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RECORDING DEPARTMENT

MASTER DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS OF  
SUGARPLUM  
A PLANNED UNIT DEVELOPMENT  
SALT LAKE COUNTY, UTAH

BOOK 5482 PAGE 1173

TABLE OF CONTENTS

ARTICLE	TITLE	PAGE
	RECITALS . . . . .	1
I	DEFINITIONS . . . . .	3
II	DESCRIPTION OF PROJECT, RIGHTS OF OWNERS, DECLARANT . . . . .	6
	2.1 Description of Project . . . . .	6
	2.2 Rights of Declarant. . . . .	12
	2.3 Utilities. . . . .	12
III	USE RESTRICTIONS . . . . .	13
	3.1 Use of Individual Lots . . . . .	13
	3.2 Nuisances. . . . .	14
	3.3 Parking. . . . .	14
	3.4 Signs. . . . .	14
	3.5 Animals. . . . .	15
	3.6 Garbage and Refuse Disposal. . . . .	15
	3.7 Radio and Television Antennas. . . . .	15
	3.8 Right to Lease, Rent . . . . .	15
	3.9 Power Equipment and Car Maintenance. . . . .	15
	3.10 Drainage . . . . .	15
	3.11 Mineral Exploration. . . . .	16
	3.12 Water Use. . . . .	16
	3.13 Maintenance Association Use Restrictions . . . . .	16
	3.14 Fair Housing . . . . .	16
	3.15 Compliance with Project Documents. . . . .	16
	3.16 Use of Common Area by Public . . . . .	17
	3.17 Timeshare . . . . .	17
	3.18 Lock-Out . . . . .	17
IV	THE ASSOCIATION MEMBERSHIP AND VOTING . . . . .	17
	4.1 Master Association . . . . .	17
	4.2 Management of Project. . . . .	17
	4.3 Membership . . . . .	17
	4.4 Transferred Membership . . . . .	18
	4.5 Voting . . . . .	18
	4.6 Record Date. . . . .	18
	4.7 Commencement of Voting Rights. . . . .	18
	4.8 Special Majorities . . . . .	18
	4.9 Membership Meetings. . . . .	19
	4.10 Board of Trustees. . . . .	19

BOOK 5482 PAGE 1174

TABLE OF CONTENTS

ARTICLE	TITLE	PAGE
V	MASTER ASSOCIATION POWERS, RIGHTS, DUTIES, AND LIMITATIONS . . . . .	19
	5.1 Generally. . . . .	19
	5.2 Enumerated Rights. . . . .	19
	5.3 Enumerated Duties. . . . .	21
	5.4 Enumerated Limitations . . . . .	25
VI	ASSESSMENTS . . . . .	26
	6.1 Agreement of Pay Assessments and Individual Charges; Vacant Lot Exemption. . . . .	26
	6.2 Purpose of Assessments . . . . .	26
	6.3 Regular Assessments. . . . .	26
	6.4 Special Assessments. . . . .	27
	6.5 Individual Charges . . . . .	28
	6.6 Personal Obligation for Individual Charges . . . . .	28
	6.7 Allocation of Regular and Special Assessments. . . . .	28
	6.8 Commencement of Assessments and Individual Charges . . . . .	28
VII	ENFORCEMENT OF RESTRICTIONS . . . . .	29
	7.1 General. . . . .	29
	7.2 Specific Enforcement Rights. . . . .	29
VIII	INSURANCE, DESTRUCTION, CONDEMNATION . . . . .	33
	8.1 Insurance. . . . .	33
	8.2 Destruction. . . . .	35
	8.3 Condemnation . . . . .	37
IX	MORTGAGE PROTECTIONS . . . . .	38
	9.1 Mortgages Permitted. . . . .	38
	9.2 Subordination. . . . .	38
	9.3 Effect of Breach . . . . .	38
	9.4 Non-Curable Breach . . . . .	39
	9.5 Right to Appear at Meetings. . . . .	39
	9.6 Right to Furnish Information . . . . .	39
	9.7 Right to Examine Books and Records, Etc. . . . .	39
	9.8 Owners Right to Ingress and Egress . . . . .	39
	9.9 Notice of Intended Action. . . . .	39
	9.10 First Mortgagee Liability for Individual Charges . . . . .	40

