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3464554

DECLARATION OF CONDOMINIUM  
OF

WOODCREEK CONDOMINIUMS, A CONDOMINIUM PROJECT

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DECLARATION OF CONDOMINIUM

OF

WOODCREEK CONDOMINIUMS, A CONDOMINIUM PROJECT

THIS DECLARATION, containing covenants, conditions and restrictions relating to Woodcreek Condominiums, a Condominium Project, is made on the date set forth at the end hereof by William R. Hormon and Grant K. Harrison, hereinafter called "Declarants," (and consented to by JACQULYNN B. HORMON and GAYLEEN M. HARRISON, their wives), for themselves, their successors, grantees and assigns, pursuant to the Condominium Ownership Act of the State of Utah.

RECITALS

Declarants are the owners of the following described real property in Salt Lake County, Utah, to-wit:

Commencing at a point located N 89°59'27" W 158.10 feet and S 0°03'15" E 25.00 feet from the Southwest Corner of Lot 5, Joanna Subdivision, Salt Lake County, Utah. Thence S 89°59'27" E 163.50 feet, thence along the arc of a 112.50 foot rad. curve to the left 51.80 feet (chord bears N 76°48'15" E 51.36 feet), thence S 0°03'15" E 129.23 feet, thence N 89°59'27" W 213.50 feet, thence N 0°03'15" W 117.50 feet to the point of beginning. Total area is .5803 acres.

Declarants have constructed or will construct certain buildings and improvements thereon in accordance with the plans and drawings set forth in the Record of Survey Map filed concurrently herewith, consisting of 2 sheets, prepared and certified by Roger D. Dudley, Utah Registered Land Surveyor.

Declarants desire 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 being constructed or to be constructed thereon to the provisions of the Utah Condominium Ownership Act as a Condominium Project known as Woodcreek Condominiums.

Declarants desire and intend to sell the fee title to the individual Units contained in the said Condominium Project, together with the undivided ownership interests in the Common

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Areas and Facilities appurtenant thereto, to various purchasers, subject to the covenants, limitations, and restrictions contained herein.

#### DECLARATION

NOW, THEREFORE, for such purposes, Declarants hereby make the following Declaration containing covenants, conditions and restrictions relating to this Condominium Project which pursuant to the provisions of the Condominium Ownership Act of the State of Utah shall be enforceable equitable servitudes, where reasonable, and shall run with the land:

1. NAME OF THE CONDOMINIUM PROJECT.

The name by which the Condominium Project shall be known is WOODCREEK CONDOMINIUMS.

2. DEFINITIONS.

The terms used herein shall have the meaning stated in the Utah Condominium Ownership Act and as given in this Section 2 unless the context otherwise requires.

a. The word "Declarants" shall mean William R. Horman and Grant K. Harrison, who have made and executed this Declaration, and/or any successor to such persons which, by either operation of law or through a voluntary conveyance, transfer or assignment, comes to stand in the same relation to the Project as did its predecessor.

b. The words "The Act" shall mean and refer to the Utah Condominium Ownership Act, Utah Code Annotated 1953, Section 57-8-1, et. seq., as the same may be amended from time to time.

c. The word "Condominium" shall mean and refer to the ownership of a single Unit in this Condominium Project together with an undivided interest in the Common Areas and Facilities of the Property.

d. The word "Declaration" shall mean this instrument by which Woodcreek Condominiums is established as a Condominium Project.

e. The word "Property" shall mean and include the

land, the buildings, 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 words "Condominium Project" or sometimes the "Project" shall mean and refer to the entire Property, as defined above, together with all rights, obligations and organizations established by this Declaration.

g. The word "Map" shall mean and refer to the Record of Survey Map of Woodcreek Condominiums recorded herewith by Declarants.

h. The word "Unit" shall mean and refer to one of the apartment units designated as a Unit on the Map.

i. The words "Unit Owner" or "Owner" shall mean the person or persons owning a Unit of Woodcreek Condominiums in fee simple and an undivided interest in the fee simple estate of the Common Areas and Facilities as shown in the records of the County Recorder of Salt Lake County, State of Utah. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term Unit Owner or Owner shall not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such a party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

j. The words "Association of Unit Owners" or "Association" shall mean and refer to all of the Unit Owners taken as, or acting as, a group in accordance with the Declaration and By-Laws.

k. The words "Unit Number" shall mean and refer to the number, letter or combination thereof designating the Unit in the Declaration and in the Map.

1. The words "Management Committee" or "Committee" shall mean and refer to the committee as provided in the Declaration and the By-Laws hereto attached as Exhibit A (which said By-Laws are hereby incorporated by reference and made a part

of this Declaration). 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 Project.

m. 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.

n. The term "Common Areas and Facilities" shall mean and refer to all parts 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 the Unit or not:

- (1) The above-described land;
- (2) That portion of the Property not specifically included in the respective Units as herein defined;
- (3) All structural parts of the buildings, including without limitation, foundations, columns, joists, beams, supports, supporting walls, floors, ceilings and roofs; and all yards, fences, walkways, driveways, and parking areas; all installations of power, light and other utilities;
- (4) Those areas specifically set forth and designated in the Map as "Common Areas and Facilities" or "Common Areas"; and
- (5) All Common Areas and Facilities as defined in the Act, whether or not expressly listed herein.

o. The words "Limited Common Areas and Facilities" or "Limited Common Areas" shall mean and refer to those Common Areas and Facilities designated herein or in the Map as reserved for use of a certain Unit to the exclusion of the other Units.

p. The words "Common Expenses" shall mean and refer to all expenses of administration, maintenance, repair or replacements 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

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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 other determinations and agreements lawfully made and/or entered into by the Management Committee.

q. The words "Utility Services" shall include, but not be limited to, electric power, gas, hot or cold water, heating, refrigeration, air conditioning and garbage and sewer disposal.

r. The word "Mortgage" shall mean and include both a first mortgage on any Condominium Unit and a first deed of trust on any Condominium Unit.

s. The words "Mortgagee" shall mean and include both the mortgagee under a first mortgage on any Condominium Unit and the beneficiary under a first deed of trust on any Condominium Unit.

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

3. SUBMISSION TO CONDOMINIUM OWNERSHIP.

Declarants hereby submit the above-described Property, tract of land, buildings, 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 and the provisions of the Act and shall be construed in accordance therewith. It is the intention of the Declarants that the provisions of the Act shall apply to the Property.

4. COVENANTS TO RUN WITH THE LAND.

This Declaration containing covenants, conditions and restrictions relating to the Project shall be enforceable equitable servitudes which shall run with the land and this Declaration and its servitudes shall be binding upon Declarants, their suc-

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cessors and assigns and upon all Unit Owners or subsequent Unit Owners, their grantees, mortgagees, successors, heirs, executors, administrators, devisees and assigns.

