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DECLARATION OF COVENANTS, CONDITIONS
RESTRICTIONS, AND BY-LAWS

FOR

TIVCO DEVELOPMENT, A UTAH LIMITED PARTNERSHIP

This Declaration of Covenants, Conditions, and Restrictions, hereinafter called "Declaration", and the By-Laws which are attached hereto and made a part hereof are made and executed in Salt Lake County, Utah, this 8th day of January, 1980, by TIVCO PROPERTIES, a Utah general partnership, authorized to do business in Utah, hereinafter called "Declarant", for itself and its successors, grantees, and assigns, pursuant to the provisions of the Utah Condominium Ownership Act, Utah Code Annotated Section 57-8-1, et seq., (1953 as amended), hereinafter referred to as "Condominium Ownership Act".

WITNESSETH:

WHEREAS, Declarant is the owner of certain land located in Salt Lake County, Salt Lake City, Utah, hereinafter referred to as the "land" and more particularly described in Appendix A of this Declaration which is attached hereto and made a part hereof; and

WHEREAS, the aforesaid property consists of the land above-described, together with certain residential condominium buildings and certain other improvements heretofore constructed upon said premises; and

WHEREAS, four residential buildings consisting of a total of eight residential condominium units and eight covered parking units, and other improvements upon the aforesaid premises have been constructed in accordance with the plans and drawings set forth in the Record of Survey Map filed concurrently herewith, consisting of one sheets, prepared and certified by P-M ENGINEERS, a duly registered Utah Land Surveyor; and

Devin Thompson
Devin Thompson

REF
REC'D OF
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Cassady Little

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REC'D OF
KATIE L. MAHON
RECORDER
SALT LAKE COUNTY,
UTAH

BOOK 5021 PAGE 717

WHEREAS, Declarant desires by filing this Declaration and the aforesaid Record of Survey map to submit the above-described real property and the said buildings and other improvements constructed thereon to the provisions of the Utah Condominium Ownership Act as a condominium project known as Midland Court Condominiums ; and

WHEREAS, Declarant desires and intends to sell the fee title to the individual units contained in said condominium project, together with an undivided ownership interest in the common areas and facilities appurtenant thereto, to various purchasers, subject to the covenants, conditions, and restrictions herein reserved to be kept and observed; and

WHEREAS, the Declarant desires and intends by filing this Declaration and the Record of Survey Map to submit the property to the provisions of the aforesaid act as a condominium property and to impose upon said property mutually beneficial restrictions for the benefit of said property and the owners thereof; and

WHEREAS, the Declarant intends to develop the above condominium project consisting of eight residential units and .8 covered parking units and to subject the entire property and units as so developed as one condominium project by the filing of a Declaration to accomplish that purpose;

NOW THEREFORE, for such purposes, Declarant hereby makes the following Declaration containing covenants, conditions, and restrictions relating to this condominium project which pursuant to the provisions of Utah Code Annotated Section 57-8-10 (1953 as amended) shall be enforceable equitable servitudes, where reasonable, and shall run with the land:

1. Name of the condominium property:

The name by which the condominium property shall be known is Midland Court Condominiums.

2. Definitions.

The terms used herein shall have the meaning stated in the Utah Condominium Ownership Act and as follows unless the context clearly indicates a different meaning therefor:

A. "Declarant" shall mean TIVCO PROPERTIES, a Utah limited partnership authorized to do business in Utah, which has made and executed this Declaration.

B. The term "The Act" shall mean and refer to the Utah Condominium Ownership Act, Utah Code Annotated Section 57-8-1, et seq. (1953 as amended).

C. The term "condominium" shall mean and refer to the ownership of a single unit in this condominium project together with an undivided interest in common areas and facilities of the property.

D. The term "Declaration" shall mean this instrument by which the Midland Court Conominum is established.

E. The term "property" shall mean and include the land, the building, all improvements and structures thereon, all easements, rights, and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

F. The term "condominium project" shall mean and refer to the entire real estate condominium project referred to in this Declaration.

G. The term "Map" shall mean and refer to the Record of Survey Map of Midland Court Condominium recorded herewith by Declarant in accordance with Utah Code Annotated Section 57-8-13 (1953 as amended).

H. The term "unit" shall mean and refer to one of the residential units or one of the parking units desig-

nated on the Record of Survey Map and in Exhibit B attached hereto. A unit shall include any walls, partitions, and floors which are wholly contained within its vertical and horizontal perimeters and the surfaces of any floors, ceilings, or coverings which bound it. A unit shall not include pipes, wires, conduits, or other utility lines running through it which are utilized for or which serve more than one unit.

I. The term "unit owner" shall mean the person or persons owning a unit in fee simple and an undivided interest in the fee simple estate of the common areas and facilities in the percentage specified and established in the Declaration.

J. The term "unit owners" shall mean and refer to unit owners of the Midland Court Condominiums and includes the original purchasers and others who may subsequently become unit owners.

K. The term "association of unit owners" shall mean and refer to all of the unit owners acting as a group in accordance with the Act, the Declaration, and By-Laws.

L. The term "unit number" shall mean and refer to the number designating the unit in the Declaration and in the Record of Survey Map.

M. The terms "majority" or "majority of the unit owners" shall mean the owners of more than fifty percent in the aggregate in interest of the undivided ownership of the common areas and facilities.