TABLE OF CONTENTS

ARTICLE	TITLE	PAGE
	9.11 Distribution; Insurance and Condemnation Proceeds . . . . .	40
	9.12 Taxes. . . . .	40
	9.13 Maintenance Reserves . . . . .	40
	9.14 Notice of Default. . . . .	40
	9.15 Conflicts. . . . .	41
X	ENFORCEMENT OF DECLARANT'S DUTY TO COMPLETE THE PROJECT . . . . .	41
XI	ARCHITECTURAL CONTROL . . . . .	42
	11.1 Approval of Alteration and Improvement . . . . .	42
	11.2 Architectural Control Committee. . . . .	42
	11.3 Architectural Standards, Guidelines. . . . .	43
	11.4 Committee Approval Process . . . . .	44
	11.5 Waiver . . . . .	46
	11.6 Estoppel Certificate . . . . .	47
	11.7 Liability. . . . .	47
XII	GENERAL PROVISIONS . . . . .	48
	12.1 Notices. . . . .	48
	12.2 Notice of Transfer . . . . .	48
	12.3 Construction, Headings . . . . .	48
	12.4 Severability . . . . .	48
	12.5 Exhibits . . . . .	49
	12.6 Easements Reserved and Granted . . . . .	49
	12.7 Binding Effect . . . . .	49
	12.8 Violations and Nuisance. . . . .	49
	12.9 Violation of Law . . . . .	49
	12.10 Singular Includes Plural . . . . .	49
	12.11 Conflict of Project Documents. . . . .	49
	12.12 Termination of Declaration . . . . .	50
XIII	AMENDMENT . . . . .	50
	13.1 Amendment Prior to First Sale. . . . .	50
	13.2 Amendment After First Sale . . . . .	50
	13.3 Amendment to Satisfy Other State Laws . . . . .	50
	13.4 Amendment Instrument. . . . .	51
	 EXHIBITS	
	A Legal Description of Project. . . . .	53
	B Density . . . . .	54

MASTER DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS OF

SUGARPLUM

A PLANNED UNIT DEVELOPMENT

RECITALS

This Declaration, made on the date hereinafter set forth by SORENSON RESOURCES COMPANY, a Utah corporation ("Declarant"), is made with reference to the following facts:

A. Declarant is the owner of a certain tract of real property located in Salt Lake County, Utah and more particularly described in Exhibit "A" which is attached hereto and incorporated herein.

All of the property described in Exhibit "A" and all of the improvements thereon shall be referred to as the "Project".

B. The Project possesses great natural beauty which Declarant intends to preserve through the use of a coordinated plan of development and the terms of this Declaration. It is anticipated that the plan will provide for comprehensive land planning, harmonious and appealing landscaping, improvements, and the establishment of separate Maintenance Associations (as hereinafter defined) for portions of the Project. It is assumed that each purchaser of property in the Project will be motivated to preserve these qualities through community cooperation and by enforcing not only the letter but also the spirit of this Declaration. The Declaration is designed to complement local governmental regulations, and where conflicts occur, the more restrictive requirements shall prevail.

C. It is desirable for the efficient management and preservation of the value and appearance of the Project to create a non-profit corporation to which shall be assigned the powers and delegated the duties of managing certain aspects of the Project; maintaining and administering the Common Areas; administering, collecting and disbursing funds pursuant to the provisions regarding assessments and charges hereinafter created and referred to; and to perform such other acts as shall generally benefit the Project and the Owners. Sugarplum Master Homeowners Association ("Master Association"), a master property owners' association and a nonprofit corporation, will be incorporated under the laws of the State of Utah for the purpose of exercising the powers and functions aforesaid.

