt Lake County, Utah; and
- 21.1.7.3. Both the Buyer and Seller under any executory sales contract or other similar instrument.

21.1.8. If the aggregate of all monthly payments on all of the **Units** is too large or too small as a result of unanticipated income or expenses, the **Committee** may from time to time effect an equitable change in the amount of said payments, but, without the prior approval of a **Majority of the Total Votes of the Association**, not greater than fifteen (15%) percent of the **Assessment** in any calendar year. **Owners** shall be given at least thirty (30) days written notice of any changes.

21.1.9. The dates and manner of payment shall be determined by the **Committee**.

21.1.10. The **Committee** shall establish and maintain a reserve account to pay for unexpected operating expenses and **Capital Improvements**. The reserve account shall be funded out of regular **Assessments**.

21.1.11. The **Committee** shall establish and update at least annually a Capital Improvement Table which shall list each major Capital Improvement in the **Project** (e.g. roofs, roads, sidewalks, carports, etc.), each item's expected useful life, the present cost of replacement, the estimated cost to replace the item at the end of its useful life, the percentage and amount of the **Assessment** currently set aside in the reserve account to replace the item at the end of its useful life, and the amount of money currently set aside in the reserve account for the replacement of the item.

21.1.12. **Assessments** shall be paid in the manner and on dates fixed by the **Committee** who may, at its option and in its sole discretion, elect to accelerate the entire annual **Assessment** for delinquent **Owners**. If, however, the **Assessment** is accelerated and an **Owner** subsequently files bankruptcy or the **Committee** otherwise decides acceleration is not in its best interest, the **Committee**, at its option and in its sole discretion, may elect to decelerate the obligation.

21.1.13. Upon written request, the **Committee** shall furnish to any **Owner** a statement of **Assessments** due, if any, on his **Unit**. Failure to provide the certificate within ten (10) days after a written request, shall be deemed conclusive evidence that all **Assessments** are paid current. The **Association** may require the advance payment of a processing charge not to exceed \$25.00 for the issuance of such certificate.

21.1.14. All **Assessments** and liens created to secure the obligation to pay **Assessments** are superior to any homestead exemptions to which an **Owner** may be entitled, which, as to the **Association**, The **Owner** by virtue of his acceptance of a deed or other document of conveyance to his **Unit**, waives.

21.1.15. At the discretion of the **Committee**, the right to use any amenities in the **Project**, including but not limited to all common facilities and amenities may be terminated if the **Owner** is in arrears on his obligation to pay **Assessments** and has failed to cure or make satisfactory arrangements to cure the default after reasonable notice of at least ten (10) days.

21.1.16 At the discretion of the **Committee**, the right of an **Owner** to vote on issues concerning the **Association** may be suspended if the **Owner** is delinquent in the payment of his **Assessments**, and has failed to cure or make satisfactory arrangements to cure the default after reasonable notice of at least ten (10) days.

22. Special Assessments.

The **Management Committee** may levy special **Assessments** in any year, subject to the following:

22.1. So long as the special **Assessment** does not exceed a sum equal to one-quarter of a percent (0.25%) of the annual **Common Expenses** (the "Special Assessment Limit") per **Unit** in any one fiscal year, the **Committee** may impose a special **Assessment** without any additional approval.

22.2. Any special **Assessment** which would exceed the Special **Assessment Limit** shall be effective only if approved by a **Majority** of the **Members** of the **Association**. The **Committee** in its discretion may allow any special **Assessment** to be paid in installments.

23. Individual Assessments.

Individual **Assessments** shall be levied by the **Committee** against a **Unit** and its **Owner** to reimburse the **Association** for: (a) administrative costs and expenses incurred by the **Committee** in enforcing the **Project Documents**; (b) fines; (c) costs associated with the maintenance, repair or replacement of **Common Area** for which the **Unit Owner** is responsible; (d) any other charge, fee, due, expense, or cost designated as an Individual **Assessment** in the **Project Documents** or by the **Management Committee**; and (e) attorneys' fees, interest, and other charges relating thereto as provided in this **Declaration**.

24. Collection of Assessments.

Each **Owner** shall pay his **Assessments**, allocations in a timely manner.