5. DESCRIPTION OF PROPERTY.

a. Description of Land. The land on which the Woodcreek Condominium Project is located is that tract or parcel of land in Salt Lake County, State of Utah, more particularly described on the first page of this Declaration.

b. Description of Buildings. The significant improvements contained or to be contained in the Project include those described in this paragraph b. There are three (3) apartment buildings constituting a part of this Condominium Project, identified in relationship to each other in the Map. Each building contains two Units which are separated from each other by a common wall. The total number of rooms which each Unit contains are specified in Exhibit B, which is attached hereto. Each building will contain a ground floor, one additional floor and a basement. Each building will consist of a wood frame structure, together with an exterior of brick and cedar siding and double glazed windows. The project will also include six (6) carports. Other facilities are located substantially as shown on the Map. They will be subject to easements which are reserved through the project as may be required for utility services.

c. Description and Legal Status of Units. The Map and/or Exhibit C attached hereto shows the Unit Number of each Unit, its location, those Limited Common Areas and Facilities which are reserved for its use, and the Common Areas and Facilities to which it has immediate access. Each Unit shall consist of

(1) The space enclosed within the undecorated interior surface of its perimeter walls, floors and ceilings;

(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) Any non-supporting interior wall;

(4) Windows and doors in the perimeter walls, whether located within the boundary Unit or not, but not including any space occupied thereby to the extent located outside the boundaries of the Units;

(5) All utility pipes or lines or systems, fixtures or appliances connected thereto, servicing a single Unit or connecting a single Unit to a main or central utility, whether located within the bounds of the Unit or not, but not including any space occupied thereby to the extent located outside the bounds of the Unit;

(6) 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 generalities of the foregoing, the Unit designation, location and floor plan are set forth in Exhibit B attached hereto;

(7) Each Unit has immediate access to the Common Areas and Facilities or Limited Common Areas and Facilities contiguous to the building in which such Unit is located.

(8) Every contract for the sale of a Unit and every other instrument affecting title to a Unit may describe the Unit by its identifying number or symbol as designated in the Map with the appropriate reference to the Map and to the Declaration, as each shall appear on the records of the County Recorder, Salt Lake County, State of Utah. Such description will be construed to describe the Unit, together with the appurtenant and undivided interest in common areas and facilities, and to incorporate all the rights incident to ownership of a Unit and all the limitations of such ownership as described in this Declaration.

d. Common Areas and Facilities. Except as otherwise provided in this Declaration, the Common Areas and Facilities shall consist of the areas and facilities described in the definitions and constitute in general all of the parts of the

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 parts of the buildings including, without limitation, foundations, columns, joists, beams, supports, supporting walls, floors, ceilings and roofs;
- (2) All yards, fences, exterior walkways, driveways, parking areas, lawns, shrubs, landscaping, gardens, entrance ways and service areas which are not designated as Limited Common Areas and Facilities;
- (3) Any utility pipe or line or system servicing more than a single Unit, and all ducts, wires, conduits and other accessories therewith, but excluding all utility pipes, lines or systems connecting a single Unit to a main or control pipe, line or system or to a pipe, line or system servicing more than a single Unit;
- (4) All parts of the Property necessary or convenient to its existence, maintenance and safety, or normally in common use, which have been designated as Common Areas and Facilities on the Map;
- (5) The roadways contained therein, and all entrances and exits, provided that such roadways and entrances and exits cease to be part of the Common Areas and Facilities when and if dedicated to public use with the consent of the Association of Unit Owners and accepted by the public authority having jurisdiction;
- (6) The Limited Common Areas and Facilities herein described; and
- (7) All repairs and replacements of any of the foregoing.

e. Description of Limited Common Areas and Facilities.

Each owner of a Unit is hereby granted an irrevocable and exclusive license to use and occupy the Limited Common Areas and Facilities reserved exclusively for the use of his Unit. The

Limited Common Areas appurtenant to any given Unit are indicated on the Map and include, but are not limited to, the carports, each reserved as an appurtenance to a particular Unit; the driveway intended for the exclusive service of the Unit, the use and occupancy of which shall in each case be limited to such Unit; and the side yard and back yard immediately adjacent to the Unit as identified in the Map.

6. ALTERATIONS.

For the two (2) years following the recordation hereof, the Declarants reserve the right to change the interior design and interior arrangement of any Unit and to alter the boundaries between Units, so long as the Declarants own the Units so altered. Any such change shall be reflected by an amendment of this Declaration and of the Map which may be executed by the Declarants alone, notwithstanding the procedures for amendment described in Section 27 of this Declaration. However, no such change shall increase the number of Units nor alter the boundaries of the Common Areas and Facilities without amendment of this Declaration and of the Map in the manner described in Section 27 of this Declaration. If the boundaries between the Units are altered, in the amendment related thereto, the Declarants shall reapportion the percentage of ownership in the Common Areas and Facilities which are allocated to the altered Units on the basis of the change in floor space which results from the boundary alteration.

7. STATEMENT OF PURPOSE AND RESTRICTION ON USE.

a. Purpose. The purpose of the Condominium Project is to provide residential housing space for Unit Owners, tenants and guests, in accordance with the provisions of the Act.

b. Restrictions on Use. The Units and Common Areas and Facilities shall be used and occupied as hereinafter set forth.

(1) Each Unit shall be occupied by the Unit Owner, his family, servants or guests as a private residence and for no other purpose. The Common Areas and Facilities may be used only for the purposes for which they are intended in the

furnishing of services and facilities for the enjoyment of the Units;

(2) Nothing shall be done or kept in any Unit or in the Common Areas and Facilities which will increase the rate of insurance on the buildings or contents thereof beyond that customarily applicable for residential use, or will result in the cancellation of insurance on the buildings, or the contents thereof, 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 is in violation of any law or regulation of any governmental authority;

(3) No Unit Owner shall cause or permit anything (including, without limitation, a sign, awning, canopy, shutter, storm door, screen door, radio or television antenna) to hang, be displayed or otherwise affixed or placed on the exterior walls or roof or any part thereof, or on the outside of the windows or doors of any Unit, without the prior written consent of the Management Committee;

(4) 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;

(5) 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 buildings or any part thereof or which would structurally change the buildings or any part thereof except as is otherwise provided herein;

(6) No animals or birds of any kind shall be raised, bred or kept in any Unit or in the Common Areas and Facilities, except that dogs, cats and other household pets may be kept in Units, subject to the rules adopted by the Association of Unit Owners, provided that they are not kept, bred or maintained for any commercial purpose; and provided

further that any such pet causing or creating a nuisance or disturbance shall be permanently removed from the condominium property upon ten days written notice from the Management Committee;

(7) Except in an enclosed backyard or sideyard, and then only in such manner as not to be visible except from the Unit for which such backyard or sideyard is reserved, or (subject to the rules and regulations which may be adopted by the Management Committee) 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;

(8) 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:

(a) 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;

(b) The Declarants or their 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;

(c) The Association of Unit Owners or the Management Committee or its agent or representative may place "For Sale" or "For Rent" signs on any Unit or on the condominium property for the purpose of facilitating the disposal of units by any Unit Owners, mortgagee or the Association of Unit Owners;

and

(d) A Unit Owner with respect to a Unit, and the Association of Unit Owners or Management Committee or its agent or representative with respect to the Common Areas and Facilities, may perform or cause to be performed any maintenance, repair or remodeling work, or other work, required or permitted by this Declaration.

(9) The Common Areas and Facilities shall be kept free and clear of all rubbish, debris and other unsightly materials.

8. PERSON TO RECEIVE SERVICE OF PROCESS.

The person to receive service of process in the cases provided herein or in the Act is William R. Horman, whose address is 12 Rollingwood Lane, Salt Lake City, Utah 84070. The said person may be changed by the recordation by the Management Committee of an appropriate instrument.

9. 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 Areas and Facilities in the percentage expressed in Exhibit C.

b. Nature of and Restrictions on Ownership and Use. Each Unit Owner shall have and enjoy the rights and privileges of fee simple ownership of his Unit. There shall be no requirements concerning who may own such Units, it being intended that they may and shall be owned as any other property rights by persons, corporations, partnerships, or trusts and in form of common tenancy. The Unit Owners may lease or rent their Units with their appurtenant rights subject to terms and conditions chosen solely by the Unit Owner and his lessee, except that all Unit Owners, their tenants and other occupants or users of the Project, shall be subject to the Act, this Declaration, the By-Laws, and all rules and regulations of the Association of Unit Owners and Management Committee.

