

Recorded MAR 29 1973 at 12:25 P m.  
Request of WESTERN STATES TITLE CO.  
Fee Paid JERADEAN MARTIN  
Recorder, Salt Lake County, Utah  
\$ 23.00 By [Signature] Deputy  
Ref. \_\_\_\_\_

2528475

AMENDED ENABLING DECLARATION ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP  
KNOWN AS:

"MARQUIS APARTMENTS"

The undersigned hereinafter jointly referred to in the singular as "Declarant",  
does hereby declare:

I. SUBMISSION OF PROPERTY

Declarant is the sole owner of the land hereinafter described together with  
certain buildings and other improvements heretofore erected or hereafter to  
be erected upon the land (all of which is hereinafter called the "Property");  
Declarant submits the Property together with all appurtenances thereto to the  
provisions of the Utah "Condominium Ownership Act" (Title 57, Chapter 8, Utah  
Code Annotated 1953);

Beginning at a point which is South 89° 53' 58" West  
1309.605 feet and North 0° 00' 44" East 505.675 feet  
from the Southeast corner of Section 27, Township 1  
South, Range 1 East, Salt Lake Base and Meridian; and  
running thence South 89° 53' 58" West 149.043 feet;  
thence North 0° 00' 44" East 20.255 feet; thence South  
89° 53' 58" West 128.00 feet to the East line of  
Pioneer Street; thence along said line North 0° 00'  
44" East 35.00 feet; thence North 89° 53' 58" East  
112.85 feet; thence North 0° 00' 44" East 90.66 feet;  
thence North 89° 62' 21" West 112.85 feet to said line  
of Pioneer Street; thence along said line North 0° 00'  
44" East 80.686 feet; thence North 89° 53' 58" to the  
point of Beginning.

Beginning at a point in the line of an old fence which  
is 79.37 rods, more or less, West and 213.5 feet North  
from the Southeast corner of Section 27, Township 1  
South, Range 1 East, Salt Lake Base and Meridian, and  
running thence West 127.845 feet, more or less, to a  
point 135 feet East from the East line of Pioneer  
Street; thence North 60 feet; thence East 127.845 feet,  
more or less, to a point due North of beginning; thence  
South 60 feet to the point of Beginning.

Beginning 79.37 rods West and 273.5 feet North from the  
Southeast corner of Section 27, Township 1 South, Range  
1 East, Salt Lake Base and Meridian, and running thence  
West 15.93 rods to the East line of Pioneer Street;  
thence North 169.43 feet; thence East 105.31 feet; thence  
Northeasterly 58 feet; thence North 8 feet, more or less,  
to the South line of Marquis Apartments Property; thence  
East 149.04 feet; thence South 252.43 feet to Beginning.

Said Property will be known and designated "Marquis Apartments". Any instrument  
making reference thereto shall be deemed to incorporate therein by reference  
this declaration and the map referred to next below.

II. MAP

On November 2, 1971 Declarant filed for record in the office of the Salt Lake County Recorder, State of Utah, a "Record Survey Map" designated "Marquis Apartments", which map is part of this Declaration. On Declarant filed for record in the office of the Salt Lake County Recorder, State of Utah, a "Record Survey Map" designated "Marquis Apartments No. 2" each of which maps is part of this Amended Declaration amending and consolidating herein that certain prior Declaration recorded November 2, 1971 in Book 3012 at Pages 480-500 as Instrument No. 2418785 of the records of the Salt Lake County Recorder.

III. DEFINITIONS

- A. "Act" means Utah Condominium Ownership Act.
- B. "Owner" means unit owner as defined by the Act and shall include a purchaser under a real estate contract for the installment purchase of a home.
- C. "Mortgage" means a deed of trust as well as a mortgage.
- D. "Mortgagee" means a beneficiary pursuant to a deed of trust or a mortgage.
- E. "Home" means unit as defined by the Act and as shown on the map including carport or garage, storage space and patio. The boundary lines of each Home are the interior surfaces of its perimeter walls, bearing walls, floors, fireplaces, ceilings, windows and window frames, doors and door frames and trim; and includes both the portions of the building so described and the air space so encompassed. The exterior of storage units is expressly excluded therefrom.

IV. HOMES, COMMON AREAS AND FACILITIES

Declarant covenants that it hereby divides said property into the following separate freehold estates:

- A. Twenty-one separate units are designated on the survey maps recorded herewith.
- B. The remaining portion of the property known as Common Areas and Facilities as defined by the Act.

