

*Richard Prows, Inc. 4411 S. 9th E. Salt Lake City, Utah 84119*

OCT 21 1971 9:41 AM

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39.00 *[Signature]*

DECLARATION OF CONDOMINIUM

OF

THREE FOUNTAINS EAST, PHASE TWO

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THIS DECLARATION OF CONDOMINIUM, hereinafter called "Declaration", made as of the date hereinafter set forth by Richard Prows, Inc., a Utah corporation, hereinafter referred to as "Declarant", pursuant to the provisions of the Utah Condominium Ownership Act, witnesseth as follows:

WHEREAS, the Declarant is the owner of the following described real property situate in the County of Salt Lake, State of Utah, to-wit:

Beginning at a point South 234.61 feet and East 382.38 feet from the center of Section 8, Township 2 South, Range 1 East, Salt Lake Base and Meridian; and running North 2° 00' East 172.29 feet; thence North 69° 45' East 61.03 feet; thence North 20° 15' West 20.00 feet; thence North 69° 45' East 111.27 feet to a point of a 50.00 foot radius curve to the left, the radius point of which is North 20° 15' West 50.00 feet; thence Northeasterly along the arc of said curve 43.41 feet; thence North 20° 00' East 54.27 feet, thence North 20° 15' West 431.04 feet; thence North 3° 57' 30" West 22.985 feet; thence East 50.12 feet to the Southwest corner of Lot 19 Huffaker Subdivision; thence South 57° 32' 30" East 111.32 feet; thence North 85° 08' East 253.42 feet, thence South 14° 40' East 716.01 feet; thence North 88° 00' West 397.22 feet; thence South 25° 10' East 56.19 feet; thence North 88° 00' West 263.135 feet to the point of beginning. (Contains 7.09 Acres).

WHEREAS, the aforesaid property consists of the land above described, together with certain residential buildings and certain other improvements heretofore or hereafter to be constructed upon said premises; and

WHEREAS, the Declarant has constructed or will construct residential buildings and other improvements upon the

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aforesaid premises in accordance with the plans and drawings set forth in the Record of Survey Map filed concurrently herewith, consisting of four sheets, prepared and certified by Robert B. Jones, Utah Registered Land Surveyor; and

WHEREAS, Declarant desires by filing this Declaration and the aforesaid Record of Survey Map to submit the above-described real property and the said buildings and other improvements being constructed or to be constructed thereon to the provisions of the Utah Condominium Ownership Act as a condominium project known as the THREE FOUNTAINS EAST, PHASE TWO; and

WHEREAS, the said property, buildings and improvements are sometimes herein referred to as "Phase Two"; and

WHEREAS, Declarant has heretofore filed of record that certain Declaration of Condominium of Three Fountains East, Phase One, dated October 7, 1970, recorded in the office of the County Recorder of Salt Lake County, Utah in Book 2909, page 632 of Records, as Entry Number 2354950, and that certain Record of Survey Map recorded in Book II of Plats, page 22, as Entry Number 2354949, relating to the buildings, improvements and property therein described and herein sometimes referred to as "Phase One"; and

WHEREAS, Declarant desires and intends to sell the fee title to the individual units contained in said condominium project, together with the undivided ownership interests in the Common Areas and Facilities appurtenant thereto, to various purchasers, subject to the covenants, limitations, and restrictions contained.

NOW, THEREFORE, for such purposes, the Declarant hereby

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makes the following declarations:

1. Definitions. The terms used herein shall have the meaning stated in the Utah Condominium Ownership Act and as follows unless the context otherwise requires:

(a) The term "The Act" shall mean and refer to the Utah Condominium Ownership Act as the same may be amended from time to time;

(b) The term "The Condominium Project" or sometimes "The Project" shall mean and refer to the tract of land above described, together with all improvements and appurtenances located thereon or thereunto belonging;

(c) The term "Map" shall mean and refer to the Record of Survey Map of THREE FOUNTAINS EAST, PHASE TWO, filed for record herewith by Declarant as Exhibit "A";

(d) The term "Unit Owner" shall mean and refer to the legal owner of a condominium unit and a proportionate share of the Common Areas and Facilities as those terms are defined herein;

(e) The term "Common Areas and Facilities" (sometimes simply referred to as "Common Areas" or "Common Elements") shall mean and refer to:

(1) The above-described land;

(2) Those Common Areas and Facilities specifically set forth and designated as such in the Map;

(3) That part of the condominium project not specifically included in the respective units as hereinafter defined;

(4) All foundations, columns, girders, beams, supports, main walls, retaining walls, stairways, roof, exterior walkways, parking areas, service streets, all recreational areas

and facilities, yards, gardens, fences, landing-porch areas of each floor which service entrance to each Unit, all installations of power, light and other utilities to the outlets, and in general all other apparatus, installations and other parts of the property necessary or convenient to the existence, maintenance and safety of the Common Area, or normally in common use;

(5) The Common Areas and Facilities of Phase One; and

(6) All Common Areas and Facilities as defined in the Act, whether or not expressly listed herein.

(f) The term "Unit Owners" shall mean and refer to unit owners of the THREE FOUNTAINS EAST, PHASE TWO, including the original purchasers and others who may subsequently become Unit Owners.

(g) The term "Property " shall mean and refer to the land, the building, all improvements and structures thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

(h) The term "Unit" or "Units" shall mean and refer to a part of the property intended for any type of independent use as defined in the Act and as designated in the Map.

(i) The term "Common Expenses" shall mean and refer to all items, things and sums described in the Act which are lawfully assessed against the Unit Owners in accordance with the provisions of the Act, this Declaration, the By Laws, such rules and regulations pertaining to the Condominium Project as the Management Committee may from time to time adopt, and such other determinations and agreements lawfully made and/or

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entered into by the Management Committee.

(j) The term "Management Committee" or the "Committee" shall mean and refer to those persons duly elected thereto by the Unit Owners as provided by the Declarations of the THREE FOUNTAINS EAST, PHASE TWO, subject, however, to the provisions of paragraph 8, in accordance with the By Laws hereto attached as Exhibit "C".

(k) The term "Manager" shall mean and refer to the person, persons or corporation engaged by the Management Committee to manage the affairs of the Condominium Project.

