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AMENDED AND RESTATED DECLARATION

FOR

BRITTANY CONDOMINIUMS

AN EXPANDABLE CONDOMINIUM PROJECT

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06/05/2000 03:59 PM 125.00  
NANCY WORKMAN  
RECORDER, SALT LAKE COUNTY, UTAH  
MCARTHUR HOMES  
9948 S REDWOOD RD  
SOUTH JORDAN UT 84095  
BY: RDJ, DEPUTY - WI 53 p.

THIS AMENDED AND RESTATED DECLARATION is made and executed this 5th day of June, 2000, by McARTHUR HOMES AT BRITTANY, L.C., a Utah Limited Liability Company (hereinafter referred to as the "Declarant"), pursuant to the provisions of the Utah Condominium Ownership Act (the "Act").

RECITALS

A. Declarant filed a DECLARATION FOR BRITTANY CONDOMINIUMS ("Original Declaration"), an expandable condominium Project, recorded the 8th day of July, 1999, as Entry No. 7407313, in Book 8292, at Pages 7235 et seq. of the records of the Salt Lake County Recorder, and affecting and restricting certain real property in the County of Salt Lake, State of Utah, which is more particularly described in Exhibit "A" hereto.

B. Declarant hereby revokes the Original Declaration in addition to all Amendments or Revisions thereto including the Covenants, Conditions and Restrictions recorded July 8, 1999, Book 8292, Page 7235 et seq., Entry No. 7407313; recorded July 8, 1999, Book 8292, Page 7286 et seq., Entry No. 7407315; recorded July 8, 1999, Book 8292, Page 7295 et seq., Entry No. 7407317; recorded July 8, 1999, Book 8292, Page 7304 et seq., Entry No. 7407319; recorded July 8, 1999, Book 8292, Page 7312 et seq., Entry No. 7407321; recorded July 8, 1999, Book 8292, Page 7322 et seq., Entry No. 7407323; recorded July 8, 1999, Book 8292, Page 7332 et seq., Entry No. 7407325.

C. It has become necessary for Declarant to make some corrections and modifications to the Original Declaration. Therefore, Declarant hereby amends and restates the Original Declaration, and files this AMENDED AND RESTATED DECLARATION FOR BRITTANY CONDOMINIUMS ("Declaration") which shall supersede and replace in its entirety the Original Declaration and/or any amendments or revisions thereto.

D. Declarant is the owner of certain real property in the County of Salt Lake, State of Utah, which is more particularly described in Exhibit "A" attached hereto and by this reference is made a part hereof, entitled Real Property Description of Brittany Condominiums Phase 1.

E. The Declarant intends by recording this Declaration, the Bylaws and the Map in the Office of the County Recorder of Salt Lake County, State of Utah, to submit the Land, the present and future Buildings, and all other present and future improvements situated in or upon the Land to the provisions of the Utah Condominium Ownership Act, Utah Code Annotated, Section 57-8-1, et seq., as a fee simple Condominium Project and to impose upon said property

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mutually beneficial restrictions under a general plan of improvement for the benefit of all Condominiums within said Project and the Owners thereof.

NOW THEREFORE, for the forgoing purpose, the Property described in Exhibit "A" is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

## ARTICLE I DEFINITIONS

When used in this Declaration and in the Bylaws which are made a part of this Declaration and are attached hereto as Exhibit "C", the following terms shall have the meaning indicated. Any term used herein which is defined by the Act shall, when permitted by the context hereof, have the meaning ascribed by the Act.

1. Act shall mean and refer to the Utah Condominium Ownership Act (Section 57-8-1, et seq., Utah Code Annotated 1953), as the same may be amended from time to time.
2. Association shall mean and refer to all of the Unit Owners taken as, or acting as, a group.
3. Building shall mean and refer to a building or buildings containing Units and comprising a part of the Property.
4. Capital Improvement shall mean and refer to all the total capital invested in fixed assets, including but not limited to the roads, roofs, siding, carports, and play ground equipment intended to enhance, ameliorate, and improve the value, beauty, or utility of the common areas and/or to adapt it for new uses or other purposes, but excluding current or operating expenses for the regular maintenance and ordinary repairs.
5. Common Areas and Facilities or Common Areas shall mean, refer to, and include:
  - (a) The real property and interest in real property, excluding the Units and interest in the Units, which this Declaration submits to the terms of the Act.
  - (b) All Common Areas and Facilities designated as such in the Survey Map attached hereto as Exhibit "B".
  - (c) All Limited Common Areas and Facilities as designated in the Map.
  - (d) All foundations, columns, girders, beams, supports, perimeter walls, roofs, corridors, storage spaces, stairs, stairways, clubhouse, yards and any entrances and exits which are designed for the use of more than one Unit, access roads, driveways,

walkways, pedestrian sidewalks, landscape and planting areas, fences, outdoor or street lights and other common facilities.

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

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

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

(h) All common areas as defined in the Act, whether or not enumerated herein.

6. Common Expenses shall mean and refer to all sums which are expended on behalf of all the Unit Owners and all sums which are required by the Management Committee to perform or exercise its functions, duties, or rights under the Act, this Declaration, any Management Agreement for operation of the Project, and such Rules and Regulations as the Management Committee may from time to time make and adopt. By way of illustration but not limitation, Common Expenses shall include: (i) expenses of administration, maintenance, operation, repair, replacement of those elements of Common Areas that must be replaced on a periodic basis, and other reserves as may be from time to time established pursuant to the Declaration; (ii) expenses agreed upon as Common Expenses by the Association and lawfully assessed against the Owners in accordance with the Declaration; (iii) expenses declared Common Expenses by the provision of the Act or by this Declaration or by the Bylaws; and (iv) any valid charges against the Project as a whole.

7. Condominium Project or Project shall mean and refer to the Brittany Condominium Project as a whole.

8. Condominium Unit or Units shall mean and refer to a separate physical part of the Property intended for independent use, consisting of rooms or spaces located in a building together with its appurtenant undivided ownership interest in the common areas and its appurtenant right to exclusive use of the Limited Common Areas associated with such Unit. Mechanical equipment and appurtenances located within any one Unit or located without said Unit but designated and designed to serve only the Unit, such as appliances, electrical receptacles and outlets, heating apparatus, air conditioning compressors and other air conditioning apparatus, fixtures and the like, shall be considered part of the Unit as shall all decorated interiors, all surfaces or interior structural walls, doors and door frames, the trim, wallpaper, paint, flooring, carpet and tile, and all other inter alia as appropriate. All pipes, wires, conduits, or other public utility lines or installations constituting a part of the Unit and serving only the Unit, and any structural members or any other property of any kind, including fixtures and appliances within any Unit, which are property of any kind, including fixtures and appliances within any Unit,

which are removable without jeopardizing the soundness, safety, structure or usefulness of the remainder of the building within which the Unit is situated shall be considered part of the Unit.

9. Declarant shall mean and refer to McARTHUR HOMES AT BRITTANY, L.C., and its successors and assigns.

10. Declaration shall mean and refer to this instrument, and the same may be amended from time to time.

11. Family shall mean and refer to a group of natural persons related to each other by blood or legally related to each other by marriage or adoption, or up to two (2) unrelated persons, who maintain a common household in a Unit.

12. Improvement shall mean all existing structures and appurtenances to the property of every kind and type, including but not limited to all buildings, walkways, sprinkler pipes, roads, driveways, parking areas, fences, walls, stairs, landscaping, trees and shrubs.

13. Insurer or Guarantor shall mean and include an insurer or governmental guarantor of a mortgage which has requested notice in writing or certain matters from the Association.

14. Lease shall mean any agreement for the leasing or rental of a Unit.

15. Limited Common Areas or Facilities shall mean and refer to those common areas designated herein and in the Map as reserved for the use of a certain Unit or Units to the exclusion of the other Units.

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

17. Management Committee or Committee shall mean and refer to the Management Committee of the Brittany Condominium Owners' Association created in Article IV, Section 17 and governed by the Bylaws. It shall act as the governing body of the Brittany Condominium Owners' Association.

18. Map or Record of Survey Map or Plat shall mean and refer to the record of Survey Map recorded concurrently herewith, as Exhibit "B", consisting of 1 sheet, and prepared and certified to by J. Michael De Mass, a duly Registered Land Surveyor having Certificate No. 174007 and titled Brittany Condominiums Phase 1.

19. Mortgage shall mean and include both a first mortgage and a first deed of trust or other security instrument by which a Unit or any part thereof is encumbered.

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

21. Par Value shall mean and refer to the number of points (percentage) assigned to each Unit by this Declaration.

22. Percentage Interest is designated as a factor of the percentage interest for each condominium Unit, and shall be used to calculate voting rights, ownership in the Common Areas, Assessments, Fees and all other items. The maximum number of Units which this expandable Project could have is 282 Units. The minimum number of Units which this expandable Project could have is 12 Units. Assuming the minimum 12 Units are built, the maximum percentage of interest in the common areas would be 1/12th or 8.33333%. Assuming the maximum 282 Units are built, the maximum percentage of interest in the common areas would be 1/282nd or 0.354609%.

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

24. Rules and Regulations means those rules and regulations adopted from time to time by the Management Committee that are deemed necessary for the enjoyment of the Project, provided they do not conflict with the Bylaws, the Act or the Declaration.

25. Unit Number shall mean and refer to the number, letter, or combination thereof which designates a Unit in the attached survey map.

26. Unit Owner or Owner shall mean and refer to the Owner of the fee simple in a Unit and the Percentage Interest in the Common Areas which are appurtenant thereto. In the event a Unit is the subject of an executory contract of sale, the contract purchaser shall, upon written notice to the Management Committee from the Purchaser, be considered the Unit Owner for purposes of voting and Association membership unless the Seller and the purchaser have agreed otherwise and have informed the Management Committee in writing of such agreement.

## ARTICLE II SUBMISSION

The Declarant, Owner of the Land described in Exhibit "A", which Exhibit is attached hereto and incorporated herein by this reference, (the Land), located in Salt Lake County, Utah, hereby submits the Land, the Buildings and all other improvements now or hereafter made in or upon the Land to the provisions of the Act, to be known as Brittany Condominiums Phase 1. All of said property is and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, and improved as a fee simple Condominium Project. All of said property is and shall be subject to the covenants, conditions, restrictions, uses, limitations, and obligations set forth, herein, each

and all of which are declared and agreed to be for the benefit of said Project and in furtherance of a plan of improvement of said property and division thereof into Condominium Units; further, each and all of the provisions hereof shall be deemed to run with the Land and shall be a burden and a benefit on the Land and shall be binding upon the Declarant, its successors and assigns, and to any person acquiring, leasing, or owning an interest in the real property and improvements comprising of the Project and to their respective personal representatives, heirs, successors, and assigns. The Project is potentially an expandable condominium Project as provided in Article III-Expansion.

### ARTICLE III EXPANSION

Declarant reserves the right at its sole discretion to expand the Properties to include additional property more particularly described below by unilateral action of Declarant without the consent of Owners for a period of seven (7) years from the date of recording this Declaration in the office of the Salt Lake County Recorder, State of Utah.

The Property, all or part of which may be included in one or more expansions, is located in Salt Lake County, Utah, and is more particularly described as follows:

SEE EXHIBIT "E" ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE.

There are no limitations on the maximum or minimum amount of the above property which may be added. There may be more than one expansion and the expansion may be made as to any amount or in any order.

Expansion shall occur by the Declarant filing:

1. An additional plat or plats creating additional phases for condominiums on the property described above, stating on each plat the intention to have the property described on said plat bound by the terms, covenants and conditions of this Declaration and by the provisions of the Utah Condominium Ownership Act, Utah Code Annotated, Section 57-8-1, et seq. upon the filing of a Declaration of Annexation; and

2. An Amendment to Declaration (after satisfying the conditions hereafter stated), which shall state the Declarant's intention to have the area described therein subject to this Declaration. Upon the recording of such a Declaration of Annexation the property described therein shall be subject to this Declaration. The Amendment shall also recalculate the par values of each Unit taking into consideration the new Units being annexed.