The owner shall be deemed to own the walls and partitions which are contained in his Home and also shall be deemed to own (and shall have the exclusive right to paint, repaint, tile, wax, paper or otherwise refinish and decorate) the inner surfaces of the perimeter walls, floors, ceilings, windows and doors bounding his home.

An owner, however, shall not be deemed to own the exterior surfaces of the perimeter walls, windows, doors and surfaces bounding his home, nor the outside

surfaces of the patio fence and carport, nor the utilities running through his Home which are utilized for or serve more than one home, except as tenant in common with the other owners.

Each Owner, shall be entitled to an undivided interest in the Common Areas and Facilities in the percentage expressed in Section V. hereof.

V. CONDOMINIUM

The Homes which shall be individually conveyed and the undivided interest in the Common Areas and Facilities which shall be conveyed with each Home are as follows:

HOME NO. OWNERSHIP IN COMMON AREAS AND FACILITIES, SHARE OF COMMON EXPENSES AND VOTING RIGHTS

Marquis No. 1

|   |         |
|---|---------|
| 1 | 5.7729% |
| 2 | 4.7081% |
| 3 | 4.7081% |
| 4 | 4.7081% |
| 5 | 4.7081% |
| 6 | 4.7081% |
| 7 | 4.7081% |
| 8 | 4.7081% |
| 9 | 4.7081% |

Marquis No. 2

|    |         |
|----|---------|
| 10 | 4.7135% |
| 11 | 4.7135% |
| 12 | 4.7135% |
| 13 | 4.7135% |
| 14 | 4.7135% |
| 15 | 4.7135% |
| 16 | 4.7135% |
| 17 | 4.7135% |
| 18 | 4.7135% |
| 19 | 4.7135% |
| 20 | 4.7135% |
| 21 | 4.7135% |

The percentage of each Home in the Common Areas and Facilities has been determined upon the basis of the proportion which the fair value of each Home bears to the total fair value of the Property.

#### VI. COMMON EXPENSES, PROFITS & VOTING RIGHTS

Each Owner's share in the profits and common expenses as well as his proportionate representation for voting purposes in the association of Home owners shall be the same as his percentage of undivided interest in the Common Areas and Facilities expressed in Section V.

#### VII. USE OF HOMES

Homes shall be occupied and used only as a private dwelling for the owner, his family, social guests and lessees, (for leases of not less than 60 days) and for no other purposes.

#### VIII. ENCROACHMENTS

If any portion of the Common Areas and Facilities encroaches upon any Home, or if any Home encroaches upon any other Home or upon any portion of the Common Areas and Facilities as a result of the construction of any building, or if any such encroachment shall occur hereafter as a result of settling or shifting of any building, a valid easement for the encroachment and for the maintenance of the same so long as such building stands, shall exist.

In the event any building, Home, any adjoining Home, or any adjoining Common Areas and Facilities shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, and then rebuilt, encroachments on parts of the Common Areas and Facilities upon any Home or upon any portion of the Common Areas and Facilities, due to such rebuilding, shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as such building shall stand; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner if said encroachment occurred due to the willful conduct of said Owner.

#### IX. MANAGEMENT COMMITTEE

A Management Committee shall be established, charged with and have the responsibility and the authority to make and to enforce all of the reasonable rules and regulations covering the operation and maintenance of the Property for the benefit of the Owners.

Until a date one year from the date all Homes have been sold, the rights, duties and functions of the Management Committee shall, at Declarant's option, be exercised by Declarant, or by the Management Committee established in connection with "Marquis Apartments" at the discretion of Declarant, it being intended that Marquis Apartments and Marquis Apartments No. 2 shall be subject to and governed by identical standards and regulations.

X. PERSON TO RECEIVE SERVICE

Mark S. Nielson, 2536 Venus Circle, Salt Lake City, Utah is hereby designated to receive notice of process in any action which may be brought relating to the Common Areas and Facilities or more than one Home.

XI. AMENDMENT

Except as otherwise provided herein or in the Act, the provisions of this Declaration may be amended by the vote of at least 66-2/3% of the total vote hereunder of all Owners cast in person or by proxy at a meeting duly held in accordance with the provisions of the By-laws, or, this Declaration may be amended by an instrument in writing signed and acknowledged by record Owners holding 75% of the total vote hereunder. No such amendment shall be effective until recorded in the office of the Recorder of Salt Lake County, State of Utah.