(l) To the extent applicable to the tenure hereof and not inconsistent herewith, definitions contained in the Act are incorporated herein by reference and shall have the same effect as if expressly set forth herein and made parts hereof.

(m) The Limited Common Areas and Facilities, herein sometimes referred to as Limited Common Areas, include:

(1) The patios, balconies and utility areas contiguous to the living room-bedroom areas of each Unit;

(2) Two carports assigned to each Unit as designated in Exhibit "B" attached hereto and made a part hereof; and

(3) One storage room assigned to each Unit as designated in said Exhibit "B".

Said Limited Common Areas are set aside and reserved for the use of the respective Units to which they are appurtenant, as aforesaid, to the exclusion of the other Units. It is declared that the Limited Common Areas of Phase One are also part of the Limited Common Areas of Phase Two.

2. Submission to Condominium Ownership. Declarant hereby submits the above-described tract of land, buildings, and

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other improvements constructed thereon or hereafter to be constructed, together with all appurtenances thereto, to the provisions of the Act as a Condominium Project to be known as THREE FOUNTAINS EAST, PHASE TWO. This Declaration is submitted in accordance with the terms and the provisions of the Act and shall be construed in accordance therewith.

3. Covenants to Run With the Land. This Declaration and the covenants, restrictions, limitations, conditions, and uses therein provided, shall constitute covenants to run with the land and hereby submitted to the condominium project and shall be binding upon the Declarant, its successors and assigns, and upon all subsequent owners of all or any part of the Condominium Project, and upon their grantees, successors, heirs, executors, administrators, devisees, and assigns.

4. Plan of Condominium Ownership. To establish a plan of condominium ownership, the Condominium Project is divided into 106 residential units in seven (7) buildings designated A, B, C, D, E, F, and G as shown on the Map. Buildings A, D, E, F and G have four stories with each building containing 14 residential Units. Buildings B and C have six stories with each building containing 18 such Units.

The said buildings are of frame construction with "duracrete" exterior surfacing and rough-sawn wood trim.

Each Unit has six rooms consisting of a living room-dining area, two bedrooms, kitchen, and two bathrooms. Also, each Unit has a washer-dryer area.

The aforesaid residential Units, together with their appurtenant interests in the Common Areas and Facilities shall constitute separate freehold estates for all purposes provided

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by the Act.

The Unit Number of each Unit, its location within the Building, and the street addresses of each building are as indicated on page 4 of the Map.

5. Easement for Encroachments and Utilities, Etc.

If any portion of the Common Areas and Facilities encroaches upon any of the residential units, a valid easement shall exist for such encroachment, and for the maintenance of the same, so long as such encroachment exists. In the event the Condominium Project is partially or totally destroyed, and then rebuilt, minor encroachments shall be permitted, as required, upon the individual Units, and easements for such encroachments, and for the maintenance of same, shall exist for such period of time as may be reasonably required for the reconstruction or repair of said premises.

Easements are reserved through the condominium property as may be required for utility services.

The Management Committee is authorized and empowered to grant such easements over and across the Common Area as it shall determine to be in the best interests of the Unit Owners.

6. Consolidation of Phase One and Phase Two. As specified in paragraph 6 of the Declaration of Condominium of Phase One, the Common Areas and Facilities of Phase Two shall include the Common Areas and Facilities of Phase One, and the Common Areas and Facilities of Phase One include the Common Areas and Facilities of Phase Two. Phase One and Phase Two shall be treated, managed and governed as one condominium project. In this regard, Declarant reserves the irrevocable right and power to amend this Declaration from time to time, and at any time, to

implement the foregoing, and such right and power is hereby granted to Declarant by the Unit Owners.

7. Ownership of Common Areas and Facilities. The percentage of ownership in the Common Areas and Facilities of the Condominium shall be for all purposes, including voting. The common expenses shall be allocated among the unit owners in accordance therewith. The percentage of ownership in the Common Areas and Facilities shall be as set forth in Exhibit "B" hereto attached, provided, however, that Declarant shall have the right and authority to alter such percentages after the Declaration of Condominium and the Record of Survey Map for Phase Two are recorded, it being the intent that the aggregate percentage of ownership in the Common Areas and Facilities of Phase One and Phase Two shall equal one hundred (100) percent. To that end, the Declarant does hereby irrevocably reserve the right, power and authority to amend this Declaration, including Exhibit "B", after said instruments for Phase Two are recorded. Upon such amendment being made and recorded, the percentage of ownership in the Common Areas and Facilities shall be finally fixed.

The share of the Unit Owners in the Common Areas is based on the proportionate value that each of the Units bear to the total value of the property.

The value of each Unit, and the total value of all the Units are:

<u>Type of Unit</u>	<u>Number of Units</u>	<u>Value per Unit</u>	<u>Total Value</u>
Executive Suites	106	\$23,000.00	\$2,438,000.00

The value of the property, as defined in the Act, is \$2,438,000.00.

8. Management. The Business, property and affairs of

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the Three Fountains East Condominium (Phase One and Phase Two) shall be managed by Management Committee consisting of not less than three or more than seven members who are owners of Units in the Project to be elected as provided in the By Laws. Such Management Committee shall have all the powers, duties and responsibilities as are now or may hereafter be provided by the Act, this Declaration and/or any amendments subsequently filed thereto; provided, however, that the Management Committee may engage the services of a Manager and fix and pay a reasonable compensation therefor. Notwithstanding anything herein contained to the contrary, the Declarant shall act as the Management Committee until the completion and sale of all units of Phase Two.

The Management Committee shall be responsible for the control, operation and management of the Condominium in accordance with the provisions of the Act, this Declaration and such administrative, management and operational rules, and regulations as it may adopt from time to time as herein provided, and all agreements and determinations lawfully made and entered into by the Committee.

The Management Committee shall have the authority to provide such facilities, in addition to those for which provision has already been made, as it may deem to be in the best interest of the Unit Owners and to effect the necessary amendment of documents and maps in connection therewith.

The Management Committee shall be known by such name or designation as it, or the Unit Owners, at any meeting may assign, provided, however, to avoid any conflict with the existing Three Fountains Owners' Association, a Utah Non-profit

Corporation, it is irrevocably agreed that the name of the Management Committee shall not include the use of the words "Three Fountains" or "Three Fountains East".