24.1. The amount of **Common Expenses** assessed against each **Unit** is a debt of the owner at the time the **Assessment** is made and is collectible as such. If an **Owner** fails or refuses to make any payment of the **Common Expenses** when due, that amount constitutes a lien on the interest of the **Owner** in the Property, and upon the recording of notice of lien by the **Management Committee** or its agent it is a lien upon the **Owner's** interest in the **Unit** prior to all other liens and encumbrances, recorded or unrecorded, except: (a) tax and special **assessment** liens on the **Unit** in favor of any assessing unit or special improvement district; and (b) encumbrances on the interest of the **Owner** recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

24.2. Any **Assessments** delinquent for a period of more than ten (10) days shall incur a late charge of twenty-five dollars (\$25.00) or five percent (5%) of the delinquent amount, whichever is greater. Simple default interest at the rate of one and one-half percent (1.5%) per month shall accrue on all delinquent accounts.

24.3. If an **Assessment** remains unpaid, the **Association** may, as determined by the Committee, institute suit to collect the amounts due and/or to foreclose the lien.

24.4. Each **Owner**, by acceptance of a deed or as a party to any other type of conveyance, vests in the **Association** or its agents the right and power to bring all actions against him personally for the collection of the charges as a debt or to foreclose the lien in the same manner as mechanics liens, **Mortgages**, trust deeds or encumbrances may be foreclosed.

24.5. No **Owner** may waive or otherwise exempt himself or herself from liability for the **Assessments** provided for herein, including but not limited to the non-use of **Common Areas** or the abandonment of his **Unit**.

24.6. No reduction or abatement of **Assessments** shall be claimed or allowed by reason of any alleged failure of the **Association** or **Committee** to take some action or perform some function required to be taken or performed by the **Association** or **Committee** under this **Declaration** or the **Bylaws**, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the **Association**, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay **Assessments** being a separate and independent covenant on the part of each **Owner**.

24.7. The lien for nonpayment of **Assessments** may be enforced by sale or foreclosure of the **Owner's** interest therein by the **Committee**. The sale or foreclosure shall be conducted in the same manner as foreclosures in deeds of trust or **Mortgages** or in any other manner permitted by law. In any foreclosure or sale, the **Owner** shall pay the costs and expenses of such proceedings, including but not limited to the cost of a foreclosure report, reasonable attorney's fees, and a reasonable rental for the **Unit** during the pendency of the foreclosure action. The **Association** in the foreclosure action may require the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The **Committee** may bid for the **Unit** at foreclosure or other sale and hold, lease,

Mortgage, or convey the same.

24.8. If the **Committee** elects to foreclose the lien in the same manner as foreclosures in deeds of trust, then the **Owner** by accepting a deed to the **Unit** hereby irrevocably appoints the attorney of the **Association**, provided s/he is a member of the Utah State Bar, as Trustee, and hereby confers upon said Trustee the power of sale set forth with particularity in Utah Code Annotated, Section 57-1-23 (1953), as amended. In addition, **Owner** hereby transfers in trust to said Trustee all of his right, title and interest in and to the real property for the purpose of securing his performance of the obligations set forth herein.

24.9. Each **Owner** by accepting a deed to a **Unit** hereby irrevocably appoints the **Association** as his attorney in fact to collect rent from any person renting his **Unit**, if the **Unit** is rented and **Owner** is delinquent in his **Assessments**. Rent due shall be paid directly to the **Association**, upon written demand, until such time as the **Owner's Assessments** are current; and the **Owner** shall credit the Renter, against rent due, for the amount of money paid to the **Association**.

25. Voting

Each **Unit** shall have one (1) vote. If there is more than one **Unit Owner** with respect to a particular **Unit**, any or all of such **Unit Owners** may attend any meeting of the **Association**, but it shall be necessary for all such **Unit Owners** present to act unanimously in order to cast the votes pertaining to their **Unit**.

26. Notices

Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to be delivered forty-eight (48) hours after a copy of the same has been deposited in the U.S. postal service, postage prepaid. Notice to **Unit Owners** shall be addressed to each **Unit Owner** at the address given in writing by such **Unit Owner** to the **Management Committee** for the purpose of service of such notice or to the **Unit** of such **Unit Owner** if no such address has been given to the **Management Committee**. Such address may be changed from time to time by notice in writing to the **Management Committee**. Unless otherwise notified in writing notice to the **Management Committee** shall be addressed to: **Management Committee** for the Northpoint Estates **Association**, 798 Northpoint Drive, Salt Lake City, Utah 84103.

27. No Waiver

The failure of the **Management Committee** or its contractors to insist, in one or more instances, upon the strict performance of any of the terms, covenants, conditions, or restrictions of this **Declaration** or the **Bylaws** or to exercise any right or option herein contained or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment, for the

future, of such term, covenant, condition or restriction; but such term, covenant, condition or restriction shall remain in full force and effect. The receipt and acceptance by the **Management Committee** or its contractor of the payment of any **Assessment** from a **Unit Owner**, with knowledge of the breach, and no waiver by the **Management Committee** of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the **Management Committee**.