XII. SEVERABILITY

The provisions hereof shall be independent and severable, and the invalidity or partial invalidity or unenforceability of one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

XIII. EFFECTIVE DATE

This declaration shall take effect upon recording thereof in the office of the Salt Lake County Recorder.

XVI. BY-LAWS

The By-laws recorded with this declaration shall be considered embodied in and part of the Declaration as follows:

BY-LAWS

1. IDENTITY

1.1 These are the by-laws of the association of Home Owners (hereinafter referred to as the Association) of "Marquis Apartments". The by-laws are part of the Declaration.

2. APPLICATION

2.1 All persons who use the facilities of the Property in any manner are subject to this Declaration and to these by-laws.

3. GOVERNING FUNCTION BY MANAGEMENT COMMITTEE

3.1 The affairs of the Association shall be governed by a Management Committee, the nature, powers and responsibilities of which are hereinafter defined.

3.2 The Declarant shall exercise the functions of the Management Committee until a Management Committee has been duly established as herein set forth.

4. MEETING OF THE ASSOCIATION

4.1 The first annual meeting of the Owners shall be held not less than 20 days after the Declarant gives notice thereof as hereafter set forth to all Home Owners. Declarant may give such notice at any time, but Declarant shall give such notice as soon as four (4) homes have been sold.

4.2 Annual Meetings of the Owners, after the first meeting, shall be held at Seven o'clock on the first Friday of June of Each year at such reasonable place or at such other reasonable time (not more than 60 days before or after such date) as may be designated by the Management Committee.

4.3 Special Meetings shall be held whenever called by notice of the Management Committee, and signed by a majority thereof; and the Management Committee shall call by notice a special meeting upon receipt of a written request from Owners having one-third of the total vote, which request shall specify the matters to be considered. No matters shall be considered at a special meeting except as stated in the notice.

4.4 Notices of all meetings may be served personally or by mail at least ten days but not more than 20 days prior to such meeting. Any notice of meeting permitted or required shall be in writing, stating the purpose thereof and the time and place, and shall be served on each Owner of record at his Home or at such address as the Owner shall have designated by notice in writing to the Management Committee or Manager. Mailing of a notice shall be considered service of notice.

4.5 A quorum at Association meetings shall consist of persons entitled to cast a majority of the total votes. In the event that a quorum is not present at any meeting, the Owners present, though less than a quorum may adjourn the meeting, to a later date and give notice thereof to all the Owners, and at that meeting, the presence of Owners holding in excess of 30% of the total votes shall constitute a quorum.

Except where a greater percentage is required by this Declaration, the acts approved by a majority vote of the voting power present at a meeting at which a quorum is present shall be the acts of the Owners.

4.6 Voting. Votes may be cast in person only. Where there is more than one record Owner of a Home, all record Owners of the same Home must attend the meeting and must act unanimously in order to cast the votes to which they are entitled. However, any record Owner may designate another joint Owner of the same Home as proxy or agent in a writing signed by such record Owner and filed with the Management Committee or Manager before the time appointed for each meeting. Declarant shall be entitled to vote with respect to any completed Home owned by Declarant.

In the event that notice of default is recorded by any mortgagee who holds a mortgage which is a first lien on a condominium against the Owner of the condominium covered by the mortgage, then and in that event and until the default is cured, the right of the Owner of such condominium to vote shall be deemed transferred to the mortgagee recording the notice of default. The seller under a Real Estate Contract may record the contract and may give notice of default; and thereafter and until the default is cured, the Owner's right to vote shall be deemed transferred to such seller. The Management Committee shall have the exclusive right to resolve any contest as to voting.

4.7 The order of business at each annual meeting of the Association shall include:

- (a) The presentation by the Management Committee of an accounting of the common expenses, itemizing receipts and disbursements for the preceding fiscal year, the allocation thereof to each Owner, and the estimated common said statement shall be delivered to the Owners not present at said meeting.
- (b) The election of Management Committee members for the forthcoming year as hereinafter provided.