9. Change in Ownership. Whenever there is a change of ownership of a residential unit and its appurtenant rights, for whatever reason, the Management Committee or the Manager may require as condition to recognizing the new Unit Owner or Owners as such, that the new Unit Owner or Owners meet the following:

(a) Furnish evidence substantiating the new ownership;  
and

(b) Sign an agreement accepting and agreeing to be bound by this Declaration, the By Laws, and the rules and regulations and all amendments thereto.

10. Assessments. Every Unit Owner shall pay his proportionate share on the Common Expenses. Payment thereof shall be in such amounts and at such times as the Management Committee determines in accordance with the Act, the Declaration or the By Laws. There shall be a lien for nonpayment of Common Expenses as provided in the Act.

In assessing Unit Owners or requiring them to pay for the building improvements following the execution of the Declaration, it is agreed that no assessment for a single improvement in the nature of capital expenditure exceeding the sum of \$2,500.00 in cost shall be made without the same having been first approved by a vote of owners of 75 percent, or more, of the undivided interests in the Common Areas and Facilities. The foregoing sentence shall not apply in connection with the replacement or reconstruction occasioned by fire or other

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casualty.

11. Destruction or Damage. In the event of fire or other casualty resulting in the destruction or damage to building or buildings, hereinafter referred to as "Damaged Building", the insurance proceeds, if sufficient to reconstruct the Damaged Building, shall be applied to such reconstruction. Reconstruction of the Damaged Building, as herein used, means restoring the Damaged Building to substantially the same condition in which it existed before the fire or other casualty, with each Unit and the Common Area having the same vertical and horizontal boundaries as before. Such reconstruction shall be effected by the Management Committee or the Manager.

In the event the insurance proceeds are insufficient to reconstruct the Damaged Building, damage to or destruction thereof shall be promptly repaired and restored by the Committee or the Manager, using proceeds of insurance, if any, on the damaged building for that purpose, and the Unit Owners shall be liable for assessment for any deficiency. However, if the damage involved constitutes substantial damage to or destruction of three-fourths or more of all buildings in the Project, and if the Unit Owners, by a vote of at least 80 percent of such Unit Owners, do not voluntarily, within one hundred days after such destruction or damage, make provision for reconstruction, the Manager or Management Committee shall record, with the county recorder, a notice setting forth such facts, and upon the recording of such notice:

(a) The property shall be deemed to be owned in common by the Unit Owners;

(b) The undivided interest in the property owned in

common which shall appertain to each Unit Owner shall be the percentage of undivided interest previously owned by such owner in the Common Areas;

(c) Any liens affecting any of the Units shall be deemed to be transferred in accordance with the existing priorities to the undivided interest of the Unit Owner in the property; and

(d) The property shall be subject to an action for partition at the suit of any Unit Owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all the Unit Owners in a percentage equal to the percentage of undivided interest owned by each owner in the property, after first paying out of the respective shares of the Unit Owners to the extent sufficient for the purposes, all liens on the undivided interest in the property owned by each Unit Owner.

12. Taxes. It is understood that under the Act each Unit, and its percentage of undivided interest in the Common Areas and Facilities in the Project are subject to separate assessment and taxation by each assessing unit and special district for all types of taxes authorized by law, and that as a result thereof, no taxes will be assessed or payable against the Project as such. Each Unit Owner will, accordingly, pay and discharge any and all taxes which may be assessed against him and his percentage of undivided interest in the Common Areas.

13. Insurance. The Management Committee shall secure and maintain the following insurance coverage on the Condominium Project:

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(a) Fire and extended coverage. The fire insurance, with extended coverage endorsement, for the full insurable replacement value of the Units and Common Areas, which said policy or policies shall provide for a separate loss payable endorsement in favor of the mortgagees of each Unit, if any.

(b) Liability Coverage. A policy or policies insuring the Management Committee, the Unit Owners and the Manager against any liability to the public or to the Unit Owners, Common Areas and Facilities, and their invitees or tenants, incident to the ownership and/or use of the Condominium Project, and including the personal liability exposure of the owners. Limits of liability under such insurance shall not be less than \$100,000.00/\$300,000.00 for bodily injury; and shall not be less than \$10,000.00 for property damage for each occurrence. Such limits and coverage shall be reviewed at least annually by the Management Committee and changed at its discretion. Said policy or policies shall be issued on a comprehensive liability basis and shall provide cross-liability endorsement wherein the rights of named insured under the policy or policies shall not be prejudiced in respect of his, her or their action against another named insured.

(c) Workmen's Compensation to the extent necessary to comply with any applicable laws.

(d) Insurance for such other risks of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other condominium projects similar in construction, design, and use.

(e) Exclusive authority to adjust losses under policies hereafter in force in the Project shall be vested in the

Management Committee or its authorized representative.

(f) Each owner may obtain additional insurance at his own expense; provided, however, that no owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Management Committee, in behalf of all the owners, may realize under any insurance policy which the Management Committee may have in force on the Project at any particular time.

14. Payment of Expenses. Each unit owner shall pay the Management Committee his allocated portion of the cash requirement deemed necessary by the Management Committee to manage and operate the Condominium Project, including the recreational facilities thereof, upon the terms, at the times, and in the manner herein provided without any deduction on account of any set-off or claim which the owner may have against the Management Committee, and if the owner shall fail to pay any installment within one month of the time when the same becomes due, the owner shall pay interest thereon at the rate of 10 percent per annum from the date when such installment shall become due to the date of the payment thereof.