28. Covenants to Run with Land.

This **Declaration** and all the provisions hereof shall constitute covenants to run with the **Land** or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of **Association**, all other signatories hereto, all parties who hereafter acquire any interest in a **Unit** or in the **Project**, and their respective grantees, transferees, heirs, devisees, personal representative, successors, and assigns. Each **Owner** or **Resident** of a **Unit** shall comply with, and all interests in all **Units** shall be subject to, the terms of the **Project Documents**.

29. Enforcement and Right to Recover Attorney's Fees.

Should the **Association**, **Management Committee** or an aggrieved **Owner** be required to take action to interpret, construe or enforce the **Project Documents**, or to pursue any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing a lawsuit or otherwise, they shall be entitled, where appropriate, to injunctive relief and damages, including a reasonable attorney's fee.

30. Security.

The **Association** may, but shall not be obligated to, maintain or support certain activities within the **Project** designed to make the **Project** safer than it otherwise might be. However, neither the **Association** nor the **Committee** shall in any way be considered insurers or guarantors of security within the **Project**. Neither the **Association** nor the **Management Committee** shall be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. All **Owners** and **Residents**, their **Guests** and invitees, as applicable, acknowledge that neither the **Association** nor the **Committee** represent or warrant that any security measures undertaken will insure their safety. All **Owners** and **Residents**, their **Guests** and invitees, acknowledge and understand that the **Association** and **Committee** are not insurers of their safety and they hereby assume all risks for loss or damage to their person or property and further acknowledge that the **Association** and **Committee** have made no representations or warranties, nor have they relied upon any representations or warranties, expressed or implied, including any warranty or merchantability or fitness for any particular purpose, relative to any security measures undertaken within the **Project**.

31. Action Without a Meeting

Any action required by law to be taken at a meeting of the **Association**, or any action which may be taken at a meeting of the **Association**, may be taken without a meeting or in conjunction with a meeting if the votes obtained at the meeting and the written consents approving the proposed action shall equal or be greater than the percentage of the **Unit Owners** required for approval (with respect to the subject matter thereof); provided, however, and anything to the contrary notwithstanding, the written consents required to take action without a meeting must be obtained within a consecutive one-hundred-twenty-day (120) period of time commencing the date the first signature is obtained and ending the date the last necessary signature is obtained.

32. Severability

The provisions of this **Declaration** shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

33. Captions

The captions in this **Declaration** are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this **Declaration** or the intent of any provision hereof.

34. Law Controlling

This **Declaration**, the **Map** and the **Bylaws** shall be construed and controlled by and under the laws of the State of Utah.

35. Second Hand Smoke.

Smoking or the use of tobacco products is not prohibited in the **Buildings, Units or Common Area** and Facilities. The right to prohibit smoking or the use of tobacco products in the and Facilities is expressly reserved to the **Association**, although the **Unit Owners and Residents** shall be given at least thirty (30) days prior written notice of any change in policy. In addition:

35.1 Utah Code Annotated, Section 76-3-203.1 (1997) defines a "nuisance" so as to include tobacco smoke that drifts into any **Unit** a person rents, leases or owns from another **Unit** more than once in each of two (2) or more consecutive seven (7) day periods which is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. The **Association** adopts this definition until such time as it is amended or repealed by the Utah legislature at which time this definition shall be similarly and automatically amended or repealed.

35.2 By accepting a deed or other document of conveyance to a **Unit**, each **Owner** hereby expressly waives, releases and forever discharges, and further agrees to indemnify, save and hold the **Association, Management Committee** and members of the **Management Committee** harmless against any and all claims, suits, actions, debts, damages, costs, charges and expenses, including court costs and attorney's fees, and against all liability, losses and damages of any nature whatever, arising out of the smoking of tobacco products in, on or about the **Project**, including but not limited to any claim that the **Association** or **Management Committee** abate or attempt to abate any alleged nuisance caused by smoking tobacco products.

35.3 Anything to the contrary notwithstanding, the right of action of a **Unit Owner** or **Resident** created by Utah Code Annotated, Section 78-38-1 (1997), as it may be amended from time to time, against another **Unit Owner** or **Resident** who creates a nuisance by generating tobacco smoke is expressly recognized and reserved, conditioned upon the existence of the statutory remedy or its equivalent, and the **Association** shall approve any reasonable structural alterations to the **Common Areas** and Facilities provided the alterations (1) do not impair the structural integrity of the **Buildings** or improvements, (2) do not materially alter the nature of the **Project**, (3) do not damage another **Unit**, and (4) are paid for by the **Unit Owner** or **Resident**.