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c. Prohibition Against Subdivision of Unit. No unit Owner by deed, plat or otherwise, shall subdivide or in any manner cause his Unit to be separated into physical tracts or parcels smaller than the whole Unit as shown on the Map.

d. Ownership of Common Areas and Facilities. The Common Areas and Facilities contained in the Project are described and identified in Section 5(d) of this Declaration. Said Common Areas and Facilities shall be owned by the Unit Owners as tenants-in-common. Neither the ownership of an undivided interest in the Common Areas nor the right of an exclusive use in a Limited Common Area shall be separated from the Unit to which it appertains. Even though the Common Areas or Limited Common Areas appurtenant to a Unit are not mentioned in any conveyance of the Unit, any such conveyance of a Unit shall automatically convey the ownership of an undivided interest in the Common Areas, and the right of exclusive use of the Limited Common Areas appurtenant to that Unit. The Common Areas and Facilities shall be used only in a manner which is consistent with their community nature and with the use restrictions applicable to the Units contained in the Project.

e. 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 purpose for which they are intended, but subject to this Declaration and the By-Laws. This right of use shall be appurtenant to and run with each Unit.

f. Computation of Undivided Interest. The percentage of undivided ownership interest in the Common Areas and Facilities which is appurtenant to each Unit has been computed by determining the ratio between the par value associated with such Unit (as set forth in Exhibit C) and the aggregate par values of all Units in the Project (with such minor adjustments in some or all of the resulting percentage interests as may have been necessary to assure that the total undivided interest respecting the Project equals 100%). Substantially identical Units have been assigned

the same par value and the total of all undivided interests equals 100%. A Unit Owner's percentage of ownership interest in the Common Areas and Facilities shall be for all purposes, including voting and assessment of common expenses.

10. USE OF LIMITED COMMON AREAS AND FACILITIES.

A Unit Owner's exclusive right of use and occupancy of the Limited Common Areas and Facilities reserved for his apartment Unit shall be subject to and in accordance with this Declaration and the By-Laws. No portion of the Limited Common Areas and Facilities appurtenant to a Unit may be leased separate and apart from the Unit without the prior written approval of the Management Committee.

11. VOTING--MULTIPLE OWNERSHIP.

The vote attributable to and exercisable in connection with a Unit shall be the percentage of undivided ownership interest in the Common Areas and Facilities which is appurtenant to such Unit. In the event there is more than one Owner of a particular Unit, the vote relating to such Unit shall be exercised as such Owners may determine among themselves. A vote cast at any meeting by any of such Owners shall be conclusively presumed to be the vote attributable to the Unit concerned unless an objection is immediately made by another Owner of the same Unit. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

12. MANAGEMENT.

a. Management Committee. The business, property and affairs of the Woodcreek Condominiums shall be managed, operated and maintained by the Management Committee as agent for the Unit Owners. The Management Committee shall, in connection with its exercise of any of the powers delineated in paragraphs (1) through (9) below, constitute a legal entity capable of dealing in its own 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 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 and Facilities;

(2) The authority to execute and record, on behalf of all Unit Owners, any amendment to the Declaration or 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 which in any way concern the Project, 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 any vote or consent necessary under the circumstances has been obtained;

(6) The power and authority to purchase, 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 paragraph (6) above to the Condominium 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 any of its functions or to insure that the project is maintained and used in a manner consistent with the interests of the Unit Owners; and

(9) The power and authority to perform any other acts and to enter into any other transactions 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 that recites facts which, if true, would establish the Committee's power and authority to accomplish through such instrument what

is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument.

b. Composition of Management Committee. The Committee shall be composed of three (3) members. At the first regular Owners meeting two (2) Committee members shall be elected for two-year terms and one (1) member for a one-year term. At each annual Owners meeting thereafter any vacant seat on the Committee shall be filled with a member elected for a two-year term. Only Unit Owners and officers and agents of Owners other than individuals shall be eligible for Committee membership. At the annual meeting the percentage of undivided ownership interest appurtenant to a Unit may be in favor of as many candidates for Committee membership as there are seats on the Committee to be filled; provided, however, that until the annual Owners meeting held on or after October 1, 1981, or until Units to which an aggregate of at least three-fourths (3/4) of an undivided Ownership interest in the Common Areas and Facilities appertain have been conveyed by Declarants, whichever occurs first (hereinafter referred to as the "Event"), Declarants alone shall be entitled to select two (2) of the three (3) Committee members. Notwithstanding the foregoing limitations, until the first annual meeting of the Owners, the members of the Committee, although numbering less than three (3), shall be the following persons and each shall hold the office indicated opposite his name:

Grant K. Harrison

President

William R. Horman

Vice-President, Secretary  
and Treasurer

Any Committee member who fails on three successive occasions to attend Committee meetings (whether regular or special) or who has failed to attend at least 25% of all Committee meetings (whether regular or special) held during any twelve-month period shall automatically forfeit his seat. In the event a Committee seat which was filled by Declarants becomes vacant prior to the Event, whether by reason of forfeiture or due to

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another cause, Declarants shall 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. Unless he forfeits or otherwise loses his seat as herein provided, a member shall serve on the Committee until his successor is elected and qualifies. Committee members shall be reimbursed for all expenses reasonably incurred in connection with Committee business.

c. Responsibility. 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, 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 said Committee.

d. Additional facilities. The Management Committee shall, subject to any necessary approval, have the authority to provide such facilities, in addition to those for which provision has already been made, as it may deem to be in the best interests of the Unit Owners and to effect the necessary amendment of documents and maps in connection therewith.

e. Name. The Management Committee shall be known as the Woodcreek Condominiums Management Committee.

f. Manager. The Committee may carry out through a Project Manager any of its functions which are properly the subject of delegation. Any Manager so engaged shall be an independent contractor and not an agent or employee of the Committee, shall be responsible for managing the Project for the benefit of the Committee and the Unit Owners, and shall, to the extent permitted by law and the terms of the agreement with the Committee, be authorized to perform any of the functions or acts required or permitted to be performed by the Management Committee itself. Any agreement for professional

management of the Project which may be entered into by the Management Committee or the Association shall call for a term not exceeding three (3) years and shall provide that for cause such management agreement may be terminated by the Management Committee or by the Association upon not in excess of ninety (90) days written notice.

13. EASEMENTS.

a. Each Unit shall be subject to such easements as may be necessary for the installation, maintenance, repair or replacement of any Common Areas and Facilities located within the boundaries of such Unit.

b. In the event that, by reason of the construction, reconstruction, settlement or shifting of any part 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 Owners as owners of the Common Areas and Facilities if such encroachment occurred due to the willful conduct of such Unit Owner or Owners.

14. CHANGE IN OWNERSHIP.

The Management Committee shall maintain up-to-date records showing the name of each person who is an Owner, the address of such person, and the Unit which is owned by him.

In the event of any transfer of a fee or undivided fee interest in a Unit either the transferor or transferee shall furnish the Management Committee with evidence establishing that the transfer has occurred and that the Deed or other instrument accomplishing the transfer is of record in the office of the County Recorder

of Salt Lake County, Utah. The Management Committee may for all purposes act and rely on the information concerning the Owners and Unit ownership which is thus acquired by it or, at its option, the Management Committee may act and rely on current ownership information respecting any Unit or Units which is obtained from the office of the County Recorder of Salt Lake County, Utah. The address of an Owner shall be deemed to be the address of the Unit owned by such person unless the Management Committee is otherwise advised.

15. ASSESSMENT.

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 the Act.

In assessing Unit Owners, no assessment for a single improvement in the nature of a capital expenditure exceeding the sum of \$10,000.00 shall be made without the same having been first voted on and approved by at least a majority of the Project's undivided ownership interest.