N. The term "management committee" shall mean and refer to a committee composed of persons duly elected thereto by the association of unit owners, as provided by this Declaration and the Act in accordance with the By-Laws hereto attached as Appendix C. Said committee is charged with and shall have the responsibility and authority to make and to enforce all of the reasonable rules and regulations covering the operation and maintenance of the property.

O. The term "manager" shall mean and refer to the person, persons, or corporation selected by the management committee to manage the affairs of the condominium project.

P. The term "common areas and facilities" shall mean and refer to:

1. The above described land.
 2. That portion of the condominium project not specifically included in the respective units as herein defined.
 3. All foundations, columns, girders, beams, supports, main walls, roof, exterior walkways, parking areas, (other than the 8 covered parking stalls that constitute units) service streets, stalls, and social center, recreational areas and facilities, yards, gardens, fences, all installations of power, light and other utilities to the outlets, and in general all other apparatus, installations and other parts of the property necessary or convenient to the existence, maintenance, and safety of the common area, or normally in common use.
 4. Those common areas and facilities specifically set forth and designated as such in the Map.
 5. All common areas and facilities as defined in the Act, whether or not expressly listed herein except that portion of the condominium project included in the respective units.
- Q. The term "limited common areas and facilities" shall mean and refer to those common areas and facilities designated in the Declaration and the Map as reserved for use of a certain unit or units to the exclusion of the other units.
- R. The term "common expenses" shall mean and refer to all expenses of administration, maintenance, repair, or replacement of the common areas and facilities; to 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 and regulations pertaining to the condominium project as the association of unit owners or the management committee may from time to time adopt, and such determinations and agreements lawfully made and/or entered into by the management committee.

S. Those definitions contained in the Act, to the extent they are applicable to and not inconsistent herewith, shall be and are hereby incorporated hereby by reference and shall have the same effect as if expressly set forth herein and made a part hereof.

3. Description of property:

A. Description of land.

The tract or parcel of land in Salt Lake County, State of Utah, and more particularly described in Appendix A of this Declaration.

B. General description of buildings.

The residential buildings constituting a part of the condominium project are four in number and includes a total of eight residential units. There are also seven covered parking units. There is one recreational building and one security building, both of which are common areas.

The buildings are constructed of a concrete frame and contain an exterior consisting of Brick and masonite siding.

Each residential unit in the building is designed for use as a single-family residence, and has the exclusive right to use and occupy a garage, a balcony, and/or patio which is reserved as limited common area for each unit. Each covered parking unit is designed to park a vehicle in.

All other details involving the respective descriptions and locations of the building and a statement of the number of units and other like details are set forth in the Map which is simultaneously filed of record and incorporated herein by reference.

C. Description of units.

Each residential unit shall consist of:

1. The space enclosed within the undecorated interior surface of its perimeter walls, floors, and ceilings (being in appropriate cases the inner surfaces parallel to the roof plane, of the roof rafters, and the projections thereof) projected, where appropriate to form a complete enclosure of space including any pipes, ducts, wires, conduits,

~~On~~ structural divisions such as interior walls or partitions which may intervene.

2. Any finishing material applied or affixed to the interior surfaces of the perimeter walls, floors, and ceilings, including, without limitation, paint, lacquer, varnish, wallpaper, tile, and paneling.

3. Non-supporting interior walls.

4. Windows and doors in the perimeter walls, whether located within the bounds of a unit or not, but not including any space occupied thereby to the extent located outside the bounds of the units.

5. All utility pipes or lines or systems, and fixtures or appliances connected thereto, servicing a single unit (or connecting a single unit to a main or central utility to the point of disconnection from such main or central utility) whether located with the bounds of the unit or not, but not including any space occupied thereby to the extent located outside the bounds of the unit.

Each covered parking unit is defined by the verticle and horizon dimensions of such units as shown on the map. Units forming a part of the condominium property are more particularly described in the Map, which shows graphically all the particulars of the buildings; without limiting the generality of the foregoing, the unit designations are set forth in Appendix B attached hereto.

Each unit has immediate access to the common areas and facilities.

Every contract for the sale of a unit and every other instrument affecting title to a unit may describe that unit by its identifying number or symbol as designated in the Map or Maps with the appropriate reference to the Map(s) and to the Declaration, as each shall appear on the records of the County Recorder of Salt Lake County, Utah, in substantially the following fashion:

Unit _____, in Building _____, as shown on the Record of Survey Map for _____, appearing in the records of the County Recorder of Salt Lake County, State of Utah, in Book _____, Page _____, of Plats, and as defined and described in the Declaration of Condominium appearing in such records, in Book _____, Page _____, of Records, together with _____ percent of the undivided interest in the common areas and facilities of _____.

Such description will be construed to describe the unit, together with the appurtenant undivided interest in the common areas and facilities and to incorporate all the rights incident to ownership of a unit and all appurtenant undivided interest and all rights and limitations arising as a result of any amendment to the project.

