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GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
NYGAARD, COKE & VINCENT  
333 N 300 W  
SLC UT 84103  
BY: RDJ, DEPUTY - WI 67 P.

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**AMENDED AND RESTATED  
DECLARATION  
FOR  
THE TOWNS AT HUNTER VILLAGE  
AN EXPANDABLE CONDOMINIUM PROJECT**

THIS AMENDED AND RESTATED DECLARATION is made and executed this 29<sup>th</sup> day of MAY 2002, by McARTHUR HUNTER TOWNS, 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") for the purpose of amending the Declaration for The Towns at Hunter Village, an expandable condominium project, and restating the same in its entirety.

A. Declarant is the owner of certain real property (the "Land") 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 The Towns At Hunter Village Phase 1.

B. Various improvements have been or will be made to the Land described in Exhibit A of this Declaration so as to enable its use as a condominium project consisting of Buildings and Common Areas. Declarant desires to provide for the preservation of the values and amenities in the said development and for the maintenance of the Common Areas. To this end and for the benefit of the Land and of the Owners, Declarant desires to subject the Land described in said Exhibit A to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth.

C. Declarant deems it desirable, for the efficient preservation of the values and amenities in the Condominium Project, to create an entity which possesses the power to maintain and administer the Common Areas, to collect and disburse the assessments and charges hereinafter provided for, and otherwise to administer and enforce the provisions of this Declaration. For such purposes, Declarant has, in conjunction with the recordation of this Declaration, caused to be incorporated under the laws of the State of Utah, as a non-profit corporation, The Towns At Hunter Village Condominium Owners= Association.

D. As more fully set forth in Article III hereof, Declarant reserves the right to expand the Project to include certain additional real property and improvements thereto.

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.

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**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 The Towns At Hunter Village Condominium Owners= Association, the Utah non-profit corporation which was created by filing articles of incorporation with the Department of Commerce of the State of Utah on or about the date that this Declaration was filed in the office of the Salt Lake County Recorder.

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 The Town At Hunter Village 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 HUNTER TOWNS, 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. 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.

12. 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.

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

14. 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.

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

16. Management Committee or Committee shall mean and refer to the Management Committee of The Towns At Hunter Village Condominium Owners = Association, created in Article IV, Section 17 and governed by the Bylaws. It shall act as the governing body of The Towns At Hunter Village Condominium Owners= Association.

17. 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 The Town At Hunter Village Condominiums Phase 1.

18. 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.

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

20. 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 135 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 \_\_\_\_%. Assuming the maximum 135 Units are built, the maximum percentage of interest in the common areas would be 1/135nd or \_\_\_\_%.

21. 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.

22. 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.

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

24. 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 fee simple title to a Unit is the subject of an executory contract of sale, the contract purchaser shall be considered the Unit Owner for Purposes of voting and Association membership upon the recording of a notice of such contract in the office of the Recorder in and for Salt Lake County. Foreclosure of a contract or repossession for any reason of a Unit sold under contract shall terminate the purchaser's membership, whereupon all rights to membership shall revert in the seller. The term Owner shall not mean or include a Mortgagee unless and until a Mortgagee has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

#### ARTICLE 11 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 The Towns At Hunter Village 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 in Exhibit "E" attached hereto and incorporated herein by this reference. No other property may be added to the Condominium Project without the prior written consent of the Secretary of Housing & Urban Development (the "Secretary") when the Secretary holds, insures or guarantees any Mortgage in the existing Condominium Project at the time such property is added. In the event the Federal National Mortgage Association ("FNMA") holds a Mortgage on a Unit at the time such additional property is added, the Declarant shall provide FNMA with title evidence, in form satisfactory to FNMA, which discloses any lien, easement or other encumbrance affecting the property to be added or which will affect the existing Property after such addition. All improvements on any such other property shall be substantially completed before such property is added to the existing Condominium Project.

The limitations on the maximum or minimum amount of units on the Property which may be added are set forth above. There may be more than one expansion and the expansion may be made as to any amount or in any order. All such expansion shall occur within seven years from the date of recordation of the Declaration. After that date the option to expand the project expires. The project expansion option may be earlier terminated in writing by the Declarant.

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 structures erected on such additional properties shall

be architecturally compatible with the existing Buildings and Units and shall be of similar quality of construction, the principal materials to be used, and architectural style. However, the Declarant makes no assurances that any Units constructed on any additional properties annexed hereto by the Declarant will be substantially identical to 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. Liens arising in connection with the Declarant's ownership of, and construction of improvements upon, the property to be added must not adversely affect the rights of existing Unit Owners, or the priority of first Mortgages on Units in the existing Condominium Project. All taxes and other assessments relating to such property, covering any period prior to the addition of the property, must be paid or otherwise satisfactorily provide for by the Declarant.

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. 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 36 CFR.

The maximum number of Units which this expandable Project will have is stated in Article 1, Section 22.

#### 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 I 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 an-; 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.

(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, or for each consideration.

(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.

(vi) The right of the Association to grant easements for public utilities or other public purpose consistent with the intended use of the common area by the Association.

(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 leases must be in writing and be subject to this Declaration and the Bylaws. All Units shall be capable of being independently owned, encumbered, and conveyed. The right of an Owner to sell, transfer, or otherwise convey his Unit shall not be subject to any right of first refusal or similar restriction.

4. Par Value.

Appurtenant to and inseparable from each Unit shall be an ownership interest in the Common Areas, sometimes expressed as a Percentage Interest and sometimes as a Par Value. No Unit may be subdivided. No Owner shall execute any deed, Mortgage, lease or other instrument conveying, leasing, or encumbering title to a Unit without including therein all interests appurtenant thereto. The purpose of this restriction is to prevent any severance of such Owner=s ownership interest in the Unit and Common Areas. Any such deed, Mortgage, or other instrument purporting to affect one or more, but not all of the ownership interests held by an Owner in a Unit and the Common Areas shall be deemed to include the omitted interest even though the same is not expressly mentioned or described therein, or is specifically reserved or excepted therefrom. Units may be combined in use if owned by the same Owner. In calculating fees, ownership and voting rights, the Percentage Interests have been rounded so that the sum of all Percentage Interests does not exceed, but shall be deemed to total, one hundred percent (100%). The Units in Phase I of the Project shall carry the Par Values and Percentage Interests shown in Exhibit D attached hereto.@

5. Common and Limited Common Areas.

(a) The Common Areas contained in the Project are described and identified in Article 1, Paragraph 5 of this Declaration. Neither the Percentage-e 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 Percentage Interests of the Owners are determined in conformance with the provisions of paragraph 20 of Article I. The Par Value of a Unit is based on the Percentage Interest of that Unit, but is expressed in terms of a fraction. The Percentage Interests and Par Values of the Units comprising Phase I of the Project are set forth in said Exhibit D. Par Values and Percentage Interests may be changed by the Declarant when additional phases are constructed 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 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 Articles of Incorporation and Bylaws of the Association. The Association may, for all purposes, act and rely on current ownership information respecting any Unit as obtained from the office of the Salt Lake County Recorder. The address of an Owner shall be deemed to be the address of the Unit owned by such Owner unless the Association is otherwise advised in writing by such Owner. 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.**

The Association, by the Management Committee as its agent, shall have the irrevocable right of entry upon a Unit premises and any Limited Common Area or Facility to effect emergency repairs necessary to prevent drainage to the Common Areas or to another Unit or Units, and a reasonable right of entry thereupon to effect other repairs, improvements, replacement or maintenance deemed to be necessary in the Common Areas. 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 perpetual 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 right 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 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 occupants 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 firearms includes BB guns, pellet guns, sag 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 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 are allowed to be kept or raised in any Unit or on any of the Common Areas and Facilities in the Project subject to the rules and regulations established by the Management Committee, which may be amended from time to time, and subject to all applicable laws. No nuisance created by any such pets shall be permitted at any time.

(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 an 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 advertising 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.

## ARTICLE V ASSOCIATION AND ASSESSMENTS

### 1. 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 Association, and the Manager, and exercise all powers and authority granted by this Declaration and the Act to the Association and its officers, and to the Management Committee, until the first to occur of the following: (a) The expiration of six (6) years from the recording date of this Declaration; or (b) The date upon which seventy-five percent (75%) of all possible Units in the expandable Project have been conveyed.

