

MAIL TO: - IN SEC. BANK OF UT. HAS
435 SOUTH MAIN STREET

Recorded AUG 18 1978

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By: [Signature]
Date: [Date]

DECLARATION
BRICKYARD CONDOMINIUMS - PHASE I

THIS DECLARATION is made as of the date hereinafter set forth by THE BRICKYARD ASSOCIATES, a Utah partnership, (hereinafter 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 (the "Project"). 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.

C. Declarant by recording this Declaration, submits said tract and all improvements now or hereafter constructed hereon to the provisions of the Utah Condominium Ownership Act.

D. Said tract and improvements shall be known as BRICKYARD CONDOMINIUMS - PHASE I.

E. 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.

F. Concurrent with the recording of this Declaration there has been recorded a document headed "Declaration of Covenants, Conditions and Restrictions for the Brickyard Condominiums", (hereinafter referred to as the "Brickyard Declaration") for the benefit of the Brickyard Condominiums in which are set forth the various rights and obligations pertaining to said land. In the Brickyard Declaration the real property described in the Article II of this Declaration is, with respect to matters relating to the Common Properties and the maintenance of the common areas by the Home Owners Association, subjected to certain covenants, restrictions, easements, charges, and liens in addition to those set forth in this Declaration.

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G. The Project hereby created is the first of two phases, The Phase II to be added to this Phase I at such time as it is ready for recording.

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

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

1. Act shall mean and refer to the Utah Condominium Ownership Act (Title 47, Chapter 8, Utah Code Annotated) as the same may be amended from time to time.

2. Declaration shall mean and refer to this Declaration.

3. Map shall mean and refer to the Record of Survey Map containing two pages filed herewith captioned "The Brickyard (Phase I)."

4. Property shall mean and refer to the land, the building, if any, all improvements and the structures thereon, 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 foundations, columns, girders, beams, supports, main walls, retaining walls, roofs, stairs, stairways, entrances and exits of the buildings, exterior walkways, streets, 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 home Units intended for independent use as defined in the act and as shown (single cross - hatched) in the Map. Mechanical equipment and appurtenances located within any one Unit or located without said Unit but designated and designed to serve only that Unit, such as 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 installations constituting a part of the Unit and 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 the Committee shall mean and refer to the Management Committee of Brickyard Condominiums.

8. Home Owners Association shall mean and refer to the Brickyard Home Owners Association, a Utah non-profit corporation, organized for the purposes set forth in the Brickyard Declaration.

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 By-Laws, 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 in the Map by double cross-hatching) as reserved for use of certain Unit or Units to the exclusion of other Units. Limited Common Areas include patios, balconies, storage rooms located adjacent to the Units and rented to Unit owners, and specifically assigned parking areas.

13. Unit Number shall mean and refer to the number, letter, or combination thereof which designates a Unit in the attached Exhibit "A" and in 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 contract 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. Entire Tract shall mean and refer to the following described real property described in Exhibit "B" attached to this Declaration. The property which this Declaration submits to the terms of the Act comprise only a part of the Entire Tract. The description of the Entire Tract is set forth here solely for purposes of identification. This Declaration does not constitute a lien encumbrance or limitation on any real property other than the Property this Declaration expressly submits to the Act.

16. Condominium Project or Project shall mean and refer to The Brickyard - Phase I.

17. Management Body shall mean and refer to either the Management Committee or the Home Owners Association as the context may admit.

18. Management Bodies shall mean and refer to the Management Committee and the Home Owners Association collectively.

19. Phase shall mean either of the two tracts of land, including all improvements constructed thereon and all rights and obligations relating thereto, which are submitted to the terms of the Act.

II. Submission to the Act. Declarant hereby submits to the provisions of the Act the following described real property situated in the County of Salt Lake, State of Utah, (Phase I) which property is and shall be held, transferred, occupied, and otherwise dealt with subject to the provisions of this Declaration, to-wit:

Beginning at the West line of Lot 5, Block 27, Ten Acre Plat "A", Big Field Survey, at a point N 0°03'46" E 1.28 feet from the Southwest corner of said Lot 5, said point of beginning also being North 222.81 feet and West 1827.17 feet from the East 1/4 Corner of Section 29, Township 1 South, Range 1 East, Salt Lake Base and Meridian, and running thence S 0°03'46" W 17.78 feet; thence S 89°56' E 325.00 feet; thence S 82°45' E 131.00 feet; thence S 0°21' E 122.60 feet; thence N 89°35' E 284.40 feet; thence S 42°15' E 155.46 feet; thence S 45°46' W 465.46 feet to a point on the Northerly line of Brickyard Road, said point also being on a 720.0 foot radius curve to the

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right, the center of which bears N 40°43'28" E; thence along the Northerly line of said Brickyard Road as follows, Northwesterly along the arc of said curve 91.43 feet to a point of tangency; thence N 42°00' W 263.60 feet; thence N 62°21'51" W 111.36 feet to a point of a 300.0 foot radius curve to the left; thence Westerly along the arc of said curve 354.15 feet; thence leaving said Northerly line of Brickyard Road, N 0°14' E 318.97 feet; thence N 89°48'44" E 160.0 feet to the point of beginning. Contains 6.896 acres.

Subject to the provisions of the "Declaration of Covenants, Conditions and Restrictions for the Brickyard Condominiums" recorded in the office of the County Recorder of Salt Lake County, Utah on AUG 18 1978, 1978, as Entry No. 215549, and subject, also, to all other covenants, conditions, restrictions and easements whether of record or visible.