D. Description of common areas and facilities.

Except as otherwise in this Declaration provided, the common areas and facilities shall consist of all part of the condominium property except the units. Without limiting the generality of the foregoing, the common areas and facilities shall include the following, whether located within the bounds of a unit or not:

1. All structural part of the building including, without limitation, foundations, columns, joists, beams, supports, supporting walls, floors, ceilings, and roofs.
2. Patios, yards, courts, and driveways.
3. The roadways contained therein.
4. Any utility pipe or line or system servicing more than a single unit, and all ducts, wires, conduits, and other accessories used therewith, but excluding any pipe or line or accessory connecting a single unit to a main or central pipe or line or system or to a pipe or line or system servicing more than a single unit.
5. All other parts of the condominium property necessary or convenient to its existence, maintenance, and safety, or normally in common use, or which have been designated as common areas and facilities in the drawings.

6. The limited common areas and facilities hereinafter described.

7. All repairs and replacements of any of the foregoing.

E. Description of limited common areas and facilities.

Each unit owner is hereby granted an irrevocable license to use and occupy the limited common areas and facilities reserved exclusively for the use of his unit, which shall consist of all the common areas and facilities including but not limited to the balcony and/or patio and a garage which is intended for the exclusive service of the unit, the use and occupancy of which shall in each case be limited to such unit.

4. Submission to condominium ownership:

Declarant hereby submits the above-described property, tract of land, building, and other improvements constructed thereon or hereafter to be constructed, together with all appurtenances thereto, to the provisions of the Act as a condominium project and this Declaration is submitted in accordance with the terms of the provisions of the Act and shall be construed in accordance therewith.

4.1 Declarant.

Declarant warrants that by virtue of: (i) the condominium constituent documents, (ii) a written agreement in favor of all mortgages of units in the project with the homeowners association of the condominium, (iii) state law or (iv) a combination thereof:

(1) The condominium project has been created and is existing in full compliance with requirements of the condominium enabling statute of the jurisdiction in which the condominium project is located and all other applicable laws.

(2) Any "right of first refusal" contained in the condominium constituent documents shall not impair the rights of a first mortgagee to:

(a) Foreclosure or take title to a condominium unit pursuant to the remedies provided in the mortgage, or

(b) accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor, or

(c) sell or lease a unit acquired by the mortgagee.

(3) Any first mortgagee who obtains title to a condominium unit pursuant to the remedies provided in the mortgage or foreclosure of the mortgage will not be liable for such unit's unpaid dues or charges which accrue prior to the acquisition of title to such unit by the mortgagee.

(4) Except as provided by statute in case of condemnation or substantial loss to the units and/or common elements of the condominium project, unless at least two-thirds (2/3) of the

first mortgagees (based upon one vote for each first mortgage owned), or owners (other than the sponsor, developer, or builder) of the individual condominium units have given their prior written approval, the condominium homeowners association shall not be entitled to:

- (a) by act or omission, seek to abandon or terminate the condominium project;
- (b) change the pro rata interest or obligations of any individual condominium unit for the purpose of: (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each condominium unit in the common elements;
- (c) partition or subdivide any condominium unit;
- (d) by act or omission, seek to abandon partition, subdivide, encumber, sell or transfer the common elements. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the common elements by the condominium project shall not be deemed a transfer within the meaning of this clause);
- (e) use hazard insurance proceeds for losses to any condominium property (whether to units or to common elements) for other than the repair, replacement or reconstruction of such condominium property.

In the case of condominium project subject to additions or expansions, in which sections or phases are established by the condominium constituent documents (hereafter referred to as "phasing" or "add-ons") satisfying the requirements of Section 3.207a(4)(b) and (d), and 3.207a(5) will be deemed waived the extent necessary to allow the phasing or add-ons in accordance with the condominium constituent documents.

(5) Any proposal or plan pursuant to which the condominium project is subject to phasing or add-ons complies with the following limitations:

- (a) Condominium unit owner's undivided interest in the common elements must be stated in the Declaration of Condominium (or Master Deed or similar instrument); and the conditions whereby any change in such percentage of undivided interest in common elements may take place are fully described in such Declaration (or Master Deed or similar instrument), together with a description of the real property which will become subject to the condominium project if such alternative percentage interest becomes effective; and
- (b) no change in the percentage interests in the common elements may be affected pursuant to such phasing or add-on plan more than seven years after the Declaration of Condominium (or Master Deed) becomes effective.
- (6) All taxes, assessments and charges which may become liens prior to the first mortgage under local law shall relate only to the individual condominium units and not to the condominium project as a whole.
- (7) No provision of the condominium constituent documents gives a condominium unit owner, or any other party, priority over any rights of the first mortgagee of the condominium unit pursuant to its mortgage in the case of a distribution to such unit owner of insurance proceeds or condemnation awards for losses to or a taking of condominium units and/or common elements.
- (8) If the condominium project is on a leasehold estate, the condominium unit lease is a lease or sublease of the fee, and the provisions of such lease comply with the requirements set forth in Section 3.206.

4.2 Declarant Further Warrants.

Declarant further warrants (except as to the extent that Declarant requests and recommends a waiver or modification of the following):

- (1) All amenities (such as parking, recreation and service areas) are a part of the condominium project and are covered

by the mortgage at least to the same extent as are the common elements and amenities are fully installed, completed and in operation for use by condominium unit owners. If such amenities are not common or special elements under the condominium project, but are part of a PUD of which the condominium project is a part, such an arrangement is acceptable provided that the warranties applicable to PUD units are also satisfied, or waivers obtained.

FHLMC reserves the right to reject any condominium unit mortgage if FHLMC determines in its sole discretion that the number of units in the condominium project is insufficient to support the common elements and all amenities.