Notwithstanding the foregoing, during the period when the Declarant has the powers set forth in the preceding paragraph, any proposal (i) to amend this Declaration, (ii) to merge or consolidate the Association with another entity, (iii) altering or adjusting the boundaries of the Common Areas, (iv) using insurance proceeds for purposes other than construction or repair of the insured improvements, or (v) making capital expenditures (other than for repair or replacement of existing improvements) during any 12-month period costing more

than twenty percent (20%) of the annual operating budget, shall be submitted to the vote of the Declarant and the Owners, with the Declarant to have three (3) votes to each vote of the Owners. Meetings of the Owners for any of these purposes shall be called upon giving written notice of such meeting not less than 25, nor more than 50 days prior to the meeting. Such written notice shall set forth the purpose of the meeting, and shall contain a copy of the proxy that can be cast in lieu of attendance at the meeting. For any such meeting to be duly constituted, a quorum of at least twenty percent (20%) of the total number of votes eligible to be cast shall be represented in person or by proxy. Any action taken in such meeting for the purposes identified in this paragraph, during the Declarant's control period, shall require the approval of any Federal agency who is the holder, insurer or guarantor of a first Mortgage on a Unit.

Subject to the foregoing, 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 money 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.

(k) The authority to select the Manager upon such terms and conditions, and for such compensation, as the Committee, in its sole discretion may determine. The Manager shall be answerable only to the Management Committee.

(l) Any employment agreement, management or other contract, or lease entered into by the Declarant on behalf of the Association shall not be binding upon the Association unless the Association has the right of termination thereof, exercisable without penalty at any time after transfer of control by the Declarant, upon not more than ninety (90) days' written notice to the other party thereto.

## 2. 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.

3. 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.

4. Agreement to Pay Assessment

By the acceptance of a deed therefore, 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. Notwithstanding the foregoing, the Declarant shall be liable for the payment of each assessment made with respect to the unsold Units held by the Declarant.

(a) Amount of Total Annual Assessments. The Declarant shall set the first year's annual assessment, including an amount equal to at least a two months' estimated Common Area charge for each Unit, 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. The Association shall establish an adequate reserve for the periodic maintenance, repair and replacement of the common elements, which fund shall be maintained out of the annual assessments. Each assessment shall be made equally, to all Owners of completed Units.

(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 to All Owners. 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 amount 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 subparagraph (d) above 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) Special Assessments to Particular Owners. 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.

Such special assessments shall be subject to the same late fees and penalties as are prescribed in subparagraph (d) above for regular assessments.

(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 filing 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 holder of 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 holder 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 holder.

(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. Interest shall be charged on any unpaid assessment from the due date thereof until paid, at a rate equal to that then being charged by the Internal Revenue Service on delinquent income taxes. 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 (\$10.00), 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.

5. Availability of Documents.

The Manager shall make available to the Owners, Mortgagees, Insurers, and Guarantors, current copies of the Declaration, By-Laws and Rules and Regulations

governing the Condominium Project, and other books, records and financial statements of the Association. The Manager shall also make available to prospective purchasers current copies of the Declaration, By-laws, and Rules and Regulations governing the Condominium Project, and the most recent annual audited financial statement, if such is prepared. For the purposes of these provisions the term, "available," shall at least mean available for inspection upon request, during normal business hours or under other reasonable circumstances

Upon written request from a Guarantor, the Association shall prepare and furnish within a reasonable time an audited financial statement of the Association for the immediately preceding fiscal year.

**6. Suspension of Membership Rights.**

The membership rights (including voting rights) of an Owner may be suspended by action of the Management Committee if the Owner has failed to pay when due any assessment or charge lawfully imposed upon him or the Unit owned by him, or if the Owner, his family, tenants, and guests, or any of them, shall have violated any provision in this Declaration, the Bylaws, or Rules and Regulations regarding the use of any property or conduct.

**7. Meetings of Owners.**

The membership rights (including voting rights) of an Owner may be suspended by action of the Management Committee if the Owner has failed to pay when due any assessment or charge lawfully imposed upon him or the Unit owned by him, or if the Owner, his family, tenants, and guests, or any of them, shall have violated any provision in this Declaration, the Bylaws, or Rules and Regulations regarding the use of any property or conduct.

**ARTICLE VI  
INSURANCE**

The Association shall obtain, maintain, and pay the premiums upon, as a common expense, a "master" or "blanket" type policy of property insurance all of the Common Areas and Limited Common Areas (except land, foundation, excavation, and other items normally excluded from coverage), including fixtures, to the extent they are part of the common elements of the Condominium, building service equipment and supplies, and other common personal property belonging to the Association. All references herein to a "master" or "blanket" type policy of property insurance, are intended to denote single entity condominium insurance coverage.

Such insurance coverage shall consist of the following:

1. Insurance for Fire and Other Perils. A multi-peril policy or policies of fire and casualty insurance covering all Common Areas, Limited Common Areas, and Buildings, of the Project, with extended coverage and

all other coverage in the kinds and amounts commonly required by prudent institutional mortgage investors for projects similar in construction, location and use to the Condominium Project (including all perils normally covered by the standard "all-risk" endorsement, where such is available), on a replacement cost basis in an amount not less than one hundred percent (100%) of the current replacement cost of the Condominium Project (exclusive of land, foundation, excavation, and other items normally excluded from coverage). The insured shall be the Association, for the use and benefit of the individual Owners. Loss payable shall be in favor of the Association, which shall hold any proceeds of insurance in trust for Owners and their first Mortgage holders, as their interests may appear. Certificate of insurance shall be issued to each Owner and Mortgagee upon request. Such policies shall contain the standard mortgage clause, or equivalent endorsement (without contribution), which is commonly accepted by private institutional mortgage investors in the area in which the property is located. Such policies must also provide that they may not be canceled or substantially modified, without at least ten (10) days' prior written notice to the Association and to each holder of a first Mortgage listed as a scheduled holder of a first Mortgage in the policies.

Such policies must provide, either within the policy itself or in the form of a "special condominium endorsement," for each of the following: (i) a waiver of the right of subrogation against Owners individually; (ii) that the insurance is not prejudiced by any act or neglect of individual Owners which is not in the control of such Owners collectively; and (iii) that the policy is primary in the event the Owner has other insurance covering the same loss.

2. **Liability Insurance.** A comprehensive policy of public liability insurance insuring the Association, the Management Committee, the Manager, and the Owners against any liability incident to the ownership, use or operation of the Common Areas, commercial space owned and leased by the owners association, 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 Owners. Limits of liability under such insurance shall be not less than One Million Dollars (\$1,000,000.00) for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under such policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the common elements, and legal liability arising out of lawsuits related to employment contracts of the Association. Such policies must provide that they may not be canceled or substantially modified, by any party, without at least ten (10) days' prior written notice to the Association and to each holder of a first Mortgage on any Unit in the Condominium which is listed as a scheduled holder of a first Mortgage in the insurance policy.

3. **Flood Insurance.** If the Condominium Project is located within an area which has been officially identified by the Secretary of Housing and Urban Development as having special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program (NFIP), the Association must obtain and pay the

premiums upon, as a common expense a "master" or "blanket" policy of flood insurance on the buildings and any other property covered by the required form of policy (herein insurable property), in an amount deemed appropriate by the Association, but not less than the lesser of: (i) the maximum coverage available under the NFIP for all buildings and other insurable property within the Condominium to the extent that such buildings and other insurable property are within an area having special flood hazards; or (ii) 100% of "current replacement cost" of all such buildings and other insurance property within such area. Such policy shall be in a form which meets the criteria set forth in the most current guidelines on the subject issued by the Federal Insurance Administrator.

4. 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.