16. DESTRUCTION OR DAMAGE.

In the event of destruction or damage of part or all of the improvements in the Condominium Project, the procedures of this section 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 of the Units shall be assessed for any deficiency on the basis of their respective appurtenant

percentage of undivided ownership interest.

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% of the entire undivided ownership interest in the Project elect to repair or reconstruct the affected improvements, restoration shall be accomplished in the manner directed under subsection 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% of the entire undivided ownership interest in the Project, 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.

e. Any reconstruction or repair which is required to be carried out by this section shall be accomplished at the instance and direction of the Management Committee. Any determination which is required to be made by this section regarding the extent of damage to or destruction of Project improvements shall be made as follows: The Management Committee shall select three MAI appraisers; each appraiser shall independently arrive at a figure representing the percentage of project improvements which have been destroyed or substantially damaged; the percentage which governs the application of the provisions of this section shall be the average of the two closest appraisal figures.

17. TAXES.

It is understood that under the Act each Unit, together with its percentage of undivided interest in the Common Areas and Facilities in the Project, is deemed a parcel and subject to separate assessment and taxation by each assessing unit and special district for all types of taxes authorized by law. Each Unit Owner will, accordingly, pay and discharge any and all taxes which may be assessed against his Condominium Unit.

18. INSURANCE.

a. Hazard Insurance. The Management Committee or Association of Unit Owners shall at all times maintain in force hazard insurance meeting the following requirements:

(1) A multi-peril type policy covering the entire Condominium Project (both Units and Common Areas and Facilities) shall be maintained. Such policy shall provide coverage against loss or damage by fire and other hazards covered by the standard extended coverage endorsement and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, water damage, and such other risks as customarily are covered with respect to condominium projects similar to the Project in construction, location, and use. As a minimum, such policy shall provide coverage on a replacement cost basis in an amount not less than that necessary to comply with any co-insurance percentage specified in the policy, but not less than one hundred percent (100%) of the full insurable value (based upon replacement cost). Such policy shall include an "Agreed Amount Endorsement" or its equivalent, a "Demolition Endorsement" or its equivalent, and, if necessary or appropriate, an "Increased Cost of Construction Endorsement" or its equivalent, and a "Contingent Liability from Operation of Building Laws Endorsement" or its equivalent.

(2) If the Project is or comes to be situated in a locale identified by the Secretary of Housing and Urban Development as an area having special flood hazards and the sale of flood insurance has been made available under the National Flood

Insurance Act of 1968, a "blanket" policy of flood insurance on the Condominium Project shall be obtained and maintained. The minimum amount of coverage afforded by such policy shall be the lesser of the maximum amount of insurance available under said Act or the aggregate of the unpaid principal balance of the Mortgages affecting the individual Units. Such policy shall be in the form of the standard policy issued by members of the National Flood Insurers Association or in the form of a policy which meets the criteria established by the Flood Insurance Administration.

(3) The named insured under each policy required to be maintained by the foregoing items (1) and (2) shall be in form and substance essentially as follows: "Association of Unit Owners of the Woodcreek Condominium Project, or its authorized representative, for the use and benefit of the individual Owners."

(4) Each such policy shall include the standard mortgagee clause (without contribution) which either shall be endorsed to provide that any proceeds shall be paid to the Association of Unit Owners for the use and benefit of Mortgagees as their interests may appear or shall be otherwise endorsed to fully protect the interests of Mortgagees. In addition, the mortgagee clause shall provide that the insurance carrier shall notify each Mortgagee at least thirty (30) days in advance of the effective date of any reduction in or cancellation of the policy.

(5) Each such policy shall provide that notwithstanding any provision thereof which gives the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable if it is in conflict with any requirement of law or without the prior written approval of the Association.

b. Fidelity Insurance. The Management Committee or Association shall at all times maintain in force fidelity coverage against dishonest acts on the part of managers (and



employees of managers), trustees, employees, officers, Committee members, or volunteers responsible for handling funds belonging to or administered by the Management Committee or Association of Unit Owners. The fidelity bond or insurance shall name the Association as the obligee or insured and shall be written in an amount sufficient to afford the protection reasonably necessary. An appropriate endorsement to the policy shall be secured to cover persons who serve without compensation if the policy would not otherwise cover volunteers.

c. Liability Insurance. The Management Committee or Association of Unit Owners shall at all times maintain in force a comprehensive policy of public liability insurance covering all of the Common Areas and Facilities. Such insurance shall include a "Severability of Interest Endorsement" or its equivalent which shall preclude the insurer from denying the claim of a Unit Owner because of negligent acts of other Owners, the Management Committee, or the Association of Unit Owners. The coverage afforded by such public liability insurance shall include protection against such risks as customarily are covered with respect to condominium projects similar to the Project in construction, location and use. The limits of liability under such insurance shall be written in an amount sufficient to afford the protection reasonably necessary.

d. General Requirements Concerning Insurance. Each insurance policy maintained pursuant to the foregoing Sections 18a through 18c shall be written by an insurance carrier which is licensed to transact business in the State of Utah and which has a financial rating by Best's Insurance Reports of BBB+ or better. No such policy shall be maintained where: (1) under the terms of the carrier's charter, by-laws or policy, contributions may be required from, or assessments may be made against, a Unit Owner, a Mortgagee, the Management Committee, the Association of Unit Owners, a Unit, the Common Areas, or the Project; (2) by the terms of the carrier's charter, by-laws or policy, loss payments are contingent upon action by the car-

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rier's board of directors, policy holders, or members; (3) the policy includes any limiting clauses (other than insurance conditions) which could prevent the party entitled from collecting insurance proceeds; or (4) the policy provides that the insurance thereunder shall be brought into contribution with insurance purchased by the individual Unit Owners or their Mortgagees. Each such policy shall provide that: (a) coverage shall not be prejudiced by any act or neglect of the Unit Owners when such act or neglect is not within the control of the Association of Unit Owners or the Management Committee; (b) coverage shall not be prejudiced by any failure by the Association or Committee to comply with any warranty or condition with regard to any portion of the Project over which the Association and Committee have no control; (c) coverage may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days prior written notice to any and all insureds named therein, including any Mortgagee named as an insured; and (d) the insurer waives any right of subrogation it might have as to any and all claims against the Association, the Management Committee, any Unit Owner, and/or their respective agents, employees or tenants, and any defense it might have based upon co-insurance or upon invalidity arising from acts of the insured. If due to changed circumstances, excessive cost, or any other reason, any of the insurance coverage required to be obtained and maintained under Sections 18a through 18c hereof cannot reasonably be secured, with respect to such coverage the Association or the Committee shall obtain and maintain such substitute, different or other coverage as may be reasonable and prudent under the circumstances as they then exist.

