

AFTER RECORDING PLEASE RETURN TO:

B. Paul Ferguson
63 North 400 West
Crem, Utah 84057

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF THE

LAKECREST II CONDOMINIUM PROJECT

THIS DECLARATION is made as of the date hereinafter set forth by B. PAUL FERGUSON and COLLEEN FERGUSON, husband and wife, Developers of LAKECREST II CONDOMINIUMS (hereinafter referred to collectively as the "Declarant"), pursuant to the provisions of the Utah Condominium Ownership Act.

R E C I T A L S:

A. Declarant is the owner of that certain Tract of land, more particularly described in Article II hereof.

B. Declarant has constructed, or is in the process of constructing, upon said Tract a Condominium Project, including certain Units and other improvements. All of such construction has been, or is to be, performed in accordance with the plans and drawings contained in the Record of Survey Map filed for record simultaneously herewith, prepared and certified by ROGER D. DUDLEY, a registered land surveyor.

C. Declarant desires, by filing this Declaration and the Record of Survey Map, to submit said Tract and all improvements now or hereafter constructed hereon to the provisions of the Utah Condominium Ownership Act as a Condominium Project to be known as the LAKECREST II CONDOMINIUM PROJECT or LAKECREST II CONDOMINIUMS.

D. Declarant intends to sell to various purchasers the Fee Title to the individual Units contained in the Project, together with the undivided ownership interest in the Common Areas and Facilities appurtenant to such Units, subject to the covenants, conditions, restrictions, limitations, and easements herein set forth.

E. Declarant reserves the right, as more fully set forth in Article III hereof, to expand the Project to include certain additional real property and improvements thereto, herein "Additional Land."

NOW, THEREFORE, for the foregoing purposes, Declarant hereby declares and certifies as follows:

I. DEFINITIONS

When used in this Declaration (including that portion hereof captioned "Recitals" and in the Bylaws attached hereto as Exhibit "C") the terms used shall have the meaning stated in the Utah Condominium Ownership Act and as follows unless the context otherwise requires.

1. Act shall mean and refer to the Utah Condominium Ownership Act, Title 57, Chapter 8, Utah Code Annotated (1953) as the same may be amended from time to time.

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2. Declaration shall mean and refer to this Declaration. This Declaration has been drafted to comply with the requirements of the Utah Condominium Ownership Act, Section 57, Chapter 8, Utah Code Annotated (1953). Any ambiguities, omissions, and/or conflicts shall be construed to comply with the provisions of said Act.

3. Map or Survey Map shall mean and refer to the Record of Survey Map filed herewith captioned LAKECREST II CONDOMINIUMS.

4. Property shall mean and refer to the Tract or Entire Tract described in Exhibit "A", the buildings, all improvements and the structures thereof, all easements, rights and appurtenances belonging thereto and all articles of personal property intended for use in connection therewith.

5. Common Areas or the Common Areas and Facilities shall mean and refer to and include:

(a) The land on which the buildings and other improvements are constructed and submitted by this Declaration to the terms of the Act.

(b) Those Common Areas and Facilities specifically set forth and designated as such in the Map.

(c) That part of the Condominium Project not specifically included in the respective Units as hereinafter defined.

(d) All Limited Common Areas and Facilities.

(e) All exterior walkways, streets, yards, gardens, fences, open parking spaces, installation of central services such as power, light, gas, all apparatus and installations existing for common use, such recreational and community facilities as may be provided for.

(f) All other parts of the Project normally in common use or necessary or convenient to its use, existence, maintenance, safety or management.

(g) All Common Areas and Facilities as defined in the Act, whether or not expressly listed herein.

6. Condominium Unit or Unit means and refers to one of the living units intended for independent use as defined in the Act located within any one Unit or located without said Unit but designated and designed to serve only that Unit, such as decks, appliances, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus. Fixtures and the like, shall be considered part of the Unit, as shall all decorated interiors, all surfaces of interior structural walls, floors and ceilings, windows and window frames, doors and door frames, and trim, consisting of, inter alia and as appropriate, wallpaper, paint, flooring, carpeting and tile. All pipes, wires, conduits, or other public utility lines or installation constituting a part of the Unit or serving only the Unit, and any structural members of any other property of any kind, including fixtures and appliances within any Unit, which are removable without jeopardizing the soundness, safety or usefulness of the remainder of the building within which the Unit is situated shall be considered part of the Unit.

7. Management Committee or Committee shall mean and refer to the Committee as provided in the Declaration charged with and having the responsibility and authority to make and to

enforce all of the reasonable rules and regulations covering the operation and maintenance of the Property.

8. Association of Unit Owners or the Association shall mean and refer to the Unit Owners acting as a group in accordance with the Declaration and Bylaws.

9. Common Expenses shall mean all items, things and sums described in the Act which are lawfully assessed against the Unit Owners in accordance with the provisions of the Act, this Declaration, the Bylaws, such rules, regulations and other determinations and agreements pertaining to the Condominium Project as the Management Committee, the Unit Owners, or the Association as hereinafter mentioned, may from time to time adopt.

10. Mortgage shall mean any mortgage, Deed of Trust, or other security instrument by which a Unit or any part thereof is encumbered.

11. Mortgagee shall mean any person named as a Mortgagee or beneficiary under or holder of a Deed of Trust.

12. Limited Common Areas and Facilities or Limited Common Areas shall mean those Common Areas designated in the Declaration and shown on the Map as reserved for the use of a certain Unit or Units to the exclusion of other Units. Limited Common Areas include driveways extending from the streets to the garages.

13. Unit Number shall mean and refer to the number, letter or combination thereof which designates a Unit on the Map.

14. Unit Owner or Owner shall mean and refer to the Owner of the Fee in a Unit and the Ownership of Undivided Interest in the Common Areas which is appurtenant thereto. The Declarant shall be deemed to be the Owner of all completed but unsold Units. In the event a Unit is the subject of an executory contract of sale, the Buyer shall, unless the Seller and the Buyer have otherwise agreed and have informed the Committee in writing of such agreement, be considered the Unit Owner for all purposes.

15. The Tract or Entire Tract shall mean and refer to the real property submitted to the Act, together with each and every portion of the additional land which is added to the Project.

16. Condominium Project or Project shall mean and refer to the LAKECREST II Condominium Project.

17. Additional Land shall mean, refer to, and consist of the following described parcel of real property situated in Utah County, State of Utah:

See Exhibit "B" attached hereto and incorporated herein by this reference.

A description of the Additional Land is set forth in this Declaration solely for purposes of identification. This Declaration is not intended as and should not be deemed to constitute any lien, encumbrance, restriction, or limitation upon any portion of the Additional Land unless and until such portion is added

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to the Project in accordance with law and the provisions hereof.

II. SUBMISSION TO THE ACT

Declarant hereby submits to the Provisions of the Act the following described real property situated in Utah County, State of Utah, to-wit:

See Exhibit "A" attached hereto and incorporated herein by this reference.

TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described parcel of real property.

ALL OF THE FOREGOING IS SUBJECT TO: all liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all Patent reservations and exclusions; and mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described Tract or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible easements and rights-of-way; all easements and rights-of way, encroachments, or discrepancies shown on or revealed by the Survey Map or otherwise existing; an easement for each and every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the above-described Tract at such time as construction of all Project improvements is complete; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cables, wires, utility lines, and similar facilities.

RESERVING UNTO DECLARANT, however, such easements and rights of ingress and egress over, across, through, and under the above-described Tract and any improvements (other than Buildings) now or hereafter constructed thereon as may be reasonably necessary for Declarant or for any assignee or successor of Declarant (in a manner which is reasonable and not inconsistent with the provisions of this Declaration); (i) To construct and complete each of the Buildings and all of the other improvements described in this Declaration or in the Survey Map recorded concurrently herewith, and to do all things reasonably necessary or proper in connection therewith; (ii) To construct and complete on the Additional Land or any portion thereof such improvements as Declarant or said assignee or successor shall determine to build in its sole discretion (and whether or not the Additional Land or said portion has been or thereafter will be added to the Project); (iii) To improve portions of the Tract with such other or additional improvements, facilities, or landscaping designed for the use and enjoyment of all the Owners as Declarant or as such assignee or successor may reasonably determine to be appropriate. If, pursuant to the foregoing reservations, the above described Tract or any improvement thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements, the reservations hereby effected shall, unless sooner terminated in accordance

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with their terms, expire 20 years after the date on which this Declaration is filed for record in the office of the County Recorder of Utah County, Utah.

III. COVENANTS, CONDITIONS, AND RESTRICTIONS

The foregoing submission is made upon and under the following covenants, conditions and restrictions.