Any additional properties annexed hereto by the Declarant shall be exclusively for residential purposes. Any additional properties annexed hereto by the Declarant shall be

architecturally compatible with the existing Units and shall be consistent with existing Units in terms of quality of construction . However, subject to the foregoing, the Declarant makes no assurances that the Units constructed on any additional properties annexed hereto by the Declarant will be without variance with the Units depicted in the plat. The total maximum number of Units to be added shall be 270, for a total maximum number of Units of 282 in the Project. The Units shall all be restricted to residential use. No other assurances are made as to the improvements or as to the location of said improvements which shall be made on the expansion land. The Declarant shall have the sole discretion as to development of the common area in any expansion area and may include any facilities or amenities thereon that Declarant deems necessary and such common areas shall be managed by the Association. Additional common and limited common areas shall be added in any expansion area to maintain a ratio of common and limited common area to total Unit area similar to the ratio which is shown on the Map.

The common area improvements in an expansion area shall be substantially completed prior to the closing of the last Unit closed in each phase or expansion. The undivided interest in the common areas shall be adjusted so that each Owner in the original area and each Owner in the expansion area shall have the same undivided interest in the common areas and facilities and the same rights to the use and enjoyment of the property and facilities of the Association as the Owners of other Units throughout the Project. The liability for assessments shall be for each Unit and Unit Owner in any expansion area equal to the liability of each Unit Owner of other Units in the original properties.

The condominium regime contemplated by this Declaration may not be amended or merged with a successor condominium regime without prior written approval of the Secretary of Veterans Affairs. The Declarant may add phases to this expandable condominium regime without the prior approval of the Secretary if the phasing implements a previously approved phase of the total development. A copy of the amendment to the Declaration or other annexation document which adds each phase must be submitted to the Secretary in accordance with Section 36.4360 a (b) (6) of 38 CFR.

The maximum number of Units which this expandable Project will have is stated in Article I, Section 22.

Pursuant to 38 C.F.R. Section 36.4360(a)(5) Declarant shall purchase, at Declarant's expense, a general liability insurance policy in an amount not less than \$1 Million for each occurrence, to cover any liability which Unit Owners of existing Units are exposed to as a result of any expansion to the Project as provided for herein.

ARTICLE IV  
COVENANTS, CONDITIONS, AND RESTRICTIONS

The submission of the Land to the provisions of the Act is made upon and under the following covenants, conditions and restrictions:

1. Description of Improvements.

The improvements included in the Project are now or will be located upon the tract. The significant improvements contained in the Project include up to ninety-four Buildings with garages, a Clubhouse, Swimming Pool, Spa, Exterior Half-Court Basketball area, Picnic area, Sand Volleyball Court, three Tot-Lots, asphalt roadways, open parking spaces, concrete sidewalks or walkways and fencing. The location and configuration of the improvements referred to in the forgoing sentence are depicted on the Map or on future Maps as the Project is expanded. The Project also contains other improvements of a less significant nature, such as outdoor lighting and the landscaping. The Map shows the number of Units which are contained in the Buildings in the Project. Said Buildings are composed of the following materials: wooden frame with load and non-load bearing walls studded with wood, first floor of concrete, second floor of wooden joists; combination truss-rafter type roof; surfaced with asphalt shingle roofing; interior walls surfaced with gypsum board; and exterior surfaced with stucco and cultured stone.

2. Division Into Units, Limited Common and Common Area. In order to establish a plan of condominium ownership, the condominium Project is hereby divided into the following separate freehold estates:

a. Units. There are separately designated and legally described freehold estates in the Project. Each Unit consists of:

(i) Boundaries shall apply as follows:

a. Horizontally of the area within the interior surface of the sheet rock on walls which form the exterior of the building, and the lines as drawn on the map as constituting boundaries between the Unit and common or limited common areas or between the Unit and other Units, and

b. Vertically from the exterior surface of the floor of the Unit up to the interior surface of the ceiling. 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 and compressors and other air conditioning apparatus, fixtures and the like, shall be considered part of the Unit, as shall all decorated interiors, all surfaces of the interior structural walls, floors and ceilings, windows, and window frames, doors and door frames, and trim consisting of, inter alia and as appropriate, wallpaper, paint, flooring, carpeting and tile. All pipes, wires,



conduits, or other public utility lines or installations constituting a part of the Unit and serving only the Unit, and any structural members of any other property of any kind, including fixtures and appliances within any Unit, which are removable without jeopardizing the soundness, safety or usefulness of the remainder of the building within which the Unit is situated shall be considered part of the Unit.

(ii) Appurtenant to and inseparable from each Unit shall be a percentage ownership in common areas and facilities and a par value based on the number of Units incorporated within the Project the minimum being 12 Units and the maximum being 282 Units.

(iii) The maximum number of Units which shall be constructed in Phase 1 is 12.

(iv) The par values as indicated in Exhibit "D" may not be changed except by amendment or expansion as provided herein. No Unit may be further subdivided. No Unit Owner shall execute any deed, mortgage, lease or other instrument conveying, leasing or encumbering title to the Unit without including therein all interests appurtenant thereto. The purpose of this restriction is to prevent any severance of such combined ownership. Any such deed, mortgage or other instrument purporting to affect one or more of such interests, without including all such interests, shall be deemed to include any omitted interest, even though not expressly mentioned or described therein. Each Unit Owner has an unrestricted right of ingress and egress to the Unit which is appurtenant to ownership of the Unit.

b. Limited Common Areas. Limited Common Areas, designated on the map, may include carports, balconies, decks and covered decks appurtenant to certain Units as contained in the Plat. The exclusive right to use and occupy each limited common area, if any, shall be appurtenant to and shall pass with the title to the Unit with which it is associated. Each Owner of a Unit is hereby granted an irrevocable and exclusive license to use and occupy the limited common areas and facilities reserved exclusively for the use of the Unit, subject to the residual rights of the Association therein.

c. Common Areas and Facilities. A freehold estate consisting of the remaining portion of the real property as defined above as the "common areas and facilities." Every Owner shall have a right and easement of use and enjoyment in and to the common area which easement shall be appurtenant to and shall pass with the title to every Unit, subject to the following provisions.

(i) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area by any person who is not an owner or for any group of people where the majority of

participants are not owners. *Illustration:* The Association shall have the right to charge a reasonable fee to anyone wishing to reserve a portion of the Common Area for a company party involving primarily non-owners.

(ii) The right of the Association to limit the number of guests of members using the common area.

(iii) The right of the Association to suspend the voting rights and/or common utility service of a member for any period during which any assessment or portion thereof against the Unit remains unpaid; and for a period of not to exceed sixty days for any infraction of its published rules and regulations.

(iv) The right of the Association to enter into agreements or leases which provide for use of the common areas and facilities by a similar Association in consideration for use of the common areas and facilities of the other Association. However, during such time as the Declarant is in control of the Association, Declarant's rights shall be subject to the requirements of 38 C.F.R. Section 36.4357(c)(4) and 36.4360(a)(1), (2) and (3) which may require prior approval by the Secretary of Veterans Affairs.

(v) The right of the Association with the approval of seventy-five percent (75%) of each class of Owners, to sell, exchange, hypothecate, alienate, mortgage, encumber, dedicate, release or transfer all or part of the common area to any private individual, corporate entity, public agency, authority, or utility. However, during such time as the Declarant is in control of the Association, Declarant's right to amend shall be subject to the requirements of 38 C.F.R. Section 36.4357(c)(4) and 36.4360(a)(1), (2) and (3) which may require prior approval by the Secretary of Veterans Affairs.

(vi) The right of the Association to grant easements for public utilities or other public purposes consistent with the intended use of the common area by the Association. However, during such time as the Declarant is in control of the Association, Declarant's right to amend shall be subject to the requirements of 38 C.F.R. Section 36.4357(c)(4) and 36.4360(a)(1), (2) and (3) which may require prior approval by the Secretary of Veterans Affairs.

(vii) The right of the Association to take such steps as are reasonably necessary or desirable to protect the common area against foreclosure.

(viii) The terms and conditions of this Declaration.

(ix) The right of each individual Unit owned to the exclusive use of the limited common area adjacent and appurtenant to the respective Unit.

(x) The right of the Declarant to use all or part of the Clubhouse as a sales office and the right of the Declarant to show the common areas and model Units to prospective buyers, including, but not limited to, fencing certain common areas to facilitate the flow of pedestrian traffic to and from the Clubhouse to the model Units, etc. The Declarant's right to such use shall continue until the last Unit in the entire Project has been sold and closed by Declarant.

3. Legal Status of Units and Limited Common Areas.

The Map shows the Limited Common Areas which are reserved for the exclusive use of the Unit Owners. All Units are residential Units, and if they are rented, they shall be rented for periods of no less than 30 days. All Units shall be capable of being independently owned, encumbered, and conveyed.

4. Par Value.

Appurtenant to and inseparable from each Unit shall be a percentage ownership in the common areas and facilities and a par value according to Exhibit D, attached hereto. The par values may not be changed except by amendment or expansion as provided herein. No Unit may be further subdivided. No Unit Owner shall execute any deed, mortgage, lease or other instrument conveying, leasing or encumbering title to the Unit without including therein all interests appurtenant thereto. The purpose of this restriction is to prevent any severance of such combined ownership. Any such deed, mortgage or other instrument purporting to affect one or more of such interest, without including all such interests, shall be deemed to include any omitted interest, even though not expressly mentioned or described therein. Units may be combined in use if owned by the same Unit Owner. In calculating fees, ownership and voting rights, the par value has been rounded down so that a combination of all the ownership (par value) does not exceed but shall be deemed to total one hundred percent (100%). The Units carry the Par Value shown on Exhibit D. Such Par Value can and may be changed by the Declarant when and if the Project is expanded through amendment.

5. Common and Limited Common Areas.

(a) The Common Areas contained in the Project are described and identified in Article I, Paragraph 5 of this Declaration. Neither the Percentage Interest nor the right of exclusive use of a Limited Common Area shall be separated from the Unit to which it appertains; and, even though not specifically mentioned in the instrument of transfer, the Percentage Interest and such right of exclusive use of Limited Common Areas shall automatically accompany the transfer of the Unit to which they relate. Each Unit Owner shall at his own cost maintain their Limited Common Area, including but not limited to balconies, patios and driveways, in a clean, sanitary and attractive condition at all times.

(b) The use of the Common Areas shall be limited to the Owners in residence and to their tenants in residence, and to their guests, invitees and licensees. The use of each of the Limited Common Areas shall be restricted to the Owner of the Unit to which it is appurtenant, to his tenants in residence, and to his guests, invitees and licensees. The use of the Common Areas and Limited Common Areas shall be governed by the Declaration and the Rules or Regulations as initially established by Declarant and as adopted and amended from time to time by the Management Committee.

(c) All trees, shrubs and plants growing or planted in or upon the outside area of the Project are and shall be the responsibility of the Association and all necessary planting, trimming, removal etc. shall be as decided or directed by the Management Committee.

#### 6. Computation of Percentage Interests.

The proportionate share of the Unit Owners in the Common Areas of the Project is based on the par value that each of the Units bears to the total par value of all Units. The proportionate ownership in the Common Areas shall be for all purposes including, but not limited to, voting and assessments for Common Expenses. Such Par Value can and may be changed by the Declarant when and if the Project is expanded.

#### 7. Unit Maintenance.

Each Owner shall at his own cost and expense maintain, repair, paint, re-paint, tile, wax, wallpaper or otherwise refinish and decorate the interior surfaces of the walls, ceilings, floors, windows and doors forming the boundaries of his Unit and all walls, ceiling, floors, windows and doors within such boundaries. In addition to decorating and keeping the interior of his Unit in good repair and in a clean and sanitary condition, he shall be responsible for the maintenance, repair or replacement of any plumbing, fixtures, heating, air conditioning, equipment, lighting fixtures, refrigerator, dishwasher, disposal equipment, range or other appliances or fixtures, that may be in or connected with, his Unit. Each Unit shall be maintained so as not to detract from the appearance of the Project and so as not to affect adversely the value or use of any other Unit.