36. Effective Date

This **Declaration** shall be effective as of the date of recording.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 31 day of December, 1999.

NORTHPOINT ESTATES CONDOMINIUMS
HOMEOWNERS ASSOCIATION

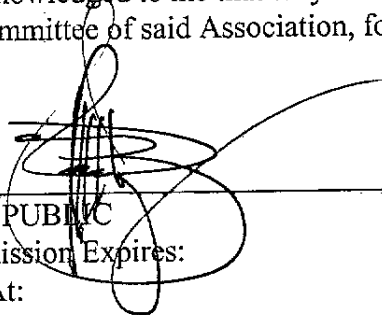
By: *Derek J. Metcalf*
Title: Chairman

Attested By:

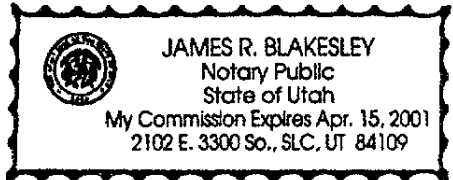
By: *Januel McClain*
Title: Secretary

State of Utah)
) ss
County of Salt Lake)

On the 31st day of December, 1999, personally appeared before me Derek F. Metcalfe and Laurel McClain the Chairman and Secretary of NORTHPOINT ESTATES CONDOMINIUMS HOMEOWNERS ASSOCIATION, and they duly acknowledged to me that they executed the foregoing document pursuant to a resolution of the Committee of said Association, for and in behalf of said Association.



NOTARY PUBLIC
My Commission Expires:
Residing At:



BK8336PG5641

Appendix A

Bylaws

NORTHPOINT ESTATES ASSOCIATION

An Association of Unit Owners Under
the Utah Condominium Ownership Act

The administration of the Northpoint Estates Condominiums (the 'Property') and the Northpoint Estates Association ('Association') shall be governed by these Bylaws, the **Act** and by the **Declaration**.

1. Application of Bylaws.

All present and future **Unit Owners, Mortgagees**, and occupants of **Units** and their lessees, renters, agents, **Guests**, employees, and other persons who may use the facilities of the **Property** in any manner are subject to the **Declaration**, these **Bylaws** and all rules made pursuant hereto and any amendment thereof. The acceptance of a deed of conveyance or the entering into of a lease or the act of occupancy of a **Unit** shall constitute an agreement that the provisions of the **Declaration** and these **Bylaws** (and any rules and regulations made pursuant thereto), as they may be amended from time to time, are accepted, ratified and will be complied with.

2. Management Committee.

2.1. The administration of the **Property** on behalf of the **Association** shall be conducted by a **Management Committee** of five natural persons who shall be **Unit Owners** and **Residents** of the State of Utah.

2.2. At each annual meeting of the **Association**, subject to the provisions of subparagraph 2.11, the **Association** shall elect members to fill vacancies on the **Management Committee**. At least thirty (30) days prior to any annual meeting of the **Association**, the **Management Committee** shall elect from the **Unit Owners** a nominating committee of not less than three (3) members (none of whom shall be members of the then **Management Committee**) who shall recommend to the annual meeting one nominee for each position on the **Management Committee** to be filled at that particular annual meeting. Nominations for positions on the **Management Committee** may also be made by petition filed with the secretary of the **Association** at least seven (7) days prior to the annual meeting of the **Association**, which petition shall be signed by ten (10) or more **Unit Owners** and signed by the nominee named therein indicating his willingness to serve as a member of the **Management Committee**, if elected.

2.3. Members of the **Management Committee** shall serve for a term of two (2) years. Replacement members shall serve the unexpired term of the person in whose place they were appointed. The terms of no more than three (3) members will end each year. The members of the **Management Committee** shall serve until their respective successors are elected, or until their death, resignation or removal. Any member of the **Management Committee** who fails to attend four (4) consecutive **Management Committee** meetings or fails to attend at least twenty-five percent (25%) of the **Management Committee** meetings held during any calendar year shall forfeit his membership on the **Management Committee**.

2.4. Any member of the **Management Committee** may resign at any time by giving written notice to the chairman of the **Association**, or the remaining **Management Committee** members. Any member of the **Management Committee** may be removed from membership on the **Management Committee** by at least 66.67% of the **Total Votes of the Association**. Whenever there shall occur a vacancy on the **Management Committee** due to death, resignation removal or any other cause, the remaining members of the **Committee** shall appoint a successor member to serve until the next annual meeting of the **Association**, at which time said vacancy shall be filled by the **Association** for the unexpired term, if any.

