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By CORA J. HULET, IRON COUNTY RECORDER
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DECLARATION OF CONDOMINIUM

FOR

SHINGLE BROOK CONDOMINIUMS,

AN EXPANDABLE CONDOMINIUM PROJECT

This Declaration of Condominium (the "Declaration") is made and executed this 26 day of February, 1985, by Shingle Brook, Inc., a Utah corporation (the "Declarant").

RECITALS

A. Description of Land. The Declarant is the owner of certain real property (the "Subject Land") located in Iron County, State of Utah, described in Exhibit "D" attached hereto and incorporated herein by this reference.

B. Description of Additional Land. The Project contains certain areas of Additional Land, described in Exhibit "C" attached hereto and incorporated herein by this reference.

C. Buildings and Improvements. The Declarant has constructed or will construct certain buildings and other improvements upon the Subject Land, as shown on the Map referred to below.

D. Record of Survey Map. The Declarant intends to execute and record in the office of the County Recorder for Iron County, State of Utah, a certain instrument pertaining to the Project and entitled "Record of Survey Map for Shingle Brook Condominiums" (hereinafter "Record of Survey Map").

E. Intent and Purpose. By recording this Declaration and the Record of Survey Map, the Declarant intends to submit the Subject Land, the buildings and all other improvements situated upon the Subject Land to the provisions of the Condominium Act as a Condominium Project known as Shingle Brook Condominiums, an Expandable Condominium Project, and to impose upon such property mutually beneficial restrictions under a general plan of improvements for the benefit of all Condominiums within the Project and the Owners thereof.

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DECLARATION

Declarant hereby makes the following Declaration containing covenants, conditions and restrictions relating to this Condominium Project which, pursuant to the provisions of the Utah Condominium Ownership Act, shall be enforceable equitable servitudes:

1. DEFINITIONS

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

1(a) "Association" shall mean the Shingle Brook Condominiums Owners Association, a Utah nonprofit corporation, organized to be the Association referred to herein.

1(b) "Board of Trustees" shall mean the governing board of the Association, appointed or elected in accordance with this Declaration and the Articles of Incorporation and Bylaws of the Association.

1(c) "Building" shall mean one of those certain buildings that have been or will be constructed on the Subject Land, including all buildings which may be constructed on Additional Land as such buildings are shown on the Record of Survey Map, as amended from time to time.

1(d) "Common Areas" shall mean all physical portions of the Project, except all Units.

1(e) "Common Expense Fund" shall mean the fund created or to be created pursuant to the provisions of Section 9 of this Declaration and into which all funds of the Association shall be deposited.

1(f) "Common Facilities" shall mean all furniture, furnishings, equipment, facilities, and other personal property owned by the Association for the use and benefit of all Owners and all furniture, furnishings, equipment, facilities and other personal property hereafter purchased in accordance with this Declaration with monies from the Common Expense Fund. Except as otherwise expressly provided in this Declaration, Common Facilities shall be deemed to be part of the Common Areas.

1(g) "Condominium" shall mean a Unit and the undivided interest (expressed as a percentage of the entire

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ownership interest) in the Common Areas appurtenant to such Unit, as set forth in Exhibit "A" attached hereto and incorporated herein by this reference.

1(h) "Condominium Act" shall mean the Utah Condominium Ownership Act and amendments thereto, Utah Code Annotated Section 57-8-1 et seq.

1(i) "Additional Land" shall mean the designated lands which may be added to the Project and upon which additional Buildings, Common Areas, Limited Common Areas and/or other improvements may be constructed and/or created, referred to in Paragraph B of the Recitals above.

1(j) "Declarant" shall mean Shingle Brook, Inc., a Utah corporation.

1(k) "Limited Common Areas or Facilities" shall mean any Common Areas or Common Facilities designated for exclusive use by the Owner of a particular Unit. Structural separations between Units or the space which would be occupied by such structural separations may become Limited Common Areas for the exclusive use of the Owner or Owners of the Units on either side thereof as provided in Section 4(c) hereof. Any balconies, porches, parking stalls or storage facilities that are identified on the Map with the same number or other designation by which a Unit is identified or which are otherwise designated on the Map and/or in Exhibit "A" attached hereto as reserved for use of the Owner of a certain Unit, shall be Limited Common Areas for the exclusive use of the Owner of the Unit bearing the same number or designation and/or as specified on the Map and/or in Exhibit "A" attached hereto. In addition, all chimney flues designated limited common areas on the Record of Survey Map shall be appurtenant to the units to which they are adjacent, whether or not so designated on the Record of Survey Map.

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

1(m) "Map" shall mean the Record of Survey Map for Shingle Brook Condominiums pertaining to the Project and recorded or to be recorded in the office of the County Recorder for Iron County, State of Utah.

1(n) "Member" shall mean a member of the Association.

1(o) "Mortgage" shall mean any mortgage, deed of trust, or other security instrument by which a Condominium or any part thereof is encumbered.

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1(p) "Mortgagee" shall mean (i) any person named as the mortgagee or beneficiary under any Mortgage by which the interest of any Owner is encumbered or (ii) any successor to the interest of such person under such Mortgage.

1(q) "Owner" shall mean any person or entity or combination thereof, including the Declarant, at any time owning a Condominium within the Project, as shown on the records of Iron County, State of Utah. The term "Owner" shall not refer to any Mortgagee unless such Mortgagee has acquired title for other than security purposes, or to any person or entity purchasing a Condominium under contract until such contract is fully performed and legal title conveyed.

1(r) "Project" shall mean the Subject Land, the Buildings and all improvements submitted by this Declaration and the Record of Survey Map to the provisions of the Condominium Act.

1(s) "Residential Unit" shall mean all Units in the Project.

1(t) "Subject Land" shall mean the land upon which the Project is situated, referred to in Paragraph A of the Recitals above.

1(u) "Total Votes of the Association" shall mean the total number of votes appertaining to the Condominiums in the Project, as shown in Exhibit "A" attached hereto.

1(v) "Unit" shall mean an individual air space unit, consisting of enclosed rooms occupying part of one of the Buildings and bounded by the interior surfaces of the walls, floors, ceilings, windows, doors, and built-in fireplaces, if any, along the perimeter boundaries of the air space, as such boundaries are shown on the Record of Survey Map, together with all fixtures and improvements therein contained. Paint and other wall, ceiling, or floor coverings on interior surfaces shall be deemed to be a portion of the Unit. Notwithstanding the fact that they may be within the boundaries of such air space, the following are not part of a Unit insofar as they are necessary for the support or use and enjoyment of another Unit: Bearing walls, floors, ceilings and roofs (except the interior surfaces thereof), foundations, ceiling equipment, tanks, pumps, pipes, vents, ducts, shafts, flues, chutes, conduits, wires, and other utility installations, except the outlets thereof when located within the unit. The interior surface of a window or door is the point at which such surface is located when the window or door is fully closed.

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2. SUBMISSION AND DIVISION OF PROJECT

2(a) Submission to Condominium. The Declarant hereby submits the Subject Land, the Buildings, and all other improvements now or hereafter made in or upon the Subject Land to the provisions of the Condominium Act and the Condominium Act shall apply thereto. All of said property is and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, and improved as a condominium project to be known as Shingle Brook Condominiums. All of said property is and shall be subject to the covenants, conditions, restrictions, uses, limitations and obligations set forth herein, each and all of which are declared and agreed to be for the benefit of the Project and in furtherance of a plan for improvement of such property and division thereof into condominiums; further, each and all of the provisions hereof shall be deemed to run with the land and shall be a burden on and a benefit to the Declarant, its successors and assigns, and any person acquiring, leasing, or owning an interest in the real property and improvements comprising the Project, their assigns, lessees, heirs, executors, administrators, devisees, and successors.

2(b) Division into Condominiums. The Project is hereby divided into Condominiums, each such Condominium consisting of a Unit and an appurtenant undivided interest in the Common Areas, as set forth in Exhibit "A" attached hereto, together with any Limited Common Areas designated herein or in the Record of Survey Map.

3. IMPROVEMENTS

3(a) Description of Improvements. The improvements included in the Project are now or will be located upon the Subject Land. The Record of Survey Map shows the number of stories, and the number of Units which are to be contained in the Building which comprises a part of such improvements. The Building has been or shall be principally constructed of reinforced concrete foundations, a wood frame, wood or concrete floors, wood and stucco exterior, a sheetrock interior, glass and an asphalt shingle roof.

3(b) Description and Legal Status of Units. The Record of Survey Map shows the Unit Number of each Unit, its location, dimensions from which its size may be determined, and those Limited Common Areas or Facilities which are reserved for use of its Owner. All Condominiums shall be capable of being independently owned, encumbered and conveyed.

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3(c) Contents of Exhibit "A". Exhibit "A" to this Declaration furnishes the following information with respect to each Condominium: (a) The Unit number; (b) the Unit square footage; (c) the Unit's appurtenant percentage of undivided ownership interest in the Common Areas and Common Facilities; and (d) the number of votes of the Owner of the Condominium as a member of the Association.

4. NATURE AND INCIDENTS OF CONDOMINIUM OWNERSHIP

4(a) Interior of Units. Each Owner shall have the exclusive right to paint, repaint, tile, wax, paper, carpet, or otherwise decorate the interior surfaces of the walls, ceilings, floors, and doors forming the boundaries of his Unit and the surfaces of all walls, ceilings, floors, and doors within such boundaries.

4(b) Maintenance of Units, Limited Common Areas, and Limited Common Facilities. Each Owner shall, at his sole cost, keep the interior of his Unit in a clean and sanitary condition and in a state of good repair. For the purposes of this Section 4(b) only, the term "Unit" shall include without limitation, interior walls, windows, ceilings, floors, and permanent fixtures and appurtenances thereto, and the Limited Common Areas and Limited Common Facilities, the use of which is limited to use by such Owner, including but not limited to patios and/or decks. In the event that any Unit (or such Limited Common Area or Limited Common Facility) should develop an unsanitary or unclean condition or fall into a state of disrepair, and in the event that the Owner of such Unit (or the Unit to which the exclusive right to use the Limited Common Area or Limited Common Facility appertains) should fail to correct such condition or state of disrepair promptly following written notice from the Association, the Association shall have the right, at the expense of the Owner and without liability to the Owner for trespass or otherwise, to enter such Unit, Limited Common Area, or Limited Common Facility and correct or eliminate such unsanitary or unclean condition or state of disrepair.

4(c) Combination of Units. Two or more units may be combined and used by the Owner or Owners thereof as if they were one Unit only with the prior written consent of the Association. To the extent expressly permitted in such written consent, any walls, floors or other structural separations between such units (or any opening in such structural separations which would be closed but for such combined use of the Units) may be used by the Owner or Owners of such Units as Limited Common Areas pertaining

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to such combined Units for as long as the Units are so combined, except to the extent that any such structural separations are necessary or contain facilities necessary for the support, use or enjoyment of other parts of the Project. Upon the request of the Owner or Owners of one or more of such Units that such combined use cease, any opening between the two Units which would have been occupied by such structural separations but for the combined use of such Units shall be closed at the expense of the Owner or Owners of the Units, and the structural separations between the Units shall revert to Common Areas.