#### 8. Association Membership.

Membership in the Association shall be automatic, and shall be appurtenant to the Unit in which the Owner has the necessary interest and shall not be separated from the Unit to which it appertains. The property, business and affairs of the Association shall be governed by the Management Committee as agent of the Association. Each Unit Owner shall automatically upon becoming the Owner of a Unit, be a member of the Association, and shall remain a member of said Association until such time as ownership ceases for any reason, at which time membership in the Association shall automatically cease. Membership is appurtenant to and may not be separated from Unit ownership. The Management Committee or its delegate may require that a

person claiming membership in the Association provide proof of ownership of their Unit as a condition to recognition as a Member of the Association, when and if ownership is in question. All Unit Owners are subject to all the rights and duties established in this Declaration and in the Bylaws of the Association. Unless otherwise provided in these documents, the Declarant, for all unsold Units in the Project, enjoys the same rights and is subject to the same duties as other Owners.

9. Easement for Encroachment.

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

10. Access for Repair of Common Areas.

Some of the Common Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Association shall have the irrevocable right, to be exercised by the Management Committee, as its agent, to have access to each Unit and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Areas located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Areas or to another Unit or Units. The Management Committee shall also have such rights independent of the agency relationship. Damage to the interior of any part of a Unit resulting from the maintenance, repair, emergency repairs, or replacement of any of the Common Areas, or as a result of emergency repairs within another Unit at the instance of the Management Committee or of a Unit Owner shall be the responsibility of the Association; provided that, such damage is not the result of negligence of the Owner of a Unit. If such damage is the result of the Unit Owners or their tenants, agents or invitees negligence, then such Unit Owner shall be financially responsible for all such damage, which shall be repaired with due diligence and the property shall be restored substantially to the same condition as it existed prior to damage. Amounts owing by Owners pursuant hereto shall be collected by the Management Committee by assessment pursuant to Section 20 below.

11. Right of Ingress, Egress.

Each Owner shall have the right to ingress and egress over, upon and across the Common Areas necessary for access to his Unit, and to the Limited Common Areas designated for use in

connection with his Unit, and such rights shall be appurtenant to and pass with the title to each Unit.

12. Pipes, Ducts, Cables, Wires, Conduits, Public Utility Lines, and Other Common Facilities Located Inside of Units:

Each Unit Owner shall have an easement in common with the Owners of all other Units to use all pipes, wires, ducts, cables, conduits, public utility lines and other Common Facilities located in any of the other Units and serving his Unit. Each Unit shall be subject to an easement in favor of the Owners of all other Units to use the pipes, ducts, cables, wires, conduits, public lines and other Common Facilities serving such other Units and located in such Unit. The Management Committee shall have a right of access to each Unit to inspect the same, to remove violations therefrom, and to maintain, repair or replace the Common Areas contained therein or elsewhere in the Buildings, and may do so, without prior notice in the event of an emergency. Every portion of a Unit which contributes to the structural support of the building shall be burdened with an easement of structural support for the benefit of all other Units and the Common Areas.

13. Easement to Management Committee.

The Management Committee shall have non-exclusive easements to make such use of the Common Areas as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration.

14. Easement for Utility Services.

There is hereby created a blanket easement upon, across, over and under the property described in Exhibit "A" for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to, water, sewers, gas, telephone, electricity, and other utility services.

15. Easement for use of Recreational Areas and Facilities.

(a) All Owners of Units are hereby granted a non-exclusive right and easement of enjoyment in common with others of the amenities and recreational facilities constituting a portion of the Common Areas of the Project.

(b) The right and easements of enjoyment created hereby shall be subject to the following:

(1) The right of the Declarant prior to the termination of the period of Declarant's control to grant and reserve easement and rights-of-way through, under, over and across the recreational areas, for the installation, maintenance and inspection of the line and

appurtenances for public or private water, sewer, drainage, gas, electricity, telephone and other utilities; and,

(2) The right of the Management Committee to adopt Rules and Regulations governing the use by the Owners of the recreational area and facilities.

(c) Any person having the right to use and enjoy the recreational areas and facilities may delegate such rights to the members of his family or tenants who reside in the Condominium Project and to such other persons as may be permitted by the Management Committee Rules and Regulations.

(d) Each person having the right to use the recreational areas and facilities and each person to whom such right has been delegated shall comply with the Rules and Regulations regarding such use, as such Rules and Regulations may be established and amended from time to time by the Management Committee. Such rights to use may be suspended if there is a material violation of the terms, covenants or conditions, including but not limited to, the failure of a Unit Owner to pay his assessments. Prior to denying or suspending the Unit Owner or occupant(s) of the right to use the recreational areas and facilities, the Management Committee shall provide the Unit Owner or occupant a hearing on the denial or special assessment before the Management Committee prior to assessment or denial.

#### 16. Use of Units and Common Areas.

(a) Residential Community. The Condominium Units shall be used only for residential purposes, with the restrictions as set forth in Subsection 16(c) below. The Common Areas and Facilities shall be used only in a manner which is consistent with their community nature and with the use restrictions applicable to the Units. No Unit Owner, including an Owner in possession of a Unit following a default in a first mortgage, shall be permitted to lease his Unit for transient or hotel purposes. No Unit Owner may lease less than the entire Unit. Any lease agreements shall provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration and Bylaws and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be in writing.

(b) Rules and Regulations. The Association, acting through its Management Committee, shall have the power and authority to enforce this Section and to make and to enforce standards and restrictions governing the use of the Units and Common Area. Such regulations and use restrictions shall be binding upon all Owners and occupants until and unless overruled, canceled, or modified in a regular or special meeting of the Association.

(c) Restrictions and Limitations of Use.

(1) All provisions of the Declaration, Bylaws, and any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants of any Unit.

(2) Obstructions. There shall be no obstructions of the Common Areas by the Owners, their Tenants, Guests or Invitees without the prior written consent of the Management Committee. The Management Committee may by Rule and Regulation prohibit or limit the use of the Common Areas as may be reasonably necessary for protecting the interest of all the Owners for protecting the Units or the Common Areas. Nothing shall be kept or stored on any part of the Common areas without the prior written consent of the Management Committee, except as specifically provided herein. Nothing shall be altered or constructed in or removed from the Common Areas except upon the prior written consent of the Management Committee.

(3) Violations of Insurance Policy. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would result in the cancellation of the insurance on the Project or any part thereof or increase the rate of the insurance on the Project or any part thereof over what the Management Committee, but for such activity, would pay, without the prior written consent of the Management Committee. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to or waste of, the Common Areas or any part thereof shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold, the Management Committee and the other Owners harmless against all loss resulting from any such damage or waste caused by him or his invitees, provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee of any other Owner. No noxious, destructive or offensive activity shall be carried on in any Unit or in the Common Areas or any part thereof, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any person at any time lawfully residing in the Project. In the event that a Unit Owner or their tenant violates this policy, the Unit Owner may request a Hearing before the Management Committee to present information relating to such violation.

(4) Nuisance. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkept condition on his or her Unit. No Unit shall be used in whole or in part, for the storage of any property or thing that will cause such Unit to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept in or upon any Unit that will emit foul or obnoxious odors or that will cause



any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of the surrounding property. No noxious or offensive activity shall be carried on in or around any Unit, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any property adjacent to the Unit.

(5) Unsightly Work, Hobbies or Unkept Condition. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly, or unkept conditions, shall not be pursued or undertaken on any part of the Property.

(6) Clotheslines, Garbage Cans, Tanks, Woodpiles, Etc. All clotheslines, garbage cans, above-ground tanks, woodpiles, and other similar items shall be located so as to be concealed from view of the neighboring Units, streets, and property located adjacent to the Unit. All rubbish, trash, and garbage shall be regularly removed from the Unit and shall not be allowed to accumulate thereon.

(7) Subdivision of Unit. No Unit shall be subdivided or its boundary lines changed, except with the prior written approval of the Management Committee or the Association.

(8) Firearms. The use of firearms within the Property is strictly prohibited. The terms firearm includes BB guns, pellet guns, sling shots, wrist-rockets, blow-darts and any and all other firearms of all types, regardless of size.

(9) Tents, Trailers, and Temporary Structures. Except in designated RV areas, Owners or occupants shall not place upon a Unit or any part of the Property any tent or trailer of any structure of a temporary nature, such as a tent, shack, or utility shed without the written consent of the Association.

(10) Air Conditioning Units. Except as may be permitted by the Management Committee or its agent, no window air conditioning Units may be installed or maintained in any Unit.

(11) Artificial Vegetation, Exterior Sculptures, Signs, and Similar Items. No artificial vegetation, sculpture, fountains, banners, signs, or similar items shall be permitted on the exterior of any portion of the Property. No signs, banners or similar items shall be displayed on the interior surface of the window of any Unit so as to be prominently visible from the exterior of the Unit.

(12) Lighting. No exterior lights shall be displayed by the Owners or occupants except for seasonal Christmas or Hanukkah and other similar religious

holiday decorative lights, which may be displayed by the Unit Owner between December 1 and January 10, upon application by the Unit Owners and will be subject to the Management Committee's sole discretion.

(13) Pets or animals of any kind are not allowed to be kept, bred or raised in any Unit or on any of the Common Areas and Facilities in the Project unless permitted in writing by the rules and regulations established by the Management Committee.

(14) Fences. No dog runs, animal pens, or fences of any kind shall be permitted in any Unit, Limited Common Area or Common Area, except for fences constructed by the Declarant or as approved and constructed by the Management Committee.

(15) Business Use. No trade or business may be conducted in or from any Unit, except that which an Owner or occupant residing in a Unit may conduct such business activities within the Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell for outside the Unit; (b) the business activity conforms to all zoning requirements for the Property; (c) the business activity is consistent with the residential character of the Property; and (d) the business activity does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Management Committee.

The terms "business" or "trade" as used in this provision, shall be construed to have their ordinary, generally accepted meanings, but shall not include the leasing of a Unit to an occupant by the Owner.

(16) On-Site Fuel Storage. No on-site storage of gasoline, heating, or other fuels shall be permitted on any part of the Property, except that the Management Committee or Association may store to operate and maintain the Project, provided that it is stored in a separate facility designated for this purpose.

(17) Heating of Units in Colder Months. In order to prevent breakage or leakage of water pipes during colder months of the year, the thermostats within all vacant or unoccupied Units shall be maintained with the heat on and at a minimum setting of sixty (60) degrees Fahrenheit from October through April. Owners and occupants shall take all steps possible and in a timely basis to keep the heating equipment, including the thermostat, in good working order.

(18) Parking and Storage of Vehicles. No motor vehicle or trailer, including but not limited to automobiles, trucks, campers, boats or trailers, may be

parked or stationed for an extended period of time (no more than two days) in front of any garage, walkway or Unit. Owners or occupants may only park their vehicles within their designated garages or parking area, and visitors may only park temporarily in designated spaces and in accordance with the rules and regulations designated by the Management Committee. No Owners or occupants shall repair or restore a vehicle of any kind upon any Unit or Common Area, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.

(19) Windows, Doors and Garage Doors. Owners shall maintain all windows, doors and garage doors in a good and attractive condition and shall only replace exterior doors, garage doors and windows with goods and materials approved by the Management Committee in order to maintain uniformity of quality and appearance. If an Owner or occupant uses a non-conforming item, or fails to properly maintain his or her windows, doors or garage door, and fails to cure any such default within 30 days of written notice, then the Management Committee may repair or replace the item and treat the expense as a specific assessment for that Unit. The Unit Owner may request a hearing prior to the Management Committee's action to repair the windows, doors or garage doors and Management Committee shall provide the Unit Owner or occupant a hearing before the Management Committee prior to action by the Management Committee.

(20) Signs and Banners. No signs or banners whatsoever shall be erected or maintained in the Common Areas or in Unit windows for exterior display without the prior written consent of the Management Committee except: (i) Such signs as may be required by legal proceedings, and (ii) Such signs as Declarant or Unit Owners may erect or maintain incident to sale of Units, provided however that said signs must be contained inside the Owner's Unit.

(21) Aerials, Antenna, and Satellite Dishes. No radio, television, or other aerial, antenna, dish, tower, or other transmitting or receiving structure shall be erected, installed or placed outside of any Unit without written permission from the Management Committee. However, the Association may erect an aerial, antenna, satellite dish or other reception device for a master television or radio system.