III. Covenants, Conditions and Restrictions. The foregoing submission is made and under the following covenants, conditions and restrictions:

1. Description of Improvements. The improvements included in the Project are now located on Phase I above described, and all of such improvements are described in the Map. The Map indicates the number of stories, 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 improvements. Phase I of the Project is divided into 54 Units contained in nine buildings. The Buildings have two and one half stories, with each Building containing six units. All buildings are of wood frame construction with brick exterior and prefinished exterior siding and soffit with asphalt shingled roof. The Buildings are supplied with electricity, water and sewage service. The Units are individually heated by gas-forced air furnaces.

2. Description and Legal Status of Units. The Map shows the Unit number of each Unit, its location, dimensions from which its area may be determined, the Limited Common Areas which are reserved for its use, and the Common Areas of the Project.

3. Exhibit "A" Contents. Exhibit "A" attached to this Declaration and made a part hereof furnishes the following information with respect to each: (a) Unit-building designation; (b) par value of each Unit based on points; and (c) its appurtenant undivided ownership interest in the Common Areas.

4. 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.

5. Determination of Interest in Common Areas. The proportionate share of the Unit Owners in the Common Areas of the Project is based on the par value that each of the Units bear to the total par value of all the Units. The proportionate ownership in the Common Areas shall be for all purposes including, but not limited to, voting and assessment for Common Expenses. The interest of each of the Unit Owners in the Common Areas shall be as set forth in aforesaid Exhibit "A". Such interest shall be diluted as to each Unit Owner by fifty percent when Phase II is added to the Project.

6. 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.

7. 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 such Unit, shall always be conveyed, devised, encumbered, or otherwise affected 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 and obligations created by law or by this Declaration.

8. 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.

9. 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.

10. 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 surfaces of

the walls, ceilings, floors, 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.

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

12. 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 the maintenance shall and does exist. Such encroachments shall not be considered to be encumbrances either to 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, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

13. 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 right, to be exercised by the Association 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 or to another Unit or Units. The Association shall also have such rights independent of the agency relationship. Damage to the interior of any part of a 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 Association or of Unit Owners; provided, that if such damage is the result of negligence of the Owner of a Unit, then such Owner shall be financially responsible for all such damage. Such damage shall be repaired and the property shall be restored substantially to the same condition as existed prior to damage. Amounts owing by Owners pursuant hereto shall be collected by the Association by assessment pursuant to the Declaration of Covenants, Conditions and Restrictions for the Brickyard Condominiums above referred to.

14. 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 Areas 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.

15. Easement to Management Bodies. The Management Bodies 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 and the Brickyard Declaration.

16. 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, sewers, gas, telephones, electricity, and other utility services.

17. Legal Description of a Unit. Every conveyance or contract for the sale of a Unit and every other instrument affecting title to a Unit may describe that Unit by the 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 Salt Lake County, Utah, and in substantially the following form:

Unit No. _____, in Building _____ of the Brickyard Condominiums, Phase I, together with the undivided ownership interest in the Common Areas and Facilities which is actually appurtenant to said Unit, and subject to the Project's Declaration, which provides for alteration both in the magnitude of said undivided ownership interest and in the composition of the Common Areas and Facilities to which said interest relates, all of which is set forth, established and identified on the record of Survey Map of The Brickyard, Phase I, filed for record in the office of the County Recorder of Salt Lake County, Utah, on the _____ day of _____, 1978, in Book _____, Page _____ of Plats, as Entry No. _____ and as set forth in the Declaration for the said Brickyard Condominiums, Phase I, dated the _____ day of _____, 1978, and recorded as Entry No. _____, in Book _____, Page _____ of Official Records, subject to and together with all easements and rights of way as shown and described in said Record of Survey Map and as set forth in said Declaration of said Brickyard Condominium, Phase I, including, but not limited to Brickyard Declaration dated the _____ day of _____, 1978, recorded on the _____ day of _____, 1978, as Entry No. _____, in Book _____, Page _____ of Official Records, and all amendments thereto.

18. Status and General Authority of Committee.

(a) Except as hereinafter provided, the 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 without the vote or 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 of the Unit Owners, any amendments to the Declaration or the Map which has been approved by the vote or consent necessary to authorize such amendment.

(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 have 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 Home Owners 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

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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 composed of five (5) members, who are the Trustees of the Home Owners Association. Initially, two (2) Trustees are appointed for a one-year term, two (2) Trustees for a two-year term, and one Trustee for a three-year term. Thereafter, all newly elected Trustees shall serve for a term of three years. Trustees shall serve on the Committee until their successors are elected. Only Unit Members 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 each Unit Owner may vote his percentage of undivided ownership interest in favor of as many candidates or Committee memberships as there are seats on the Committee to be filled; provided, however, that until title to units representing sixty percent (60%) of the votes of Unit Owners shall have been conveyed by Declarant to the purchasers thereof, the Declarant alone shall have the right (the Right) to select the Management Committee or act as the Management Committee itself. However, Declarant may waive the Right at any time prior to the conveyance of Units representing 60% of the votes of Unit Owners by (i) notifying Unit Owners in writing of such waiver of the Right, and (ii) filing for record in the office of the Salt Lake 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 the Declarant becomes vacant Declarant shall have 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 consisting of the Trustees, shall be responsible for the general management of the Project.

(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 for 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 functions in the Project, whether such Committee or by any person or entity with whom or it contracts. The Management Committee may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration. It is recognized that the Home Owners Association may arrange with other persons to furnish snow removal, ground maintenance and other common services to the Project.

(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 transferrable except 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 foreclosed Unit.

(g) Rules and Regulations. The Management Committee may make reasonable rules and regulations governing the operations 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 in the Brickyard Declaration creating the Home Owners Association. The Management Committee may suspend any Owner's voting rights at the meeting of the Unit Owners during any period or periods during which such Owner fails to comply with such rules and regulations, or with any other obligations of such Owners 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 permitted by law.