4(d) Title. Title to a Condominium within the Project may be held or owned by any person or entity or any combination thereof and in any manner in which title to any other real property may be held or owned in the State of Utah.

4(e) Ownership of Common Areas and Common Facilities. The undivided interest in the Common Areas and Common Facilities appurtenant to each Unit in the Project shall be as set forth in Exhibit "A" attached hereto. Except as provided in Section 14 in relation to the Additional Land in the Project, percentages appurtenant to each Unit as shown in Exhibit "A" shall have a permanent character and shall not be altered without the unanimous written consent of all Owners expressed in a duly recorded amendment to this Declaration. The percentage of undivided ownership interest in the Common Areas and Facilities which, at any point in time is appurtenant to a Unit, shall be equal to the ratio between the size of such Unit and the aggregate size of all Units then included in the Project. The percentage interests set forth in Exhibit A have been so calculated. From time to time in the future, as set forth in Section 14, the interests may be recomputed and redetermined, but always according to the formula set forth herein. Except as otherwise provided in this Declaration, any Owner shall be entitled to the nonexclusive use of the Common Areas and Common Facilities (other than Limited Common Areas and Facilities) in any manner that does not hinder or encroach upon the rights of other Owners and is not contrary to law or to any rules or regulations promulgated by the Association. Except as otherwise provided in this Declaration, any Owner shall have the exclusive right to use and enjoy any Limited Common Areas and Facilities appertaining to such Owner's Condominium.

4(f) Inseparability. Title to no part of a Condominium within the Project may be separated from any other part thereof, and the undivided interest in the Common Areas and Common Facilities shall not be separated from the Unit to which it appertains and both shall always be conveyed, devised, encumbered, and otherwise affected only as a complete Condominium. Every devise, encumbrance, conveyance, or other disposition of a

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Condominium, or any part thereof, shall be construed to be a devise, encumbrance, conveyance, or other disposition, respectively, of the entire Condominium, together with all appurtenant rights created by law or by this Declaration, including appurtenant membership in the Association as hereinafter set forth.

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

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

4(i) Separate Taxation. Each Condominium within the Project shall be deemed to be a parcel and shall be assessed separately for all taxes, assessments and other charges of the State of Utah, any political subdivision thereof, any special improvement district or any other taxing or assessing authority. For purposes of such assessment, the valuation of the Common Areas and/or Common Facilities shall be apportioned among the Units in proportion to the undivided interests in the Common Areas and Common Facilities appurtenant to such Units. All such taxes, assessments and other charges on each respective Condominium shall be separately levied against the Owner thereof. No forfeiture or sale of any Condominium for delinquent taxes, assessments or other governmental charges shall divest or in any way affect the title to any other Condominium.

4(j) Mechanic's Liens. No labor performed or material furnished for use in connection with any Unit, Limited Common Area or Limited Common Facility with the consent or at the request of an Owner or his agent or subcontractor shall create any right to file a statement, claim or notice of mechanic's lien against the Condominium of any other Owner not expressly consenting to or requesting the same or against any interest in the Common Areas or Common Facilities, except the undivided interest therein appurtenant to the Unit of the Owner for whom such labor was performed or such materials were furnished.

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4 (k) Description of Condominium. Every contract for the sale of a Condominium and every other instrument affecting title to a Condominium within the Project may describe a Unit by its identifying number or symbol as indicated in this Declaration or as shown on the Record of Survey Map. Such description shall be construed to describe the Unit, together with the appurtenant undivided interest in the Common Areas and Common Facilities, and to incorporate all the rights incident to ownership of a Condominium within the Project and all of the limitations on such ownership.

5. EASEMENTS

5 (a) Easements for Encroachments. If any part of the Common Areas encroaches or shall hereafter encroach upon any Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas, or upon an adjoining Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of the Common Areas or any part of a Unit shall hereafter encroach on real property now owned by the Declarant outside the boundaries of the Subject Land, an easement for such encroachment shall and does exist. Such encroachments shall not be considered to be encumbrances either on the Common Areas or the Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of one or more of the Buildings or any improvements constructed or to be constructed within the Project, by error in the Map, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

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

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possible, and any damage thereby shall be repaired by the Association with funds from the Common Expense fund.

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

5(d) Association's Right to Use Common Areas and Common Facilities. The Association shall have an easement to make such use of the Common Areas and Common Facilities as may be necessary or convenient to perform the duties and functions that it is obligated or permitted to perform pursuant to this Declaration, including, without limitation, the right to construct and maintain in the Common Areas (other than Limited Common Areas) facilities for use by Owners generally or by the Association and its agents exclusively.

5(e) Easement for Completion of Project and Construction of Additional Buildings. The Declarant shall have a transferable easement over and on the Common Areas for the purpose of completing construction of the Project and improvements therein (including the construction of additional Buildings and/or Limited Common Areas and Facilities on the Additional Land) and for the purpose of doing all things reasonable, necessary or appropriate in connection therewith. To the extent that damage is inflicted on any part of the Project by any person utilizing said easement, the Declarant and the person causing the damage shall be liable for the prompt repair thereof.

5(f) Easements Deemed Created. All conveyances of Condominiums within the Project hereafter made, whether by the Declarant or otherwise, shall be construed to grant and reserve such reciprocal easements as are provided herein, even though no specific reference to such easements appears in any such conveyance.

5(g) Parking Spaces. The parking spaces, as indicated on the Record of Survey Map, are common areas and are not reserved for use by any particular unit owner. The Association may, however, make such regulations or rules in relation to the use of parking spaces as may be necessary to insure orderly and adequate parking for each unit owner.

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6. RESTRICTIONS ON USE

6(a) Residential Units. Each Unit contained in the Project is intended to be used for single family residential housing and is restricted to such use, and no such Unit shall be used for business or commercial activity; provided, however, that nothing herein shall be deemed to prevent (a) the Declarant or its duly authorized agent from using any such Units owned by the Declarant as sales models, or property management offices, or (b) any Owner or his duly authorized agent from freely renting or leasing his Residential Unit from time to time.

6(b) Time Sharing Prohibited. The Declarant desires to preserve the original conception of the Project as an outstanding recreational living area, to facilitate the efficient and inexpensive maintenance and repair of all parts of the Project, and to maintain property values to the benefit of all Owners of Condominiums in the Project. For such and other reasons, time-sharing of Condominiums within the Project is prohibited, and under no circumstances shall any Condominium be owned or used on a time period basis. The Association, by action of the Board of Trustees, shall have the power to adopt, enforce and revise reasonable rules and regulations to prevent such time-sharing of Condominiums.

6(c) No Noxious or Offensive Activity. No noxious or offensive activity shall be allowed to occur in or upon any part of the Project, nor shall anything be done or placed in or upon any part of the Project which is or may become a nuisance or may cause embarrassment, disturbance, or annoyance to Owners. No activities shall be conducted, nor improvements constructed, in or upon any part of the Project which are or may become unsafe or hazardous to any person or property.

6(d) Restriction on Signs. Except as may be temporarily necessary to caution or warn of danger, no signs, flags, or advertising devices of any nature, including without limitation, commercial, political, information, or directional signs or devices, shall be erected or maintained on any part of the Project, without the prior inspection and written approval of the Association. If the Association consents to the erection of any such signs or devices, the same shall be promptly removed at the request of the Association. Notwithstanding the restriction contained herein, Declarant shall be entitled to maintain such signs as are appropriate to market units owned by it, including Units or other improvements constructed on Additional Lands.

6(e) No Structural Alterations. No Owner shall, without the prior written consent of the Association, make or

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permit to be made any structural alteration, improvement, or addition in or to his Unit or to the Common Areas. No Owner shall, without the prior written consent of the Association, do any act that would impair the structural soundness, integrity, or safety of any part of the Project or impair any easement or hereditament appurtenant thereto.

6(f) No Obstructions. There shall be no obstruction of the Common Areas by any Owner. Owners shall neither store nor leave any of their property on the Common Areas (except the Limited Common Areas pertaining to such Owner's Condominium) without the prior written consent of the Association.

6(g) Prohibition of Damage and Certain Activities. Except with the prior written consent of the Association, nothing shall be done or kept in any Unit, in the Common Areas, or in any other part of the Project which may result in cancellation of any insurance on the Project or any part thereof, nor shall anything be done or kept in any Unit which may increase the rate of insurance on the Project or any part thereof over that which the Association, but for such activity, would have to pay. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would be in violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental authority. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or any guest of any Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by such Owner, his guests, lessees, licensees, or invitees.

6(h) Rules and Regulations. The Owners shall comply with all of the rules and regulations governing use of the Units, Common Areas and/or Common Facilities as such rules and regulations may from time to time be adopted or revised by the Association, in the sole discretion of its Board of Trustees.

6(i) Construction Period Exemption. During the course of actual construction of any structures or improvements which are permitted to be located on the Subject Property, the provisions, covenants, conditions, and restrictions contained in this Declaration shall be deemed waived to the extent necessary or convenient to permit such construction; provided, however, that during the course of such construction, nothing shall be done which would result in a violation of any of said provisions, covenants, conditions, or restrictions following completion of such construction.

6(j) The Declarant, and his duly authorized agents,

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representatives and employees, may maintain sales offices or model units on the land within the Project, including common areas. Declarant may maintain not more than two such offices, which shall be not more than 1,000 square feet each, and which shall be located and relocated by Declarant, keeping in mind the rights of the owners of the existing units. Declarant reserves the right to remove any sales office from the Project, and shall do so immediately following the date when Declarant ceases to be an owner of a unit in the Project or when all additional land is added to the Project, whichever last occurs.

7. THE ASSOCIATION

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

7(b) Board of Trustees. Until such time as the responsibility for electing the Trustees of the Association is turned over to the Owners in accordance with Utah law, the Declarant shall have the exclusive right to appoint all such Trustees. Said responsibility will be turned over to the Owners automatically upon the first to occur of the following:

1. The expiration of six years from the date of recording of this Declaration.

2. When Units to which three-fourths of the undivided interest in the common areas and facilities appertain have been conveyed, or after all additional land has been added to the Project, whichever last occurs.

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7(c) Votes. Except as provided in Section 14 in relation to the Additional Land in the Project, the number of votes appurtenant to each Condominium shall be as shown in Exhibit "A" attached hereto, and shall have a permanent character and shall not be altered without the unanimous written consent of all Owners expressed in a duly recorded amendment to this Declaration; except, that the number of votes may be altered and reallocated in the same method as the reallocation of percentage interests in the common areas and facilities as Additional Land is added to the Project, in accordance with Section 14, below.

7(d) Bylaws. The initial Bylaws of the Association shall be in the form attached hereto as Exhibit "B" and incorporated herein by this reference.

7(e) Amplification. The provisions of this Section 7 may be amplified by the Articles of Incorporation and Bylaws of the Association; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth in this Declaration.