(22) Window Coverings. No tinted windows shall be permitted. Aluminum foil, newspapers, reflective film coatings, or similar materials may not be used to cover the windows in any Unit.

(d) Enforcement. Notwithstanding any provision in the Declaration or the Bylaws to the contrary, the Management Committee may impose a special assessment

upon any Owner or occupant who violates these Rules and Regulations, an amount up to the amount of the Association's insurance deductible or an amount equal to the expenses incurred by the Management Committee to remedy the violation, including attorney's fees. The Association may also deny the Owner or occupant the right to make a claim on the Association's policy of insurance for any damage caused by violation of these Rules and Regulations, where the violation of the Rules and Regulations is the cause of the loss. Prior to denying the Unit Owner or occupant of the right to make a claim on the Association's insurance policy or imposing a special assessment upon the Unit Owner or occupant, the Management Committee shall provide the Unit Owner or occupant a hearing on the denial or special assessment before the Management Committee prior to assessment or denial.

(e) Declarant's Rights. Notwithstanding anything contained herein to the contrary, until the Declarant has completed and sold all of the Units in all possible expansions or the Property, neither the Unit Owners who have purchased Units from the Declarant nor the Management Committee shall interfere with the completion of improvements and sale of the remaining Units. The Declarant reserves the right to use any Units owned by the Declarant as models, management offices or sales offices until such time as Declarant conveys title. Declarant reserves the right to relocate the same from time to time within the Project; upon relocation or sale of a model, management office or sales office, the furnishings thereof may be removed. Declarant further reserves the right to maintain on the Project such adverting signs which may be placed in any location on the Project and may be relocated or removed, all at the sole discretion of the Declarant. Declarant further reserves the right to use all or part of the Clubhouse as a sales office and may fence common areas to maintain the flow of pedestrian traffic to and from the sales office and model Units and may show any common areas to prospective purchasers, all at the sole discretion of the Declarant.

17. Status & General Authority of the Management Committee.

The affairs of the Association shall be governed by a Management Committee composed of five (5) persons elected by the Association. The number of persons on the Management Committee may be changed by amendment to the Bylaws of the Association. The Management Committee shall have the power to manage the condominium Project in accordance with the Act, this Declaration and the Bylaws. The Declarant may appoint and remove all members of the Management Committee, all officers of the Unit Owners' Association and exercise all powers and responsibilities delegated by this declaration and the Act toward the Association, its officers and the Management Committed for a period ending (a) seven years after the date the first conveyance to a Unit purchaser is made, or (b) until 120 days after the date by which seventy-five percent (75%) of all possible Units in the expandable area have been conveyed to Unit purchasers, whichever occurs first.

The Common Areas and Facilities of the Project shall be managed, operated, and maintained by the Home Owners Association through the Management Committee exclusively as agent of, and in the name of, the Association and any act performed by the Management Committee pursuant to this Declaration or the Bylaws, as the same may be amended from time to time, shall be deemed to be performed by the Management Committee for and on behalf of the Association as its agent. The Home Owners Association shall be responsible to keep all such - Common Areas and Facilities in good, clean, attractive, safe and sanitary condition, order, and repair; provided however, that each Owner shall keep their Limited Common Areas in a clean, sanitary, and safe condition. The Association shall be responsible for the maintenance and repair of the exterior of all buildings, other improvements and the grounds. The Management Committee shall have, and is hereby granted, the following authority and powers to perform their duties:

(a) The authority, without the vote or consent of the Unit Owners or of any other person(s), to grant or create, on such terms as it deems advisable, utility and similar non-exclusive easements over, under, across and through the Common Areas and Facilities.

(b) The authority to execute and record, on behalf of all the Unit Owners, any amendment to the Declaration or Map which has been approved by the vote or consent necessary to authorize such amendment.

(c) The power to sue and be sued.

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

(e) The power and authority to convey or transfer any interest in real property authorized by the Owners having an interest therein.

(f) The power and authority to purchase, otherwise acquire, and accept title to, any interest in real property, so long as such action has been authorized by any vote or consent which is necessary under the circumstances.

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

(h) The power and authority to borrow money, provided that no indebtedness for borrowed funds shall exceed at any given time the sum of \$5,000.00 without the prior written approval of a majority of the Unit Owners at a meeting duly called at which a quorum is present.

(i) The authority to promulgate such reasonable Rules and Regulations, and procedures as may be necessary or desirable to aid the Management Committee in carrying out any of its functions or to insure that the Project is maintained and used in a manner consistent with the interest of the Unit Owners.

(j) The power and authority to perform any other acts and to enter into any other transactions which may be reasonably necessary for the Management Committee to perform its functions as agent of the Association.

Any instrument executed by the Management Committee that recites facts which, if true, would establish the Management Committee's power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument.

Notwithstanding the foregoing, The Declarant shall relinquish all special rights, expressed or implied, through which the Declarant may directly or indirectly control, direct, modify, or veto any action of the Owner's Association, its Management Committee, or a majority of Unit Owners, and control of the Owner's Association shall pass to the Owners of the Units within the Project, not later than the earlier of the following:

- (i) 120 days after the date by which seventy-five percent (75%) of the Units, in all possible phases in the expandable area, have been conveyed to the Unit purchasers, or
- (ii) Seven years from the date the first conveyance to a Unit purchaser is made.

18. Manager.

The Management Committee may carry out any of its functions which are capable of delegation through a Project Manager. Any Manager retained for such purposes must be an individual or entity experienced and qualified in the field of property management. The Manager so engaged shall be responsible for managing the Project for the benefit of the Unit Owners and shall, to the extent permitted by law and the terms of the agreement with the Management Committee, be authorized to perform any of the functions or acts required or permitted to be performed by the Management Committee itself. Any agreement for such professional management of the Project which may be entered into by the Management Committee or the Association, shall call for a term not to exceed two (2) years, if negotiated by Declarant or 1 to 3 years if negotiated by the Management Committee of the Association and shall provide that for cause such Management Agreement may be terminated by the Management Committee or by the Association upon at least thirty (30) days written notice.

19. Composition of Management Committee.

The Management Committee shall be composed of five members. At or after the first annual meeting of the Association, five members of the Management Committee shall be elected. The term of office of Management Committee members shall be as set forth in the Bylaws. The Management Committee Members shall hold office until their respective successors have been elected and hold their first meeting. Only Unit Owners, and agents of Corporate Owners shall be eligible for Management Committee membership. At each annual meeting the Percentage Interest appurtenant to a Unit may be voted in favor of as many candidates for Management Committee membership as there are seats on the Management Committee to be filled.

20. Agreement to Pay Assessment.

By the acceptance of a deed therefor, each Owner or purchaser of any Unit, whether or not it be so expressed in the deed, or by entering into a sale and purchase contract, hereby covenants and agrees with the seller, the Declarant and with the Association to pay to the Association annual assessments made by the Association for the purposes provided in this Declaration, and special assessments for capital improvements and other matters as provided in this Declaration. Such assessments shall be fixed, established and collected from time to time in the manner provided in this Article. For the purposes of this Section the term "Owner" shall mean the Owner of the legal and/or equitable interest in the Unit, including but not limited to the vested Owner, the Owner of record, and both the Buyer and Seller (excluding the Declarant), under any land sales contract, who shall be jointly and severally liable.

(a) Amount of Total Annual Assessments. The Declarant shall set the first year's annual assessment and notify all prospective Owners of such in writing prior to sale. Thereafter the total annual assessments against all Units shall be based upon advance estimates of cash requirements made 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, which estimates may include, among other things, expenses of management, grounds maintenance, taxes and special assessments, (until the Units are separately assessed as provided herein), premiums for all insurance which the Management Committee is required or permitted to maintain pursuant hereto, common lighting and water heating, water charges, trash collection, sewer service charges, 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 operating reserve, capital improvement reserve, surplus and/or sinking fund; and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under or by reason of this Declaration.

(b) Equitable Changes. 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

Management Committee may from time to time effect an equitable change in the amount of said payments.

(c) Apportionment of Annual Assessments. Expenses attributable to the Common Areas and to the Project as a whole shall be apportioned among all Owners in proportion to their respective Percentage Interests (par value) in the Common Areas.

(d) Notice of Annual Assessments and Time for Payment Thereof. Annual assessments shall be determined on a fiscal year basis beginning January 1 and ending December 31; provided the first fiscal year shall begin on the date of this Declaration and end on December 31. Except with respect to the first fiscal year, the Management Committee shall give written notice to each Owner as to the amount of the annual assessment with respect to his Unit not less than thirty (30) days nor more than sixty (60) days prior to the beginning of the next fiscal year. Such assessment shall be due and payable in twelve equal monthly installments on the first day of each and every calendar month of each year; provided, however, that the first annual assessment for the first fiscal year shall be based upon such portion of the first fiscal year remaining after the date fixed by the Management Committee as the date of commencement of the Project. Such assessment shall be due and payable in monthly installment on the first day of each and every month and no separate notices of such monthly installment shall be required. Advance payments of monthly assessments shall not be permitted except by separate checks for each month which are to be deposited on the first banking day of the month to which the payment applies. On the 15th day of each calendar month a late fee shall be charged and/or a penalty shall be made for improper advance payments. Such late fee or penalty shall be established by the Management Committee but shall not be less than the greater of twenty dollars (\$20.00) or ten percent (10%) of the accounts receivable amount that was due on the first of the calendar month which has not been paid prior to the 15th or of the amount improperly paid in advance.

(e) Acceleration. The Management Committee may, at its discretion, elect to accelerate the entire Annual Assessment for delinquent Units Owners. Unless the Management Committee designates otherwise or elects to accelerate the entire Annual Assessment, Annual Assessments shall be paid in equal monthly installments. If, however, the Annual Assessment is accelerated and the Owner subsequently files bankruptcy or the Management Committee otherwise decides acceleration is not in its best interest, the Management Committee, at its sole discretion, may de-accelerate the obligation.

(f) Special Assessments. In addition to the annual assessments authorized above, the Management Committee may levy in any assessment year a special assessment, payable over such a period as the Management Committee may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or for any other



expense incurred or to be incurred as provided in this Declaration. This Section shall not be construed as an independent source of authority for the Management Committee to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections hereof. Any amounts assessed pursuant hereto shall be assessed to Owners in proportion to their respective percentage Interests (par value) in the Common Areas. Notice in writing of the amount of such special assessments and the time for payment thereof shall be given promptly to the Owners, and no payment shall be due less than thirty (30) days after such notice shall have been given. Special assessments shall be subject to the same late fees and penalties as are prescribed in paragraph 19 C for regular assessments. Notwithstanding anything to the contrary herein contained, additions or capital improvements to the Project which cost no more than \$5,000.00 may be authorized by the Management Committee alone. Additions or capital improvements the cost of which will exceed such amount must, prior to being constructed, be authorized by the majority of the Owners.

(g) Specific Assessments. The Management Committee shall have the power specifically to assess individual Units or buildings pursuant to this Section as, in its discretion, it shall deem appropriate. Failure of the Management Committee to exercise its authority under this Section shall not be ground for any action against the Association or the Management Committee and shall not constitute a waiver of the Management Committee's rights to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Management Committee has not previously exercised its authority under this Section. The Management Committee may specifically assess Units for the following expenses, except for expenses incurred for maintenance and repair of items which are the maintenance responsibility of the Association as provided herein:

(1) Benefit Only to Specific Unit or Building. Expenses of the Association which benefit less than all of the Units may be specifically assessed equitably among all of the Units which are benefitted according to the benefit received.

(2) Unequal or Disproportionate Benefit. Expenses of the Association which benefit all Units; but which do not provide an equal benefit to all, may be specifically assessed equitably among all Units according to the benefit received.

(h) No Waiver. No Owner may waive or otherwise exempt himself or herself for liability for the Assessments or Fees provided herein, including, by way of illustration, but not limited to, non-use of Common Areas, Recreational Facilities or abandonment of the Unit.

(i) Duty to Pay Independent. No reduction of abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association or Management

Committee to take some action or perform some function required to be taken or performed by the Association or Management 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 any action taken to comply with any law, ordinance, or with any order of 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.