19. PAYMENT OF EXPENSES.

a. 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, upon the terms, at the time, 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 or Association. 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.

b. 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 the 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; which sum may include, among other things, the cost of management, special assessments, fire, casualty, flood, fidelity, public liability and other insurance premiums, common lighting, landscaping and the care of the grounds, repairs and renovations to Common Areas and Facilities, snow removal, wages, water charges, utility services (except telephone and other services which are separately billed or metered to the individual Units by the utility or party furnishing such service), 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, 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 became payable in the previous year, or which might have been included

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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.

c. The portion payable with respect to each Unit in and for each year or for a portion of a year shall be a sum equal to the aggregate amount of such cash requirements for such year, or portion of year, determined as aforesaid, multiplied by the percentage of undivided interest in the Common Areas and Facilities appurtenant to such Unit, as shown in Exhibit C. 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 provided by the Management Committee.

d. 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 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.

e. If an Owner shall at any time let or sublet his 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 subtenant of the Owner occupying the Unit the rent due or becoming due and payment of such rent to the Management Committee shall discharge the tenant or subtenant from all obligations to the Owner to the extent of the amount so paid.

f. Each monthly assessment and each special assessment shall be separate, distinct and personal obligations of the

Owner(s) of the Unit against which the same is assessed at the time the assessment is made and shall be collectible as such. Suit to recover a money judgment for unpaid common expenses may be maintained without foreclosing or waiving the following lien securing the same: the amount of any assessment, whether regular or special, assessed to a Unit plus interest at ten percent 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 nonpayment of common expenses shall have priority over all other liens and encumbrances, recorded or unrecorded, except only:

- (1) Tax and special assessment liens on the Unit in favor of any assessment unit, or special district; and
- (2) Encumbrances on the interest of the Unit Owner recorded prior to the date such notice is recorded, which by law would be a lien prior to subsequently recorded encumbrances.

g. A certificate executed and acknowledged by the Manager or Management Committee stating the unpaid common expenses then outstanding with respect to a Unit 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 Owner or encumbrancee of a Condominium Unit upon request at a reasonable fee not to exceed Ten Dollars (\$10.00). Unless the request for a certificate of indebtedness shall be complied within ten (10) days, all unpaid common expenses which became due prior to the date of making of such request shall be subordinate to the lien or interest held by or obtained by the person making the request. Any encumbrancee holding a lien on a Condominium Unit may pay any unpaid Common Expenses payable with respect to such Condominium Unit and upon such payment such encumbrancee shall have a lien on such Unit for the amount paid of the same rank as the lien of his encumbrance.

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h. Upon payment of delinquent assessments 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 by 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.

i. In the event of foreclosure, the Unit Owner shall be required to pay a reasonable rental for the Condominium Unit 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 Unit at foreclosure or other sale and to hold, lease, mortgage and convey the Condominium Unit.

20. MORTGAGE PROTECTION.

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

The lien or claim against a Condominium Unit for unpaid assessments or charges levied by the Management Committee or by the Association of Unit Owners pursuant to this Declaration or the Act shall be subordinate to the Mortgage affecting such

Condominium Unit, and the Mortgagee thereunder which comes into possession of the Condominium Unit shall take the same free of such lien or claim for unpaid assessments or charges, but only to the extent of assessments or charges which accrue prior to foreclosure of the Mortgage, exercise of a power of sale available thereunder, or deed or assignment in lieu of foreclosure (except for claims for a pro rata share of such prior assessments or charges resulting from a pro rata reallocation thereof to all Condominium Units including the Condominium Unit in which the Mortgagee is interested). No assessment, charge, lien or claim which is described in the preceding sentence as being subordinate to a Mortgage or as not to burden a Mortgagee which comes into possession shall be collected or enforced by either the Management Committee or the Association from or against a Mortgagee, a successor in title to a Mortgagee, or the Condominium Unit affected or previously affected by the Mortgage concerned (to the extent any such collection or enforcement would prejudice the interests of the Mortgagee or successor in title to the Mortgagee interested in such Unit).

Unless all of the Mortgagees of the individual Condominium Units have given their prior written approval, neither the Management Committee nor the Association of Unit Owners shall be entitled, by act, omission, or otherwise:

- (1) To abandon or terminate the Condominium Project or to abandon or terminate the arrangement which is established by this Declaration and the Record of Survey Map (except as provided in Section 16 hereof in the event of certain destruction or damage);
- (2) To partition or subdivide any Unit;
- (3) To abandon, partition, subdivide, encumber, sell or transfer all or any part of the Common Areas and Facilities (except for the granting of easements for utilities and similar purposes consistent with the intended use of the Common Areas and except as provided in Section 16 hereof in the event of certain destruction or damage);

(4) To use hazard insurance proceeds resulting from damage to any part of the Condominium Project (whether to Units or to the Common Areas) for purposes other than the repair, replacement, or reconstruction of such improvements, except as provided in Section 16 hereof in the event of certain destruction or damage;

(5) To change the pro rata interests or obligations of any Unit which apply for (a) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards and for (b) determining the pro rata share of ownership of each Unit in the Common Areas and Facilities;

(6) To alter the provisions of Section 12 hereof in such a way as to diminish the protections afforded to the Owners regarding the duration or terminability of agreements for managerial services; or

(7) To alter the provisions of Section 18 hereof in such a way as to diminish the insurance protection required to be afforded to the parties designed to be protected thereby, or to fail to maintain the insurance coverage described therein.

Any Mortgagee shall have the right, at its request and expense and upon reasonable notice, to examine the books and records of the Management Committee, of the Association of Unit Owners, or of the Condominium Project. From and after the time a Mortgagee makes written request to the Management Committee or the Association of Unit Owners therefor, the Committee or the Association shall furnish to such Mortgagee copies of such annual operating reports and other reports or writing summarizing or reflecting the financial position or history of the Condominium Project as may be prepared for distribution to or use by the Committee, the Association, or the Unit Owners.

To the extent the same is reasonably possible and practical and is not inconsistent with the significant interest of the Association of Unit Owners, the Management Committee and the Association shall establish an adequate reserve to cover the cost



of reasonably predictable and necessary major repairs and replacements of the Common Areas and Facilities and shall cause such reserve to be funded by regular monthly or other periodic assessments against the Units rather than by special assessments.

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

In the event another provision or clause of this Declaration deals with the same subject matter as is dealt with in any provision or clause of this Section 20, the provision or clause which results in the greatest protection and security for a Mortgagee shall control the rights, obligations, or limits of authority as the case may be, applicable to the Management Committee and Association of Unit Owners with respect to the subject concerned.

No amendment to this Section 20 which has the effect of diminishing the rights, protection or security afforded to Mortgagees shall be accomplished or effective unless all of the Mortgagees of the individual Units have given their prior written approval to such amendment. Any amendment to this Section 20 shall be accomplished by an instrument executed by the Management Committee and filed for record in the office of the Salt Lake County Recorder. In any such instrument an officer of the Management Committee shall certify that any prior written approval of Mortgagees required by this Section 20 as a condition to amendment has been obtained.

21. EMINENT DOMAIN.

In the event that eminent domain proceedings are commenced against the Project or any portion thereof, the provisions of §57-8-32.5, Utah Code Annotated (1953) shall apply. The Management Committee shall give written notice of such proceedings to all Mortgagees of record. No first lien priority of any Mortgagee shall be diminished or otherwise disturbed by virtue of such proceedings.

22. MAINTENANCE.

a. Each Owner of a Unit at his own expense shall keep the interior of such Unit 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 such Unit. Except to the extent that the Management Committee is protected by insurance against such injury, the Unit Owner shall repair all injury or damage to the Unit, or buildings caused by the act, negligence or carelessness of the Unit Owner or that of any tenant or subtenant or any member of the Unit Owner's family or the family of any tenant or subtenant or any agent, employee or guest of the Owner or his tenant or subtenant and all 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 apartment Unit in good repair, the Unit Owner shall be responsible for the maintenance or replacement of any plumbing fixtures that may be in or connected with the Unit. Each Unit Owner shall be entitled to the exclusive use and possession of the Limited Common Areas associated with his Unit and shall be responsible for the maintenance and upkeep of the same; provided, however, that without the written permission of the Management Committee first had and obtained, a Unit Owner shall not make or permit to be made any structural alteration, in or to the Unit or in or to the exterior of any building, and shall not paint or decorate any portion of the exterior of the Unit or any building.

b. Except as otherwise herein provided, the Management

Committee shall provide for such maintenance and operation of the Common Areas and Facilities and of the Limited Common Areas and Facilities as may be reasonably necessary to keep them clean, functional, attractive and generally in good condition and repair. The Management Committee shall have no obligation regarding maintenance of Units.

c. Each Owner shall, at his own cost, keep the Limited Common Area designated for use in connection with his Unit in a clean and sanitary and attractive condition at all times; provided, however, that the Management Committee may, upon application of a Unit Owner and the payment of an appropriate fee, maintain the yards of such Unit designated as Limited Common Areas. A Unit Owner shall not plant or remove any shrubs, trees, sod, flowers or install any ornamental or decorative fixtures on the Common Areas or Limited Common Areas without the prior written approval of the Management Committee. No fences, barricades or other devices shall be installed by any Unit Owner to segregate or partition the Limited Common Areas without the prior written approval of the Management Committee.

