

AFTER RECORDING, RETURN TO:

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185 South State Street, Suite 1300
Salt Lake City, Utah 84111

FIFTH AMENDMENT TO CONDOMINIUM DECLARATION
OF
THE RESORT CENTER CONDOMINIUMS

REC'D BY Dg. 10
ALAN SPRIGGS
SUMMIT COUNTY RECORDER
HIGH COUNTRY TITLE
91 OCT -4 AM 11:52
RED NOTE 348024

This Fifth Amendment to the Condominium Declaration of The Resort Center Condominiums (this "Amendment") is made and executed this 4th day of October, 1991, by Olympus Bank, A Federal Savings Bank, formerly known as Olympus Development Company, a Utah corporation and Prudential Development Company, a Utah corporation, (hereinafter "Declarant"), whose address is 115 South Main Street, Salt Lake City, Utah 84111, as the owner of the convertible space here affected.

R E C I T A L S

A. The Condominium Declaration for The Resort Center Condominiums (originally known as the Park City Village Condominiums) is dated December 16, 1982 and was recorded in the Office of the Recorder of Summit County, Utah on February 25, 1983, as Entry No. 202648 in Book M252 at pages 73-188 and was amended and/or supplemented by each of the following documents recorded in the Office of the Recorder of Summit County, Utah: (1) The First Amendment to Condominium Declaration for The Resort Center Condominiums dated December 15, 1983 and recorded on December 16, 1983 as Entry No. 214205 in Book 281 at page 729, (2) The First Supplement to Condominium Declaration of The Resort Center Condominiums dated March, 1985 and recorded on August 22, 1985 as Entry No. 238028 in Book 352 at page 638, (3) the Second Amendment to Condominium Declaration of The Resort Center Condominiums dated January 12, 1990 and recorded on January 12, 1990 as Entry No. 319388 in Book 551 at Page 626, (4) the Third Amendment to Condominium Declaration of The Resort Center Condominiums dated January 22, 1990 and recorded on February 7, 1990 as Entry No. 320124 in Book 553 at Page 512, and (5) the Fourth Amendment to Condominium Declaration of the Resort Center Condominiums of even date herewith and recorded in Summit County, Utah at or about the same time as this Amendment is being recorded. All of the foregoing are hereinafter collectively referred to as the "Declaration."

B. The Record of Survey Map of the Resort Center Condominiums (originally known as the Park City Village Condominiums) was recorded in the office of the Recorder of Summit County, Utah on February 25, 1983 as Entry No. 202644, and was

supplemented by that certain Record of Survey Map of the Resort Center Condominiums Phase 1B, recorded with the Summit County Recorder on August 22, 1985 as Entry No. 238027, that certain First Supplemental Record of Survey Map for the Resort Center Condominiums recorded with the Summit County Recorder on January 22, 1990 as Entry No. 319387, and that certain Second Supplemental Record of Survey Map of the Resort Center Condominiums (the "Second Supplemental Map") recorded in Summit County, Utah at or about the same time as this Amendment is being recorded, all of which maps together constitute and are hereinafter collectively referred to as the "Record of Survey Map" of The Resort Center Condominiums.

C. The Declaration and Utah Code Annotated ("UCA") §§57-8-1 et seq., cited as the Condominium Ownership Act, allow the conversion of convertible spaces located in the Resort Center Condominium Project pursuant to the requirements of the Declaration and the Condominium Ownership Act into commercial and residential units as well as common areas and limited common areas.

D. Declarant is the owner of the convertible space known as Unit CS9 located and described on, and which exists after there is taken into account the effect of, the Second Supplemental Map. Declarant, by this Amendment and the concurrent recording of a "Third Supplemental Record of Survey Map of the Resort Center Condominiums," desires to convert all of such Unit CS9 into limited common area and to impose certain restrictions on the use of said limited common area, all in the manner hereinafter set forth.

NOW, THEREFORE, for such purposes, Declarant hereby effects the following amendments to the Declaration:

1. Amendment of the Record of Survey Map. There is recorded concurrently herewith a Third Supplemental Record of Survey Map of The Resort Center Condominiums (the "Third Supplemental Map") consisting of 2 pages including the title page, which shows the conversion that is the subject of this Amendment.

2. Conversion of Unit CS9. Sheet 2 of the Third Supplemental Map contains a detail of Unit CS9. Unit CS9 is hereby converted to a limited common area in accordance with UCA §§57-8-13.4 and 57-8-13.10. Said limited common area is hereinafter referred to as the "Converted Area." The entirety of the Converted Area shall be for the benefit of and appurtenant to Units C5 and CS8.