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

19. Brickyard Home Owners Association. The conveyance of each Unit and its proportionate share of the Common Areas shall be subject to the covenants, conditions, restrictions, easements, charges and liens as contained in the Brickyard Declaration and any supplements or amendments thereto recorded in the office of the County Recorder of Salt Lake County, Utah, prior to the conveyance of any Unit. The Brickyard Declaration provides, inter alia, that all Unit Owners in the Brickyard Condominiums shall, upon becoming same, automatically become members of the Brickyard Home Owners Association which shall own, maintain and administer certain facilities, maintain the Common Areas of the Projects, and enforce the covenants and restrictions as imposed in said Brickyard Declaration and to collect and disburse the assessments and charges created in the Brickyard Declaration.

20. 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 Bodies or either of them to pay annual assessments made by them or either of 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 Bodies 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 Common Properties, 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 charges; repairs and maintenance of the Common Areas by the Home Owners Association; wages for employees of the Management Committee; legal and accounting fees; any deficit remaining from a previous period; the creation of a reasonable contingency reserve; surplus and/or sinking fund, and any other expenses and liabilities which may be incurred by the Management Bodies for the benefit of the Owners under 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, whether assessable by the Management Committee or the Home Owners Association, 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 payable in monthly installments. Each monthly 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. 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. 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 Bodies or either of them, may levy in any assessment year, special assessments, subject to the provisions of Paragraph 18(h) above, payable over such a period as the assessing body 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 Bodies, or either of them, to incur expenses, but shall be construed to prescribe the manner

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of assessing for expenses authorized by other paragraphs hereof. Any amounts assessed pursuant hereto shall be assessed to Owners in proportion to their respective undivided interest in the Common Areas. Declarant's interest in the Common Areas shall be determined on the same basis set forth in subparagraph (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 days after such date.

(f) Lien 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 Body making the assessment. Such lien shall be superior to all other liens and encumbrances on such Unit, except only for: (a) valid tax and special assessment liens on the Unit in favor of any governmental assessing authority; and (b) 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 instruments creating such liens.

To evidence a lien for sums assessed pursuant to this section, the Body making the assessment 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 a notice shall be signed by such Body and may be recorded in the office of the County Recorder of Salt Lake 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 Body making the assessment in the same manner in which mortgages or trust deeds 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 such Body any assessments against the Unit which shall become due during the period of foreclosure. Such Body 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.

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A release of notice of lien shall be executed by the assessing Body and recorded in the office of the County Recorder of Salt Lake County, Utah, upon payment of all sums 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 Body with respect to such lien, including priority.

The assessing Body 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 assessing body 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 Bodies. Suit to recover a money judgment for such personal obligation shall be maintainable by the appropriate Management Body 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 or mortgagee, prospective mortgagee or prospective purchaser of a Unit, the Management Body concerned 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 or prepaid items, including, but not limited to, an Owner's share of prepaid insurance premiums; and such statement of account shall be complied with within ten (10) days, all unpaid assessments which to the date of making such request shall be subordinate to the lien of a 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 obligations of the purchaser shall be released automatically if the statement is not furnished within a ten (10) day period provided herein and 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 subparagraph (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.

(j) Collection by Home Owners Association. It is recognized that the Home Owners Association will maintain the Common Areas of the Project except as otherwise provided in the Brickyard Declaration. It is further recognized that the Management Committee of the Project is authorized to levy assessments for the purposes of performing functions it is authorized to perform within the Project. With respect to the Units in the Project, the Management Committee shall be authorized to utilize the Home Owners Association for the purposes of collecting from the Unit Owners and enforcing liability for the payment of assessments levied pursuant to this Declaration.

21. 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 the prior written 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 on 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 requirement 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, but household pets may be kept in Units, subject to strict observances 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 of the Common Areas as adopted from time to time by the Management Committee.

(f) Restrictions in 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, neither the Unit Owners who have purchased Units from the Declarant nor the Management Bodies, or either of them, shall 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.

22. Insurance and Bond. The Management Committee shall secure or cause to be secured and maintained at all times the following insurance and bond coverages:

(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, professional managers and their employees,

the amount of such coverage to be as required by the Federal National Mortgage Association.

(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 be not less than \$300,000.00 for any person injured, \$1,000,000.00 for all persons injured in any one accident, and \$100,000.00 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 mortgages.

(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 a 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.

23. 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% 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 all the Unit 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% or more of the Project's improvements are destroyed or substantially damaged, if proceeds of the 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% elect to repair or reconstruct the affected improvements, restoration shall be accomplished in the manner directed under subparagraph (b) above.

(d) If 75% or more of the Project's improvements are destroyed or substantially damaged, 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% elect to repair or reconstruct the affected improvements, the Management Committee shall promptly record with the Salt Lake 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 shall govern the rights of all parties having an interest in the Project or any of the Units.

Any reconstruction or repair which is required to be carried out by this Paragraph 23 shall be accomplished at the instance and direction of the Management Committee. Any determination which is required to be made by this Paragraph 23 regarding the extent of damage to or destruction of Project improvements shall be made by three MAI appraisers selected by the Management Committee. The decision of any two such appraisers shall be conclusive.

24. Amendment. 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 an instrument executed by the Management Committee. In such instrument the Committee shall certify that the vote required by this paragraph for amendment has occurred. The foregoing right of amendment shall be subject to the following paramount right:

Until Units representing 75% of the undivided ownership interest in Brickyard Condominiums 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.

25. 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.