7(f) Association as Manager. All duties, responsibilities, powers, and authority imposed upon or granted to the "management committee" or the "manager" by the Condominium Act shall be duties, responsibilities, powers, and authority of the Association.

8. CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

8(a) The Common Areas. The Association, subject to the rights and duties of the Owners as set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon (including the Common Facilities), and shall keep the same in a good, clean, attractive, safe, and sanitary condition, order, and repair; provided, however, that each Owner shall keep the Limited Common Areas designated for use in connection with his Unit, if any, in a good, clean, safe, sanitary, and attractive condition. Except as otherwise provided herein with respect to Limited Common Areas and Facilities, the Association shall be responsible for the maintenance and repair of the exterior of the Buildings and the grounds, including without limitation, the painting thereof, repair and replacement of exterior trim and roofs, and maintenance of landscape, walkways and driveways. The Association shall also be responsible for maintenance, repair, and replacement of all Common Facilities (except Limited Common Facilities), improvements, or other material located

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within or used in connection with the Common Areas. The specification of duties of the Association with respect to particular Common Areas shall not be construed to limit its duties with respect to other Common Areas, as set forth in the first sentence of this Section. All goods and services procured by the Association in performing its responsibilities under this Section shall be paid for from the Common Expense Fund.

8(b) Manager. The Association may delegate to a professional Manager such of the Association's duties, responsibilities, functions, and powers hereunder as are properly delegable. Such delegation shall be valid, however, only if made by written contract. The services of any Manager retained by the Association shall be paid for from the Common Expense Fund. Provided, however, that any agreement for professional management of the Project, or any other contract providing for services of the developer, sponsor or builder, may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice.

8(c) Miscellaneous Goods and Services. The Association may obtain and pay for the services of such personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project, the enforcement of this Declaration, or any other matter. In addition to the foregoing, the Association may acquire and pay for water, sewer, garbage collection, electrical, gas and other necessary or desirable utility services for the Common Areas (and for the Units to the extent such are not separately metered or billed), insurance, bonds, and other goods and services common to the Units, with such payments to be made from the Common Expense Fund.

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

8(e) Rules and Regulations. The Association, by action of its Board of Trustees, may make reasonable rules and regulations governing the use of the Units and of the Common

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Areas and Common Facilities, which rules and regulations shall be consistent with the rights and duties established in this Declaration. The Association may take legal action against any Owner to enforce compliance with such rules and regulations or other obligations of Owners arising hereunder, or to obtain damages for noncompliance therewith, as permitted by law. In the event of such legal action, the Association shall be entitled to recover its costs, including reasonable attorney's fees, from the offending Owner.

8(f) Granting of Easements. The Association may, without the vote or consent of the Owners or of any other person, grant or create, on such terms as it deems advisable, utility, construction and similar easements over, under, across and through the Common Areas.

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

9. ASSESSMENTS

9(a) Agreement to Pay Assessments. The Declarant, for each Condominium owned by it within the Project, and for and as the owner of the Project and every part thereof, hereby covenants, and each Owner of any Condominium by the acceptance of instruments of conveyance and transfer thereof, whether or not it be so expressed in said instruments, shall be deemed to covenant and agree with each other and with the Association, to pay to the Association all assessments made by the Association for the purposes provided in this Declaration. Such assessments shall be fixed, established, and collected from time to time as provided in this Section 9.

9(b) Regular Assessments. Regular Assessments shall be computed and assessed against all Condominiums in the Project as follows:

(1) Start-Up Budget and Payment of Assessments
Thereunder.

(A) Start-Up Budget. Prior to the first sale of a Condominium in the Project by the Declarant, the Declarant shall prepare (or cause to be prepared) an estimated operating budget setting forth the estimated receipts and

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disbursements for the period of time from the approximate date of such first sale until one year thereafter (the "Start-Up Period"). A copy of such estimated operating budget shall be provided to each new Owner to whom a Condominium in the Project is sold by the Declarant at any time during the Start-Up Period and such estimated operating budget shall serve as the basis for the monthly assessments for such period and as a major guideline under which the Association shall operate during such period.

(B) Assessments for Start-Up Budget. Each Owner who becomes such during the Start-Up Period shall pay to the Association his share of the Association's operating expenses apportioned to the Condominium purchased by such Owner. The monthly assessment, to be paid on or before the first day of each calendar month, shall be an amount determined by dividing the total assessment apportioned to such Condominium by the number of whole calendar months within the Start-Up Period which follow the date of such Owner's purchase of such Condominium. In addition, an initial assessment shall be paid by the Owner to the Association within five (5) days of such Owner's purchase of a Condominium for the partial calendar month (if any) following the date of such purchase, the amount of which shall be determined by multiplying the monthly assessment (determined as provided above) by the number of days remaining in the calendar month in which he becomes an Owner and dividing the product by the total number of days in such month.

(C) Interest. Each monthly assessment under the Start-Up Budget shall bear interest at the rate of eighteen percent (18%) per annum from the date it becomes due and payable if not paid by such date. Failure of the Association to give notice of any assessment as provided herein shall not affect the liability of the Owner of any Condominium for such assessment.

(2) Annual Budgets and Payment of Annual Assessments.

(A) Annual Budget. On or before August 15, 1985, and on or before July 1 of each year thereafter, the Association shall prepare, or cause to be prepared, an operating budget setting forth an itemized statement of the anticipated receipts and disbursements for the coming fiscal year and taking into account the general condition of the Project. Each such budget, together with a written statement from the Association outlining a plan of operation for the year in question and justifying in every important particular the estimates made, shall be submitted to the Members in final draft on or before August 20, 1985, and August 1 of each year thereafter. Such

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budget, with any changes therein, shall be adopted by the Members at the annual meeting of the Members. Such operating budget shall serve as the basis for the schedule of proposed monthly assessments for the annual period for which it is prepared, and shall constitute a major guideline under which the Association shall operate during such annual period.

(B) Basis of Annual Budget. The annual budget shall be based upon the Association's advance estimates of the Association's cash requirements to provide for payment of estimated expenses, arising out of or connected with maintenance and operation of the Common Areas and provision to the Units of utility services (to the extent not separately metered or billed) and other common items. Such actual expenses and estimated expenses may include, among other things, the following: expenses of management; taxes and special assessments, unless and until Condominiums are separately assessed; premiums for all insurance that the Association is required or permitted to maintain; repairs and maintenance; wages for Association employees, including fees for a Manager, if any; utility charges (including charges for utility services to the Units to the extent not separately metered or billed); legal and accounting fees; any deficit remaining from a previous period; creation of a reasonable contingency reserve, surplus, and/or sinking fund; and any other expenses and liabilities which may be incurred by the Association for the benefit of all of the Owners or by reason of this Declaration.

(C) Annual Assessments. Prior to the first day of each month during the year covered by the budget, each Owner shall pay to the Association, as his share of the Association's expenses, one-twelfth (1/12) of the amount so apportioned to him. The dates and manner of payment shall be determined by the Association. The foregoing method of assessing the Common Expenses to the Owners may be altered by the Association so long as the method it adopts is consistent with good accounting practice and requires that the portion of Common Expenses borne by each Owner during a twelve-month period be determined on the basis of his undivided ownership interest. Each monthly installment of the annual assessment shall bear interest at the rate of eighteen percent (18%) per annum from the date it becomes due and payable if not paid by such date. Failure of the Association to give notice of any assessment as provided herein shall not affect the liability of the Owner of any Condominium for such assessment.

(3) Inadequate Funds. In the event that the Common Expense Fund proves inadequate at any time for whatever reason, including nonpayment of any Owner's assessment, the Association may levy additional assessments in accordance with

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the procedure set forth in Section 9(c) below, except that the vote therein specified shall not be necessary.

9(c) Special Assessments. In addition to the Regular Assessments authorized above, the Association may levy special assessments at any time and from time to time upon affirmative vote of at least fifty-one percent (51%) of the total votes of the Association. Such special assessments, payable over such periods as the Association may determine, may be for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration. This Section shall not be construed as an independent source of authority for the Association to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections or Articles hereof. Any amounts assessed pursuant hereto shall be assessed to Owners on the basis provided for in Section 9(d) below. Notice in writing of the amount of such special assessments and the time for payment thereof shall be given promptly to the Owners and no payment shall be due less than fifteen (15) days after such notice shall have been mailed. All unpaid portions of any special assessment shall bear interest at the rate of eighteen percent (18%) per annum from the date such portions become due until paid.

9(d) Apportionment of Assessments. All assessments made under Sections 9(b) and 9(c) shall be apportioned among and assessed to all Owners in the proportion which their respective undivided interest in the Common Areas bears to the total of the undivided interests in the Common Areas of all Owners; provided, however, that the base fee for road repair reserve, water, sewer, trash removal, yard lighting and snow removal may, in the discretion of the Trustees, be assessed in an equal amount per unit. For purposes of this Section 9(d), the Declarant shall be responsible for payment of a share of common expense on a Unit only after the construction thereof has been completed to the extent that it is ready for occupancy.

9(e) Lien for Assessments. All sums assessed to the Owner of any Condominium within the Project pursuant to the provisions of this Section 9, together with interest thereon as provided herein, shall be secured by a lien on such Condominium in favor of the Association. To evidence a lien for sums assessed pursuant to this Section 9, the Association may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Condominium, and a description of the Condominium. Such a notice shall be signed and acknowledged by a duly author-

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ized officer of the Association and may be recorded in the office of the County Recorder for Iron County, State of Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in the State of Utah. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding, including reasonable attorneys' fees, and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessments against the Condominium which shall become due during the period of foreclosure. The Association shall have the right and power to bid in at any foreclosure sale, and to hold, lease, mortgage, or convey the subject Condominium.

9(f) Personal Obligation of Owner. The amount of any regular or special assessment against any Condominium shall be the personal obligation of the Owner of such Condominium to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Areas and/or Common Facilities, by abandonment of his Condominium, or by waiving any services or amenities. In the event of any suit to recover a money judgment for unpaid assessments hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorneys' fees.

9(g) Statement of Account. Upon payment of a reasonable fee not to exceed Ten Dollars (\$10.00) or such greater amount as may be allowed by the Condominium Act, and upon written request of any Owner, Mortgagee, prospective Mortgagee or prospective purchaser of a Condominium, the Association shall issue a written statement setting forth the following: (a) The amount of the unpaid assessments, if any, with respect to such Condominium; (b) the amount of the assessments under the start-up budget or the amount of the current regular assessment with respect to such Condominium and the date such assessment becomes or became due; and (c) credit for advanced payments or prepaid items, including, without limitation, the Owner's share of prepaid insurance premiums. Such statement shall be conclusive upon the Association in favor of persons who rely thereon in good faith.