(2) Seventy percent (70%) of the units in the condominium project have been sold to bona fide purchasers who have closed or who are legally obligated to close. Multiple purchases of condominium units by one owner are to be counted as one sale when counting the number of sales within a condominium project to determine if sales requirement has been met. (FHLMC may reduce this seventy percent (70%) sales requirement to fifty-one percent (51%) for those condominium projects where declarant can document to FHLMC's satisfaction adequate reasons for such a waiver.)

In a condominium project subject to phasing or add-ons, in which sections or phases are established by the condominium constituent documents and under a common homeowners association, a section or phase may be combined with other completed, sold and occupied sections or phases to meet the presale requirement.

A section/phase is one which is of sufficient size to contain an adequate number of units to support any common elements or recreational facilities which are included in the same price or appraised value of the individual unit, and in a condominium project, the section/phase is generally established by the condominium constituent documents.

(3) At least eighty percent (80%) of the units sold in the condominium project are sold to individuals for use as their primary year-round residences.

(4) Condominium dues or charges shall include an adequate reserve fund for maintenance, repairs and replacement of those common elements that must be replaced on periodic basis, and shall be payable in regular installments rather than by special assessments.

(5) A first mortgagee, upon request, will be entitled to written notification from the homeowners association of any default in the performance by the individual unit Borrower of any obligation under the condominium constituent documents which is not cured within sixty (60) days. Declarant further warrants that: (i) such request has been made by Declarant, (ii) as of the Delivery Date Declarant has received no notice of such outstanding default and (iii) subsequent to the Deliver Date, Declarant, as Servicer, will notify FHLMC of any notice of such default, as prescribed in the Servicer's Guide.

(6) Any agreement for professional management of the condominium project, or any other contract providing for services of the developer, sponsor, or builder, may not exceed 3 years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice.

5. Covenants to run with the land:

This Declaration containing covenants, conditions, and restrictions relating to the project shall be enforceable equitable servitudes and shall run with the land and this Declaration and servitudes shall be binding upon Declarant, its successors and assigns, and upon all unit owners or subsequent unit owners of all or any part of the condominium project, and upon their grantees, mortgagees, successors, heirs, executors, administrators, devisees, and assigns.

6. Statement of purposes, uses, and restrictions:

A. Purposes. The purposes of the condominium property are to provide housing and recreational facilities for the unit owners and their respective families, tenants, guests, and servants in accordance with the provisions of the Utah Condominium Ownership Act.

B. Restrictions on use. The units and common areas and facilities shall be used and occupied as follows:

1. No part of the condominium property shall be used for other than housing and the related common purposes for which the condominium property was designed.

Each parking unit shall be used to park a vehicle in.

2. There shall be no obstruction of the common areas and facilities nor shall anything be stored in the common areas and facilities without the prior written consent of the management committee except as otherwise provided herein.

3. Nothing shall be done or kept in any unit or in the common areas and facilities which will increase the rates of insurance on the building or units or contents thereof beyond that customarily applicable for residential use, without the prior written consent of the management committee. No unit owner shall permit anything to be done or kept in his unit or in the common areas and facilities which will result in the cancellation of insurance on the building, or the contents thereof, or which would be in violation of any law or regulation of any governmental authority. No waste shall be committed in the common areas and facilities.

6. No noxious or offensive activity shall be carried on in any unit or in the common areas and facilities, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other unit owners or occupants.

7. Nothing shall be done in any unit or in, on or to the common areas and facilities which will impair the structural integrity of the building or any part thereof or which would structurally change the building or any part thereof except as is otherwise provided herein.

8. No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of the common areas and facilities, except in a balcony and/or patio in such manner as not to be visible except from the unit for which such balcony and/or patio is reserved. The common areas and facilities shall be kept free and clear of all rubbish, debris and other unsightly materials.

9. Except in a unit or balcony and/or patio in such manner as not to be visible except from the unit for which such balcony and/or patio is reserved or (subject to the rules) on driveways or in other areas specifically designed and intended for such purposes, there shall be no playing, lounging or parking or placing of baby carriages, playpens, bicycles, wagons, toys, vehicles, benches or chairs in or on any part of the common areas and facilities.

10. No industry, business, trade, occupation, or profession of any kind, whether for commercial, religious, educational, charitable, or other purposes shall be conducted, maintained, or permitted on any part of the condominium property except such as may be permitted by the management committee and subject to the rules, nor shall any "For Sale" or "For Rent" signs or other window displays or

advertising be maintained or permitted by any unit owner on any part of the condominium property or in any unit therein, except that

(i) the Declarant may perform or cause to be performed such work as is incident to the completion of the development of the condominium property, or to the sale or lease of units owned by the Declarant;

(ii) the Declarant or its agent may place "For Sale" or "For Rent" signs on any unsold or unoccupied units and may place such other signs on the condominium property as may be required to facilitate the sale or lease of unsold units;

(iii) the association of unit owners or the management committee or its agent or representative may place "For Sale" or "For Rent" signs on any units or on the condominium property for the purpose of facilitating the disposal of units by any unit owner, mortgagee or the association of unit owners.

7. Ownership and use:

A. Ownership of a unit. Except with respect to any of the common areas and facilities located within the bounds of a unit, each unit owner shall be entitled to the exclusive ownership and possession of his unit and to the ownership of an undivided interest in the common area and facilities in the percentage expressed in Appendix B hereof.