3. Limitation on Use of a Portion of the Converted Area. Notwithstanding the provisions of Section 2 above, the shaded portion of the Converted Area identified on the Third Supplemental Map (the "Restricted Area") shall be for the exclusive use of the owner of Unit CS8 except that the Restricted Area may also be used by the owner of Unit C5 as a setup and preparation area for food service (a) on a temporary basis if and at any time

that Unit CS8 is not open as a restaurant and providing catered food service, and (b) on a permanent basis if the use of Unit CS8 is changed such that no portion of Unit CS8 remains a restaurant. For purposes of the foregoing item (b), Unit CS8 shall be deemed to still be or include a restaurant as long as it continues to have traditional restaurant features including a commercial kitchen and an area where invitees could be served food even though such facilities may at different times be closed and not used. If Unit CS8 in its entirety is ever converted into a unit or units limited to residential use, or if its use changes so that no part of it includes a restaurant as described in the preceding sentence, then the right of the owner of Unit CS8 or the rights of the Owner(s) of such converted units to use the Restricted Area shall cease and the Restricted Area shall thereafter be for the exclusive use and benefit of Unit C5.

4. Reallocation of Common Areas and Facilities; Notice to Management Committee. Following the recording of this Amendment, the undivided interest in the Common Areas and Facilities formerly allocated to Unit CS9 shall be reallocated to the remaining units in proportion to their undivided interests in the Common Areas and Facilities in accordance with UCA § 57-8-13.10(3). At or about the time of the recording hereof, a copy of this Amendment is being delivered to the principal officer of the Association with a request that he immediately prepare, execute and record an amendment to the Declaration, reflecting in accordance with UCA § 57-8-13.10(3) the reallocation of Common Areas and Facilities necessitated by the conversion of Unit CS9 into a limited common area.

5. Applicability of Declaration and Record of Survey Map. Except to the extent that they may be inconsistent with the contents of this Amendment or the Third Supplemental Map, all of the terms, provisions, covenants, conditions, and restrictions provided for or described in the Declaration or the Record of Survey Map apply to the limited common area which is produced by, described in, contemplated by, and/or created pursuant to this Amendment and the Third Supplemental Map. To the extent that the contents of this Amendment and the Third Supplemental Map are inconsistent with the terms of the Declaration and Record of Survey Map, the contents hereof and of the Third Supplemental Map shall, as regards said limited common area, supercede and control over the contents of the Declaration and Record of Survey Map.

6. Interpretation. This Amendment has been prepared and executed pursuant to the Declaration and the Condominium Ownership Act, and should be read and construed in light of that fact. Any term used herein which is defined in the Declaration or said Act shall, to the extent permitted by the context hereof, have the meaning ascribed therein. The captions which precede the Sections of this Amendment are for convenience only and shall in no way affect the manner in which any provision hereof is

construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. The invalidity or unenforceability of any portion of this Amendment shall not affect the validity or enforceability of the remainder hereof.

7. Effective Date. This Amendment and the Third Supplemental Map shall take effect upon their being filed for record in the office of the County Recorder of Summit County, Utah.

DATED as of the day and year first set forth above.

OLYMPUS BANK, A FEDERAL SAVINGS BANK, formerly known as Olympus Development Company, a Utah corporation and Prudential Development Company, a Utah corporation

By: R. Gibb Marse
Its: Executive Vice President

STATE OF UTAH)
) : ss.
County of SUMMIT)

The foregoing instrument was acknowledged before me this 4th day of October, 1991, by R. GIBB MARSE, EXECUTIVE VICE PRESIDENT of OLYMPUS BANK, A FEDERAL SAVINGS BANK, formerly known as Olympus Development Company, a Utah corporation and Prudential Development Company, a Utah corporation.

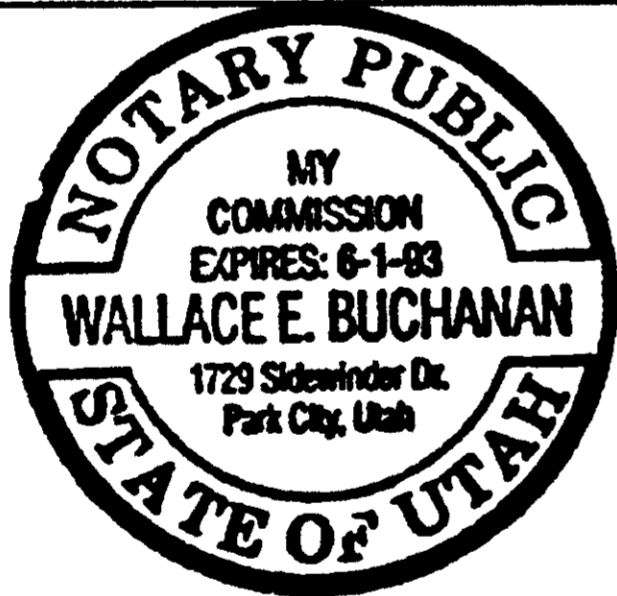
(Seal)

My commission expires:

6-1-93

Residing at:

Park City, Utah



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