9(h) Personal Liability of Purchaser. Subject to the provisions of Section 9(f), and subject to Section 16 relating to title obtained by Mortgagees, a purchaser of a Condominium shall be jointly and severally liable with the seller thereof for all unpaid assessments against such Condominium up to the

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time of the grant or conveyance to such purchaser; provided, however, that the provisions of this Section 9(h) shall not prejudice the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

9(i) Assessments Part of Common Expense Fund. All funds received from assessments under this Section 9 shall be a part of the Common Expense Fund.

9(j) Amendment of Section. This Section 9 shall not be amended unless the Owners of all Condominiums in the Project unanimously consent and agree to such amendment by a duly recorded instrument.

10. INSURANCE

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

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

(2) Public Liability and Property Damage Insurance. A broad form of comprehensive liability insurance coverage, in such amounts and in such forms as it deems advisable to provide adequate protection against liability for personal injury, death, and property damage. Coverage shall include without limitation, liability for operation of automobiles on behalf of the Association and all activities in connection with the ownership, operation, maintenance and other use of the Project.

(3) Workmen's Compensation Insurance. Workmen's compensation and employer's liability insurance and

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all other similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by law.

(4) Fidelity Insurance or Bond. Fidelity insurance or a bond in such amounts and in such forms as the Association deems appropriate to cover against dishonesty of employees, destruction or disappearance of money or securities, and forgery.

10(b) Form of Insurance. Insurance coverage on the Project, insofar as possible, shall be in the following form:

(1) Fire and Casualty Insurance. Fire and casualty insurance in a form or forms naming the Association as the insured, as trustee for the Owners and for the Declarant, whether or not the Declarant is an Owner, and which policy or policies shall specify the interest of each Owner (Owner's name, Unit number, and the appurtenant undivided interest in the Common Areas) and shall contain a standard noncontributory mortgagee clause in favor of each Mortgagee which has given notice to the Association of its Mortgage. The Association shall furnish a certificate of coverage, including an identification of the Owner's interest, to each Owner and to each Mortgagee which requests such in writing.

(2) Public Liability and Property Damage Insurance. Public liability and property damage insurance which names the Association as the insured, as trustee for each Owner, for the Manager, if any, and for the Declarant, whether or not the Declarant is an Owner, and which protects each Owner, the Manager, if any, and the Declarant against liability for acts or omissions of any of them in connection with the ownership, operation, maintenance or other use of the Project.

(3) Policies. All such insurance policies shall provide the following:

(A) That the insurer shall waive any right of subrogation as to any claims against the Association, the Manager, if any, the Owners, the Declarant, and their respective servants, agents and guests;

(B) That the policy or policies shall not be cancelled, invalidated or suspended due to the conduct of any one or more individual Owners;

(C) That the policy or policies cannot be cancelled, invalidated or suspended due to the conduct of any

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trustee, officer or employee of the Association without a prior demand in writing that the Association correct such conduct;

(D) That any "no other insurance" clause in the policy or policies shall not apply to policies of insurance purchased by individual Owners; and

(E) That the policy or policies cannot be cancelled either by the insured or the insurance company until after ten (10) days' written notice to the Association, to each Owner, to the Declarant, and to each Mortgagee who has made a written request for such notice.

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

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

10(e) Owner's Insurance. Notwithstanding the provisions of this Section 10, each Owner may obtain insurance at his own expense providing coverage of his Condominium, his personal property or his personal liability, and covering such other risks as he may deem appropriate; provided that if the insurer under such policy is the insurer under any policy issued pursuant to Sections 10(a) through 10(c) above, any insurance policy obtained by the Owner shall provide that it does not diminish the insurer's obligations of coverage for liability arising under any of the insurance policies obtained by the Association pursuant to this Section. If such insurance obtained by an Owner can be obtained in the normal practice without additional premium charge for a waiver of subrogation rights, then all such insurance shall waive the insurance company's right of subrogation against the Association, other Owners, the Manager, if any, the Declarant, and the servants, agents, and guests of any of them.

10(f) Review of Insurance. The Association shall review annually the coverage and policy limits of all insurance of the Project and shall adjust the same at its discretion. Such annual review may include an appraisal of the improvements in the Project by a representative of the insurer or insurers

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providing the policy or policies on the Project or such other qualified appraisers as the Association may select.

11. DAMAGE OR DESTRUCTION

11(a) Association as Attorney in Fact. All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney in fact in their name, place and stead for the purpose of dealing with the Project upon its damage or destruction as provided in this Section 11. Acceptance of a deed from the Declarant or from any Owner by any grantee shall constitute an appointment by such grantee of the Association as his attorney in fact as provided herein. As attorney in fact, the Association shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers granted herein.

11(b) Definition. "Repair and reconstruction" of the improvements, as used herein, means restoring the Project to substantially the same condition in which it existed prior to damage or destruction, with each Unit and the Common Areas having substantially the same vertical and horizontal boundaries as before.

11(c) Procedures. In the event of damage to or destruction of any part of the Project, the following procedures shall apply:

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

(2) Insurance Sufficient. If the proceeds of the insurance maintained by the Association equal or exceed the estimated costs to repair and reconstruct the damaged or destroyed portion of the Project, such repair and reconstruction shall be carried out.

(3) Insurance Insufficient - Less than Seventy-five Percent Destroyed. If less than seventy-five percent (75%) of the Project is destroyed or substantially damaged and the proceeds of the insurance maintained by the Association do not equal or exceed the estimated costs to accomplish repair and reconstruction, such repair and reconstruction shall be

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carried out and all the Owners shall be assessed a special assessment for any deficiency. Such special assessment shall be allocated and collected as provided in Section 9(c) hereof, except that the vote therein specified shall not be necessary. Further assessments may be made in a like manner if the amounts collected prove insufficient to complete the repair and reconstruction.

(4) Insurance Insufficient - Seventy-five Percent or More Destroyed. If seventy-five percent (75%) or more of the Project is destroyed or damaged and the proceeds of the insurance maintained by the Association do not equal or exceed the estimated costs to accomplish repair and reconstruction, the Owners shall be required to vote as to whether to repair and reconstruct the affected improvements. Such vote shall be taken by the Association within one hundred (100) days after the damage or destruction occurs. If the vote is at least seventy-five percent (75%) in favor of repair and reconstruction, such repair and reconstruction shall be accomplished pursuant to a special assessment as provided in subsection (3) above. If the vote is less than seventy-five percent (75%) in favor of repair and reconstruction, the Association shall promptly record with the Iron County Recorder a notice setting forth such facts. Upon the recording of such notice, the provisions of Utah Code Annotated Section 57-8-31 shall apply and shall govern the rights of all parties having an interest in the Project or any of the Condominiums.

11(d) Repair and Reconstruction. As soon as possible after receiving estimates of the cost of repair and reconstruction, the Association, if repair and reconstruction is to occur, shall diligently pursue to completion the repair and reconstruction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair and reconstruction, as attorney in fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith. The Project shall be restored or repaired to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas having substantially the same vertical and horizontal boundaries as before such damage or destruction.

11(e) Disbursement of Funds for Repair and Reconstruction. If repair and reconstruction is to occur, then the insurance proceeds held by the Association and any amounts received from assessments made pursuant to this Section 11 shall constitute a fund for the payment of the costs of such repair and reconstruction. It shall be deemed that the first money disbursed in payment for the costs of such repair and reconstruction shall be made from insurance proceeds; if there is a balance

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after payment of all of the costs of such repair and reconstruction, such balance shall be distributed to the Owners in proportion to their respective percentages of ownership of the Common Areas.

11(f) Amendment of Section. This Section 11 shall not be amended unless the Owners of all Condominiums in the Project unanimously consent and agree to such amendment by duly executed and recorded instruments.

12. OBSOLESCENCE, SALE OF PROJECT, AND REMOVAL FROM ACT

12(a) Adoption and Funding of Renewal Plan. Owners holding eighty-five percent (85%) or more of the total votes of the Association may agree that the Project is obsolete and adopt a written plan for the renewal and reconstruction of the Project, provided that such plan has the unanimous approval of all of the holders of first mortgages on Condominiums in the project of record at the time such plan is adopted. Written notice of adoption of such a plan, together with a copy of the plan, shall be given to all Owners. The expense of renewal and reconstruction shall be payable by all of the Owners as assessments against their respective Condominiums. Such assessments shall be levied in advance and shall be allocated and collected as special assessments pursuant to Section 9(c) above, except that the vote therein specified shall not be necessary. Further assessments may be made in a like manner if the amounts collected prove insufficient to pay all costs of renewal or reconstruction. In the event amounts collected pursuant hereto are in excess of the amounts required for renewal or reconstruction, such excess shall be returned to the Owners by the Association in amounts proportionate to the amount of each Owner's special assessment.

12(b) Sale of Project. Notwithstanding all other provisions of this Declaration, the Owners may, by an affirmative written vote of at least eighty-five percent (85%) of the total votes of the Association, at a meeting of Owners duly called for such purpose, elect to sell or otherwise dispose of the Project. Such action shall be binding upon all Owners and it shall thereupon become the duty of every Owner to execute and deliver such instruments and to perform all acts in such manner and form as may be necessary to effect such sale. The proceeds of any such sale shall be divided among all Owners in proportion to the undivided interest in the Common Areas owned by each respective Owner, as set forth in Exhibit "A" attached hereto, after first paying out of the respective share of each Owner, to the extent sufficient for such purpose, all liens on the interest

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of such Owner in the Project. Such distribution shall be made by check payable jointly to the respective owners and their respective mortgagees.

12(c) Removal of Project from Act. Notwithstanding all other provisions of this Declaration, all of the Owners may remove the Project from the provisions of the Condominium Act if (i) the holders of all liens affecting any of the Condominiums consent or agree by duly recorded instruments that their liens be transferred to the percentage of the undivided interest in the Project of the Owner owning the affected Condominium and (ii) all Owners execute an instrument providing for such removal of the Project and such instrument is duly recorded. Upon removal of the Project from the provisions of the Condominium Act, the Project shall be deemed to be owned in the common by the Owners. The undivided interest in the Project which shall appertain to each Owner shall be the percentage of undivided interest owned by such Owner as set forth in Exhibit "A" attached hereto.

12(d) Amendment of Section. This Section 12 shall not be amended unless the Owners of all Condominiums in the Project unanimously consent and agree to such amendment by duly executed and recorded instruments.

13. CONDEMNATION

13(a) Condemnation. If all or any part of the Project is taken or condemned by any public authority under power of eminent domain, the provisions of this Section shall apply. A voluntary sale or conveyance of all or any part of the Project in lieu of condemnation, but under threat of condemnation, shall be deemed to be a taking by power of eminent domain.

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

13(c) Complete Taking. In the event the entire Project is taken by power of eminent domain, condominium ownership with respect to the Project shall terminate and the condemnation award shall be allocated among and distributed to the Owners in proportion to their respective undivided interests in the Common Areas. Such distribution shall be made by check payable jointly to the respective Owners and their respective Mortgagees, as appropriate.

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13(d) Partial Taking. In the event that less than the entire Project is taken by power of eminent domain, the provisions of this Section 13(d) shall control.