(j) Lien for Assessments. All sums assessed to any Unit pursuant to this Declaration, together with interest thereon as provided herein, shall be secured by a lien on such Units in favor of the Association. Each lien shall be superior to all other liens and encumbrances on such Unit, except only for: (a) valid tax and special assessment liens on the Unit in favor of any governmental assessing authority; and (b) a lien for a sum unpaid on a first Mortgage which was recorded prior to the delinquency, or any Mortgage to Declarant, duly recorded in the Official Records of Salt Lake County, Utah, including all unpaid obligatory advances to be made pursuant to such Mortgage and all amounts advanced pursuant to such Mortgage and secured by the lien thereof in accordance with the terms of such instrument. All other liens or acquiring liens on any Unit after this Declaration shall have been recorded in said records shall be deemed to consent that such liens shall be inferior to future liens for assessments, as provided herein, whether or not such consent be specifically set forth in the instruments creating such liens.

To evidence a lien for sums assessed hereunder, the Management Committee may prepare a written notice of lien, setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Unit and a description of the Unit. Such a notice shall be signed by the Management Committee or their authorized representative and may be recorded in the office of the County Recorder of Salt Lake County, Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment.

Such lien may be enforced by the Management Committee in the same manner in which mortgages or trust deeds on real property may be foreclosed in Utah. If the Management Committee elects to foreclose the lien in the same manner as foreclosures in deeds of trust, then the Unit Owner by accepting a deed to the Unit hereby irrevocably appoints the attorney of the Association, as Trustee and hereby confers upon said Trustee the power of sale set forth in Utah Code Annotated. Unit Owner hereby transfers in trust to the Trustee all of his rights, title and interest in and to the real property of the purpose of securing his or her performance of the obligations set forth herein.

In any such foreclosure, the Unit Owner shall be required to pay the costs and expenses of such proceeding, the costs and expenses of filling the notice of lien and all reasonable attorney's fees. All such costs, expenses and fees shall be secured by the lien

being foreclosed. The Unit Owner shall also be required to pay the Management Committee any assessments against the Unit which shall become due during the period of foreclosure. In the event of foreclosure, after the institution of the action the Unit Owner shall pay a reasonable rental for his use of the Unit and the Management Committee shall, without regard to the value of the Unit, be entitled to the appointment of a receiver to collect any rentals due from the Owner or any other person. The Management Committee shall have the right and power to bid an amount equal to its then existing lien at the foreclosure sale or other legal sale and to acquire, hold convey, lease, rent, encumber, use and otherwise deal with the same as the Owner thereof.

A release of notice of lien shall be executed by the Management Committee, or their authorized representative, and recorded in the Office of the County Recorder of Salt Lake County, Utah at the expense of the delinquent Owner, upon payment of all sums secured by a lien which has been made the subject of a recorded notice of lien.

Any Encumbrancer holding a lien on a Unit may pay, but shall not be required to pay, any amounts secured by the lien created hereunder, and upon such payment such Encumbrancer shall be subrogated to all rights of the Management Committee with respect to such lien, including priority, except that any later occurring delinquencies shall have priority over the fees paid by the Encumbrancer.

(k) Personal Obligation of Owner. The amount of any Annual or Special Assessment against any Unit, including all costs of collections and all reasonable attorney fees, shall be the personal obligation of the Owner thereof to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his Unit.

(l) Statement of Account. Upon payment of a reasonable fee not to exceed ten dollars (\$10), or such amount as may in the future be allowed by the Act, and upon written request of any Owner or any Mortgagee, prospective Mortgagee or prospective purchaser of a Unit, the Management Committee shall issue a written statement setting forth the amount of the unpaid assessments, and if any, with respect to such Unit; the amount of the current yearly assessment and the date that such assessment becomes or became due; credit for advanced payments or prepaid items, including, but not limited to an Owner's share of prepaid insurance premiums and such statement shall be conclusive upon the Management Committee in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within twenty (20) days, all unpaid assessments which became due prior to the date of making such request shall be subordinate to the lien of a Mortgagee which acquired its interest subsequent to requesting such statement.

Where a prospective purchaser makes such request, both the lien for such unpaid assessments and the percent obligation of the purchaser shall be released automatically if the statement is not furnished within the (20) day period provided herein and thereafter an additional written request is made by such purchaser and is not complied with within (10) days, and the purchaser subsequently acquires the Unit.

(m) Personal Liability of Purchaser for Assessments. Subject to the provisions of subparagraph (g), a Purchaser of a Unit shall be jointly and severally liable with the Seller for all unpaid Assessments against the Unit up to the time of the grant or conveyance without prejudice to the purchaser's right to recover from the Seller the amount paid by the Purchaser for such Assessments.

## 21. Insurance.

The Management Committee shall secure and at all times maintain the following insurance coverage:

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

(b) A comprehensive policy of public liability insurance insuring the Association, the Management Committee, the Manager, and the Unit Owners against any liability incident to the ownership, use or operation of the Common Areas and public ways of the Project or of any Unit which may arise among themselves, to the public, or to any invitees, or tenants of the Project, or of the Unit Owners. Limits of liability under such insurance shall be not less than One Million Dollars (\$1,000,000.00) per occurrence, for personal property injury and/or property damage.

Such insurance policy shall contain a "Severability of Interest" endorsement which shall preclude the Insurer from denying the claim of a Unit Owner because of negligent acts of the Association or other Unit Owners. The scope of coverage must include all other coverage in the kinds and amounts required by private institutional mortgage investors for similar projects in location, construction and use.

(c) The Association shall maintain fidelity coverage to protect against dishonest acts on the part of Management Committee Members, Manager, employees or volunteers responsible for handling funds belonging to or administered by the Association. The

fidelity bond or insurance must name the Association as the named insured and shall be written in an amount sufficient to provide protection which in no event shall be less than one and one-half times the insured's estimated annual-operating expenses, including reserves. In connection with such coverage an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

(d) The following additional provisions shall apply with respect to insurance:

(1) In addition to the insurance and bond coverage described above, the Management Committee shall secure and at all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with all condominium projects similar to the Project in construction, nature and use.

(2) Each insurer must be specifically licensed to transact business with the State of Utah. Policies are unacceptable where (i) under the terms of the carrier's charter, bylaws or policy, contributions or assessments may be made against the Borrower, any first Mortgagee, or its assignee; or (ii) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policy holders or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent Mortgagee, its assignee, or the borrower from collecting insurance proceeds.

(3) The Management Committee shall have the authority to settle (adjust) losses with the insurance carrier.

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

(5) Each policy of insurance obtained by the Management Committee shall provide: a standard mortgagee clause commonly accepted by private institutional mortgage investors in the area in which the Project is located; a waiver (if available) of the insurer's Subrogation rights with respect to the Management Committee, the Manager, the Unit Owners, and their respective servants, agents, and guests; that it cannot be canceled, suspended, or invalidated due to the conduct of any particular Unit Owner or Owners; that it cannot be canceled, suspended or invalidated due to the conduct of any member, officer, or employee of the Management Committee or of the Manager without a prior written demand that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Unit Owners; and that a mortgagee clause endorsement which must provide that the insurance carrier shall notify the first Mortgagee (or trustee) named at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.

BK 8366 PG 1653  
PK 8306 PG 1053

(6) Any Unit Owner may obtain additional insurance at his own expense, so long as such additional insurance does not have the effect of decreasing the amount which may be realized under any policy maintained by the Management Committee. Any Unit Owner who individually obtains insurance covering any portion of the Project shall supply the Management Committee with a copy of his policy within 30 days after he acquires such insurance.

(7) The Project is not located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards. In the event that at some future time the Project should be declared to be in such flood area, a blanket policy of flood insurance on the Project shall be maintained in the amount of the aggregate of the outstanding principal balances of the mortgage loans on the Units comprising the Project or the maximum limit of coverage available under the National Flood Insurance Act of 1968, as amended, whichever is less. The name of the insured under each required policy must be in form and substance as that required by any first Mortgagee, or its assignee, at any given time.

(e) Declarant shall provide the following insurance if the Project is expanded to add an additional phase or phases.

A general liability insurance policy in an amount not less than \$1 million for each occurrence, to cover any liability which Owners of previously sold Units are exposed to as a result of further expansion of this condominium Project development.

## 22. Damage to Project.

In the event of damage of or destruction of part or all of the improvements in the Condominium Project, the following procedures shall apply:

(a) If proceeds of the insurance maintained by the Management Committee are alone sufficient to repair or reconstruct the damage or destroyed improvement, such repair or reconstruction shall be carried out.

(b) If less than seventy-five (75%) of the Projects improvements are destroyed or substantially damaged, and if proceeds of the insurance maintained by the Management Committee are not alone sufficient to accomplish repair or reconstruction, restoration shall be carried out and all the Unit Owners shall be assessed for any deficiency on the basis of their respective Percentage Interest.

(c) If seventy-five (75%) or more of the Project's improvements are destroyed or substantially damaged, if proceeds of the insurance maintained by the Management Committee are not alone sufficient to accomplish restoration, and if the Unit Owners

within 100 days after the destruction or damage by a vote of at least seventy-five (75%) elect to repair or reconstruct the affected improvements, restoration shall be accomplished in the manner directed under subparagraph (b) above.

(d) If seventy-five (75%) or more of the Project's improvements are destroyed or substantially damaged, if proceeds of the insurance maintained by the Management Committee are insufficient to accomplish restoration, and if the Unit Owners do not, within 100 days after the destruction or damage and by a vote of at least seventy-five (75%), elect to repair or reconstruct the affected improvements, the Management Committee shall promptly record with the Salt Lake County Recorder a notice setting forth such facts. Upon the recording of such notice the provisions of Subsections (1) through (4) of Section 57-8-31, Utah Code Annotated (1953), shall apply and shall govern the rights of all parties having an interest in the Project or any of the Units.

Any reconstruction or repair which is required to be carried out by this Paragraph 22 regarding the extent of damage to or destruction of Project improvements shall be made by three MAI appraisers selected by the Management Committee. The decision of any two such appraisers shall be conclusive.

23. Certain Provisions Applicable to Declarant.

Notwithstanding any other provision herein contained for as long as Declarant continues to own any of the Units the following provisions shall be deemed to be in full force and effect, none of which shall be construed so as to relieve the Declarant from any obligations as Unit Owner to pay assessments, except as herein otherwise provided, as to each Unit owned by Declarant in accordance with the Declaration.

(a) Declarant specifically disclaims any intent to have made any warranty or representation in connection with the Project or the Declaration except as specifically set forth herein or in any agreement for sale of a Unit, and no person shall rely upon any warranty or representation not so specifically made therein.

(b) No amendment may be made to the Declaration without the written consent of Declarant while Declarant is still in control of the Owner's Association. No amendments to the declaration, bylaws or other enabling documentation may be made by the Unit Owners while the Declarant is still in control as all such changes must be approved by the Secretary of Veterans Affairs.

Notwithstanding the foregoing, The Declarant shall relinquish all special rights, expressed or implied, through which the Declarant may directly or indirectly control, direct, modify, or veto any action of the Owner's Association, its Management Committee, or a majority of Unit Owners, and control of the

Owner's Association shall pass to the Owners of the Units within the Project, not later than the earlier of the following:

- (i) 120 days after the date by which seventy-five percent (75%) of the Units, in all phases, have been conveyed to the Unit purchasers, or
- (ii) Seven years from the date the first conveyance to a Unit purchaser is made.

24. Amendment.

Except as provided below, the vote of at least sixty-five (65%) of the Percentage interest of the Unit Owners in person or represented by proxy at a meeting of the Association at which a quorum is present shall be required to amend the Declaration and/or the Map. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the Management Committee. In such instrument the Management Committee shall certify that the vote required by this Paragraph for amendment has occurred. The foregoing right of amendment shall be subject to the following paramount right:

(a) Except as hereinafter provided, until (i) 120 days after the date by which seventy-five (75%) of the Units, in all phases, have been conveyed to the Unit purchasers, or (ii) Seven years from the date the first conveyance to a Unit purchaser is made, which ever comes first, Declarant shall have, and is hereby vested with, the right to unilaterally amend this Declaration or the Map. Such right shall obtain without regard to the subject matter of amendment, so long as the amendment involved is consistent with law and does not attempt to divest any vested property rights of any Owner or Mortgagee. However, during such time as the Declarant is in control of the Association, Declarant's right to amend shall be subject to the requirements of 38 C.F.R. Section 36.4357(c)(4) and 36.4360(a)(1), (2) and (3) which may require prior approval by the Secretary of Veterans Affairs.