2.5. The members of the **Management Committee** shall receive no compensation for their services, other than reimbursement of expenses, unless expressly approved by a **Majority of the Association**; provided, however, that any member of the **Management Committee** may be employed by the **Association** in another capacity and receive compensation for such employment.

2.6. The **Management Committee**, for the benefit of the **Property** and the **Association**, shall manage the business, property and affairs of the **Property** and the **Association** and enforce the provisions of the **Declaration**, these **Bylaws**, the house **Rules and Regulations** governing the **Property**. The **Management Committee** shall have the powers, duties, and responsibilities with respect to the **Property** as contained in the **Act**, the **Declaration** and these **Bylaws**, and the **Rules and Regulations**.

2.7. Regular meetings of the **Management Committee** shall be held at such places within the State of Utah as the **Management Committee** shall determine. At the first meeting of the duly elected officers, a schedule of regular meetings and homeowner meetings for the balance of the Calendar year shall be distributed to all **Unit Owners**. Three (3) members of the **Management Committee** shall constitute a quorum, unless otherwise required by law or the **Declaration**, the decision of a **Majority** of those present shall be the act of the **Management Committee**. The **Management Committee** shall annually elect all of the officers of the **Association**. The meeting for the election of officers shall be held at the first meeting of the **Management Committee** immediately following the annual meeting of the **Association**.

2.8. Regular meetings of the **Management Committee** may be held without call or notice. The person or persons calling a special meeting of the **Management Committee** shall, at least ten (10) days before the meeting, give notice thereof by any usual means of communication.

Such notice need not specify the purpose for which the meeting is called; and if an agenda is prepared for such a meeting, the meeting need not be restricted to discussions of those items listed on the agenda.

2.9. Special meetings of the **Management Committee** may be called by the chairman or by any two (2) **Management Committee** members.

2.10. Any member of the **Management Committee** may, at any time, waive notice of any meeting of the **Management Committee** in writing, and such waiver shall be deemed equivalent to the giving of notice to the member. Attendance by a member of the **Management Committee** at a meeting shall constitute a waiver of notice of such meeting except when a **Management Committee** member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the members of the **Management Committee** are present at any meeting of the **Management Committee**, no notice shall be required and any business may be transacted at such meeting.

2.11. The **Management Committee**, for the benefit of the **Property** and the **Association**, shall enforce the provisions of the **Declaration**, these **Bylaws**, and the **Rules and Regulations** governing the **Property**. They shall be guided in their decisions by the requirement to maintain the original architectural integrity, quality and appearance of the **Project**. Further, subject to the restrictions of Paragraph 5.2 hereof, they shall acquire or arrange and pay for out of the **Common Expense** fund at least the following:

2.11.1. Water, sewer, garbage collection, electrical, telephone, gas and other necessary utility services for the **Common Areas** and facilities;

2.11.2. Water, sewer, electrical, gas or other necessary utility costs for **Units** and **Limited Common Areas** and facilities which are not separately metered or charged, the cost thereof, so far as practicable, to be specially assessed to the **Owners of Units** affected thereby;

2.11.3. Insurance;

2.11.4. The services of a **Manager** to manage its affairs as provided in the **Declaration**, as well as such other personnel as the **Management Committee** shall determine shall be necessary or proper for the operation of the **Common Areas** and facilities, whether such personnel are employed directly by the **Management Committee** or are furnished by the **Manager**;

2.11.5. Legal and accounting services necessary or proper in the operation of the **Common Areas** and facilities or the enforcement of the **Declaration**, **Bylaws** and **Rules and Regulations**.

2.11.6. The cost of maintenance, repair and all landscaping of the **Common Areas** and facilities, and such furnishings and equipment for the **Common Areas** and facilities the **Management Committee** shall determine are necessary. The **Management Committee** shall have the exclusive right and duty to acquire the same for the **Common Areas** and facilities; provided, however, that the interior surfaces of each **Unit** shall be painted, maintained and repaired by the **Unit Owner** thereof, all such maintenance to be at the sole cost and expense of that particular **Unit Owner**;

2.11.7. The cost of any other materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or **Assessments** which the **Management Committee** is required to secure or pay for pursuant to the terms of the **Declaration** or **Bylaws** or which in its opinion shall be necessary or proper for the operation of the **Common Areas** and facilities or for the enforcement of the **Declaration**; provided that if any such materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments are provided for particular **Units**, the cost thereof shall be specially assessed to the **Owners** of such **Units**;

2.11.8. The cost of maintenance and repair of any **Unit**, if such maintenance or repair is reasonably necessary in the discretion of the **Management Committee** to protect the **Common Areas** and facilities or preserve the appearance and/or value of the Property, and the **Unit Owner** of said **Unit** has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity therefor delivered by the **Management Committee** to said **Unit Owner**; provided that the **Management Committee** shall levy a special Assessment against the condominium of such **Unit Owner** for the cost of said maintenance or repair;

2.11.9. The **Management Committee** shall have the exclusive right to contract all goods, services and insurance, payment to be made from the **Common Expense** fund. This provision shall not be construed to prohibit the **Management Committee** from delegating such authority to the **Manager** as it deems proper.