The order of business at all annual association meetings as far as practicable shall be:

1. Calling of the roll.
2. Proof of notice of meeting or waiver of notice
3. Reading of minutes
4. Reports of Management Committee, etc.
5. Election of Management Committee members
6. Unfinished business
7. New business

4.8 The fiscal year shall be determined by the management committee and reported at the first annual meeting.

5. MANAGEMENT COMMITTEE

- 5.1 The first Management Committee shall be established after four Homes have been sold, and shall consist of five members.
- 5.2 Two of the members of the first Management Committee need not be Owners and shall be designated by the Declarant to serve, one for one year and the other to serve for two years. Each shall serve until his successor has been chosen or until his death, resignation or removal by Declarant. Any vacancy of these two members may be filled by Declarant. As their terms expire, Declarant may designate successor members for two-year terms. Provided, however, after one year from the date all Homes have been sold, Declarant shall no longer have power to designate or remove.
- 5.3 The two remaining members of the first Management Committee shall be selected at the first annual meeting of the Association as follows:
- (a) The Owners shall nominate up to six Owners to serve on the Management Committee.
  - (b) From the slate so nominated, Declarant shall designate two Owners, one to serve for two years and the other to serve for one year.
  - (c) Until one year from the date all Homes are sold, selection of members to fill the expiring terms shall proceed in like manner unless Declarant in writing waives its right to so designate.
- 5.4 Notice. Within ten days after the first annual meeting, Declarant shall designate the members of the first Management Committee pursuant to this section and shall serve written notice upon all Owners informing them of the names and addresses of all persons so designated together with their respective terms of office.
- 5.5 Election. The members of the Management Committee shall consist of five Owners elected for a two-year term at annual meetings of the Association as their terms expire, subject to the provisions for designation of the first Management Committee in paragraphs 5.1 and 5.4 hereof.
- 5.6 Voting for Management Committee shall be non-cumulative.
- 5.7 The term of each member's service shall be for a period of two years (subject to the provisions herein relating to the first Management Committee), and each member shall serve until his successor is elected, or until his death, resignation or removal; provided that if any member ceases to be an Owner his membership on the Management Committee shall terminate.



5.8 Vacancies, resignation and removal.

(a) Except as to vacancies provided by the removal of members by Owners (5.8) (c), and subject to the provisions for removal by Declarant (5.2), vacancies in the Management Committee occurring between annual meetings of the Association shall be filled by the remaining members.

(b) Any member may resign by giving written notice to the Manager or Management Committee.

(c) Any member may be removed by the Owner by concurrence of two-thirds of the voting power present at a special meeting of the Association called for that purpose. The vacancy so created shall be filled by the Association at the same meeting, however, the provisions of this sub-paragraph (5.8) (c) shall not be effective so long as Declarant has the right to designate and remove members.

5.9 A quorum of Management Committee meetings shall consist of three members. The acts approved by a majority of those present at a meeting at which a quorum is present shall be the acts of the Management Committee, except where approval of a greater number of members is required by this Declaration.

5.10 Meetings of the Management Committee may be called, held and conducted in accordance with such regulations as the Management Committee may adopt.

5.11 Compensation for members of the first Management Committee shall be reasonable and shall be determined by the Management Committee. After Declarant no longer has power to designate or remove, Management Committee members shall serve without compensation.

5.12 A chairman shall be elected by the Management Committee, which chairman shall preside over both its meetings and those of the Owners. In the absence of any appointment of a Manager as hereinafter provided, this chairman shall act as Manager to perform any function which is delegated by the Management Committee to the Manager.

6. MANAGER

6.1 The Management Committee may delegate any of its duties, power or functions, including, but not limited to, the authority to give the subordination agreements provided for in section 18 hereof, to any person or firm to act as Manager of the project, provided that any such delegation shall be revocable upon written notice by the Management Committee.

6.2 In writing. The members of the Management Committee shall not be liable for any omission of improper exercise by the Manager of any such duty, power of function so delegated by written instrument executed by a majority of the Management Committee.

7. POWERS AND RESPONSIBILITIES OF THE MANAGEMENT COMMITTEE

The Management Committee shall have all powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things, except as by law or by this Declaration, may not be delegated to or performed by the Management Committee. Such powers and responsibilities shall include, but not be limited to the following subject to the provisions of this Declaration.

7.1 To make and collect assessments against the Owners and use the proceeds in the exercise of its powers and duties.

(a) Budget. Adopt an annual budget, determine the amount of common expenses payable by owners, and allocate and assess the charges against the Owners pursuant to the percentages, set forth in this Declaration. Declarant shall be liable for the amount of any assessment against occupied Homes owned by the Declarant.

If said budget proves inadequate for any reason, including non-payment of any Owner's assessment, the Management Committee may at any time levy a further assessment, which shall be assessed to the Owners in like proportions, unless otherwise provided herein.

Each Owner shall be obligated to pay assessments made pursuant to this paragraph to the Management Committee in equal monthly installments on or before the first day of each month during the fiscal year, or in such other reasonable manner as the Management Committee shall designate.