26. Service of Process. George D. Melling, Jr., whose address is Fabian & Clendenin, 800 Continental Bank Building, Salt Lake City, Utah, 84101, is the person to receive service of process in cases authorized by the Act. The Management Committee shall, however, have the right to appoint a successor or substitute process agent. Such successor or substitute agent and his address shall be specified by an appropriate instrument filed in the office of the County Recorder of Salt Lake County, State of Utah. Provided, however, that the agent for service of process named in the Declaration relating to the Phase most recently added to the Project shall automatically constitute such agent for the Project, and shall automatically replace any agent previously named by the Management Committee or any agent designated in any enabling declaration relating to a previously added Phase.

27. Mortgagee Protection. Notwithstanding anything to the contrary contained 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 deed (or assignment in lieu of foreclosure) shall be exempt from any "right of first refusal" or other provisions relating to sale or lease of the Units in the Project.

(d) The holder of first mortgages will have the right to examine the books and records of the Home Owner's Association and to require annual reports and other data.

(e) The Management Committee shall employ and supervise an experienced, professional manager for the condominium Project unless the Federal National Mortgage Association waives this requirement involving any management agreement.

(f) 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.

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

(h) 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 institutional 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 institutional holder with respect to the distribution to such Unit of the proceeds of any award or settlement.

(i) With the exception of a lender in possession of a Unit following a default in a first 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. 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 the

Declaration and By-Laws 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.

(j) Each holder of a first 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.

(k) Any holder of the 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.

(l) Any lien which the Management Committee may have on any Unit in the Project for the payment of Common Expense 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.

(m) Unless at least 100% 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 appurtenant Common Areas.

(3) Partition or subdivide any Unit.

(4) Make any material amendment to the Declaration or to the By-Laws of the Management Committee, including, but not limited to, any amendment which would change the percentage interests of the Unit Owners in the Common Areas, except as

provided in paragraph 24 relating to expansion of the Project and paragraph 25.

(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.

28. 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.

29. 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, and failure to comply shall be grounds for an action to recover sums 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.

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

31. Addition of Phases. Declarant hereby reserves the absolute right to enlarge the Project through the addition of one additional Phase. Notwithstanding any provision of the Act

which might be construed to the contrary, such right may be exercised without obtaining the vote or consent of any person and shall be limited only as specifically provided in this Declaration. Phase II shall be added to and merged with the pre-existing Project at such time as all of the following conditions have been met: (a) an enabling declaration and record of survey map concerning the Phase to be added have been properly recorded in the official records of Salt Lake County, Utah; (b) all of the improvements to be constructed in connection with such Phase have been substantially completed; and (c) a notice of completion complying with the provisions of the following Paragraph 32 has been recorded with respect to such Phase. After all of the described conditions have occurred, Phase II shall for all purposes constitute a part of the Project. Until a notice of completion is recorded with respect to Phase II, that Phase shall for all purposes constitute a condominium project distinct from the Brickyard Condominiums, Phase I.

32. Notice of Completion and Effect. A Notice of Completion associated with Phase II to be added to the Project shall be executed by Declarant, shall be in recordable form, and shall contain the following material:

(a) A description of the parcel connected with Phase II.

(b) A description of the Entire Tract.

(c) A statement that the enabling Declaration and Record of Survey Map associated with the Phase have been recorded.

(d) Data sufficient to identify said enabling Declaration and Record of Survey Map.

(e) A verification by Declarant that all the improvements connected with the Phase are substantially complete.

(f) A schedule setting forth the percentage of undivided ownership interest which shall appertain to each Unit in the Project after the addition of Phase II. Each of such percentages shall be the ratio between a figure representing the floor space associated with the Unit concerned (a measure of value) and the sum of such figures for all units then in the Project.

Upon the recordation of such a Notice of Completion, the revised schedule of undivided interests contained therein shall automatically become effective for all purposes and shall completely supersede the schedule which is attached hereto. And upon the recordation of such a Notice the enabling declaration and the record of survey map associated with Phase II shall automatically

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supplement this Declaration and survey map related thereto. At any point in time, the enabling declaration and record of survey map concerning each Phase which is then a part of the Project shall constitute but constituent parts of a single Declaration and record of survey map affecting the Project. In the event the provisions of the separate instruments conflict irreconcilably, the terms of that document which was recorded most recently shall control.

33. 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.

34. 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 circumstances shall not be affected thereby.


35. Topical Headings. The headings appearing at the beginning of the paragraphs of this 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.

36. Effective Date. This Declaration shall take effect upon recording in the office of the County Recorder of Salt Lake County, Utah.

IN WITNESS WHEREOF, the undersigned, being the Declarant has caused this instrument to be executed and its seal be affixed hereto on the 5th day of JUNE, 1978.

THE BRICKYARD ASSOCIATES

Gibbons Realty Company

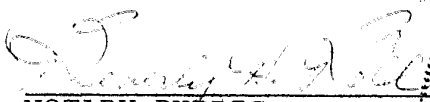
By 
William Gibbons, President


and


HAROLD N. WILKINSON, Partner

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


On the 5th day of June, 1978, personally appeared before me William Gibbons, who being by me duly sworn, did say that he is the President of Gibbons Realty Company, and that the foregoing instrument was signed by him in behalf of said corporation as a partner of The Brickyard Associates by authority of a resolution of its Board of Directors.



NOTARY PUBLIC
Residing at: Salt Lake City



My Commission Expires:
12-31-81

On the 5th day of June, 1978, personally appeared before me Harold N. Wilkinson, who being by me duly sworn, did say that he executed the foregoing instrument as a partner of The Brickyard Associates.