1. Description of Improvements. The improvements included in the Project are now or will be located on the Tract above described, and all of such improvements are described on the Map. The Map indicates the number of Units which are to be contained in the buildings which comprise a part of such improvements the dimensions of the Units, and other significant facts relating to such buildings and Common Areas.

The improvements consist of 2 buildings all one story with 14 units in total. The construction will consist of slump block and aluminum siding. The common areas will consist of streets, sidewalks and landscaped area throughout the project. There will be two-car garages attached to each unit. There are two styles of units: A units have 1256 square feet with 2 bedrooms and 13/4 baths. B units have 1052 square feet with 2 bedrooms and 13/4 bath. Each unit has a full unfinished basement.

2. Description and Legal Status of Units. The Map shows the Unit Number of each Unit, its location, dimensions, from which its areas may be determined, the Limited Common Areas which are reserved for its use, and the Common Areas of the Project. The individual family living Units shall be legally designated and described by letter and/or number.

3. Common and Limited Common Areas. The Common Areas contained in the Project are described and identified in Article I hereof and in the Map. Neither the Ownership of Undivided Interest in the Common Areas nor the right of exclusive use of a Limited Common Area shall be separated from the Unit to which it appertains, and even though not specifically mentioned in the instrument of conveyance, such percentage of Undivided Interest and such right of exclusive use shall automatically accompany the conveyance of the Unit to which they relate.

4. Undivided Interest in Common Areas. Each Unit Owner shall have, for each Unit owned, an equal undivided interest in the Common Areas. Said interest may be described as a fraction or as a percentage. Initially each Unit Owner shall have an equal undivided one-fourteenth (1/14th) interest. In the event part or all of the Additional Land is added to the Project, the undivided ownership interest appurtenant to each Unit theretofore contained in the Project may be recomputed and redetermined, but always in such a manner that each Unit Owner shall have an equal interest in the common areas as they may exist from time to time.

5. Holding Title. Title to a Unit may be held or owned by any entity and in any manner in which title to any other real property may be held or owned in the State of Utah, including, but without limitation, joint tenancy or tenancy in common.

6. No Separation. No part of a Unit or of the legal rights comprising ownership of a Unit may be separated from any other part thereof during the period of Condominium Ownership described herein, so that each Unit, the Undivided Interest in the Common Areas appurtenant to such Unit, and the exclusive right to use and occupy the Limited Common Areas appurtenant to

each Unit, shall always be conveyed, devised, encumbered, and otherwise effected only together and may never be separated from one another. Every gift, devise, bequest, transfer, encumbrance or other disposition of a Unit or any part thereof, shall constitute a gift, devise, bequest, transfer, encumbrance, or conveyance, respectively, of the entire Unit, together with all appurtenant rights created by law or by this Declaration.

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

8. Use of Common Areas and Limited Common Areas. Subject to the limitations contained in the Declaration, any Unit Owner shall have the non-exclusive right to use and enjoy the Common Areas and shall have the exclusive right to use and enjoy the Limited Common Areas designated herein (and on the Map) for exclusive use by such Unit Owner.

9. Unit Maintenance. Each Owner shall at his own cost and expense maintain, repair, paint, re-paint, tile, wax, paper or otherwise refinish and decorate the interior walls and trim the interior surfaces of the walls, ceilings, floors, and windows and doors forming the boundaries of his Unit and all walls, ceilings, floors, windows and doors within such boundaries. In addition to decorating and keeping the interior of his Unit in good repair and in a clean and sanitary condition, he shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heater, heating equipment, air conditioner, lighting fixtures, refrigerator, dishwasher, disposal equipment, range, or other appliances or fixtures that may be in, or connected with his Unit.

10. Maintenance of Limited Common Areas. Each Owner shall keep the Limited Common Areas designed for use in connection with his Unit in a clean, sanitary and attractive condition at all times.

11. Easement for Encroachment. If any part of the Common Areas encroaches or shall hereafter encroach upon a Unit or Units, an easement for such encroachment and for the maintenance for 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 or Units, an easement for such encroachment and for maintenance shall and does exist. Such encroachment shall not be considered to be encumbrances either in the Common Areas or the Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of the building(s) on the Tract, by error in the Map, by settling, raising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

12. Access for Repair of Common Areas. Some of the Common Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Owners of the other Units shall have the irrevocable rights, to be exercised by the Committee as their agent, 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, repair or replacement of any of the Common Areas located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Areas or another Unit or Units. The Committee shall also have such rights independent of the Agency relationship. Damage to the interior of any part of the Unit or Units resulting from the maintenance, repair, emergency

repair, or replacement of any of the Common Areas or as a result of emergency repairs within another Unit at the instance of the Committee or of Unit Owners, shall be an expense of all the Unit Owners and assessed proportionately; provided, that if such damage is the result of negligence of the Owner of the Unit, then such Owner shall be financially responsible for all such damage. Amounts owing by Owners pursuant hereto shall be collected by the Committee by assessment pursuant to this Declaration.

13. Right of Ingress, Egress, Lateral Support. Each Owner shall have the right to ingress and egress over, upon and across the Common Areas necessary for access to his Unit, and to the Limited Common Area designated for use in connection with his Unit, and each Owner shall have the right to the horizontal and lateral support of a Unit, and such rights shall be appurtenant to and pass with the title to each Unit.

14. Easement to Management Committee. The Management Committee shall have non-exclusive easements to make such use of the Common Areas as may be necessary or appropriate to perform the duties and functions which they are obligated or permitted to perform pursuant to this Declaration.

15. Easement for Utility Services. There is hereby created a blanket easement upon, across, over and under the Tract above described in Article II for ingress, egress, installation replacing, repairing and maintaining all utilities, including but not limited to, water, sewer, gas, telephones, electricity, and other utility services.

16. Legal Description of a Unit. Each conveyance or contract for the sale of a Unit and every other instrument affecting title to a Unit may describe that Unit by the letter and/or number shown on the Map with the appropriate reference to the Map and to this Declaration, as each shall appear on the Records of the County Recorder of Utah County, Utah, and in substantially the following form:

Unit _____ shown in the Record of Survey Map for LAKECREST II CONDOMINIUMS appearing in the Records of the County of Utah, in Book _____ Page _____ of Plats, and as defined and described in the Declaration of Covenants, Conditions and Restrictions of the LAKECREST II Condominium Project, appearing in such Records in Book _____ Page _____ of Records. This conveyance is subject to all the provisions of the aforesaid Declaration of Covenants, Conditions and Restrictions of the LAKECREST II Condominium Project.

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Such description will be construed to describe the Unit, together with an equal Undivided Interest in and to the Common Areas as the same is established and identified in the Declaration and Map referred to herein above, and to incorporate all the rights incident to Ownership of a Unit and all the limitations of such Ownership as described in this Declaration. Each such conveyance shall be subject to all the provisions of this Declaration.

17. Status and General Authority of Committee.

(a) Except as hereinafter provided, the Condominium Project shall be managed, operated, and maintained by the Management Committee as agent for the Unit Owners. The Committee

shall, in connection with its exercise of any of the powers hereinafter provided, constitute a legal entity capable of dealing in the Committee's name. The Management Committee shall have, and is hereby granted, the following authority and powers:

(1) The authority with the consent of the Unit Owners or of any other person(s) to grant or create on such terms as it deems advisable, utility and similar easements over, under, across, and through the Common Areas.

(2) The authority to execute and record, on behalf of all Unit Owners, any amendments to the Declaration or the Map which have been approved by the vote or consent necessary to authorize such amendments.

(3) The power to sue and be sued.

(4) The authority to enter into contracts relating to the Common Areas and other matters over which it has jurisdiction, so long as any vote or consent of the Unit Owners necessitated by the subject matter of the agreement has been obtained.

(5) The power and authority to convey or transfer any interest in real property, so long as the vote or consent necessary under the circumstances has been obtained.

(6) The power and authority to purchase, or otherwise acquire, and accept title to, any interest in real property so long as such action has been authorized by any vote or consent which is necessary under the circumstances.

(7) The power and authority to add any interest in real property obtained pursuant to Subparagraph 6 above to the Project, so long as such action has been authorized by the necessary vote or consent.

(8) The authority to promulgate such reasonable rules, regulations, and procedures as may be necessary or desirable to aid the Committee in carrying out its functions or to insure that the Project is maintained and used in a manner consistent with the interests of the Unit Owners.

(9) The power and authority to perform any other acts and to enter into any other transactions, subject to the rights of the Association, which may be reasonably necessary for the Management Committee to perform its functions as agent for the Unit Owners. Any instrument executed by the Management Committee relating to the Common Areas of the Project that recites facts which, if true, would establish the Committee's power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument.