The cash requirements above referred to for each year, or portions of the year, are hereby defined and shall be deemed to be such aggregate sum as the Management Committee from time to time shall determine, in its judgment, is to be paid by all the owners of Units then in existence to enable the Management Committee to pay all estimated expenses and outlays of the Management Committee to the close of such year, growing out of or in connection with the maintenance and operation of such land, buildings and improvements, recreational areas and facilities,

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which sum may include, among other things, the cost of management, special assessments, fire, casualty and public liability insurance premiums, common lighting, landscaping and the care of grounds, repairs and renovations to Common Areas, recreational facilities, snow removal, wages, water and charges, legal and accounting fees, management fees, expenses and liabilities incurred by the Management Committee under or by reason of this Declaration, the payment of any deficit remaining from a previous period, the creation of a reasonable contingency of other reserve or surplus fund, as well as all other costs and expenses relating to the Condominium Project. The Management Committee may, from time to time, up to the close of the year for which such cash requirements have been so filed or determined, increase or diminish the amount previously fixed or determined for such year. It may include in the cash requirements for any year, any liabilities or items of expense which accrued or become payable in the previous year, or which might have been included in the cash requirements for a previous year, but were not included therein; and also any sums which the Management Committee may deem necessary or prudent to provide a reserve against liabilities or expenses then accrued or thereafter to accrue although not payable in that year.

The portion payable by the owner in and for each year or for a portion of a year shall be a sum within the limits and on the conditions hereinabove provided bearing to the aggregate amount of such cash requirements for such year, or portion of year, determined as aforesaid, the same ratio as the owner owns an undivided interest in the Common Areas, and such assessments, together with any additional sums accruing under this Declaration

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shall be payable monthly in advance, or in such payments and installments as shall be required by the Management Committee, and at such times as shall be provided by the Management Committee.

The Management Committee shall have discretionary powers to prescribe the manner of maintaining and operating the Condominium Project and to determine the cash requirements of the Management Committee to be paid as aforesaid by the Unit Owners under this Declaration. Every such reasonable determination by the Management Committee within the bounds of the Act, and this Declaration shall be final and conclusive as to the Unit Owners, and any expenditures made by the Management Committee, within the bounds of the Act and this Declaration shall as against the Owner be deemed necessary and properly made for such purpose.

If the Unit Owner shall at any time let or sublet the Unit and shall default for a period of one month in the payment of any assessments, the Management Committee may, at its option, so long as such default shall continue, demand and receive from any tenant or subtenant of the owner occupying the Unit the rent due or becoming due from payment of such rent to the Management Committee shall be sufficient payment and discharge of such tenant or subtenant and the owner to the extent of the amount so paid.

Each monthly assessment and each special assessment shall be separate, distinct and personal debts and obligations of the owner against whom the same are assessed at the time the assessment is made and shall be collectible as such. Suit to recover a money judgment for unpaid common expenses shall be

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maintainable without foreclosing or waiving the lien securing the same. The amount of any assessment, whether regular or special, assessed to the owner of any Unit plus interest at ten percent per annum, and costs, including reasonable attorney's fees, shall become a lien upon such Unit upon recordation of a notice of assessment as provided by the Act. The said lien for nonpayment of common expenses shall have priority over all other liens and encumbrances, recorded or unrecorded, except only:

(a) Tax and special assessment liens on the Unit in favor of any assessment unit, and special district, and,

(b) Encumbrances on the Owner's Unit (and Common Areas) recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

A certificate executed and acknowledged by a majority of the Management Committee stating the indebtedness secured by the lien upon any condominium created hereunder, shall be conclusive upon the Management Committee and the Owners as to the amount of such indebtedness on the date of the certificate in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any owner or encumbrance or prospective encumbrancee of a condominium upon request at a reasonable fee. Unless the request for a certificate of indebtedness shall be complied within ten (10) days, all unpaid common expenses which become due prior to the date of making of such request shall be subordinate to the lien held by the person making the request. Any encumbrancee holding a lien on any Unit may pay any common expenses payable with respect to such Unit

and upon such payment such encumbrancee shall have a lien on such Unit for the amounts paid of the same rank as the lien of his encumbrance.

Upon payment of a delinquent assessment concerning which such certificate has been so recorded, or other satisfaction thereof, the Management Committee shall cause to be recorded in the same manner as the certificate of indebtedness a further certificate stating the satisfaction and release of the lien thereof. Such lien for nonpayment of assessment may be enforced by sale by the Management Committee or by a bank or trust company or title insurance company authorized by the Management Committee, such sale to be conducted in accordance with the provisions of the law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any manner permitted by law. In any foreclosure or sale, the owner shall be required to pay the costs and expenses of such proceedings including reasonable attorney's fees.

In the event of foreclosure, the owner shall be required to pay a reasonable rental for the Unit and the plaintiff in the foreclosure action shall be entitled to the appointment of a receiver to collect such rental without regard to the value of the security. The Management Committee or Manager shall have the power to bid in the Unit at foreclosure or other sale and hold, lease, mortgage and convey the Unit.

15. Mortgage Protection. Notwithstanding all other provisions hereof:

(a) The liens created hereunder upon any Unit shall be subject and subordinate to, and shall not affect the rights of the holder of the indebtedness secured by any recorded first

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mortgage (meaning a mortgage or a trust deed with first priority over other mortgages) upon such interest made in good faith and for value, provided that after the foreclosure of any such mortgage there may be a lien created pursuant to Paragraph 14 hereof on the interest of the purchaser at such foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such purchaser as an Owner after the date of such foreclosure sale, which said lien, if any claimed, shall have the same effect and be enforced in the same manner as provided herein;

(b) No amendment to this paragraph shall affect the rights of the holder of any such mortgage recorded prior to recordation of such amendment who does not join in the execution thereof;

(c) By subordination agreement executed by a majority of the Management Committee, the benefits of (a) and (b) above may be extended to mortgages not otherwise entitled thereto.

16. Maintenance of Units. Each Unit Owner at his expense shall keep the interior of his Unit and its equipment and appurtenances in good order, condition and repair and in a clean and sanitary condition, and shall do all redecorating and painting which may at any time be necessary to maintain the good appearance of his Unit. Except to the extent that the Management Committee is protected by insurance against such injury, the Unit Owner shall repair all injury or damages to the building or buildings caused by the act, negligence or carelessness of the Owner or that of any lessee or sublessee or any member of the Owner's family or of the family of any lessee or sublessee or any agent, employee or guest of the Owner of his lessee or sublessee and all

such repairs, redecorating and painting shall be of a quality and kind equal to the original work. In addition to decorating and keeping the interior of the Unit in good repair, the Owner shall be responsible for the maintenance or replacement of any plumbing fixtures, refrigerators, air conditioning and heating equipment, dishwashers, disposals, ranges, etc., that may be in or connected with his Unit. The Owner shall be entitled to the exclusive use and possession of the patios, balconies, carports and storage room assigned or appurtenant to his Unit and shall be responsible for the maintenance and upkeep of same, provided however, that without the written permission of the Management Committee first had and obtained, the Owner shall not make or permit to be made any structural alteration, improvement or addition in or to the Unit, patios, balconies, carports, and storage room, or in or to the exterior of the building, and shall not paint or decorate any portion of the exterior of the building in which his Unit is located.