(b) Assessments against Owners pursuant to the annual budget shall be made for the fiscal year annually on or before May 15 preceding the year for which the assessments are made.

7.2 All maintenance, repair, replacement, structural alteration, reconstruction and the operation of the Common Areas and Facilities, whether located inside or outside of the Homes, (unless necessitated by the negligence, misuse or neglect of an Owner in which case such expense shall be charged to such Owner). The interior surfaces of each Home shall be maintained and repaired by and at the sole cost of the particular Owner.

7.3 Maintenance and repair of any Home, if such maintenance or repair is reason-

- ably necessary in the discretion of the Management Committee to protect the Property or preserve the appearance and value of the project, and the Owner of such home has failed or refused to perform the maintenance or repair within a reasonable time after written notice of the necessity of maintenance or repair has been delivered by the Management Committee to such Owner; provided that the Management Committee shall levy a special assessment against the Home of such Owner for the cost of such maintenance or repair.
- However, the Management Committee shall have no authority to acquire and pay for out of the common expense fund, any capital additions and improvements having a cost in excess of \$2,500 except as expressly provided herein.
- 7.4 The acquiring of all materials, supplies, personal property, labor, services insurance, bonds, taxes or assessments which the Management Committee is Declaration, provided that if any such are provided for particular Homes and not for the Common Areas and Facilities, the cost thereof shall be specially assessed to the Owners of such Homes.
- 7.5 To employ personnel, including a Manager.
- 7.6 To make reasonable rules and regulations respecting the use, operation and maintenance of the Property.
- 7.7 To enforce by legal means the Act, Declaration, and the reasonable rules and regulations covering the use, operation, and maintenance of the property.
- 7.8 To engage legal and accounting services which are determined as necessary.
- 7.9 To acquire, hold and sell for the benefit of the Owners, tangible and intangible personal property; the beneficial interest therein shall be owned by the Owners and the transfer of a home shall transfer to the transferee ownership of the transferor's beneficial interest in such property.
- 7.10 To purchase, hold, lease as lessee, mortgage and convey any Home for the benefit of the Owners, provided that no offer of purchase of a Home shall be made without prior approval of 75% of the total vote of all remaining Owners in the "Marquis Apartments" obtained in writing or at meeting of the Association.
- 7.11 To prescribe the assignment of parking areas or stalls and any reasonable regulations with respect to parking and traffic control.
- 7.12 To prescribe reasonable regulations with respect to household pets.

8. LIMITATION OF MANAGEMENT COMMITTEE'S LIABILITY; INDEMNIFICATION

8.1 Limitation. Management Committee shall not be liable for any failure of water supply or other service to be obtained and paid for by the Management Committee, hereunder; or for injury or damage to person or property caused by the elements or by another Owner or person on the Property; or resulting from electricity, water, rain, dust, sand or mud which may leak or flow from outside; or from any part of the building; or from any of its pipes, drains, conduits, appliances or equipment; or from any other place unless caused by gross negligence of the Management Committee.

No diminution or abatement of common expense assessments shall be claimed or allowed for inconveniences or discomfort arising from the making of repairs or improvements to the Common Areas and Facilities, or from any action taken to comply with any law, ordinance or orders of a governmental authority.

8.2 Indemnification. Each member of the Management Committee shall be indemnified by the Owners against all expenses and liabilities including attorney's fees reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved by reason of his being or having been a member of the Management Committee, or any settlement thereof whether or not he is a member of the Management Committee at the time such expenses are incurred, except in such cases wherein the member of the Management Committee is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification shall apply only when the Management Committee approves such settlement and reimbursement as being for the best interest of the Management Committee.

9. OWNER OBLIGATIONS AND DEFAULTS

Each owner shall be obligated for annual and special assessments levied by the Management Committee for the common expenses, payable in such reasonable manner as the Management Committee shall designate.

If an annual assessment is not made as required, an assessment shall be presumed to have been made in the amount of the last prior annual assessment.

9.1 Separate Defaults. Each monthly or other periodic installment of any 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 together

with any reasonable late charges which have been provided for by the Management Committee and reasonable attorney's fees.

9.2 Lien for Non-Payment. The amount of any assessment, whether regular or special, assessed to an Owner plus interest at 7%, and costs, including reasonable attorney's fees, shall become a lien upon such Home upon recordation of a notice of assessment as provided in Section 57-8-2 of the Act.

In case of foreclosure, the Owner shall be required to pay a reasonable rental for the Home 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.