NOTARY PUBLIC
Residing at: Salt Lake City



My Commission Expires:
12-31-81

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CONSENT OF MORTGAGEE

First Security Bank of Utah, N.A., a corporation of the United States, hereby consents, acknowledges and affirms as follows:

1. That it is the Trustee and Beneficiary of a Deed of Trust between it, as Trustee, and The Brickyard Associates as Trustor, affecting the real property (said Deed of Trust being duly recorded) described in Article II of the Declaration of Brickyard Condominium - to which this Consent is attached; and

2. That the aforesaid Deed of Trust is and shall be subject to all of the terms and conditions as set forth in the said Declaration and the related Record of Survey Map, and further that the aforesaid Declaration and Record of Survey Map shall take effect upon recording.

DATED this 26th day of July, 1978.

BY William H. Starkweather

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

On this 26th day of July, 1978, personally appeared before me William H. Starkweather, who being by me duly sworn, did say that he is the Assistant Vice President of First Security Bank of Utah, N.A., a corporation of the United States, and that the foregoing "Consent of Mortgagee" was signed by him in behalf of said corporation by authority of a resolution of its Board of Directors.

Robert B. Wright
NOTARY PUBLIC

Residing at: Salt Lake City, Utah

My Commission Expires:

8/27/80

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EXHIBIT "A"

<u>Building and Unit No.</u>	<u>Par Value (Based on Points)</u>	<u>Appurtenant Undivided Interest in Common Areas</u>
1 101	32	1.7778
1 102	32	1.7778
1 103	27	1.5000
1 104	27	1.5000
1 105	41	2.2778
1 106	41	2.2778
2 201	32	1.7778
2 202	32	1.7778
2 203	27	1.5000
2 204	27	1.5000
2 205	41	2.2778
2 206	41	2.2778
3 301	32	1.7778
3 302	32	1.7778
3 303	27	1.5000
3 304	27	1.5000
3 305	41	2.2778
3 306	41	2.2778
4 401	32	1.7778
4 402	32	1.7778
4 403	27	1.5000
4 404	27	1.5000
4 405	41	2.2778
4 406	41	2.2778
5 501	32	1.7778
5 502	32	1.7778
5 503	27	1.5000
5 504	27	1.5000
5 505	41	2.2778
5 506	41	2.2778
6 601	32	1.7778
6 602	32	1.7778
6 603	27	1.5000
6 604	27	1.5000
6 605	41	2.2778
6 606	41	2.2778

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<u>Building and Unit No.</u>	<u>Par Value (Based on Points)</u>	<u>Appurtenant Undivided Interest in Common Areas</u>
7 701	32	1.7778
7 702	32	1.7778
7 703	27	1.5000
7 704	27	1.5000
7 705	41	2.2778
7 706	41	2.2778
8 801	32	1.7778
8 802	32	1.7778
8 803	27	1.5000
8 804	27	1.5000
8 805	41	2.2778
8 806	41	2.2778
9 901	32	1.7778
9 902	32	1.7778
9 903	27	1.5000
9 904	27	1.5000
9 905	41	2.2778
9 906	41	2.2778

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EXHIBIT "B"

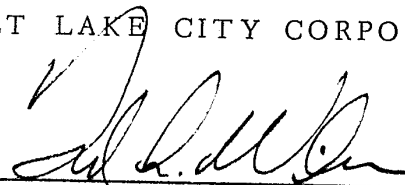
Beginning at a point on the North Line of Welby Avenue said point being North 19.79 feet and West 2451.89 feet from the East quarter corner of Section 29, Township 1 South, Range 1 East, Salt Lake Base and Meridian; and running thence North 0°14' East 200.97 feet; thence North 89°48'44" East 623.91 feet; thence South 0°03'46" West 17.78 feet; thence South 89°56' East 325.00 feet; thence South 82°45' East 131.00 feet; thence South 0°21" East 122.60 feet; thence North 89°35' East 284.40 feet; thence South 42°15' East 155.40 feet; thence South 45°46' West 465.46 feet to a point on the Northeasterly line of Brickyard Road, said point being on a 720.00 foot radius curve to the right, the center of which bears North 40°43'28" East; thence along the Northerly line of said Brickyard Road for the next five courses as follows: Northwesterly along the arc of said 720.00 foot radius curve 91.43 feet to the point of tangency; thence North 42° West 263.60 feet; thence North 62°21'51" West 111.36 feet to the point of a 300 Foot radius to the left on the Northerly and Westerly line of Brickyard Road; thence Westerly and Southerly along the arc of said curve 600.23 feet to a point of a 510.00 foot radius compound curve to the left; thence Southerly along the arc of said curve 89.41 feet; thence departing from said Westerly line of Brickyard Road on a 15.00 foot radius curve to the right, the center of which lies North 25°44' West; thence Southwesterly along the arc of said curve 6.74 feet to the point of tangency; thence West 195.91 feet; thence North 17° West 50.54 feet; thence South 89°48'44" West 109.16 feet; thence North 0°14' East 323.96 feet; thence North 35°10'11" West 60.41 feet to the point of beginning.

SALT LAKE CITY APPROVAL

On this 1st day of August 1978,
Salt Lake City Corporation, a Body Politic, a Corporation of
the State of Utah, and the municipality in which the Brickyard
Condominiums are located, hereby gives final approval to
said project to the foregoing declaration, to the record of
survey map recorded concurrently herewith, and to the
attributes of said project which are mentioned in Section
57-8-35(3) of the Utah Condominium Ownership Act, as
amended and expanded by the Laws of Utah 1975, Chapter 173,
Section 18.