17. Use Restrictions. The use of the Condominium property shall be in accordance with the following provisions:

(a) Each of the Units shall be occupied only by a family, its servants, and guests, as a private residence and for no other purpose. No Unit may be divided or subdivided into a smaller Unit nor any portion thereof sold or otherwise transferred without first amending this Declaration to show the changes in the Units to be affected thereby.

(b) The Common Areas and Facilities shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the Unit Owners.

(c) No use or practice shall be permitted on the

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Condominium which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the property by its residents. All parts of the property shall be kept in a clean and sanitary condition, and no rubbish, refuse, or garbage allowed to accumulate nor any fire hazard allowed to exist. No Unit Owner shall permit any use of his Unit or of the Common Areas which will increase the rate of insurance upon the condominium property. No immoral, improper, offensive, or unlawful use shall be made of the Condominium or any part thereof.

(d) Until the Declarant has completed and sold all of the Units, neither the Unit Owners nor the Management Committee shall interfere with the completion of the contemplated improvements and sale of the Units. The Declarant may make such use of the unsold Units and Common Areas as may facilitate such completion and sale, including but not limited to the maintenance of a sales office, the showing of the property, and the display of signs.

(e) No sign of any kind shall be displayed to the public view on or from any Unit or the Common Areas, without the prior consent of the Management Committee.

18. Right of Entry. The Management Committee and its duly authorized agents shall have the right to enter any and all of the Units in case of any emergency originating in or threatening such Unit or any other part of the Project, whether or not the owner or occupant thereof is present at the time. The Committee and its duly authorized agents shall also have the right to enter into any and all of said Units at all reasonable times as required for the purpose of making necessary repairs upon the Common Areas and Facilities of the Project, for the purpose of performing emergency installations, alterations, or repairs to the mechanical or electrical devices or installations

located therein or thereon; provided, however, such emergency installations, alterations, or repairs are necessary to prevent damage or threatened damage to other Units in the Project; and provided further, that the Unit Owner affected by such entry shall first be notified thereof if available and if time permits.

19. Administrative Rules and Regulations. The Management Committee shall have the power to adopt and establish by resolution, such building, management, and operational rules as it may deem necessary for the maintenance, operation, management and control of the Project, and the Committee may, from time to time, by resolution, alter, amend and repeal such rules. When a copy of any amendment or alteration or provision for repeal of any rule or rules has been furnished to the Unit Owners such amendment, alteration and provision shall be taken to be a part of such rules. Unit Owners shall at all times obey such rules and see that they are faithfully observed by those persons over whom they have or may exercise control and supervision, it being understood that such rules shall apply and be binding upon all Unit Owners and/or occupants of the Condominium.

20. Obligation to Comply Herewith. Each Unit Owner, tenant, or occupant of a Unit shall comply with the provisions of the Act, this Declaration, the By Laws, and the rules and regulations, all agreements and determinations lawfully made and/or entered into by the Management Committee or the Unit Owners, when acting in accordance with their authority, and any failure to comply with any of the provisions thereof, shall be ground for an action by the Management Committee to recover any loss or damage resulting therefrom or injunctive relief.

21. Indemnification of Management Committee. Each

member of the Management Committee shall be indemnified and held harmless by the Unit Owners against all cost, expenses and liabilities whatsoever, including, without limitation, attorney's fees, reasonably incurred by him in connection with any proceeding to which he may become involved by reason of his being or having been a member of said Committee.

22. Amendment. In addition to the amendment provisions provided in Paragraph 6 above, the Unit Owners shall have the right to amend this Declaration and/or the Map upon the approval and consent of Unit Owners representing not less than two-thirds (2/3) of the undivided interests in the Common Areas and Facilities, which approval and consent shall be by duly recorded instruments.

23. Transfer or Lease of Units. The Owner of any Unit in the Project who desires to sell his Unit, or to enter into any agreement for the occupancy of said Unit by another person or persons, shall give the Management Committee ten (10) days' advance written notice thereof, which notice shall state the name and address of the proposed purchaser or occupant, as the case may be, and the terms and conditions upon which said proposed purchaser or occupant agrees to purchase or occupy said Unit. The Management Committee shall have the right, exercisable at any time within ten (10) days after its receipt of such notice, to purchase or enter into an agreement for the occupancy of said Unit upon the same terms and conditions as those specified in that notice; provided, however, that in the event the Management Committee enters into an agreement hereunder for the occupancy of any Unit, it shall have the right to sublet said Unit to any person or persons reasonably suitable to the

Management Committee. In the event the Management Committee determines that it desires to purchase, or enter into an agreement respecting the occupancy of, a Unit as above provided, but concludes that the price or rental specified in the notice is unreasonable, the Management Committee shall give the Owner or Owners of said Unit written notice thereon within seven (7) days after its receipt of notice of the proposed sale or occupancy arrangement. The notice thus given by the Management Committee shall state that it has elected or thereby elects to purchase said Unit, or enter into an agreement for the occupancy of the same, and shall state further that the Management Committee believes the price or rental specified in the notice given to it is unreasonable. The Management Committee shall thereafter be obligated to purchase said Unit, or enter into an agreement for the occupancy of same, as the case may be, at a price or rental to be determined by a group of three M. A. I. Appraisers to be selected as follows: The Management Committee shall select one appraiser, the Unit Owner or Owners concerned shall select one appraiser, and the two appraisers thus selected shall select the third appraiser. In the event all three appraisers cannot agree on a price or rental to be paid, as the case may be, the decision of any two of the three shall be binding.

The Management Committee, upon written request of any prospective seller, buyer, lessor, tenant or mortgagee, shall furnish a duly acknowledged certificate of compliance with, or a waiver of, the provisions of the next preceding paragraph. Such a certificate shall be conclusive evidence of the facts stated therein.