#### 10. OWNER'S OBLIGATION TO REPAIR

10.1 Except for those portions which the Management Committee is required to maintain and repair hereunder (if any), each Owner shall at the Owner's expense keep the interior of his Home and its equipment and appurtenances in good order, condition and repair and in a clean and sanitary condition, and shall do all redecorating, painting, and varnishing which may at any time be necessary to maintain the good appearance and condition of his Home. The Owner shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heaters, furnaces, lighting fixtures, refrigerators, air conditioning equipment, dishwashers, disposals, or ranges that may be in or connected with the Home.

10.2 The Owner shall promptly discharge any lien which may hereafter be filed against his Home and shall otherwise abide by the provisions of Section 57-8-19 of the Act.

#### 11. PROHIBITION AGAINST STRUCTURAL CHANGES BY OWNER

11.1 The Owner shall not, without first obtaining written consent of the Management Committee, make or permit to be made any structural alteration, improvement or addition in or to his Home or the Common Areas and Facilities. The Owner shall not paint or decorate any portion of the exterior of the building or other Common Areas and

Facilities.

## 12. LIMITATION ON USE OF UNITS AND COMMON AREA

The property shall be occupied and used as follows:

12.1 No Owner shall occupy or use his Home, or permit the same or any part thereof to be occupied or used for any purpose other than as a private residence for the Owner and the Owner's family or the Owner's Lessee or guests.

12.2 Nothing shall be done or kept in any home or in the Common Areas and Facilities which will increase the rate of insurance of the Common Areas and Facilities without the prior written consent of the Management Committee. No Owner shall permit anything to be done or kept in his Home or any Common Areas and Facilities which will result in the cancellation of insurance on any Home or any part of the Common Areas and Facilities or which would be in violation of any law. No waste will be committed in the Common Areas and Facilities.

## 13. RIGHT OF ACCESS

13.1 The Management Committee and its agents shall have the right of access to any Home for the purpose of making inspections or performing maintenance or other work pertinent to lawful duties of the Management Committee or for the purpose of correcting another Home of the Common Areas or Facilities, provided that requests for entry are made in advance and that such entry is at a time reasonably convenient to the Owner.

13.2 In case of emergency, such right of entry shall be immediate, whether the Owner is present or not.

## 14. MAINTENANCE OF COMMUNITY INTEREST

In order to maintain a community of congenial residents and thus protect the value of the Homes, the transfer of any Home by any Owner other than the Declarant shall be subject to the following provisions:

14.1 Sale or Lease Right of First Refusal. In the event any Owner of a Home shall wish to resell or lease the same, and shall have received a bona-fide offer therefor from a prospective purchaser or tenant, written notice thereof together with an executed copy of such offer and the terms thereof together with such other information as the Management Committee may reasonably require, shall be given to the Management Committee. The Management Committee shall have the right to purchase or lease the subject Home or provide a purchaser or lessee upon the

same terms and conditions as set forth in the provided written notice of such election to purchase or lease is given to the selling or leasing Owner, and a matching down payment or deposit is provided to the selling or leasing Owner during the 30 day period immediately following the delivery of the notice of the bona fide offer and copy thereof to purchase or lease.

In the event any Owner shall attempt to sell or lease his Home without affording to the other Owners the right of first refusal herein provided such sale or lease shall be wholly null and void and shall confer no title or interest whatsoever upon the intended purchaser or lessee. The subleasing of said interest shall be subject to the same limitations as are applicable to the leasing thereof. The liability of under this Declaration shall continue, notwithstanding the fact that he may have leased said interest as provided herein.

The failure or refusal by the Management Committee to exercise the right to so purchase or lease shall not constitute or be deemed to be a waiver of such right to purchase or lease when an Owner receives any subsequent bona-fide offer from a prospective purchaser or tenant.

14.2 Gifts, inheritance and other transfers. An Owner who acquired title by gift, inheritance or in any other manner (excepting as provided in paragraph 14.1 hereof) shall give the Owners a notice thereof in writing delivered to the Manager or Management Committee, together with such information as the Management Committee may reasonably require. Within 30 days after receipt of notice and required information, or if no notice has been given then at any time after and required information, or if no notice has been given then at any time after receiving knowledge of a transfer, the remaining Owners through the Management Committee may deliver or mail by registered mail to the Owner an agreement to purchase by the Owners or by a purchaser named by the Management Committee to whom the Owner must sell upon the following terms:

- (1) The sale price shall be the fair market value determined by the average of two independent appraisals. The cost of appraisals to be paid by the purchaser.
- (2) The purchaser price shall be cash.
- (3) The sale shall be closed within 30 days following the determination of sale price.