(1) Allocation of Award. As soon as possible, the Association shall, reasonably and in good faith, apportion the condemnation award between compensation, severance damages or other proceeds, and shall allocate such apportioned amounts and pay the same to the Owners as follows:

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

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

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

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

(E) If apportionment or allocation is already established by negotiation, judicial decree, statute, or otherwise, the Association shall employ such apportionment and allocation to the extent it is relevant and applicable; and

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

(2) Continuation and Reorganization. If less than the entire Project is taken by power of eminent domain, condominium ownership with respect to the Project shall not terminate, but shall continue. If any partial taking results in the taking of an entire Unit, the Owner thereof shall cease to be a member of the Association. The Association shall reallocate the voting rights and the undivided interest in the Common Areas appertaining to such Unit in accordance with Condominium Act. If any partial taking results in the taking of a portion of a Unit and a determination is made by judicial decree with respect to

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whether the Owner of such Unit shall continue to be an Owner in the Project and/or to what extent such Owner's undivided interest in the Common Areas should be reduced and apportioned among the Owners in the Project, then the Association shall take all steps necessary to effectuate such judicial decree. If any partial taking results in the taking of a portion of a Unit and there is no judicial decree with respect to such matters, then the Association shall determine the fair market value of the portion or portions of the Unit not taken and the undivided interest in the Common Areas appertaining to any such Unit shall be reduced in proportion to the diminution of the fair market value of the Unit resulting from the partial taking. The portion of the undivided interest in the Common Areas thus divested from the Owner shall be reallocated among all Units in the Project, including the Unit of which only a portion is taken, in proportion to their undivided interests in the Common Areas, with any Unit, a portion or portions of which are taken, participating therein on the basis of the undivided interest in the Common Areas as reduced. If any partial taking results in the taking of a portion of a Unit such that it is impractical to use the remaining portion of the Unit for any lawful purpose permitted by this Declaration, then the entire undivided interest in the Common Areas appertaining to such Unit shall thenceforth appertain to the remaining Units in the Project, being allocated to such Units in proportion to their respective undivided interests in the Common Areas, and the remaining portion of such partially taken Unit shall thenceforth be a Common Area in the Project.

(3) Reconstruction or Repair. Any reconstruction or repair necessitated by condemnation shall be governed by the procedures specified in Section 11 hereof for cases of damage or destruction.

14. ADDITIONAL LAND

This Project shall be expandable and may be expanded, as set forth herein, to include as part of the Project that land described in Exhibit "C", which is attached hereto and incorporated herein by this reference, and Declarant and its successor in interest shall have the right to use such expandable land in accordance with the provision of the Condominium Act and this Section 14.

14(a) Description of Additional Land. The Additional Land which may be added to the Project is described in Exhibit "C", attached hereto and incorporated herein by this reference.

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14(b) Reservation of Option. The Declarant specifically reserves the option to expand the Project onto the Additional Land, without limitation or restriction, and without necessity of consent by existing owners or any other persons.

14(c) No Limitation on Option. The option to expand shall be exclusively vested in the Declarant, or its successors in interest, without limitation. Specifically, the consent of the existing owners shall not be required to exercise the option to expand.

14(d) Expiration of Option. The option to expand the condominium Project shall expire, without further action, seven (7) years from the date of the recording of this Declaration. In addition, the Declarant, or its successor in interest, may terminate the option to expand the Project by recording in the office of the Iron County Recorder a notification of the termination of that option in relation to the Additional Land, or any portion thereof. Any such notice of termination shall specifically terminate and relinquish the Declarant's option to expand the Project and shall describe with particularity that it applies to the Additional Land, or a portion thereof, as described in Exhibit "C".

Upon termination of the option set forth herein, the Additional Land shall immediately cease to become connected with the Project in any way and shall be owned, occupied, used, developed, and otherwise held by the Declarant thereafter without restriction, burden or encumbrance and in a like manner to any other property owned in fee simple.

14(e) Expansion to Portion of Additional Land. If the Declarant exercises its option to expand the Project by adding Additional Land, all or any portion of the property described in Exhibit "C" may be added, in the sole and exclusive discretion of Declarant, or its successor in interest. There are no limitations as to which portions may be added.

14(f) Additions at Different Times. Unless terminated as provided herein, Declarant shall retain the right to add Additional Lands to the Project on an ongoing basis, at different times and in any configuration or within such boundaries as it sees fit, in its sole and absolute discretion. There are no limitations fixing the boundaries or order in which portions, but less than all, of the Additional Lands may be added to the Project.

14(g) No Assurances as to Limitations. No assurances are made by Declarant as to the location of any improvements that may be made on any portion of the Additional Lands added to the Project.

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14(h) Maximum Number of Units. The maximum number of additional Units which may be constructed on the Additional Land, and incorporated into the Project, is three hundred eighty (380). The maximum number of Units per acre that may be created on any portion added to the condominium Project shall be 38 Units per acre.

14(i) Restrictions as to Residential Use. The Additional Land which may be added to the Project in accordance with this Section 14, and any Units constructed thereon and incorporated into the Project, shall be, and hereby are, restricted exclusively to the same residential purposes as are set forth in Section 6(a) above.

14(j) Compatibility of Buildings. All Buildings erected on any Additional Land shall be compatible with all other Buildings in the Project in terms of quality of construction, principal materials used and architectural style.

14(k) Improvements on Additional Land. No assurances are made in regard to other improvements that will be made on the Additional Land. Without limiting the foregoing statement that no assurances or limitations are made in relation to improvements on Additional Lands, Declarant shall be free to construct thereon such additional Units, Buildings and/or recreation facilities as it may deem appropriate, in its sole discretion. In the event recreation facilities are constructed by Declarant on Additional Land, those recreation facilities will be constructed on Common Area which shall be maintained and governed by the Association. In that connection, the Association either of itself, or by the creation of a separate Recreation Association, shall be entitled to make any and all assessments necessary for the operation and maintenance of the recreation facilities, in accordance with Section 9 hereof.

In the event the Association or the Declarant deem it advisable to form a separate Recreation Association, every Owner of a Unit in the Project, including the Owners of Units on any Additional Lands, shall be entitled to and shall be required to be Members of that Recreation Association and shall be subject to all of the rules, regulations, bylaws and restrictions duly and properly promulgated thereby.

14(l) No Assurance in Relation to Additional Units. No assurances are made, except the assurances in relation to compatibility set forth in Section 14(j) above, as to the size, location, configuration or other matters in relation to the comparability of Units constructed on Additional Land to the Units originally within the Project.

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14(m) Declarant Reserves Right to Create Limited Common Areas and Facilities. The Declarant specifically reserves the right to create Limited Common Areas and facilities within the Additional Land added to the Project and no assurances are made in regard to the types, sizes and maximum number of such Limited Common Areas therein.

14(n) Effect of Additional Lands. Any Additional Lands incorporated into the Project in accordance with this Section 14, and pursuant to the Condominium Act, shall be treated as part of the Project for all purposes. Any such expansion shall be deemed to have occurred at the time of the recordation of the Record of Survey Map pursuant to Utah Code Annotated Section 57-8-13(2), together with an Amendment to the Declaration, duly executed and acknowledged by the Declarant. After the recording of such Amendment, title to each unit thereby created within the Additional Land and its appurtenant undivided ownership interest in the common area shall be vested in and held by Declarant, and none of the other Unit owners shall have any claim or title to or interest in any such Unit or its appurtenant percentage of undivided ownership. Declarant shall be obligated to pay his share of the common expenses of each Unit in the expansion as soon as the Unit becomes ready for occupancy. The Amendment shall contain the legal description by metes and bounds of the land added to the Project and it shall reallocate undivided interests in the Common Areas and facilities in accordance with Utah Code Annotated Section 57-8-13.10(2), and in the same manner as set forth in Section 4(e) hereof.

Upon completion of the expansion, the Project shall be treated in all respects as a single project and the Owners of Units therein shall be governed by one homeowners association, shall share in the Common Area of the entire Project, and the undivided interests of the Owners and votes shall be reallocated as set forth above.

14(o) Applicability of Restrictions. No covenants, restrictions, limitations or other representations or commitments in this Declaration concerning anything that is or is not to be done on the Additional Land, or any portion thereof, shall be binding as to any portion not added to the project.

15. COMPLIANCE WITH DECLARATION AND BYLAWS

15(a) Compliance. Each Owner shall comply with the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association, rules and regulations promulgated by the Association, and the decisions and resolutions of the

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Association adopted pursuant thereto, as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due and for damages or injunctive relief or both, maintainable by the Association, or, in a proper case, by an aggrieved Owner.

15(b) Enforcement and Remedies. The obligations, provisions, covenants, restrictions and conditions contained in this Declaration, or in any Supplemental or Amended Declaration, with respect to the Association or Condominiums within the Project shall be enforceable by the Declarant or by any Owner of a Condominium within the Project subject to this Declaration, by a proceeding for a prohibitive or mandatory injunction. The obligations, provisions, covenants, restrictions and conditions contained in this Declaration, or in any Supplemental or Amended Declaration, with respect to a person or entity or property of a person or entity other than the Association or the Declarant shall be enforceable by the Declarant or the Association by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages or to recover any amount due and unpaid.

16. MORTGAGEE. PROTECTION

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

16(b) Mortgage Priority. The lien or claim against a Unit for unpaid assessments or charges levied by the Association pursuant to this Declaration or the Act shall be subordinate to the Mortgage affecting such Unit, and the Mortgagee thereunder which comes into possession of the Unit shall take the same free of such lien or claim for unpaid assessments or charges, but only to the extent of assessments or charges which accrue prior to foreclosure of the Mortgage, exercise of a power of sale available thereunder, or deed or assignment in lieu of foreclosure. No assessment, charge, lien, or claim which is described in the preceding sentence as being subordinate to a Mortgage or as not to burden a Mortgagee which comes into possession shall be collected or enforced by the Association from or against a Mortgagee, a successor in title to a Mortgagee, or the Unit affected or previously affected by the Mortgage concerned.

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16(c) Mortgagee Approval. Unless at least seventy-five percent (75%) of the first Mortgagees (based upon one vote for each Mortgage) or Owners of the individual Units have given their prior written approval, the Association shall not be entitled, by act, omission, or otherwise:

- (1) To abandon or terminate the Project or to abandon or terminate the arrangement which is established by this Declaration and the Record of Survey Map (except as provided in Sections 11, 12 and 13 hereof);
- (2) To partition or subdivide any Unit;
- (3) To abandon, partition, subdivide, encumber, sell, or transfer all or any part of the Common Areas and Facilities (except for the granting of easements for utilities and similar purposes consistent with the intended use of the Common Areas, and except as provided in Sections 11, 12 and 13 and except as such matters [arguably] might result from Declarant's expansion to some or all of the Additional Lands);
- (4) To use hazard insurance proceeds resulting from damage to any part of the Condominium Project (whether to Units or to the Common Areas) for purposes other than the repair, replacement, or reconstruction of such improvements, (except as provided in Section 11 relating to substantial destruction of the Project);
- (5) To change the pro rata interests or obligations of any Unit which apply for (i) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, and for (ii) determining the pro rata share of ownership of each Unit in the Common Areas and Facilities (except as such changes may occur as a result of Declarant's expansion of the Project to some or all of the Additional Lands; and except as to any reallocation in the event of partial condemnation under Section 13 hereof.)
- (6) To alter the provisions of this Declaration in such a way as to diminish the insurance protection required to be afforded to the parties designed to be protected thereby, or to fail to maintain the insurance coverage described therein.