(b) Composition of Committee, Election, Vacancy.

The Management Committee shall be initially composed of seven (7) members, with three (3) Committee members elected for one-year terms, three (3) members for two-years terms, and one member for a three-year term. As members' terms expire, new members shall be elected for three-year terms. Members shall serve on the Committee until their successors are elected. Only Unit Owners or spouses of Unit Owners and officers, directors, agents and employees of Owners other than individuals shall be

eligible for Committee Membership. At the annual meeting of the Association each Unit Owner may vote his percentage of Undivided Ownership Interest in favor of as many candidates for Committee Memberships as there are seats on the Committee to be filled; provided, however, that until the happening of the first of two events, namely either title to Units representing seventy-five percent (75%) of the votes of Unit Owners shall have been conveyed by Declarant to the purchasers thereof, or the expiration of six (6) years after the first conveyance of title to any Unit purchaser, whichever shall first occur, the Declarant alone shall have the right (the "Right") to select the Management Committee or act as the Management Committee themselves. However, Declarant may waive the Right at any time prior to the occurrence of either or both of the aforesaid events by (i) notifying Unit Owners in writing of such waiver of the Right, and (ii) filing for record in the Office of the Utah County Recorder a written notice of waiver of the Right, whereupon Unit Owners shall promptly hold a meeting to elect a new Management Committee, it being established hereby that the control of the Unit Owners in the Management Committee shall automatically vest thirty (30) days following the date such waiver is recorded by Declarant. In the event a Committee seat which was filled by an appointee of or by the Declarant becomes vacant, Declarant has the right to select a replacement member to sit on the Committee for the balance of the term associated with the vacated seat. In all other cases of vacancy the remaining Committee members shall elect a replacement to sit on the Committee until the expiration of the term for which the member being replaced was elected.

(c) Rights and Duties. The Management Committee, subject to the rights and duties of the Association, this Declaration, and By-Laws regarding Project maintenance as provided herein, shall be responsible for the general management of the Project. It is understood that the Committee has the obligation to maintain the Common Areas. However, and notwithstanding anything contained herein to the contrary, in the event of the failure or refusal of the Committee to maintain all the Common Areas of this Project as contemplated in this Declaration, then the Association shall maintain the same.

(d) Right of Delegation to Manager. The Management Committee may carry out any of its functions which are capable of delegation through a manager. The Manager so engaged shall be responsible for managing the Common Areas and shall, to the extent permitted by law and the terms of the agreement with the Management Committee, be authorized to perform any of the functions or acts required or permitted to be performed by the Management Committee itself.

(e) Payment of Services, Etc. The Management Committee may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Management Committee shall determine to be necessary or desirable for the proper operation of its function in the Project. The Management Committee may obtain and pay for the operation of the Project or the enforcement of this Declaration. It is recognized that the Committee may arrange with other persons to furnish snow removal, ground maintenance and other common services to the Project whether such personnel are furnished or employed directly by the Management Committee.

(f) Personal Property Ownership and Use. The Management Committee may acquire and hold for the use and the benefit of all of the Owners tangible and intangible personal property and

may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners in the same proportion as their respective interests in the Common Areas. Such interest shall not be transferable except with the transfer of a Unit. A transferor of a Unit shall transfer to the transferee ownership of the transferor's beneficial interest in such property without any reference thereto, and such beneficial interest may in no event be reserved, by the transferor of a Unit. Each Owner may use such property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of other Owners. The transfer of title to a Unit under foreclosure shall entitle the purchaser to the interest in such personal property associated with the foreclosure.

(g) Rules and Regulations. The Management Committee may make reasonable rules and regulations governing the operation and use of the Common Areas and of other matters over which it has jurisdiction, which rules and regulations shall be consistent with the rights and duties established in this Declaration and Bylaws. The Management Committee may suspend any Owner's voting rights at the meeting of Unit Owners during any period or such periods during which such Owner fails to comply with such rules and regulations, or with any other obligations under this Declaration. The Management Committee may also take judicial action against any Owner to enforce compliance with such rules and regulations or other obligations or to obtain damages for noncompliance, all to the extent provided by law.

(h) Capital Improvements. There shall be no structural alterations, capital additions to, or capital improvements of the Common Areas requiring an expenditure in excess of \$3,000.00 without the prior approval of the Unit Owners holding a majority of the voting power.

(i) Extended Rights. The Management Committee may exercise any other right or privilege given to it expressly by this Declaration or by law and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

18. Association of Unit Owners. Every Unit Owner shall be a member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to and shall not be separated from the Unit to which it appertains.

19. Assessments

(a) Agreement to Pay Assessments. Each Owner of a Unit by the acceptance of a deed or contract therefor, whether or not it be so expressed in the deed or contract, shall be deemed to covenant and agree with each other and with the Management Committee to pay annual assessments made by them for the purposes provided in this Declaration, and special assessments for capital improvements and other matters as provided in this Declaration. Such assessments shall be fixed, established and collected from time to time in the manner provided hereunder.

(b) Basis of Assessments. The total annual assessments against all Units shall be based upon advance estimates of cash requirements by the Management Committee to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Areas and/or the Project which estimates may include among other things, expenses of management, taxes and special assessments levied by

governmental authorities until the Units are separately assessed as provided herein; premiums for all insurance which the Management Committee is required or permitted to maintain pursuant hereto; common lighting, water, repair and maintenance of the Common Areas, wages for employees of the Committee, legal and accounting fees, any deficit remaining from a previous period, creation of a reasonable contingency reserve, surplus and/or sinking fund, any other expenses and liabilities which may be incurred by the Committee for the benefit of the Owners or by reason of this Declaration.

(c) Apportionment of Expenses. Expenses attributable to the Common Areas and to the Project as a whole shall be apportioned among all Units in proportion to their respective Undivided Interest in the Common Areas. Provided, however, that for this purpose Declarant shall be deemed to own only the Undivided Interest in the Common Areas based upon Units which have been completed but not conveyed by Declarant.

(d) Method, Payment of Assessments, Etc. Annual assessments shall be made on a calendar year basis. The Committee shall give written notice to each Owner as to the amount of the annual assessment with respect to his Unit not less than thirty (30) days nor more than sixty (60) days prior to the beginning of the next calendar year, provided, however, that the first annual assessment shall be for the balance of the calendar year remaining after the day fixed by the Committee as the date of commencement of the assessment. Each annual assessment shall be due and bear interest at the rate of twelve (12) percent (12%) per annum from the date it becomes due and payable if not paid within thirty (30) days after such date. Such annual assessment may be paid in twelve equal monthly payments and such monthly assessment becomes payable upon the date the Unit Owner purchases his Unit, whether by conveyance of title or entering into a contract of sale and purchase, and thereafter each monthly payment shall be due and payable on the first day of each and every month, in advance.

(e) Special Assessments. In addition to the annual assessments authorized hereunder, the Management Committee may levy in any assessment year special assessments, subject to the provisions of Section 17(h) above, payable over such period as the Management Committee 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 Common Areas of the Project or any other part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration. This paragraph shall not be construed as an independent source of authority for the Management Committee to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other paragraphs hereof. Any amount assessed pursuant thereto shall be assessed to Owners in proportion to their respective Undivided Interest in the Common Areas. Declarant's interest in the Common Area shall be determined on the same basis set forth in paragraph (c) above. Notice in writing of the amount of such special assessment and the time for payment thereof shall be given promptly to the Owners, and no payment shall be due less than thirty (30) days after such notice shall have been given. A special assessment shall bear interest at the rate of twelve percent (12%) per annum from the date it becomes due and payable if not paid within thirty (30) days after such date.

(f) Liens for Unpaid Assessments. All sums assessed to any Unit pursuant to this section, together with interest thereon as provided herein, shall be secured by a lien on such

Unit in favor of the Management Committee. Such lien shall be superior to all other liens and encumbrances on such Unit, except only for:

- (1) governmental assessment authority; and
- (2) encumbrances on the interest of the Unit Owner recorded prior to the date notice of the lien provided for herein is recorded, which by law would be a lien prior to subsequently recorded encumbrances.

All other lienors acquiring liens on any Unit after this Declaration shall have been recorded shall be deemed to consent that such liens shall be inferior to future liens for assessments, as provided herein, whether or not such consent be specifically set forth in the instrument creating such liens.

