

AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
SCHNEITTER'S SWISS OAKS
An Expandable Condominium Project

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THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made and entered into as of the 2nd day of July, 1990, by SCHNEITTER'S SWISS OAKS, LTD., a Utah limited partnership (hereinafter referred to as the "Declarant"). THIS AMENDED AND RESTATED DECLARATION SUPERSEDES the Declaration and all Amendments described in Recital paragraphs A through G below.

RECITALS:

A. The Declaration. The Declarant previously executed a Declaration of Covenants, Conditions, and Restrictions for Schneitter's Swiss Oaks, an Expandable Condominium Project (hereinafter referred to as the "Declaration"), dated September 24, 1985 and recorded September 26, 1985, Entry No. 136583, Book 175, Pages 418-482, at the Wasatch County Recorder's Office, submitting the Land and Buildings as described and defined therein to the provisions of the Utah Condominium Ownership Act (Title 57, Chapter 8, Utah Code Annotated).

B. The First Amendment. The Declaration was amended by a First Amendment dated December 21, 1985, and recorded January 14, 1986, Entry No. 137522, Book 178, Pages 142-145, at the Wasatch County Recorder's Office.

C. The Second Amendment. The Declaration was again amended by a Second Amendment dated January 6, 1987, and recorded January 13, 1987, Entry No. 140973, Book 186, Pages 717-722, at the Wasatch County Recorder's Office.

D. The Third Amendment. The Declaration was again amended by a Third Amendment dated as of January 22, 1989, and recorded February 22, 1989, Entry No. 148121, Book 206, Pages 645-656.

E. Fourth Amendment. The Declaration was again amended by a Fourth Amendment dated as of June 6, 1989, and recorded June 14, 1989, Entry No. 149044, Book 209, Pages 142-148.

F. Fifth Amendment. The Declaration was again amended by a Fifth Amendment dated as of February 16, 1990, and recorded February 21, 1990, Entry No. 151399, Book 216, Pages 183-187.

G. Sixth Amendment. The Declaration was again amended by a Sixth Amendment dated as of March 8, 1990, and recorded March 19, 1990, Entry No. 151709, Book 216, Pages 745-748.

H. Amendment and Restatement. Declarant now desires to amend in part and restate in its entirety, for ease of reference, the Declaration in one complete document. Also as part of this Amendment and Restatement, Declarant desires to expand the Project and to reallocate undivided interests under Article IV of the Declaration, as amended, and in accordance with Section 57-8-13.6 of the Condominium Act.

I. Description of Land. The real property parcels which comprise the "Land" subject to the Condominium Act, of the date hereof are listed and described in Exhibit B attached hereto and incorporated herein by reference. Plat G is being added to the Project by virtue of its inclusion in Exhibit B.

J. Buildings and Improvements. The Declarant has constructed on the Land certain Buildings and other improvements, as shown on the Map referred to below.

K. Record of Survey Map. The Declarant has executed, acknowledged, and recorded in the office of the County Recorder of Wasatch County, State of Utah, certain instruments pertaining to the Project and entitled "Record of Survey Map for Schneitter's Swiss Oaks, an Expandable Condominium Project." There are eight (8) Record of Survey Maps for the Project as of the date hereof, referred to herein as Plats A, B, C, D, E, F, G, and H, respectively.

L. Intent and Purpose. The Declarant intends by submitting this Amended and Restated Declaration and the Maps to submit the Land, the Buildings, and all other improvements situated in or upon the Land to the provisions of the Condominium Act as a fee simple Condominium Project and impose upon said property mutually beneficial restrictions under a general plan of improvement for the benefit of all Condominiums in the Project and the Owners thereof.

M. Expandable Project. The Declarant intends to reserve herein the option and right to expand the Project by adding thereto certain additional land and improvements in accordance with the provisions of this Amended and Restated Declaration and the Condominium Act.

NOW, THEREFORE, the undersigned does hereby make the following Amended and Restated Declaration:

ARTICLE I

DEFINITIONS

1.01 Defined Terms. Unless the context clearly indicates otherwise, certain terms used in this Amended and Restated Declaration shall have the meanings set forth in this Article I.

1.02 Additional Land shall mean certain land situated in Wasatch County, State of Utah, and more particularly described in Section 4.01 hereof.

1.03 Association shall mean Schneitter's Swiss Oaks Condominium Homeowners Association, a Utah nonprofit corporation, organized to be the Association referred to herein. Except as limited herein or in the Bylaws, the Board of Trustees shall have the authority to act for and in behalf of the Association.

1.04 Board of Trustees shall mean the governing board of the Association, appointed or elected in accordance with this Declaration and in accordance with the Articles of Incorporation and Bylaws of the Association.

1.05 Buildings shall mean the condominium buildings that have been or will be constructed on the Land, as such condominium buildings are shown on the Map.

1.06 Common Areas shall mean all Land and all portions of the Project not contained within a Unit, as defined herein, or within the Limited Common Areas, as defined herein, including, but not by way of limitation: walkways; parking spaces not specifically assigned to any Unit; all recreational areas and facilities which may hereafter be contained within the Project or which may be contained outside the Project and leased by the Association subject to the terms of any such lease; all installations of heat, power, lights, and hot and cold water existing for common use; and all other parts of the Project necessary or convenient to its existence, maintenance and safety or normally in common use and all areas and facilities designated as Common Areas in the Condominium Act, and Common Facilities as defined below.

1.07 Common Expense Fund shall mean the Common Expense Fund created or to be created and funded in accordance with the provisions of Article XI of this Declaration.

1.08 Common Facilities shall mean all furniture, furnishings, equipment, facilities, and other property (real, personal, or

mixed) and interests therein at any time leased, acquired, owned, or held by the Association for the use and benefit of all Owners and all other property hereafter purchased in accordance with this Declaration with monies from the Common Expense Fund. Common Facilities shall be deemed to be part of the Common Areas, except to the extent otherwise expressly provided in this Declaration.

1.09 Condominium shall mean a Unit, its assigned Limited Common Areas and the undivided interest (expressed as a percentage of the entire ownership interest) in the Common Areas appurtenant to such Unit, as set forth in Exhibit A, attached hereto and incorporated by reference, and as shown on the Map.

1.10 Condominium Act shall mean the Utah Condominium Ownership Act and amendments thereto (Title 57, Chapter 8, Utah Code Annotated).

1.11 Declarant shall mean Schneitter's Swiss Oaks, Ltd., a Utah limited partnership, and its successors and assigns. "Declaration," as that term is used herein, depending upon the context, refers to both this Amended and Restated Declaration and to the original September 24, 1985 Declaration of Covenants, Conditions, and Restrictions.

1.12 Land shall mean the land in and upon which the Project is situated, as more particularly described in Paragraph A of the Recitals above.

1.13 Limited Common Areas shall mean those portions of the Project reserved for the use of certain Units to the exclusion of other Units, including, but not by way of limitation the storage areas (transferable and non-transferable) set forth in Exhibit A and shown on the Map, balconies and/or patios that are immediately adjacent to and contiguous with certain Units, as more particularly identified in the Map, and the parking stalls (transferable and non-transferable) assigned to each unit as shown on the Map and Exhibit A. The use and occupancy of designated Limited Common Areas shall be reserved for its Unit and each Unit Owner is hereby granted an irrevocable license to use and occupy said Limited Common Areas. If parking spaces and storage spaces are designated as transferable on Exhibit A, such shall be transferable by lease or otherwise. Said transferable spaces shall only be transferable to other Owners and shall be transferred subject to the Declaration the Bylaws, and rules and regulations adopted by the Association.

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

1.15 Map shall mean the Record of Survey Maps and each of them (Plat A, Plat B, and Plat C, respectively) for Schneitter's Swiss Oaks, an Expandable Condominium Project, pertaining to the Project and recorded or to be recorded in the office of the County Recorder of Wasatch County, State of Utah.

1.16 Mortgage shall mean any mortgage, deed of trust, or other security instrument by which a Condominium or any part thereof or interest therein is encumbered.

1.17 Mortgagee shall mean (a) any person named as the mortgagee or beneficiary under any Mortgage by which the interest of any Owner is encumbered, or (b) any successor to the interest of such person under such Mortgage.

1.18 Owner shall mean the person or persons owning in fee simple a Condominium in the Project, as such ownership is shown by the records of the County Recorder of Wasatch County, State of Utah. The term "Owner" shall not refer to any Mortgagee (unless such Mortgagee has acquired title for other than security purposes) or to any person or persons purchasing a Condominium under contract (until such contract is fully performed and legal title conveyed of record).

1.19 Project shall mean the Land, the Buildings, and all improvements submitted by this Declaration and the Map to the provisions of the Condominium Act.

1.20 Total Votes of the Association shall mean the total number of votes appurtenant to all Condominiums in the Project, as shown in Exhibit A attached hereto and as modified by Sections 4.04 and 9.03 below.

1.21 Unit shall mean an individual air space unit, consisting of the enclosed rooms occupying part of the Buildings and bounded from a point at the center of the framed perimeter wall (i.e., the center of the studs), ceiling, and floor inward to the interior of the individual air space unit, including but not limited to: the wood framing; sheetrock (or other wall board), including interior surfaces and wall coverings and decorations; plumbing; pipes; ducts; flues; chutes; conduits; wires and other utility installations; floors; ceilings; windows; doors along the perimeter boundaries of the air space unit, as said boundaries are shown on the Map; and all fixtures and improvements therein contained. Paint and other wall, ceiling, or floor coverings on interior surfaces shall be deemed to be a part of the Unit. Notwithstanding the fact that they may be within the boundaries of such air space, the following are not part of a Unit insofar as they are necessary for the support or for the use and enjoyment of another Unit: Bearing walls, roofs, foundations, tanks, pumps,

vents, and other utility installations common to more than one Unit, except the outlets thereof when located within the Unit. The heating, ventilation and air conditioning equipment for a particular Unit and used exclusively in that Unit shall be deemed to be part of that Unit.

ARTICLE II

SUBMISSION AND DIVISION OF PROJECT

2.01 Submission to Condominium. The Declarant has submitted the Land, the Buildings, and all other improvements now or hereafter made in or upon the Land to the provisions of the Condominium Act. All of said property is and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, and improved as a fee simple, integrated use Condominium Project to be known as Schneitter's Swiss Oaks, an Expandable 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 for improvement of said property and division thereof into Condominiums. Each and all of the provisions hereof shall be deemed to run with the Land and is a burden and a benefit to the Declarant, its successors and assigns, and to any person acquiring, renting, leasing, or owning an interest in the real property and improvements comprising the Project, and to their respective heirs, personal representatives, successors, and assigns.

2.02 Division Into Condominiums. The Project is hereby divided into Condominiums, each such Condominium consisting of a Unit, an appurtenant undivided interest in Limited Common Areas and an appurtenant undivided interest in the Common Areas, as set forth in Exhibit A attached hereto.

ARTICLE III

BUILDINGS AND IMPROVEMENTS

3.01 Buildings and Improvements. The Buildings and other improvements constructed or to be constructed in or upon the Land are described on the Map. The following information regarding the Building is also contained on the Map: (a) the number of floors and basements in the respective Buildings; (b) the number of units on each floor of the Buildings; and (c) a description of the principal materials used or to be used in the construction of the Buildings.

3.02 Description of Units. The Map contains the unit number, location, and dimensions of each Unit in the Project and all other information necessary to identify each such Unit.

3.03 Description of Common Areas. The Map contains a description of the Common Areas of the Project. The Map also contains a description of the Limited Common Areas and a designation of the particular Unit or Units to which use thereof is reserved.

ARTICLE IV

EXPANSION OF PROJECT

4.01 Additional Land. The Declarant hereby reserves the right, at its option, to expand the Project, in accordance with the provisions of this Declaration and the Condominium Act, by adding thereto, from time to time, all or any portion or portions of the following described land (hereinafter referred to as the "Additional Land") situated in Wasatch County, State of Utah:

Beginning at a point located 297.08 feet West and 726.00 feet South from the West quarter Corner of Section 27, Township 3 South, Range 4 East, Salt Lake Base and Meridian; thence South 63.01 feet; thence South 19°00'00" East 109.65 feet; thence South 71°00'00" West along the northerly boundary of Swiss Oaks Condominiums, Plat D, 231.86 feet; thence North 44°00'00" West along the easterly boundary of Swiss Oaks Condominiums, Plat E, 23.55 feet; thence the following along the southerly boundary of Swiss Oaks Condominiums, Plat F: North 46°00'00" East 48.40 feet, along the arc of a 238.00 foot radius curve to the right 43.41 feet, and North 56°27'00" East 78.00 feet; thence the following along the northerly boundary of said Plat F: North 33°33'00" West 26.40 feet, West 205.20 feet, along the arc of a 75.00 foot radius curve to the left, 34.89 feet, and South 63°20'50" West 84.61 feet; thence South 63°20'50" West 151.67 feet; thence South 26°39'10" East 103.00 feet; thence along the arc of a 87.00 foot radius curve to the left, 111.19 feet; thence along the arc of a 10.00 foot radius curve to the right, 12.78 feet; thence South 26°39'10" East along the westerly boundary of Swiss Oaks Condominiums, Plat E, 72.89 feet; thence along the arc of a 62.00 foot radius curve to the left along said Plat E, 83.79 feet; thence North 75°55'00" East along the southerly boundary of said Plat E 45.53 feet; thence South 14°05'00" East 179.01 feet; thence North 89°59'18" West 890.69 feet; thence North along the easterly boundary of Swiss Oaks Condominiums, Plat A 765.81 feet, thence East 102.00 feet; thence

South 148.50 feet; thence East 720.92 feet to the point of beginning.
Area = 8.0841 acres (352,146 sq. ft.)

Together with the following:

Beginning at a point located 109.89 feet West and 1050.98 feet South from the West quarter corner of Section 27, Township 3 South, Range 4 East, Salt Lake Base and Meridian; thence South 19°00'00" East along the southerly boundary of Swiss Oaks Condominiums, Plat B, 112.83 feet; thence South 59°47'26" West 69.36 feet; thence South 61°25'34" West 90.33 feet; thence North 14°05'00" West along said Plat B, 142.17 feet; thence along the arc of a 512.00 foot radius curve to the left along said Plat B 17.92 feet; thence North 71°00'00" East along said Plat B 127.00 feet to the point of beginning.
Area = 0.4407 acres (19,198 sq. ft.)

PLAT I [future Building G]

Beginning at a point located 243.28 feet West and 717.91 feet South from the West quarter corner of Section 27, Township 3 South, Range 4 East, Salt Lake Base and Meridian; thence South 19°00'00" East 159.37 feet; thence South 71°00'00" West along the northerly boundary of Swiss Oaks Condominiums, Plat D, 74.00 feet; thence North 19°00'00" West 109.65 feet; thence North 63.01 feet; thence East 39.08 feet; thence North 61°11'21" East 16.79 feet to the point of beginning.
Area = 0.2638 acres (11,490 sq. ft.)

PLAT J [future Building W]

Beginning at a point located 692.39 feet West and 871.28 feet South from the West quarter corner of Section 27, Township 3 South, Range 4 East, Salt Lake Base and Meridian; thence South 26°39'10" East along the westerly boundary of Swiss Oaks Condominiums, Plat F, 166.00 feet; thence along the westerly boundary of Swiss Oaks Condominiums, Plat E with the following: South 63°20'50" West 82.66 feet and South 26°39'10" East 29.87 feet; thence along the arc of a 10.00 foot radius curve to the left, 12.78 feet; thence along the arc of a 87.00 foot radius curve to the

right, 111.19 feet; thence North 26°39'10" West 103.00 feet; thence North 63°20'50" East 151.67 feet to the point of beginning.
Area = 0.5792 acres (25,231 sq. ft.)

Subject to all and any applicable easements and rights-of-way for water, sewer, power, telephone, and other utilities, and all and any applicable easements, rights-of-way, and other matters of record or enforceable at law or in equity.

The Declarant's option to expand the Project shall be unlimited and may be exercised at any time and from time to time (without the consent of the Owners or any other person or persons) during the period beginning on the date that this Declaration is recorded in the office of the County Recorder of Wasatch County, State of Utah, and ending seven (7) years thereafter. The Declarant may, at any time or at different times, add to the Project all or any portion or portions of the Additional Land, or any interest therein, in any order and without limitations. The Declarant shall in no event be obligated to add to the Project all or any portion or portions of the Additional Land whatsoever, or any interests therein, nor shall the Declarant be limited as to what portion or portions of the Additional Land, or interests therein, if any, may be added to the Project.

4.02 Additional Units and Improvements. The Declarant shall have the right to create a maximum of eighty-two (82) Units on the Additional Land, and a maximum of fifty (50) Units per acre (or proportional equivalent) on any portion or portions of the Additional Land added to the Project. All Units created on the Additional Land or any portion or portions of such land added to the Project shall be restricted exclusively to the same residential and similar purposes as are the Units on the Land. The Declarant makes no assurances (a) as to whether structures created on any portion of the Additional land added to the Project will be compatible with structures erected on the Land in terms of the quality of construction, principal materials used, or architectural styles, or (b) as to the location or locations of any improvements that may be made on any portions of the Additional Land added to the Project, or (c) as to what improvements, if any, may be made on any portions of the Additional Land added to the Project, or (d) as to what types of Units may be created on any portions of the Additional Land added to the Project. The Declarant reserves the right to create Limited Common Areas within any portion or portions of the Additional Land or improvements thereon, and makes no assurances as to the types, sizes, or maximum number of such Limited Common Areas.

4.03 Expansion of Project. The Project may be expanded under the provisions of this Declaration and the Condominium Act

from time to time by recording in the office of the County Recorder of Wasatch County, State of Utah, a new or supplemental Record of Survey Map and an amendment to this Declaration. Such new or supplemental Record of Survey Map shall be duly executed and acknowledged by the Declarant, and by any and all other owners and lessees of that part of the Additional Land added to the Project, and shall contain the information necessary to comply with the provisions of Section 57-8-13(1) of the Condominium Act, as amended or supplemented. The required amendment to this Declaration shall also be duly executed and acknowledged by the Declarant, and by any and all other owners and lessees of that part of the Additional Land added to the Project, shall contain a legal description by metes and bounds of that part of the Additional Land added to the Project, and shall reallocate undivided interests in the Common Areas in accordance with the provisions of Section 4.04 hereof.

4.04 Reallocation of Undivided Interest. In the event the Project is expanded in accordance with the provisions of this Declaration and the Condominium Act, and in each such event, the undivided interests in the Common Areas and the votes appurtenant to the Units shall be reallocated among all of the Units of the Project, including the Units added to the Project. A part of the entire interest in the Common Areas shall be allocated to each Unit so that each Unit has an equal undivided interest in the Common Areas. The votes shall be similarly reallocated, so that each Unit has an equal vote, and the Total Votes of the Association so allocated to all of the Units in the Project may be increased.

4.05 Amendment of Article. This Article IV shall not be amended without the written consent of the Declarant set forth in a duly recorded instrument.

ARTICLE V

NATURE AND INCIDENTS OF CONDOMINIUM OWNERSHIP

5.01 Interior of Units. Each Owner shall have exclusive right to paint, repaint, tile, wax, paper, carpet, or otherwise decorate the interior surfaces of the walls, ceilings, floors, and doors forming the boundaries of his Unit and the surfaces of all walls, ceilings, floors, and doors within such boundaries. Each Owner shall also have the right to construct partition walls, fixtures, and improvements within the boundaries of his Unit, provided, however, that such partition walls, fixtures, and improvements (a) shall comply with all applicable laws, ordinances, and building codes; (b) shall not interfere with facilities necessary for the support, use, or enjoyment of any other part of the Project, (c) shall not impair the structural soundness or integrity of the Buildings, and (d) shall not encroach upon the Limited

Common Areas or Common Areas or any part thereof (unless the Association shall consent in writing to each such encroachment).

5.02 Maintenance of Units. Each Owner shall keep the interior of his or her Unit, including without limitation, heating, ventilation and air conditioning equipment, interior walls, interior surfaces of windows, ceilings, floors, and fixtures and appurtenances thereto, in a clean and sanitary condition and in good repair. In the event that any such Unit shall develop an unsanitary or unclean condition or state of disrepair, within fifteen (15) days after written notice thereof from the Association the Association shall have the right, at the expense of the Owner and without liability to the Owner for trespass or otherwise, to enter said Unit and correct or eliminate said unsanitary or unclean condition or state of disrepair; provided, however, that the Association shall in no event have any obligation to correct or eliminate any such condition or state of disrepair.

5.03 Right to Combine Units. With the written consent of the Association, which consent shall not be unreasonably withheld, two or more units may be utilized by the Owner or Owners thereof as if they were one Unit. Any and all costs associated by such combination shall be borne by the combining Owner. To the extent permitted in the written consent of the Association, any walls, floors, ceilings, or other structural separations between any two Units, or any space which would be occupied by such structural separations but for the utilization of the two Units as one Unit, may, for as long as the two Units are utilized as one Unit, be utilized by the Owner or Owners of the adjoining Units as Limited Common Areas except to the extent that any such structural separations are necessary or appropriate, or contain facilities necessary or appropriate for the support, use, or enjoyment of other parts of the Project. At any time, upon the written request of the Owner of one of such adjoining Units, any opening between the two Units which, but for joint utilization of the two Units, would have been occupied by structural separation, shall be closed, at the equal expense of the Owner or Owners of each of the two Units and the structural separations between the two Units shall thereupon become Common Areas.

5.04 Title. Title to a Condominium within the Project may be held or owned by any person or entity, or any combination thereof, and in any manner in which title to any other real property may be held or owned in the State of Utah, including without limitation joint tenancy or tenancy in common.

5.05 Ownership of Common Areas. The undivided interest in the Common Areas appurtenant to each Unit in the Project shall be equal to that of each and every other Unit as set forth in Exhibit A attached hereto. The percentages appurtenant to each

Unit as shown in said Exhibit A shall have a permanent character and shall not be altered without the unanimous written consent of all Owners set forth in an amendment to this Declaration duly recorded; provided, however, that the undivided interests in the Common Areas may be reallocated in accordance with the provisions of Section 4.04 above. Except as otherwise provided in this Declaration, any Owner shall be entitled to nonexclusive use of the Common Areas (other than Limited Common Areas) in any manner that does not hinder or encroach upon the rights of other Owners and is not contrary to this Declaration or to any applicable rules or regulations promulgated by the Association. Except as otherwise provided in this Declaration any Owner shall have the exclusive right to use and enjoy any Limited Common Areas that may be designated for exclusive use by such Owner.

5.06 Inseparability. Title to no part of a Condominium in the Project may be separated from any other part thereof, and each Unit, Limited Common Areas (except transferable Limited Common areas) and the undivided interest in the Common Areas appurtenant to each Unit shall always be conveyed, devised, encumbered, and otherwise affected only as a complete Condominium. Every devise of any part thereof, shall be construed to be a devise, encumbrance, conveyance, or other disposition, respectively, of the entire Condominium, together with all appurtenant rights created by law or by this Declaration, including without limitation appurtenant membership in the Association.

5.07 No Partition. The Common Areas shall be owned in common by all of the Owners, and no Owner may bring any action for partition thereof.

5.08 Separate Mortgages by Owners. Each Owner shall have the right separately to Mortgage or otherwise encumber his or her Condominium. No Owner shall attempt to or shall have the right to mortgage or otherwise encumber the Common Areas or any part thereof, except the undivided interest therein appurtenant to his Condominium. Any Mortgage or other encumbrance of any Condominium within the Project shall be subordinate to all of the provisions of this Declaration and, in the event of foreclosure of such Mortgage, the provisions of this Declaration shall be binding upon any Owner whose title is derived through foreclosures by private power of sale, judicial foreclosure, or otherwise.

5.09 Separate Taxation. Each Condominium within the Project shall be deemed to be a parcel and shall be assessed separately for all taxes, assessments, and other charges of the State of Utah or of any political subdivision or of any special improvement district or of any other taxing or assessing authority. For purposes of such assessment, the valuation of the Common Areas shall be apportioned among the Units in proportion to the undivided

interests in the Common Areas appurtenant to such Units. All such taxes, assessments, and other charges on each respective Condominium shall be separately levied against the Owner thereof. No forfeiture or sale of any Condominium for delinquent taxes, assessments, or other governmental charges shall divest or in any way affect the title to any other Condominium.

5.10 Mechanics Liens. No labor performed or material furnished for use in connection with any Unit with the consent or at the request of an Owner or his agent or contractor shall create any right to file a statement of mechanic's lien against the Unit of any other Owner not expressly consenting to or requesting such labor or material or against any interest in the Common Areas, except the undivided interest in the Common Areas appurtenant to the Unit of the Owner for whom such labor or materials, respectively, shall have been performed or furnished.

5.11 Description of Condominium. Every contract for the sale of a Condominium and every other instrument affecting title to a Condominium in the Project may describe a Unit by its identifying number or symbol as indicated in this Declaration or as shown on the Map. Such description will be construed to describe the Condominium, and to incorporate all of the rights incident to ownership of a Condominium in the Project and all of the limitations on such ownership. Such description shall not include transferable Limited Common Area. The transferor of any transferable Limited Common Area shall notify the Association in writing of such transfer prior to the transfer.

ARTICLE VI

USE OF CONDOMINIUMS

6.01 Use of Units. Each Unit in the Project shall be used exclusively as a private, single family residence and shall be restricted to such use. No Unit shall be used for any business, industrial, or commercial purpose; provided, however, that (a) Owners may use their Unit or Units for Unit sales models, Unit sales offices or Unit property management offices as approved in writing by the Association, (b) Owners may rent or lease their Units in accordance with the provisions of this Declaration, and (c) Owners may use their Units to show prospective purchasers or tenants.

6.02 Leasing Restricted. No Owner shall lease less than his or her entire Unit. If an Owner leases such Owner's Unit, then: (a) the Owner shall promptly notify the Association thereof in writing, (b) the Owner shall provide to the Association the name of the tenant under such lease and the address of the Owner, (c) the lease shall include or be deemed to include a covenant on the

part of the tenant substantially as follows: "Tenant agrees with the Landlord and with and for the benefit of the Association that during the term of this lease, Tenant and Tenant's family and guests from time to time will use and occupy the premises and all parts of the Project in strict compliance with the Condominium Act, the Declaration, the Bylaws of the Association, and all rules and regulations from time to time adopted by the Association as fully as if Tenant were an Owner," (d) each Owner shall be responsible for compliance by tenants with the Condominium Act, the Declaration, the Bylaws of the Association, and all rules and regulations. Should an Owner fail to obtain tenant compliance after notice of noncompliance, the Association shall have the right, in addition to all remedies at law, to evict the noncomplying Tenant, and (e) all leases shall be in writing for a term not less than two days and two nights and shall be subject to the prior approval of the Association or any agent designated and approved by the Association for the express purpose of leasing Units to the public. Prior approval for such leases shall not be unreasonably withheld. As used in this section, the term lease shall include a lease, rental arrangement, license, or other arrangement for third-party use of a Unit.

6.03 Limited Common Areas. Each Owner shall have the exclusive right to use the Limited Common Areas in accordance with rules and regulations from time to time adopted by the Association. The Association may adopt reasonable rules and regulations governing all aspects of use of the Limited Common Areas. All such rules and regulations relating to the use of the limited Common Areas or access thereto must be approved by a majority of the Board of Trustees.

6.04 Rules and Regulations. Each Owner shall comply strictly with all rules and regulations adopted by the Association for the governance of the Units, the Common Areas, the Limited Common Areas, the Project, and all parts thereof, as such rules and regulations may from time to time be modified, amended, and construed by the Association.

ARTICLE VII

GENERAL RESTRICTIONS

7.01 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on in or upon any part of the Project, nor shall anything be done or placed in or upon any part of the Project which is or may become a nuisance or which may cause unreasonable disturbance or annoyance to Owners generally. No activities shall be conducted, nor improvements constructed, in or upon any part of the Project which are or may become unsafe or hazardous to any person or property.

7.02 Restriction on Signs. No signs, including without limitation "For Sale" and "For Rent" signs and political signs, shall be erected or maintained on any part of the Project, including in the windows or on doors or other exterior surfaces of the buildings of the Project, without the prior written approval of the Association (except as may be necessary temporarily to caution or warn of danger). The Association may revoke any such approval, with or without cause, at any time. If approval is revoked, the owner or occupant of the Unit shall promptly remove any such sign or device.

7.03 Pets. Pets owned by Unit owners or those renting or leasing a Unit for a period of time in excess of 10 days are permitted, but only in the Units. Pets are not permitted in the Common Areas or in any part of the Project unless on a leash. All waste materials must be removed from grass areas, sidewalks and streets. Those renting or leasing Units for a period of time of 10 or fewer days shall not be permitted to have pets or animals of any kind in any part of the Project.

7.04 Restriction on Shades/Window Coverings. No exterior shades, awnings, or window guards shall be used, except those approved by the Association. All window coverings visible from the outside of a Unit must be of a white or neutral color or must be approved in writing by the Association. No treatment of exterior windows (including tinting, mirror finish, etc.) shall be permitted without the written approval of the Association.

7.05 No Alterations. No Owner shall, without the prior written consent of the Association in each specific instance, make or cause to be made any alteration, addition or improvement in or to the Common Areas or Limited Common Areas or any part thereof, or do any act that would impair the structural soundness or integrity of the Buildings or jeopardize the safety of persons or property or impair any easement or hereditament appurtenant to the Project.

7.06 No Obstructions. No Owner shall obstruct the Common Areas or any part thereof unless the Association shall consent thereto in writing. No Owner shall store or cause to be stored in the Common Areas any property whatsoever, unless the Association shall consent thereto in writing.

7.07 No Overloading. No Owner shall bring anything into such Owner's Unit and Limited Common Area or permit anything to be done in his Unit and Limited Common Area that will cause damage to any part of the Buildings. No Owner shall overload the floor of his or her Unit and Limited Common Area. No Owner shall permit the use or operation in his or her Unit and Limited Common Area of any equipment, machinery, or other apparatus that will in any manner injure, vibrate, or shake the Building or any portions thereof.

7.08 No Damage or Dangerous Activities. Except with the prior written consent of the Association, nothing shall be done or kept in any Unit, in Limited Common Areas, in the Common Areas, or in any other part of the Project that would result in cancellation, suspension or invalidation of the insurance on the Project or any part thereof, nor shall anything be done or kept in any Unit or Limited Common Area that would increase the rate of insurance on the Project or on any part thereof over that which the Association, but for such specific activity, would pay. Nothing shall be done or kept in any Unit or Limited Common Areas or in the Common Areas or any part thereof which would be in violation of any statute, rule, ordinance, regulation, permit, or other validly imposed, applicable requirement of any governmental authority. No damage to or waste of the Common Areas and Limited Common Areas or any part thereof shall be committed by any Owner or guest of any Owner, and each Owner shall indemnify and hold harmless the Association and the other Owners from and against all losses resulting from any such damage or waste caused by such Owner or by the guests, tenants, licensees, or invitees of such Owner.

7.09 Construction Exemption. During the course of actual construction of any permitted Buildings, structures or improvements within the Project, the provisions, covenants, conditions, and restrictions contained in this Declaration shall be deemed waived to the extent necessary or convenient to permit such construction; provided, however, that during the course of such construction, nothing shall be done which will result in a violation of any of said provisions, covenants, conditions or restrictions upon completion of the construction.

7.10 Enforcement. Each Unit Owner and his or her assigns, successors, guests and invitees shall comply strictly with the provisions of this Declaration, the Bylaws, and Rules and Regulations. Failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief, or both together with costs and attorneys fees, maintainable by the Association or any aggrieved Owner.

ARTICLE VIII

EASEMENTS

8.01 Easements for Encroachments. If any part of the Common Areas encroaches or shall hereafter encroach upon any Unit or Limited Common Areas, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit or Limited Common Areas encroaches or shall hereafter encroach upon the Common Areas, or upon an adjoining Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. Such encroachments shall not be considered

to be encumbrances either on the Common Areas, Limited Common Areas or the Units, as the case may be. Encroachments referred to herein shall include without limitation encroachments caused by error in the original construction of the Building or any improvements constructed or to be constructed within the Project as shown on the Map, by error in the Map, by settling, rising, or shifting of the earth, or by changes in position cause by repair or reconstruction of the Project, or any part thereof, in accordance with the provisions of this Declaration.

8.02 Easements for Utility Service and for Private Road. There is hereby created a blanket easement upon, across, over, and under the Land and the Additional Land for ingress, egress, installation, replacement, repair, and maintenance of all utilities, including without limitation, water, sewer, gas, telephone, electricity, and cable television. There is further hereby created a blanket easement upon, across, over, and under the Additional Land for a private road providing reasonable ingress and egress for the Project to and from Homestead Drive.

8.03 Easements for Maintenance, Cleaning, and Repair. Some of the Common Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Association shall have the irrevocable right to have access to each Unit and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, cleaning, repair, or replacement of any Common Areas or for making emergency repairs at any time therein necessary to prevent damage to the Common Areas or to any Unit. In addition, agents of the Association may enter any Unit or Limited Common Areas when necessary in connection with any cleaning, maintenance, repair, replacement, landscaping, construction or reconstruction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Association with funds from the Common Expense Fund.

8.04 Right to Ingress, Egress, and Support. Each Owner shall have the right to ingress and egress over, upon, and across the Common Areas as necessary for access to such Owner's Unit and to any Limited Common Areas appurtenant to such Unit, and shall have the right to horizontal, vertical, and lateral support of such Unit, and all of such rights shall be appurtenant to and pass with title to each Condominium.

8.05 Association's Right to Use Common Areas. The Association shall have an easement to make such use of the Common Areas as may be necessary or convenient to perform the duties and functions that it is obligated or permitted to perform pursuant to this Declaration, including without limitation the right to con-

struct and maintain in the Common Areas (other than Limited Common Areas) facilities for use by Owners generally or by the Association and its agents exclusively and the right to lease or rent Common Areas.

8.06 Easement for Completion of Project. The Declarant and the Association or its designee shall have a transferable easement over and on the Common Areas for the purpose of completing construction of the Project and making improvements therein as shown on the Map, and for the purpose of doing all things reasonably necessary or appropriate in connection therewith.

8.07 Easements Deemed Created. All conveyances of Condominiums within the Project hereafter made shall be construed to grant and reserve such reciprocal easements as are provided herein, even though no specific reference to such easements appears in any such conveyance.

ARTICLE IX

THE ASSOCIATION

9.01 Membership. Each Owner shall be entitled and required to be a member of the Association. Membership shall begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner. If title to a Condominium is held by more than one person, the membership appurtenant to such Condominium shall be shared by all such persons in the same proportionate interests and in the same type of tenancy as title to the Condominium is held. An Owner shall be entitled to one membership for each Condominium owned by him. Each membership shall be appurtenant to the Condominium to which it relates and shall be transferred automatically by conveyance of that Condominium. Ownership of a Condominium in the Project may not be separated from the membership in the Association appurtenant thereto, and any devise, encumbrance, conveyance, or other disposition of a Condominium shall be construed to be a devise, encumbrance, conveyance or other disposition, respectively, of the Owner's appurtenant membership in the Association. No person or entity other than an Owner may be a member of the Association, and membership in the Association may not be transferred except in connection with the transfer of a Condominium.

9.02 Board of Trustees. The Trustees shall be elected by the Owners pursuant to the provisions of the Bylaws.

9.03 Votes. The number of votes appurtenant to each respective Unit shall be as set forth in Exhibit A attached hereto, unless the Project is expanded. If the Project is expanded in accordance with the provisions of this Declaration and the

Condominium Act, and in each such event, the Total Votes of the Association may be increased and votes shall be reallocated among the Units in accordance with Section 4.04 above.

9.04 Amplification. The provisions of this Article IX may be amplified by the Articles of Incorporation and Bylaws of the Association; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth in this Declaration. The initial Bylaws of the Association shall be adopted by the Association and shall be substantially in the form of Exhibit B attached hereto and incorporated herein by reference.

9.05 Control by the Declarant. Notwithstanding any provision of this Declaration or of the Bylaws to the contrary, both before and after the election of officers and Trustees of the Association, the Declarant shall have complete and absolute power to appoint or remove any or all officers and Trustees of the Association, to exercise all powers, responsibilities, and rights and take all actions otherwise assigned by the Declaration or by the Condominium Act to the Association or its officers or Trustees, to direct all actions of the Association, to otherwise act for and in behalf of the Association in all matters in which the Association may have power and authority to act, and to act for and in behalf of all Owners in all matters under this Declaration in which the Owners have a right to act or vote, until the first to occur of the following events:

(a) the expiration of six (6) years from the date of recording of this Amended and Restated Declaration; or

(b) the occurrence of both of the following events:

(i) Condominium Units to which seventy-five percent (75%) of the undivided interest in Common Areas appertain, including Units on all or any part of the Additional Land, are conveyed so that the total interest in Common Areas appurtenant to Units still owned by the Declarant is twenty-five percent (25%) or less; and

(ii) all of the Additional Land is added to the Project as evidenced by the recording in the Wasatch County Recorder's office a supplemental Record of Survey Map and an amendment to this Declaration.

ARTICLE X

CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

10.01 Common Areas. The Association, subject to the rights and duties of the Owners as set forth in this Declaration shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon (including without limitation Common Facilities), and shall keep the same in a good, clean, attractive, safe, and sanitary condition, order and repair provided, however, that each Owner shall keep the Limited Common Areas, if any, designated for use in connection with his or her Unit, in a good, clean safe, sanitary, and attractive condition. The Association shall be responsible for the maintenance and repair of the exterior of the Buildings and the grounds, including without limitation painting thereof, repair and replacement of exterior trim and roofs, exterior glass and maintenance of landscape, walkways, rooftop facilities, driveways, and parking areas. The Association shall also be responsible for maintenance, repair, and replacement of Common Areas and Limited Common Areas, including without limitation hallways, elevators, utility lines, swimming pools, recreation facilities, and all improvements and other items located within or used in connection with the Common Areas. The specification of the Association's duties with respect to particular Common Areas and Limited Common Areas shall not be construed to limit its duties with respect to other Common Areas and Limited Common Areas as set forth in the first sentence of this section. All goods and services procured by the Association in performing its responsibilities under this section shall be paid for with funds from the Common Expense Fund.

10.02 Manager. The Association may by written contract delegate in whole or in part to a professional Manager such of the Association's duties, responsibilities, functions, and powers hereunder as are properly delegable. The services of any Manager retained by the Association shall be paid for with funds from the Common Expense Fund. Any agreement for professional management shall provide for a term not exceeding three (3) years and shall be terminable with or without cause and without payment of any termination fee upon thirty (30) days' written notice.

10.03 Miscellaneous Goods and Services. The Association may obtain and pay for the services of such personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person with whom it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration. In addition to the foregoing, the Association may

acquire and pay for out of the Common Expenses Fund water, sewer, garbage collection, electrical, gas, and other necessary or desirable utility services for the Common Areas, insurance, bonds, and other goods and services common to the Units; provided however, that any such item which is separately metered or billed and which relates exclusively to a Unit shall be paid for by the Unit Owner.

10.04 Real and Personal Property. The Association may acquire and hold real, personal, and mixed property of all types or interests therein for the use or benefit of all of the Owners and may dispose of such property by sale or otherwise. All such property shall be paid for out of the Common Expense Fund and all proceeds from the disposition thereof shall be part of the Common Expense Fund.

10.05 Rules and Regulations. The Association may make reasonable rules and regulations governing the use of the Units, the Common Areas, the Limited Common Areas, and all parts of the Project; provided, however, that all such rules and regulations shall be consistent with the rights and duties established in this Declaration. The Association may take judicial action against any Owner to enforce compliance with such rules and regulations or other obligations of such Owner arising hereunder or to obtain damages for noncompliance therewith, as permitted by law. In the event of any such judicial action, the Association shall be entitled to recover its costs (including reasonable attorney's fees) from the offending Owner.

10.06 Granting Easements. The Association may, without the vote or consent of the Owners or of any other person, grant or create, on such terms as it deems advisable, utility and similar easements and rights-of-way over, under, across, and through the Common Areas and the Limited Common Areas.

10.07 Statutory Duties and Powers. All duties, responsibilities, rights, and powers implied upon or granted to the "management committee" or to the "manager" under the Condominium Act shall be duties, responsibilities, rights, and powers of the Association hereunder.

10.08 Implied Rights. The Association may exercise any right, power, or privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonably implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

ARTICLE XI

ASSESSMENTS

11.01 Agreement to Pay Assessments. Each Owner is deemed to covenant and agree with all other Owners and with the Association to pay to the Association all assessments made by the Association for the purposes provided in this Declaration. Such assessments shall be fixed, established, and collected from time to time as provided in this Article XI.

11.02 Annual Assessments. Annual Assessments shall be computed and assessed against all Condominium in the Project as follows:

(a) Common Expense. Annual Assessments shall be based upon advance estimates of the Association's cash requirements to provide for payment of all estimated expenses arising out of or connected with maintenance and operation of the Common Areas. Such estimated expenses may include, among other things, the following: Expenses of management; real property taxes and special assessments (unless and until the Condominiums are separately assessed); premiums for all insurance that the Association is required or permitted to maintain hereunder; repairs and maintenance; wages for Association employees, including fees for a Manager (if any); utility charges, including charges for utility services to the Units to the extent not separately metered or billed; legal and accounting fees; any deficits remaining from a previous period; creation of reasonable contingency reserve, surplus or sinking fund in a sum not less than one sixth of the Annual Assessment; and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under or by reason of the Declaration.

(b) Apportionment. Expenses of the Association shall be apportioned among and assessed to all Owners in proportion to their respective undivided interests in the Common Areas set out in Exhibit A, and all funds received from each such assessment shall be part of the Common Expense Fund.

(c) Annual Budget. Annual Assessments shall be determined on the basis of a fiscal year beginning October 1 and ending September 30 next following; provided, however, that the first fiscal year shall begin on the date this Declaration is recorded in the office of the County Recorder of Wasatch County, State of Utah. On or before September 15 or each year, the Association shall prepare and furnish to each Owner, or cause to be prepared and furnished to each Owner, an operating budget for the upcoming fiscal year. The budget shall itemize the estimated expenses, anticipated receipts (if any), and any deficits or

surpluses from the prior operating period. The budget shall serve as the supporting document for the Annual Assessment for the upcoming fiscal year and as the major guideline under which the Project shall be operated during such annual period. The budget shall be approved as provided in the Bylaws.

(d) Notice and Payment. Annual Assessments shall be levied on the basis of a fiscal year beginning October 1 and ending September 30 next following; provided that the first fiscal year shall begin on the date this Declaration is duly recorded as herein contemplated. Except with respect to the first fiscal year, the Association shall notify each Owner as to the amount of the Annual Assessment against his Condominium on or before September 15 each year for the fiscal year beginning on October 1 next following. Each Annual Assessment shall be payable in twelve equal monthly installments, one such installment due on the first day of each calendar month during the fiscal year to which the assessment relates; provided, however, that the Annual Assessment for the first fiscal year shall be based upon such portion of the first fiscal year and shall be payable in such installments and at such times as the Association may determine. A monthly late fee in an amount set by the Association shall be charged on any assessment not paid when due. The fee shall be charged for every month the assessment remains unpaid. The failure of the Association to give timely notice of any Annual Assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay such assessment or any other assessment; but the date on which the payment shall become due in such case shall be deferred to a date fifteen (15) days after notice of such assessment has been given to the Owner in the manner provided in this Declaration.

(e) Inadequate Funds. In the event that the Common Expense Fund shall prove inadequate at any time for whatever reason, including nonpayment of any Owner's assessment, the Association may levy additional assessments in accordance with the procedure set forth in Section 11.03 hereof; provided, however, that the vote therein specified shall be unnecessary if the additional assessment has been approved by a majority of the Board of Trustees.

11.03 Special Assessments. In addition to the Annual Assessments authorized by this Article, the Association may, at any time and from time to time, levy Special Assessments, payable over such periods as the Association may determine for the purpose of defraying, in whole or in part, the cost of any capital improvement which would require a special assessment exceeding one month's installment of the Annual Assessment, any construction or reconstruction, unexpected repair or replacement of the Project or

any part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration; provided, however, that except as otherwise provided in this Declaration Special Assessments must be approved by Owners holding at least sixty (60%) of the total votes of the Association. This Section shall not be construed as an independent source of authority for the Association to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other sections or articles hereof. Any amounts assessed pursuant hereto shall be apportioned among and assessed to the Owners in the proportions specified in Section 11.02(b) hereof. Notice in writing of the amount of each such Special Assessment and the time for payment thereof shall be given promptly to the 'Owners' and no payment thereof shall be due less than fifteen (15) days after such notice shall have been given. A monthly late fee in an amount set by the Association shall be charged on any special Assessment not paid when due. The fee shall be charged for every month the assessment remains unpaid.

11.04 Lien for Assessments. All sums assessed to Owners of any Condominium in the Project pursuant to the provisions of this Declaration, together with interest thereon as provided herein shall be secured by a lien on and against such Condominium in favor of the Association. To evidence a lien for sums assessed pursuant to this Declaration, the Association 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 Condominium, and a description of the Condominium. Such a notice shall be signed and acknowledged by a duly authorized officer of the Association and may be recorded in the office of the County Recorder of Wasatch County, State of Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by sale or foreclosure by the Association conducted in accordance generally with the provisions of Utah law applicable to the exercise of powers of sale or foreclosure under deeds of trust or mortgages or in any manner permitted by Utah law. In any such sale or foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorney's fees) and such costs and expenses shall be secured by the lien herein provided. The Owner shall also be required to pay to the Association any assessments against the Condominium which shall become due during the period of foreclosure or sale, and all such assessments shall be secured by the lien herein provided. The Association shall have the right and power to bid in at any foreclosure or other sale, and to hold, lease, mortgage, or convey the subject Condominium. In the event of foreclosure, the Owner shall be required to pay a reasonable rental for the Unit during the foreclosure, and the Association shall be entitled to the appointment of a receiver to collect the rental without regard to the value of security.

11.05 Personal Obligation of Owner. The amount of any Annual or Special Assessment or any other charge against any Condominium shall be the personal obligation of the Owner of such Condominium to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiver of the use or enjoyment of any of the Common Areas or by abandonment of his Condominium or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment for unpaid assessments hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorneys' fees.

11.06 Statement of Account. Upon payment of a reasonable fee and upon written request of any Owner, Mortgagee, prospective Mortgagee, or prospective purchaser of a Condominium the Association shall issue a written statement setting forth the following: The amount of the unpaid assessments, if any, with respect to such Condominium; the amount of the current Annual Assessment and the date or dates upon which installments thereof become due; the amount of any current Special Assessment and the date or dates upon which the same or portions thereof become due; and any credit for advanced payments or prepaid items, including without limitation the Owner's share of prepaid insurance premiums. Such statement shall be conclusive upon the Association in favor of persons who rely thereon in good faith.

11.07 Personal Liability of Purchaser. Subject to the provisions of Section 11.06 hereof, a purchaser of a Condominium shall be jointly and severally liable with the seller thereof for all unpaid assessments against such Condominium up to the time of the grant or conveyance; provided, however, that the provisions of this section shall not prejudice the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

11.08 Commencement Date. As to each Condominium in the Project, assessments under this Declaration shall commence the date on which this Declaration is recorded in the office of the County Recorder of Wasatch County, State of Utah.

11.09 Amendment of Article. This Article XI shall not be amended unless the Owners of all Condominiums in the Project unanimously consent and agree to such amendment in a duly recorded instrument.

ARTICLE XII

INSURANCE

12.01 Types of Insurance. The Association shall obtain and keep in full force and effect at all times the following types of insurance coverage, provided by companies licensed to do business in the State of Utah.

(a) Fire and Casualty Insurance. The Association shall obtain a policy or policies of insurance on the Project in such amounts as shall provide for full replacement of the Project in the event of damage or destruction from the casualty against which such insurance is obtained. Such insurance shall be in accordance with coverage customarily maintained by other condominium projects similar in location, construction, design, and use, and shall include fire and extended coverage, vandalism and malicious mischief, and other risks and hazards against which the Association shall deem it appropriate to provide insurance protection. The Association may comply with the above requirements by the purchase of blanket coverage and may elect such "deductible" provisions as in the Association's opinion are consistent with good business practice.

(b) Public Liability and Property Damage Insurance. The Association shall obtain a broad form of comprehensive liability insurance coverage, in such amounts (but in no event less than \$1.0 Million per occurrence) and in such forms as it deems advisable to provide adequate protection against liability for personal injury, death, and property damage. Coverage shall include without limitation liability for operation of automobiles on behalf of the Association and all activities in connection with the ownership, operation, maintenance, and other use of the Project.

(c) Workmen's Compensation Insurance. The Association shall obtain and maintain workmen's compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by applicable law.

(d) Fidelity Insurance or Bond. The Association may purchase, in such amounts and in such forms as it deems appropriate, fidelity insurance or bonds to cover against dishonesty of the Manager or of Trustees, officers, or employees of the Association, destruction or disappearance of money or securities, and forgery.

12.02 Form of Insurance. Insurance coverage on the Project, insofar as possible, shall be in the following form:

(a) Fire and Casualty Insurance. Fire and Casualty insurance shall be carried in a form or forms naming the Association as the insured, as trustee for the Owners, and such policy or policies shall specify the interest of each Owner (Owner's name, Unit number, and appurtenant undivided interest in the Common Areas). Each policy shall provide a standard, non-contributory mortgage clause in favor of each Mortgagee which from time to time shall give notice to the Association of its Mortgage. Each policy also shall provide that it cannot be cancelled either by the insured or by the insurance company until after fifteen (15) days prior written notice is first given to each Owner and to each Mortgagee which has requested such notice in writing. The Association shall furnish to each Owner, and to each Mortgagee requesting the same, a certificate of coverage, including an identification of the Owner's interest.

(b) Public Liability and Property Damage Insurance. Public liability and property damage insurance shall name the Association as the insured, as trustee for each Owner and shall protect the Association and each Owner against liability for acts or omissions of the Association, the Owners, the Manager, and other persons relative to the ownership, operation, maintenance, and other use of the Project. Each such policy shall provide that it cannot be cancelled either by the insured or by the insurance company until after fifteen (15) days prior written notice thereof is given to the Association, to each Owner, and to each Mortgagee who has requested such notice in writing.

(c) Policies. The Association shall use its best efforts to secure insurance policies that will provide for the following:

(i) The insurer shall waive all rights of subrogation as to any claims against the Association, the Manager, the Owners, and their respective servants, agents, and guests;

(ii) The policy or policies on the Project cannot be cancelled, invalidated, or suspended on account of the conduct of any one or more individual Owners;

(iii) The policy or policies on the Project cannot be cancelled, invalidated, or suspended on account of the conduct of any Trustee, officer, or employee of the Association, without a prior demand in writing that the Association cure the defect; and

(iv) Any "no other insurance" clause in the policy or policies on the Project shall exclude individual Owners' policies from consideration.

(v) Each hazard insurance policy shall be written by a hazard insurance carrier that has a current rating by Best's Insurance Reports of B/VI or better.

(vi) Each public liability policy shall include a "severability of interest" endorsement which shall preclude the insurer from denying the claim of any Owner because of the negligent acts or omissions of the Association or any other Owner or Owners.

12.03 Additional Coverage. The provisions of this Declaration shall not be construed to limit the power of authority of the Association to obtain and maintain insurance coverage in addition to any insurance coverage required by this Declaration, in such amounts and in such forms as the Association may deem appropriate from time to time.

12.04 Adjustment and Contribution. Exclusive authority to adjust losses under policies hereafter in force on the Project shall be vested in the Association. In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Owners or their Mortgagees.

12.05 Owner's Own Insurance. Notwithstanding the provisions hereof, each Owner shall obtain and maintain at all times insurance at such Owner's expense providing coverage at least in the sum of \$500,000 for his or her Condominium, his or her personal liability, and such other risks as such Owner shall deem appropriate; provided, however, that each such policy shall provide that it does not diminish the insurance carrier's coverage for liability arising under insurance policies obtained by the Association pursuant to this Declaration.

12.06 Review of Insurance. The Association shall review annually the coverage and policy limits of all of its insurance on the Project and adjust the same at its discretion but in no event shall the coverage be less than required by Federal National Mortgage Association for projects of this type. Such annual review may include an appraisal of the improvements in the Project by a representative of the insurance carrier or carriers providing the policy or policies on the Project, or by such other qualified appraisers as the Association may select.

ARTICLE XIII

DAMAGE OR DESTRUCTION

13.01 Association as Attorney in Fact. All of the Owners irrevocably constitute and appoint the Association as their true and lawful attorney in fact in their name, place, and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute an appointment by

said grantee of the Association as his attorney in fact as herein provided. As attorney in fact, the Association shall have full and complete authorization, right, and power to make, execute, and deliver any contract, deed, or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted.

13.02 Definition of Repair and Reconstruction. Repair and reconstruction of the improvements as used herein shall mean restoring the Project to substantially the same condition in which it existed prior to the damage or destruction, with each Unit, Limited Common Area and the Common Areas having substantially the same vertical and horizontal boundaries as before.

13.03 Procedures. In the event any part of the Project is damaged or destroyed, the Association shall proceed as follows:

(a) Estimate of Costs. As soon as practicable after an event causing damage to or destruction of any part of the Project, the Association shall obtain complete and reliable estimates of the costs to repair and reconstruct that part of the Project damaged or destroyed.

(b) Sufficient Insurance. If the proceeds of the insurance maintained by the Association exceed the estimated costs to repair and reconstruct the damaged or destroyed part of the Project, then such repair and reconstruction shall be carried out unless the building is more than 75 percent destroyed and the Owners vote within 100 days after the damage or destruction by a vote of seventy-five percent (75%) or more of the total votes of the Association not to repair or reconstruct. If the Owners vote not to repair and reconstruct, the provisions of Section 13.03(d) below shall apply.

(c) Insufficient Insurance--Less than 75% Destruction. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damage or destroyed part of the Project and if less than seventy-five percent (75%) of the Building is destroyed or substantially damaged, then such repair and reconstruction shall nevertheless be carried out. The Association shall levy a Special Assessment sufficient to provide funds to pay the actual costs of such repair and reconstruction to the extent that such insurance proceeds are insufficient to pay such costs. Such Special Assessment shall be allocated to pay such costs. Such Special Assessment shall be allocated and collected as provided in Section 11.03 hereof, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected (together with the proceeds of insurance) are insufficient to pay all actual costs of such repair and reconstruction.

(d) Insufficient Insurance--75% or More Destruction. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project and if seventy-five percent (75%) or more of the Building is destroyed or substantially damaged, then such damage or destruction shall be repaired and reconstructed as provided in Section 13.03(c) hereof if, but only if, within one hundred (100) days following the damage or destruction, the Owners shall elect by a vote of at least seventy-five percent (75%) of the total votes of the Association to carry out such repair and reconstruction. If, however, the Owners shall not, within one hundred (100) days after such damage or destruction, elect by a vote of at least seventy-five percent (75%) of the total votes of the Association to carry out such repair and reconstruction, then the Association shall record in the office of the County Recorder of Wasatch County, State of Utah, a notice setting forth such facts. Upon the recording of such notice, the following shall occur:

(i) The Project shall be deemed to be owned in common by the Owners.

(ii) The undivided interest in the Project owned in common which shall appertain to each Owner shall be the percentage of undivided interest in the Common Areas previously owned by such Owner.

(iii) Any liens affecting any of the Condominiums shall be deemed to be transferred, in accordance with existing priorities, to the undivided interest of the respective Owner in the Project.

(iv) The Project shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of any sale resulting from such suit for partition, together with any net proceeds of the insurance on the Project and any monies in the Common Expense Fund, shall be considered as one fund and shall be divided among all Owners in a percentage equal to the percentage of undivided interest in the Project owned by each respective Owner, after first paying out of the respective share of each Owner, to the extent sufficient for such purposes, all liens on the undivided interest in the Project owned by such Owner.

13.04 Repair or Reconstruction. If the damage or destruction is to be repaired and reconstructed as provided above, the Association shall, as soon as practicable after receiving the said estimate of costs, commence and diligently pursue to completion the repair and reconstruction of that part of the Project damaged or destroyed. The Association, as attorney in fact for the Owners, may take all necessary or appropriate action to effect

repair and reconstruction, and no consent or other action by any Owner shall be necessary in connection therewith, except as otherwise expressly provided herein. The Project shall be restored or repaired to substantially the same condition in which it existed prior to the damage or destruction with each Unit, Limited Common Areas and the Common Areas having substantially the same vertical and horizontal boundaries as before.

13.05 Disbursement of Funds for Repair and Reconstruction. If repair or reconstruction is to occur, the insurance proceeds held by the Association and any amounts received from assessments made pursuant to Sections 13.03(b) and (c) hereof shall constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for cost of repair and reconstruction is made from insurance proceeds; and if there is a balance after payment of all costs of such repair and reconstruction such balance shall be distributed to the Owners in the same proportions as provided in Section 11.02(b) hereof relative to assessments. If the insurance proceeds are not received in time to commence timely and necessary repairs and reconstruction, the Association may make a special assessment or borrow funds in a commercially reasonable manner to commence such repairs or reconstruction.

13.06 Amendment of Articles. This Article XIII shall not be amended unless the Owners of all Condominiums in the Project unanimously consent and agree to such amendment in a duly recorded instrument.

ARTICLE XIV

CONDEMNATION

14.01 Condemnation. If at any time or times all or any part of the Project shall be taken or condemned by any public authority under power of eminent domain, the provisions of this Article shall apply. A voluntary sale or conveyance of all or any part of the Project in lieu of condemnation, but under threat of condemnation, shall be deemed to be a taking by power of eminent domain.

14.02 Proceeds. All compensation, damages, and other proceeds from any such taking by power of eminent domain (hereinafter the "condemnation award") shall be made payable to the Association and shall be distributed by the Association as herein provided.

14.03 Complete Taking. In the event that the entire Project is taken by power of eminent domain, condominium ownership pursuant hereto shall terminate and the condemnation award, less

the costs and expenses incurred by the Association in connection therewith, shall be allocated among and distributed to the Owners in proportion to their respective undivided interests in the Common Areas. Such distribution shall be made by checks payable jointly to the respective Owners and their respective Mortgagees, as appropriate.

14.04 Partial Taking. In the event that less than the entire Project is taken by power of eminent domain, the following shall occur:

(a) Allocation of Award. As soon as practicable, the Association shall, reasonably and in good faith, apportion the condemnation award, less the costs and expenses incurred by the Association in connection therewith, between compensation, severance damages, or other proceeds, and shall allocate such apportioned amounts and pay the same to the Owners as follows:

(i) The amount apportioned to taking of or injury to the Common Areas shall be allocated among and distributed to all Owners (including Owners whose entire Units have been taken) in proportion to their respective undivided interests in the Common Areas.

(ii) The amount apportioned to severance damages shall be allocated among and distributed to the Owners of those Condominiums that have not been taken, in proportion to their respective undivided interests in the Common Areas.

(iii) The respective amounts apportioned to the taking of or injury to a particular Unit shall be allocated and distributed to the Owner of such Unit.

(iv) The amount apportioned to consequential damages and any other takings or injuries shall be allocated and distributed as the Association determines to be equitable under the circumstances.

(v) Notwithstanding any provision hereof to the contrary, if apportionment or allocation is already established by negotiation, judicial decree, statute, or otherwise, the Association shall employ such apportionment and allocation to the extent it is relevant and applicable.

(vi) Distribution of allocated proceeds shall be made by checks payable jointly to the respective Owners and their respective Mortgagees, as appropriate.

(b) Continuation and Reorganization. If less than the entire Project is taken by power of eminent domain, condominium

ownership pursuant hereto shall not terminate, but shall continue. In such event the Project shall be reorganized as follows:

(i) If any partial taking results in the taking of an entire Unit, then the Owner thereof shall cease to be a member of the Association and all voting rights and the undivided interest in the Common Areas appurtenant to such Unit shall be reallocated to, and shall appertain to, the remaining Units in proportion to their respective undivided interests in the Common Areas.

(ii) If any partial taking results in the taking of a portion of a Unit and if there is no determination that such taking makes it impractical to use the remaining portion of such Unit for any lawful purpose permitted by this Declaration then all voting rights and the undivided interest in the Common Areas appertaining to such Unit shall be reduced in proportion to the decrease in size of such Unit resulting from the taking. The voting rights and undivided interest in the Common Areas so divested from such Unit shall be reallocated to, and shall appertain to, such Unit and the other Units in the Project in proportion to their respective undivided interests in the Common Areas; provided, however, that such Unit shall participate in such reallocation on the basis of the undivided interest reduced in accordance with the preceding sentence.

(iii) If any partial taking results in the taking of a portion of a Unit and if there is a determination that such taking makes it impractical to use the remaining portion of such Unit for any lawful purpose permitted by this Declaration then all voting rights and the entire undivided interest in the Common Areas appurtenant to such Unit shall be reallocated to, and shall appertain to, the remaining Units in proportion to their respective undivided interests in the Common Areas, and the remaining portion of such Unit shall thereafter be part of the Common Area.

(iv) The Association shall have the duty and authority to make all determinations and to take all actions necessary or appropriate to effectuate reorganization of the Project under the provisions of this section; provided, however, that if any such determination shall have been made or such action taken by judicial decree, the Association shall defer thereto and proceed in accordance therewith.

(c) Repair and Reconstruction. Any repair or reconstruction necessitated by condemnation shall be governed by the provisions specified in Article XIII hereof for cases of Damage or Destruction; provided, however, that the provisions of said

Article XIII dealing with sufficiency or insufficiency of insurance proceeds shall not be applicable.

ARTICLE XV

OBSOLESCENCE

15.01 Adoption of Plan. Owners holding one hundred percent (100%) or more of the total votes of the Association may at any time agree that the Project is obsolete and adopt a written plan for renewal and reconstruction of the Project; provided, however, that such plan must be approved in writing by all first Mortgagees of record at the time of the adoption of such plan. Written notice of adoption of such plan shall be given to all Owners.

15.02 Payment for Renewal and Reconstruction. The Association shall levy a Special Assessment sufficient to provide funds to pay the estimated expenses of renewal or reconstruction. Such Special Assessment shall be allocated and collected as provided in Section 11.03 hereof, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner (without the necessity of any vote) if the amounts allocated prove insufficient to pay the actual expenses of such renewal or reconstruction. In the event amounts collected pursuant hereto are in excess of the amounts required for renewal or reconstruction such excess shall be distributed to the Owners in the same proportions as provided in Section 11.02(b) hereof for assessments.

15.03 Sale of Project. Notwithstanding any other provision of this Declaration, the Owners may at any time, by an affirmative vote of at least one hundred percent (100%) of the total votes of the Association, at a special meeting of the members of the Association duly called for such purpose, elect to sell or otherwise dispose of the Project. For purposes of this provision, Section 9.03 shall not apply. In such event, the Association shall forthwith record in the office of the County Recorder of Wasatch County, State of Utah, a notice setting forth such facts, and upon the recording of such notice by the Association, the Project shall be sold or otherwise disposed of by the Association as attorney in fact for all of the Owners. Such action shall be binding upon all Owners, and each Owner shall have the duty to execute and deliver such instruments and to perform all acts in such manner and form as may be necessary or appropriate to effect such sale or other disposition of the Project. The proceeds of such sale or disposition shall be apportioned among the Owners in proportion to their respective undivided interests in the Common Areas, and such apportioned proceeds shall be paid into separate accounts, each such account representing one Condominium. Each such account shall remain in the name of the Association and shall be further identi-

fied by the Condominium designation and the name of the Owner thereof. The Association, as attorney in fact, shall use and disburse the total amount of each account, without contribution from one account to another, first to pay valid tax and special assessment liens on the Condominium in favor of any governmental assessing authority, second to pay assessments made pursuant to this Declaration, third to pay other holders of liens or encumbrances on the Condominium in the order of priority of their liens, and the balance remaining, if any, to the respective Owner.

15.04 Amendment of Article. This Article XV shall not be amended unless the Owners of all Condominiums in the Project unanimously consent and agree to such amendment in a duly recorded instrument.

ARTICLE XVI

COMPLIANCE WITH DECLARATION AND BYLAWS

16.01 Compliance. Each Owner shall comply strictly with the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association as herein provided and the decisions and resolutions of the Association adopted pursuant thereto, as the same may lawfully be modified and amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or for injunctive relief or for both, maintainable by the Association or in a proper case, by an aggrieved Owner.

16.02 Enforcement and Remedies. The obligations, provisions, covenants, restrictions, and conditions contained in this Declaration, or in any Supplemental or Amended Declaration, with respect to the Association or condominiums in the Project shall be enforceable by any Owner, subject to this Declaration, by a proceeding for a prohibitive or mandatory injunction. The obligations, provisions, covenants, restrictions, and conditions contained in this Declaration, or in any Supplemental or Amended Declaration, with respect to a person or entity or property of a person or entity other than the Association shall be enforceable by the Association or, in a proper case, by an aggrieved Owner by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages or to recover any amount due and unpaid.

ARTICLE XVII

MORTGAGEE PROTECTION

17.01 Notice to Mortgagees. From and after the time a Mortgagee makes written request to the Association therefor, the Association shall notify such Mortgagee in writing in the event that the Owner of the Condominium encumbered by the Mortgage held by such Mortgagee neglects for a period of thirty (30) days or more to cure any failure on the part of such Owner to perform any of his obligations under this Declaration.

17.02 Subordination of Assessment Lien. The lien or claim against a Condominium for unpaid assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to a Mortgage affecting such Condominium. A Mortgagee who comes into possession of the Condominium pursuant to his Mortgage or a deed or assignment in lieu of foreclosure shall take the same free of such lien or claim for unpaid assessments or charges, but only to the extent of assessments or charges which accrue prior to the foreclosure of the Mortgage, exercise of a power of sale available thereunder, or deed or assignment in lieu of foreclosure (except for claims for a pro rata share of such prior assessments or charges resulting from a pro rata reallocation thereof to all Condominiums including the Condominium in which the Mortgagee is interested). No assessment, charge, lien, or claim which is described in the preceding sentence as being subordinate to a Mortgage or as not being a burden to a Mortgagee coming into possession pursuant to his Mortgage or a deed or assignment in lieu of foreclosure shall be collected or enforced against a Mortgagee, a successor in title to a Mortgagee, or the Condominium affected or previously affected by the Mortgage concerned (to the extent any such collection or enforcement would prejudice the interests of the Mortgagee or successor in title to the Mortgagee interested in Condominium).

17.03 Prior Written Approval of Mortgagee. Unless all of the first Mortgagees of the individual Condominiums have given their prior written approval, the Association shall not be entitled, by act, omission, or otherwise:

(a) To abandon or terminate the Project or to abandon or terminate the arrangement which is established by this Declaration and the Map, except for abandonment provided by statute in case of substantial loss to the Units and Common Areas;

(b) To partition or subdivide any Unit;

(c) To abandon, partition, subdivide, encumber, alter the boundaries of, sell, diminish, or transfer all or any

of the Common Areas (except for the granting of easements for utilities and similar purposes consistent with the intended use of the Common Areas), except in accordance with the Project expansion provisions of Article IV;

(d) To use hazard insurance proceeds resulting from damage to any part of the Project (whether to Units, the Limited Common Areas, or to the Common Areas) for purposes other than the repair, replacement, or reconstruction of such improvements;

(e) To change the pro rata interests or obligations of any Unit which apply for (i) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards or for (ii) determining the pro rata share of ownership of each Unit in the Common Areas, except in accordance with the Project expansion provisions of Article IV;

(f) To alter the provisions hereof in such a way as to diminish the insurance protection required to be afforded to the parties designed to be protected thereby, or to fail to maintain the insurance coverage described therein;

(g) Subject any Condominium to any unreasonable restraints on alienation which would adversely affect title or marketability of a Condominium, or the ability of the Mortgagee to foreclose its mortgage lien and thereafter to sell or lease the mortgaged Condominium; or

(h) To allow any person handling funds of the Association including without limitation employees of any professional Manager, to do so without first obtaining therefor appropriate fidelity bond coverage.

17.04 Examination of Records. Any Mortgagee shall have the right, at its request and expense and upon reasonable notice, to examine the books and records of the Association during reasonable business hours. From and after the time a Mortgagee makes written request to the Association therefor and at the expense of such Mortgagee, the Association shall furnish to such Mortgagee copies of such annual operating reports and other reports or writings summarizing or reflecting the financial position or history of the Project as may be prepared for distribution to or use by the Owners generally.

17.05 Revenue Fund and Working Capital Fund Required. The Association shall establish an adequate reserve to cover the cost of reasonably predictable and necessary repairs and replacements of the Common Areas and any component thereof and shall cause such reserve to be funded by regular monthly or other periodic

assessments against the Condominiums rather than by Special Assessments.

17.06 Notification of Loss or Damage. From and after the time a Mortgagee makes written request to the Association therefor, the Association shall notify such Mortgagee in writing in the event that there occurs any damage or loss to, or taking or anticipated condemnation of: (a) the Common Areas involving an amount in excess of, or reasonably estimated to be in excess of, Ten Thousand Dollars (\$10,000.00); or (b) any Unit or Limited Common Area involving an amount in excess of, or reasonably estimated to be in excess of, One Thousand Dollars (\$1,000.00). Said notice shall be given within ten (10) days after the Association learns of such damage, loss, taking, or anticipated condemnation.

17.07 Article Supersedes All Others. In the event another provision or clause of this Declaration deals with the same subject matter as is dealt with in any provision or clause of this Article XVII, the provision or clause which results in the greatest protection and security for a Mortgagee shall control the rights, obligations, or limits of authority, as the case may be, applicable to the Association with respect to the subject concerned.

17.08 No Right to Amend Article. No amendment to this Article XVII which has the effect of diminishing the rights, protection, or security afforded to Mortgagees shall be accomplished or effective unless all of the first Mortgagees of the individual Condominiums have given their prior written approval to such amendments. Any amendment to this Article XVII shall be accomplished by an instrument executed by the Association and filed for record in the office of the County Recorder of Wasatch County, State of Utah. In any such instrument, an officer of the Association shall certify under penalties of perjury that any prior written approval of first Mortgagees required by this Article XVII as a condition to amendment has been obtained.

17.09 Notices. Any notice to a Mortgagee under this Article XVII shall be in writing and shall be sufficient for all purposes if personally delivered or if sent by first class mail, postage prepaid, and addressed to the Mortgagee at the address for notices from time to time specified by the Mortgagee in writing to the Association. Any such notice shall be deemed to have been given and received and shall be effective when personally delivered or when deposited in the U.S. mail in the form herein specified, whichever first occurs.

ARTICLE XVIII

GENERAL PROVISIONS

18.01 Intent and Purpose. The provisions of this Declaration, and any Supplemental or Amended Declaration, shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of a Condominium Project. Failure to enforce any provision, restriction, covenant, or condition contained in this Declaration, or in any Supplemental or Amended Declaration, shall not operate as a waiver of any such provision, restriction, covenant, or condition or of any other provisions, restrictions, covenants, or conditions.

18.02 Construction. This Declaration shall be governed by and construed in accordance with the laws of the State of Utah, other than its choice of law rules. The provisions hereof shall be in addition and supplemental to the provisions of the Condominium Act and all other provisions of applicable law. Whenever used herein, unless the context shall otherwise require, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, any gender shall include both other genders, and the term "person" shall include any individual, partnership, corporation, trust, or other association or entity or combination thereof. The article and section headings set forth herein are for convenience and reference only and are not intended to expand, limit, or otherwise affect the meaning or interpretation of this Declaration or any provision hereof. The provisions hereof shall be deemed to be independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof. Exhibit A attached hereto is by this reference incorporated herein and made a part hereof.

18.03 Notices and Registration of Mailing Address. Each Owner shall register from time to time with the Association such Owner's current mailing address. All notices, demands, and other communications to any Owner as provided for in this Declaration shall be in writing and shall be sufficient for all purposes if personally delivered or if sent by first class U.S. mail, postage prepaid, addressed to the Owner at his or her registered mailing address or, if no address has been registered, to the Unit of such Owner. All notices, demands, and other communications to the Association as provided for in this Declaration shall be in writing and shall be sufficient for all purposes if personally delivered or if sent by first class U.S. mail, postage prepaid, addressed to the Association at its offices at 901 Homestead Drive, Midway, Utah 84049, or to such other address as the Association may hereafter designate by notice to the Owners as herein provided. Any notice,

demand, or communication referred to in this Declaration shall be deemed to have been given and received when personally delivered or when deposited in the U.S. mail, postage prepaid, and in the form provided for in this section, whichever first occurs.

18.04 Audit. Any Owner may at any reasonable time, upon appointment and at his own expense, cause an audit or inspection to be made of the books and records maintained by the Association. The Association, at the expense of the Common Expense Fund, shall obtain an audit, by certified public accountants, of all books and records pertaining to the Project, upon the written request of twenty percent (20%) of the Total Votes of the Association, and copies thereof shall be furnished to the Owners.

18.05 Amendment. Except as otherwise provided herein or as otherwise required by the Condominium Act, this Declaration may be amended if Owners holding at least sixty percent (60%) of the Total Votes of the Association consent and agree to such amendment; provided, however, that notwithstanding any other provision to the contrary and for so long as Declarant has the right under Article IV to expand the Project or Declarant owns at least one Condominium this Declaration may not be amended without the written consent of Declarant set forth in a duly recorded instrument; and provided, further, that, until the first to occur of one of the events listed in Section 9.05 herein, the Declarant shall have the right unilaterally to amend this Declaration without the consent of any other Owner, by recording with the office of the County Recorder of Wasatch County a duly executed amendment to the Declaration, except to the extent such amendment would be inconsistent with the provisions of the Condominium Act.

If this Declaration is amended by the consent and agreement of at least sixty percent (60%) of the Total Votes of the Association, the consents of the Owners shall not have to be recorded or filed, but an executive officer of the Association shall in an instrument to be filed and recorded with the Wasatch County Recorder's Office, certify that such consent and agreement as required herein has been obtained.

18.06 Effective Date. This Declaration shall take effect upon recording in the office of the County Recorder of Wasatch County, State of Utah.

18.07 Agent for Service. The name and address of the person to receive service of process in all cases provided by the Condominium Act shall be the registered agent and address of the Association as shown on the official corporate records maintained in the office of the Lt. Governor/Secretary of State of the State of Utah. On the date of this Declaration, the registered agent of the Association is Paul W. Hess, and the registered address is Sixth Floor Boston Building, Salt Lake City, Utah 84111.

18.08 Limitation on Association's Liability. The Association 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 injury, loss or damage to any person or property caused by the elements or by another Owner or person in or upon the Project, or resulting from electricity, water, rain snow, or ice which may leak or flow from outside or from any parts of the Buildings or their drains, pipes, conduits, appliances, or equipment, or from any other place. No diminution or abatement of any assessments 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 hereof, or from any action taken to comply with the provisions of this Declaration or with the laws, ordinances, regulations, rules, or orders of any government authority.

18.09 Owner's Obligations. All obligations of an Owner under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that he may be leasing, renting, or selling under contract his Condominium. The Owner of a Condominium within the Project shall have no obligation for expenses or other obligations accruing after he conveys such Condominium of record.

18.10 Counterparts. This document may be signed in counterparts, which, when taken together shall constitute the entire document.

IN WITNESS WHEREOF, this Amended and Restated Declaration was executed as of the day and year first above written.

Attest:

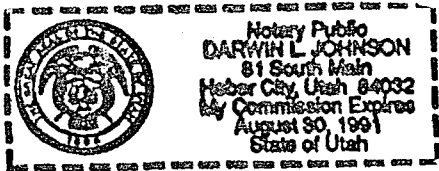
SWISS OAKS DEVELOPMENT, INC., a
Utah corporation, General Partner,
for and in behalf of SCHNEITTER'S
SWISS OAKS, LTD., a Utah limited
partnership

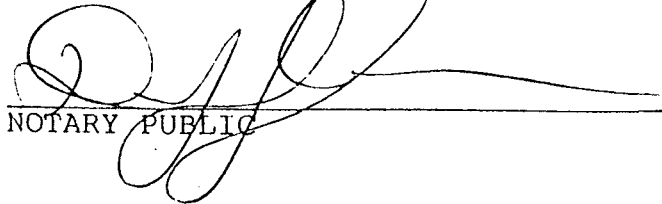
Colleen O. Fuller
Secretary

By Robert L. Fuller
Its President

STATE OF UTAH)
COUNTY OF Wasatch) : SS.

The foregoing Amended and Restated Declaration of Covenants, Conditions and Restrictions for Schneitter's Swiss Oaks, an Expandable Condominium Project, was acknowledged before me this 27 day of July, 1990, by Robert L. Fuller, as President of Swiss Oaks Development, Inc., for and in behalf of Schneitter's Swiss Oaks, Ltd., a Utah limited partnership.




NOTARY PUBLIC

S9/ARDECnh

EXHIBIT A

(Attached to and forming part of the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Schneitter's Swiss Oaks, an Expandable Condominium Project.)

<u>Building</u>	<u>Unit Number</u>	<u>Undivided Interest in Common Areas</u>	<u>Number of Votes</u>	<u>Parking Stall or Garage</u>
A	1	1.61%	1.61	A-1
A	2	1.61%	1.61	A-2
A	3	1.61%	1.61	A-3
A	4	1.61%	1.61	A-4
A	5	1.61%	1.61	A-5
A	6	1.61%	1.61	A-6
A	7	1.61%	1.61	A-7
A	8	1.61%	1.61	A-8
B	1	1.61%	1.61	B-1
B	2	1.61%	1.61	B-2
B	3	1.61%	1.61	B-3
B	4	1.61%	1.61	B-4
B	5	1.61%	1.61	B-5
B	6	1.61%	1.61	B-6
B	7	1.61%	1.61	B-7
B	8	1.61%	1.61	B-8
C	1	1.61%	1.61	C-1
C	2	1.61%	1.61	C-2
D	1	1.61%	1.61	D-1
D	2	1.61%	1.61	D-2
E	1	1.61%	1.61	E-1

<u>Building</u>	<u>Unit Number</u>	<u>Undivided Interest in Common Areas</u>	<u>Number of Votes</u>	<u>Parking Stall or Garage</u>
E	2	1.61%	1.61	E-2
F	1	1.61%	1.61	F-1
F	2	1.61%	1.61	F-2
H	1	1.61%	1.61	H-1
H	2	1.61%	1.61	H-2
H	3	1.61%	1.61	H-3
H	4	1.61%	1.61	H-4
H	5	1.61%	1.61	H-5
H	6	1.61%	1.61	H-6
H	7	1.61%	1.61	H-7
H	8	1.61%	1.61	H-8
I	1	1.61%	1.61	I-1
I	2	1.61%	1.61	I-2
I	3	1.61%	1.61	I-3
I	4	1.61%	1.61	I-4
I	5	1.61%	1.61	I-5
I	6	1.61%	1.61	I-6
I	7	1.61%	1.61	I-7
I	8	1.61%	1.61	I-8
J	1	1.61%	1.61	J-1
J	2	1.61%	1.61	J-2
M	1	1.61%	1.61	M-1
M	2	1.61%	1.61	M-2
N	1	1.61%	1.61	N-1

<u>Building</u>	<u>Unit Number</u>	<u>Undivided Interest in Common Areas</u>	<u>Number of Votes</u>	<u>Parking Stall or Garage</u>
N	2	1.61%	1.61	N-2
O	1	1.61%	1.61	O-1
O	2	1.61%	1.61	O-2
O	3	1.61%	1.61	O-3
O	4	1.61%	1.61	O-4
O	5	1.61%	1.61	O-5
O	6	1.61%	1.61	O-6
O	7	1.61%	1.61	O-7
O	8	1.61%	1.61	O-8
X	1	1.61%	1.61	X-1
X	2	1.61%	1.61	X-2
X	3	1.61%	1.61	X-3
X	4	1.61%	1.61	X-4
X	5	1.61%	1.61	X-5
X	6	1.61%	1.61	X-6
X	7	1.61%	1.61	X-7
X	8	1.61%	1.61	X-8
Totals	<u>62 Units</u>	<u>100.00%*</u>	<u>100.00*</u>	

* With .18% rounding error

In addition to the storage units assigned and appurtenant to condominium Units, there are four (4) surplus storage units which are hereby identified as follows: B-9, H-9, X-9, and X-10. Said four (4) surplus storage units are freely transferable separate and apart from any condominium Unit. Said surplus storage units are not assigned or appurtenant to any particular condominium Units.

EXHIBIT B

(Attached to and forming part of Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Schneitter's Swiss Oaks)

PLAT A:

COMMENCING at a point South 566.0 feet from the West Quarter corner of Section 27, Township 3 South, Range 4 East of the Salt Lake Base and Meridian. Thence South 72°57'42" East 93.87 feet; thence South 68°42'50" East 99.94 feet thence South 61°30'35" East 241.61 feet; thence south 40°33'39" East 135.30 feet; thence South 35°15'35" East 143.15 feet; thence South 85°41'22" East 123.64 feet; thence North 32°50'20" East 40.88 feet; thence North 79°43'58" East 155.18 feet; thence South 86°56'50" East 136.19 feet; thence South 99.62 feet; thence North 75°03'38" West 201.68 feet; thence south 52°57'46" West 85.60 feet; thence North 84°38'48" West 116.83 feet; thence North 71°50'41" West 19.21 feet; thence North 85°41'22" West 9.97 feet; thence along the arc of an 82.00 foot radius curve to the Right 47.91 feet; thence North 71°50'41" West 8.15 feet; thence North 83°57'57" West 17.26 feet thence North 89°12'00" West 58.18 feet; thence North 27°00'00" East 34.23 feet; thence North 35°15'35" West 67.79 feet; thence South 27°00'00" West 95.31 feet; thence North 89°12'00" West 158.60 feet thence South 59°47'26" West 105.60 feet; thence North 19°00'00" West 214.99 feet; thence North 37°32'00" East 102.35 feet; thence North 52°28'00" West 95.97 feet; thence West 65.00 feet; thence North 120.00 feet; thence South 69°13'56" West 858.08 feet; thence South 765.81 feet; thence North 89°59'18" West 200.00 feet thence North 765.77 feet; thence East 200.00 feet; thence North 89°13'56" East 858.08 feet to the point of beginning.

This description also includes a road commonly referred to a "Lime Canyon Road" which provides access to the property and other property.

PLAT B:

COMMENCING at a point South 1064.92 feet and West 239.40 feet from the West Quarter corner of Section 27, Township 3 South, Range 4 East of the Salt Lake Base and Meridian; thence North 71°00'00" East 378.50 feet; thence South 19°00'00" East 91.99 feet; thence South 59°47'26" West 256.39 feet; thence North 19°00'00" West 112.83 feet; thence South 71°00'00" West 127.00 feet; thence along the arc of a 512.00 feet radius curve to the Left 17.92 feet thence South 14°05'00" 142.17 feet; thence South 61°25'34" West 130.14 feet; thence North 14°05'00" West 203.07 feet thence North 75°55'00" East 100.0 feet thence along the arc of a 483.00 feet radius curve to the Left 41.45 feet to the point of beginning.

PLAT C:

COMMENCING at a point South 832.13 feet and West 85.50 feet from the West Quarter corner of Section 27, Township 3 South, Range 4 East of the Salt Lake Base and Meridian. Thence along the arc of a 262.00 feet radius curve to the Left 35.95 feet; thence North 78°51'54" East 132.55 feet; thence along the arc of a 29.00 feet

78°51'54" East 132.55 feet; thence along the arc of a 29.00 feet radius curve to the Left 19.35 feet thence South 37°32'00" West 32.24 feet; thence South 19°00'00" East 123.00 feet; thence South 71°00'00" West 157.19 feet; thence North 19°00'00" West 170.00 feet to the point of beginning.

PLAT D:

COMMENCING at a point South 832.13 feet and West 85.50 feet from the West Quarter Corner of Section 27, Township 3 South, Range 4 East of the Salt Lake Base and Meridian. Thence along the arc of a 262.00 radius curve to the right 35.96 feet; thence North 11°08'06" West 30.00 feet; thence North 01°58'12" East 133.42 feet; thence East 52.00 feet; thence South 26.00 feet; thence East 65.00 feet; thence South 52°28'00" East 95.57 feet; thence South 37°32'00" West 70.11 feet; thence along the arc of a 29.00 radius curve to the Left 19.35 feet; thence South 78°51'54" West 132.55 feet; thence along the arc of a 262.00 radius curve to the Left 35.96 feet; thence South 19°00'00" East 170.00 feet; thence South 71°00'00" West 221.31 feet; thence along the arc of a 483.00 feet radius curve to the Right 41.45 feet; thence South 75°55'00" West 169.00 feet; thence North 14°05'00" West 154.30 feet; thence North 71°00'00" East 417.86 feet to the point of beginning. Contains 2.1185 acres (20 units).

SWISS OAKS SUBDIVISION - PLAT "E"

COMMENCING at a point which is South 968.19 feet and West 480.59 feet from the West Quarter Corner of Section 27, Township 3 South, Range 4 East, Salt Lake Base and Meridian; thence as follows:

South 14°05'00" East 154.30 feet; thence North 75°55'00" East 69.00 feet; thence South 14°05'00" East 29.00 feet; thence South 75°55'00" West 212.53 feet; thence along the arc of a curve right 62.00 feet; left 83.79 feet; thence North 26°39'10" West 102.76 feet; thence North 63°20'50" East 82.66 feet; thence along the arc of a curve right 238.00 feet; left 72.06 feet; thence North 46°00'00" East 63.58 feet; thence South 44°00'00" East 47.55 feet; to the point of beginning.

SWISS OAKS SUBDIVISION - PLAT "F"

COMMENCING at a point West 52.00 feet and South 660.00 feet from the West Quarter Corner of Section 27, Township 3 South, Range 4 East, Salt Lake Base and Meridian thence as follows:

South 01°58'21" West 133.42 feet; thence South 11°08'06" East 30.00 feet; thence along a 262 foot radius curve to the left 35.96 feet (central angle of said curve being 07°51'54"); thence South 71°00'00" west 38.00 feet; thence North 19°00'00" West 30.00 feet; thence North 07°16'29" west 118.56 feet; thence along the arc of a 250 foot radius curve to the left 63.27 feet (central angle of said curve being 14°30'02"); thence South 56°27'00" West 200.61 feet; thence South 33°33'00" East 12.00 feet; thence South 56°27'00" West 78.00 feet; thence along the arc of a 238 foot radius curve to the left 43.41 feet (central angle of said curve being 10°27'00"); thence South 46°00'00" West 48.40 feet; thence North 44°00'00" West 24.00 feet; thence South 46°00'00" West 63.58' feet; thence along the arc of a 238 foot radius curve to the right 72.06 feet (central angle of said curve being 17°20'50"); thence North 26°39'10" West 166.00 feet; thence North 63°20'50" East 84.61 feet; thence along the arc of a 75 foot radius curve to the right 34.89 feet (central angle of said curve being 26°39'10"); thence East 205.20 feet; thence South 33°33'00" East 14.40 feet; thence North 56°27'00" East 200.61 feet; thence along the arc of a 250 foot radius curve to the right 63.27 feet (central angle of said curve being 14°30'02"); thence North 07°16'29" West 32.04 feet; thence North 61°11'21" East 14.00 feet; thence East 86.00 feet to the point of beginning.

SWISS OAKS - PLAT "H"

COMMENCING at a point West 150.27 feet and South 666.75 feet from the West Quarter Corner of Section 27, Township 3 South, Range 4 East, Salt Lake Base and Meridian thence as follows:

South 07°16'29" East 150.60 feet; thence South 19°00'00" East 30.00 feet; thence South 71°00'00" West 74.00 feet; thence North 19°00'00" West 159.37 feet; thence North 61°11'21" East 106.16 feet to the point of beginning.

SWISS OAKS - PLAT "G" (Added by this Amended and Restated Declaration)

Beginning at a point located 369.06 feet West and 1129.19 feet South from the West quarter corner of Section 27, Township 3 South, Range 4 East, Salt Lake Base and Meridian; thence South 14°05'00" East along the westerly boundary of Swiss Oaks Condominiums, Plat B, 174.07 feet; thence South 61°85'34" West 76.17 feet; thence South 75°50'35" West 36.83 feet; thence North 89°59'18" West 58.18 feet; thence North 14°05'00" West 179.01 feet; thence North 75°55'00" East along the southerly boundary of Swiss Oaks Condominiums, Plat E, 167.00 feet to the point of beginning.

Contains approximately 0.7152 acres.