16(d) Reserve Funds. To the extent the same is reasonably possible and practical and is not inconsistent with the significant interests of the Association, the Association shall establish an adequate reserve to cover the cost of reasonably predictable and necessary major repairs and replacements of the Common Areas and Facilities and shall cause such reserve to

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be funded by regular monthly or other periodic assessments against the Units rather than by special assessments.

16(e) Duplicate Provisions. In the event another provision or clause of this Declaration deals with the same subject matter as is dealt with in any provision or clause of this Section 16, the provision or clause which results in the strictest construction and/or greatest protection and security for a Mortgagee shall control the rights, obligations, or limits or authority, as the case may be, applicable to the Association with respect to the subject concerned.

No amendment to this Section 16 which has the effect of diminishing the rights, protection, or security afforded to Mortgagees shall be accomplished or effective unless at least seventy-five percent (75%) of the first Mortgagees (based upon one vote for each Mortgage) of the individual Units have given their prior written approval to such amendment. Any amendment to this Section 16 shall be accomplished by an instrument executed by the owners and filed for record in the office of the Iron County Recorder. In any such instrument, an officer of the Association shall certify that any prior written approval of Mortgagees required by this Section as a condition to amendment has been obtained.

17. GENERAL PROVISIONS

17(a) Intent and Purpose. The provisions of this Declaration, and any Supplemental or Amended Declaration, shall be liberally construed to achieve the goal and intent of all provisions hereof.

17(b) Registration of Mailing Address. Each Owner shall register with the Association his current mailing address. All notices or demands intended to be served upon any Owner may be sent by first class U.S. mail, postage prepaid, addressed to the Owner at his registered mailing address, or if no address has been registered, to the Unit of such Owner. All notices or demands intended to be served upon the Association may be sent by first class U.S. registered or certified mail, postage prepaid, addressed to the Association at its offices, currently located at 747 South Paradise Canyon, Cedar City, Utah 84720, or to such other address as the Association may hereafter furnish to the Owners in writing. Any notice or demand referred to in this Declaration shall be deemed given when deposited in the U.S. mail, postage prepaid, addressed as provided herein.

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17(c) Audit. At any reasonable time, upon appointment and at his own expense, any Owner may cause an audit or inspection to be made of the books and records maintained by the Association.

17(d) Amendment. Except as otherwise provided herein, this Declaration may be amended if Owners holding at least sixty-seven percent (67%) of the total votes in the Association consent and agree to such amendment by instruments which are duly recorded in the office of the County Recorder for Iron County, State of Utah.

17(e) Effective Date. This Declaration shall take effect upon recording.

17(f) Agent for Service. The person to receive service of process in the cases provided by the Condominium Act shall be the then current registered agent of the Association as shown on the corporate records maintained in the office of the Secretary of State of the State of Utah. As of the date of this Declaration of Condominium, the registered agent of the Association is Ned O. Gregerson, whose address is 747 South Paradise Canyon, Cedar City, Utah 84720.

17(g) Limitation on Association's Liability. The Association shall not be liable for any failure of water service or other utility service to be obtained and paid for by the Association hereunder, or for injury or damage to any person or property caused by the elements or by another Owner or person in the Project, or resulting from electricity, water, rain, snow, or ice which may leak or flow from outside or from any parts of one of the Buildings, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other place, unless caused by the grossly negligent or intentional act of the Association. No diminution or abatement of any assessments under this Declaration shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs, maintenance, or improvements to the Project or any part thereof, or from any action taken to comply with any law, ordinance, or orders of a governmental authority.

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

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IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration as of the date first above written.

SHINGLE BROOK CONDOMINIUMS, INC.

By: Ned C. Gregerson

Its President

ATTEST:

Gary N. Gregerson
Secretary

STATE OF UTAH,)
: ss.
County of Iron.)

On the 25th day of February, 1985, personally appeared before me NED O. GREGERSON and GARY N. GREGERSON, who being by me duly sworn, did say that they are respectively the President and Secretary of SHINGLE BROOK CONDOMINIUMS, INC. and that the foregoing instrument was signed on behalf of said Corporation by authority of its Bylaws or a resolution of its Board of Directors and the said NED O. GREGERSON and GARY N. GREGERSON acknowledged to me that such Corporation executed the same.

Norma L. Christensen
Notary Public

Residing at: Blacksburg, Utah

My commission expires:

10/27/87

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EXHIBIT "A"

<u>UNIT NO.</u>	<u>UNIT SQUARE FOOTAGE</u>	<u>COMMON AREA OWNERSHIP (%)</u>	<u>NUMBER OF VOTES</u>
1A	616.34	5.718	5.718
2A	439.15	4.075	4.075
3A	932.28	8.649	8.649
4A	616.34	5.718	5.718
5A	439.15	4.075	4.075
6A	932.28	8.649	8.649
7A	1,088.38	10.097	10.097
8A	713.50	6.619	6.619
9A	1,599.81	14.842	14.842
10A	1,088.38	10.097	10.097
11A	713.50	6.619	6.619
12A	<u>1,599.81</u>	<u>14.842</u>	<u>14.842</u>
TOTAL	10,778.92	100%	100

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EXHIBIT "B"

BYLAWS
OF
SHINGLE BROOK CONDOMINIUMS OWNERS ASSOCIATION

Pursuant to the provisions of the Utah Nonprofit Corporation and Co-operative Association Act, the Board of Trustees of Shingle Brook Condominiums Owners Association, a Utah nonprofit corporation, hereby adopts the following Bylaws for such nonprofit corporation.

ARTICLE I

NAME AND DEFINITIONS

The name of this nonprofit corporation is Shingle Brook Condominiums Owners Association (the "Association"). Except as otherwise provided herein or required by the context hereof, all terms defined in Article I of the Declaration of Condominium for Shingle Brook Condominiums (the "Declaration") shall have such defined meanings when used in these Bylaws.

ARTICLE II

MEMBERS

A. Members of Record. Upon purchasing a Condominium in the Project, each Owner shall promptly furnish to the Association a certified copy of the recorded instrument by which ownership of such Condominium has been vested in such Owner, which copy shall be maintained in the records of the Association. For the purpose of determining Members entitled to notice of or to vote at any meeting of the Members, or any adjournment thereof, the Board of Trustees may designate a record date, which shall not be more than sixty (60) nor less than ten (10) days prior to the meeting, for determining Members entitled to notice of or to vote at any meeting of the Members. If no record date is designated, the date on which notice of the meeting is mailed shall be deemed to be the record date for determining Members entitled to notice of or to vote at the meeting. The persons or entities appearing in the records of the Association on such record date as the Owners of record of Condominiums in the Project shall be deemed to be

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the Members of record entitled to notice of and to vote at the meeting of the Members.

B. Annual Meetings. The annual meeting of the Members shall be held on the 1st day of September of each year at 10 o'clock a.m., for the purpose of electing Trustees and/or transacting such other business as may properly come before the members of such meeting. If the election of Trustees shall not be held on the day designated herein for such annual meeting or at any adjournment thereof, the Board of Trustees shall cause the election to be held at a special meeting of the Members as soon thereafter as may be convenient. The Board of Trustees may change the date and time for the annual meeting of the Members by adoption of a resolution to that effect.

C. Special Meetings. Special meetings of the Members may be called by the Board of Trustees, the President, or upon the written request of Members holding at least twenty percent (20%) of the total votes of the Association, such written request to state the purpose or purposes of the meeting and to be delivered to the Board of Trustees or the President.

D. Place of Meetings. The Board of Trustees may designate any place in Iron County, State of Utah as the place of meeting for any annual meeting or for any special meeting called by the Board of Trustees. A waiver of notice signed by all Members may designate any place, either within or without the State of Utah, as the place for holding such meeting. If no designation is made, or if a special meeting is otherwise called, the place of the meeting shall be at the Project.

E. Notice of Meetings. The Board of Trustees shall cause written or printed notice of the time, place, and purposes of all meetings of the Members (whether annual or special) to be delivered, not more than fifty (50) nor less than ten (10) days prior to the meeting, to each Member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his registered address, with first-class postage thereon prepaid. Each Member shall register with the Association such Member's current mailing address for purposes of notice hereunder. Such registered address may be changed by notice in writing to the Association. If no address is registered with the Association, a Member's Unit address shall be deemed to be his registered address for purposes of notice hereunder.

F. Quorum. At any meeting of the Members, the presence of Members holding, or holders of proxies entitled to cast more than fifty percent (50%) of the total votes of the Association shall constitute a quorum for the transaction of business. In the event a quorum is not present at a meeting, the Members

present (whether represented in person or by proxy), though less than a quorum, may adjourn the meeting to a later date. Notice thereof shall be delivered to the Members as provided above. At the reconvened meeting, the Members and proxy holders present shall constitute a quorum for the transaction of business.

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

H. Votes. With respect to each matter, including the election of Trustees, submitted to a vote of the Members, each Member entitled to vote at the meeting shall have the right to cast, in person or by proxy, the number of votes shown in the Declaration as appertaining to the Condominium or Condominiums owned by such Member. Unless a greater proportion is required by the Articles of Incorporation of the Association, these Bylaws, the Declaration or Utah law, the affirmative vote of a majority of the votes entitled to be cast by the Members present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by the Members. The election of Trustees shall be by secret ballot. If a membership is jointly held, all or any holders thereof may attend each meeting of the Members, but such holders must act unanimously to cast the votes relating to their jointly-held membership or such votes may not be cast.

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

J. Informal Action by Members. Any action that is required or permitted to be taken at a meeting of the Members may be taken without a meeting, if a consent in writing, setting forth the action so taken, is signed by all of the Members entitled to vote with respect to the subject matter of such action.

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K. Waiver of Notice. Any notice required to be given to a member may be waived by the Member entitled thereto signing a waiver thereof, whether before or after the time stated therein, and the signing of such a waiver shall, for all purposes, be equivalent to the giving of such notice.

ARTICLE III

BOARD OF TRUSTEES

A. General Powers. The property, affairs, and business of the Association shall be managed by its Board of Trustees. The Board of Trustees may exercise all of the powers of the Association, whether derived from law, the Declaration or the Articles of Incorporation of the Association, except such powers as are by law, by the Articles of Incorporation of the Association, by these Bylaws, or by the Declaration vested solely in the Members. The Board of Trustees may delegate, in whole or in part, such of its duties, responsibilities, functions and powers as are properly delegable. Such delegation shall be valid only if made by written contract with a professional management organization or person, which organization or person may or may not manage other condominium projects.