23. RIGHT OF ENTRY.

The Management Committee and its duly authorized agents shall have the right to enter any and all of the Units and the Limited Common Areas appurtenant thereto 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 and Limited Common Areas at all reasonable times as required for the purpose of making necessary repairs upon the Common Areas and Facilities of the Project or 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.

24. 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 or provision shall be taken to be a part of such rules. Unit Owners 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, tenants, subtenants, guests, or other occupants of the Units.

25. OBLIGATION TO COMPLY HEREWITH.

Each Unit Owner, tenant, subtenant, guest, or other 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 grounds for an action by the Management Committee or other aggrieved party for injunctive relief or to recover any loss or damage resulting therefrom.

26. INDEMNIFICATION OF MANAGEMENT COMMITTEE.

Each member of the Management Committee shall be indemnified and held harmless by the Association of 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, the foregoing indemnification shall not apply if the loss, expense or liability involved resulted from the willful misconduct or gross negligence of the member.

27. AMENDMENT.

In addition to the amendment provisions contained in Section 6 above, but subject to the terms of Section 20, this Declaration and/or the Map may be amended upon the affirmative vote or approval and consent of not less than two-thirds (2/3) of the undivided interest in the Common Areas and Facilities. Any amendment so authorized shall be accomplished by recordation of an instrument executed by the Management Committee. In said instrument the Committee shall certify that the vote or consent required by this Section 27 has occurred. Notwithstanding any other provision contained herein, until occurrence of the "Event" referred to in Section 12 hereof no amendment to the Map or to any provision of this Declaration which has or may have the effect of diminishing or impairing any right, power, authority, privilege, protection or control accorded to Declarants (in their capacity as Declarants) herein shall be accomplished or effective unless the instrument through which such amendment is purported to be accomplished is consented to in writing by Declarants.

28. CONSENT IN LIEU OF VOTE.

In any case in which the Act or this Declaration requires the vote of a stated percentage of the Project's undivided ownership interest for 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 stated percentage of undivided ownership interest. The following additional provisions shall govern any application of this section:

a. All necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Owner;

b. Any change in ownership of a Unit which occurs after

consent has been obtained from the Owner having an interest therein shall not be considered or taken into account for any purpose; and

c. Unless the consent of all Owners having an interest in the same Unit are secured, the consent of none of such Owners shall be effective.

29. DECLARANTS' SALES PROGRAM.

Notwithstanding any other provision in this Declaration, until Declarants cease to be Unit Owners or the expiration of four (4) years after the date on which this Declaration is filed for record in the office of the County Recorder of Salt Lake County, Utah, whichever first occurs (hereinafter referred to as the "Occurrence"), Declarants shall have the following rights in furtherance of any sales, promotional, or other activities designed to accomplish or facilitate the sale of all Units owned by Declarants:

a. Declarants shall have the right to maintain three or less sales offices and/or model apartments. Such offices and/or model apartments may be one or more Units (of any floor area and at any location) owned by them, one or more separate structures or facilities placed on the Property for the purpose of aiding Declarants' sales effort, or any combination of the foregoing. If one or more separate structures or facilities is employed by Declarants, each shall be reasonably located given the layout of the Project and each shall have an aggregate floor area not substantially in excess of the aggregate floor area of the largest Unit contained in the Project;

b. Declarants shall have the right to maintain a reasonable number of promotional, advertising, and/or directional signs, banners or similar devices at any place or places on the Property, but any such device shall be of a size and in a location as is reasonable and customary;

c. Declarants shall have the right to use the Common Areas and Facilities of the Project to entertain prospective purchasers or to otherwise facilitate Unit sales, provided said use is reasonable as to both time and manner.

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Declarants shall have the right from time to time to locate or relocate any of their sales offices, model apartments, and/or signs, banners or similar devices, but in connection with each such location or relocation shall observe the limitations imposed by the preceding portion of this Section. Within a reasonable period of time after the happening of the Occurrence, Declarants shall have the right to remove from the Project any signs, banners or similar devices and any separate structure or facility which was placed on the Property for the purpose of aiding Declarants' sales effort.

30. LIMITATION ON IMPROVEMENTS BY ASSOCIATION.

Until the Occurrence described in Section 29, neither the Association nor the Management Committee shall, without the written consent of Declarants, make any improvement to or alteration in any of the Common Areas and Facilities, other than such repairs, replacements, or similar matters as may be necessary to properly maintain the Common Areas as originally created or constructed by Declarants.

31. COMPLETION OBLIGATION.

Declarants herein covenant in favor of each Owner that no later than December 31, 1981:

a. The Unit which such Owner has contracted to purchase the Building within which such Unit is contained or is to be contained, and each Limited Common Area appurtenant to such Unit shall be fully constructed and ready for use or occupancy (as the case may be); and

b. There shall be substantially completed and usable as part of the Common Areas all planned landscaping, sidewalks, parking facilities, roads, fences, outdoor lighting, recreational and entertaining facilities, and utility lines and conduits necessary to enable full use and enjoyment of the Unit concerned.

32. SEVERABILITY.

The invalidity of any one or more phrases, sentences, subparagraphs, paragraphs, subsect or sections hereof shall not affect the remaining portions of this instrument or any part

thereof, and in the event that any portion or portions of this instrument should be invalid or should operate to render this instrument invalid, this instrument shall be construed as if such invalid phrase or phrases, sentence or sentences, subparagraph or subparagraphs, paragraph or paragraphs, subsection or subsections, or section or sections had not been inserted.

33. DECLARANTS' RIGHTS ASSIGNABLE.

All of the rights of Declarants under this Declaration may be assigned or transferred either by operation of law or through a voluntary conveyance, transfer or assignment. Any Mortgage covering all Condominium Units in the Project title to which is vested in either of the Declarants shall, at any given point in time and whether or not such Mortgage does so by its terms, automatically cover, encumber and include all of the then-unexercised or then-unused rights, powers, authority, privileges, protections and controls which are accorded to Declarants (in their capacity as Declarants) herein.

34. 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, male or female, shall in all cases be assumed as though in each case fully expressed.

35. WAIVERS.

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

36. TOPICAL HEADINGS.

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

37. EFFECTIVE DATE.

This Declaration shall take effect upon recording.

38. GRANT OF LIMITED RIGHT OF ACCESS AND USE OF COMMON AREAS AND FACILITIES.



Declarants and/or the management committee may grant a limited right of access and egress or use of the roadways contained within the Property and/or use of a portion of the Common Areas and Facilities as may be required in order to fulfill any obligations that may exist to adjacent property owners.

IN WITNESS WHEREOF, the undersigned, being the Declarants herein, have hereunto set their hands and seals this 12 day of August, 1980.

William R. Horman  
WILLIAM R. HORMAN

Grant K. Harrison  
GRANT K. HARRISON

The undersigned being the wives of the Declarants hereby consent to and acquiesce in the terms and conditions of the foregoing document.

Jacquelyn B. Horman  
JACQUYLYNN B. HORMAN

Gayleen M. Harrison  
GAYLEEN M. HARRISON.

