

DECLARATION OF CONDOMINIUM
FOR
RACQUET CLUB VILLAS CONDOMINIUM
An Expandable Condominium Project

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Recorded at Security Title Co So UT
Request of _____
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Fee \$62.50 Book 343 Page 319-70
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DECLARATION OF CONDOMINIUM

FOR

RACQUET CLUB VILLAS CONDOMINIUM

An Expandable Condominium Project

This Declaration of Condominium, hereinafter referred to as the "Declaration", is made and executed this 3rd day of January, 1986, by BRIAN HEAD ENVIRONMENTS, INCORPORATED, a Utah corporation, hereinafter referred to as the "Declarant".

RECITALS

A. Description of Land. The Declarant is the record owner of the following described land (hereinafter referred to as the "Land") situated in Iron County, State of Utah:

Beginning South 89°09'03" East 298.72 feet along the section line and South 638.37 feet from the Northwest corner of Section 11, T36S, R9W, SLM; thence North 39°18'34" East 326.61 feet along the Easterly line of a 66 foot wide road; thence along the arc of a curve to the left, having a radius of 264.14 feet, a distance of 53.51 feet along said road R/W; thence South 80°15'00" East 139.92 feet; thence South 42°43'31" West 325.98 feet; thence North 47°02'57" West 10.00 feet; thence South 39°18'34" West, 120.00 feet; thence North 53°20'05" West, 87.00 feet to the point of beginning.

Subject to an easement for an existing retaining wall and driveway over the following described land: Beginning South 89°09'03" East, 673.05 feet along the Section line and South 359.28 feet from the Northwest corner of Section 11, T36S, R9W, SLM; thence South 42°43'31" West, 3.00 feet; thence North 75°10'52" West, 28.48 feet; thence South 80°15'00" East, 30.00 feet to the point of beginning.

Subject to all and any applicable easements and right-of-way for water, sewer, power, telephone, and other utilities, any and all easements and right-of-way shown on the Map, and any and all

applicable easements, rights-of-way and other matters of record or enforceable at law or in equity.

B. Building and Improvements. The Declarant has constructed or will construct on the Land certain Buildings and other improvements, as shown on the Record of Survey Map referred to below.

C. Record of Survey Map. The Declarant intends to execute, acknowledge, and record in the office of the County Recorder of Iron County, State of Utah, a certain instrument pertaining to the Project and entitled Record of Survey Map for the Racquet Club Villas Condominium, an Expandable Condominium Project".

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

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

NOW, THEREFORE, the Declarant does hereby make the following Declaration.

ARTICLE I

DEFINITIONS

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

1.02. "Association" shall mean the Racquet Club Villas Owners Association, a Utah nonprofit corporation, organized to be the Association referred to herein.

1.03. "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.

1.04. "Buildings" shall mean the two (2) condominium buildings that have been or will be constructed on the Land, as such condominium buildings are shown on the Map.

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1.05. "Common Areas" shall mean all physical portions of the Project, except all Units.

1.06. "Common Expense Fund" shall mean the fund created or to be created pursuant to the provisions of Article X of this Declaration and to which the monies of the Association are to be credited.

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

1.08. "Condominium" shall mean a Unit and the undivided interest (expressed as a percentage of the entire ownership interest) in the Common Areas appurtenant to such Unit, as set forth in Exhibit A hereto.

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

1.10. "Declarant" shall mean Brian Head Environments, Incorporated, a Utah corporation, or its successors or assigns.

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

1.12. "Limited Common Areas" shall mean any Common Areas designated for exclusive use by the Owner of a particular Unit. Any balconies, porches, 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 attached to a Unit shall be Limited Common Areas for the exclusive use of the Owner of the Unit bearing the same number or designation or the Owner of the Unit to which they are attached.

1.13. "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.

1.14. "Map" shall mean the Record of Survey Map for the Racquet Club Villas Condominium, an Expandable Condominium Project, pertaining to the Project and recorded concurrently herewith in the office of the County Recorder of Iron County, State of Utah.

1.15. "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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1.16. "Mortgagee" shall mean (i) any person named as the mortgagee, beneficiary or secured party under any Mortgage by which the interest of any Owner is encumbered, or (ii) any successor to the interest of any such person under such Mortgage.

1.17. "Owner" shall mean the person or persons, including the Declarant, owning in fee simple a Condominium in the Project, as such ownership is shown by the records of the County Recorder 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 persons purchasing a Condominium under contract (until such contract is fully performed and legal title conveyed of record).

1.18. "Project" shall mean the Land, the Buildings and all improvements submitted by this Declaration and the Map to the provisions of the Condominium Act, together with all land, buildings and improvements added thereto by way of amendment, expansion or otherwise.

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

1.20. "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 said boundaries are shown on the 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 of or for the 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 surfaces of the window or door mean the points at which such surfaces are located when the window or door is closed.

ARTICLE II

SUBMISSION AND DIVISION OF PROJECT

2.01. Submission to Condominium. The Declarant hereby submits the Land, the Buildings, and all other improvements now or hereafter

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made in or upon the Land to the provisions of the Condominium Act. All of said property is and shall be held, conveyed, hypothecated, encumbered, leased, rented, used and improved as a fee simple Condominium Project to be known as The Racquet Club Villas Condominium. All of said property is and shall be subject to the covenants, conditions, restrictions, uses, limitations and obligations set forth herein, each and all of which are declared and agreed to be for the benefit of said Project and in furtherance of a plan for improvement of said property and division thereof into Condominiums; further, each and all of the provisions hereof shall be deemed to run with the Land and shall be a burden and a benefit to the Declarant, and to any person acquiring, leasing, or owning an interest in the real property and improvements comprising the Project, and to their respective personal representatives, heirs, successors and assigns.

2.02. Division into Condominiums. The Project is hereby divided into Condominiums, each such Condominium consisting of a Unit and for appurtenant undivided interest in the Common Areas, as set forth in Exhibit A attached hereto and by this reference made a part hereof.

ARTICLE III

BUILDINGS AND IMPROVEMENTS

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

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

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

ARTICLE IV

EXPANSION OF PROJECT

4.01. Additional Land. The Declarant or its successor hereby reserves the right, at its option, to expand the Project in accordance with the provisions of this Declaration and the Condominium Act, by adding thereto all or any portion or portions of the following

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described land (hereinafter referred to as the "Additional Land") located in Iron County, State of Utah:

Beginning at a point South $89^{\circ}09'03''$ East 872.12 feet and South $33^{\circ}52'44''$ East 610.37 feet from the Northwest corner of Section 11, T36S, R9W, SLB&M: and running thence South $48^{\circ}05'26''$ West 857.43 feet; thence North $41^{\circ}54'34''$ West 102.24 feet; thence along the arc of a non-tangent curve to the right (radius point for said curve bears South $85^{\circ}51'26''$ East 198.98 feet), a distance of 87.42 feet; thence North $42^{\circ}07'42''$ West 126.85 feet; thence along the arc of a non-tangent curve to the right (radius point for said curve bears North $44^{\circ}41'14''$ West 963.91 feet), a distance of 43.05 feet; thence South $47^{\circ}52'18''$ West 26.96 feet; thence North $42^{\circ}07'42''$ West 66.00 feet; thence South $47^{\circ}52'18''$ West 41.93 feet; thence North $50^{\circ}52'44''$ West 151.27 feet to a P.O.C.; thence along the arc of said curve to the right, having a radius of 681.96 feet, a distance of 90.22 feet; thence North $20^{\circ}18'34''$ East 70.31 feet; thence South $53^{\circ}20'45''$ East 87.0 feet; thence North $39^{\circ}18'34''$ East 120.0 feet; thence South $47^{\circ}02'57''$ East 10.00 feet; thence North $42^{\circ}43'31''$ East 325.98 feet; thence South $80^{\circ}15'00''$ East 132.46 feet; thence along the arc of a non-tangent curve to the right (radius point for said curve bears South $15^{\circ}39'56''$ East 116.08 feet), a distance of 174.61 feet; thence North $56^{\circ}37'16''$ East 251.87 feet; thence South $33^{\circ}52'44''$ East 184.31 feet; thence South $48^{\circ}05'26''$ West, 60.59 feet to the point of beginning.