B. Prohibition against subdivision of unit. No unit owner shall, by deed, plat, or otherwise, subdivide or in any manner cause his unit to be separated into tracts or parcels smaller than the whole unit as shown on the Map.

C. Ownership of common areas and facilities. The common areas and facilities shall be owned by the unit owners as tenants in common, and ownership thereof shall remain undivided. No action for partition of any part of the common areas and facilities shall be maintainable, except as specifically provided in the Utah Condominium Ownership Act, nor may any unit owner otherwise waive or release any rights in the common areas and facilities.

D. Use of common areas and facilities. Except with respect to limited common areas, each unit owner may use the common areas and facilities in accordance with the purposes for which they are intended, but subject to this Declaration and the By-Laws, which right of use shall be appurtenant to and run with the unit.

E. Interest in common areas and facilities. The percentage of interest in the common areas and facilities of each unit has been determined on the basis of value by the Declarant in accordance with the Utah Condominium Ownership Act which percentages are contained in Appendix B hereof.

F. Use and maintenance of limited common areas and facilities. A unit owner's use and occupancy of the limited common areas and facilities reserved for his unit shall be subject to and in accordance with this Declaration and the By-Laws. Each unit owner shall maintain the interior of the limited common areas and facilities, the use of which are reserved for his unit.

8. Agent for service of process:

The name and address of the person in Salt Lake County, State of Utah, appointed as first agent to receive service of process in matters pertaining to the property as provided under the Utah Condominium Ownership Act is:

Richard H. Turner
360 East 4500 South
Salt Lake City, Utah 84107

The agent may be changed from time to time by filing appropriate instruments.

9. Percentage of ownership and voting rights:

The percentage of ownership in the common areas and facilities of the condominium shall be for all purposes, including voting. The common expenses shall be allocated among the unit owners in accordance therewith. The percentage of ownership in the common areas and facilities shall be as set forth in Appendix B.

10. Easements:

A. The management committee may hereafter grant easements for utility purposes for the benefit of the condominium property, including the right to install, lay, maintain, repair and replace water mains and pipes, sewer lines, gas mains, telephone wires and equipment, and electrical conduits and wires over, under, along and through any portion of the common areas and facilities.

B. An easement in favor of each unit owner is hereby established, to permit such owner to attach draperies, pictures, mirrors and like decorations and furnishings to the interior surfaces of the perimeter and interior walls and ceilings of residential units.

C. Each unit shall be subject to such easement as may be necessary for the installation, maintenance, repair or replacement of any common areas and facilities located within the boundaries of such unit.

D. In the event that, by reason of the construction, reconstruction, settlement or shifting of a building, any part of the common areas and facilities encroaches or shall hereafter encroach upon any part of any unit or any part of any unit encroaches or shall hereafter encroach upon any part of the common areas and facilities or any other unit, valid easements for such encroachment and the maintenance of such encroachment are hereby established and shall exist for the benefit of such unit and the common areas and facilities, as the case may be, so long as all or any part of the building containing any such unit shall remain standing; provided, however, that in no event shall a valid easement for any encroachment be created in favor of any unit owner or in favor of the unit owner or owners of the common areas and facilities if such encroachment occurred due to the willful conduct of such unit owner or owners.

11. Management:

The business, property, and affairs of Midland Court Condominium shall be managed by a management committee consisting of three members who are unit owners in the project to be elected as provided in the By-Laws. Such management committee shall have all the powers, duties, and responsibilities as are now or may hereafter be provided by the Act, this Declaration, the By-Laws and/or any amendments subsequently filed thereto; provided however, the management committee may engage the services of a professional manager and fix and pay a reasonable fee or compensation therefor. Notwithstanding anything herein contained to the contrary, Declarant alone shall be entitled to select three management committee members as set forth in the By-Laws until the completion and sale of all units in the project, or until two years from the date this Declaration is recorded, whichever shall first occur.

The management committee shall be responsible for the control, operation, and management of the project in accordance with the provisions of the Act, this Declaration and such administrative, management, and operational rules and regulations as it may adopt from time to time as herein provided, and all agreements and determinations lawfully made and entered into by the committee.

The management committee shall have the authority to provide such facilities, in addition to those for which provisions have already been made as it may deem to be in the best interest of the unit owners and to effect the necessary amendment of documents and maps in connection therewith, consistent with paragraph 24 below.

The management committee shall be known by such name or designation as it, or the unit owners, at any meeting may assign.

12. Change in Ownership:

Whenever there is a change of ownership of a residential unit and its appurtenant rights for whatever reason, the management committee or the manager may require as condition to recognizing the new unit owner or owners as such, that the new unit owner or owners furnish evidence substantiating the new ownership and provide other information that may reasonably be required by the management committee.

13. Assessments:

Every unit owner shall pay his proportionate share of the common expenses. Payment thereof shall be in such amounts and at such times as the management committee determines in accordance with the Act, the Declaration or the By-Laws. There shall be a lien for nonpayment of common expenses as provided by Utah Code Annotated Section 57-8-20 (1953 as amended).