(b) Notwithstanding anything to the contrary contained in the Declaration, including in the immediately preceding paragraph, neither the insurance provisions of paragraph 20 nor the Mortgagee protection provisions of paragraph 27 shall be amended without the written approval of all Mortgagees having a recorded interest.

25. Consent Equivalent to Vote.

In those cases in which the Act or this Declaration requires the vote of a stated percentage of the Project's undivided ownership interest for the authorization or approval of a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Unit Owners who collectively hold at least the necessary percentage of undivided ownership interest, provided that such written consents relied upon are obtained within a ninety (90) day period.



26. Eminent Domain.

Whenever all or part of the Common Areas shall be taken, injured or destroyed as the result of the exercise of the power of eminent domain, each Unit Owner shall be entitled to notice thereof and to participate in the proceedings incident thereto, but in any proceeding for the determination of damages, such damages shall be determined for such taking, injury or destruction as a whole and not for each Unit Owner's interest therein. After such determination each Unit Owner shall be entitled to a share in the damages in the same portion as his Percentage Interest in the Common Areas, subject, however, to any prior right of the Mortgagee to participate therein.

27. Service of Process.

McARTHUR HOMES, INC., Manager of McARTHUR HOMES AT BRITTANY, L.C., with DONALD R. McARTHUR, its President is the person to receive service of process in cases authorized by the Act at 9948 So. Redwood Road, South Jordan, Utah 84095. The Management Committee shall, however, have the right to appoint a successor substitute process agent. Such successor or substitute agent and his address shall be specified by an appropriate instrument filed in the office of the Salt Lake County Recorder, State of Utah.

28. Mortgagee Protection.

Notwithstanding anything to the contrary contained in the Declaration:

(a) An adequate reserve fund for repair, maintenance and replacement of those elements of the Common Areas that must be replaced on a periodic basis must be established and shall be funded by regular monthly payments rather than by special assessments. Amounts of such reserve funds shall be invested by the Management Committee in obligations of the United States Government or in accounts insured by agencies of the U. S. Government and such funds shall be used only for the purpose for which collected and may not be used to reduce operating assessments or deficits or for costs of capital assessments not provided for as part of such funds.

(b) All taxes, assessments and charges which may become liens prior to the first Mortgage under local law shall relate only to the individual Units and not to the Project as a whole.

(c) Any mortgage holder which comes into possession of the Unit pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage or deed (or assignment in lieu of foreclosure) shall be exempt from any claim of right or other provisions which may exist relating to sale or lease of the Units in the Project, and no claim of right shall impair the rights of any first Mortgage to: (i) foreclose or take title to a Unit pursuant to the remedies provided in the Mortgage, or (ii) accept a deed (or assignment) in lieu of

foreclosure in the event of default by a mortgagor, or (iii) interfere with a subsequent sale or lease of the Unit so acquired by the Mortgagee.

(d) No Unit Owner, or any other party, shall have priority over any rights of the first Mortgagee of the Unit Pursuant to its Mortgage in the case of a distribution to such Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of Units and/or Common Areas.

(e) In the event of damage to or destruction of any Unit, which loss exceeds \$1,000.00 or any part of the Common Areas, which loss exceeds \$10,000.00, the institutional holder of any first Mortgage on a Unit shall be entitled to timely written notice to any such damage or destruction. No Unit Owner or other party shall be entitled to priority over such institutional holder with respect to the distribution to such Unit Owner of any insurance proceeds regardless of the amount of loss. Upon request of any first Mortgagee the Association must provide a letter to said first Mortgagee wherein the Association agrees to notify the first Mortgagee or any organization it designates at the address indicated by the Mortgagee whenever (i) damage to a Unit covered by the first Mortgagee's Mortgage exceeds \$1,000.00, or (ii) damage to the Common Areas and related facilities exceeds \$10,000.00.

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

(g) Each holder of a first mortgage lien on a Unit who obtains title to a Unit by virtue of remedies provided in the Mortgage, including but not limited to foreclosure of the mortgage, excluding conveyance by deed or assignment in lieu of foreclosure, shall take the Unit free of unpaid charges and shall not be liable for any unpaid claims or assessments and charges against the Unit which accrue prior to the acquisition of title of such Unit by Mortgagee, unless such provision is contrary to Utah law.

(h) Any lien, accruing after the placement of a mortgage on a Unit, which the Management Committee may have on any Unit in the Project for the payment of Common Expense assessments attributable to such Unit will be subordinate to the lien or equivalent security interest of any mortgage on the Unit, unless such provision is contrary to Utah law.

(i) Unless at least seventy-five percent (75%) of the institutional first Mortgagees (based on one vote for each Mortgage owned) of Units have given their prior written

approval neither the Management Committee, Declarant, Owners, nor the Association shall:

- (1) By act or omission, seek to abandon or terminate the Project.
- (2) Change the pro-rata interest or obligations of any Unit for (i) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards or for (ii) determining the pro-rata share of ownership of each Unit in the appurtenant Common Areas.
- (3) Partition or subdivide any Unit.
- (4) By act or omission, seek to amend, partition, subdivide, encumber, sell, abandon or transfer, the Common Areas. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas of the Project shall not be deemed a transfer within the meaning of this subparagraph).
- (5) Use hazard insurance proceeds for losses to any condominium property (whether to Units or to the Common Areas) for other than the repair, replacement or reconstruction of such improvements, except as provided by statute in cases of substantial loss to the Units and/or the Common Areas of the Project.
- (6) Terminate professional management and assume self management of the Project. Any management agreement entered into by the Management Committee shall provide for termination for cause upon 30 days' notice and run for a reasonable time period of two (2) years if negotiated by Declarant or 1 to 3 years if negotiated by the Management Committee of the Association and be renewable upon consent of the Association and the management.
- (j) Any institutional holder of a first Mortgage (or trust deed) of a Unit in the Project will, upon request be entitled to examine the books and records of the Project during normal business hours.
- (k) Whenever there is a change of ownership of a Unit, the Management Committee shall require that the new Unit/Owner furnish the Management Committee with the name of the holder or any first Mortgage (or trust deed) affecting such Unit. The Management Committee or Manger shall maintain a current roster of Unit Owners and of the holders of first Mortgages (or trust deed) affecting Units in the Project.

29. Duty of Owner to Pay Taxes on Unit Owned.

It is understood that under the Act each Unit (and its Percentage Interest in the Common Areas) in the Project is subject to separate assessment and taxation of each taxing authority and the special district(s) for all types of taxes and assessments authorized by law, and that as a result thereof, no taxes will be assessed or levied against the Project as such, except for certain personal properties thereof. Accordingly, each Unit Owner will pay and discharge any and all taxes and assessments which may be assessed against them on their Unit.

30. Covenant to Run With Land: Compliance.

This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitude, as the case may be, and shall be binding upon and shall inure to the benefit of Declarant all parties who hereafter acquire any interest in a Unit or in the Project, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Unit shall comply with, and all interests in all Units shall be subject to, the terms of the Act, the terms of this Declaration, the Bylaws, and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration, and failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Management Committee on behalf of Unit Owners, or, in a proper case, by an aggrieved Unit Owner. By acquiring any interest in a Unit or in the Project, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

31. Information Regarding Transfer of a Unit.

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

32. Indemnification of the Association and The Management Committee.

The Association and the Management Committee shall not be liable for any failure of water service or other utility service (if any) to be obtained and paid for by the Association hereunder, or for the injury or damage to any person or property caused by the elements or by another Owner or person in or upon the Project. Nor shall the Management Committee or the Association be liable for damage or injury resulting from electricity, water rain, snow, or ice which may leak or flow from outside or from any parts of the Building or its drains, pipes, conduits, appliances or equipment, or from any other place, unless caused by the gross negligence or willful misconduct of the Association or its Management Committee. No diminution or abatement of any assessment under this Declaration shall be claimed or allowed

for inconvenience or discomfort arising from the making of any repairs or improvements to or maintaining the Project or any part thereof, or from any action taken to comply with the provisions of this Declaration or with the laws, ordinances, regulations, rules or order of any governmental authority.

33. Disputes.

All disputes and controversies where the amount in dispute is less than or equal to \$5,000 shall be submitted to small claims court. Provided, however, the Association shall not have the authority to file any legal action without seventy-five percent (75%) vote of all Unit Owners. The provisions in this Declaration or in the Bylaws regarding quorums shall not apply to this Section. It is intended that a vote by seventy-five percent (75%) of all Unit Owners is required to file any legal action.

34. Invalidity.

The invalidity of any provisions of this Declaration, or any portion thereof, shall not be deemed to impair or affect in any manner the validity, enforce ability, or effect of the remainder of this Declaration and, in such event, all of the other provisions of this Declaration shall continue in full force and affect as if such invalid provision had never been included herein.

35. Waiver.

No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breeches which may occur.

36. Gender.

The use of the masculine gender in this Declaration, shall be deemed to refer to the feminine gender and the use of the singular shall be deemed to refer to the plural, and vice versa, whenever the context so requires.

37. Topical Headings.

The headings appearing in the table of contents and at the beginning of the paragraphs of this Declaration are only for convenience of reference and are not intended to describe, interpret, define, limit, extend, or otherwise affect the content, meaning or intent of this Declaration or any paragraph or provision hereof.

38. Conflicts.

This Declaration is set forth to comply with the requirements of the Act. In the event of any conflict between this Declaration and the provisions of the Act, the provision of the latter shall control.

39. Effective Date.

This Declaration shall take effect upon recording in the office of the County Recorder of Salt Lake County, Utah.

IN WITNESS WHEREOF, the undersigned being the Declarant, has caused this instrument to be executed and its seal be affixed hereto on the day and year first above written.


McARTHUR HOMES AT BRITTANY, L.C.  
a Utah Limited Liability Company

By: [Signature]  
McARTHUR HOMES, INC.  
it's Manager

By: [Signature]  
DAVID A. McARTHUR, Senior Vice-President

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

On the 5<sup>th</sup> day of June, 2000, personally appeared before me David A. McArthur, who being by me duly sworn, did say that he is the Senior Vice-President of McArthur Homes, Inc., which is the Manager of McArthur Homes at Brittany, L.C., and that said instrument was acknowledged on behalf of said McArthur Homes at Brittany, L.C., by authority, and said David A. McArthur duly acknowledged to me that he is such Senior Vice-President of said corporation and executed the same on behalf of McArthur Homes, Inc. as manger of McArthur Homes at Brittany.

My Commission Expires  
 Notary Public  
**LAURA L. HOINS**  
57 West South Temple, 8th Floor  
Salt Lake City, Utah 84128  
My Commission Expires  
January 28, 2004  
State of Utah

[Signature]  
NOTARY PUBLIC

BK8366PG1662

EXHIBIT A

REAL PROPERTY DESCRIPTION OF  
BRITTANY CONDOMINIUMS PHASE 1

PROPERTY DESCRIPTION:

Beginning at a point on the Easterly Right-of-Way Line of 4800 West Street, said point being N00°08'29"W, along the Section Line, 1666.630 feet and N89°51'31"E, 50.00 feet from the West Quarter Corner of Section 30, Township 2 South, Range 1 West, Salt Lake Base and Meridian; and running thence N00°08'29"W along the proposed Easterly Right-of-Way Line of 4800 West Street, 212.776 feet; thence S89°25'04"E, 115.728 feet; thence Northwesterly 28.456 feet along the arc of a 1500.00 foot radius curve to the left, (chord bears N00°59'08"E, 28.455 feet); thence S89°33'28"E, 131.537 feet; thence S01°16'05"W, 161.684 feet; thence N65°15'04"W, 20.727 feet; thence N79°33'54"W, 79.794 feet; thence Southeasterly 22.279 feet along the arc of a 1181.00 foot radius curve to the left, (chord bears S04°22'18"W, 22.280 feet); thence S02°58'00"W, 52.168 feet; thence South, 40.857 feet; thence S89°51'31"W, 37.908 feet; thence Northwesterly 23.562 feet along the arc of a 15.00 foot radius curve to the left, (chord bears N45°08'29"W, 21.213 feet); thence S89°51'31"W, 89.001 feet to the point of beginning.