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24. Easements Affecting the Project. It is hereby declared that the real property described on the first page hereof is subject to easements for egress and ingress and for water lines in favor of Marshall E. Huffaker et ux as set forth in two instruments (both being entitled "Grant of Easement") which are recorded simultaneously herewith.

Further, Declarant is the owner of the following described real property in Salt Lake County, Utah, to-wit:

Beginning at a point South 230.39 feet and East 261.59 feet from the center of Section 8, Township 2 South, Range 1 East, Salt Lake Base and Meridian; and running thence North 18° 53' 30" East 142.72 feet; thence North 69° 45' East 85.80 feet; thence South 2° 00' West 169.05 feet; thence North 88° 00' West 120.87 feet to the point of beginning,

(Contains 0.344 Acres)

which real property is designated on the Map as "Boat & Camper Storage Area", said real property not being a part of the Condominium Project. Richard Prows, Inc., the Declarant, does hereby irrevocably reserve a perpetual, nonexclusive easement to use the streets of the Condominium Project for egress and ingress from and to the said real property.

25. Service of Process. The name of the person to receive service of process in the cases contemplated by the Act and his place of residence are:

Robert W. Wood  
2330 Cottonwood Lane  
Salt Lake City, Utah 84117

26. Severability. The invalidity of any one or more phrases, sentences, clauses, paragraphs, or sections hereof shall not affect the remaining portions of this instrument or any part thereof, all of which are inserted conditionally on their being

held valid in law and in the event that one or more of the phrases, sentences, clauses, paragraphs or sections contained therein should be invalid or should operate to render this agreement invalid, this instrument shall be construed as if such invalid phrase or phrases, sentence or sentences, clause or clauses, paragraph or paragraphs, section or sections had not been inserted.

27. Gender. The singular, wherever used herein, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

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

29. Topical Headings. The topical headings of the paragraphs contained in this Declaration are for convenience only and do not define, limit or construe the contents of the paragraphs or of this Declaration.

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

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 15<sup>th</sup> day of October, \_\_\_\_\_, 1971.

ATTEST:

RICHARD PROWS, INC. (Declarant)

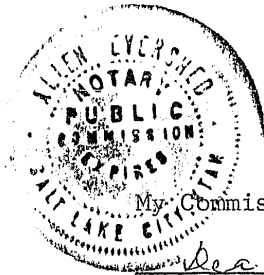
Mrs. Yano  
Secretary

By Richard Prows  
President

BURK 3109 HALL  
CC

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

On this 15<sup>th</sup> day of October, 1971,  
personally appeared before me, RICHARD S. PROWS and MAS YANO, who  
being by me duly sworn, did say that they are the President and  
Secretary respectively of Richard Prows, Inc., a Utah corporation,  
and that the within and foregoing instrument was signed by them  
on behalf of said Corporation by authority of a resolution of its  
Board of Directors and the said Richard Prows and Mas Yano, duly  
acknowledged to me that said Corporation executed the same and  
that the seal affixed is the seal of said Corporation.



My Commission Expires:

Dec 8, 1972

Allen Evershed  
NOTARY PUBLIC, Residing  
at Salt Lake City, Utah

EXHIBIT "B"

THREE FOUNTAINS EAST, PHASE TWO

Building	Unit	% Ownership Of Common Areas	*Carports	*Storage Room	
A	A-127	.9434	103	1	10
	A-128	"	104	2	3
	A-129	"	105	3	9
	A-130	"	106	4	2
	A-131	"	102	5	8
	A-132	"	101	6	1
	A-133	"	100	7	7
	A-134	"	107	8	11
	A-135	"	108	63	12
	A-136	"	109	64	4
	A-137	"	110	65	13
	A-138	"	69	66	5
	A-139	"	70	67	14
	A-140	"	71	68	6
B	B-141	.9434	111	9	3
	B-142	"	112	10	2
	B-143	"	113	11	16
	B-144	"	114	12	7
	B-145	"	99	13	15
	B-146	"	98	14	8
	B-147	"	97	15	14
	B-148	"	96	16	9
	B-149	"	95	17	13
	B-150	"	72	62	4
	B-151	"	73	61	17
	B-152	"	74	60	5
	B-153	"	75	59	18
	B-154	"	76	58	10
	B-155	"	115	57	19
	B-156	"	116	56	11
	B-157	"	117	55	20
	B-158	"	118	54	12
C	C-159	.9434	119	18	3
	C-160	"	120	19	2
	C-161	"	121	20	16
	C-162	"	122	21	7
	C-163	"	123	22	15
	C-164	"	124	23	8
	C-165	"	87	48	14
	C-166	"	88	49	9
	C-167	"	89	50	13
	C-168	"	90	51	4

Building	Unit	% Ownership Of Common Areas	*Carports	*Storage Room
C	C-169	.9434	91 52	17
	C-170	"	92 53	5
	C-171	"	93 77	18
	C-172	"	94 78	10
	C-173	"	86 79	19
	C-174	"	85 80	11
	C-175	"	84 81	20
	C-176	"	83 82	12
D	D-177	"	125 42	10
	D-178	"	126 43	3
	D-179	"	127 44	9
	D-180	"	128 45	2
	D-181	"	129 46	8
	D-182	"	130 47	1
	D-183	"	131 24	7
	D-184	"	132 25	11
	D-185	"	133 26	12
	D-186	"	37 27	4
	D-187	"	38 28	13
	D-188	"	39 29	5
	D-189	"	40 30	14
D-190	"	41 31	6	
E	E-191	.9434	134 198	10
	E-192	"	135 197	3
	E-193	"	136 196	9
	E-194	"	137 195	2
	E-195	"	138 194	8
	E-196	"	139 193	1
	E-197	"	140 145	7
	E-198	"	32 146	11
	E-199	"	33 147	12
	E-200	"	34 148	4
	E-201	"	35 149	13
	E-202	"	36 150	5
	E-203	"	141 142	14
	E-204	"	143 144	6
F	F-205	"	151 204	10
	F-206	"	152 203	3
	F-207	"	153 202	9
	F-208	"	154 201	2
	F-209	"	155 200	8
	F-210	"	156 199	1
	F-211	"	157 187	7
	F-212	"	158 188	11
	F-213	"	178 189	12
	F-214	"	177 190	4

Building	Unit	% Ownership Of Common Areas	*Carports	*Storage Room
F	F-215	.9434	176 191	13
	F-216	"	175 192	5
	F-217	"	174 171	14
	F-218	"	173 172	6
G	G-219	"	159 205	10
	G-220	"	160 206	3
	G-221	"	161 207	9
	G-222	"	162 208	2
	G-223	"	163 209	8
	G-224	"	179 210	1
	G-225	"	180 211	7
	G-226	"	164 212	11
	G-227	"	165 186	12
	G-228	"	166 185	4
	G-229	"	167 184	13
	G-230	"	168 183	5
	G-231	"	169 182	14
	G-232	"	170 181	6

\* Carports and Storage Rooms assigned to the Units are Limited Common Areas and Facilities.