5. Fidelity Bonds. Blanket fidelity bonds shall be required to be maintained by the Association for all members of the Management Committee, officers, Manager, and employees of the Association and all other persons handling or responsible for, funds of or administered by the Association. If a management agency has been engaged by the Association and is responsible for handling or administering funds of the Association, the agency shall be required to maintain fidelity bond coverage for its officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. Such fidelity bonds shall name the Association as an obligee and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the management agency, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bonds be less than a sum equal to three (3) months' aggregate assessments on all Units plus reserve funds. The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions. The premiums on all bonds required herein, except those maintained by the management agency, shall be paid by the Association as a common expense. The bonds shall provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days' prior written notice to the Association, and where FNMA holds, insures or guarantees a Mortgage on a Unit, to FNMA.

6. Expansion Coverage. If the project is expanded to add an additional phase or phases the Declarant shall provide a general liability insurance policy in an amount not less than one million dollars (\$1,000,000) for each occurrence, to cover any liability which Owners of previously sold Units are exposed to as a result of further expansion of the Condominium Project development.

Each Owner, by the act of recording the deed conveying title to the Unit to such Owner, shall be deemed to have appointed the Association as attorney-in-fact

for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose.

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.

(b) Each insurer must be specifically licensed to transact business with the State of Utah, and must be acceptable to FNMA and the Federal Home Loan Mortgage Corporation, where they hold, insure, or guarantee one or more Mortgages on Condominium Units. 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.

Each policy of insurance obtained by the Association shall provide: (i) a standard mortgagee clause commonly accepted by private institutional mortgage investors in the area in which the Project is located; (ii) a waiver (if available) of the insurer's subrogation rights with respect to the Association, Management Committee, Manager, Unit owners, and their respective servants, agents, and guests; (iii) that it cannot be canceled, suspended, or invalidated due to the conduct of any particular Unit Owner or Owners; (iv) 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; (v) that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Unit Owners; and (vi) that a mortgagee clause endorsement which must provide that the insurance carrier shall notify the first Mortgagee named at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.

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 Association. 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.



**ARTICLE VII  
DESTRUCTION OF IMPROVEMENTS OR CONDEMNATION**

1. **Destruction of Improvements.** 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 percent (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 percent (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 percent (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 percent (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 percent (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 Article VII 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.

2. **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, or such action is threatened, each Unit Owner, by the recording of the deed by which title to his Unit is conveyed to him shall be deemed to have appointed the Owners Association as his attorney-in-fact, to represent the Owners in such proceedings or negotiations, and to make and accept settlements and agreements with the condemning authority that are binding upon the Association

and the Owners. Each Owner shall be entitled to notice thereof , 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. The award or proceeds of settlement shall be payable to the Association, to be held in trust for Unit Owners and their first Mortgage holders as their interest may appear.

## ARTICLE VIII MISCELLANEOUS

### 1. 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 Association, its Management Committee, or a majority of Unit Owners, and control of the Association shall pass to the Owners of the Units within the Project, not later than the earlier of the following:

(i) The expiration of seven (7) years from the recording date of this Declaration; or

(ii) The date upon which (a) seventy-five percent (75%) of all possible Units in the expandable Project have been conveyed, or (b) after all additional land has been added to the Project, whichever last occurs.

These requirements shall not affect the Declarant's rights, as an Owner of one or more Units, to exercise the vote allocated to such Units which it owns.

**2. Amendment.**

Except as provided below, the vote of at least sixty-seven (67%) 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 provided in subparagraph (b) below, Declarant is hereby vested with the right to unilaterally amend this Declaration or the Map, without regard to the subject matter of the amendment; provided, however, that no such amendment violates any provision of the Act or would result in divesting the Owners or Mortgagees from any property rights in them vested. This exclusive right to amend shall expire and be of no further force or effect at the time provided in paragraph 23(b).

(b) Notwithstanding anything to the contrary contained in the Declaration, including in the immediately preceding paragraph, the following actions shall required the written approval of the designated number of eligible holders of Mortgages:

(i) The consent of eligible holders of first Mortgages on Units to which at least sixty-seven percent (67%) of the votes of Units subject to a Mortgage appertain, in order to terminate the condominium regime; and

(ii) The consent of eligible holders of first Mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to a Mortgage appertain, to materially amend any provision of this Declaration, or of the Articles of Incorporation or By-Laws of the Association, which establish, provide for, govern or regulate any of the following:

- Voting;
- Assessments, assessment liens, or subordination of such liens;
- Reserves for maintenance, repair and replacement of the Common Areas;
- Insurance or fidelity bonds;
- Rights to use the Common Areas;

- Responsibility for maintenance and repair of the several portions of the Condominium Project;
- Expansion or contraction of the condominium regime or the addition, annexation or withdrawal of property to or from the regime;
- Boundaries of any Unit;
- The interests in Common Areas or Limited Common Areas;
- Convertibility of Units into Common Area, or of Common Area into Units;
- Leasing of Units;
- Imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer or otherwise convey his Unit in the Condominium Project;
- Establishment of self-management by the Association where professional management has been required by any of the agencies or corporations; and
- Any provision which is for the express benefit of the eligible holders or insurers of first Mortgages on Units in the Condominium Project.

In order for first Mortgagees to be "eligible holders" under this Section, they must request, in writing, notice in accordance with the provisions of Section 5 of this Article VIII.

3. 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 relief upon are obtained within a ninety (90) day period.

4. Service of Process.

Steve D. McArthur, whose business address is 9948 South Redwood Road, South Jordan, Utah 84095, is the person to receive service of process in cases authorized by the Act. 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.

5. 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 4proceeds 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) 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.

(j) Any holder, insurer or guarantor of a first Mortgage, upon written request to the Association (such request must state the name and address of such holder, insurer or guarantor and the Unit number), will be entitled to timely written notice of:

(i) Any proposed amendment of the Condominium instruments effecting a change in (1) the boundaries of any Unit or the exclusive easement rights appertaining thereto, (2) the interests in the Common Areas or Limited Common Areas appertaining to any Unit or the liability for common expenses appertaining thereto, (3) the number of votes in the Association appertaining to any Unit or (4) the purposes to which any Unit or the Common Areas are restricted;

(ii) Any proposed termination of the Condominium regime;

(iii) Any condemnation loss or any casualty loss which affects a material portion of the Condominium or which affects any

Unit on which there is a first Mortgage held, insured or guaranteed by such eligible holder;

(iv) Any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to the Mortgage of such eligible holder, insurer or guarantor, where such delinquency has continued for a period of sixty (60) days; and

(v) Any lapse, cancellation or material modification of any insurance policy maintained by the Association pursuant to Article VI.

(k) To the extent possible under applicable law, the following protections are included in this Declaration for the benefit of first Mortgage holders:

(i) Any restoration or repair of the Condominium after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with the Declaration and the original plans and specifications unless the approval of the eligible holders of first Mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to Mortgages held by such eligible holders are allocated, is obtained;

(ii) Any election to terminate the Condominium regime after substantial destruction or a substantial taking in condemnation of the Condominium Project must require the approval of the eligible holders of first Mortgages on Units to which at least fifty-one percent (51%) of the votes of units subject to Mortgages held by such eligible holders are allocated;

(iii) Unless the formula for reallocation of interests in the Common Areas after a partial condemnation or partial destruction of the Condominium Project is fixed in advance by the Declaration or by applicable law, no reallocation of interests in the Common Areas resulting from a partial condemnation or partial destruction of the Condominium project may be effected without the approval of the eligible holders of first Mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to Mortgages held by such eligible holders are allocated.

(iv) An eligible holder of a first Mortgage shall have the right to inspect Association documents and records at the same times, and in the same manner, as an Owner.

(v) A majority of the eligible holder of first Mortgages shall have the right to demand (1) an audit of the Association's financial records, and (2) that the Association engage a professional manager.

As used in this section, the term, "eligible holder, insurer or guarantor," shall mean a holder, insurer or guarantor of a first Mortgage on a Unit in a condominium which has requested notice in accordance with the provisions of subparagraph (j) above.

6. 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 Districts) 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.

7. 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, the provisions of any Rules and Regulations, agreements, instruments, and determinations contemplated by this Declaration, and the decisions of the Association which are made pursuant to authority granted the Association in such documents, 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. Owners shall have similar rights of action against the Association. 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.

8. 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.

9. 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.