14.3 Exceptions. The foregoing provisions of the section called "Maintenance of Community Interest" shall not apply to:

(a) Any transfer to or purchase by a bank, life insurance company or federally insured savings and loan association which acquired its title as the result of owning a mortgage made in good faith and for value upon the Home of owning a mortgage made in good faith and for value upon the Home concerned, and this shall be so whether the title is acquired by deed from the mortgagor or his successor in title or through foreclosure proceedings; but such provisions shall apply to a transfer, sale or lease, by a bank, life insurance company or federally insured savings and loan association which so acquires its title. Neither shall such provisions require the approval of a purchaser who acquires the title to a home at a duly advertised public sale with open bidding which is provided by law, such as, but not limited to, execution sale, foreclosure sale, judicial sale or tax sale. The grantee of a transfer, sale or lease by a bank, life insurance company or savings and loan association and the purchaser at public sale shall thereupon and thereafter be subject to all provisions of this section..

(b) The right of an Owner to subject his Home to a trust deed, mortgage, or other security instrument.

(c) Any sale or lease by Declarant.

14.4 Certificate of Satisfaction. Upon written request of any Owner, purchaser, tenant or an existing or prospective mortgagee of any Home, the Management Committee shall forthwith, or where time is specified, at the end of the time, issue a written and acknowledged certificate in recordable form, evidencing that:

(a) With respect to a proposed lease or sale pursuant to paragraph 14.1, that proper notice was given by the selling or leasing Owner and that the remaining Owners did not elect to exercise their option to purchase or lease.

(b) With respect to an Owner who acquired title pursuant to 14.2 that the remaining Owners did not elect to exercise their option to purchase.

(c) With respect to a deed to a bank, life insurance company or federally insured savings and loan association or its nominee, pursuant to paragraph 14.3 that the deeds were in fact given in lieu of foreclosure



and were not subject to the provisions of section 14.

Such a certificate shall be conclusive evidence of the facts contained therein.

15. INSURANCE AND BONDS.

The Management Committee shall obtain and maintain at all times insurance and bonds of the type and kind and in at least the amounts provided herein and including 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.

15.1 Replacement Coverage. A policy or policies of fire insurance with extended coverage endorsement, for the full insurable replacement value of the Homes and Common Areas and Facilities, or such other fire and casualty insurance as the Management Committee shall determine gives substantially equal or greater protection to the Owners, and their mortgagees, as their respective interests may appear, which said policy or policies shall provide for a separate loss payable endorsement in favor of the mortgagee or mortgagees of each Home, if any.

15.2 Liability. A policy or policies insuring the Management Committee, the Manager and the Owners against any liability to the public or to the Owners (of Homes and of the Common Areas and Facilities and their invitees, or tenants), incident to the ownership and/or use of the project, and including the personal liability exposure of the Owners. Limits of liability exposure of the Owners. Limits of liability under such insurance shall not be less than \$300,000.00 for any one person injured, for any one accident, and shall not be less than \$100,000.00 for property damage each occurrence (such limits and coverage to be reviewed at least annually by the Management Committee and increased in 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 insureds under the policy or policies shall not be prejudiced as respects his, her or their action against another named insured.

15.3 Workman's Compensation Insurance to the extent necessary to comply with applicable laws.

15.4 The foregoing insurance shall be governed by the following provisions:

(a) All policies shall be written with a company licensed to do business in the State of Utah and holding a rating of "AAA" or better by Best's Insurance Reports.

(b) Exclusive authority to adjust losses under policies hereafter in force in the property shall be invested in the Management Committee or its authorized representative.

(c) In no event shall the insurance coverage obtained and maintained by the Management Committee hereunder, be brought into competition with insurance purchased by individual owners of their mortgages.

(d) 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 of the Owners, may realize under any insurance policy which the Management Committee may have in force on the project at any particular time.

(e) Each Owner shall be required to notify the Management Committee of all improvements made by the Owner to his Home, the value of which is in excess of \$1,000.00.

(f) Any Owner who obtains individual insurance policies covering any portion of the Property other than Personal property belonging to such Owner, shall file a copy of such individual policy or policies of such insurance with the Management Committee within 30 days after purchase of such insurance.

15.5 The Management Committee shall be required to make every effort to secure insurance policies that will provide for the following:

(a) A waiver of subrogation by the insurer as to any claims against the Management Committee, the Manager, the Owners and their respective servants, agents, and guests.