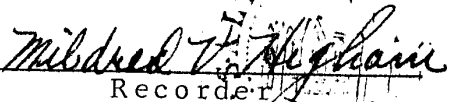
SALT LAKE CITY CORPORATION

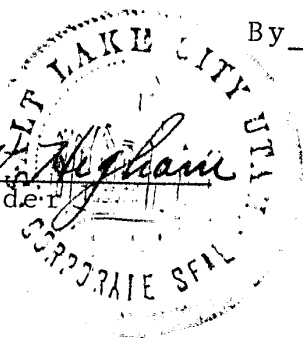
By



Mayor

Attest:


Recorder



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Board of Commissioners
APPROVED

APR 1 1973

BYLAWS

BRICKYARD CONDOMINIUMS

Michael V. Higgins
CITY RECORDER

An Association of Unit Owners Under the
Utah Condominium Ownership Act

The administration of the BRICKYARD CONDOMINIUMS (the "property") and the BRICKYARD HOME OWNERS ASSOCIATION ("association") shall be governed by these bylaws, by the Utah Condominium Ownership Act, Utah Code Ann. 57-8-1 through 57-8-35 (Repl. vol. 1973) (the "Act") and by the declaration.

1. Application of Bylaws

All present and future unit owners, mortgagees, lessees and occupants of units and their employees, and any other persons who may use the facilities of the property in any manner are subject to the declaration, these bylaws and all rules made pursuant hereto and any amendment thereof. The acceptance of a deed or conveyance or the entering into of a lease or the act of occupancy of a unit shall constitute an agreement that the provisions of the declaration and these bylaws (and any rules and regulations made pursuant thereto), as they may be amended from time to time, are accepted, ratified and will be complied with.

2. Management Committee

2.1 The administration of the property on behalf of the association shall be conducted by a management committee of five natural individuals.

2.2 Beginning with the first annual meeting and at every annual meeting thereafter, the association shall elect the members of the management committee for the forthcoming year. At least thirty (30) days prior to any annual meeting of the association, the management committee shall elect from the unit owners a nominating committee of not less than three (3) members (none of whom shall be members of the then management committee) who shall recommend to the annual meeting one nominee for each position on the management committee to be filled at that particular annual meeting. Nominations for positions on the management committee may also be made by petition filed with the secretary of the association at least seven (7) days prior to the annual meeting of the association, which petition shall be signed by five (5) or more unit owners and signed by the nominee named therein indicating his willingness to serve as a member of the management committee, if elected. Members of the management committee shall be unit owners or spouses of unit owners and officers, directors, agents and employees of owners other than individuals.

2.3 Members of the management committee shall serve for a term of three (3) years; provided, however, that one member of the management committee elected at the first annual meeting shall serve for an initial term of three (3) years, two members for a two (2) year term, and two members for a one (1) year term. Thereafter, all management committee members elected shall serve for a three year term. The members of the management committee shall serve until their respective successors are elected, or until their death, resignation or removal. Any member of the management

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committee who fails to attend three consecutive management committee meetings or fails to attend at least 25% of the management committee meetings held during any calendar year shall forfeit his membership on the management committee.

2.4 Any member of the management committee may resign at any time by giving written notice to the president of the association, or the remaining management committee members. Any member of the management committee may be removed from membership on the management committee by a two-thirds majority vote of the association. Whenever there shall occur a vacancy on the management committee due to death, resignation, removal or any other cause, the remaining members shall elect a successor member to serve until the next annual meeting of the association, at which time said vacancy shall be filled by the association for the unexpired term, if any.

2.5 The members of the management committee shall receive no compensation for their services unless expressly approved by a majority of the association; provided, however, that any member of the management committee may be employed by the association in another capacity and receive compensation for such employment.

2.6 The management committee, for the benefit of the property and the association, shall manage the business, property and affairs of the property and the association and enforce the provisions of the declaration, these bylaws, the house rules and the administrative rules and regulations governing the property. The management committee shall have the powers, duties and re-

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sponsibilities with respect to the property as contained in the act, the declaration and these bylaws.

2.7 The meetings of the management committee shall be held at such places within or without the State of Utah as the management committee shall determine. Three (3) members of the management committee shall constitute a quorum, and if a quorum is present, the decision of a majority of those present shall be the act of the management committee. The management committee shall annually elect all of the officers of the association. The meeting for the election of officers shall be held at the first meeting of the management committee immediately following the annual meeting of the association.

2.8 Special meetings of the management committee may be called by the president or by any two management committee members.

2.9 Regular meetings of the management committee may be held without call or notice. The person or persons calling a special meeting of the management committee shall, at least ten (10) days before the meeting, give notice thereof by any usual means of communication. Such notice need not specify the purpose for which the meeting is called; if an agenda is prepared for such a meeting, the meeting need not be restricted to discussions of those items listed on the agenda.

2.10 Any member of the management committee may, at any time, waive notice of any meeting of the management committee in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the management committee at a meeting shall constitute a waiver

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of notice of such meeting except if a management committee member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the members of the management committee are present at any meeting of the management committee, no notice shall be required and any business may be transacted at such meeting.

2.11 Until date one (1) year from the recording of the declaration or until 60% of the units are sold, whichever occurs first, the rights, duties, and functions of the management committee shall be exercised by declarants. The first annual meeting of the association shall be held at a time set by declarants, but after the foregoing conditions have been met, but not more than one year after, at which time the association shall elect the members of the management committee. The following annual meetings shall be held on the same date each year thereafter.