10. Disputes with Declarant or Others. Any disputes or controversies in excess of \$5,000 between the Association and the Declarant shall be submitted to binding arbitration to the American Arbitration Association under its Rules for the Real Estate Industry and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Each party shall bear its own costs of arbitration except that any and all fees due the American Arbitration Association or its arbitrator(s) shall be paid by both parties equally. All disputes and controversies 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 or submit any matter to arbitration 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 such that seventy-five percent (75%) of all Unit Owners is required to file any legal action or submit any matter to Arbitration.

11. 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, enforceability, 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.

12. 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.

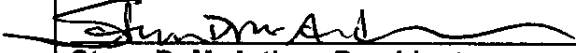
13. Gender. The use of the masculine Gender in this Declaration, shall be deemed to refer to the feminine gender and the use of the singular shall be deemed to refer to the plural, and vice versa, whenever the context so requires.

14. 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.

15. 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.

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

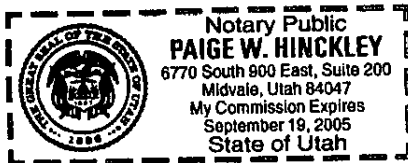
IN WITNESS WHEREOF, the undersigned being the Declarant, has caused this instrument to be executed and its seal be affixed hereto on the day and year first above written.

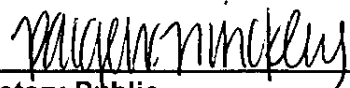
	McARTHUR HUNTER TOWNS, L.C. a Utah Limited Liability Company  By: McARTHUR HOMES, INC., Manager   Steve D. McArthur, President
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STATE OF UTAH

COUNTY OF SALT LAKE

On the 29<sup>th</sup> day of May 2002, personally appeared before me Steve D. McArthur, who being by me duly sworn, did say that he is the President of McArthur Homes, Inc., which is the Manager of McArthur Hunter Towns, L.C., and that said instrument was acknowledged on behalf of said McArthur Hunter Towns, L.C., by authority, and said Steve D. McArthur duly acknowledged to me that he as such President of said corporation and executed the same on behalf of McArthur Homes, Inc. as manger of McArthur Hunter Towns, L.C.



  
Notary Public  
Residing at: midvale, UT.

My Commission Expires: 09/19/05

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EXHIBIT A

REAL PROPERTY DESCRIPTION OF  
THE TOWN AT HUNTER VILLAGE CONDOMINIUMS PHASES 1 and 2

**The Towns at Hunter Village  
Phase 1**

*Beginning at a point which is S89°56'56"W along the Section Line, 312.166 feet and N00°03'04"W, 299.895 feet from the South Quarter Corner of Section 27, Township 1 South, Range 2 West, Salt Lake Base and Meridian; and running thence S69°45'47"W, 39.658 feet; thence S89°56'56"W, 254.955 feet; thence N00°03'04"W, 85.103 feet; thence N89°56'56"E, 111.970 feet; thence N44°56'42"E, 58.265 feet; thence N74°48'04"E, 86.842 feet; thence N47°56'54"E, 15.000 feet; thence Southeasterly 57.393 feet along the arc of a 90.000 foot radius curve to the right, (chord bears S23°46'59"E, 56.425 feet); thence Southeasterly 96.359 feet along the arc of a 375.000 foot radius curve to the left (chord bears S12°52'32"E, 96.094 feet) to the point of beginning.*

*Contains 31,174 Square Feet or 0.72 Acres*

**The Towns at Hunter Village  
Phase 2**

*Beginning at a point which is S89°56'56"W along the Section Line, 348.224 feet and N00°03'04"W, 171.631 feet from the South Quarter Corner of Section 27, Township 1 South, Range 2 West, Salt Lake Base and Meridian; and running thence N89°58'51"W, 22.913 feet; thence N89°58'51"W, 256.282 feet; thence N00°03'04"W, 114.237 feet; thence N89°56'56"E, 23.076 feet; thence N89°56'56"E, 254.955 feet; thence N69°45'47"E, 39.658 feet; thence Southeasterly 28.414 along the arc of a 375.00 foot radius curve to the left, (chord bears S22°24'27"E, 28.407 feet); thence S24°34'42"E, 18.780 feet; thence Southwesterly 120.006 feet along the arc of a 60.000 foot radius curve to the right (chord bears S32°43'14"W, 100.980 feet) to the point of beginning.*

*Contains 37,939 Square Feet or 0.87 Acres*

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**EXHIBIT B**

**THE TOWN AT HUNTER VILLAGE CONDOMINIUMS PHASES 1 and 2 MAPS**

**[CC - Attach to this Exhibit B sheet, the two maps for Phases 1 and 2.]**

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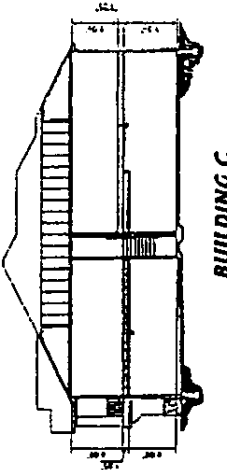
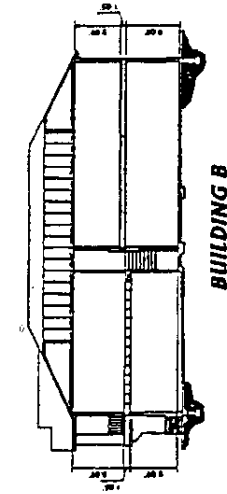
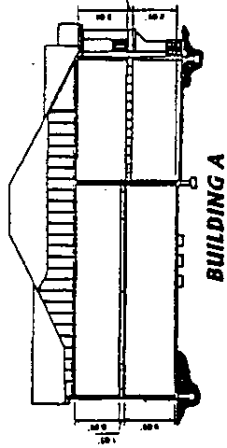
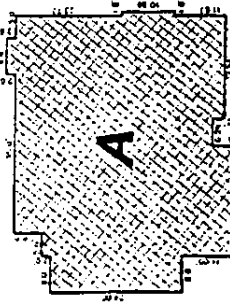
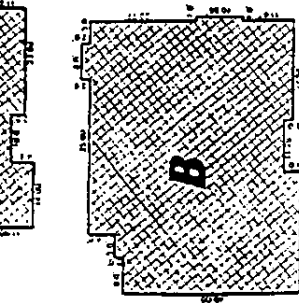
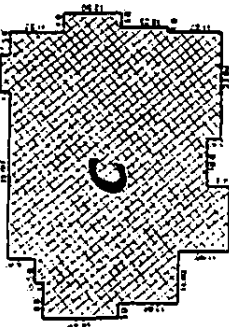


# THE TOWNS AT HUNTER VILLAGE PHASE 2

UNIT TYPE	FLOOR NAME
A-1	BASEMENT
A-2	WALKOUT-A
A-3	UNFURNISHED
B-1	WALKOUT-B
B-2	POVED
B-3	ASBET
C-1	CONCRETE
C-2	ASBET



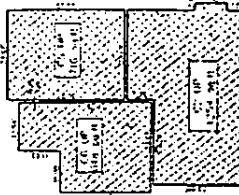
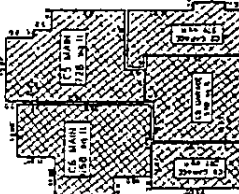
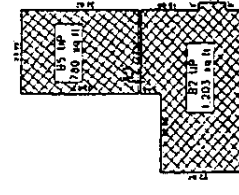
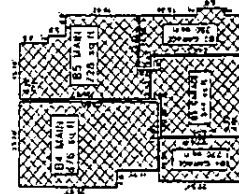
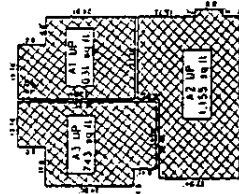
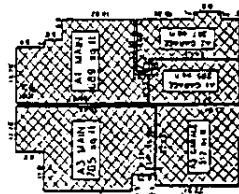
FOR FLOOR ELEVATIONS  
SEE TABLES THIS SHEET



**BUILDING A**

**BUILDING B**

**BUILDING C**



**BUILDING A**

**BUILDING B**

**BUILDING C**

GROUND LEVEL DIMENSIONS  
(NOT TO SCALE)

(NOT TO SCALE)

(NOT TO SCALE)

(NOT TO SCALE)