SUBJECT TO AND TOGETHER WITH the following described easement: Beginning at a point S $0^{\circ}0'00''$ E 1287.85 feet along the Section line and N $89^{\circ}30'14''$ W 369.54 ft from the NE corner Sec 10, T36S, R9W, SLM, said point also being on the NE'ly R/W line of Highway U-143; thence S $89^{\circ}30'14''$ E 239.24 feet to the P.C. of a 85.00 ft. radius curve; thence counterclockwise along the arc of said curve 63.25 ft; thence N $47^{\circ}52'18''$ E 626.84 ft. to the P.C. of a 930.91 ft radius curve; thence counterclockwise along said curve 79.95 ft; thence N $42^{\circ}57'03''$ E 166.54 ft to the P.C. of a 4122.08 ft radius curve; thence clockwise along said curve 80.00 ft; thence N $44^{\circ}03'46''$ E 226.26 ft to the P.C. of a 83.08 ft radius curve; thence clockwise along said curve 264.88 ft; thence South

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46° 44' 09" West 141.00 feet to the P.C. of an 878.19 foot radius curve; thence counterclockwise along said curve 79.94 feet; thence South 41° 31' 12" West 129.69 feet to the P.C. of a 413.36 foot radius curve; thence counterclockwise along said curve 79.75 feet; thence South 30° 27' 56" West 77.78 feet to the P.C. of a 165.98 feet radius curve; thence counterclockwise along said curve 78.50 feet; thence South 03° 21' 59" West 124.35 feet to the P.C. of a 238.23 foot radius curve; thence clockwise along said curve 79.26 feet; thence South 22° 25' 45" West 113.36 feet to the point of ending.

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

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

4.02. Additional Units and Improvements. The Declarant or its successor shall have the right to create a maximum of twelve (12) Units on the Additional Land, and a maximum of twenty (20) Units per acre (or proportional equivalent) on any portion or portions of the Additional Land added to the Project. All Units created on the Additional Land or any portion or portions of such land added to the Project shall be restricted exclusively to the same residential and similar purposes as are Units on the Land. The Declarant makes no assurances (a) as to whether structures erected on any portion of the Additional Land added to the Project will be compatible with structures erected on the Land in terms of the quality of construction, principal materials used or architectural types, or (b) as to the location or locations of any improvements that may be made on any portions of the Additional Land added to the Project, or (c) as to what improvements, if any, may be made on any portions of Additional Land added to the Project, or (d) as to what types of Units may be

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created on any portions of the Additional Land added to the Project. The Declarant reserves the right to create Limited Common Areas within any portion or portions of the Additional Land, and makes no assurances as to the types, sizes or maximum number of such Limited Common Areas.

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

4.04. Reallocation of Undivided Interests. In the event the Project is expanded in accordance with the provisions of this Declaration and the Condominium Act, and in each such event, the undivided interest in the Common Areas and the votes appurtenant to the Units shall be reallocated among all of the Units in the Project, including the Units added to the Project. A part of the entire interest in and to Common Areas shall be allocated to each Unit on an equal basis. The total of the undivided interests so allocated to all of the Units in the Project shall add up to one hundred percent (100%). The votes shall be similarly reallocated, and the total of the votes so allocated to all of the Units in the Project shall equal the number of Units in the Project.

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

ARTICLE V

NATURE AND INCIDENTS OF CONDOMINIUM OWNERSHIP

5.01. 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.

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5.02. Maintenance of Units. Each Owner shall keep the interior of his Unit, including without limitation, interior walls, windows, ceilings, floors and permanent fixtures and appurtenances thereto in a clean and sanitary condition and in a state of good repair. In the event that any such Unit owner shall fail to correct such condition or state of disrepair promptly following written notice from the Association, the Association shall have the right, but not the obligation, at the expense of the Owner and without liability to the Owner for trespass or otherwise, to enter said Unit and correct or eliminate said unsanitary or unclean condition or state of disrepair.

5.03. Right to Combine Unit. With the written consent of the Association, two or more Units may be utilized by the Owner or Owners thereof as if they were one Unit. To the extent permitted in the written consent of the Association, any walls, floors or other structural separations between any two such Units, or any space which would be occupied by such structural separations but for the utilization of the two Units as one Unit, may, for as long as the two Units are utilized as one Unit, be utilized by the Owner or Owners of such adjoining Units as Limited Common Areas, except to the extent that any such structural separations are necessary for the support, use, or enjoyment of other parts of the Project. At any time, upon the request of the Owner of one of such adjoining Units, any opening between the two Units which, but for joint utilization of the two Units would have been occupied by structural separation, shall be closed at the equal expense of the Owner or Owners of each of the two Units, and the structural separations between the two Units shall thereupon become Common Areas.

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

5.05. Ownership of Common Areas. The undivided interest in the Common Areas appurtenant to each Unit in the Project shall be as set forth in Exhibit A attached hereto and by this reference made a part hereof. Except as otherwise provided in Article IV hereof pertaining to expansion of the Project, the percentages appurtenant to each Unit as shown in said Exhibit A shall have a permanent character and shall not be altered without the unanimous written consent of all Owners expressed in an amendment to this Declaration duly recorded. Except as otherwise provided in this Declaration, any Owner shall be entitled to nonexclusive use of the Common Areas (other than Limited Common Areas) in any manner that does not hinder or encroach upon the rights of other Owners and is not contrary to any rules and regulations promulgated by the Association. Except as otherwise provided in this Declaration, each Owner shall have the exclusive right to use and

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enjoy any Limited Common Areas that may be designated for exclusive use by such Owner.

5.06. Inseparability. Title to no part of a Condominium in the Project may be separated from any other part thereof during the period of condominium ownership hereunder, and each Unit and the undivided interest in the Common Areas appurtenant to each Unit shall always be conveyed, devised, encumbered and otherwise affected only as a complete Condominium. Every devise, encumbrance, conveyance or other disposition of a 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.

5.07. No Subdivision. No Unit or portion thereof may be divided or subdivided or a fractional portion thereof sold or conveyed so as to be held in divided ownership.

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

5.09. Separate Mortgages by Owners. Each Owner shall have the right separately to mortgage or otherwise encumber his Condominium. No Owner shall attempt to or shall have the right to mortgage or otherwise encumber the Common Areas or any part thereof, other than the undivided interest therein appurtenant to his Condominium. Any Mortgage or other encumbrance of any Condominium within the Project shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure 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.

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

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5.11. Mechanics Liens. No labor performed or material furnished for use in connection with any Unit with the consent or at the request of any Owner or his agent or subcontractor shall create any right to file a statement or notice of mechanic's lien against the Unit of any other Owner not expressly consenting to or requesting the same or

against any interest in the Common Areas (other than the undivided interest in the Common Areas appurtenant to the Unit of the Owner for whom such labor shall have been performed and such materials shall have been furnished).