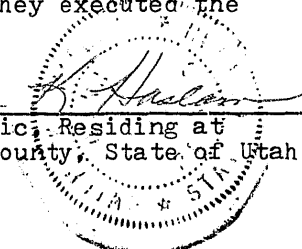
STATE OF UTAH                    )  
                                      : ss.  
County of Salt Lake        )

On the 12 day of August, 1980, personally appeared before me WILLIAM R. HORMAN, GRANT K. HARRISON, JACQUYLYNN B. HORMAN and GAYLEEN M. HARRISON, signers of the foregoing Declaration of Condominium, who duly acknowledged to me that they executed the same.

My Commission Expires:

4-5-82

Thelma K. Haslam  
Notary Public, Residing at  
Salt Lake County, State of Utah



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## EXHIBIT A

### BY-LAWS OF THE WOODCREEK CONDOMINIUMS

#### A CONDOMINIUM PROJECT

##### I. IDENTITY

These are the By-Laws of Woodcreek Condominiums, a Condominium Project, duly made and provided for in accordance with the Act. Any term used herein which is defined in the Declaration to which these By-Laws are appended shall have the meaning ascribed therein.

##### II. APPLICATION

All present or future owners, tenants, or any other persons who might use the facilities of Woodcreek Condominiums in any manner are subject to the regulations set forth in these By-Laws. The more acquisition or rental of any of the Units or parts thereof, or the more act of occupancy or use of any of said Units or parts thereof or the Common Areas and Facilities will signify that these By-Laws are accepted, ratified, and will be complied with by said persons.

##### III. ADMINISTRATION OF CONDOMINIUM PROJECT

1. Place of Meetings. Meetings of the Unit Owners shall be held at such place within the State of Utah as the Management Committee may specify in the notice, except as herein otherwise specified.
2. Annual Meetings. The first annual meeting of the Unit Owners shall be held at the Project on the , 1980. Thereafter, the annual meetings shall be held on such day of each succeeding year; provided, however, that whenever such date falls on a legal holiday, the meeting shall be held on the next succeeding business day, and further provided that the Management Committee may by resolution fix the date of the annual meeting on such date or at such other place as the Management Committee may deem appropriate.
3. Special Meetings. Special meetings of the Association of Unit Owners may be called at any time by the Management Committee or by Unit Owners who collectively hold at least thirty (30) percent of the total vote. Notice of said meeting shall be delivered not less than ten (10) days prior to the date fixed for said meeting. Such meeting shall be held on the Project or such other place as the Management Committee may specify and the notice thereof shall state the date, time and matters to be considered.
4. Notices. Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered 24 hours after a copy of the same has been deposited in the United States Mail, postage prepaid, addressed to the Unit Owner concerned.
5. Quorum. At the meeting of the Unit Owners, the Owners of more than fifty (50) percent in the aggregate of interest in the undivided ownership of the Common Areas and Facilities shall constitute a quorum for any and all purposes, except where by express provisions a greater vote is required, in which event a quorum shall be the percentage of interest

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required for such vote. In the absence of a quorum the chairman of the meeting may adjourn the meeting from time to time, without notice other than by announcement at the meeting, until holders of the amount of interest requisite to constitute a quorum shall attend. At any such adjourned meeting at which a quorum shall be present any business may be transacted which might have been transacted at the meeting as originally notified.

6. Voting. When a quorum is present at any meeting, the vote of the Unit Owners representing more than fifty (50) percent of the undivided interest present at the meeting either in person or represented by proxy, shall decide any question of business brought before such meeting, including the election of the Management Committee, unless the question is one upon which, by express provision of the Declaration of these By-Laws, a greater vote is required, in which case such express provision shall govern and control the decision of such question. All votes may be cast either in person or by proxy. All proxies shall be in writing, and in the case of proxies for the annual meeting, they shall be delivered to the secretary at least five (5) days prior to said annual meeting. Proxies for special Unit Owners' meetings must be of record with the secretary at least two days prior to said special meeting.

7. Waivers of Notice. Any Unit Owner may at any time waive any notice required to be given under these By-Laws, or by statute or otherwise. The presence of a Unit Owner in person at any meeting of the Unit Owners shall be deemed such waiver.

#### IV. MANAGEMENT COMMITTEE

1. Purpose of Powers. The business, property and affairs of the Condominium Project shall be managed and governed by the Management Committee.

2. Election. The Management Committee shall be elected as provided in the Declaration.

3. Vacancies. Vacancies on the Management Committee shall be filled as provided in the Declaration.

4. Regular Meetings. A regular annual meeting of the Management Committee shall be held immediately after the adjournment of each annual meeting of the Unit Owners. Regular meetings, other than the annual meeting, shall or may be held at regular intervals at such places and at such times as either the president or the Management Committee may from time to time designate.

5. Special Meetings. Special meetings of the Management Committee shall be held whenever called by the president, vice president, or by two or more members. By unanimous consent of the Management Committee, special meetings may be held without call or notice at any time or place.

6. Quorum. A quorum for the transaction of business at any meeting of the Management Committee shall consist of a majority of the members of the Management Committee then in office.

7. Compensation. Members of the Management Committee as such, shall not receive any stated salary or compensation; provided that nothing herein contained shall be construed to preclude any member of the Management Committee from serving the Project in any other capacity and receiving compensation therefor.

8. Waiver of Notice. Before or at any meeting of the Management Committee, any member thereof, may, in writing,

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waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Management Committee at any meeting thereof shall be a waiver of notice by him of the time and place thereof.

9. Adjournments. The Management Committee may adjourn any meeting from day to day or for such other time as may be prudent or necessary, provided that no meeting may be adjourned for longer than thirty days.

#### V. OFFICERS

1. Designation and Election. The principal officers of the Management Committee shall be a president, a vice president, a secretary, and a treasurer, all of whom shall be elected by and from the Management Committee. The Management Committee may appoint an assistant secretary and an assistant treasurer and such other officers as in their judgment may be necessary or desirable. Such election or appointment shall regularly take place at the first meeting of the Management Committee immediately following the annual meeting of the Unit Owners; provided, however, that elections of officers may be held at any other meeting of the Management Committee.

2. Other Officers. The Management Committee may appoint such other officers, in addition to the officers hereinabove expressly named, as they shall deem necessary, who shall have authority to perform such duties as may be prescribed from time to time by the Management Committee.

3. Removal of Officers and Agents. All officers and agents shall be subject to removal, with or without cause, at any time by the affirmative vote of the majority of the then members of the Management Committee.

4. President. The president shall be the chief executive of the Management Committee, and shall exercise general supervision over its property and affairs. He shall sign on behalf of the Condominium Project all conveyances, mortgages and contracts of material importance to its business, and shall do and perform all acts and things which the Management Committee may require of him. He shall preside at all meetings of the Unit Owners and the Management Committee. He shall have all of the general powers and duties which are normally vested in the office of the president of a corporation, including, but not limited to, the power to appoint committees from among the members (or otherwise) from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Condominium Project.

5. Vice President. The vice president shall take the place of the president and perform his duties whenever the president shall be absent or unable to act. If neither the president nor the vice president is able to act, the Management Committee shall appoint some other member thereof to do so on an interim basis. The vice president shall also perform such other duties as shall from time to time be prescribed by the Management Committee.

6. Secretary. The secretary shall keep the minutes of all meetings of the Management Committee and of the Unit Owners; he shall have charge of the books and papers as the Management Committee may direct; and he shall in general, perform all the duties incident to the office of secretary.

7. Treasurer. The treasurer shall have the responsibility for the funds and securities of the Management Committee and shall be responsible for keeping full and accurate accounts of all receipts of all disbursements in books belonging to the

Management Committee. He shall be responsible for the deposit of all monies and all other valuable effects in the name, and to the credit of, the Management Committee in such depositories as may from time to time be designated by the Management Committee.