BUILDING 117		
UNIT NO.	UNIT TYPE	MAIN FLOOR ELEVATION
B	A-1	438.04
C	A-2	437.04
E	A-3	438.04

BUILDING 118		
UNIT NO.	UNIT TYPE	MAIN FLOOR ELEVATION
C	B-2	438.04
E	B-3	438.04
B	B-4	438.04

BUILDING 119		
UNIT NO.	UNIT TYPE	MAIN FLOOR ELEVATION
E	A-1	438.74
C	A-2	437.74
B	A-3	438.74

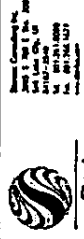
BUILDING 120		
UNIT NO.	UNIT TYPE	MAIN FLOOR ELEVATION
E	C-1	438.74
C	C-2	437.74
B	C-3	438.74

BUILDING 117		
ADDRESS	UPPER FLOOR ELEVATION	MAIN FLOOR ELEVATION
6887 WEST ASBET WAY	438.04	437.04
6878 WEST ASBET WAY	438.04	437.04
6879 WEST ASBET WAY	438.04	437.04

BUILDING 118		
ADDRESS	UPPER FLOOR ELEVATION	MAIN FLOOR ELEVATION
6877 WEST ASBET WAY	438.04	437.04
6878 WEST ASBET WAY	438.04	437.04
6879 WEST ASBET WAY	438.04	437.04

BUILDING 119		
ADDRESS	UPPER FLOOR ELEVATION	MAIN FLOOR ELEVATION
6881 WEST ASBET WAY	438.74	437.74
6882 WEST ASBET WAY	438.74	437.74
6883 WEST ASBET WAY	438.74	437.74

BUILDING 120		
ADDRESS	UPPER FLOOR ELEVATION	MAIN FLOOR ELEVATION
6885 WEST ASBET WAY	438.74	437.74
6886 WEST ASBET WAY	438.74	437.74
6887 WEST ASBET WAY	438.74	437.74



2	2
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# EXHIBIT "C"

## BYLAWS OF THE TOWNS AT HUNTER VILLAGE CONDOMINIUM OWNERS' ASSOCIATION, INC. a Utah Non-Profit Corporation

Pursuant to the provisions of the Utah Revised Nonprofit Corporation Act, the Management Committee of The Towns at Hunter Village Condominium Owners' Association, Inc., a Utah nonprofit corporation, hereby adopts the following Bylaws for such nonprofit corporation.

### ARTICLE I

#### NAME AND PRINCIPAL OFFICE

**1.1 Name.** The name of the nonprofit corporation is: The Towns at Hunter Village Condominium Owners' Association, Inc., hereinafter referred to as the "Association."

**1.2 Office.** The principal office of the Association shall be at 9948 South Redwood Road, South Jordan, Utah 84095.

### ARTICLE II

#### DEFINITIONS

**2.1 Definitions.** Except as otherwise provided herein or as may be required by the context, all terms defined in Article I of the Declaration for The Towns at Hunter Village, a Utah Expandable Condominium Project, hereafter referred to as the "Declaration," shall have such defined meanings when used in these Bylaws.

### ARTICLE III

#### MEMBERS

**3.1 Annual Meetings.** The annual meeting of Members shall be held on the first Monday in June of each year at the hour of 1:00 p.m., beginning with the year 2003, for the purpose of electing Members of the Management Committee and transacting such other business as may come before the meeting. If the election of Members of the Management Committee shall not be held on the day

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designated herein for the annual meeting of the Members, or at any adjournment thereof, the Management Committee shall cause the election to be held at a special meeting of the Members to be convened as soon thereafter as may be convenient.

The Management Committee may, from time to time, by resolution, change the date and time for the annual meeting of the Members.

**3.2 Special Meetings.** Special meetings of the Members may be called by the Management Committee, the President, the Declarant, or upon the written request of Members who own in the aggregate at least one-third of the undivided interest in the Common Areas and Facilities, such written request to state the purpose or purposes of the meeting and to be delivered to the Management Committee or the President.

**3.3 Place of Meetings.** The Management Committee may designate any place in Salt Lake County, State of Utah as the place of meeting for any annual meeting or for any special meeting called by the Board. A waiver of notice signed by all of the Members may designate any place, either within or without the State of Utah, as the place for holding such meeting. If no designation is made, or if a special meeting is otherwise called, the place of the meeting shall be at the principal office of the Association.,

**3.4 Notice of Meetings.** The Management Committee shall cause written or printed notice of the time, place and purposes of all meetings of the Members (whether annual or special) to be delivered, not more than fifty (50) nor less than twenty-five (25) days prior to the meeting, to each Member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the U. S. Postal Service mail addressed to the Member at his registered address, with first class postage thereon prepaid. Each Member shall register with the Association such Member's current mailing address for purposes of notice hereunder. Such registered address may be changed from time to time by notice in writing to the Association. If no address is registered with the Association, a Member's Condominium address shall be deemed to be his registered address for purposes of notice hereunder.

**3.5 Members of Record.** Upon purchasing a Condominium in the Project, each Owner shall promptly furnish to the Association a certified copy of the recorded instrument by which ownership of such Condominium has been vested in such owner, which copy shall be maintained in the records of the Association. For the purpose of determining Members entitled to notice of or to vote at any meeting of the Members, or any adjournment thereof, the Management Committee may designate a record date, which shall not be more than fifty (50) nor less than ten (10) days prior to the meeting, for determining Members entitled to notice of or to vote at any meeting of the Members. If no record date is designated, the date on which notice of the meeting is mailed shall be deemed to be the record date for determining Members entitled to notice of or to vote at the meeting. The persons whose names appear in the records of the Association on such record date as the Owners of record of a Condominium in the Project shall be deemed to be the Members of record entitled to notice of and to vote at the meeting of the Members.

**3.6 Quorum.** At any meeting of the Members, the presence of Members in person or by proxy owning more than twenty percent (20%) of the undivided interest in the Common Areas and Facilities shall constitute a quorum for the transaction of business. In the event a quorum is not present at a meeting, the Members present (whether represented in person or by proxy), though less than a quorum, may adjourn the meeting to a later date. Notice thereof shall be delivered to the Members as provided above. At the reconvened meeting, the Members and proxy holders present owning more than twenty percent (20%) of the undivided interest in the Common Areas and Facilities shall constitute a quorum for the transaction of business.

**3.7 Proxies.** At each meeting of the Members, each Member entitled to vote shall be entitled to vote in person or by proxy; provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the Member himself or by his attorney thereunto duly authorized in writing. If a Membership is jointly held, the instrument authorizing a proxy to act must have been executed by all holders of such Membership or their attorneys thereunto duly authorized in writing. Such instrument authorizing a proxy to act shall be delivered at the beginning of the meeting to the Secretary of the Association or to such other officer or person who may be acting as secretary of the meeting.

The secretary of the meeting shall enter a record of all such proxies in the minutes of the meeting.

**3.8 Votes.** With respect to each matter submitted to a vote of the Members, each Member entitled to vote at the meeting shall have the right to cast, in person or by proxy, the number of votes appertaining to the Condominium of such Member, as shown in the Declaration. The affirmative vote of a majority of the votes entitled to be cast by the Members present or represented by Proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by the Members, unless a greater proportion is required by the Articles of Incorporation, these Bylaws, the Declaration, or Utah law.

The election of Members to the Management Committee shall be by secret ballot. Cumulative voting shall not be allowed. Until all provisions and requirements of Section 3 of Article V of the Articles of Incorporation shall have been complied with in full, Declarant alone shall be entitled to select all of the Committee members. If a membership is jointly held, all or any holders thereof may attend each meeting of the Members, but such holders must act unanimously to cast the votes relating to their joint Membership.

**3.9 Waiver of Irregularities.** All inaccuracies and irregularities in calls or notices of meetings and in the manner of voting, form of proxies, and method of ascertaining Members present shall be deemed waived if no objection thereto is made at the meeting.

**3.10 Information Action by Members.** Any action that is required or permitted to be taken at a meeting of the Members may be taken without a meeting, if a consent in writing, setting forth

the action so taken, shall be signed by all of the Members entitled to vote with respect to the subject matter thereof.