5.12. Description of Condominium. Every contract for the sale of a Condominium and every other instrument affecting title to a Condominium in the Project may describe a Unit by its identifying number or symbol as indicated in this Declaration or as shown on the Map. Such description will be construed to describe the Unit, together with the appurtenant undivided interest in the Common Areas, and to incorporate all the rights incident to ownership of a Condominium in the Project and all of the limitations on such ownership as described in this Declaration and/or in the Articles of Incorporation and Bylaws of the Association.

ARTICLE VI

EASEMENTS

6.01. 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 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.

6.02. Easements for Maintenance, Cleaning and Repair. Some of the Common Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Association shall have the irrevocable right to have access to each Unit and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, cleaning, repair or replacement of any Common Areas or for making emergency repairs at any time therein necessary to prevent damage to the Common Areas or to any Unit. In addition, 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

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inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Association with funds from the Common Expense Fund.

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

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

6.05. Easement for Completion of Project. The Declarant shall have a transferable easement over and on the Common Areas for the purpose of completing construction of the Project and making improvements therein as shown on the Map, for the purpose of completing construction of any portion or portions of the Additional Land added to the Project, and for the purpose of doing all things reasonably 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 to the Association for the prompt repair of such damage.

6.06. Easements Deemed Created. All conveyances of Condominiums in 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.

ARTICLE VII

RESTRICTIONS ON USE

7.01. Residential Uses. The Units in the Project shall be used exclusively for residential and lodging purposes, such purposes to be confined to Units in the Project. No 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 agents from using any 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 Unit from time to time.

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7.02. No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on in or upon any part of the Project, nor shall anything be done or placed in or upon any part of the Project which is or may become a nuisance or may cause 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.

7.03. Restriction on Signs. No signs, flags or advertising devices of any nature, including without limitation commercial, political, informational 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, except as may be necessary temporarily to caution or warn of danger. If the Association consents to the erection of any such signs or devices, the same shall promptly be removed at the request of the Association.

7.04. Restriction on Animals. No animals, birds, fish, reptiles or pets of any kind shall be brought or allowed to remain in or upon any part of the Project, unless and until written authorization is obtained from the Association. The Association shall, in the sole discretion of its Board of Trustees, have the right to revoke such authorization at any time, with or without cause.

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

7.07. 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 or any part thereof, nor shall anything be done or kept in any Unit which would increase the rate of insurance on the Project or any part thereof over that which the Association, but for such activity, would 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 guest of any Owner, and each Owner shall indemnify and hold harmless the Association and the other Owners from and against all loss resulting from any such damage or waste caused by such Owner or his guests, lessees, licensees or invitees.

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

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

ARTICLE VIII

THE ASSOCIATION

8.01 Membership. Each Owner shall be entitled and required to be a member of the Association; such 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. Each membership shall be appurtenant to the Condominium to which it relates and shall be transferred automatically by conveyance of the Condominium. Ownership of a Condominium in 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 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.

8.02. 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 or its successor shall have the exclusive right to appoint and to remove and replace all such Trustees.

8.03. Votes. The number of votes appurtenant to each respective Condominium shall be as set forth in Exhibit A attached hereto and by this reference made a part hereof. Except as otherwise provided, the number of votes appurtenant to each Condominium as set forth in said Exhibit A shall have a permanent character and shall not be altered without the unanimous written consent of all Owners expressed in an amendment to this Declaration duly recorded.

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

8.05. Amendment of Article. This Article VIII shall not be amended unless the Owners of all Condominiums in the Project unanimously consent and agree to such amendment by instruments duly recorded.

ARTICLE IX

CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

9.01. Common Areas. The Association, subject to the rights and duties of the Owners as set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon (including 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, if any, designated for use in connection with his Unit in a good, clean, safe, sanitary and attractive condition. The Association shall be responsible for the maintenance and repair of the exterior of the Buildings and the grounds, including without limitation painting, 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 Common Areas within the Buildings, including without limitation hallways, elevators, utility lines, and all Common Facilities, improvements and other items located in 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 with funds from the Common Expense Funds.

9.02. Manager. The Association may, by written contract, delegate in whole or in part to a professional Manager such of the Association's duties, responsibilities, functions and powers hereunder as are properly delegable. The services of any Manager retained by the Association shall be paid for with funds from the Common Expense Fund. Any such management contract shall be for a term of three (3) years or less and shall provide for termination by either party without cause and without payment of a termination fee upon ninety (90) days' written notice.

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

9.04. 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 of the 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 be part of such Fund.

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

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

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

9.08. 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.

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ARTICLE X
ASSESSMENTS

10.01. Agreement to Pay Assessments. The Declarant, for each Condominium in the Project owned by it 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 therefor, 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 such assessments as shall be fixed, established and collected from time to time as provided in this Article X.

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

(a) Common Expense. Annual Assessments shall be based upon advance estimates of the Association's cash requirements to provide for payment of all estimated expenses arising out of or connected with maintenance and operation of the Common Areas and/or furnishing utility services and other common items to the Units. Such estimated expenses may include, among other things, the following: Expenses of management; real property taxes and special assessments (until the Condominiums are separately assessed); premiums for all insurance that the Association is required or permitted to maintain hereunder; repairs and maintenance; wages for Association employees, including fees for a Manager (if any); utility charges, including charges for utility services to the Units to the extent not separately metered or billed; legal and accounting fees; any 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 the Owners under or by reason of this Declaration. Such shall constitute the Common Expense, and all funds received from assessments under this Section 10.02 shall be part of the Common Expense Fund.

(b) Apportionment. Expenses attributable to the Common Expense or to the Project as a whole shall be apportioned among and assessed to all Owners in proportion to their respective undivided interests in the Common Areas. The Declarant shall be liable for the amount of any assessments against completed Condominiums owned by it.

(c) Annual Budget. Annual Assessments shall be determined on a May 1 through April 30 fiscal year basis; provided that the first fiscal year shall begin on the date this Declaration is recorded in the office of the County Recorder of Iron County, State of Utah. On or before April 1 of each year the Association shall prepare or cause to be prepared and furnished to each Owner an operating budget for the upcoming fiscal year. The budget shall itemize the estimated expenses

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of Common Expense for such fiscal year, anticipated receipts (if any), and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the Annual Assessment for the upcoming fiscal year and as the major guideline under which the Project shall be operated during such annual period. Such budgets shall be unnecessary for Annual Assessments relative to or for operation of the Project during any operating period until seven (7) Units have been sold.

(d) Notice and Payment. Annual Assessments shall be levied on the basis of a fiscal year beginning May 1 and ending on April 1 next following; provided that the first fiscal year shall begin on the date this Declaration is recorded in the office of the County Recorder of Iron County, State of Utah. Except with respect to the first fiscal year, the Association shall notify each Owner as to the amount of the Annual Assessment with respect to his Condominium on or before April 15 each year for the fiscal year commencing on May 1 next following. Each Annual Assessment shall be payable in twelve (12) equal monthly installments due on the first day of each calendar month during the fiscal year to which the assessment relates; provided, however, that the Annual Assessment for the first fiscal year shall be based upon and shall be payable in equal monthly installments for the balance of such fiscal year remaining after the date of recording hereof. All unpaid installments of any Annual Assessment shall bear interest at the rate of one and one-half percent (1-1/2%) per month (or at such lesser rate equal to the maximum interest rate allowed by applicable law) from the date each such installment is due until paid. The failure of the Association to give timely notice of any Annual Assessment as provided herein shall not be deemed to waive or modify in any respect the provisions of this Declaration, or to release any Owner from the obligation to pay such assessment or any other assessment; but the date when the payment shall become due in such case shall be deferred to a date fifteen (15) days after notice of such assessment shall have been given to the involved Owner.