Contains 1.08Acres or 46,989 Square Feet

BK8366Pg1663

EXHIBIT B

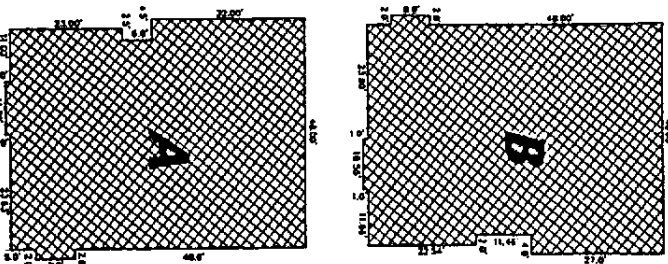
BRITTANY CONDOMINIUMS PHASE 1 MAP

BK 8366 Pg 1664

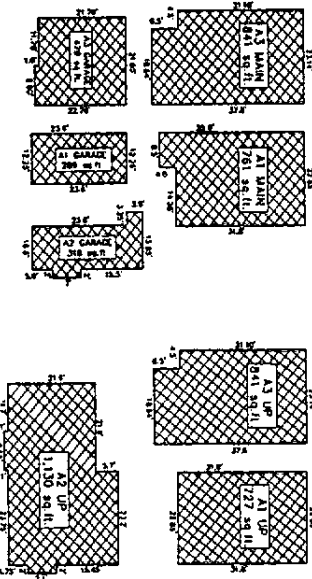




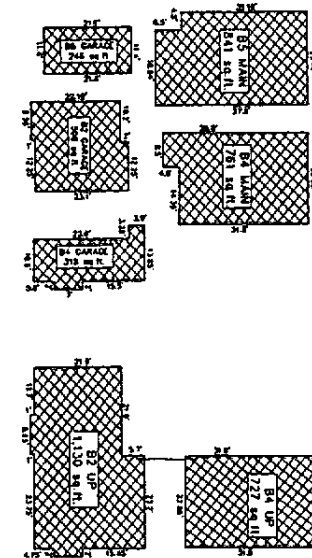
# BRITANNY CONDOMINIUMS PHASE 1



GROUND LEVEL  
DIMENSIONS  
(NOT TO SCALE)



**BUILDING A**  
(NOT TO SCALE)



**BUILDING B**  
(NOT TO SCALE)



UNIT TYPE	MAIN FLOOR ELEVATION	UPPER FLOOR ELEVATION	ADDRESS
B-1	4477.90	4483.24	7144 SOUTH WASHINGTON LANE #3
B-1	4477.90	4483.24	7144 SOUTH WASHINGTON LANE #4
B-2	4487.34	4492.74	7144 SOUTH WASHINGTON LANE #2

BUILDING 1-1

UNIT TYPE	MAIN FLOOR ELEVATION	UPPER FLOOR ELEVATION	ADDRESS
B-1	4478.60	4483.74	7134 SOUTH WASHINGTON LANE #3
B-1	4478.60	4483.74	7134 SOUTH WASHINGTON LANE #4
B-2	4488.74	4493.74	7134 SOUTH WASHINGTON LANE #2

BUILDING 1-2

UNIT TYPE	MAIN FLOOR ELEVATION	UPPER FLOOR ELEVATION	ADDRESS
B-1	4473.20	4484.34	7131 SOUTH WASHINGTON LANE #3
B-1	4473.20	4484.34	7131 SOUTH WASHINGTON LANE #4
B-1	4484.34	4494.34	7131 SOUTH WASHINGTON LANE #2

BUILDING 1-13

UNIT TYPE	MAIN FLOOR ELEVATION	UPPER FLOOR ELEVATION	ADDRESS
A-1	4478.20	4485.34	7143 SOUTH WASHINGTON LANE #1
A-2	4478.20	4485.34	7143 SOUTH WASHINGTON LANE #2
A-3	4478.20	4485.34	7143 SOUTH WASHINGTON LANE #3

BUILDING 1-14

2  
2

PROJECT NO. 12000	DATE 12/11/01	SCALE 1/8" = 1'-0"
DESIGNED BY [Signature]	CHECKED BY [Signature]	DATE 12/11/01
DRAWN BY [Signature]	DATE 12/11/01	

**EWP ENGINEERING, INC.**  
 CIVIL & STRUCTURAL ENGINEERING & ARCHITECTURE  
 3800 South 29th Street, Suite 201, Tallahassee, FL 32310  
 TEL: 904-291-4444

EXHIBIT "C"

BYLAWS  
OF  
BRITTANY CONDOMINIUM  
ASSOCIATION

ARTICLE I  
PLAN OF UNIT OWNERSHIP

1. Condominium Submission. The Property located in Salt Lake County, Utah, has been submitted to the provisions of the Utah Condominium Act by the Declaration recorded in the Office of the County Recorder of Salt Lake County, Utah, simultaneously herewith, and shall hereafter be referred to as the "Condominium".

2. Bylaws Applicability. All present and future Owners and tenants, as well as their guests, licensees, servants, agents, employees and any other person or persons who shall be permitted to use the facilities of the Condominium, shall be subject to these Bylaws and to the Rules and Regulations of the Condominium. Acquisition, rental or occupancy of any of the Condominium Units in the Condominium shall constitute an acknowledgment that such Owner, tenant or occupant has accepted and ratified these Bylaws, the provision of the Declaration and the Rules and Regulations and will comply with them.

3. Office. The office of the Condominium and of the Management Committee shall be located at the Condominium or at such other place as may be designated from time to time by the Management Committee (hereinafter sometimes called the "Committee").

ARTICLE II  
ASSOCIATION

1. Composition. Each Unit Owner shall automatically, upon becoming the Owner of a Unit, be a member of the Association and shall remain a member of said Association until such time as the ownership ceases for any reason, at which time membership in the Association shall automatically cease. Membership is appurtenant to and may not be separated from Unit ownership. The Management Committee or its delegate may require that a member provide proof of ownership as a condition of recognition. All Unit Owners are subject to all the rights and duties established in the Declaration and these Bylaws of the Association. Unless otherwise provided in these documents, the Declarant, for all unsold units in the Project, enjoys the same rights and is subject to the same duties as other Owners. All of the Unit Owners, acting as a group in accordance with the Act, the Declaration and these Bylaws, shall constitute the Association. Except as to those matters which the Act or the Declaration specifically requires to be performed by the vote of the Unit Owners, the administration of the Condominium shall be performed by the Management Committee.

BK 8366Pg 1667

2. Voting. Each Unit shall have a vote equal to the par value of the owned Unit which may be cast by the Owner or Owners of each such Unit. Such par value may be changed when and if the Project expands and may be adjusted by the Declarant without the consent of the Unit Owners. Since the Unit Owner may be more than one person, if only one of such persons is present at a meeting of the Association, that person shall be entitled to cast the vote(s) appertaining to that Unit. But if more than one of such persons is present, the vote appertaining to that Unit shall be cast only in accordance with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to cast the vote appertaining to the Unit without protest being made forthwith by any of the others to the person presiding over the meeting. Failure to get a majority agreement on how such vote(s) are to be cast, shall render the vote ineligible to be cast.

Since a person need not be a natural person, the word "person" shall be deemed for the purposes of this Section to include, without limitation, any natural person having authority to execute deeds on behalf of any person, excluding natural persons, which is, either alone or in conjunction with another person or persons, a Unit Owner.

Except where a greater number is required by the Act, the Declaration, or these Bylaws, a majority of the votes of Unit Owners present, in person or represented by proxy, in good standing and entitled to vote is required to adopt decisions at any meeting of the Association. If the Declarant owns or holds title to one or more Units, the Declarant shall have the right at any meeting of the Association to cast the votes to which such Unit or Units are entitled.

3. Place of Meeting. Meetings of the Association shall be held at the principal office of the Condominium or at such other suitable place as may be designated by the Management Committee and stated in the notice of the meeting.

4. Annual Meeting. The first annual meeting shall be set by the Declarant. Thereafter, the annual meeting of the Association shall be held in July of each year, the specific date and time to be fixed by the Management Committee. If the annual meeting is to be held at a place other than at the principal office of the Condominium, the place of meeting shall be at a location in Salt Lake County, Utah, and shall be specified in the notice of meeting.

5. Special Meetings. It shall be the duty of the President to call a special meeting of the Association within six weeks if so directed by resolution of the Management Committee or, after all of the Committee has been elected by Unit Owners other than Declarant, or upon a petition signed and presented to the Secretary by Owners having not less than twenty percent (20%) of the votes of all Owners in existence at the time the vote is taken. The notice of any special meeting shall state the time, place and general purpose of such meeting. No business shall be transacted at a special meeting except as stated in the notice.

6. Notice of Meeting. It shall be the duty of the Secretary to personally deliver or mail, by United States mail, postage prepaid, a notice of (a) each annual meeting of the Owners,

at least twenty (20) but not more than thirty (30) days in advance of such meeting and (b) each special meeting of the Owners at least ten (10) but not more than twenty (20) days in advance of such meeting, stating the general purpose thereof as well as the time and place where the meeting is to be held, to each Owner of record, at the address of their respective units and at such other address as each Owner may have designated by notice in writing to the Secretary as of the time of mailing or delivering the notice. The delivery or mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice.

7. Voting Requirements. An Owner shall be deemed to be in “good standing” and “entitled to vote” at any annual meeting or at any special meeting of the Association if, and only if, he shall have fully paid all due installments of assessments made or levied against him and his Unit by the Management Committee as hereinafter provided, together with all interest, costs, attorney’s fees, penalties and other expenses, if any, properly chargeable to him and against his Unit, at least three (3) days prior to the date fixed for such annual or special meeting.

8. Proxies. The votes appertaining to any Unit may be cast pursuant to a proxy or proxies duly executed by or on behalf of the Unit Owner, or, in cases where the Unit Owner is more than one person, by or on behalf of all such persons. No such proxy shall be revocable except by actual notice to the person presiding over the meeting, by the Unit Owner or by any of such persons, that it be revoked. Any proxy shall be void if it is not dated, if it purports to be revocable without notice as aforesaid. The proxy of any person shall be void if not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Any proxy shall terminate automatically upon the adjournment of the first meeting held on or after the date of that proxy, and must be filed with the Secretary not less three (3) days before the meeting.

9. Quorum. Except as may otherwise be provided herein or by statute, more than forty percent (40%) of the Owners shall constitute a quorum for the adoption of decisions. If, however, such quorum shall not be present or represented at any meeting, the Owners entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting and reschedule for a time no earlier than 48 hours, and no later than thirty (30) days after the time set for the original meeting. No notice of such rescheduled meeting shall be required except an announcement thereof at the original meeting. A quorum for the transaction of business at the rescheduled meeting shall be thirty percent (30%) of the Percentage Interest in attendance at the meeting in person or by proxy.

10. Order of Business. The order of business at all meetings of the Association shall be as follows: (a) roll call; (b) proof of notice of meeting; (c) reading, of minutes of preceding meeting; (d) reports of officers; (e) report of special committees, if any; (f) election of inspectors of election, if applicable; (g) election of Management Committee Members, if applicable; (h) unfinished business; and (i) new business.

11. Conduct of Meeting. The President, or in his absence the Vice-President, shall 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 a record of all transactions occurring thereat.

ARTICLE III  
MANAGEMENT COMMITTEE

1. Powers and Duties. The affairs and business of the Association shall be managed by the Management Committee which shall have all of the powers and duties necessary for the administration of the affairs of the Association in accordance with the provision of the Declaration and may do all such acts and things as are not by the Act or these Bylaws directed to be exercised and done by the Association. The Management Committee shall have the power from time to time to adopt any Rules and Regulations deemed necessary for the enjoyment of the Condominium provided such Rules and Regulations shall not be in conflict with the Act, the Declaration or these Bylaws. The Management Committee shall delegate to one of its members the authority to act on behalf of the Management Committee on all matters relating to the duties of the Managing Agent, if any, which might arise between meetings of the Management Committee.