B. Number, Tenure, and Qualifications. The number of Trustees of the Association shall be three (3). The initial Board of Trustees specified in the Articles of Incorporation of the Association shall serve until the Declarant turns over to the Members, in accordance with Utah law, the responsibility for electing Trustees. Declarant may substitute Trustees until such time. At the first annual meeting of the Members held after the Declarant turns over to the Members responsibility for electing Trustees, the Members shall elect three (3) Trustees to serve as follows: One Trustee shall be elected to serve for a term of three (3) years; one Trustee shall be elected to serve for a term of two (2) years; and one Trustee shall be elected to serve for a term of one (1) year. At each annual meeting thereafter, the Members shall elect for three (3) year terms the appropriate number of Trustees to fill all vacancies created by expiring terms of Trustees. Trustees, except the initial Trustees specified in the Articles of Incorporation or Trustees appointed by the Declarant, must be Members of the Association.

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

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D. Special Meetings. Special meetings of the Board of Trustees may be called by or at the request of any Trustee, who may fix any place, within Iron County, State of Utah, as the place for holding any such special meeting. Notice of any special meeting shall be given at least five (5) days prior thereto by written notice delivered personally, by mail to each Trustee at his registered address, or by telegram. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with first class postage prepaid. If notice is given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegram company.

E. Quorum and Manner of Acting. A majority of the number of Trustees in office shall constitute a quorum for the transaction of business at any meeting of the Board of Trustees. The act of a majority of the Trustees present at any meeting at which a quorum is present shall be the act of the Board of Trustees. The Trustees shall act only as a Board and individual Trustees shall have no powers as such.

F. Compensation. No Trustee shall receive compensation for any services that he may render to the Association as a Trustee; provided, however, that Trustees may be reimbursed for expenses incurred in performance of their duties as Trustees and, except as otherwise provided in these Bylaws, may be compensated for services rendered to the Association in capacities other than as Trustees.

G. Resignation and Removal. A Trustee may resign at any time by delivering a written resignation to the President or to the Board of Trustees. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Trustee, except those appointed by the Declarant, may be removed at any time, for or without cause, by the affirmative vote of two-thirds (2/3) of the total votes of the Association at a special meeting of the Members duly called for such purpose.

H. Vacancies and Newly Created Trusteeships. If vacancies shall occur in the Board of Trustees by reason of the death or resignation of a Trustee (other than a Trustee appointed by the Declarant), or if the authorized number of Trustees shall be increased, the Trustees then in office shall continue to act, and such vacancies or newly created Trusteeships shall be filled by a vote of the Trustees then in office, though less than a quorum, in any way approved by such Trustees at the meeting at which such vote occurs. Any vacancies in the Board of Trustees occurring by reason of removal of a Trustee may be filled by election by the Members at the meeting at which such Trustee is removed. If vacancies occur in the Board of Trustees by reason of the death or resignation of a Trustee appointed by the

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Declarant, such vacancies shall be filled by an appointment to be made by the Declarant. Any Trustee elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of his predecessor or for the term of the newly created Trusteeship, as the case may be.

I. Informal Action by Trustees. Any action that is required or permitted to be taken at a meeting of the Board of Trustees may be taken without a meeting, if a consent in writing, setting forth the action so taken, is signed by all of the Trustees.

J. Waiver of Notice. Any notice required to be given to a Trustee may be waived by the Trustee entitled thereto signing a waiver thereof, whether before or after the time stated therein, and the signing of such a waiver shall, for all purposes, be equivalent to the giving of such notice. Attendance of a Trustee at any meeting shall constitute a waiver of notice of such meeting unless such Trustee is attending the meeting for the sole and express purpose of objecting to the transaction of any business at the meeting because the meeting was not lawfully called or convened.

ARTICLE IV

OFFICERS

A. Number. The officers of the Association shall be a President, a Secretary, a Treasurer and such other officers as may from time to time be appointed by the Board of Trustees.

B. Election, Tenure, and Qualifications. The officers of the Association shall be chosen by the Board of Trustees annually at the regular annual meeting of the Board of Trustees. In the event the Board of Trustees fails to choose officers at such regular annual meeting, officers may be chosen at any regular or special meeting of the Board of Trustees. Each such officer (whether chosen at a regular annual meeting of the Board of Trustees or otherwise) shall hold his office until after the next ensuing regular annual meeting of the Board of Trustees occurs and his successor has been chosen and qualified, or until his death, or until his resignation or removal in the manner provided in these Bylaws, whichever occurs first. Any one person may hold any two or more of such offices, except that the President may not also be the Secretary or the Treasurer. No person holding two or more offices shall act in or execute any instrument in the capacity of more than one office. The President, the Secretary, and the Treasurer, except when elected by the Trustees specified in the Articles of Incorporation of the Association or by Trustees appointed by the Declarant, shall be and remain Members

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of the Association during the entire term of their respective offices and may be, but need not be, Trustees. No other officer need be a Trustee or a Member of the Association.

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

D. Resignation and Removal. Any officer may resign at any time by delivering a written resignation to the President or the Board of Trustees. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed by the Board of Trustees at any time, for or without cause.

E. Vacancies and Newly Created Offices. If any vacancy occurs in any office by reason of death, resignation, removal, disqualification or any other cause, or if a new office is created, such vacancies or newly created offices may be filled by the Board of Trustees at any regular or special meeting.

F. The President. The President shall preside at meetings of the Board of Trustees and at meetings of the Members. He shall sign all conveyances, mortgages, documents, and contracts on behalf of the Association, and shall do and perform all other acts and things that the Board of Trustees may require of him.

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

H. The Treasurer. The Treasurer shall have the custody and control of the funds of the Association, subject to the action of the Board of Trustees, and, when requested by the President to do so, shall report the state of the finances of the Association at each annual meeting of the Members and at any meeting of the Board of Trustees. He shall keep detailed, accurate records, in chronological order, of the receipts and

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expenditures affecting the Common Areas, specifying and itemizing the additions to and expenses paid out of the Common Expense Fund. He shall perform such other duties as the Board of Trustees may require of him.

I. Compensation. No officer shall receive compensation for any services that he may render to the Association as an officer; provided, however, that officers may be reimbursed for expenses incurred in performance of their duties as officers and, except as otherwise provided in these Bylaws, may be compensated for services rendered to the Association in capacities other than as officers.

ARTICLE V

COMMITTEES

A. Designation of Committees. The Board of Trustees may designate by resolution such committees as it may deem appropriate in carrying out its duties, responsibilities, functions and powers. The membership of each such committee shall include only Members and Trustees, and shall include at least two (2) Trustees. No committee member shall receive compensation for his services as a committee member; provided, however, that committee members may be reimbursed for expenses incurred in performance of their duties as committee members and, except as otherwise provided in these Bylaws, may be compensated for services rendered to the Association in capacities other than as committee members.

B. Proceedings of Committees. Each committee designated by the Board of Trustees may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such committee may determine. Each such committee shall keep a record of its proceedings and shall regularly report such proceedings to the Board of Trustees.

C. Quorum and Manner of Acting. At each meeting of any committee designated by the Board of Trustees, the presence of members constituting at least two-thirds (2/3) of the membership of such committee shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee. The members of any such committee shall act only as a committee, and the individual members thereof shall have no powers as such.

D. Resignation and Removal. Any member of any committee designated by the Board of Trustees may resign at any time by delivering a written resignation to the President, the Board of

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Trustees, or the presiding officer of such committee. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any member of any committee may be removed by the Board of Trustees at any time, for or without cause.

E. Vacancies. If any vacancy occurs in any such committee due to disqualification, death, resignation, removal or otherwise, the remaining members, until the filling of such vacancy, shall constitute the total authorized membership of the committee and, provided that two or more members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Board of Trustees.

ARTICLE VI

INDEMNIFICATION

A. Third Party Actions. The Association shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association), by reason of the fact that he is or was a Trustee, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, trustee, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise. Such person may be indemnified against expenses (including attorney's fees), judgments, fines and amounts paid in settlement if such were actually and reasonably incurred by him in connection with such action, suit or proceeding, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, if he had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by an adverse judgment, order or conviction, or upon a plea of nolo contendere or its equivalent, or by settlement, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, or with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

B. Association Actions. The Association shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a Trustee, officer, employee or agent of

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the Association, or is or was serving at the request of the Association as a director, trustee, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise. Such person may be indemnified against expenses (including attorney's fees), judgments, fines and amounts paid in settlement if such were actually and reasonably incurred by him in connection with such action, suit or proceeding, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association; provided, however, that no indemnification shall be made in relation to any claim, issue or matter as to which such person has been adjudged to be liable for gross negligence or willful misconduct in the performance of his duty to the Association unless such indemnification is ordered by the court in which the action, suit or proceeding was brought.

C. Determination. To the extent that a Trustee, officer, employee or agent of the Association has been successful on the merits in defense of any action, suit or proceeding referred to in Sections A or B hereof, he shall be indemnified against expenses (including attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection therewith. Any other indemnification under Sections A or B hereof shall be made by the Association only upon a determination that indemnification of the Trustee, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Sections A or B hereof. Such determination shall be made (1) by the Board of Trustees by a majority vote of the Trustees who were not parties to such action, suit or proceeding, (2) by independent legal counsel in a written opinion, or (3) by the Members by a vote of at least fifty percent (50%) of the total votes of the Association at any meeting duly called for such purpose.

D. Advances. Expenses incurred in defending a civil or criminal action, suit or proceeding as contemplated in this Article may be paid by the Association in advance of the final disposition of such action, suit or proceeding upon a majority vote of a quorum of the Board of Trustees and upon receipt of an undertaking by or on behalf of the Trustee, officer, employee or agent to repay such amount or amounts unless it ultimately is determined that he is entitled to be indemnified by the Association as authorized by this Article.

E. Scope of Indemnification. The indemnification authorized by this Article shall apply to all present and future Trustees, officers, employees and agents of the Association and shall continue as to such persons who cease to be Trustees, officers, employees or agents of the Association and shall inure to the benefit of the heirs, executors and administrators of all such persons and shall be in addition to all other rights to

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which such persons may be entitled as a matter of law.

F. Payments Out of Common Expense Fund. All payments made pursuant to this Article shall constitute expenses of the Association and shall be paid with funds from the Common Expense Fund.

ARTICLE VII

FISCAL YEAR AND SEAL

A. Fiscal Year. The fiscal year of the Association shall begin on the 1st day of September and end on the 31st day of August of each year, except that the first fiscal year shall begin on the date of incorporation of the Association.

B. Seal. The Board of Trustees, by resolution, may provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the Association, and state of incorporation and the words "Corporate Seal."

ARTICLE VIII

RULES AND REGULATIONS

The Board of Trustees may adopt, amend, repeal and enforce reasonable rules and regulations governing the use and operation of the Project to the extent that such rules and regulations are not inconsistent with the rights and duties set forth in the Articles of Incorporation of the Association, these Bylaws or the Declaration. The Board of Trustees shall provide the Members with copies of all rules and regulations so adopted, and with copies of all amendments and revisions thereof.