8. Compensation. No compensation shall be paid to the officers for their services as officers. No remuneration shall be paid to an officer for services performed by him for the Management Committee in any other capacity, unless a resolution authorizing such remuneration shall have been unanimously adopted by the Management Committee before the services are undertaken.

#### VI. ACCOUNTING

1. Books and Accounts. The books and accounts of the Management Committee shall be kept under the direction of the treasurer and in accordance with the reasonable standards of accounting procedures.

2. Report. At the close of each accounting year, the books and records of the Management Committee shall be reviewed by a person or firm approved by the Unit Owners. Report of such review shall be prepared and submitted to the Unit Owners at or before the annual meeting of the Unit Owners. Provided, however, that a certified audit by a certified public accountant approved by the Unit Owners shall be made if Owners representing at least seventy-five (75) percent of the undivided interest in the Common Areas and Facilities determine to require the same.

3. Inspection of Books. Financial reports, such as are required to be furnished, shall be available at the principal office of the Management Committee for inspection at reasonable times by any Unit Owner.

#### VII. BUILDING RULES

The Management Committee shall have the power to adopt and establish, by resolution, such building, management and operational rules and regulations as it may deem necessary for the maintenance, operation, management and control of The Viewmont Condominium Project, and the Management Committee may from time to time, by resolution, alter, amend, and repeal such rules and regulations. Unit Owners shall at all times obey such rules and regulations and use their best efforts to see that they are faithfully observed by their lessees and the persons over whom they have or may exercise control or supervision, it being clearly understood that such rules and regulations shall apply and be binding upon all Unit Owners of the Condominium Project. Provisions of the Act pertaining to rules and regulations are incorporated herein by reference and shall be deemed a part hereof.

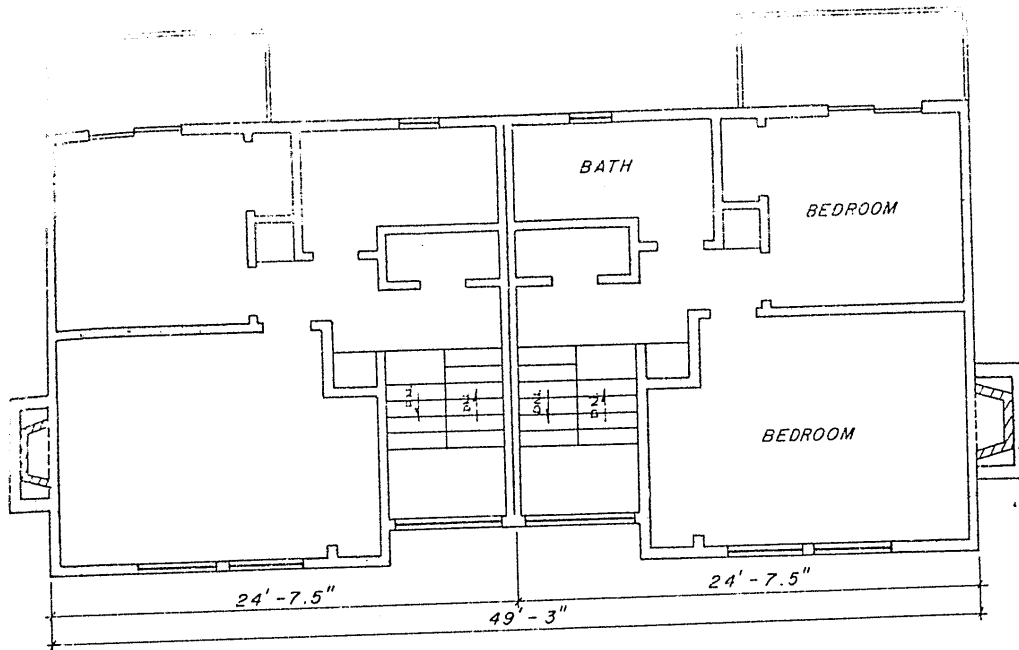
#### VIII. AMENDMENT OF THE BY-LAWS

These By-Laws may be altered or amended in the same manner and subject to the same conditions as apply with respect to amendment of the Declaration.

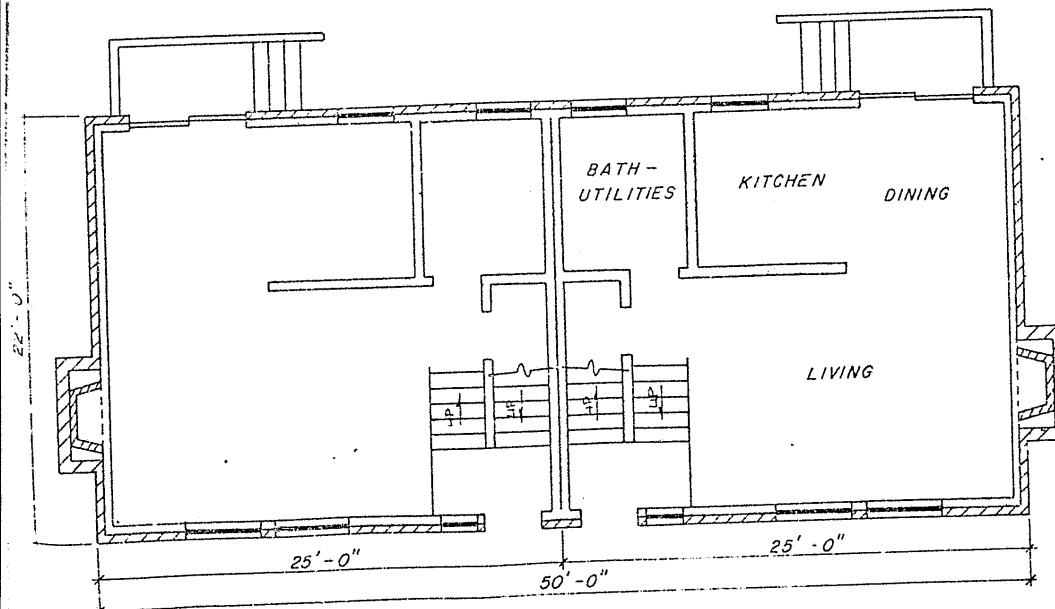
#### IX. OPERATION AND MAINTENANCE OF CONDOMINIUM PROJECT

The Management Committee shall be responsible for the maintenance, control, operation and management of the Condominium Project in accordance with the provisions of the Act, the Declaration under which the Condominium Project was established and submitted to the provisions of the Act, these By-Laws and such rules and regulations as the Association of the Unit Owners may adopt from time to time as herein provided, and all agreements and determinations lawfully made and entered into by the Association of Unit Owners.

EXHIBIT B



UPPER FLOOR PLAN



LOWER FLOOR PLAN

EXHIBIT C

Limited Common Areas &  
Facilities Appurtenant  
To The Unit

<u>Unit #</u>	<u>Address</u>	<u>Carport #</u>	<u>Par Value</u>	<u>Appurtenant % Of Ownership in Common Area &amp; Facilities</u>
1	3959 S. 500 E.	C-1	50.00	16.66
2	3961 S. 500 E.	C-2	50.00	16.66
3	3963 S. 500 E.	C-3	50.00	16.67
4	3965 S. 500 E.	C-4	50.00	16.67
5	3967 S. 500 E.	C-5	50.00	16.67
6	3969 S. 500 E.	C-6	50.00	16.67

5250

UTAH TITLE & ABST.  
REF. DEP.  
*Signer: [Signature]*

AUG 13 2 59 PM '80

KATIE L. DIXON  
RECORDER  
SALT LAKE COUNTY,  
UTAH

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