(e) Inadequate Funds. In the event that the Common Expense Fund proves inadequate at any time for whatever reason, including non-payment of any Owner's assessment, the Association may levy additional assessments in accordance with the procedure set forth in Section 10.03 hereof, except that the vote therein specified shall be unnecessary.

10.03. Special Assessments. In addition to the Annual Assessments authorized by this Article, the Association may, at any time and from time to time, upon the affirmative vote of at least fifty-one percent (51%) of the Total Votes of the Association, levy Special Assessments, payable over such periods as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or for any other expenses incurred

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or to be incurred as provided in this Declaration (including without limitation Common Expenses). 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 in proportion to their respective undivided interests in the Common Areas. Notice in writing of the amount of such Special Assessments and the time for payment thereof shall be given promptly to the Owners; no payment shall be due less than fifteen (15) days after such notice shall have been given. All unpaid portions of any Special Assessment shall bear interest at the rate of one and one-half percent (1-1/2%) per month (or at such lesser rate equal to the maximum interest rate allowed by applicable law) from the date such portions become due until paid. All funds received from assessments under this Section shall be part of the Common Expense Fund.

10.04. Lien for Assessments. For all unpaid sums assessed to Owners of any condominium in the Project pursuant to the provisions of this Article X, the Association may prepare a written notice of lien setting forth the amount of the assessment, the due date, the amount remaining unpaid, the name of the Owner of the Condominium, and a description of the Condominium. Such a notice may be signed and acknowledged by a duly authorized officer of the Association and may be recorded in the office of the County Recorder of 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 proceedings (including reasonable attorney's 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, and all such assessments shall be secured by the lien being foreclosed. 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. Such lien may also be enforced by sale in accordance with the provisions of the laws of the State of Utah applicable to the exercise of powers of sale in deeds of trust or in any other manner permitted by the laws of the State of Utah then in effect.

10.05. Personal Obligation of Owner. The amount of any Annual 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 or any Owner 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

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of the Common Areas or by abandonment of his Condominium or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment for unpaid assessments hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorney's fees.

10.06. Statement of Account. Upon payment of a reasonable fee not to exceed \$10.00 and upon written request of any Owner, Mortgagee, prospective Mortgagee or prospective purchaser of a Condominium, the Association shall issue a written statement setting forth the following: The amount of the unpaid assessments, if any, with respect to such Condominium; the amount of the current Annual Assessment and the date or dates upon which installments thereof become due; 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.

10.07. Personal Liability of Purchaser. Subject to the provisions of Section 10.06 hereof, a purchaser of a Condominium shall be jointly and severally liable with the seller thereof for all unpaid assessments against such Condominium up to the time of the grant or conveyance; provided, however, that the provisions of this Section shall not prejudice the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

10.08. Amendment of Article. This Article X shall not be amended unless the Owners of all Condominiums in the Project unanimously consent and agree to such amendment by instruments duly recorded.

ARTICLE XI

INSURANCE

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

(a) Fire and Casualty Insurance. The Association shall obtain a policy or policies of insurance on the Project in such amounts as shall provide for 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 approp-

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riate to provide insurance protection. The Association may comply with the above requirements by the purchase of blanket coverage and may elect such "deductible" provisions as in the Association's opinion are consistent with good business practice.

(b) Public Liability and Property Damage Insurance. The Association shall obtain a broad form of comprehensive liability insurance coverage, in such amounts 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. In no event shall the coverage be less than \$1,000,000 per occurrence.

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

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

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

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

(b) Public Liability and Property Damage Insurance. Public liability and property damage insurance shall name the Association as the insured, as trustee for each Owner and for the Declarant (whether

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or not Declarant is an Owner), and shall protect the Association, each Owner and the Declarant against liability for acts or omissions of the Association and all other persons and entities in connection with the ownership, operation, maintenance or other use of the Project. Each such policy shall provide that it cannot be cancelled either by the insured or by the insurance company until after fifteen (15) days prior written notice to the Association, to each Owner and to the Declarant.

(c) Policies. The Association shall make every effort to secure insurance policies that will provide for the following:

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

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

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

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

11.03. 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 from time to time.

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

11.05. Owner's Own Insurance. Notwithstanding the provisions hereof, each Owner may obtain insurance at his own expense providing coverage on his Condominium, his personal property, for his personal liability, and covering such other risks as he may deem appropriate. All such insurance of the Owner's Condominium shall waive the insurance company's right of subrogation against the Association, the Declarant, the Manager, other Owners and their respective servants,

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agents and guests, if such insurance can be obtained pursuant to industry practice without additional premium charge for the waiver of subrogation rights.

11.06. Review of Insurance. The Association shall review annually the coverage and policy limits of all insurance on the Project and adjust same at its discretion. Such annual review may include an appraisal of the improvements in the Project by a representative of the insurance carrier or carriers providing the policy or policies on the Project or by such other qualified appraisers as the Association may select.

ARTICLE XII

DAMAGE OR DESTRUCTION

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

12.02. Definition of Repair and Reconstruction. Repair and reconstruction of the improvements as used herein means restoring the Project 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.

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

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

(b) Sufficient Insurance. If the proceeds of the insurance maintained by the Association equal or exceed the estimated costs to repair and reconstruct the damaged or destroyed part of the Project, such repair and reconstruction shall be carried out. In the event the proceeds of such insurance prove insufficient to pay the actual costs

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of such repair and reconstruction, the Association shall levy a Special Assessment sufficient to provide funds to pay such actual costs of repair and reconstruction. Such Special Assessment shall be allocated and collected as provided in Section 10.03 hereof, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected (together with the proceeds of insurance) prove insufficient to pay all actual costs of such repair and reconstruction.

(c) Insufficient Insurance - Less than 75% Destruction. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project and if less than seventy-five percent (75%) of the Buildings are substantially damaged or destroyed, such repair and reconstruction shall nevertheless be carried out. The Association shall levy a Special Assessment sufficient to provide the additional funds to pay the actual cost of such reconstruction to the extent that such insurance proceeds are insufficient to pay such costs. Such Special Assessment shall be allocated and collected as provided in Section 10.03 hereof, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected (together with the proceeds of insurance) are insufficient to pay all actual costs of such repair and reconstruction.

(d) Insufficient Insurance - 75% or More Destruction. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project and if seventy-five percent (75%) or more of the Buildings are substantially damaged or destroyed, such damage or destruction shall be repaired and reconstructed as provided in Section 12.03(c) hereof if, but only if, within one hundred (100) days following the damage or destruction the Owners shall elect by a vote of at least seventy-five percent (75%) of the Total Votes of the Association to carry out such repair and reconstruction, the Association shall record in the office of the County Recorder of Iron County, State of Utah, a notice setting forth such facts. Upon the recording of such notice, the following shall occur:

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

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

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

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

12.04. Repair or Reconstruction. If the damage or destruction is to be repaired and reconstructed as provided above, the Association shall, as soon as practicable after receiving the said estimate of costs, commence and diligently pursue to completion the repair and reconstruction of the 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, except as otherwise expressly provided herein. The Project shall be restored or repaired to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas having the same vertical and horizontal boundaries as before.