ARTICLE IX

AMENDMENTS

Except as otherwise provided by law, by the Articles of Incorporation of the Association, by the Declaration or by these Bylaws, these Bylaws may be amended and new bylaws may be made and adopted by the Members holding at least fifty-one percent (51%) of the total votes in the Association consenting and agreeing to such amendment by instruments duly recorded in the office of the County Recorder for Iron County, State of Utah.

IN WITNESS WHEREOF, the undersigned, constituting all of the Trustees of Shingle Brook Condominiums Owners Association,

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have executed these Bylaws this 1 day of March, 1985.

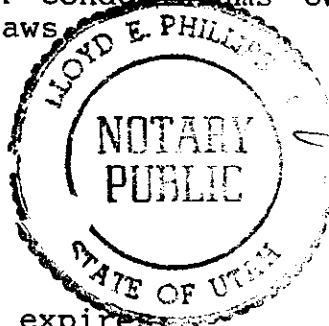
Ned O. Gregerson

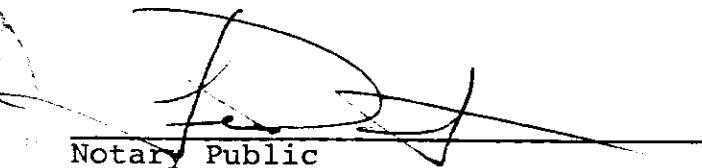
NED O. GREGERSON
Trustee and President

ACKNOWLEDGEMENT

STATE OF UTAH,)
: ss.
County of Iron.)

On the 1st day of March, 1985, personally appeared before me NED O. GREGERSON, who, being by me duly sworn on oath, did acknowledge to me that he as a Trustee and the President of Shingle Brook Condominiums Owners Association, executed the foregoing Bylaws.




Notary Public

Residing at: Cedar City, Utah

My commission expires

03/15/1987.

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EXHIBIT "C"

Parcel #1:

The South 8 rods of Block 1, Plat "A", PAROWAN CITY SURVEY. Containing 1.431 acres of land.

Parcel #2:

Beginning North $0^{\circ}34'04''$ West, 8.00 feet along the East line of Block 1, Plat "A", PAROWAN CITY SURVEY and North $89^{\circ}25'00''$ East, 99.00 feet from the Southeast corner of said Block 1; thence North $0^{\circ}34'04''$ West, 192.70 feet; thence North $89^{\circ}25'00''$ East, 408.88 feet to the Westerly right-of-way of Highway U-143; thence South $18^{\circ}14'50''$ East, 227.94 feet along said right-of-way; thence South $89^{\circ}25'00''$ West, 234.03 feet; thence along the arc of a curve to the right, having a radius of 472.24 feet, a distance of 93.17 feet; thence North $79^{\circ}16'47''$ West, 25.00 feet; thence along the arc of a curve to the left, having a radius of 538.24 feet, a distance of 106.19 feet; thence South $89^{\circ}25'00''$ West, 21.49 feet to the point of beginning. Containing 2.135 acres of land.

SUBJECT TO the following easements:

Subject to a 16 foot wide power line easement for maintenance or reconstruction, said easement being 8 feet on each side of the following described center line: Beginning North $0^{\circ}34'04''$ West, 100.62 feet along the block line and North $89^{\circ}25'00''$ East, 215.36 feet from the Southeast corner of Block 1, Plat A, PAROWAN CITY SURVEY; thence North $76^{\circ}05'$ East, 250 feet; thence North $48^{\circ}42'$ East, 65.03 feet to the point of ending.

Subject to a 16 foot wide power line easement for maintenance or reconstruction, said easement being 8 feet on each side of the following described centerline: Beginning North $0^{\circ}34'04''$ West, 200.70 feet along the block line and North $89^{\circ}25'00''$ East, 182.46 feet from the Southeast corner of Block 1, Plat A, PAROWAN CITY SURVEY; thence South $34^{\circ}51'00''$ East, 262.62 feet to the point of beginning.

Subject to a 16 foot wide water pipe line easement for maintenance or reconstruction, said easement being 8 feet on each side of the following

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described center line: Beginning North $0^{\circ}34'04''$ West, 200.70 feet along the block line and North $89^{\circ}25'00''$ East, 216.00 feet from the Southeast corner of Block 1, Plat A, PAROWAN CITY SURVEY; thence South $35^{\circ}01'09''$ East, 263.35 feet to the point of ending.

Subject to a 16 foot wide access easement, said easement being 8 feet on each side of the following described center line: Beginning North $0^{\circ}34'04''$ West, 143.09 feet along the East line of Block 1, Plat A, PAROWAN CITY SURVEY and North $89^{\circ}25'00''$ East, 330.26 feet from the Southeast corner of said Block 1; thence South $54^{\circ}58'51''$ West, 61.65 feet; thence South $35^{\circ}01'09''$ East, 151.22 feet to the point of ending.

Parcel #3:

Beginning North $89^{\circ}25'00''$ East, 99.00 feet and South $0^{\circ}34'00''$ East, 58.00 feet from the Southeast corner of Block 1, Plat "A", PAROWAN CITY SURVEY, Iron County, Utah; thence North $89^{\circ}25'00''$ East, 21.51 feet parallel to the South line of said Block 1; thence along the arc of a curve to the right, having a radius of 472.24 feet, a distance of 93.17 feet; thence South $79^{\circ}16'47''$ East, 25.00 feet; thence along the arc of a curve to the left, having a radius of 538.24 feet, a distance of 106.19 feet; thence North $89^{\circ}25'00''$ East 72.05 feet; thence South $0^{\circ}35'00''$ East, 43.50 feet; thence along the arc of a curve to the right, having a radius of 7.50 feet, a distance of 11.78 feet; thence South $89^{\circ}25'00''$ West, 12.50 feet; thence South $0^{\circ}35'00''$ East, 34.13 feet; thence along the arc of a curve to the left, having a radius of 106.40 feet, a distance of 33.33 feet; thence North $71^{\circ}28'16''$ East, 12.80 feet; thence along the arc of a curve to the right, having a radius of 7.50 feet, a distance of 11.18 feet to a P.R.C.; thence along the arc of a curve to the left: (Radius point bears North $66^{\circ}53'24''$ East, 86.40 feet), a distance of 35.20 feet; thence South $46^{\circ}27'13''$ East, 76.00 feet; thence North $43^{\circ}32'47''$ East, 92.27 feet; thence North $71^{\circ}45'10''$ East, 76.78 feet to the Westerly right-of-way of Highway U-143; thence along said right-of-way line as follows: thence South $18^{\circ}14'50''$ East, 105.11 feet, thence

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along the arc of a curve to the right, having a radius of 1456.63 feet, a distance of 372.25 feet; thence South 32°53'22" East, 729.34 feet; thence departing said right-of-way, North 80°51'50" West, 117.72 feet; thence South 57°06'38" West, 83.00 feet; thence North 36°38'18" West, 391.36 feet; thence North 41°54'28" West, 521.08 feet; thence North 55°12'12" East, 132.57 feet; thence North 46°27'13" West, 454.78 feet; thence North 75°21'01" West, 140.38 feet to the East line of 300 West Street; thence North 0°34'04" West, 76.81 feet along the East line of 300 East Street to the point of beginning. Containing 6.790 acres of land.

SUBJECT TO those portions of the following easements which cross the above-described land:

Subject to a 16 foot wide power line easement for maintenance and reconstruction, said easement being 8 feet on each side of the following described center line: Beginning North 89°25'00" East, 376.30 feet parallel to the South line of Block 1, Plat A, PAROWAN CITY SURVEY and South, 82.51 feet from the Southeast corner of said Block 1; thence South 34°51'00" East, 1397.79 feet to the point of ending.

Subject to a 16 foot wide water pipe line easement for maintenance or reconstruction, said easement being 8 feet on each side of the following described center line: Beginning North 89°25'00" East, 411.07 feet parallel to the South line of Block 1, Plat A, PAROWAN CITY SURVEY and South, 82.51 feet from the Southeast corner said Block 1; thence South 35°01'09" East, 970.74 feet; thence South 35°10'53" East, 382.96 feet; thence South 20°45'00" East, 72.27 feet to the point of ending.

Subject to a 66 foot wide roadway easement, said easement being 33 feet on each side of the following described center line: Beginning North 89°25'00" East, 869.45 feet parallel to the South line of Block 1, Plat A, PAROWAN CITY SURVEY and South, 1041.58 feet from the Southeast corner said Block 1; thence North 57°06'38" East, 188.97 feet to the Westerly right-of-way line of Highway U-143 and the point of ending.

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Subject to a 66 foot wide roadway easement over the following described land: Beginning North $89^{\circ}25'00''$ East, 456.93 feet parallel to the South line of Block 1, Plat A, PAROWAN CITY SURVEY and South, 562.92 feet from the South-east corner of said Block 1; thence North $55^{\circ}12'12''$ East, 132.57 feet; thence North $66^{\circ}17'47''$ East, 166.02 feet; thence along the Westerly right-of-way line of Highway U-143 and the arc of a non-tangent curve to the left (radius point for said curve bears North $66^{\circ}17'47''$ East, 1456.63 feet), a distance of 66.02 feet; thence South $66^{\circ}17'47''$ West, 161.11 feet; thence South $55^{\circ}12'12''$ West, 117.93 feet; thence North $41^{\circ}54'28''$ West, 66.51 feet to the point of beginning.

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EXHIBIT "D"

Beginning N $89^{\circ}25'00''$ E, 415.95 feet; and South 82.51 feet from the Southeast corner of Block 1, Plat "A", PAROWAN CITY SURVEY, Iron County, Utah; thence N $89^{\circ}25'00''$ E, 183.00 feet along the Southerly line of 300 South Street; thence S $18^{\circ}14'50''$ E, 116.00 feet along the Westerly line of Highway U-143; thence S $71^{\circ}45'10''$ W, 76.78 feet; thence S $43^{\circ}32'47''$ W, 92.27 feet; thence N $46^{\circ}27'13''$ W, 76.00 feet; thence along the arc of a curve to the right, having a radius of 86.40 feet, a distance of 35.20 feet; thence along the arc of a curve to the left, having a radius of 7.50 feet, a distance of 11.18 feet; thence S $71^{\circ}28'16''$ W, 12.80 feet; thence along the arc of a non-tangent curve to the right (radius point for said curve bears N $71^{\circ}28'16''$ E, 106.40 feet), a distance of 33.33 feet; thence N $00^{\circ}35'00''$ W, 34.13 feet; thence N $89^{\circ}25'00''$ E, 12.50 feet; thence along the arc of a curve to the left, having a radius of 7.50 feet, a distance of 11.78 feet; thence N $00^{\circ}35'00''$ W 43.50 feet to the point of beginning. Containing 0.731 acres of land.

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