In assessing unit owners or requiring them to pay for the building improvements and other improvements of the common areas and facilities following the execution of the Declaration, it is agreed that no assessment for a single improvement in the nature of capital expenditure exceeding the sum of \$7,500.00 in cost shall be made without the same having been first voted on and approved by owners of seventy-five percent (75%) or more, of the undivided interests in the common areas and facilities. The foregoing sentence shall not apply in connection with the replacement or reconstruction occasioned by fire or other casualty or for expenditures for maintenance and upkeep.

14. Destruction or damage:

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 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 sub-
sections (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.

15. Taxes:

It is understood that under Utah Code Annotated Section 57-8-27 (1953 as amended) each unit, and its percentage of undivided interest in the common areas and facilities in the project are subject to separate assessments and taxation by each assessing unit and the special district for all types of taxes authorized by law, and that as a result thereof, no taxes will be assessed or payable against the project as such. Each unit owner will, accordingly, pay and discharge any and all taxes which may be assessed against him and his percentage of undivided interest in the common areas and the facilities.

16. Insurance:

The management committee shall secure and maintain the following insurance coverage on the condominium project:

A. Fire and extended coverage: A policy or policies of fire insurance, with extended coverage endorsement, for the full insurable replacement value of the building, units and common areas and facilities, which said policy or policies shall provide for a separate loss payable clause in favor of the mortgagees of each unit, if any. The name of the insured under each such policy shall be in form and substance similar to: "The Management Committee of the Midland Court Condominiums project for the use and benefit of individual owners and mortgagees as their interest may appear."

B. Liability coverage. A policy or policies insuring the management committee, the manager and their agents and employees, the unit owners and their lessees, tenants, or occupants against any liability to the public or to the unit owners, incident to the ownership and/or use of the condominium project, and including the personal liability exposure of the unit owners. Limits of liability under such insurance shall not be less than \$100,000.00/\$300,000.00 for bodily injury; and shall not be less than \$10,000.00 for property damage for each occurrence. Such limits and coverage shall be reviewed at least annually by the management committee and changed at its discretion. Said policy or policies shall be issued on a comprehensive liability basis and shall provide cross-liability endorsement wherein the rights of named insured under the policy or policies shall not be prejudiced as in respect to his, her or their action against another named insured.

C. Workmen's compensation to the extent necessary to comply with any applicable laws.

F. Each unit owner may obtain additional insurance at his own expense; provided, however, that no unit owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the management committee, in behalf of all the unit owners, may realize under any insurance policy which the management committee may have in force on the project at any particular time.

17. Payment of expenses:

Each unit owner shall pay the management committee his allocated portion of the cash requirement deemed necessary by the management committee to manage and operate the condominium project, including the recreational facilities thereof, upon the terms, at the times, and in the manner herein provided without any deduction on account of any set-off or claim which the owner may have against the management committee, and if the unit owner shall fail to pay any installment within one month of the time when the same becomes due, the owner shall pay interest thereon at the rate of ten percent (10%) per annum from the date when such installment shall become due to the date of the payment thereof.

The cash requirements above referred to for each year, or portions of the year, are hereby defined and shall be deemed to be such aggregate sum as the management committee from time to time shall determine, in its judgment, is to be paid by all the owners of condominium project then in existence to enable the management committee to pay all estimated expenses and outlays of the management committee to the close of such year, growing out of or in connection with the maintenance and operation of such land, buildings and improvements, recreational areas and facilities, which sum may include, among other things, the cost of management, special assessments, fire, casualty and public liability insurance premiums, common lighting, landscaping and the care of grounds, repairs and renovations to common areas and facilities, social center, recreational facilities, snow removal, wages, water and sewer, legal and accounting fees, management fees, expenses and liabilities incurred by the management committee under or by reason of this Declaration, the payment of any deficit remaining from the previous period,

to the owners, and any expenditures made by the management committee, within the bounds of the Act and this Declaration shall as against the owner be deemed necessary and properly made for such purpose.

If the owner shall at any time let or sublet the unit and shall default for a period of one month in the payment of any assessments, the management committee may, at its option, so long as such default shall continue, demand and receive from any tenant or sub-tenant of the owner occupying the unit the rent due or becoming due and payment of such rent to the management committee shall be sufficient payment and discharge of such tenant or sub-tenant and the owner to the extent of the amount so paid.

Each monthly assessment and each special assessment shall be separate, distinct and personal debts and obligations of the owner against whom the same are assessed at the time the assessment is made and shall be collectible as such. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same. The amount of any assessment, whether regular or special, assessed to the owner plus interest at ten per cent per annum, and costs, including reasonable attorney's fees, shall become a lien upon such unit upon recordation of a notice of assessment as provided by the Act. The said lien for non-payment of common expenses shall have priority over all other liens and encumbrances, recorded or unrecorded, except only:

A. Tax and special assessment liens on the unit in favor of any assessment unit, and special district, and,

B. Encumbrances on the owner's interest in the unit (and common areas and facilities) recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

the creation of a reasonable contingency or other necessary reserve or surplus fund, as well as all other costs and expenses relating to the condominium project. The management committee may, from time to time, up to the close of the year for which such cash requirements have been so filed or determined, increase or diminish the amount previously fixed or determined for such year. It may include in the cash requirements for any year, any liabilities or items of expense which accrued or become payable in the previous year, or which might have been included in the cash requirements for a previous year, but were not included therein; and also any sums which the management committee may deem necessary or prudent to provide a reserve against liabilities or expenses then accrued or thereafter to accrue although not payable in that year.