12.05. Disbursement of Funds for Repair and Reconstruction. If repair or reconstruction is to occur, the proceeds of all insurance collected or maintained by the Association and any amounts received from assessments made pursuant to Section 12.03(b) and (c) hereof shall constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for cost of repair and reconstruction shall be made from insurance proceeds; if there is a balance after payment of all 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.

12.06. Amendment of Article. This Article XII shall not be amended unless the Owners of all Condominiums in the Project unanimously consent and agree to such amendment by instruments duly recorded.

ARTICLE XIII

CONDEMNATION

13.01. Condemnation. If at any time or times all or any part of the Project shall be taken or condemned by any public authority under power of eminent domain, the provisions of this Article shall apply. A voluntary sale or conveyance of all or any part of the Project in

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lieu of condemnation, but under threat of condemnation, shall be deemed to be a taking by power of eminent domain.

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

13.03. Complete Taking. In the event the entire Project is taken by power of eminent domain, Condominium ownership pursuant hereto 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.

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

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

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

(ii) If any partial taking results in the taking of a portion of a Unit and if there is no determination that such taking makes it impractical to use the remaining portion of such Unit for any lawful purpose permitted by this Declaration, then the fair market value of such remaining portion of the Unit shall be determined and all voting rights and the undivided interest in the Common Areas appertaining to such Unit shall be reduced in proportion to their respective undivided interests in the Common Areas, and the remaining portion of such Unit shall thenceforth be part of the Common Areas.

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

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(iv) The Association shall have the duty and authority to make all determinations and to take all actions necessary or appropriate to effectuate reorganization of the Project under the provisions of this Section 13.04(b); provided, however, that if any such determination shall have been made or such action taken by judicial decree, the Association shall defer thereto and proceed in accordance therewith.

(c) Repair and Reconstruction. Any repair and reconstruction necessitated by condemnation shall be governed by the provisions specified in Article XII hereof for cases of damage or destruction; provided, however, that the provisions of said Article dealing with sufficiency or insufficiency of insurance proceeds shall not be applicable.

13.05. Amendment of Article. This Article XIII shall not be amended unless the Owners of all Condominiums in the Project unanimously consent and agree to such amendment by instruments duly recorded.

ARTICLE XIV

OBSOLESCENCE

14.01. Adoption of Plan. Owners holding seventy-five percent (75%) or more of the Total Votes of the Association may agree that the Project is obsolete and may adopt a written plan for the renewal and reconstruction of the Project, provided that such plan has the unanimous written approval of all first Mortgagees of record at the time of the adoption of such plan. Written notice of adoption of such plan shall be given to all Owners.

14.02. Payment for Renewal and Reconstruction. The Association shall levy a Special Assessment sufficient to provide funds to pay the estimated expenses of renewal or reconstruction. Such Special Assessment shall be allocated and collected as provided in Section 10.03 hereof, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected prove insufficient to pay the actual expenses of such renewal or reconstruction. In the event amounts collected pursuant hereto are in excess of the amounts required for renewal or reconstruction, such excess shall be distributed to the Owners in proportion to their respective percentages of ownership of the Common Areas.

14.03. Sale of Project. Notwithstanding any other provision of this Declaration, the Owners may, at any time, by an affirmative vote of at least seventy-five percent (75%) of the Total Votes of the Association, at a special meeting of the Members of the Association duly called for such purpose, elect to sell or otherwise dispose of the Project. In such event, the Association shall forthwith record in

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the office of the County Recorder of Iron County, State of Utah, a notice setting forth such facts, and upon the recording of such notice by the Association, the Project shall be sold or otherwise disposed of by the Association as attorney in fact for all of the Owners. Such action shall be binding upon all Owners, and each Owner shall be obligated to execute and deliver such instruments and to perform all acts in such manner and form as may be necessary or appropriate to effect such sale or disposition. The proceeds of such sale, after expenses of sale, shall be apportioned among the Owners in proportion to their respective percentages of ownership of the Common Areas, and such apportioned proceeds shall be paid into separate accounts, each such account representing one Condominium. Each such account shall remain in the name of the Association and shall be further identified by the Condominium designation and the name of the Owner. The Association, as attorney in fact, shall use and disburse the total amount of each such account, without contribution from one account to another, first to the payment of valid tax and special assessment liens on the Condominium in favor of any governmental assessing authority, second to the payment of assessments made pursuant to this Declaration, third to the payment of other holders of liens or encumbrances on the Condominium in the order of priority of their liens, and the balance remaining, if any, to the respective Owner.

14.04. Amendment of Article. This Article XIV shall not be amended unless the Owners of all Condominiums in the Project unanimously consent and agree to such amendments by instruments duly recorded.

ARTICLE XV

MORTGAGEE PROTECTION

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

15.02. Subordination of Assessment Lien. The lien or claim against a Condominium for unpaid assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to a prior Mortgage or a deed or assignment in lieu of foreclosure. A first Mortgagee who obtains title to a Unit through foreclosure, deed in lieu of foreclosure or by virtue of remedies provided in the Mortgage or Deed of Trust or by law, or any purchaser at a foreclosure sale, shall take the Unit free and clear of any unpaid assessments, claims or charges which accrue against the Unit prior to such acquisition of title.

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

- (a) To abandon or terminate the Project or to abandon or terminate the arrangement which is established by this Declaration and the Map except for abandonment provided by statute in case of substantial loss to the Units and Common Areas;
- (b) To partition or subdivide any Unit;
- (c) To abandon, partition, subdivide, encumber, alter the boundaries of, sell, diminish or transfer all or any of the Common Areas (except for the granting of easements for utilities and similar purposes consistent with the intended use of the Common Areas, and except as provided in Section 15.03(a) hereof, and except as provided in Article IV hereof pertaining to expansion);
- (d) To use hazard insurance proceeds resulting from damage to any part of the Project (whether to Units or to the Common Areas) for purposes other than the repair, replacement or reconstruction of such improvements;
- (e) To change the pro rata interests or obligations of any Unit which apply for (i) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards and for (ii) determining the pro rata share of ownership of each Unit in the Common Areas (except in each case as provided in Article IV hereof pertaining to expansion);
- (f) To alter the provisions hereof in such a way as to diminish the insurance protection required to be afforded to the parties designed to be protected thereby, or to fail to maintain the insurance coverage described therein;
- (g) Subject any Condominium to any unreasonable restraints on alienation which would adversely affect title or marketability of a Condominium, or the ability of the Mortgagee to foreclose its mortgage lien and thereafter to sell or lease the mortgaged Condominium;
- (h) To allow any person or entity handling funds of the Association, including without limitation employees of any Manager, to do so without first obtaining therefor appropriate fidelity bond coverage.

15.05. Revenue Fund and Working Capital Fund Required. The Association shall establish an adequate reserve to cover the cost of reasonably predictable and necessary repairs and replacements of the Common Areas and any component thereof and shall cause such reserve to

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be funded by regular monthly or other periodic assessments against the Condominiums, rather than by Special Assessments, to the extent reasonably possible. Initially, this fund shall equal at least two (2) months' Common Areas charge per Unit to be collected upon sale of each Unit.