(b) That the master policy on the project cannot be invalidated or suspended on account of the conduct of any officer or employee of the Management Committee or Manager without a prior demand in writing that the Management Committee or Manager cure the defect;

(c) That the Master policy on the project cannot be cancelled, invalidated or suspended on account of the conduct of any one or more individual Owners;

(d) That any "no other insurance" clause on the master policy exclude individual Owner's policy from consideration.

16. NO PARTITION

16.1 There shall be no judicial partition of the project or any part thereof, nor shall Declarant or any person acquiring any interest in the project or any part thereof seek any such judicial partition, until the happening of the conditions set forth in Section 57-8-22 therein provided, however, that if any Home shall be owned by two or more cotenants as tenants-in-common or as joint tenants, nothing herein contained shall be deemed to prevent a judicial partition as between such cotenants. But such partition shall not affect any other Home.

17. ALTERATIONS, ADDITIONS AND IMPROVEMENTS OF COMMON AREAS AND FACILITIES

17.1 There shall be no structural alterations, capital additions to, or capital improvements of the Common Areas and Facilities requiring an expenditure in excess of \$2,500.00 without the prior approval of Owners holding 75% of the total votes, whether approved by the Management Committee or not.

18. MORTGAGE PROTECTION

Notwithstanding all provisions hereof:

18.1 The liens created hereunder upon any Home 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 with first priority over other mortgages) upon such interest made in good faith and for value, provided that after the foreclosure of any such mortgage there may be a lien created pursuant to paragraph 9.2 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.

18.2 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.

18.3 By subordination agreement executed by a majority of the Management Committee, the benefits of paragraphs 18.1 and 18.2 above may be extended to mortgages not otherwise entitled thereto.

19. FAILURE OF MANAGEMENT COMMITTEE TO INSIST ON STRICT PERFORMANCE OF WAIVER

19.1 The failure of the Management Committee or Manager to insist, in any one or more instances, upon the strict performance of any of the terms, covenants, conditions, or restrictions of this Declaration, these By-laws or the rules and regulations, or to exercise any right or option herein contained, or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment for the future, of such terms, covenant, condition or restriction but such term, covenant, condition or restriction shall remain in full force and effect. The receipt by the Management Committee or Manager of any assessment from an Owner, with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by the Management Committee or Manager of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Management Committee or Manager.

20. ENFORCEMENT

20.1 In any action of enforcement pursuant to Section 57-8-8 of the Act, the plaintiff shall be entitled to recover reasonable attorney's fees.

21. AUDIT

21.1 Any Owner at any time at his own expense may cause an audit to be made of the books and records of the Manager or Management Committee. The Management Committee, at the expense of the common expenses, shall obtain an audit of all books and records pertaining to the project at no greater than annual intervals and furnish copies thereof to the Owners.


22. INTERPRETATION

22.1 Liberal construction. The provisions of this 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 hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed by its duly authorized officers and its corporate seal to be affixed hereto this 26 day of MARCH, 1973.

GUSTAVESONS' SOUTHEAST ENTERPRISES, INC.

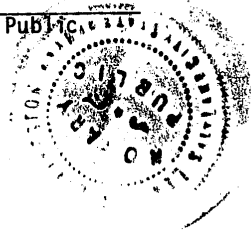
By:

  
Keith I. Gustavson, President

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

On the 26th day of MARCH 1973, A.D. personally appeared before me KEITH I. GUSTAVESON who being by me duly sworn did say for himself that he is the president of GUSTAVESONS' SOUTHEAST ENTERPRISES, INC., 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 KEITH I. GUSTAVESON duly acknowledged to me that said corporation executed the same and that the seal affixed is the seal of said corporation.

*Lewis S. Livingston*  
\_\_\_\_\_  
Lewis S. Livingston, Notary Public



My commission expires: December 10, 1973

Residing at: Salt Lake City, Utah

*Boyd N. Nielson*  
\_\_\_\_\_  
Boyd N. Nielson

*Mark S. Nielson*  
\_\_\_\_\_  
Mark S. Nielson

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

On the 26th day of March, 1973, A.D. personally appeared before me BOYD N. NIELSON and Mark S. Nielson, the signers of the within indstrument, who duly acknowledged to me that they executed the same.

*Lewis S. Livingston*  
\_\_\_\_\_  
Lewis S. Livingston, Notary Public



My commission expires: December 10, 1973

Residing at: Salt Lake City, Utah.

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