To evidence a lien for sums assessed pursuant to this Section, the Management Committee 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 Unit, and a description of the Unit. Such notice shall be signed by the Management Committee and may be recorded in the Office of the County Recorder of Utah County, Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by foreclosure by the Management Committee in the same manner in which a mortgage or trust deed on real property may be foreclosed in Utah. In any such foreclosure, the Owner shall be required to pay the cost and expenses of such proceeding, the cost and expenses of filing the notice of lien, and all reasonable attorney's fees. All such costs, expenses and fees shall be secured by the lien being foreclosed. The lien shall also secure, and the Owner shall also be required to pay to Management Committee any assessments against the Unit which shall become due during the period of foreclosure. The Management Committee shall have the right and the power to bid an amount equal to its then existing lien at the foreclosure sale or other legal sale to acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the same as the Owner thereof.

A release of notice of lien shall be executed by the Management Committee and recorded in the Office of the County Recorder of Utah County, Utah, upon payment of all sums owed and secured by a lien which has been made the subject of a recorded notice of lien.

Any encumbrancer holding a lien on a Unit may pay, but shall not be required to pay, any amounts secured by the lien created by this Section, and upon such payments such encumbrancer shall be subrogated to all rights of the Management Committee with respect to such lien, including priority.

The Management Committee shall report to any encumbrancer of a Unit any unpaid assessments remaining unpaid for longer than thirty (30) days after the same shall have become due; provided, however, that such encumbrancer first shall have furnished to the Management Committee written notice of such encumbrance.

(g) Personal Obligation Assessments. The amount of any annual or special assessment against any Unit shall be the personal obligation of the Owner thereof to the Management Committee. Suit to recover a money judgment for such personal obligation shall be maintainable by the Management Committee

without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his Unit.

(h) Information Concerning Unpaid Assessments. Upon payment of a reasonable fee not to exceed Ten Dollars (\$10.00) and upon written request of any Owner, mortgagee, prospective mortgagee or prospective purchaser of a Unit, the Management Committee shall issue a written statement setting forth the amount of the unpaid assessments, if any, with respect to such Unit; the amount of the current yearly assessment and the portion thereof which has theretofore been paid; credit for advance payments of prepaid items, including but not limited to, an Owner's share of prepaid insurance premiums, and such statement shall be conclusive upon such Management Committee in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within ten (10) days, all unpaid assessments which became due prior to the date of making such request shall be subordinate to the lien of the mortgagee which acquired its interest subsequent to requesting such statement. Where a prospective purchaser makes such request, both the lien for such unpaid assessments and the personal obligation of the purchaser shall be released automatically if the statement is not furnished within the ten (10) day period provided herein and if thereafter an additional written request is made by such purchaser and is not complied with within ten (10) days, and the purchaser subsequently acquires the Unit.

(i) Purchaser's Obligation. Subject to the provisions of paragraph (h), a purchaser of a Unit shall be jointly and severally liable with the seller for all unpaid assessments against the Unit up to the time of the grant or conveyance, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

20. Use of Condominium.

(a) Single Family Housing Use. Each of the Units in the Project is intended to be used for single family residential housing and is restricted to such use.

(b) Restrictions Concerning Common Areas. There shall be no obstructions of the Common Areas by the Owners, their tenants guests or invitees without the prior written consent of the Management Committee. The Management Committee may by rules and regulations prohibit or limit the use of the Common Areas as may be reasonably necessary for protecting the interests of all the Owners or protecting the Units or the Common Areas. Nothing shall be kept or stored on any part of the Common Areas without the prior written consent of the Management Committee, except as specifically provided herein. Nothing shall be altered on, constructed in, or removed from the Common Areas except upon consent of the Management Committee.

(c) Miscellaneous Restrictions. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would result in the cancellation of the insurance of the Project or any part thereof or increase of the rate of the insurance on the project or any part thereof over what the Management Committee, but for such activity, would pay, without the prior written consent of the Management Committee. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements

of any governmental body. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Management Committee and the other Owners harmless against all loss resulting from any such damage or waste caused by him or his invitees; provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee of any other Owner. No noxious, destructive or offensive activity shall be carried on in any Unit or in the Common Areas or any part thereof, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any person at any time lawfully residing in the Project.

(d) Animals. No livestock or poultry of any kind shall be raised, bred, or kept in any Unit or in the Common Areas, except that household pets may be kept in Units, subject to strict observance of rules and regulations adopted by the Management Committee.

(e) No Violation of Rules and Regulations. No Owner shall violate the rules and regulations for the use of the Units and the Common Areas as adopted from time to time by the Management Committee.

(f) Restrictions on Alterations. No structural alterations to any Unit shall be made by any Owner without the prior written consent of the Management Committee.

(g) Declarant's Right to Sell Units. Notwithstanding anything contained herein to the contrary, until the Declarant has completed and sold all of the Units, the Unit Owners who have purchased Units from the Declarant shall not interfere with the completion of the contemplated improvements and sale of the remaining Units. The Declarant may make such use of the unsold Units and the Common Areas as may facilitate such completion and sale, including but not limited to, the maintenance of a sales office, the showing of the Units, the recreational facilities and the display of signs.

21. Insurance-Bond. The Management Committee shall secure or caused to be secured and maintained at all times the following insurance and bond coverage.

(a) A policy or policies of fire and casualty insurance with extended coverage endorsement, for the full insurable replacement value of the entire Project. Such policy or policies shall be made payable to the Committee and all persons holding an interest in the Project or any of the Units, as their interests may appear.

(b) An appropriate fidelity bond coverage for any person or entity handling funds of the Management Committee, including, but not limited to, employees of the professional managers, the amount of such coverage to be 150% of the estimated annual operating expenses/reserves of the Project as determined by the Management Committee, unless a greater amount is required by the Mortgagees or its designees.

(c) A policy or policies insuring the Committee, the Manager, and the Unit Owners against any liability incident to the ownership, use or operation of the Project or of any Unit which may arise among themselves, to the public, and to any invitees or tenants of the Project or of the Unit Owners. Limits of liability under such insurance shall not be less than \$300,000.00 for any person injured, \$1,000,000.00 for all

persons injured in any one accident, and \$1,000,000.00 for property damage resulting from one occurrence. Such policies shall be issued on a comprehensive liability basis and shall provide a cross liability endorsement pursuant to which the rights of the named insureds as between themselves are not prejudiced.

(d) The following additional provisions shall apply with respect to insurance:

(1) In addition to the insurance described above, the Committee shall secure and at all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with condominium projects similar to the Project in construction, nature and use.

(2) The Committee shall have the authority to adjust losses.

(3) Insurance secured and maintained by the Committee shall not be brought into contribution with insurance held by the individual Unit Owners or their mortgagees.

(4) Each policy of insurance obtained by the Committee shall, if possible, provide: A waiver of the insurer's subrogation rights with respect to the Committee, the Manager, the Unit Owners, and their respective servants, agents, and guests; that it cannot be cancelled, suspended, or invalidated due to the conduct of any member, officer, or employee of the Committee or of the Manager without prior written demand that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Unit Owners.

(5) Any Unit Owner may obtain additional insurance at his own expense, so long as such additional insurance does not have the effect of decreasing the amount which may be realized under any policy maintained by the Committee. Any Unit Owner who individually obtains insurance covering any portion of the Project shall supply the Committee with a copy of his policy within thirty (30) days after he acquires such insurance.

(6) Notwithstanding anything herein contained to the contrary, insurance coverages must be in such amounts and meet other requirements of the Federal National Mortgage Association and the Veterans Administration.

22. Damage to Project. In the event of damage to or destruction of part or all of the improvements in the Condominium Project, the following procedures shall apply:

(a) If proceeds of the insurance maintained by the Management Committee are alone sufficient to repair or reconstruct the damaged or destroyed improvement, such repair or reconstruction shall be carried out.

(b) If less than 75 percent of the Project's improvements are destroyed or substantially damaged, and if proceeds of the insurance maintained by the Committee are not alone sufficient to accomplish repair or reconstruction, restoration shall be carried out and upon approval of at least 50 percent of the affected Unit Owners, all affected Owners shall be assessed for any deficiency on the basis of their respective percentages of Undivided Interest in the Common Areas and Facilities.

(c) If 75 percent or more of the Project's improvements are destroyed or substantially damaged, and if proceeds of insurance maintained by the Management Committee are not alone sufficient to accomplish restoration, and if the Unit Owners within 100 days after the destruction or damage by a vote of at least 75 percent elect to repair or reconstruct the affected improvements, restoration and assessment therefor shall be accomplished in the manner directed under paragraph (b) above.

(d) If 75 percent or more of the Project's improvements are destroyed or substantially damaged, and if proceeds of the insurance maintained by the Committee are insufficient to accomplish restoration, and if the Unit Owners do not, within 100 days after the destruction or damage and by a vote of at least 75 percent, elect to repair or reconstruct the affected improvements, the Management Committee shall promptly record with the Utah County Recorder a notice setting forth such facts. Upon the recording of such notice, the provisions of Subsections (1) through (4) of Section 57-8-31, Utah Code Annotated (1953) shall apply and govern the rights of all parties having an interest in the project or any of the Units.