15.06. Notification of Loss or Damage. From and after the time a Mortgagee makes written request to the Association therefor, the Association shall notify such Mortgagee in writing in the event that there occurs any damage or loss to, or taking or anticipated condemnation of: (a) the Common Areas involving an amount in excess of, or reasonably estimated to be in excess of, Ten Thousand Dollars (\$10,000.00); or (b) any Unit involving an amount in excess of, or reasonably estimated to be in excess of, One Thousand Dollars (\$1,000.00). Said notice shall be given within fifteen (15) days after the Association learns of such damage, loss, taking or anticipated condemnation.

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

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

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

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ARTICLE XVI

COMPLIANCE WITH DECLARATION AND BYLAWS

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

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

ARTICLE XVII

GENERAL PROVISIONS

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

17.02. Construction. The provisions of this Declaration shall be in addition and supplemental to the Condominium Act and to all other provisions of law. Whenever used herein, unless the context shall otherwise require, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. The Article and Section headings contained herein are for convenience and reference only and are not intended to describe, interpret, define or

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otherwise affect the content, meaning or intent of this Declaration or any Article, Section or provision hereof. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

17.03. Notices and Registration of Mailing Address. Each Owner shall register from time to time with the Association his current mailing address. All notices, demands and other communications to any Owner as provided for in this Declaration shall be in writing and shall be sufficient for all purposes if personally delivered or if sent by certified or registered U.S. mail, return receipt requested, postage prepaid, and addressed to the Owner at his registered mailing address or, if no address has been registered, to the Unit of such Owner. All notices, demands and other communications to the Association as provided for in this Declaration shall be in writing and shall be sufficient for all purposes if personally delivered or if sent by certified or registered U.S. mail, return receipt requested, postage prepaid, and addressed to the Association at its offices at the Project, or at such other address as the Association may hereafter specify to the Owners in writing. Any notice, demand or other communication under this Declaration shall be deemed to have been given and received and shall be effective when personally delivered or when deposited in the U.S. mail in the form provided for in this Section, as the case may be.

17.04. Audit. Any Owner may at any reasonable time, upon appointment and at his own expense, cause an audit or inspection to be made of the books and records maintained by the Association. The Association, at the expense of the Common Expense Fund, shall obtain an audit, by certified public accountants, of all books and records pertaining to the Project at no greater than annual intervals, and copies thereof shall be furnished to the Owners.

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

17.06. Effective Date. This Declaration shall take effect upon recording thereof in the office of the County Recorder of Iron County, State of Utah.

17.07. Agent for Service. The name and address of the person to receive service of process in all cases provided by the Condominium Act shall be the registered agent and address of the Association as shown on the official corporate records maintained in the office of the Lt. Governor/Secretary of State of the State of Utah. On the date

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of this Declaration, the registered agent of the Association is Douglas H. Perry and his registered address is c/o David C. Anderson, Attorney at Law, 185 South State Street, Suite 400, Salt Lake City, Utah 84111.

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

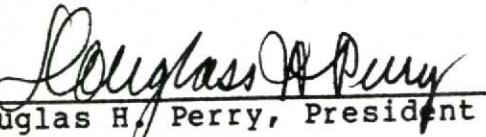
17.09. Limitation on Association's Liability. The Association shall not be liable for any failure of water service or other utility service (if any) to be obtained and paid for by the Association hereunder, or for injury to or damage of any person or property caused by the elements or by another Owner 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 the Buildings or their drains, pipes, conduits, appliances or equipment or from any other place, unless caused by the gross negligences or willful misconduct 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 any repairs thereof, or from any action taken to comply with the laws, ordinances, regulations, rules or orders of any governmental authority.

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

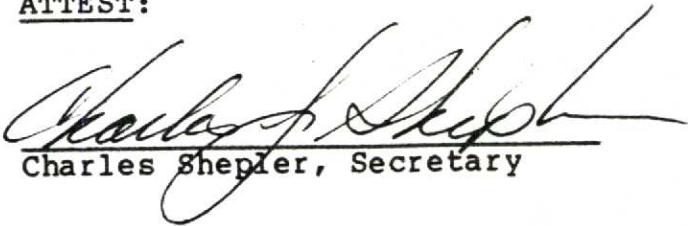
DECLARANT:

BRIAN HEAD ENVIRONMENTS,
INCORPORATED, a Utah corporation

By


Douglas H. Perry, President

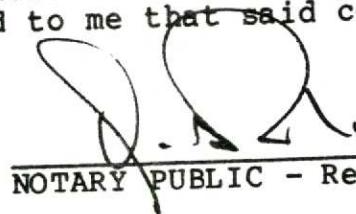
ATTEST:


Charles Shepler, Secretary

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STATE OF UTAH)
COUNTY OF IRON)
: ss.

On the 3rd day of January, 1986, personally appeared before me DOUGLAS H. PERRY and CHARLES SHEPLER, who being by me duly sworn did say that they are the President and Secretary, respectively, of BRIAN HEAD ENVIRONMENTS, INCORPORATED, a Utah corporation, and that the within and foregoing Declaration of Condominium for the Racquet Club Villas Condominium, an Expandable Condominium Project, was signed on behalf of said corporation by authority of its Bylaws or a resolution of its Board of Directors; said persons each duly acknowledged to me that said corporation executed the same.



NOTARY PUBLIC - Residing at:

Cedar City, Utah


My Commission Expires:

6/11/88

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EXHIBIT A

(Attached to and forming a part of the Declaration of Condominium for the Racquet Club Villas Condominium, an Expandable Condominium Project.)

UNITS, UNDIVIDED OWNERSHIP INTERESTS AND VOTES

<u>Unit No.</u>	<u>UNDIVIDED OWNERSHIP INTERESTS</u>	<u>VOTES</u>
1	1/12	1
2	1/12	1
3	1/12	1
4	1/12	1
5	1/12	1
6	1/12	1
7	1/12	1
8	1/12	1
9	1/12	1
10	1/12	1
11	1/12	1
12	1/12	1

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EXHIBIT B

(Attached to and forming a part of the Declaration of Condominium for the Racquet Club Villas Condominium, an Expandable Condominium Project.)

BYLAWS
OF
THE RACQUET CLUB VILLAS OWNERS ASSOCIATION
A Nonprofit Corporation

Pursuant to the provisions of the Utah Nonprofit Corporation and Co-Operative Association Act, the Board of Trustees of the Racquet Club Villas Owners Association, a Utah nonprofit corporation, adopt the following Bylaws:

ARTICLE I

NAME AND PRINCIPAL OFFICE

1.01. Name. The name of the nonprofit corporation is The Racquet Club Villas Owners Association, hereinafter the "Association".

1.02. Offices. The principal office of the Association shall be at The Racquet Club Villas Condominium, an Expandable Condominium Project, hereinafter the "Project", situated upon the following described real property in Iron County, State of Utah:

Beginning South 89°09'03" East, 298.72 feet along the section line and South 638.37 feet from the Northwest corner of Section 11, T36S, R9W, SLM; thence North 39°18'34" East 326.61 feet along the easterly line of a 66 foot wide road; thence along the arc of a curve to the left, having a radius of 264.14 feet, a distance of 53.51 feet along said road R/W; thence South 80°15'00" East, 139.92 feet; thence South 42°43'31" West, 325.98 feet; thence North 47°02'57" W 10.00 feet; thence South 39°18'34" West, 120.00 feet; thence North 53°20'05" West, 87.00 feet to the point of beginning.