EXHIBIT "C"

BY-LAWS  
OF  
THREE FOUNTAINS EAST CONDOMINIUM

I

IDENTITY

These are the By-Laws of the Three Fountains East, Phase Two (and Phase One).

II

APPLICATION

All present or future owners, tenants, or any other persons who might use the facilities of the Three Fountains East Condominium in any manner are subject to the regulations set forth in these By-Laws. The mere acquisition or rental of any of the units or the mere act of occupancy or use of any of said units or the Common Areas will signify that these By-Laws are accepted, ratified, and will be complied with by said persons.

III

ADMINISTRATION

1. Place of Meetings. Meetings of the Unit Owners shall be held in such place within the State of Utah as the Management Committee may specify in the notice, except as herein otherwise specified.

2. Annual Meetings. The first annual meeting of the Unit Owners shall be held on the first Tuesday of May, 1972. Thereafter, the annual meeting shall be held on such day of each succeeding year; provided, however, that whenever such date falls on a legal holiday, the meeting shall be held on the next succeeding business day, and further provided that the Management Committee may by resolution fix the date of the annual meeting on such date or at such other place as the Management Committee may deem appropriate.

3. Special Meetings. Special meetings of the Unit Owners may be called at any time by written notice signed by a majority of the Management Committee, or by owners having 30 percent of the total votes, delivered not less than 10 days prior to the date fixed for said meeting. Such meeting shall be held on the Project or such other place as the Management Committee may specify and the notice thereof shall state the date, time and matters to be considered.

4. Notices. Any notice permitted or required to be delivered as provided herein may be delivered either personally

or by mail. If delivery is by mail, it shall be deemed to have been delivered 24 hours after a copy of the same has been deposited in the United States Mail, postage prepaid, addressed to each Unit Owner at the address given by such person to the Management Committee or the Manager for the purpose of service of such notice or to the unit of such person if no address has been given. Such address may be changed from time to time by notice in writing to the Management Committee or Manager.

5. Quorum. At any meeting of the Unit Owners, the owners of more than fifty percent in the aggregate in interest of the undivided ownership of Common Areas and Facilities shall constitute a quorum for any and all purposes, except where by express provisions a greater vote is required, in which event a quorum shall be the number required for such vote. In the absence of a quorum the Chairman of the meeting may adjourn the meeting from time to time, without notice other than by announcement at the meeting, until holders of the amount of interest requisite to constitute a quorum shall attend. At any such adjourned meeting at which a quorum shall be present any business may be transacted which might have been transacted at the meeting as originally notified.

6. Voting. When a quorum, as provided in the Utah Condominium Ownership Act is present at any meeting, the vote of Unit Owners representing at least fifty-one (51%) percent, or more, of the undivided ownership of Common Areas and Facilities, present in person or represented by proxy, shall decide any question of business brought before such meeting, including the election of the Management Committee, unless the question is one upon which, by express provision of the statutes, or of these By-Laws, a different vote is required, in which case such express provision shall govern and control the decision of such question. All votes may be cast either in person or by proxy. All proxies shall be in writing, and in the case of proxies for the annual meeting, they shall be delivered to the Secretary at least five days prior to said annual meeting. Proxies for special Unit Owners' meetings must be of record with the Secretary at least two days prior to said annual meeting.

7. Waivers of Notice. Any Unit Owner may at any time waive any notice required to be given under these By-Laws, or by statute or otherwise. The presence of a Unit Owner in the person at any meeting of the Unit Owners shall be deemed such waiver.

#### IV

#### MANAGEMENT COMMITTEE

1. Purpose and Powers. The business, property and affairs of the Condominium shall be managed and governed by its Management Committee, hereinafter referred to as the "Management Committee" or "The Committee," consisting of not less than three nor more than seven members, as the Unit Owners



at a lawfully convened meeting may from time to time determine; provided, however, that the Declarant shall act as the Management Committee until the completion of, and the sale of, all the Units in the Final Phase of the Project. The Management Committee may enter into such management agreement or agreements with a third person or persons or corporations as it may deem advisable.

2. Election and Vacancy. Subject to the provisions of the next preceding paragraph, at the first special meeting of the Unit Owners called for that and any other purposes, an election of the Management Committee shall be held for the election of not less than three members which shall constitute the initial Management Committee. The term of the members of the Management Committee shall be until the next annual meeting of the Unit Owners, or until their successors are duly elected. Their successors shall be elected at the first annual or special meeting of the Unit Owners. A new Management Committee shall be elected by the Unit Owners at each regular bi-annual meeting thereafter and shall hold office for a term of two years and until a successor shall be elected. The number composing the Management Committee may be altered from time to time by the action of a majority of the Unit Owners at any regular or special meeting called for such purpose. In the event of any increase in the number of members constituting the Management Committee in advance of the annual meeting each additional member shall be elected by the then Management Committee and hold office until his successor is elected.

3. Vacancies. Vacancies on the Management Committee caused by any reason whatsoever shall be filled by vote of a majority of the remaining members thereof even though they may consist of less than a quorum and each person so elected shall be a member of the Management Committee until his successor is elected by the Unit Owners at the next annual meeting.

4. Regular Meetings. A regular annual meeting of the Management Committee shall be held immediately after the adjournment of each annual Unit Owners' meeting. Regular meetings, other than the annual meeting, shall or may be held at regular intervals at such places and at such times as either the President or the Management Committee may from time to time designate.