(e) Any reconstruction or repair which is required to be carried out by this Section 22 shall be accomplished at the instance and direction of the Management Committee. Any determination which is required to be made by this Section 22 regarding the extent of the damage to or destruction of Project improvements, shall be made by three (3) MAI appraisers selected by the Management Committee. The decision of any (2) such appraisers shall be conclusive.

23. Amendments. Except as provided below, the vote of at least 2/3 of the Undivided Ownership Interest in the Common Areas and Facilities shall be required to amend this Declaration or the Record of Survey Map. Any amendment so authorized shall be accomplished through the recordation of any instrument executed by the Management Committee. In such instrument the Committee shall certify that the vote required by this Section for Amendment has occurred.

Until Units representing 75% of the Undivided Ownership Interest in the Project have been sold, Declarant shall have and is hereby vested with, the right to amend this Declaration or the Record of Survey Map. Such right shall obtain without regard to the subject matter of amendment, so long as the amendment involved is consistent with law.

24. Consent Equivalent to Vote. In those cases in which the Act or this Declaration requires the vote of a stated percentage of the Project's Undivided Ownership Interest for the authorization or approval of a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Unit Owners who collectively hold at least the necessary percentage of Undivided Ownership Interest.

25. Service of Process. Service of Process shall be received by B. Paul Ferguson, 63 North 400 West, Orem, Utah, 84057, 225-4564. He shall serve as agent for service of process in cases authorized by the Act. The Management Committee shall, however, have the right to appoint a successor or substitute agent for service of process. Such successor or substitute agent and his address shall be specified by an appropriate instrument filed in the Office of the County Recorder of Utah County, State of Utah.

26. Mortgage Protection. Notwithstanding anything to the contrary in the Declaration:

(a) An adequate reserve fund for replacement of the Common Areas must be established and shall be funded by regular monthly payments rather than by special assessments.

(b) There shall be established a working capital fund for the initial months of operation of the Project equal to a minimum amount of two months estimated Common Area charge for each Unit.

(c) Any mortgage holder which comes into possession of the Unit pursuant to the remedies provided in the mortgage or foreclosure of the mortgage or trust deed or by deed (or assignment in lieu of foreclosure) shall be exempt from any provisions relating to the sale or lease of the Units in the Project.

(d) Any management agreement for the Project shall be terminable by the Management Committee for cause upon thirty (30) days written notice thereof, and the term of any such agreement shall not exceed one year, renewable by agreement of the parties for successive one year periods.

(e) In the event of substantial damage to or destruction of any Unit or any part of the Common Areas, the holder of any first mortgage on a Unit shall be entitled to timely written notice of any such damage or destruction. No Unit Owner or other party shall be entitled to priority over such mortgage holder with respect to the distribution to such Unit of any insurance proceeds.

(f) If any Unit or portion thereof, or the Common Areas or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the holder of any first mortgage of a Unit shall be entitled to timely written notice of any such proceeding or proposed acquisition and no Unit Owner or other party shall have priority over such mortgage holder with respect to the distribution to such Unit of the proceeds of any award or settlement.

(g) With the exception of a lender in possession of a Unit following a default in a mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no Unit Owner shall be permitted to lease his Unit for transient or hotel purposes or for less than thirty (30) days. No Unit Owner may lease less than the entire Unit. Any lease agreement shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, the By-Laws, and all rules, regulations and determinations of the Management Committee and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be in writing.

(h) Each holder of a mortgage lien on a Unit who comes into possession of a Unit by virtue of foreclosure of the mortgage, or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Unit free of any unpaid claims or assessments and charges against the Unit which accrue prior to the time such holder comes into possession of the Unit, except for claims for a pro-rata share of such assessments or charges resulting from a pro-rata reallocation of such assessments or charges to all Units in the Project, including the mortgaged Unit.

(i) Any holder of a mortgage is entitled to written notification from the Management Committee of any default by the mortgagor of such Unit in the performance of such mortgagor's obligation under the Declaration which is not cured within thirty (30) days.

(j) Any lien which the Management Committee may have on any Unit in the Project for the payment of Common Expenses assessments attributable to such Unit will be subordinate to the lien or equivalent security interest of any first mortgage on the Unit recorded prior to the date any such Common Expense assessments become due.

(k) Unless at least 75% of the first mortgagees (based on one vote for each mortgage owned) of Units have given their prior written approval, neither the Management Committee nor the Association of Unit Owners shall:

(1) By act or omission, seek to abandon or terminate the Project, except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain.

(2) Change the pro-rata interest or obligations of any Unit 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.

(3) Partition or subdivide a Unit.

(4) Make any material amendment to the Declaration or to the By-Laws of the Condominium Association including but not limited to, any amendment which would change the percentage interest of the Unit Owners in the Common Area, except as provided in Section 23.

(5) By act or omission, seek to amend, partition, subdivide, encumber, sell, or transfer, the Common Areas. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas of the Project shall not be deemed a transfer within the meaning of this subparagraph.)

(6) Use hazard insurance proceeds for losses to any condominium property (whether to Units or to the Common Areas) for other than the repair, replacement or reconstruction of such improvements, except as provided by statute in cases of substantial loss to the Units and/or the Common Areas of the Project.

(7) Terminate professional management and assume self-management of the Project.

(1) Notwithstanding all other provisions hereto:
(a) the liens created hereunder upon any Unit shall be subject and subordinate to and shall not affect the rights of the holder of the indebtedness secured by any recorded first mortgage (meaning a mortgage or trust deed with first priority over other such mortgages) upon such interest made in good faith and for value, provided that after the foreclosure or trust deed termination of any such document, there may be a lien created pursuant to paragraph (h) hereof against the interest of the purchaser at such foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such purchaser

as an Owner after the date of such foreclosure sale, which said lien, if any claimed, shall have the same effect and be enforced in the same manner as provided herein; (b) no amendment to this paragraph shall affect the rights of the holder of any such mortgage recorded prior to the recordation of such amendment that is not joined in the execution thereof; (c) by subordination agreement executed by a majority of the Management Committee, the benefits of (a) and (b) may be extended to mortgages not otherwise entitled thereto.

27. Rights to Expand and State of Title to New Units.

There is hereby granted unto Declarant, and Declarant hereby reserves, the absolute right and option to expand the Project at any time (within the limits herein prescribed) and from time to time by adding to the Project the Additional Land or a portion or portions thereof. Notwithstanding any provision of the Act or this Declaration which might be construed to the contrary, such right and option may be exercised without obtaining the vote or consent of any other person (including any Unit Owner) and shall be limited only as specifically provided in the Act and this Declaration. Any given portion of the Additional Land shall be deemed added to the Project at such time as a supplement to this Declaration and to the Survey Map containing the information required by the Act and by Section 29 below has been recorded with respect to the portion of the Additional Land concerned. After the recordation of such supplements, title to each Unit thereby created within the portion of the Additional Land concerned and its appurtenant percentage of undivided ownership interest in the Common Areas shall be vested in and held by Declarant, and none of the other Unit Owners shall have any claim or title to or interest in such Unit or its appurtenant percentage of undivided ownership interest. Nothing herein shall prevent the granting of a mortgage or trust deed on any Condominium Unit produced by the addition to the Project of a portion of the Additional Land.

28. Rights and Statements Respecting Additional Land.

Declarant hereby furnishes the following information and statements respecting the Additional Land and Declarant's right and option concerning expansion of the Project by the addition thereto of the Additional Land or a portion or portions thereof:

(a) All of the Additional Land need not be added to the Project if any of such Land is added. Rather, a portion or portions of the Additional Land may be added to the Project at any time (within the limits herein prescribed) and from time to time.

(b) Except for the limitations and requirements set forth in the following item (d), there are no limitations or requirements relative to the size, location, or configuration of any given portion of the Additional Land which can be added to the Project or relative to the order in which particular portions of the Additional Land can be added to the Project.

(c) There are no limitations or requirements relative to the location of improvements that may be made on any portion of the Additional Land which is added to the Project.

(d) Assuming that the entirety of the Additional Land is added to the Project, the maximum number of Units which may be created on the Additional Land is fifteen (15). At any given time the total number of Units created on such portion(s) of the Additional Land as has (have) theretofore been added to the Project divided by the total acreage of such portion(s) shall be no greater than fifteen (15) divided by the total acreage of the entirety of the Additional Land.

(e) Each Unit created on any portion of the Additional Land which is added to the Project shall be used only for single family residential housing.