2.12. After the first election of the members of the **Management Committee Declarant** shall execute, acknowledge and record an affidavit stating the names of the members of the **Management Committee**. Thereafter, any two (2) persons who are designated of record as being members of the most recent **Management Committee** (regardless of whether or not they shall still be members) may execute, acknowledge and record an affidavit stating the names of all of the members of the then current **Management Committee**. The most recently recorded of such affidavits shall be prima facie evidence that the persons named therein are all of the incumbent members of the **Management Committee** and shall be conclusive evidence thereof in favor of all persons who rely thereon in good faith.

2.13. The fiscal year shall be determined by the **Management Committee**.

3. Meetings of the Association and Management Committee.

3.1 The presence in person or by proxy at any meeting of the **Association** of fifty percent (50%) of the **Unit Owners** in response to notice to all **Unit Owners** of record properly given shall constitute a quorum. In the event that fifty percent (50%) of the **Unit Owners** are not present in person or by proxy, the meeting shall be adjourned for twenty-four (24) hours, at which time it shall reconvene and any number of **Unit Owners** present at such subsequent meeting shall constitute a quorum. Unless otherwise expressly provided in the **Declaration**, any action may be taken at any meeting of the **Unit Owners** upon a **Majority** vote of the **Unit Owners** who are present in person or by proxy and who are voting.

3.2 At all meetings of the **Association**, **Unit Owners** may vote in person or by proxy executed in writing by the **Unit Owner** or his duly authorized attorney in fact. Proxies shall be filed with the secretary of the **Management Committee** before or at the time of the meeting. Unless otherwise specified therein, each proxy shall be valid for eleven (11) months from the date of its execution. All proxies must be **Unit Owners** or the legal representatives of organizational **Unit Owners**.

3.3 There shall be an annual meeting of the **Association** at approximately the same time each year as set by the **Management Committee**, either at the **Property** or at such other reasonable place as may be designated. The **Management Committee** shall give written notice of the time and place of the annual meeting, said notice to be delivered to the **Unit Owners** not less than ten (10) days prior to the date fixed for said meeting.

3.4 Special meetings of the **Association** may be held at any time at the **Property** or at some other reasonable place to consider matters which, by the terms of the **Declaration**, the **Act**, or these **Bylaws**, require the approval of all or some of the **Unit Owners**, or for any other reasonable purpose. Special meetings shall be called by written notice, signed by a **Majority** of the **Management Committee**, or by **Unit Owners** representing at least 33.33% of the **Total Votes of the Association** and delivered to all **Unit Owners** not less than ten (10) days prior to the date fixed for said meeting. The notices shall specify the date, time and place of the meeting, and the matters to be considered.

3.5 Robert's Rules of Order (latest edition) shall govern the conduct of the **Association's** meetings when not in conflict with the **Declaration** or these **Bylaws**.

3.6 The order of business at all meetings of the **Association** shall be as follows:

- 3.6.1. roll call;
- 3.6.2. proof of notice of meeting;
- 3.6.3. reading of minutes of preceding meeting;
- 3.6.4. reports of officers;

- 3.6.5. report of special s, if any;
- 3.6.6. election of inspectors of election, if applicable;
- 3.6.7. election of **Members**, if applicable;
- 3.6.8. unfinished business; and
- 3.6.9. new business.

3.7. The chairman shall, or in his absence the vice-chairman, preside over all meetings of the **Association**; and the secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted by the meeting as well as record of all transactions occurring thereat.

3.7.1. A portion of each meeting of the shall be open to all **Members** of the **Association**, but **Members** other than members of the **Committee** may not participate in any discussion or deliberation unless expressly so authorized by a **Majority** of a quorum of the **Committee**. The **Committee** may establish procedures, policies and guidelines for the conduct of its meetings and may prohibit photographs, electronic recordation or video recorders.

3.7.2. The **Committee** may, with approval of a **Majority** of a quorum, adjourn a meeting and reconvene in an Executive Session to discuss and vote upon private, confidential, sensitive or personnel matters, litigation, and orders of business of a similar nature. The nature of any and all business to be considered in an Executive Session shall first be announced in open session.