## ARTICLE IV

### MANAGEMENT COMMITTEE

**4.1 General Powers.** The property, affairs and business of the Association shall be managed by a board of directors, who shall be called and referred to as its Management Committee. The Management Committee may exercise all of the powers of the Association, whether derived from law or the Articles of Incorporation, except such powers as are by law, by the Articles of Incorporation, by these Bylaws, or by the Declaration vested solely in the Members. The Management Committee may by written contract delegate, in whole or in part, to a professional management organization or person such of its duties, responsibilities, functions, and powers as are properly delegable.

**4.2 Number, Tenure and Qualifications.** The number of Members of the Management Committee of the Association shall be five (5). The initial Management Committee shall serve until the first annual meeting of the Members held for the purpose of electing Members to the Management Committee. Each Member of the Management Committee shall hold office until the next annual meeting of Members and until his successor shall have been elected and qualified. All Members of the Management Committee, excepting the initial Members of the Management Committee, shall be Members of the Association.

**4.3 Regular Meetings.** The regular annual meeting of the Management Committee shall be held without other notice than this Bylaw immediately after and at the same place as, the annual meeting of the Members. The Management Committee may provide by resolution the time and place, within Salt Lake County, State of Utah, for the holding of additional regular meetings without other notice than such resolution.

**4.4 Special Meetings.** Special meetings of the Management Committee may be called by or at the request of any Member of the Management Committee. The person or persons authorized to call special meetings of the Management Committee may fix any place, within Salt Lake County, State of Utah, as the place for holding any special meeting of the Management Committee called by such person or persons. Notice of any special meeting shall be given at least five (5) days prior thereto by written notice delivered personally, or mailed to each Member of the Committee at his registered address, or by telegram. If mailed, such notice shall be deemed to be delivered when deposited in the U. S. Postal Service mail so addressed, with first class postage thereon prepaid. If notice is given by telegram, such notice shall be deemed to have been delivered when the telegram is delivered to the telegraph company. Any Member of the Committee may waive notice of a meeting.

**4.5 Quorum and Manner of Acting.** A majority of the then authorized number of Members of the Management Committee shall constitute a quorum for the transaction of business at any meeting of the Management Committee. The act of a majority of the Members of the Management

Committee present at any meeting at which a quorum is present shall be the act of the Management Committee. The Members of the Management Committee shall act only as a Committee, and the individual Members of the Management Committee shall have no powers as such.

**4.6 Compensation.** No Member of the Management Committee shall receive compensation for any services that he may render to the Association as a Member of the Committee; provided, however, that a Member of the Committee may be reimbursed for expenses incurred in performance of his duties as a Committee Member to the extent such expenses are approved by the Management Committee and (except as otherwise provided in these Bylaws) may be compensated for services rendered to the Association other than in his capacity as a Member of the Committee.

**4.7 Resignation and Removal.** A Member of the Committee may resign at any time by delivering a written resignation to either the President or the Management Committee. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Member of the Committee may be removed at any time, for or without cause, by the affirmative vote of the Members who own in the aggregate at least seventy-five percent (75%) of the undivided interest in the Common Areas and Facilities at a special meeting of the Member duly called for such purpose.

**4.8 Vacancies and Newly Created Management Committeeships.** If vacancies shall occur in the Management Committee by reason of the death, resignation, or disqualification of a Member of the Committee, or if the authorized number of Members of the Management Committee shall be increased, the Members of the Management Committee then in office shall continue to act, and such vacancies or newly created committeeships shall be filled by a vote of the Members of the Management Committee then in office, though less than a quorum, in any way approved by such Members of the Management Committee at the meeting. Any vacancy in the Management Committee occurring by reason of removal of a Member of the Committee by the Members may be filled by election at the meeting at which such Member of the Committee is removed. Any Member of the Committee elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of his predecessor or for the term of the newly created committeeship, as the case may be.

**4.9 Information Action by Members of the Management Committee.** Any action that is required or permitted to be taken at a meeting of the Management Committee, may be taken without a meeting if an consent in writing, setting forth the action so taken, shall be signed by all of the Members of the Management Committee.

## ARTICLE V

### OFFICERS

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

**5.2 Election - Tenure and Qualifications.** The officers of the Association shall be chosen by the Management Committee annually at the regular annual meeting of the Management Committee.

In the event of failure to choose officers at such regular annual meeting of the Management Committee, officers may be chosen at any regular or special meeting of the Management Committee. Each such officer (whether chosen at a regular annual meeting of the Management Committee or otherwise) shall hold his office until the next ensuing regular annual meeting of the Management Committee and until his successor shall have been chosen and qualified, or until his death, or until his resignation, disqualification, or removal in the manner provided in these Bylaws, whichever first occurs. Any one person may hold any two or more of such offices, except that the President may not also be the Secretary. No person holding two or more offices shall act in or execute any instrument in the capacity of more than one office. The President, Vice President and Secretary-Treasurer shall be and remain Members of the Association during the entire term of their respective offices. Such officers may or may not be Members of the Management Committee as the Management Committee may from time to time determine.

**5.3 Subordinate Officers.** The Management Committee may from time to time appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period, have such authority, and perform such duties as the Management Committee may from time to time determine. The Management Committee may from time to time delegate to any officer or agent the power to appoint any such subordinate officers or agents and to prescribe their respective titles, terms of office, authorities, and duties. Subordinate officers need not be Members of the Association.

**5.4 Resignation and Removal.** Any officer may resign at any time by delivering a written resignation to the President or the Management Committee. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed by the Management Committee at any time, with or without cause.

**5.5 Vacancies and Newly Created Officers.** If any vacancy shall occur in any office by reason of death, resignation, removal, disqualification, or any other cause, or if a new office shall be created, such vacancies or newly created offices may be filled by the Management Committee at any regular or special meeting.

**5.6 President.** The President shall be the chief executive officer of the Association and shall exercise general supervision over its property and affairs. He shall sign on behalf of the Association all membership certificates, conveyances, mortgages and contracts and shall do and perform all acts and things which the Management Committee may require of him.

The President shall be invited to attend meetings of the Management Committee.

**5.7 The Vice President.** The Vice President shall act in the place and stead of the President in the event of the President's absence or inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Management Committee.

**5.8 The Secretary.** The Secretary shall keep the minutes of the Association and shall maintain such books and records as these Bylaws, the Declaration, or any resolution of the Management Committee may require him to keep. He shall be the custodian of the seal of the Association, if any, and shall affix such seal, if any, to all papers and instruments requiring the same. He shall perform such other duties as the Management Committee may require of him.

**5.9 The Treasurer.** The Treasurer shall have the custody and control of the funds of the Association, subject to the action of the Management Committee, and shall, when requested by the President to do so, report the state of the finances of the Association at each annual meeting of the Members and at any meeting of the Management Committee. He shall perform such other duties as the Management Committee may require of him.

**5.10 Compensation.** No officer shall receive compensation for any services that he may render to the Association as an officer; provided, however, that an officer may be reimbursed for expenses incurred in performance of his duties as an officer to the extent such expenses are approved by the Management Committee and (except as otherwise provided in these Bylaws) may be compensated for services rendered to the Association other than in his capacity as an officer.

## ARTICLE VI

### COMMITTEES

**6.1 Designation of Committees.** The Management Committee may from time to time by resolution designate such committees as it may deem appropriate in carrying out its duties, responsibilities, functions and powers. The membership of each such committee designated hereunder shall include two (2) or more of the members of the Association. No committee member shall receive compensation for services that he may render to the Association as a committee member; provided, however, that a committee member may be reimbursed for expenses incurred in performance of his duties as a committee member to the extent that such expenses are approved by the Management Committee and (except as otherwise provided in these Bylaws) may be compensated for services rendered to the Association other than in his capacity as a committee member.

**6.2 Proceedings of Committees.** Each committee designated hereunder by the Management Committee may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such committee may from time to time determine. Each such committee shall keep a record of its proceedings and shall regularly report such proceedings to the Management Committee.

**6.3 Quorum and Manner of Acting.** At each meeting of any committee designated hereunder by the Management Committee, the presence of members constituting at least a majority of the authorized membership of such committee shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee. The members of any committee designated by the Management Committee hereunder shall act only as a committee, and the individual members thereof shall have no powers as such.