5. Special Meetings. Special meeting of the Management Committee shall be held whenever called by the President, the Vice-President, or by three or more members. By unanimous consent of the Management Committee, special meetings may be held without call or notice at any time or place.

6. Quorum. A quorum for the transaction of business at any meeting of the Management Committee shall consist of a majority of the Management Committee then in office.

7. Compensation. Members of the Management Committee, as such, shall not receive any stated salary or compensation;

provided that nothing herein contained shall be construed to preclude any member of the Management Committee from serving the Project in any other capacity and receiving compensation therefor.

8. Waiver of Notice. Before or at any meeting of the Management Committee, any member thereof, may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Management Committee at any meeting thereof shall be a waiver of notice by him of the time and place thereof.

9. Adjournments. The Management Committee may adjourn any meeting from day to day or for such other time as may be prudent or necessary, provided that no meeting may be adjourned for longer than thirty days.

10. Fidelity Bonds. The Management Committee may require that all officers and employees of the Management Committee handling or responsible for funds shall require adequate fidelity bonds. The premium on such fidelity bonds shall be paid by the Management Committee.

V

OFFICERS

1. Designation and Election. The principal officers of the Management Committee shall be a President, a Vice-President, a Secretary, and a Treasurer, all of whom shall be elected by and from the Management Committee. The Management Committee may appoint an assistant secretary and an assistant treasurer and such other officers as in their judgment may be necessary or desirable. Such election or appointment shall regularly take place at the first meeting of the Management Committee immediately following the annual meeting of the Unit Owners; provided, however, that elections of officers may be held at any other meeting of the Management Committee.

2. Other Officers. The Management Committee may appoint such other officers, in addition to the officers hereinabove expressly named, as they shall deem necessary, who shall have authority to perform such duties as may be prescribed from time to time by the Management Committee.

3. Removal of Officers and Agents. All officers and agents shall be subject to removal, with or without cause, at any time by the affirmative vote of the majority of the then members of the Management Committee.

4. President. The President shall be the chief executive of the Management Committee, and shall exercise general supervision over its property and affairs. He shall sign on behalf of the Condominium Project all conveyances, mortgages and contracts of material importance to its business, and shall do and perform all acts and things which the Management Committee may require of him. He shall preside at all

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meetings of the Unit Owners and the Management Committee. He shall have all of the general powers of duties which are normally vested in the office of the President of a corporation, including but not limited to, the power to appoint committees from among the members from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Condominium Project.

5. Vice-President. The Vice-President shall take place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President or the Vice-President is able to act, the Management Committee shall appoint some other member thereof to do so on an interim basis. The Vice-President shall also perform such other duties as shall from time to time be prescribed by the Management Committee.

6. Secretary. The Secretary shall keep the minutes of all meetings of the Management Committee and of the Unit Owners; he shall have charge of the books and papers as the Management Committee may direct; and he shall in general, perform all the duties incident to the office of Secretary.

7. Treasurer. The Treasurer shall have the responsibility for the funds and securities of the Management Committee and shall be responsible for keeping full and accurate accounts of all receipts of all disbursements in books belonging to the Management Committee. He shall be responsible for the deposit of all monies and all other valuable effects in the name, and to the credit of, the Management Committee in such depositories as may be from time to time designated by the Management Committee.

8. Compensation. No compensation shall be paid to the officers for their services as officers. No remuneration shall be paid to an officer for services performed by him for the Management Committee in any other capacity, unless a resolution authorizing such remuneration shall have been unanimously adopted by the Management Committee before the services are undertaken.

## VI

### ACCOUNTING

1. Books and Accounts. The books and accounts of the Management Committee shall be kept under the direction of the Treasurer and in accordance with the reasonable standards of accounting procedures.

2. Report. At the close of each accounting year, the books and records of the Management Committee shall be reviewed by a person or firm approved by the Unit Owners. Report of such review shall be prepared and submitted to the Unit Owners at or before the annual meeting of the Unit Owners.

Provided, however, that a certified audit by a certified public accountant approved by the Unit Owners shall be made if at least 75 percent of the owners of undivided interest in the Common Areas and Facilities determine so to do.

3. Inspection of Books. Financial reports, such as are required to be furnished, shall be available at the principal office of the Management Committee for inspection at reasonable times by any Unit Owners.

## VII

### BUILDING RULES

The Management Committee shall have the power to adopt and establish, by resolution, such building, management and operational rules and regulations as it may deem necessary for the maintenance, operation, management and control of the Three Fountains Professional Building Condominium Project, and the Management Committee may from time to time, by resolution, alter, amend, and repeal such rules and regulations. Unit Owners shall at all times obey such rules and regulations and use their best efforts to see that they are faithfully observed by their Lessees and the persons over whom they have or may exercise control or supervision, it being clearly understood that such rules and regulations shall apply and be binding upon all Unit Owners of the Condominium Project. Provisions of the Utah Condominium Ownership Act pertaining to rules and regulations are incorporated herein by reference and shall be deemed a part hereof.

## VIII

### AMENDMENT OF THE BY-LAWS

These By-Laws may be altered, amended, or repealed, at any regular meeting of the Unit Owners or at any special meeting of the Unit Owners at which a quorum is present or represented by a vote of Unit Owners, representing at least two-thirds (2/3) of the ownership in the Common Areas and Facilities, having voting power and acting in person or represented by proxy. Provided, that as a condition to any such alteration, amendment or repeal, written notice of the proposed operation, amendment or repeal shall be given to all Unit Owners, at least ten days in advance in the case of a regular meeting and in the written notice transmitted in the case of a special meeting.

## IX

### OPERATION AND MAINTENANCE OF CONDOMINIUM PROJECT

The Management Committee shall be responsible for the maintenance, control, operation and management of the Condominium Project in accordance with the provisions of the Utah

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Condominium Ownership Act, the Declaration under which the Condominium Project was established and submitted to the provisions of said Act, these By-Laws and such other rules and regulations as the Three Fountains East Condominium Unit Owners may adopt from time to time as herein provided, and all agreements and determinations lawfully made and entered into by the Unit Owners.