(f) Up to eight (8), but not more than eight (8) Units may be contained in any given Building which is created on a portion of the Additional Land added to the Project. Any Building or other structure erected on any such portion of the Additional Land need not be of the same architectural style as structures within the preexisting Project. Nevertheless, any such Building or other structure shall be constructed in a good and workmanlike manner, and shall, in general, be constructed from the same principal materials as those used in the preexisting Project.

(g) In addition to the Building or Buildings, if any, created on a portion of the Additional Land added to the Project, the significant improvements made to such portion may include asphalt roadways, open parking spaces, fully enclosed garages designed to accommodate one or two automobiles each or carports, concrete sidewalks or walkways, fences, concrete patios, and porches, decks, outdoor lighting, landscaping, and other related improvements. All of the mentioned improvements may be of the type and in the location reasonably determined to be appropriate by Declarant, so long as such determination is not inconsistent with any limitation imposed by this Declaration.

(h) Each Building which is created on a portion of the Additional Land added to the Project may have a basement, may consist of either one or two above-ground stories, may include one or more patios, porches, balconies, and/or decks, may be of the same general type and configuration as any of the Buildings initially included in the Project or may be a duplex, fourplex, sixplex, or eightplex (with side-by-side Units) or may be a detached single family dwelling (with one Unit per Building). The aggregate finished floor space of any Unit (computed by measurements running from the interior surfaces of the walls surrounding the Unit, taking into account all finished

areas at each separate level, story, or floor contained within or making up the Unit, and not excluding areas underlying interior partitions, utilized in stairwells, and the like) contained in such a Building may range from a minimum of approximately 1,000 square feet to a maximum of approximately 1,400 square. Any such Unit may include space located on one, two, or three levels. The overall configuration of any such Unit shall be reasonable in light of the total floor area thereof and the configuration of the Building within which it is contained.

(i) In conjunction with the addition to the Project of a portion of the Additional Land Declarant shall have the right to create Limited Common Areas within such portion. Each of said Limited Common Areas shall be appurtenant to a Unit located within such portion of the Additional Land. Such Limited Common Areas may include and consist of: (1) patios, porches, balconies, and/or decks attached or adjacent to a Building located on the portion of the Additional Land concerned; and (2) storage areas or spaces, driveways, open parking spaces, carports, and/or fully enclosed garages located anywhere on such portion of the Additional Land. The size, type, and total number of Limited Common Areas created within each portion of the Additional Land which is added to the Project shall be reasonable in light of the number and nature of Units created within the portion of Additional Land concerned and those Limited Common Areas which are located on other portions of the Tract.

(j) In conjunction with the addition to the Project of a portion of the Additional Land Declarant shall have the right to reserve, in the instruments through which the addition is accomplished, reasonable rights-of way and/or easements for purposes of enabling access to, furnishing utilities to, and facilitating or enabling development of, such of the Additional Land as has then not been added to the Project.

29. Procedure for Expansion. The supplements to this Declaration and to the Survey Map by which addition to the Project of any portion of the Additional Land is accomplished shall be executed by Declarant, shall be in recordable form, must be filed for record in the office of the County Recorder of Utah County, Utah on or before seven (7) years from the date that this Declaration is recorded, and when taken together shall contain the following information for that portion of the Additional Land which is being added to the Project:

(a) Data sufficient to identify this Declaration and the Record of Survey Map.

(b) The legal description of the portion of the Additional Land being added to the Project.

(c) A description of the Building(s), if any, located or to be located on the portion of the Additional Land concerned and of all other significant improvements located or to be located on such portion. Such description shall provide essentially the same type of information as is provided in this Declaration with respect to the Buildings and improvements initially included in the Project.

(d) The Unit Number of each Unit being created within the portion of the Additional Land concerned and any other data necessary for the proper identification thereof.

(e) A description of any Limited Common Areas being created within the portion of the Additional Land concerned, together with a designation of the Unit to which each is appurtenant.

(f) The Survey Map information required to be furnished by Section 75-8-13(2) of the Act.

(g) Such rights-of-way and/or easements as are being reserved by Declarant pursuant to paragraph (j) of the foregoing Section 28.

(h) An amendment to this Declaration setting forth the percentage of undivided ownership interest which, after addition of that portion of the Additional Land concerned, shall appertain to each Unit in the Project, computed and derived as described in Section 4 of this Article III.

(i) Such other matters as may be necessary, desirable, or appropriate and as are not inconsistent with any limitation imposed by this Declaration.

Upon the recordation of the supplements contemplated above, the revised statement of undivided interests contained therein shall automatically become effective for all purposes and shall completely supersede any similar statement which was contained in any Declaration or supplement previously recorded in connection with the Project or any portion of the Additional Land. And upon the recordation of such supplements they shall automatically supplement this Declaration, the Survey Map, and any supplements previously recorded. At any point in time, the Declaration and Survey Map for the Project shall consist of this Declaration and the Survey Map initially effective hereunder, as amended and expanded by all supplements theretofore recorded pursuant to the terms hereof.

30. Additional Land -- Miscellaneous. Such parts of or interests in a portion of the Additional Land which is added to the Project as do not become Units shall be and remain Common Areas and Facilities. Until such time as any given portion of the Additional Land added to the Project has been fully developed and improved in the manner contemplated by the instruments through which such portion was added, unless Declarant gives

its prior written consent thereto, no easement, right-of-way, or similar matter affecting any part of such portion shall be granted or created, no improvement to or work on any part of such portion shall occur, and no other action shall be taken with respect to such portion which would or might impair Declarant's ability to exercise its rights concerning the same.

31. No Obligation to Expand. Except to the extent specifically indicated herein, this Declaration is not intended, and shall not be construed so as to impose upon Declarant any obligation respecting, or to restrict Declarant in any way with regard to: (i) The addition to the Project of any or all of the Additional Land; (ii) The creation or construction of any Unit, Building, or other improvement; (iii) The carrying out in any particular way or within any particular time of any development or addition to the Project which may be undertaken; or (iv) The taking of any particular action with respect to the Tract, the Project, or any portion of the Additional Land. Except to the extent specifically indicated herein, no covenant, restriction, limitation, representation, or commitment in this Declaration concerning anything that is or is not to occur, apply, or be done on or relative to the Additional Land or any portion thereof shall be binding as to such of the Additional Land as is never added to the Project.

32. Duty of Owner to Pay Taxes on Unit Owned. It is understood that under the Act each Unit (and its percentage of interest in the Common Areas) in the Project is subject to separate assessment and taxation of each taxing authority and the special district(s) for all types of taxes and assessments authorized by law, and that as a result thereof no taxes will be assessed or levied against the Project as such. Accordingly, each Unit Owner will pay and discharge any and all taxes and assessments which may be assessed against him on his Unit.

33. Enforcement. Each Unit Owner shall comply strictly with the provisions of this Declaration and with the administrative rules and regulations drafted pursuant thereto as the same may be lawfully amended from time to time and with the decisions adopted pursuant to this Declaration and the administrative rules and regulations. Defaulting Unit Owners shall pay all costs and expenses incurred in enforcing the provisions herein, including moneys paid and due for damages or injunctive relief or both, maintainable by the Management Committee or Manager on behalf of the Unit Owners, or in a proper case, by an aggrieved Unit Owner.

34. Indemnification of Management Committee. Each member of the Management Committee shall be indemnified and held harmless by the Unit Owners against all costs, expenses, and liabilities whatsoever (excluding fraudulent and/or criminal actions) including, without limitation, attorney's fees, reasonably incurred by him in connection with any proceeding to which he may become involved by reason of his being or having been a member of said Committee.

Notwithstanding any provision of this Declaration to the contrary, any proceeding, suit or action as may be deemed necessary to recover a money judgment respecting any assessments levied or fixed by the Management Committee shall be maintained on behalf of Association at the instance and suit of the Management Committee. Further, in the event of any conflict between the duties and/or rights of the Management Committee and the Declarant appearing to have been created or in fact resulting pursuant to the terms of this Declaration notwithstanding anything to the contrary, the duties and/or rights of the Management Committee shall be considered superior.

35. Covenants to Run with Land: Compliance. This Declaration and all the provisions hereof shall constitute covenants to run with the land, and/or equitable servitudes, as the case may be, and shall be binding upon and inure to the benefit of Declarant, all parties who hereafter acquire any interest in a Unit or in the Project, and their respective grantees, lessees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Unit shall comply with, and all interests in all Units shall be subject to, the terms of the Act, the terms of this Declaration, the Bylaws, and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration, and failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Committee on behalf of Unit Owners, or, in a proper case, by an aggrieved Unit Owner. By acquiring any interest in a Unit or in the Project, the party acquiring such interest consents to, and agrees to, be bound by each and every provision of this Declaration.