**6.4 Resignation and Removal.** Any member of any committee designated hereunder by the Management Committee may resign at any time by delivering a written resignation to the President, the Management Committee, or a presiding officer of the committee of which he is a member. Unless otherwise specified therein, such resignation shall take effect upon delivery. The Management Committee may at any time, with or without cause, remove any member of any committee designated by it hereunder.

**6.5 Vacancies.** If any vacancy shall occur in any committee designated by the Management Committee hereunder, due to disqualification, death, resignation, removal or otherwise, the remaining member shall, until the filling of such vacancy, constitute the then total authorized membership of the committee and, provided that two or more members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Management Committee.

## ARTICLE VII

### INDEMNIFICATION

**7.1 Indemnification.** Each Member of the Management Committee and officer of the Association now or hereafter serving as such, shall be indemnified by the Association against any and all claims and liabilities to which he has or shall become subject by reason of serving or having served as such Member of the Committee, or officer, or by reason of any action alleged to have been taken, omitted, or neglected by him as such Member of the Committee or officer; and the Association shall reimburse each such person for all legal expenses reasonably incurred by him in connection with any such claim or liability, provided, however, that no such person shall be indemnified against, or be reimbursed for, any expense incurred in connection with any claim or liability arising out of his own wilful misconduct or gross negligence.

**7.2 Vote of Committee.** The amount paid to any officer or Member of the Committee by way of indemnification shall not exceed his actual, reasonable, and necessary expenses incurred in connection with the matter involved, and such additional amount as may be fixed by a committee of not less than three (3) nor more than five (5) persons selected by the Management Committee who shall be members of the Association but not officers or directors or related to officers or directors, and any indemnification so made shall be binding on the indemnified officer or Member of the Committee.

**7.3 State Law.** The right of indemnification herein above provided for shall not be exclusive of any rights to which any Member of the Committee of the Association may otherwise be entitled by law.

## ARTICLE VIII

### FISCAL YEAR AND SEAL

**8.1 Fiscal Year.** The fiscal year of the Association shall begin on the 1st day of January each year and shall end on the 31st day of December next following, except that the initial fiscal year shall begin on the date of incorporation.

**8.2 Seal.** The Management Committee may by resolution provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the Association, the State of incorporation, and the words "Corporate Seal."

## ARTICLE IX

### RULES AND REGULATIONS

**9.1 Rules and Regulations.** The Management Committee may from time to time adopt, amend, repeal, and enforce reasonable rules and regulations governing the use and enjoyment of the Project, to the extent that such rules and regulations are not inconsistent with the rights and duties set forth in the Articles of Incorporation, the Declaration, or these Bylaws. The Members shall be provided with copies of all rules and regulations adopted by the Management Committee, and with copies of all amendments and revisions thereof.

## ARTICLE X

### AMENDMENTS

**10.1 Amendments.** Except as otherwise provided by law, by the Articles of Incorporation, by the Declaration, or by these Bylaws, these Bylaws may be amended, altered, or repealed and new bylaws may be made and adopted by the Members upon the affirmative vote of Members who own in the aggregate at least sixty-seven percent (67%) of the undivided interest in the Common Areas and Facilities, expressly subject, however, to any and all provisions of the Declaration which may require a greater percentage vote, or a unanimous vote of said undivided interest. Any such action shall not be effective unless and until a written instrument setting forth (i) the amended, altered, repealed, or new bylaw, and (ii) the percentage of votes cast in favor of such action shall have been



executed and verified by the current President of the Association and recorded in the official records of Salt Lake County, Utah.

IN WITNESS WHEREOF, the undersigned, constituting all of the Members of the Management Committee of The Towns at Hunter Village Condominium Owners' Association, Inc., have executed these Bylaws on the 30th day of May, 2002.

DM

John D. McArthur

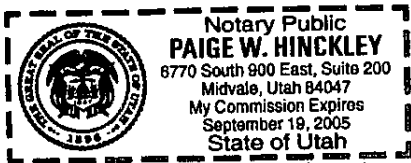
Ron McArthur

John Gassman

Allen Back

STATE OF UTAH )  
 : ss.  
County of Salt Lake )

On the 30th day of May, 2002, personally appeared before me David McArthur, John McArthur, Ron McArthur, John Gassman, and Allen Back, the signers of the within and foregoing Bylaws of The Towns at Hunter Village Condominium Owners' Association, Inc., each of whom duly acknowledged to me that he/she executed the same.



My Commission Expires: 09/19/05

paigen hinckley  
Notary Public  
Residing at: midvale, UT.

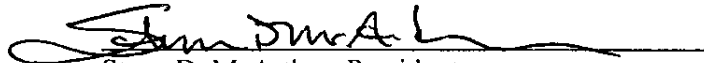
BK 8603 PG 4779

**DECLARANT'S CONSENT**

On this 30<sup>th</sup> day of May, 2002, the undersigned McArthur Hunter Towns, L.C., by and through McArthur Homes, Inc., its Manager, as the Declarant and owner of the land upon which the Project is located, does hereby consent to and execute these Bylaws in accordance with the Utah Condominium Ownership Act.

**MCARTHUR HUNTER TOWNS, L.C.** , a Utah  
limited liability company

By: **McARTHUR HOMES, INC.**, a Utah  
corporation, Manager

  
Steve D. McArthur, President

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EXHIBIT "D"  
OWNERSHIP INTEREST TABLE

<u>UNIT NUMBER</u>	<u>UNIT PAR VALUE PERCENT OF UNDIVIDED INTEREST IN COMMON AREA</u>
<u>Phase 1</u>	
Common Area	None
<u>Phase 2</u>	
<u>Building 117</u>	
W	1/12 <sup>th</sup> or 8.3333%
C	1/12 <sup>th</sup> or 8.3333%
E	1/12 <sup>th</sup> or 8.3333%
<u>Building 118</u>	
W	1/12 <sup>th</sup> or 8.3333%
C	1/12 <sup>th</sup> or 8.3333%
E	1/12 <sup>th</sup> or 8.3333%
<u>Building 119</u>	
W	1/12 <sup>th</sup> or 8.3333%
C	1/12 <sup>th</sup> or 8.3333%
E	1/12 <sup>th</sup> or 8.3333%
<u>Building 120</u>	
W	1/12 <sup>th</sup> or 8.3333%
C	1/12 <sup>th</sup> or 8.3333%
E	1/12 <sup>th</sup> or 8.3333%

**EXHIBIT E**

**THE TOWN AT HUNTER VILLAGE CONDOMINIUM – EXPANDABLE AREA**

Beginning at a point on the Northerly Right-of-Way Line of 3500 South Street, said point being S89°56'56"W along the Section Line 180.467 feet and N00°03'04"W, 63.00 feet from the South Quarter Corner of Section 27, Township 1 South, Range 2 West, Salt Lake Base and Meridian; Running thence S89°56'56"W, 174.779 feet; thence N00°03'04"W, 3.000 feet; thence S89°56'56"W, 32.004 feet; thence S00°03'04"E, 3.000 feet; thence S89°56'56"W, 188.866 feet; thence N00°03'04"W, 3.000 feet; thence S89°56'56"W, 32.000 feet; thence S00°03'04"E, 3.000 feet; thence S89°56'56"W, 342.122 feet; thence N00°03'04"W, 3.000 feet; thence S89°56'56"W, 31.076 feet; thence S00°03'04"E, 3.000 feet; thence S89°56'56"W, 99.044 feet; thence North, 172.874 feet; thence N75°41'00"W, 206.410 feet; thence North, 43.912 feet; thence N75°41'00"W, 61.923 feet; thence N04°09'37"W, 4.504 feet; thence N75°41'00"W, 12.147 feet; thence N00°00'01"E, 222.726 feet; thence East, 191.285 feet; thence N46°28'16"E, 165.733 feet; thence Southeasterly 266.692 feet along the arc of a 395.00 foot radius curve to the left, (chord bears S70°39'28"E, 261.655 feet with a central angle of 38°41'04"); thence East, 425.624 feet; thence Northeasterly 66.272 feet along the arc of a 120.00 foot radius curve to the left, (chord bears N74°10'43"E, 65.433 feet with a central angle of 31°38'33"); thence N58°21'27"E, 18.347 feet; thence Southeasterly 24.269 feet along the arc of a 15.00 foot radius curve to the right, (chord bears S75°17'31"E, 21.707 feet with a central angle of 92°42'05"); thence Southeasterly 101.838 feet along the arc of a 481.50 foot radius curve to the right, (chord bears S22°52'56"E, 101.648 feet with a central angle of 12°07'05"); thence S16°49'23"E, 84.698 feet; thence Southwesterly 23.562 feet along the arc of a 15.00 foot radius curve to the right, (chord bears S28°10'37"W, 21.213 feet with a central angle of 90°00'00"); thence S73°10'37"W, 19.50 feet; thence S16°49'23"E, 35.00 feet; thence Southeasterly 23.562 feet along the arc of a 15.00 foot radius curve to the right, (chord bears S61°49'23"E, 21.213 feet with a central angle of 90°00'00"); thence S16°49'23"E, 73.642 feet; thence Southeasterly 88.485 feet along the arc of a 371.00 foot radius curve to the left, (chord bears S23°39'20"E, 88.275 feet with a central angle of 13°39'55"); thence S30°29'18"E, 90.564 feet; thence S41°03'24"W 119.377 feet to the point of beginning.