3.7.3. Any action to be taken at a meeting of the **Committee** may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all members of the **Committee**.

4. Committee Officers.

4.1. The **Management Committee** shall perform its functions and responsibilities through these members of the **Committee** who are elected as officers annually by the **Committee**, and through such agents or employees as the **Committee** may appoint. The primary officers shall consist of a chairman, vice chairman, secretary and treasurer. The offices of secretary and treasurer may be combined as one office. The **Management Committee** may appoint such assistant officers as the **Management Committee** may deem necessary. No officer shall receive compensation for serving as such unless a **Majority** of **Unit Owners** vote otherwise.

4.2. The chairman shall be the chief executive of the **Management Committee** and shall preside at all meetings of the **Unit Owners** and of the **Management Committee** and may exercise the powers ordinarily allocable to the presiding officer of an **Association**, including the appointment of committees. The chairman shall exercise general supervision over the **Property** and its affairs. He shall sign on behalf of the **Association** all conveyances, **Mortgages** and contracts of material importance to its business. He shall do and perform all acts which the **Management Committee** may require.

4.3. The vice chairman shall perform the functions of the chairman in the absence or inability of the chairman.

4.4. The secretary shall keep minutes of all proceedings of the **Management Committee** and of the meetings of the **Association** and shall keep such books and records as may be necessary and appropriate for the records of the **Unit Owners** and the **Management Committee**. In the absence or inability of the chairman or vice chairman, the secretary shall perform the functions of the chairman.

4.5. The treasurer shall be responsible for the fiscal affairs of the **Association**, but may delegate the daily handling of funds and the keeping of records to a **Manager** or managing company.

4.6. If the **Management Committee** appoints other officers, such officers shall perform such duties as may be prescribed or delegated from time to time by the **Management Committee**.

4.7. Any officer or agent shall be subject to removal with or without cause, at any time by the affirmative vote of a **Majority** of the members of the **Management Committee** then serving.

5. Litigation.

5.1. If any action is brought by one or more but less than all **Unit Owners** on behalf of the **Association**, and recovery is had, the plaintiff's expenses, including reasonable counsels fees, shall be a **Common Expense**; provided, however, that if such action is brought against the **Unit Owners** or against the **Management Committee**, the officers, employees, or agents thereof, in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all the **Unit Owners**, the plaintiff's expenses, including counsel fees, shall not be charged to or borne by the other **Unit Owners**, as a **Common Expense** or otherwise.

5.2. Complaints brought against the **Association**, the **Management Committee** or the officers, employees or agents thereof, in their respective capacities as such, or the **Property** as a whole, shall be directed to the **Management Committee**, which shall promptly give written notice thereof to the **Unit Owners** and any **Mortgagees** and shall be defended by the **Management Committee**, and the **Unit Owners** and **Mortgagees** shall have no right to participate other than through the **Management Committee** in such defense. Complaints against one or more, but less than all **Unit Owners** shall be directed to such **Unit Owners**, who shall promptly give written notice thereof to the **Management Committee** and to the **Mortgagees** affecting such **Units**, and shall be defended by such **Unit Owners**.

6. Abatement and Enjoinment of Violations by Unit Owners.

The violation of any house rules or administrative rules or regulations adopted by the **Management Committee** or the breach of any provision contained herein, or the breach of any provision of the **Declaration**, shall give the **Management Committee** the right, in addition to any other rights set forth in these **Bylaws**:

6.1. To enter the **Unit** in which or as to which such violation or breach exists and to similarly abate and remove, at the expense of the defaulting **Unit Owner**, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the **Management Committee** shall not thereby be deemed guilty in any manner of trespass; or

6.2. In addition to maintaining a suit for damages suffered, to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach. In the event the **Management Committee** is required to commence legal action to enforce its rights hereunder, the **Unit Owner** or other person in violation or breach shall also pay all costs and reasonable attorney's fees incurred by the **Management Committee**.

7. Accounting.

7.1. The books and accounts of the **Association** shall be kept in accordance with generally accepted accounting procedures under the direction of the treasurer.

7.2. At the close of each fiscal year, the books and records of the **Management Committee** shall be reviewed by an independent public accountant approved by the **Management Committee**. A report of the review shall be prepared and submitted to **Unit Owners** at or before the next annual meeting of the **Association**. In the event that at least sixty-seven percent (67%) of the Total Vote of the **Association** vote to do so for any year, a certified audit by a Certified Public Accountant shall be obtained by the **Management Committee**.