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Subject to an easement for an existing retaining wall and driveway over the following described land: Beginning South $89^{\circ}09'03''$ East, 673.05 feet along the Section line and South 359.28 feet from the Northwest corner of Section 11, T36S, R9W, SLM; thence South $42^{\circ}43'31''$ West, 3.00 feet; thence North $75^{\circ}10'52''$ West, 28.48 feet; thence South $80^{\circ}15'00''$ East, 30.00 feet to the point of beginning.

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

1.03. Expandable Project. Brian Head Environments, Incorporated, a Utah corporation, will have the right, at its option, to expand the Project in accordance with the provisions of the Utah Condominium Ownership Act and the Declaration referred to in Section 2.01 hereof to include all or any part or parts of or interest in the following described property in Iron County, State of Utah:

Beginning at a point South $89^{\circ}09'03''$ East 872.12 feet and South $33^{\circ}52'44''$ East 610.37 feet from the Northwest corner of Section 11, T36S, R9W, SLB&M: and running thence South $48^{\circ}05'26''$ West 857.43 feet; thence North $41^{\circ}54'34''$ West 102.24 feet; thence along the arc of a non-tangent curve to the right (radius point for said curve bears South $85^{\circ}51'26''$ East 198.98 feet), a distance of 87.42 feet; thence North $42^{\circ}07'42''$ West 126.85 feet; thence along the arc of a non-tangent curve to the right (radius point for said curve bears North $44^{\circ}41'14''$ West 963.91 feet), a distance of 43.05 feet; thence South $47^{\circ}52'18''$ West 26.96 feet; thence North $42^{\circ}07'42''$ West 66.00 feet; thence South $47^{\circ}52'18''$ West 41.93 feet; thence North $50^{\circ}52'44''$ West 151.27 feet to a P.O.C.; thence along the arc of said curve to the right, having a radius of 681.96 feet, a distance of 90.22 feet; thence North $20^{\circ}18'34''$ East 70.31 feet; thence South $53^{\circ}20'45''$ East 87.0 feet; thence North $39^{\circ}18'34''$ East 120.0 feet; thence South $47^{\circ}02'57''$ East 10.00 feet; thence North $42^{\circ}43'31''$ East 325.98 feet; thence South $80^{\circ}15'00''$ East 132.46 feet; thence along the arc of a non-tangent curve to the right (radius point for said curve bears South $15^{\circ}39'56''$ East 116.08 feet), a distance of 174.61 feet; thence North $56^{\circ}37'16''$ East 251.87 feet; thence South $33^{\circ}52'44''$ East 184.31 feet; thence South $48^{\circ}05'26''$ West, 60.59 feet to the point of beginning.

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Affects this and other property:

SUBJECT TO AND TOGETHER WITH the following described easement: Beginning at a point South $0^{\circ}0'00''$ East 1287.85 feet along the Section line and North $89^{\circ}30'14''$ West 369.54 feet from the Northeast corner of Section 10, T36S, R9W, SLM, said point also being on the Northeasterly R/W line of Highway U-143; thence South $89^{\circ}30'14''$ East 239.24 feet to the P.C. of an 85.00 foot radius curve; thence counterclockwise along the arc of said curve 63.25 feet; thence North $47^{\circ}52'18''$ East 626.84 feet to the P.C. of a 930.91 foot radius curve; thence counterclockwise along said curve 79.95 feet; thence North $42^{\circ}57'03''$ East 166.54 feet to the P.C. of a 4122.08 foot radius curve; thence clockwise along said curve 80.00 feet; thence North $44^{\circ}03'46''$ East 226.26 feet to the P.C. of an 83.08 foot radius curve; thence clockwise along said curve 264.88 feet; thence South $46^{\circ}44'09''$ West 141.00 feet to the P.C. of an 878.19 foot radius curve; thence counterclockwise along said curve 79.94 feet; thence South $41^{\circ}31'12''$ West 129.69 feet to the P.C. of a 413.36 foot radius curve; thence counterclockwise along said curve 79.75 feet; thence South $30^{\circ}27'56''$ West 77.78 feet to the P.C. of a 165.98 feet radius curve; thence counterclockwise along said curve 78.50 feet; thence South $03^{\circ}21'59''$ West 124.35 feet to the P.C. of a 238.23 foot radius curve; thence clockwise along said curve 79.26 feet; thence South $22^{\circ}25'45''$ West 113.36 feet to the point of ending.

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

ARTICLE II

DEFINITIONS

2.01. Definitions. Except as otherwise provided herein, or required by the context, all terms defined in Article I of the Declaration of Condominium for The Racquet Club Villas Condominiums, an Expandable Condominium Project, hereinafter referred to as the "Declaration", shall have such defined meanings when used in these Bylaws.

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ARTICLE III

MEMBERS

3.01. Annual Meetings. The annual meeting of members shall be held on the third Saturday in August each year at 11:00 a.m., beginning with the year following the year in which the Articles of Incorporation are filed, for the purpose of electing Trustees and transacting such other business as may come before the meeting. If the election of Trustees shall not be held on the day designated herein for the annual meeting of the members, or at any adjournment thereof, the Board of Trustees shall cause the election to be held at a special meeting of the members to be convened as soon thereafter as may be convenient. The Board of Trustees may from time to time by resolution change the date and time for the annual meeting of the members.

3.02. 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 not less than 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.

3.03. Notice of Meeting. 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. 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 principal office of the Association.

3.04. Notice of Meeting. The Board of Trustees shall cause written or printed notice of the time, place and purpose 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 U.S. mail addressed to the member at his registered address, with first class postage thereon prepaid. Each member shall register with the Association such member's current mailing address for purposes of notice hereunder. Such registered address may be changed from time to time by notice in writing to the Association. If no address is registered with the Association, a member's Unit address shall be deemed to be his registered address for purposes of noticed hereunder.

3.05. Members of Record. Upon purchasing a Condominium in the Project, each Owner shall promptly furnish to the Association a

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certified copy of the record 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 fifty (50) nor less than ten (10) days prior to the meeting for determining members entitled to notice of or to vote at any meeting of the members. If no record date is designated, the date on which notice of the meeting is mailed shall be deemed to be the record date for determining members entitled to notice of or to vote at the meeting. The persons 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 the members of record entitled to notice of and to vote at the meeting of the members.

3.06. 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 day. 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.

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

3.08. Votes. With respect to each matter (except 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 appertaining to the Condominium of such member, as shown in the Declaration. The affirmative vote of a majority of the votes entitled to be cast by the members present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by the members, unless a greater proportion is required by the Articles

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of Incorporation, these Bylaws, the Declaration or Utah law. At each election of Trustees, each member entitled to vote at such election shall have the right to accumulate his votes by giving one candidate as many votes as shall equal the number of votes relating to his membership, or by distributing such votes on the same principle among any number of candidates. 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 joint membership.

3.09. 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 meetings.

3.10. 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 shall be signed by all of the members entitled to vote with respect to the subject matter thereof.

ARTICLE IV

BOARD OF TRUSTEES

4.01. 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 or the Articles of Incorporation, except such powers as are by law, by the Articles of Incorporation, by these Bylaws or by the Declaration vested solely in the members. The Board of Trustees may by written contract delegate, in whole or in part, to a professional management organization or person such of its duties, responsibilities, functions and powers as are properly delegable.

4.02. 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 shall serve until the Declarant turns over to the members, in accordance with Utah law, the responsibility for electing Trustees. 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, in accordance with principles of cumulative voting, three (3) Trustees to serve as follows: The candidate receiving the highest number of votes shall be elected to serve for a term of three (3) years; the candidate receiving the second highest number of votes shall be elected to serve for a term of two (2) years; and the candidate receiving the third highest number of votes shall be elected to serve for a term of one (1) year. At each annual meeting thereafter, the members shall elect

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one Trustee to fill the then expiring term and to serve for a term of three (3) years. Except for Trustees appointed by the Declarant, all Trustees must be members of the Association.