Contains 13.268 Acres or 577,933 Square Feet

EXCEPTING therefrom the property described in Exhibit "A" attached to this Declaration.

BK 8603 PG 4782

RXLP TOWNS AT HUNTER	VLGE PH 1	CONDO	BLK, LOT-QUAR		
B FLG	BLK/BLDG	IND FLG	LOT/QUAR	PARCEL NUMBER	OBSOLETE?
		U	AREA	14-27-377-001-0000	NO

PF1=VTDI PF5=RXKP PF7=RXAB LIST PF12=PREV ENTER=NEXT CURSOR DOWN AND ENTER=RXPN

BK8603PG4783

RXLP TOWNS AT HUNTER VLGE PH 2 CONDO				BLK, LOT-QUAR		OBSOLETE?
B FLG	BLK/BLDG	IND FLG	LOT/QUAR	PARCEL	NUMBER	
		U	AREA	14-27-377-001-0000		NO
B	117	U	C	14-27-377-004-0000		NO
B	117	U	E	14-27-377-003-0000		NO
B	117	U	W	14-27-377-002-0000		NO
B	118	U	C	14-27-377-007-0000		NO
B	118	U	E	14-27-377-006-0000		NO
B	118	U	W	14-27-377-005-0000		NO
B	119	U	C	14-27-377-010-0000		NO
B	119	U	E	14-27-377-009-0000		NO
B	119	U	W	14-27-377-008-0000		NO
B	120	U	C	14-27-377-013-0000		NO
B	120	U	E	14-27-377-012-0000		NO
B	120	U	W	14-27-377-011-0000		NO

PF1=VTDI PF5=RXKP PF7=RXAB LIST PF12=PREV ENTER=NEXT CURSOR DOWN AND ENTER=RXPN

BK8603PG4784

RXLP B	TOWNS FLG	AT BLK/BLDG	HUNTER IND	VLGE FLG	PH 3 CONDO LOT/QUAR	BLK, LOT-QUAR PARCEL NUMBER	OBSOLETE?
				U	AREA	14-27-377-001-0000	NO
B		101		U	C	14-27-377-014-0000	NO
B		101		U	N	14-27-377-015-0000	NO
B		101		U	S	14-27-377-016-0000	NO
B		102		U	C	14-27-377-017-0000	NO
B		102		U	N	14-27-377-018-0000	NO
B		102		U	S	14-27-377-019-0000	NO
B		103		U	C	14-27-377-020-0000	NO
B		103		U	N	14-27-377-021-0000	NO
B		103		U	S	14-27-377-022-0000	NO
B		104		U	C	14-27-377-023-0000	NO
B		104		U	N	14-27-377-024-0000	NO
B		104		U	S	14-27-377-025-0000	NO

PF1=VTDI PF5=RXKP PF7=RXAB LIST PF12=PREV ENTER=NEXT CURSOR DOWN AND ENTER=RXPN

BK8603Pg4785

RXLP TOWNS AT HUNTER VLGE PH 4 CONDO				BLK, LOT-QUAR		
B FLG	BLK/BLDG	IND FLG	LOT/QUAR	PARCEL	NUMBER	OBSOLETE?
		U	AREA	14-27-377-001-0000		NO
B	105	U	C	14-27-377-037-0000		NO
B	105	U	N	14-27-377-035-0000		NO
B	105	U	S	14-27-377-036-0000		NO
B	106	U	C	14-27-377-032-0000		NO
B	106	U	N	14-27-377-033-0000		NO
B	106	U	S	14-27-377-034-0000		NO
B	107	U	C	14-27-377-031-0000		NO
B	107	U	N	14-27-377-029-0000		NO
B	107	U	S	14-27-377-030-0000		NO
B	116	U	C	14-27-377-028-0000		NO
B	116	U	E	14-27-377-027-0000		NO
B	116	U	W	14-27-377-026-0000		NO

PF1=VTDI PF5=RXKP PF7=RXAB LIST PF12=PREV ENTER=NEXT CURSOR DOWN AND ENTER=RXPN

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RXLP	TOWNS	AT	HUNTER	VLGE	PH	5	CONDO	BLK, LOT-QUAR	OBSOLETE?
B	FLG	BLK/BLDG	IND	FLG	LOT/QUAR	PARCEL	NUMBER		
.			U		AREA	14-27-377-001-0000			<b>NO</b>

PF1=VTDI PF5=RKKP PF7=RXAB LIST PF12=PREV ENTER=NEXT CURSOR DOWN AND ENTER=RXPN

BK8603PG4787

RXLP TOWNS AT HUNTER VLGE PH 6 CONDO				BLK, LOT-QUAR		
B FLG	BLK/BLDG	IND FLG	LOT/QUAR	PARCEL	NUMBER	OBSOLETE?
		U	AREA	14-27-377-001-0000		NO
B	108	U	C	14-27-377-047-0000		NO
B	108	U	E	14-27-377-049-0000		NO
B	108	U	W	14-27-377-048-0000		NO
B	109	U	C	14-27-377-044-0000		NO
B	109	U	E	14-27-377-046-0000		NO
B	109	U	W	14-27-377-045-0000		NO
B	114	U	C	14-27-377-040-0000		NO
B	114	U	E	14-27-377-039-0000		NO
B	114	U	W	14-27-377-038-0000		NO
B	115	U	C	14-27-377-043-0000		NO
B	115	U	E	14-27-377-042-0000		NO
B	115	U	W	14-27-377-041-0000		NO

PF1=VTDI PF5=RKKP PF7=RXAB LIST PF12=PREV ENTER=NEXT CURSOR DOWN AND ENTER=RXPN

BK8603PG4788

RXLP	TOWNS	AT	HUNTER	VLGE	PH	7	CONDO	BLK, LOT-QUAR	OBSOLETE?
B	FLG	BLK/BLDG	IND	FLG	LOT/QUAR			PARCEL NUMBER	
		▲		U	AREA			14-27-377-001-0000	NO
B		110		U	C			14-27-377-059-0000	NO
B		110		U	N			14-27-377-060-0000	NO
B		110		U	S			14-27-377-061-0000	NO
B		111		U	C			14-27-377-058-0000	NO
B		111		U	N			14-27-377-056-0000	NO
B		111		U	S			14-27-377-057-0000	NO
B		112		U	C			14-27-377-055-0000	NO
B		112		U	N			14-27-377-053-0000	NO
B		112		U	S			14-27-377-054-0000	NO
B		113		U	C			14-27-377-052-0000	NO
B		113		U	N			14-27-377-050-0000	NO
B		113		U	S			14-27-377-051-0000	NO

PF1=VTDI PF5=RXKP PF7=RXAB LIST PF12=PREV ENTER=NEXT CURSOR DOWN AND ENTER=RXPN

BK8603PG4789