2.12 After the election of the members of the management committee at the first annual meeting of the association, declarants shall execute, acknowledge and record an affidavit stating the names of the members of the newly elected management committee. Thereafter, any two (2) persons who are designated of record as being members of the most recent management committee (regardless of whether or not they shall still be members) may execute, acknowledge and record an affidavit stating the names of all of the members of the then current management committee. The most recently recorded of such affidavits shall be prima facie evidence that the persons named

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therein are all of the incumbent members of the management committee and shall be conclusive evidence thereof in favor of all persons who rely thereon in good faith.

2.13 The fiscal year shall be determined by the management committee.

3. Meetings of the Association

3.1 The presence in person or by proxy at any meeting of the association of fifty percent (50%) of the unit owners in response to notice of all unit owners of record properly given shall constitute a quorum. Each unit shall be entitled to one vote. In the event that fifty percent (50%) of the unit owners are not present in person or by proxy, the meeting shall be adjourned for twenty-four (24) hours, at which time it shall reconvene and any number of unit owners present at such subsequent meeting shall constitute a quorum. Unless otherwise expressly provided in the declaration, any action may be taken at any meeting of the unit owners upon a majority vote of the unit owners who are present in person or by proxy and who are voting.

3.2 There shall be an annual meeting of the association on the anniversary date following the first annual meeting at 7:00 p.m. at the property or at such other reasonable place or time (not more than sixty (60) days before or after such date) as may be designated by written notice by the management committee delivered to the unit owners not less than fifteen (15) days prior to the date fixed for said meeting. At or prior to an annual meeting, the management committee shall furnish to the unit owners: (i) a budget for the coming fiscal year that shall itemize the estimated common expenses of the

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coming fiscal year with the estimated allocation thereof to each unit owner; and (ii) an audited statement of the common expenses itemizing receipts and disbursements for the previous and current fiscal year, together with the allocation thereof to each unit owner. Within ten (10) days after the annual meeting, that budget statement shall be delivered to the unit owners who were not present at the annual meeting.

3.3 Special meetings of the association may be held at any time at the property or at such other reasonable place to consider matters which, by the terms of the declaration, require the approval of all or some of the unit owners, or for any other reasonable purpose. Special meetings shall be called by written notice, signed by a majority of the management committee, or by unit owners representing at least one third (1/3) in interest of the undivided ownership of the common areas and facilities and delivered to all unit owners not less than fifteen (15) days prior to the date fixed for said meeting. The notices shall specify the date, time and place of the meeting, and the matters to be considered.

3.4 Robert's Rules of Order (latest edition) shall govern the conduct of the association's meeting when not in conflict with the declaration or these bylaws.

4. Officers

4.1 All officers and employees of the association shall serve at the will of the management committee. The officers shall be a president, secretary and treasurer. The management committee may appoint such other assistant officers as the management committee may deem necessary. No

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officer shall be required to be a unit owner, but the president must be a member of the management committee. No officer shall receive compensation for serving as such. Officers shall be annually elected by the management committee and may be removed and replaced by the management committee. The management committee may, in its discretion, require that officers (and other employees of the association) be subject to fidelity bond coverage.

4.2 The president shall be the chief executive of the management committee and shall preside at all meetings of the unit owners and of the management committee and may exercise the powers ordinarily allocable to the presiding officer of an association, including the appointment of committees. The president shall exercise general supervision over the property and its affairs. He shall sign on behalf of the association all conveyances, mortgages and contracts of material importance to its business. He shall do and perform all acts which the management committee may require.

4.3 The secretary shall keep minutes of all proceedings of the management committee and of the meetings of the association and shall keep such books and records as may be necessary and appropriate for the records of the unit owners and the management committee. In the absence or inability of the president, the secretary shall perform the functions of the president.

4.4 The treasurer shall be responsible for the fiscal affairs of the association but may delegate the daily handling of funds and the keeping of records to a manager or managing company.

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5. Common Expenses: Assessments

5.1 All assessments shall be made in accordance with the general provision of paragraph 20 of Article III of the Declaration.

5.2 Within thirty (30) days prior to the annual meeting of the association, the management committee shall estimate the common expenses for the following year. The estimated common expenses shall include such amounts as the management committee may deem proper for general working capital, for the general operating reserve, for a reserve fund for replacements and major maintenance and shall take into account any expected income, surplus or deficit in the common expenses for any prior year. These estimated common expenses shall be presented at the annual meeting and thereafter shall be assessed on a monthly basis to the unit owners. If the estimated common expenses prove inadequate for any reason, including nonpayment of any unit owner's assessments, the management committee may, by resolution duly adopted, make additional assessments, which shall be assessed to the unit owners in the same manner as the estimated common expenses. Each unit owner shall be obligated to pay to the management committee assessments made pursuant to this paragraph on or before the first day of each month, or in such other reasonable manner as the management committee shall designate. The funds received by the management committee from assessments shall be kept in a separate account known as the "common expense fund" and shall be expended by the management committee only in accordance with the provisions of the act, the declaration and these bylaws.

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5.3 The rights, duties and functions of the management committee set forth in this paragraph shall be exercised by declarants until thirty (30) days after the first annual meeting of the association.

5.4 The failure by the management committee before the expiration of any year, to estimate the common expenses as required herein, shall not be deemed a waiver or modification in any respect of the provisions of the declaration or these bylaws or a release of the unit owner from the obligation to pay any past or future assessments, and the estimated common expenses fixed for the previous and current year shall continue until a new estimate is fixed.

5.5 Amendments to this paragraph 5 shall be effective only upon unanimous written consent of the unit owners and their mortgagees.

5.6 No unit owner may exempt himself from liability for common expenses by waiver of the use or enjoyment of any of the common areas and facilities or by abandonment of his unit.