That portion payable by the unit owner in and for each year or for a portion of a year shall be a sum within the limits and on the conditions hereinabove provided bearing to the aggregate amount of such cash requirements for such year, or portion of year, determined as aforesaid, the same ratio as the unit owner owns an undivided interest in the common areas and facilities, and such assessments, together with any additional sums accruing under this Declaration shall be payable monthly in advance, or in such payments and installments as shall be required by the management committee, and at such times as shall be provided by the management committee.

The management committee shall have discretionary powers to prescribe the manner of maintaining and operating the condominium project and to determine the cash requirements of the management committee to be paid as aforesaid by the owners under this Declaration. Every such reasonable determination by the management committee within the bounds of the Act, and this Declaration shall be final and conclusive as

In the event of foreclosure, the unit owner shall be required to pay a reasonable rental for the condominium and the plaintiff in the foreclosure action shall be entitled to the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The management committee or manager shall have the power to bid in the condominium at foreclosure or other sale and to hold, lease, mortgage and convey the condominium.

A certificate executed and acknowledged by a majority of the management committee stating the indebtedness secured by the lien upon any condominium created hereunder, shall be conclusive upon the management committee and the owners as to the amount of such indebtedness on the date of the certificate, in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any owner or encumbrancee or prospective encumbrancee of a condominium upon request at a reasonable fee not to exceed ten dollars. Unless the request for a certificate of indebtedness shall be compiled within ten (10) days, all unpaid common expenses which become due prior to the date of making of such request shall be subordinate to the lien held by the person making the request. Any encumbrance holding a lien on a condominium may pay any unpaid common expenses payable with respect to such condominium and upon such payment such encumbrancee shall have a lien on such condominium for the amounts paid of the same rank as the lien of his encumbrance.

Upon payment of a delinquent assessment concerning which a notice of assessment has been recorded, or other satisfaction thereof, the management committee shall cause to be recorded in the same manner as the notice of assessment a further notice stating the satisfaction and release of the lien thereof. Such lien for nonpayment of assessment may be enforced by sale of the management committee or by a bank or trust company or title insurance company authorized by the management committee, such sale to be conducted in accordance with the provisions of the law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any manner permitted by law. In any foreclosure or sale, the unit owner shall be required to pay the costs and expenses of such proceedings including reasonable attorney's fees.

18. Mortgage protection:

Notwithstanding all other provisions hereof:

A. The liens created hereunder upon any condominium shall be subject and subordinate to, and shall not affect the rights of the holder of the indebtedness secured by any recorded first mortgage (meaning a mortgage or a trust deed with first priority over other mortgages) upon such interest made in good faith and for value, provided that after the foreclosure of any such mortgage there may be a lien created pursuant to paragraph 17 hereof on the interest of the purchaser at such foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such purchaser as an owner after the date of such foreclosure sale, which said lien, if any claimed, shall have the same effect and be enforced in the same manner as provided herein.

B. No amendment to this paragraph shall affect the rights of the holder of any such mortgage recorded prior to recordation of such amendment who does not join in the execution thereof.

C. By subordination agreement executed by a majority of the management committee, the benefits of A and B above may be extended to mortgages not otherwise entitled thereto.

19. Maintenance of units:

Each unit owner at his own expense shall keep the interior of his unit and its equipment and appurtenances in good order, condition and repair and in a clean and sanitary condition, and shall do all redecorating and painting which may at any time be necessary to maintain the good appearance of his unit. Except to the extent that the management committee is protected by insurance against such injury, the unit owner shall repair all injury or damages to any unit, or condominium project caused by the act, negligence or carelessness of the unit owner or that of any lessee or sub-lessee or any member of the unit owner's family or of the family of any lessee or sub-lessee or any agent, employee or guest of the owner of his lessee or sub-lessee and all such repairs, redecorating and painting shall be of a quality and kind equal to the original work. In addition to decorating and keeping the interior of the residential unit in good repair, the unit owner shall be responsible for the maintenance or replacement of any plumbing, fixtures, refrigerators, air conditioning and heating equipment, dishwashers, disposals, ranges, garage doors, etc., that may be in or connected with the residential unit. Without the written permission of the management committee first had and obtained, the unit owner shall not make or permit to be made any structural alteration, improvement, or addition in or to the unit, garage, or to the exterior of the building.

20. Right of entry:

The management committee and its duly authorized agents shall have the right to enter any and all of the units in case of an emergency originating in or threatening such unit or any other part of the project, whether or not the unit owner or occupant thereof is present at the time. The committee and its duly authorized agents shall also have the right to enter into any and all of said units at all reasonable times as required for the purpose of making necessary repairs upon the common areas and facilities of the project for the purpose of performing emergency installations, alterations, or repairs to the mechanical or electrical devices or installations located therein or thereon; provided however, such emergency installations, alterations, or repairs are necessary to prevent damage or threatened damage to other units in the project; and provided further, that the unit owner affected by such entry shall first be notified thereof if available and if time permits.

21. Administrative rules and regulations:

The management committee shall have the power to adopt and establish by resolution, such building management, and operational rules as it may deem necessary for the maintenance, operation, management, and control of the project, the committee may, from time to time by resolution, alter, amend, and repeal such rules. When a copy of any amendment or alteration or provision for repeal of any rule or rules has been furnished to the unit owners such amendment, alteration, and provision shall be taken to be a part of such rules. Unit owner shall at all times obey such rules and see that they are faithfully observed by those persons over whom they have or may exercise control and supervision, it being understood that such rules shall apply and be binding upon all unit owners and/or occupants of the condominium.