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

37. Number and Gender. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural; the plural, the singular; and the use of any gender shall include all genders.

38. Severability. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of the Declaration, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstance shall not be affected thereby.

39. Topical Headings. The headings appearing at the beginning of the paragraphs of the Declaration are only for convenience of reference and are not intended to describe, interpret, define or otherwise affect the content, meaning or intent of this Declaration or any paragraph or provision hereof.

40. Effective Date. This Declaration shall take effect upon recording in the Office of the County Recorder of Utah County, Utah.

41. All amenities (i.e., parking, recreation and service areas) are a part of the Project and are covered by the mortgage at least to the same extent as are the common elements.

Notwithstanding any provisions to the contrary of any paragraph of this Declaration, or any paragraph of the bylaws the Management Committee is and shall be the sole and only body that shall have the power to assess the Unit Owners the fees and costs of management.

IN WITNESS WHEREOF, the undersigned, being the Declarant has caused this instrument to be executed on the 20th day of AUGUST, 1984.

"Declarant"


B. PAUL FERGUSON

Colleen Ferguson
COLLEEN FERGUSON

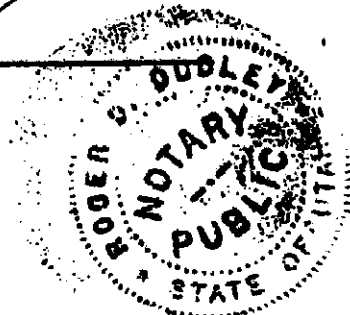
On this 20th day of August, 1984, personally appearing before me, a Notary Public in and for the State of Utah, B. PAUL FERGUSON and COLLEEN FERGUSON, the signers of the foregoing instrument who duly acknowledged to me they executed the same.

[Signature]
Notary Public

Residing at: ORION, UTAH

My Commission Expires: 3-1-88

W39JL



W39JL 2165 PUE 222

EXHIBIT "A"

Commencing at a point located South 00 deg. 37' 00" East along the 1/4 Section Line 1931.25 feet from the N1/4 Corner of Section 15, T6S, Range 2 E, S1B&M; thence South 00 deg. 37' 00" East along the 1/4 Section Line 265.00 feet; thence South 89 deg. 22' 45" West 327.86 feet; thence North 00 deg. 37' 15" West 265.00 feet; thence North 89 deg. 22' 45" East 327.88 feet to the point of beginning.

Area+ 1.994 acres

Basis of Bearing South 00 deg. 37' 00" East along the 1/4 Section Line.

EXHIBIT "B"

Commencing 2.56 chains North of the Southeast corner of the Northwest quarter of Section 15, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence West 4.97 chains; thence North 5.47 chains; thence East 4.97 chains; thence South 5.47 chains to the place of beginning.

LESS: That portion within the bounds of Lakecrest II Condominiums Phase I, Orem, UTAH

BOOK 2165 PAGE 224

• AFTER RECORDING RETURN TO:

B. Paul Gagnon
63 North 200 West
Orem, Utah 84057

- BYLAWS
OF
THE LAKECREST II CONDOMINIUM ASSOCIATION

ARTICLE I
PLAN OF OWNERSHIP

Section One: Ownership. The Project located on the Property legally described in Exhibit "A" attached hereto is known as LAKECREST II Condominiums and is located in Utah County, State of Utah. Said Property is hereby submitted to the provisions of the Utah Condominium Ownership Act.

Section Two: Bylaws Applicability. The provisions of these Bylaws are applicable to the Project. (The term "Project" as used herein shall include the land.)

Section Three: Personal Application. All present or future Owners, tenants, future tenants, or their employees, or any other person that might use the facilities of the Project in any manner are subject to the regulations set forth in these Bylaws.

The mere acquisition or rental of any of the Units of the Project or the mere act of occupancy of any of the Units will signify that these Bylaws are accepted, ratified, and will be complied with.

ARTICLE II
VOTING, MAJORITY OF OWNERS, QUORUM, PROXIES

Section One: Voting. Voting shall be on a percentage basis and the percentage of the vote to which the Owner is entitled is the percentage assigned to the Unit or Units in the Declaration.

Section Two: Majority of Owners. As used in these Bylaws the term "Majority of Owners" shall mean those Owners holding sixty-six percent (66%) of the votes in accordance with the percentage assigned in the Declaration.

Section Three: Quorum. Except as otherwise provided in these Bylaws, the presence in person or by proxy of a "majority of Owners" as defined in the preceding Section of this Article shall constitute a quorum.

Section Four: Proxies. Votes may be cast in person or by Proxy. Proxies must be filed with the Secretary before the appointed time of each meeting.

ARTICLE III

ADMINISTRATION

Section One: Association Responsibilities. The Owners of the Units will constitute the LAKCREST II Condominium Association, hereinafter referred to as the Association. The Association shall elect the Members of the Management Committee who will administer the Project, establish and collect monthly assessments and arrange for the operation, maintenance and management of the Project on behalf of the Association.

Section Two: Place of Meeting. Meeting of the Association shall be held at such suitable place convenient to the Owners as may be designated by the Management Committee.

Section Three: Annual Meetings. The first annual meeting of Association shall be held on December 1, 1984. Thereafter, annual meetings shall be held on the first Thursday of December of each succeeding year. At such meetings there shall be elected by ballot a Management Committee in accordance with the Declaration and the requirements of Section Five of Article IV of these Bylaws. The Owners may also transact such other business of the Association as may properly come before them.

Section Four: Special Meetings. It shall be the duty of the President to call a special meeting of the Owners as directed by resolution of the Management Committee or on a petition signed by at least thirty-three percent (33%) of the Owners and having been presented to the Secretary. No business shall be transacted at a special meeting except as stated in the notice unless by consent of 80% of the Owners present, either in person or by proxy.

Section Five: Notice of Meetings. It shall be the duty of the Secretary to mail a notice of each annual or special meeting stating the purpose thereof as well as the time and place of the meeting, to each Owner of record, at least five (5) but not more than ten (10) days prior to such meeting. The mailing of notice in the manner provided in this section shall be considered notice served.

Section Six: Adjourned Meetings. If any meeting of Owners cannot be organized because a quorum has not attended, the Owners who are present either in person or by proxy may adjourn the meeting to a time not less than 48 hours from the time the original meeting was called. The presence of fifty percent (50%) of the Owners shall constitute a quorum at the rescheduled meeting.

Section Seven: Order of Business. The order of business at all Association meetings shall be as follows:

- a. Roll call
- b. Proof of notice of meeting or waiver of notice
- c. Reading of minutes of preceding meeting
- d. Reports of Officers
- e. Report of Federal Housing Administration or Veterans Administration Representative, if present
- f. Report of Committees
- g. Election of Inspectors of Election
- h. Election of Management Committee Members
- i. Unfinished Business
- j. New Business

ARTICLE IV

MANAGEMENT COMMITTEE

Section One: Number and Qualifications. The Association's affairs shall be governed by a Management Committee composed of seven (7) Members, all of whom must be Owners, spouses of Owners, or officers, directors, agents or employees of Owners of Units in the Project.

Section Two: Powers and Duties. The Management Committee shall have the powers and duties necessary for the administration of the Association's affairs and may do all such acts and things as are not by law or by these Bylaws directed to be exercised and done by the Owners.

Section Three: Other Duties. In addition to duties imposed by these Bylaws, or by resolutions of the Association, the Management Committee shall be responsible for the following:

- a. Care, upkeep and surveillance of the Project and Common Areas and Facilities.
- b. Collection of monthly assessments for the Owners.
- c. Designation and dismissal of the personnel necessary for the maintenance and operation of the Project, the Common Areas and Facilities, and the Limited Common Areas and Facilities.

Section Four: Management Agent. The Management Committee may employ for the Association a management agent, at a compensation established by the Committee, to perform such duties and services as the Committee shall authorize, including, but not limited to, the duties listed in Section Three of this Article.

Section Five: Election and Term of Office. At the first annual meeting of the Association the term of office of three (3) Committee Members shall be fixed for one (1) year. The term of office of three (3) Members shall be fixed at two (2)

years, and the term of office of one Member shall be fixed at three (3) years. At the expiration of the initial term of office of each respective Committee Member, his successor shall be elected to serve a term of three (3) years. The Members shall hold office until their successors have been elected.

Section Six: Vacancies. Vacancies in the Management Committee caused by any reason other than the removal of a Member by a vote of the Association shall be filled by vote of a quorum of the remaining Members of the Committee, and each person so elected shall be a Member until a successor is elected at the next annual meeting of the Association.