2. Composition of Management Committee, etc. The provisions relating to the composition of the Management Committee, the terms of office, and other provisions regarding the Management Committee, are set forth in Section 17 of Article IV of the Declaration.

3. Election and Term of Office the Management Committee. At the first annual meeting of the Association, subject to the provisions of Section 2 of this Article III, the five members of the Committee shall be elected. The term of office shall be fixed at two years for those three persons receiving the greatest number of votes, for one year for those two persons receiving the next greatest number of votes. Thereafter terms of office of new members shall be staggered so that at any annual meeting of Condominium Owners new Management Committee members must be elected. The Committee Members shall hold office until their respective successors have been elected and hold their first meeting.

4. Officers. The officers of the Association shall be a President, Vice President Secretary, Treasurer and such other officers as may from time to time be appointed by the Management Committee.

5. Organization Meeting. The first meeting of the members of the Management Committee following the annual meeting of the Association shall be held within ten (10) days after the annual meeting at such place as shall be fixed by the Management Committee at the meeting at which such Committee Members were elected, and no notice shall be necessary to the newly elected Committee Members in order legally to constitute such meeting provided that a majority of the whole Management Committee shall be present thereat.

6. Regular Meetings. Regular meetings of the Committee may be held at such time and place as shall be determined, from time to time, by a majority of the Management Committee, but at least three such meetings shall be held during each fiscal year after the first annual meeting of the Association. Notice of regular meetings of the Committee shall be given to each member of the Management Committee, personally, by mail or by telephone, at least three (3) business days prior to the day named for such meeting, and such notice shall state the time, place and purpose of the meeting.

7. Special Meetings. Special meetings of the Management Committee may be called by the President on three (3) business days notice to each member of the Management Committee. Such notice shall be given personally, by mail or by telephone, and such notice shall state the time, place and purpose of the meeting. Special meetings of the Management Committee shall be called by the President or Secretary in like manner and on like notice on the written request of at least two Committee Members.

8. Waiver of Notice. Before or at any meeting of the Management Committee, any Management Committee member may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Management Committee member at any meeting of the Committee shall be a waiver of notice by him of the time and place thereof. If all the Management Committee members are present at any meeting of the Management Committee, no notice shall be required and any business may be transacted at such meeting.

9. Management Committee Quorum. At all meetings of the Management Committee, a majority of the Management Committee members shall constitute a quorum for the transaction of business, and the acts of the majority of the Management Committee members present at a meeting at which a quorum is present shall be the acts of the Management Committee. If, at any meeting of the Management Committee, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

10. Vacancies. Vacancies in the Management Committee caused by any reason other than removal of a Management Committee member by a vote of the Association shall be filled by vote of the majority of the remaining Management Committee members, at a special meeting of the Management Committee held for that purpose promptly after the occurrence of any such vacancy, even though the Management Committee members present at such meeting may constitute less than a quorum of the Committee; and each person so elected shall be a Management Committee member until a successor is elected at the next annual meeting of the Association; provided that the vacancy of any Management Committee member designated by the Declarant pursuant to a right of the Declarant to make such designation shall be filled by the Declarant.

11. Removal of Management Committee Members. A Management Committee member may be removed with or without cause, and his successor elected, at any duly called regular or special meeting of the Association at which a quorum is present, by an affirmative vote of a majority of the votes represented and voting. Any Management Committee member whose removal has been proposed by the Owners shall be given at least ten (10) days' notice of the calling of the meeting and the purpose thereof and an opportunity to be heard at the meeting. Notwithstanding anything in this Section to the contrary, no person selected and designated by the Declarant as a member of the Management Committee may be removed without the consent of the Declarant and in such event the Declarant shall select and designate his successor.

12. Compensation. No Management Committee member shall receive any compensation from the Condominium for acting as such.

13. Conduct Meetings. The President shall preside over all meetings of the Management Committee and the Secretary shall keep a Minute Book of the Management Committee recording therein all resolutions adopted by the Management Committee and a record of all transactions and proceedings occurring at such meetings.

14. Report of Management Committee. The Management Committee shall present at each annual meeting, and when called for by vote of the Association at any special meeting of the Association, a full and clear statement of the business and condition of the Condominium.

15. Fidelity Bonds. The Management Committee shall require that all officers, agents (including any professional manager and its employees) and employees of the Association handling or responsible for funds furnish adequate fidelity bonds. The premiums on such bonds shall constitute a Common Expense. The Management Committee shall provide fidelity insurance coverage as required by the Declaration.

#### ARTICLE IV FISCAL YEAR

The fiscal year of the Association shall consist of the twelve month period commencing on January 1 of each year and terminating on December 31 of the same year, except that the first fiscal year shall begin at the date of organization and terminate on December 31.

#### ARTICLE V TRANSFER OF CONTROL BY DECLARANT

The Declarant shall relinquish all special rights, expressed or implied, through which Declarant may directly or indirectly control, direct, modify, or veto any action of the Association, its Management Committee or a majority of Unit Owners, and control of the Association shall pass to the Unit Owners within the Project, not later than the earlier of the following:



- (i) 120 days after the date by which 75 percent of the Units, in all phases, either recorded or unrecorded, have been conveyed to the Unit purchasers, or
- (ii) Seven years from the date the first conveyance to a Unit purchaser is made.

ARTICLE VI  
AMENDMENT TO BYLAWS

1. Amendments. Except as otherwise provided in this Section, these Bylaws may be modified or amended either (i) by a vote of at least sixty-five percent (65%) of the Percentage Interest at any regular or special meeting at which a quorum is present, provided that Notice of the proposed amendment shall have been given to each Owner simultaneously with the notice of such meeting or (ii) pursuant to a written instrument duly executed by at least fifty-one percent (51%) of the Percentage Interest; provided, however, that (a) Section 2 of Article III insofar as it relates to the selection of members of the Management Committee by the Declarant, (b) Section 2 of Article III insofar as it provides that the Declarant, so long as it is the Owner of one or more Units, may vote the votes appurtenant thereto, and (c) this Section 1 of Article VI, may not be amended without the consent in writing of the Declarant, so long as the Declarant shall own five or more Units. Furthermore, notwithstanding the foregoing, so long as the Declarant is the Owner of one or more Units, no amendment to the Bylaws or Rules and Regulations may be adopted which could interfere with the construction, display, sale, lease, or other disposition of such Unit or Units. In addition, during such time as the Declarant is in control of the Association, Declarant's right to amend the Declaration or Bylaws shall be subject to the requirements of 38 C.F.R. Section 36.4357(c)(4) and 36.4360(a)(1), (2) and (3) which may require prior approval by the Secretary of Veterans Affairs.

2. Recording. A modification or amendment of these Bylaws shall become effective only if such modification or amendment is recorded in the office of the County Recorder of Salt Lake County, Utah within 45 days of the modification.

3. Conflicts. No modification or amendment of these Bylaws may be adopted which shall be inconsistent with the provisions of the Act or with the provisions of the Declaration. A modification or amendment once adopted and recorded as provided for herein shall then constitute part of the official Bylaws of the Condominium and all Owners shall be bound to abide by such modification or amendment.

4. Approval of Mortgagees. The Declaration contains provisions concerning various rights, priorities, remedies and interests of the Mortgagees of Units. Such provisions in the Declaration are to be construed as covenants for the protection of the Mortgagees on which they may rely in making loans secured by mortgages on the Units. Accordingly, all Mortgagees shall be given thirty (30) days notice of all proposed amendments, and no amendment or modification of these Bylaws impairing or affecting the rights, priorities, remedies or interests of a Mortgagee (including a Mortgagee's use of a secondary mortgage market, i.e., the saleability of Mortgagees

to one of ultimate mortgage purchasing corporations) shall be adopted without the prior written consent of such Mortgagee. If there is more than one Mortgagee holding Mortgages on the Units, it shall be sufficient for this purpose to obtain the written consent of the Mortgagee or Mortgagees holding mortgages on seventy-five percent (75%) or more of the Units encumbered by Mortgages.

ARTICLE VII  
NOTICE

1. Manner of Notice. All notices, demands, bills, statements or other communications provided for or required under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by U. S. Mail, first class postage prepaid (i) if to an Owner, at the address of his Unit and at such other address as the Owner may have designated by notice in writing to the Secretary, or (ii) if to the Management Committee or the Manager, at the principal office of the Manager or at such other address as shall be designated by notice in writing to the Owners comprising the Management Committee pursuant to this Section.

2. Waiver of Notice. Whenever any notice is required to be given under the provisions of the Act, the Declaration or of these Bylaws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether signed before or after the time stated therein, shall be deemed equivalent thereto, unless such waiver is ineffective under the provisions of the Act.

ARTICLE VII  
COMPLIANCE, CONFLICT, AND MISCELLANEOUS PROVISIONS

1. Compliance. These Bylaws are set forth in compliance with the requirements of the Act.

2. Conflict. These Bylaws are subordinate and subject to all provisions of the Declaration and to the provisions of the Act. 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 Declaration, the provisions of the Declaration shall control; and in the event of any conflict between the Declaration and the Act, the Provisions of the Act shall control.

3. Severability. These Bylaws are set forth to comply with the requirements of the State of Utah. In case any of the Bylaws are in conflict with the provisions of any of its statutes, the provisions of the statutes will apply. If any provisions of these Bylaws or any section, sentence, clause, phrase, or word, or the application thereof in any circumstances is held invalid,

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the validity of the remainder of these Bylaws shall not be affected thereby and to this end, the provisions hereof are declared to be severable.

4. Waiver. No restrictions, conditions, obligation or provision of these Bylaws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

5. Captions. The captions contained in these Bylaws are for convenience only and are not part of these Bylaws and are not intended in any way to limit or enlarge the terms and provisions of these Bylaws.

6. Gender, etc. Whenever in these Bylaws the context so requires, the singular number shall include the plural and the converse, and the use of any gender shall be deemed to include all genders.

DATED this 5th day of June, 2000.

ATTEST:

  
Secretary

END OF BYLAWS OF BRITTANY CONDOMINIUM ASSOCIATION

EXHIBIT "D"  
OWNERSHIP INTEREST TABLE

UNIT                      UNIT PAR VALUE PERCENT  
                                 OF UNDIVIDED INTEREST  
                                 IN COMMON AREA

Phase 1

Bldg. 1

Unit 1                      1/12th or 8.33333%  
Unit 2                      1/12th or 8.33333%  
Unit 3                      1/12th or 8.33333%

Bldg. 2

Unit 1                      1/12th or 8.33333%  
Unit 2                      1/12th or 8.33333%  
Unit 3                      1/12th or 8.33333%

Bldg. 3

Unit 1                      1/12th or 8.33333%  
Unit 2                      1/12th or 8.33333%  
Unit 3                      1/12th or 8.33333%

Bldg. 4

Unit 1                      1/12th or 8.33333%  
Unit 2                      1/12th or 8.33333%  
Unit 3                      1/12th or 8.33333%

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EXHIBIT E

BRITTANY CONDOMINIUMS - EXPANDABLE AREA

PROPERTY DESCRIPTION:

BEGINNING AT THE WEST QUARTER CORNER OF SECTION 30, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN; THENCE N.00°08'29"W. 2,319.69 FEET ALONG THE WEST LINE OF SAID SECTION 30; THENCE S.89°57'09"E. 592.10 FEET; THENCE S.00°08'29"E. 2,319.65 FEET TO A POINT ON THE QUARTER-SECTION LINE; THENCE NORTH 89°57'23"W. 592.10 FEET ALONG SAID QUARTER-SECTION LINE TO THE POINT OF BEGINNING.

LESS THE PROPERTY INCLUDED IN PHASE 1 AS STATED IN EXHIBIT "A"

CONTAINS 29.35 ACRES LESS 1.08 ACRES IN PHASE 1 AS STATED IN EXHIBIT "A".

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