22. Obligation to comply herewith:

Each unit owner, tenant, or occupant of a unit shall comply with the provisions of the Act, this Declaration, the By-Laws, and the rules and regulations all agreements and determinations lawfully made and/or entered into by the management committee or the unit owners, when acting in accordance with their authority and any failure to comply with any of the provisions thereof, shall be ground for an action by the management committee to recover any loss or damage resulting therefrom or for injunctive relief.

23. Indemnification of management committee:

Each member of the management committee shall be indemnified and held harmless by the unit owners against all costs, expenses, and liabilities whatsoever, 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. Provided however, a member of the management committee shall not be indemnified for acts of gross negligence or willful misconduct.

24. Amendment:

The unit owners shall have the right to amend this Declaration and/or the Map upon the approval and consent of unit owners representing not less than two-third (2/3) of the undivided interests in the common areas and facilities. Provided however, that any amendment which would reduce the undivided interest of any unit owner in the common areas and facilities must be consented to by all unit owners. Any amendment shall be accomplished by the recordation of an instrument wherein the management committee certifies that the unit owners representing the required percentage of the undivided interests in the common areas and facilities have approved and consented to any such amendment.

25. Miscellaneous provisions:

Notwithstanding anything to the contrary herein contained, it is hereby declared, certified, and agreed as follows:

A. Mortgagee's right of notification of default.

Any holder of a first mortgage of any unit 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 obligations under the Declaration which is not cured within thirty (30) days.

B. Priority of mortgagee over certain assessments.

Any holder of a first mortgage or a trust deed on any unit which comes into possession of the unit pursuant to the remedies provided in the mortgage, foreclosure of mortgage, or deed (or assignment) in lieu of foreclosure, shall take the property free of any claims for unpaid assessments or charges against the mortgaged unit which accrue prior to the time such holder comes into possession of the unit (except for claims for a pro rate share of such assessments or charges resulting from a pro rate reallocation of such assessments or charges to all units including the mortgaged unit).

C. Certain prohibitions imposed on unit owners.

Unless all holders of the first mortgage liens on individual units have given their prior written approval, the unit owners shall not:

1. Change the pro rate interest or obligation of any unit for purposes of levying assessments and charges and determining shares of the common areas and proceeds of the project.

2. Partition or subdivide any unit or the common areas of the project.

3. By act or omission seek to abandon the condominium status of the project except as provided by statute in case of substantial loss to the units and common areas of the project.

26. Severability:

The invalidity of any one or more phrases, sentences, clauses, paragraphs, or sections hereof shall not affect the remaining portions of this instrument or any part thereof, all of which are inserted conditionally on their being held valid in law and in the event that one or more of the phrases, sentences, clauses, paragraphs, or sections contained therein should be invalid or should operate to render this agreement invalid, this instrument shall be construed as if such invalid phrase or phrases, sentence or sentences, clause or clauses, paragraph or paragraphs, section or sections had not been inserted.

27. Topical headings:

The topical headings of the paragraphs contained in this Declaration are for convenience only and do not define, limit, or construe the contents of the paragraphs or of the Declaration.

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APPENDIX B

Residential Units

<u>Unit No.</u>	<u>Building</u>	<u>% Ownership of Common Areas</u>	<u>Garage-Assigned Limited Common Areas</u>
1A		12.5%	1B
2A		12.5%	2B
3A		12.5%	3B
4A		12.5%	4B
5A		12.5%	5B
6A		12.5%	6B
7A		12.5%	7B
8A		12.5%	8B

PROPERTY DESCRIPTION: PARCEL # 2

[illegible]

REGISTERED LAND SURVEYOR
#4000
PATRICK C. ALSUP
STATE OF UTAH
TO RECORD

CERTIFICATE OF CONSENT TO RECORD

28. Gender:


The singular, wherever used herein, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as through in each case fully expressed.

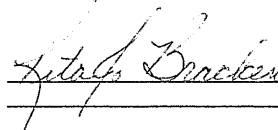
29. Effective date:

This Declaration shall take effect upon recording.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 8th day of January, 1980.

TIVCO PROPERTIES, a Utah Corporation

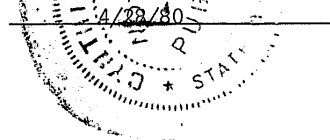

_____, President

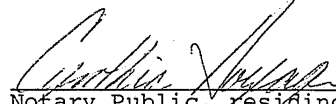

_____, Secretary

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

On this 8th day of January, 1980, personally appeared before me RICHARD TURNER and RITA JO BRACKEN, who being by me duly sworn, did say that they are the President and Secretary respectively of TIVCO PROPERTIES, a Utah corporation, ~~and a general partnership~~, ~~and that the within and foregoing instrument was signed by them on behalf of said corporation by authority of a resolution of its Board of Directors and the said RICHARD TURNER and RITA JO BRACKEN duly acknowledged to me that said corporation executed the same and that the seal affixed is the seal of said corporation.~~

My Commission expires:





Notary Public, residing at
Salt Lake County, Utah

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