7.3. The books and accounts of the **Association** shall be available for inspection at the office of the **Association** by any **Unit Owner** or his authorized representative during regular business hours at the expense of said **Unit Owner**.

8. Special Committees.

The **Management Committee**-by resolution may designate one or more special committees, each committee to consist of two (2) or more **Unit Owners**, which to the extent provided in said resolution, shall have and may exercise the powers set forth in said resolution. Such special committee or committees shall have such name or names as may be determined from time to time by the **Management Committee**. Such special committees shall keep regular minutes of their proceedings and report the same to the **Management Committee** when required. The members of such special committee or committees designated shall be appointed by the

Management Committee. The **Management Committee** may appoint **Unit Owners** to fill vacancies on each of said special committees occasioned by death, resignation, removal or inability to act for any extended period of time. In the event of any dispute between the **Management Committee** and any Standing Committee the decision of the former shall in all instances govern and control.

9. Standing Committees

Unless otherwise determined by a **Majority of the Total Votes of the Association**, the **Management Committee** shall appoint at least three (3) **Unit Owners** to serve on each of the following Standing Committees:

- Planning
- Architectural
- Landscaping

to help and assist the **Management Committee** in the completion of its duties. The members of such Standing Committees designated shall be appointed by the **Management Committee**. The **Management Committee** may appoint **Unit Owners** to fill vacancies on each of said special committees occasioned by death, resignation, removal or inability to act for any extended period of time. In the event of any dispute between the **Management Committee** and any Standing Committee the decision of the former shall in all instances govern and control.

10. Management Rules and Regulations.

The **Management Committee** shall have the right to adopt and amend such **Rules and Regulations** as may be authorized by the **Act** and the **Declaration** for the purpose of governing the details of the operation and use of the **Common Areas** and facilities and setting forth restrictions on, and requirements respecting the use and maintenance of **Units** and **Limited Common Areas** and facilities. Copies of the **Rules and Regulations** shall be provided for each **Unit Owner** prior to the time the same shall become affective.

A **Unit Owner** shall not violate any of the rules and regulations for the use of **Units, Common Areas** and Facilities or **Limited Common Areas** adopted by the **Management Committee** and furnished in writing to the **Unit Owners**.

11. Amendment of Bylaws.

These **Bylaws** may be amended by approval of those holding at least fifty-one percent (51%) of the **Total Votes of the Association**, present in person or by proxy at a meeting of the **Association** duly called for such purpose. Upon such an affirmative vote, the **Management Committee** shall acknowledge the amended **Bylaws**, setting forth the fact of the required affirmative vote of the **Unit Owners** and the amendment shall be effective upon recording.

12. Severability.

The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

13. Captions.

The captions herein are inserted only as a matter of convenience and for reference and in no way to define, limit or describe the scope of these **Bylaws** nor the intent of any provision hereof.

14. Conflict.

These **Bylaws** are subordinate and subject to all provisions of the **Act** and the **Declaration**. All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as they are defined to have in the **Declaration** or the **Act**. In the event of any conflict between these **Bylaws** and the **Act** or **Declaration**, the provisions of the **Act** or **Declaration** shall control.

15. Construction.

Whenever in these **Bylaws** the context so requires, the singular number shall refer to the plural and the converse; and the use of any gender shall be deemed to include both masculine and feminine: and the term "shall" is mandatory and "may" permissive.

16. Effective Date.

These **Bylaws** shall take effect upon recording of the **Declaration** of which they are a part.

Dated this 31 day of December, 1999.

NORTHPOINT ESTATES CONDOMINIUMS
HOMEOWNERS ASSOCIATION

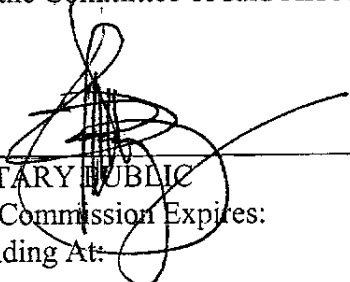
By: Derek J. Metcalf
Title: Chairman

Attested By:

By: Laurel McClain
Title: Secretary

State of Utah)
) ss
County of Salt Lake)

On the 31st day of December, 1999, personally appeared before me Derek F. Metcalfe and Laurel McClain the Chairman and Secretary of NORTHPOINT ESTATES CONDOMINIUMS HOMEOWNERS ASSOCIATION, and they duly acknowledged to me that they executed the foregoing document pursuant to a resolution of the Committee of said Association, for and in behalf of said Association.



NOTARY PUBLIC
My Commission Expires:
Residing At:

