

Return to: Mr. Paul Holliday, Atty, 455 E. 4th St., SLC, Utah 84115

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Request of SECURITY TITLE COMPANY  
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\$35.00 By Deputy

DECLARATION

OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF MONTE CARLO

A CONDOMINIUM PROJECT

THIS DECLARATION, hereinafter called the "DECLARATION", is made on the date set forth below, by ARTISTIC HOMES CORPORATION, a Utah corporation, hereinafter referred to as the "DECLARANT", pursuant to the provisions of the Utah Condominium Ownership Act, as follows:

W I T N E S S E T H:

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

Beginning at a point which is N 0°05'52" E 1270.15 ft. from the South Quarter Corner of Section 16, T. 2S, R. 1E, S.L.B.&M., and running thence East 385.25 ft.; thence North 586.82 ft., to the Southerly line of the Jordan & Salt Lake City Canal; thence along said line as follows: S 52°30' W 112.65 ft; thence N 62°00' W 165.0 ft; thence S 44°00' W 219.77 ft; thence S 33°30' W 488.18 ft; thence S 88°00' W 15.78 ft. to the East line of Fontaine Bleu Drive (1655 East St.); said point also being on the arc of a 230.0 ft. radius curve to the right, the center of which bears S 69°45' 22" W; thence leaving said canal line, Southerly along said East line of Fontaine Bleu Dr. and along the arc of said curve an arc distance of 41.13 ft. through a central angle of 10°14'44" to the N.W. Corner of Lot 6, Fontaine Bleu Subdivision, according to the official plat thereof; thence N 88°00' E 277.14 ft. to the point of beginning. (Contains 6.29 acres.)

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

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property described above in accordance with the Record of Survey Map of MONTE CARLO, recorded concurrently with this Declaration, consisting of three (3) sheets, prepared and certified by Gini & Associates, Inc., Engineers & Land Surveyors, registered in the State of Utah, and

WHEREAS, the Declarant desires to submit this real property and all improvements to the provisions of the Utah Condominium Ownership Act, as a condominium project, known as MONTE CARLO,

NOW THEREFORE, and for such purposes, the Declarant does hereby make the following declarations:

ARTICLE I

DEFINITIONS

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

Section 2. The term "The Act" shall mean and refer to the Utah Condominium Ownership Act as the same may be amended from time to time.

Section 3. The term "The Condominium Project" or sometimes "The Project" or "The Condominium" shall mean and refer to the entire parcel of real property referred to in this Declaration.

Section 4. The term "Map" shall mean and refer to the Record of Survey Map of MONTE CARLO, filed for record herewith by Declarant as Exhibit "A".

Section 5. The term "Unit Owner" shall mean and refer to the legal owner of a condominium unit and a proportionate share of the Common Areas and Facilities as those terms are defined herein,

and shall include any future phases which the Declarant may subsequently develop.

Section 6. The term "Common Areas and Facilities" shall mean and refer to:

- (a) The above-described land;
- (b) Those Common Areas and Facilities specifically set forth and designated as such in the Map;
- (c) That part of the condominium project not specifically included in the respective units as hereinafter defined;
- (d) All foundations, columns, girders, beams, supports, main walls, roof, exterior walkways, parking areas, streets, the Clubhouse, swimming pool, recreational areas and facilities, yards, gardens, fences, patios, decking and porches, all installations of power, light and other utilities to the outlets, and in general all other apparatus, installations and other parts of the property necessary or convenient to the existence, maintenance and safety of the Common Area, or normally in common use;
- (e) All Common Areas and Facilities as defined in the Act, whether or not expressly listed herein.

Section 7. The term "Limited Common Areas and Facilities" shall mean and refer to the fenced-in patio and garden area, normally at the rear of each unit, the entrance patio, any wood decking, balconies and porches, the exterior walkway to the entrance of each unit and the driveway to the garage of each unit which are set aside and reserved for the use of the respective units to which they are attached or appurtenant and as designated on the Map to the exclusion of the other units.

Section 8. The term "Property" shall mean and refer to the land, the buildings, all improvements and structures thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

Section 9. The term "Unit" or "Units" shall mean and refer to a part of the property intended for any type of independent use as defined in the Act and as designated in the Map.

Section 10. The term "Common Expenses" shall mean and refer to all items, things and sums described in the Act which are lawfully assessed against the Unit Owners in accordance with the provisions of the Act, this Declaration, the By-Laws, such rules and regulations pertaining to the Condominium project as the Management Committee may from time to time adopt, and such other determinations and agreements lawfully made and entered into by the Management Committee.

Section 11. The term "Management Committee" shall mean and refer to those persons duly elected thereto by the Unit Owners as provided by the Declaration of MONTE CARLO and any future phases as may be developed by the Declarant, in accordance with the By-Laws hereto attached as Exhibit "C".

Section 12. The term "Manager" shall mean and refer to the person, persons or corporation selected by the Management Committee to manage the affairs of the Condominium Project.

#### ARTICLE II

##### SUBMISSION TO CONDOMINIUM OWNERSHIP

Declarant hereby submits the above-described tract of land, buildings, and other improvements constructed thereon or

hereafter to be constructed, together with all appurtenances thereto, to the provisions of the Act as a Condominium Project to be known as MONTE CARLO. This Declaration is submitted in accordance with the terms and the provisions of the Act and shall be construed in accordance therewith.

ARTICLE III

COVENANTS TO RUN WITH THE LAND

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

ARTICLE IV

PLAN OF CONDOMINIUM OWNERSHIP

To establish a plan of condominium ownership for the Condominium Project, the Project is hereby divided into forty-eight (48) residential units, some with basements, described in Exhibit "A", attached hereto and by reference made a part hereof, which residential units, together with their appurtenant interests in the Common Areas and Facilities, as hereinafter established, shall constitute separate freehold estates for all purposes provided by the Act. The residential units are the elements of the Condominium which are not owned in common with the owners of other residential units.

ARTICLE V

EASEMENT FOR ENCROACHMENTS AND UTILITIES

If any portion of the Common Areas Facilities encroaches

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

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

#### ARTICLE VI

##### FUTURE DEVELOPMENT OF THE PROJECT

There is a possibility that the Declarant will develop and construct additional phases of this condominium on land adjacent. The Common Areas and Facilities in such additional phases will be included in the Common Areas and Facilities of the original development and shall be treated, managed and governed as one condominium project. For this purpose, the Declarant reserves the irrevocable right and power to amend this Declaration at any time to implement such additional development, and such right and power is hereby granted to the Declarant by the Unit Owners.

The proportionate share of the separate owners of the respective units in the Common Areas and Facilities will be based on the proportionate value that each unit bears to the total value of all of the units.

#### ARTICLE VII

##### OWNERSHIP OF COMMON AREAS AND FACILITIES

The percentage of ownership in the Common Areas and

Facilities of the condominium shall be for all purposes, including voting. The common expenses shall be allocated among the Unit Owners in accordance therewith. The percentage of ownership in the Common Areas and Facilities shall be as set forth in Exhibit "B" hereto attached, provided, however, that Declarant shall have the right and authority to alter such percentage if and when the Declaration of condominium and the Record of Survey Map for an additional phase is recorded, it being the intent that the aggregate percentage of ownership in the Common Areas and Facilities of all phases shall equal one hundred (100) per cent. To that end, the Declarant does hereby irrevocably reserve the right, power and authority to amend this Declaration, including Exhibit "B", upon the recording of instruments creating the additional phase. Upon such amendment being made and recorded, the percentage of ownership in the Common Areas and Facilities shall be finally fixed.

ARTICLE VIII

MANAGEMENT

The business, property and affairs of MONTE CARLO, including any additional phases, shall be managed by a Management Committee consisting of not less than three (3) or more than seven (7) members who have ownership in units in the Project, to be elected as provided in the By-Laws. The Management Committee shall keep in good condition, order and repair, the foundations, columns, girders, beams, supports, main walls, roof, exterior walkways, parking areas, streets, the Clubhouse, swimming pool, recreational areas and facilities, yards, gardens, fences, patios, decking, porches, and all pipes and conduits for carrying water and electricity through the buildings, together with all plumbing, heating and

other apparatus intended for the general service of the development, except those portions of any of the foregoing which it is the duty of the Unit Owners to maintain and keep in good repair as hereinafter provided. The Unit Owners agree to give the Management Committee prompt notice of any defects or accidents which require repairs. All such repairs required to be made by the Management Committee shall be common expenses, unless the same have been rendered necessary by the act, negligence or carelessness of a Unit Owner, or his family, guests, employees or tenants, in which case the expense is to be paid by the Unit Owner. Such Management Committee shall have all the powers, duties and responsibilities as are now or may hereafter be provided by the Act, this Declaration and any amendments subsequently filed thereto; provided, however, that the Management Committee may engage the services of a Manager and fix and pay a reasonable fee or compensation therefor. Notwithstanding anything herein contained to the contrary, the Declarant shall act as the Management Committee until the completion and sale of all units of all phases of the condominium.

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

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



and maps in connection therewith.

The Management Committee shall be known by such name or designation as it, or the Unit Owners, at any meeting, may determine.

ARTICLE IX

CHANGE IN OWNERSHIP

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

- (a) Furnish evidence substantiating the new ownership;
- (b) Sign an agreement accepting and agreeing to be bound by this Declaration, the By-Laws, and the rules and regulations and all amendments thereto.

ARTICLE X

ASSESSMENTS

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

In assessing Unit Owners or requiring them to pay for the building improvements following the execution of the Declaration, it is agreed that no assessment for a single improvement in the nature of capital expenditure exceeding the sum of \$2,000.00 in cost shall be made without the same having been first approved by a vote of owners of seventy-five (75) per cent, or more, of the undivided

interests in the Common Areas and Facilities. The foregoing sentence shall not apply in connection with the replacement or reconstruction occasioned by fire or other casualty.

ARTICLE XI

DESTRUCTION OR DAMAGE

In the event the Condominium Project is destroyed or damaged to the extent of seventy-five (75) per cent or less than the value thereof, the Management Committee shall be responsible for repairing, rebuilding, and restoring the same to the condition it was in immediately prior to such destruction or damage, and the Management Committee shall, in this connection, be entitled to use the proceeds of any and all insurance policies which it may have had in force on said premises as of the date of such destruction or damage. In the event the Condominium Project is destroyed or damaged to the extent of more than seventy-five (75) per cent of the value thereof, the Unit Owners shall, at a meeting duly called by the Management Committee for the purpose, determine whether or not said premises should be rebuilt, repaired or disposed of, unless owners representing not less than eighty (80) per cent of the undivided interests in the Common Areas and Facilities agree to the withdrawal of the Condominium Project from the provisions of the Act and to its subsequent disposal, and if the premises are to be repaired, rebuilt or restored, it shall be to the same condition they were in immediately prior to said destruction or damage. In the event the cost of such repairing, rebuilding, or restoring the Condominium Project shall exceed the amount realized by the Management Committee from the proceeds of any insurance policy or policies as herein provided, the Unit Owners shall contribute to such

cost in relation to their percentage of undivided ownership in the Common Areas and Facilities.

ARTICLE XII

TAXES

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

ARTICLE XIII

INSURANCE

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

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

(b) Liability Coverage. A policy or policies insuring the Management Committee, the Unit Owners and the Manager against any liability to the public or to the Unit Owners, Common Areas and Facilities, and their invitees or tenants, incident to the ownership and use of the Condominium Project, and including the personal liability exposure of the owners. Limits of liability

under such insurance shall not be less than \$100,000.00/\$300,000.00 for bodily injury; and shall not be less than \$10,000.00 for property damage for each occurrence. Such limits and coverage shall be reviewed at least annually by the Management Committee and changed at its discretion. Said policy or policies shall be issued on a comprehensive liability basis and shall provide cross-liability endorsement wherein the rights of named insured under the policy or policies shall not be prejudiced as in respect to his, her or their action against another named insured.

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

(d) Insurance for such other risks of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other condominium projects similar in construction, design, and use and as the Management Committee shall determine is necessary or desirable. However, there shall be no liability on the part of the Management Committee for its failure to secure any of such additional types of insurance as are referred to in this sub-paragraph.

(e) Exclusive authority to adjust losses under policies hereafter in force in the project shall be vested in the Management Committee or its authorized representative.

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

ARTICLE XIV

PAYMENT OF EXPENSES

Each Unit Owner shall pay the Management Committee his allocated portion of the cash requirement deemed necessary by the Management Committee to manage and operate the Condominium Project, including the recreational facilities thereof, upon the terms, at the times, and in the manner herein provided without any deduction on account of any set-off or claim which the owner may have against the Management Committee, and if the owner shall fail to pay any installment within one (1) month of the time when the same becomes due, the owner shall pay interest thereon at the rate of ten (10) per cent per annum from the date when such installment shall become due to the date of the payment thereof, and \$10.00 late fees.

The cash requirements above referred to for each year, or portions of the year, are hereby defined and shall be deemed to be such aggregate sum as the Management Committee from time to time shall determine, in its judgment, is to be paid by all the owners of Condominium Project then in existence to enable the Management Committee to pay all estimated expenses and outlays of the Management Committee to the close of such year, growing out of or in connection with the maintenance and operation of such land, buildings and improvements, recreational area and facilities. This sum may include, among other things, the cost of management, special assessments, fire, casualty and public liability insurance premiums, common lighting, landscaping and the care of grounds, repairs and renovations to Common Areas and Facilities, Clubhouse, swimming pool, recreational facilities, snow removal, wages, water and charges legal and accounting fees, management fees, expenses and liabilities

incurred by the Management Committee under or by reason of this Declaration, the payment of any deficit remaining from a previous period, the creation of a reasonable contingency of other reserve or surplus fund, as well as all other costs and expenses relating to the Condominium Project. The Management Committee may, from time to time, up to the close of the year for which such cash requirements have been so filed or determined, increase or diminish the amount previously fixed or determined for such year. It may include in the cash requirements for any year, any liabilities or items of expense which accrued or became payable in the previous year, or which might have been included in the cash requirements for a previous year, but were not included therein; and also any sums which the Management Committee may deem necessary or prudent to provide a reserve against liabilities or expenses then accrued or thereafter to accrue although not payable in that year.

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

The Management Committee shall have discretionary powers to prescribe the manner of maintaining and operating the Condominium Project and to determine the cash requirements of the Management

Committee to be paid as aforesaid by the owners under this Declaration. Every such reasonable determination by the Management Committee within the bounds of the Act, and this Declaration shall be final and conclusive as to the owners, and any expenditures made by the Management Committee, within the bounds of the Act and this Declaration shall, as against the owner, be deemed necessary and properly made for such purpose.

If the owner shall at any time let or sublet the Unit and shall default for a period of one (1) month in the payment of any assessments, the Management Committee may, at its option, so long as such default shall continue, demand and receive from any tenant or sub-tenant of the owner occupying the Unit the rent due or becoming due and the payment of such rent to the Management Committee shall be a sufficient payment and discharge of such tenant or sub-tenant and the owner to the extent of the amount paid.

Each monthly assessment and each special assessment shall be separate, distinct and personal debts and obligations of the owner against whom the same are assessed at the time the assessment is made and shall be collectible as such. Suit to recover a money judgment for unpaid Common expenses shall be maintainable without foreclosing or waiving the lien securing the same. The amount of any assessment, whether regular or special, assessed to the owner of any condominium plus interest at ten (10) per cent per annum, and costs, including reasonable attorney's fees, shall become a lien upon such unit upon recordation of a notice of assessment as provided by the Act. The said lien for non-payment of Common expenses shall have priority over all other liens and encumbrances, recorded or unrecorded, except only:

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

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

A certificate executed and acknowledged by a majority of the Management Committee or by the Manager, if there be one, stating the indebtedness secured by the lien upon any condominium created hereunder, shall be conclusive upon the Management Committee and its Manager, if any, and the owners as to the amount of such indebtedness on the date of the certificate in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any owner or encumbrancee or prospective encumbrancee of a condominium upon request at a reasonable fee. Unless the request for a certificate of indebtedness shall be complied with during a period of ten (10) days following such request, all unpaid Common expenses which become due prior to the date of making of such request shall be subordinate to the lien held by the person making the request.

Upon payment of a delinquent assessment concerning which such certificate has been so recorded, or other satisfaction thereof, the Management Committee shall cause to be recorded in the same manner as the certificate of indebtedness a further certificate stating the satisfaction and release of the lien thereof. Such lien for non-payment of assessment may be enforced by sale by the Management Committee or by a bank or trust company or title insurance company authorized by the Management Committee, such sale to be



conducted in accordance with the provisions of the law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any manner permitted by law. In any foreclosure or sale, the owner shall be required to pay the costs and expenses of such proceedings including reasonable attorney's fees.

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

ARTICLE XV

MORTGAGE PROTECTION

Notwithstanding all other provisions hereof:

(a) The liens created hereunder upon any condominium shall be subject and subordinate to, and shall not affect the rights of the holder of the indebtedness secured by any recorded first mortgage (meaning a mortgage or a trust deed with first priority over other mortgages) upon such interest made in good faith and for value, provided that after the foreclosure of any such mortgage there may be a lien created pursuant to Article XIV hereof on the interest of the purchaser at such foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such purchaser as an Owner after the date of such foreclosure sale, which said lien, if any claimed, shall have the same effect and be enforced in the same manner as provided herein;

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

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

ARTICLE XVI

MAINTENANCE OF UNITS

Each Unit Owner at his expense shall keep the interior of his Unit and its equipment and appurtenances in good order, condition and repair and in a clean and sanitary condition, and shall do all redecorating and painting which may at any time be necessary to maintain the good appearance of his Unit. Except to the extent that the Management Committee is protected by insurance against such injury, the Unit Owner shall repair all injury or damages to the building or buildings caused by the act, negligence or carelessness of the owner or that of any lessee or sub-lessee or any member of the owner's family or of the family of any lessee or sub-lessee or any agent, employee or guest of the owner or his lessee or sub-lessee and all such repairs, redecorating and painting shall be of a quality and kind equal to the original work. In addition to decorating and keeping the interior of the unit in good repair, the owner shall be responsible for the maintenance or replacement of any plumbing fixtures, refrigerators, air conditioning and heating equipment, dishwashers, disposals, ranges, etc., that may be in or connected with the Unit. The owner shall be entitled to the exclusive use and possession of the fenced-in patio and garden area, normally at

the rear of each Unit, the entrance patio, any wood decking, balconies and porches, the exterior walkway to the entrance of each Unit and the driveway to the garage of each Unit and the owner shall have the right to plant appropriate flowers and small shrubbery in his own garden areas. The owner shall not make or permit to be made any structural alteration, improvement or addition thereto or to the Unit or the exterior of the building, and shall not paint or decorate any portion of the exterior of the building in which his Unit is located, without first obtaining the written permission of the Management Committee.

ARTICLE XVII

USE RESTRICTIONS

The use of the condominium property shall be in accordance with the following provisions:

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

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

(c) No use or practice shall be permitted on the condominium which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the property by its residents. All parts of the property shall be kept in a clean and sanitary condition, and no rubbish, refuse, or garbage

allowed to accumulate nor any fire hazard allowed to exist. No Unit Owner shall permit any use of his Unit or of the Common Areas which will increase the rate of insurance upon the condominium property. No immoral, improper, offensive, or unlawful use shall be made of the condominium or any part thereof.

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

ARTICLE XVIII

RIGHT OF ENTRY

The Management Committee and its duly authorized agents shall have the right to enter any and all of the units in case of an emergency originating in or threatening such unit or any other part of the Project, whether or not the owner or occupant thereof is present at the time. The Committee and its duly authorized agents shall also have the right to enter into any and all of said units at all reasonable times as required for the purpose of making necessary repairs upon the Common Areas and Facilities of the Project, for the purpose of performing emergency installations, alterations, or repairs to the mechanical or electrical devices or installations located therein or thereon; provided, however, such emergency installations, alterations, or repairs are necessary to prevent damage or threatened damage to other units in the Project; and provided further, that the apartment owner affected by such entry

shall first be notified thereof if available and if time permits.

ARTICLE XIX

ADMINISTRATIVE RULES AND REGULATIONS

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

ARTICLE XX

OBLIGATION TO COMPLY HEREWITH

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

ARTICLE XXI

INDEMNIFICATION OF MANAGEMENT COMMITTEE

Each member of the Management Committee shall be

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

ARTICLE XXII

AMENDMENT

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

ARTICLE XXIII

TRANSFER OR LEASE OF UNITS

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

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

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

ARTICLE XXIV

UTILITIES

Water, in sufficient supply, and sewer service shall be furnished to each Unit and the costs of these services shall be common expenses to be divided among the Unit Owners as set forth above in this Declaration. The costs of utilities for the Common Areas and Facilities are also common expenses and shall be similarly apportioned. Each Unit Owner will separately pay the costs of all other utilities which are furnished to his Unit.

ARTICLE XXV

NOTICES

Any notice required or desirable to be given under this Declaration, the By-Laws, the Act or other rules and regulations, shall be in writing and either personally delivered or mailed postpaid to the Unit Owner at his street address in the condominium, or such other place as the Unit Owner shall have designated in writing and to the Management Committee, Gary M. Nagle, 5945 Fontaine Bleu Drive, Salt Lake City, Utah 84121, or such other name and address as the Management Committee shall subsequently designate.

ARTICLE XXVI

SEVERABILITY

The invalidity of any one or more phrases, sentences, clauses, paragraphs, or sections hereof shall not affect the remaining portions of this instrument or any part thereof, all of which are inserted conditionally on their being held valid in law and in the event that one or more should be invalid or should operate to render this agreement invalid, this instrument shall be construed as if such invalid portion had not been inserted.



ARTICLE XXVII

GENDER

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

ARTICLE XXVIII

WAIVERS

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

ARTICLE XXIX

TOPICAL HEADINGS

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

ARTICLE XXV

EFFECTIVE DATE

This Declaration shall take effect upon recording.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 9<sup>th</sup> day of August, 1971.

ARTISTIC HOMES CORPORATION

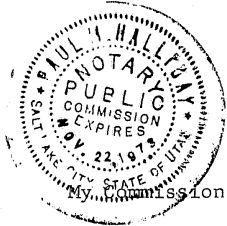
By: Stacy M. Jagle President

ATTEST:

Maulyn Hagle  
Secretary

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

On the 9<sup>th</sup> day of August, 1971, personally appeared before me GARY M. NAGLE and MARILYN NAGLE, who being by me duly sworn did say, each for themselves, that he, the said Gary M. Nagle is the president, and she, the said Marilyn Nagle is the secretary of ARTISTIC HOMES CORPORATION, a Utah corporation, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its board of directors and said Gary M. Nagle and Marilyn Nagle each duly acknowledged to me that said corporation executed the same.



*Paul M. Halliday*  
Notary Public  
Residing in Salt Lake City, Utah

My Commission Expires:

11/22/1973

EXHIBIT "B"

MONTE CARLO

A CONDOMINIUM PROJECT

| <u>UNIT NUMBER</u> | <u>PERCENT (%) OWNERSHIP OF COMMON AREA</u> |
|--------------------|---|
| 1                  | 1.854                                       |
| 2                  | 1.855                                       |
| 3                  | 2.116                                       |
| 4                  | 2.116                                       |
| 5                  | 2.116                                       |
| 6                  | 2.116                                       |
| 7                  | 2.116                                       |
| 8                  | 2.116                                       |
| 9                  | 2.116                                       |
| 10                 | 2.116                                       |
| 11                 | 2.116                                       |
| 12                 | 2.116                                       |
| 13                 | 2.116                                       |
| 14                 | 2.116                                       |
| 15                 | 2.116                                       |
| 16                 | 2.116                                       |
| 17                 | 2.116                                       |
| 18                 | 2.116                                       |
| 19                 | 2.116                                       |
| 20                 | 2.116                                       |
| 21                 | 1.855                                       |
| 22                 | 1.855                                       |
| 23                 | 2.116                                       |
| 24                 | 2.116                                       |
| 25                 | 2.116                                       |
| 26                 | 2.116                                       |
| 27                 | 2.116                                       |
| 28                 | 2.116                                       |
| 29                 | 2.116                                       |
| 30                 | 2.116                                       |
| 31                 | 2.116                                       |
| 32                 | 2.116                                       |
| 33                 | 2.116                                       |
| 34                 | 2.116                                       |
| 35                 | 2.116                                       |
| 36                 | 2.116                                       |
| 37                 | 1.855                                       |
| 38                 | 1.854                                       |
| 39                 | 2.116                                       |
| 40                 | 2.116                                       |
| 41                 | 2.116                                       |
| 42                 | 2.116                                       |
| 43                 | 2.116                                       |
| 44                 | 2.116                                       |
| 45                 | 2.116                                       |
| 46                 | 2.116                                       |
| 47                 | 2.116                                       |
| 48                 | 2.116                                       |

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EXHIBIT "C"

BY-LAWS  
OF MONTE CARLO  
A CONDOMINIUM PROJECT

ARTICLE I  
APPLICATION

All present or future owners, tenants, or any other persons who might use the facilities of MONTE CARLO, a condominium, in any manner, are subject to the regulations set forth in these By-Laws. The mere acquisition or rental of any of the units or the mere act of occupancy or use of any of said units or the Common Areas will signify that these By-Laws are accepted, ratified, and will be complied with by said persons. Article I on definitions in the Declaration is hereby incorporated in these By-Laws as though fully set forth.

ARTICLE II  
ADMINISTRATION

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

Section 2. Annual Meetings. The first annual meeting of the Unit Owners shall be held on the first Tuesday of May, 1972, at 8:00 o'clock p.m. Thereafter, the annual meeting shall be held on same day of each succeeding year; provided, however, that whenever such date falls on a legal holiday, the meeting shall be held on the next succeeding business day, and further provided that the Management Committee may by resolution change the date and time of the annual meeting, as well as the place, but shall give notice of such change as well as notice of the regular date, time and place of the annual meeting to all of the Unit Owners, at least ten (10) days prior to the date the annual meeting will be held.

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

Section 4. Notices. Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered twenty-four (24) hours after a copy of the same has been deposited in the United States Mail, postage prepaid, addressed to each Unit Owner at the address given by such person to the Management Committee or the Manager for the purpose of service of such notice or to the unit of such person if no address has been given. Such address may be changed from time to time by notice in writing to the Management Committee or Manager.

Section 5. Quorum. At any meeting of the Unit Owners, the owners of more than fifty (50) per cent in the aggregate in interest of the undivided ownership of Common Areas and Facilities shall constitute a quorum for any and all purposes, except where by express provisions a greater vote is required, in which event a quorum shall be the number required for such vote. In the absence of a quorum, the Chairman of the meeting may adjourn the meeting from time to time, without notice other than by announcement at the meeting, until holders of the amount of interest requisite to constitute a quorum shall attend. At any such adjourned meeting at which a quorum shall be present any business may be transacted which might have been transacted at the meeting as originally notified.

Section 6. Voting. When a quorum, as provided in the Utah Condominium Ownership Act is present at any meeting, the vote of Unit Owners representing at least fifty-one (51) per cent, or more, of the undivided ownership of Common Areas and Facilities, present in person or represented by proxy, shall decide any question of business brought before such meeting, including the election of the Management Committee, unless the question is one upon which, by express provision of the statutes, or of these By-Laws, a different vote is required, in which case such express provision shall govern and control the decision of such question. All votes may be cast either in person or by proxy. All proxies shall be in writing, and in the case of proxies for the annual meeting, they shall be delivered to the Secretary at least five (5) days prior to said annual meeting. Proxies for special Unit Owners' meeting must be of record with the Secretary at least two days prior to such meeting.

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

### ARTICLE III

#### MANAGEMENT COMMITTEE

Section 1. Purpose and Powers. The business, property and affairs of the Condominium shall be managed and governed by its Management Committee, hereinafter referred to as the "Management Committee" or "The Committee", consisting of not less than three (3) nor more than seven (7) members, as the Unit Owners at a lawfully convened meeting may from time to time determine; provided, however,

that the Declarant shall act as the Management Committee until the completion of, and the sale of, all the Units in the Final Phase of the Project. The Management Committee may enter into such management agreement or agreements with a third person or persons or corporations as it may deem advisable.

Section 2. Election and Vacancy. Subject to the provisions of the next preceding paragraph, at the first special meeting of the Unit Owners called for that and any other purposes, an election of the Management Committee shall be held for the election of not less than three (3) members which shall constitute the initial Management Committee. The term of the members of the Management Committee shall be until the next annual meeting of the Unit Owners, or until their successors are duly elected. Their successors shall be elected at the first annual or next special meeting of the Unit Owners. A new Management Committee shall be elected by the Unit Owners at each regular bi-annual meeting thereafter and shall hold office for a term of two (2) years and until a successor shall be elected. The number composing the Management Committee may be altered from time to time by the action of a majority of the Unit Owners at any regular or special meeting called for such purpose. In the event of any increase in the number of members constituting the Management Committee in advance of the annual meeting, each additional member shall be elected by the then Management Committee and hold office until his successor is elected.

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

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

Section 5. Special Meetings. A Special meeting of the Management Committee shall be held whenever called by the President, the Vice-President, or by three (3) or more members. By unanimous consent of the Management Committee, special meetings may be held without call or notice at any time or place.

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

Section 7. Compensation. Members of the Management Committee, as such, shall not receive any stated salary or compensation; provided that nothing herein contained shall be construed to preclude any member of the Management Committee from serving the Project in any other capacity and receiving compensation therefor.

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

Section 9. Adjournments. The Management Committee may adjourn any meeting from day to day or for such other time as may be prudent or necessary, provided that no meeting may be adjourned for longer than thirty (30) days.

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

#### ARTICLE IV

##### OFFICERS

Section 1. Designation and Election. The principal officers of the Management Committee shall be a President, a Vice-President, a Secretary, and a Treasurer, all of whom shall be elected by and from the Management Committee. The offices of Secretary and Treasurer may be held by the same member. No member shall simultaneously hold more than one (1) of any of the other offices, except in the case of special offices created pursuant to Section 2. of this Article. The Management Committee may appoint an assistant secretary and an assistant treasurer and such other officers as in their judgment may be necessary or desirable. Such election or appointment shall regularly take place at the first meeting of the Management Committee immediately following the annual meeting of the Unit Owners; provided, however, that elections of officers may be held at any other meeting of the Management Committee.

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

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

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

which are normally vested in the office of the President of a corporation, including but not limited to, the power to appoint committees from among the members from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Condominium Project.

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

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

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

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

#### ARTICLE V

#### ACCOUNTING

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

Section 2. Report. At the close of each accounting year, the books and records of the Management Committee shall be reviewed by a person or firm approved by the Unit Owners. Report of such review shall be prepared and submitted to the Unit Owners at or before the annual meeting of the Unit Owners. Provided, however, that a certified audit by a certified public accountant approved by the Unit Owners shall be made if at least seventy-five (75) per cent of the owners of undivided interest in the Common Areas and Facilities determine so to do.



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

ARTICLE VI

BUILDING RULES

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

ARTICLE VII

AMENDMENT OF THE BY-LAWS

These By-Laws may be altered, amended, or repealed, at any regular meeting of the Unit Owners or at any Special meeting of the Unit Owners at which a quorum is present or represented by a vote of Unit Owners, representing at least two-thirds (2/3) of the ownership in the Common Areas and Facilities, having voting power and acting in person or represented by proxy. Provided, that as a condition to any such alteration, amendment or repeal, written notice of the proposed operation, amendment or repeal shall be given to all Unit Owners, at least ten (10) days in advance in the case of a regular meeting and in the written notice transmitted in the case of a Special meeting.

ARTICLE VIII

OPERATION AND MAINTENANCE OF CONDOMINIUM PROJECT

The Management Committee shall be responsible for the maintenance, control, operation and management of the Condominium Project in accordance with the provisions of the Utah Condominium Ownership Act, the Declaration under which the Condominium Project was established and submitted to the provisions of said Act, these By-Laws and such other rules and regulations as the Unit Owners may adopt from time to time as herein provided, and all agreements and determinations lawfully made and entered into by the Unit Owners.

IN WITNESS WHEREOF, the undersigned, being the Declarant under the Declaration of Covenants, Conditions and Restrictions of