5.7 The treasurer shall keep detailed records of all receipts and expenditures, including expenditures affecting the common areas and facilities; specifying and itemizing the maintenance, repair and replacement expenses of the common areas and facilities and any other expenses incurred. Such record shall be available for examination by the unit owners during regular business hours. In accordance with the actions of the management committee assessing common expenses against the units and unit owners, the treasurer shall keep an accurate record of such assessments and of the payments thereof by each unit owner.

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5.8 All common expense assessments shall be a separate, distinct and personal liability of the owner of the unit at the time each assessment is made. The management committee shall have the rights and remedies contained in the act and in the declaration to enforce the collection of assessments for common expenses.

5.9 Any person who shall have entered into a written agreement to purchase a unit shall be entitled to obtain a written statement from the treasurer setting forth the amount of unpaid assessments charges against the unit and its owners, and if such statement does not reveal the full amount of the unpaid assessments as of the date it is rendered, neither the purchaser nor the unit shall be liable for the payment of an amount in excess of the unpaid assessments shown thereon, provided that the former unit owner grantor shall remain so liable. Any such excess which cannot be promptly collected from the former unit owner grantor shall be reassessed by the management committee as a common expense to be collected from all unit owners, including without limitation the purchaser of the unit, his successors and assigns. The new unit owner shall and the former unit owner shall not be liable for any assessments made after the date of transfer of title to a unit, even though the common expenses for the expenses incurred or the advances made by the management committee for which the assessment is made relate in whole or in part of any period prior to that date.

5.10 In the event that title to a unit is transferred at sheriff's sale pursuant to execution upon any lien against the unit, the management committee shall give notice in writing to the sheriff of any unpaid

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assessments for common expenses which are a lien against the unit, and for any expenses of or advances by the management committee which became due prior to the sheriff's sale of the unit. Any such unpaid assessments which cannot be promptly collected from the former unit owner shall be reassessed by the management committee as a common expense to be collected from all of the unit owners, including the purchaser who acquired title at the sheriff's sale, his successors and assigns. To protect its right to collect unpaid assessments for common expenses which are a lien against a unit, and for any expenses of and advances by the management committee, the management committee may on behalf of all the unit owners, purchase the unit at sheriff's sale, provided such action is authorized by the affirmative vote of a majority of the members of the management committee.

5.11 In addition to the statements issuable to purchasers of units, the management committee shall provide a current statement of unpaid assessments for common expenses and for any expenses of and advances by the management committee in respect of the unit, to the unit owner, to any person who shall have entered into a binding agreement to purchase the unit and to any mortgagee on request at reasonable intervals.

5.12 In all cases where all or part of any assessments for common expenses and for any expenses of and advanced by the management committee cannot be promptly collected from the persons or entities liable therefor under the act, declaration or bylaws, the management committee shall reassess the same as a common expense, without prejudice to its rights of collection against such persons or entities.

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6. Litigation

6.1 If any action is brought by one or more but less than all unit owners on behalf of the association and recovery is had, the plaintiff's expenses, including reasonable counsel's fees, shall be a common expense; provided, however, that if such action is brought against the unit owners or against the management committee, the officers, employees, or agents thereof, in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all the unit owners, the plaintiff's expenses, including counsel fees, shall not be charged to or borne by the other unit owners, as a common expense or otherwise.

6.2 Complaints brought against the association, the management committee or the officers, employees or agents thereof, in their respective capacities as such, or the property as a whole, shall be directed to the management committee which shall promptly give written notice thereof to the unit owners and any mortgagees and shall be defended by the management committee, and the unit owners and mortgagees shall have no right to participate other than through the management committee in such defense. Complaints against one or more, but less than all unit owners shall be directed to such unit owners, who shall promptly give written notice thereof to the management committee and to the mortgagees affecting such units, and shall be defended by such unit owners.

7. Abatement and Enjoinment of Violations by Unit Owners

The violation of any house rules or administrative rules or

regulations adopted by the management committee or the breach of any provision contained herein, or the breach of any provision of the declaration, shall give the management committee the right, in addition to any other rights set forth in these bylaws:

7.1 To enter the unit in which or as to which such violation or breach exists and to similarly abate and remove, at the expense of the defaulting unit owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the management committee shall not thereby be deemed guilty in any manner of trespass; or

7.2 To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of such breach.

8. Accounting

8.1 The books and accounts of the association shall be kept in accordance with generally accepted accounting procedures under the direction of the treasurer.

8.2 At the close of each fiscal year, the books and records of the management committee shall be reviewed and an unaudited statement prepared by a certified public accountant approved by the Management Committee.

8.3 The books, accounts, and unaudited statements of the association shall be available for inspection at the office of the association by any unit owner or his authorized representative during regular business hours.

9. Special Committees

The management committee by resolution may designate one or more

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special committees, each committee to consist of two (2) or more unit owners, which to the extent provided in said resolution, shall have and may exercise the powers set forth in said resolution. Such special committee or committees shall have such name or names as may be determined from time to time by the management committee. Such special committees shall keep regular minutes of their proceedings and report the same to the management committee when required. The members of such special committee or committees designated shall be appointed by the management committee or the president. The management committee or the president may appoint unit owners to fill vacancies on each of said special committees occasioned by death, resignation, removal or inability to act for any extended period of time.

10. Amendment of Bylaws

These bylaws may be amended by a two third (2/3) affirmative vote of the association at a meeting duly called for such purpose. Upon such an affirmative vote, the management committee shall acknowledge the amended bylaws, setting forth the fact of the required affirmative vote of the unit owners and the amendment shall be effective upon recording.

11. Severability

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

12. Captions

The captions herein are inserted only as a matter of convenience and

for reference and in no way to define, limit or describe the scope of these bylaws nor the intent of any provision hereof.

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