4.03. 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.

4.04. Special Meetings. Special meetings of the Board of Trustees may be called by or at the request of any Trustee. The person or persons authorized to call special meetings of the Board of Trustees may fix any place, within Iron County, State of Utah, as the place for holding any special meeting of the Board of Trustees called by such person or persons. Notice of any special meeting shall be given at least ten (10) days prior thereto by written notice delivered personally, or mailed to each Trustee at his registered address, or by telegram. If mailed, such notice shall be deemed to be delivered when deposited in the U.S. mail so addressed, with first class postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any Trustee may waive notice of a meeting.

4.05. Quorum and Manner of Acting. A majority of the then authorized number of Trustees 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.

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

4.07. Resignation and Removal. A Trustee may resign at any time by delivering a written resignation to either the President or the Board of Trustees. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Trustee (other than a Trustee appointed by Declarant) may be removed at any time, for or without cause, by the affirmative vote of sixty percent (60%) of the Total Votes of the Association at a special meeting of the members duly called for such purpose.

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4.08. 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 Declarant), or if the authorized number of Trustee 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. Any vacancies in the Board of Trustees occurring by reason of the member's removal of a Trustee may be filled by election by the members at the meeting at which such Trustee is removed. 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.

4.09. 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 shall be signed by all of the Trustees.

ARTICLE V

OFFICERS

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

5.02. 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 of failure to choose officers at such regular annual meeting of the Board of Trustees, 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 the next ensuing regular annual meeting of the Board of Trustees and until his successor shall have been chosen and qualified, or until his death, or until his resignation, disqualification or removal in the manner provided in these Bylaws, whichever first occurs. Any one person may hold any two or more of such offices; provided that the President may not also be the Secretary. No person holding two or more offices shall act in or execute any instrument in the capacity of more than one office. The President, the Vice President, the Secretary and the Treasurer shall be and remain Trustees of the Association during the entire term of their respective offices. No other officer need be a Trustee.

5.03. Subordinate Officers. The Board of Trustees may from time to time appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period,

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have such authority and perform such duties as 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.

5.04. 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.

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

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

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

5.08. The Secretary. The Secretary shall keep the minutes of the Association and shall maintain such books and records as these Bylaws, the Declaration or any resolution of the 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 duties as the Board of Trustees may require of him.

5.09. 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 shall, when requested by the President to do so, report the state of the finances of the Association at each annual meeting of the members and at any meeting of the Board of Trustees. He shall perform such other duties as the Board of Trustees may require of him.

5.10. Compensation. No officer shall receive compensation for any services that he may render to the Association as an officer;

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provided, however, that an officer may be reimbursed for expenses incurred in performance of his duties as an officer to the extent such expenses are approved by the Board of Trustees and (except as otherwise provided in these Bylaws) may be compensated for services rendered to the Association other than in his capacity as an officer.

ARTICLE VI

COMMITTEES

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

6.02. Proceedings of Committees. Each committee designated hereunder 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 from time to time determine. Each such committee shall keep a record of its proceedings and shall regularly report such proceedings to the Board of Trustees.

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

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

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

ARTICLE VII

INDEMNIFICATION

7.01. Indemnification of Third Party Actions. The Association shall 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 another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement 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. The termination of any action, suit or proceeding by an adverse judgment, order or settlement, conviction or upon plea of nolo contendere or its equivalent, 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 and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

7.02. Indemnification of Association Actions. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit 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 or officer 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 against expenses (including attorney's fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit, 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 except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances

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of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

7.03. Determination. To the extent that a person has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sections 7.01 or 7.02 hereof, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith. Any other indemnification under Sections 7.01 or 7.02 hereof shall be made by the Association only upon a determination that indemnification of the person is proper in the circumstances because he has met the applicable standard of conduct set forth respectively in Sections 7.01 or 7.02 hereof. Such determination shall be made either (i) by the Board of Trustees by a majority vote of disinterested Trustees, or (ii) by independent legal counsel in a written opinion, or (iii) by the Owners by the affirmative vote of at least fifty percent (50%) of the Total Votes of the Association at any meeting duly called for such purpose.

7.04. 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 receipt of an undertaking by or on behalf of the person to repay such amount or amounts unless it ultimately be determined that he is entitled to be indemnified by the Association as authorized by this Article.

7.05. Scope of Indemnification. The indemnification provided for by this Article shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any provision in the Association's Articles of Incorporation, Bylaws, agreements vote of disinterested members or Trustees or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. The indemnification authorized by this Article shall apply to all present and future Trustees, officers, employees or 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 and personal representatives of all such persons who may be entitled as a matter of law.

7.06. Insurance. The Association may purchase and maintain insurance on behalf of any person who was or is a Trustee, officer, employee or agent of the Association or who was or is serving at the request of the Association as a Trustee, director, officer, employee or agent of another corporation, entity or enterprise (whether for profit or not for profit), against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the laws of the State of Utah, as the same may hereafter be amended or modified.

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7.07. Payments and Premiums. All indemnification payments made, and all insurance premiums for insurance maintained pursuant to this Article shall constitute expenses of the Association and shall be paid with funds from the Common Expense Fund referred to in the Declaration.

ARTICLE VIII

FISCAL YEAR AND SEAL

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

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

ARTICLE IX

RULES AND REGULATIONS

9.01. Rules and Regulations. The Board of Trustees may from time to time 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, the Declaration or these Bylaws. The members shall be provided with copies of all rules and regulations adopted by the Board of Trustees and with copies of amendments and revisions thereof.

ARTICLE X

AMENDMENTS

10.01. Amendments. Except as otherwise provided by law, by the Articles of Incorporation, by the Declaration or by these Bylaws, these Bylaws may be amended, altered or repealed and new Bylaws may be made and adopted by the members upon the affirmative vote of at least sixty-seven percent (67%) of the Total Votes of the Association; provided, however, that such action shall not be effective unless and until a written instrument setting forth (i) the amended, altered, repealed or new bylaw, (ii) the number of votes cast in favor of such action, and (iii) the Total Votes of the Association, shall have been

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executed and verified by the current President of the Association and recorded in the office of the County Recorder of Iron County, State of Utah.

IN WITNESS WHEREOF, the undersigned, constituting all of the Trustees of The Racquet Club Villas Owners Association, have hereunto set their hands this 3rd day of January, 1986.

Douglas H. Perry
DOUGLAS H. PERRY

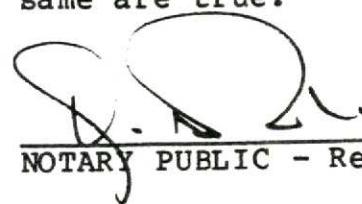
Charles Shepler
CHARLES SHEPLER

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ACKNOWLEDGEMENTS

STATE OF UTAH)
COUNTY OF IRON) : ss.

On the 3rd day of January, 19 86, personally
appeared before me DOUGLAS H. PERRY and CHARLES SHEPLER, the signers
of the within and foregoing Bylaws to The Racquet Club Villas Owners
Association, each of whom duly acknowledged to me that he has read and
executed the same, and that the same are true.



NOTARY PUBLIC - Residing at:

Cedar City, Utah

My Commission Expires:

6/11/88

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