Section Seven: Removal of Committee Members. At any regular or special meeting duly called, any one or more of the Members may be removed with or without cause by a majority of the Owners, and a successor may then and there be elected to fill the vacancy thus created. Any Committee Member whose removal has been proposed by the Owners shall be given an opportunity to be heard at the meeting.

Section Eight: Organization Meeting. The first meeting of the newly elected Management Committee shall be held within ten (10) days of election at such place as shall be fixed by the Members at the meeting at which such Committee Members were elected, and no notice shall be necessary to the newly elected Members in order legally to constitute such meeting, provided a majority of the whole Committee shall be present.

Section Nine: Regular Meetings. Regular meetings of the Management Committee may be held at such time and place as shall be determined from time to time, by a majority of the Members but at least two (2) such meetings shall be held during each fiscal year. Notice of regular meetings of the Management Committee shall be given to each Member, personally or by mail, telephone or telegraph at least three (3) days prior to the day named for such meeting.

Section Ten: Special Meetings. Special meetings of the Management Committee may be called by the President on three (3) days notice to each Member, given personally, by mail, telephone or telegraph, which notice shall state the time, place (as hereinabove provided) and purpose of the meeting. Special meetings of the Management Committee shall be called by the President or Secretary in like manner and on like notice on the written request of at least three (3) Committee Members.

Section Eleven: Waiver of Notice. Before or at any meeting of the Management Committee, any Member may, in writing, waive notice of such meeting and such Waiver shall be deemed equivalent to the giving of such notice. Attendance by a Member at any meeting of the Committee shall be a waiver of notice by him of the time and place thereof. If all Committee Members are present at any meeting of the Committee, no notice

shall be required and any business may be transacted at such meeting.

Section Twelve: Management Committee's Quorum. At all meetings of the Management Committee, a majority of the Members shall constitute a quorum for the transaction of business, and the acts of the quorum shall be the acts of the Management Committee. If, at any meeting of the Management Committee, there be less than a quorum present, the Members present may adjourn the meeting and the meeting shall automatically be held the following day at the same time. At any such meeting, if a quorum is present, any business that might have been transacted at the meeting as originally called may be transacted without further notice.

Section Thirteen: Fidelity Bonds. The Management Committee shall require that all officers and employees of the Association handling or responsible for the Association funds shall furnish adequate fidelity bonds. The premium of such bonds shall be paid by the Management Committee.

ARTICLE V

OFFICERS

Section One: Designation. The principal officers of the Association shall be a President, Vice President, Secretary and Treasurer, all of whom shall be elected by and from the Management Committee. The Committee Members may appoint an Assistant Secretary and an Assistant Treasurer, and such other officers as in their judgment may be necessary. The offices of Treasurer and Secretary may be filled by the same person.

Section Two: Election of Officers. The officers of the Association shall be elected annually by the Management Committee at the organization meeting of each new Committee and shall hold office at the pleasure of the Committee.

Section Three: Removal of Officers. On an affirmative vote of a majority of the Members of the Management Committee, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Management Committee or at any special meeting of the Committee called for such purpose.

Section Four: President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Management Committee. He shall have all of the general powers and duties that are usually vested in the office of President of an Association, including, but not limited to, the power to appoint committees from among the Owners from time to time and he may in his discretion decide who is appropriate to assist in the conduct of the Association's affairs.

Section Five: Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor Vice President is able to act, the Management Committee shall appoint some other Member of the Committee to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed on him by the Management Committee.

Section Six: Secretary. The Secretary shall keep the minutes of all meetings of the Management Committee and the minutes of all meetings of the Association. He shall have charge of such books and papers as the Management Committee may direct; and he shall, in general, perform all duties incident to the office of Secretary.

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

ARTICLE VI

OBLIGATION OF OWNERS

Section One: Assessments. All Owners are obligated to pay monthly assessments imposed by the Management Committee to meet all Project communal expenses, which may include a liability insurance policy premium and an insurance premium for a policy to cover repair and reconstruction work in case of hurricane, fire, earthquake or other hazard. The assessments shall be made in the manner set forth in the Declaration. Such assessments shall include monthly payments to a general operating reserve and a reserve fund for replacements. Assessments shall be subject to change.

Each Unit Owner shall pay his or her own utility costs which are individually metered in the Project.

Section Two: Maintenance and Repair.

a. Every Owner must perform promptly all maintenance and repair work within his own Unit which, if omitted, would affect the Project in its entirety or in a part belonging to other Owners, being expressly responsible for the damages and liabilities that his failure to do so may engender.

b. All the repairs of internal installations of the Unit, such as water, light, gas, power, sewage, telephones, air conditioning, sanitary installations, doors, windows, lamps and

all other accessories belonging to a Unit shall be at the Owner's expense.

c. An Owner shall reimburse the Management Committee for any expenditure incurred in repairing or replacing any Common Area or Facility damaged through his fault and such expenditure shall be added to and become an assessment to which the lot of such Owner is subject.

d. Each Unit Owner is responsible for the interior maintenance of his Unit.

e. Exterior Maintenance. In addition to maintenance upon the Common Areas, the Management Committee shall provide exterior maintenance upon each Unit which is subject to assessment hereunder, as follows: paint, repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements. Such exterior maintenance shall not include glass surfaces. In the event that the need for maintenance or repair of a Unit or the improvements thereon is caused through the willful or negligent acts of the family, guests or invitees of the Owner of the Unit needing such maintenance and repair, the cost of such exterior maintenance shall be added to and become a part of the assessment to which such Unit is subject.

Section Three: Use of Individual Units - Internal Changes.

a. All Units shall be utilized for residential purposes only.

b. An Owner shall not make structural modifications or alteration in or to the outside of his Unit or installations located out of buildings without previously notifying the Management Committee in writing. The Management Committee shall have the obligation to answer within twenty (20) days, and failure to do so within the stipulated time shall mean that there is no objection to the proposed modification.

Section Four: Use of Common Areas and Facilities.

a. The Common Areas may be scheduled with the Secretary of the Management Committee for use by guests for purposes such as family reunions, etc. All such use by guests must be scheduled with the Secretary. During times when the Common Areas are not scheduled they are available to Members of the Association on a first come first served basis.

b. Owners and guests using the Common Areas are responsible for cleaning up any litter as a result of such use.

Section Five: Right of Entry.

a. An Owner shall grant the right of entry to the Management Committee or to any other person authorized by the Management Committee in case of emergency originating in or threatening his Unit, whether the Owner is present at the time or not.

b. An Owner shall permit other Owners, or their representatives, when so required, to enter his Unit for the purpose of installing, altering, or repairing mechanical or electrical services, provided that the requests for such entry are made in advance and that such entry is at a time convenient to the Owner. In case of emergency, such right of entry shall be immediate.

Section Six: Rules of Conduct.

a. No resident of the Project shall post any advertisements or posters of any kind in or on the Project except as authorized by the Management Committee, in which event any and all such signs shall be displayed in a tasteful manner.

b. Residents shall exercise care in making noises or using musical instruments, radios, television, and amplifiers that may disturb other residents. Keeping domestic animals shall be in accordance with municipal sanitary regulations and such rules and regulations as the Management Committee may establish.

c. Hanging of garments, rugs and the like from the windows or from any of the facades of the Project is prohibited.

d. Dusting and shaking out of rugs and the like from windows, or by beating on the exterior part of the Project is prohibited.

e. Throwing of garbage or trash outside of the installations provided for such disposal in the service area is prohibited.

f. No Owner, resident, or lessee shall install wiring for electrical or telephone installation, television and antennae, machines, air conditioning units, or the like, on the exterior of the Project or that protrude through the walls or the roof of the Project except as authorized by the Management Committee.

ARTICLE VII

METHOD OF AMENDING BYLAWS

These Bylaws may be amended by the Association in a duly constituted meeting for such purpose, and no amendment shall

take effect unless approved by Owners representing at least 2/3 the Undivided Ownership Interests in the Common Areas.

ARTICLE VIII

MORTGAGES

Notice to the Management Committee. An Owner who mortgages his Unit shall notify the Management Committee of the name and address of his mortgagee, and the Management Committee shall maintain such information in a book entitled "Mortgage of Unit".

ARTICLE IX

COMPLIANCE

These Bylaws are set forth to comply with the requirements of the Utah Code Annotated. In case there is any conflict between these Bylaws and the Utah Code Annotated, the provisions of the Utah Code Annotated will supersede and apply.

Adopted and executed by the Declarant as of the date the Declaration is dated.


B. PAUL FERGUSON


COLLEEN FERGUSON

W39JM

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