BOOK 5482 PAGE 1177

D. It is anticipated that certain lots created pursuant to this Declaration will be developed as condominium projects pursuant to the Condominium Ownership Act of the State of Utah. The relationship between lots which are developed into separate condominium regimes and lots which are not so developed will be described hereinafter.

E. Each Owner shall receive fee title to his Lot or Unit (as those terms shall be hereinafter defined), and a Membership in the Maintenance Association appurtenant to his Lot or Unit.

F. By this Declaration, Declarant intends to establish a common scheme and plan for the possession, use, enjoyment, repair, maintenance, restoration and improvement of the Project and the interests therein conveyed and to establish thereon a planned unit development, in compliance with that certain Agreement dated June 16, 1982 by and between the Town of Alta and Sorenson Resources Company.

NOW, THEREFORE, it is hereby declared that the Project shall be held, sold, conveyed, leased, rented, encumbered and used subject to the following Declaration as to division, easements, rights, assessments, liens, charges, covenants, servitudes, restrictions, limitations, conditions and uses to which the Project may be put, hereby specifying that such Declaration shall operate for the mutual benefit of all Owners of the Project and shall constitute covenants to run with the land and shall be binding on and for the benefit of Declarant, its successors and assigns, the Master Association, its successors and assigns and all subsequent Owners of all or any part of the Project, together with their grantees, successors, heirs, executors, administrators, devisees and assigns, for the benefit of the Project.

ARTICLE I

DEFINITIONS

Unless the context clearly indicates otherwise, the following terms used in this Declaration are defined as follows:

1.1 "Act" shall mean the Utah Condominium Ownership Act, Title 57, Chapter 8, Utah Code Annotated (1953), as amended, or any successor statute hereinafter enacted.

1.2 "Architectural Control Committee" or "Committee" shall mean the committee created pursuant to Article XI.

1.3 "Architectural Control Guidelines" or "Guidelines" shall mean the written review standards promulgated by the Architectural Control Committee as provided in Subarticle 11.3.

1.4 "Articles" shall mean the Articles of Incorporation of the Master Association as amended from time to time.

1.5 "Assessments" shall mean the Regular and Special Assessments levied against each Lot or Unit and its Owner by the Master Association as provided in Article VI.

1.6 "Board" shall mean the Board of Trustees of the Master Association.

1.7 "Bylaws" shall mean the Bylaws of the Master Association as amended from time to time.

1.8 "Condominium", "Condominium Unit", "Condominium Record of Survey Map" and "Condominium Project" shall mean as those terms are defined in the Act.

1.9 "Condominium Building" shall mean a structure containing two or more Condominium Units, constituting all or a portion of a residential or commercial Condominium Project.

1.10 "Common Area" shall mean (i) the property designated as Lot "A" on the Map, together with any real property within the Project, which is owned by the Master Association for the use and benefit of the Members, (ii) any leases, easements, or other rights over Project property which are owned by the Master Association for the use and benefit of the Members, and (iii) any portion of the Project which is owned by the Members as tenants-in-common but which is maintained by the Master Association for the use and benefit of the Members.

1.11 "Declarant" shall mean SORENSON RESOURCES COMPANY, a Utah Corporation, or any successor-in-interest by merger or by express assignment of the rights of Declarant hereunder by an

instrument executed by Declarant and (i) recorded in the Office of the Salt Lake County Recorder, and (ii) filed with the Secretary of the Master Association.

1.12 "Declaration" shall mean this instrument as amended from time to time.

1.13 "Developer" shall mean any person, other than Declarant, who owns one or more Lots or five or more Units in the Project for the purpose of selling or leasing them to members of the general public.

1.14 " Dwelling" shall mean a residential dwelling unit together with garages and/or other attached structures on the same Lot, and in the case of a Condominium all elements of a Condominium Unit as defined in the Act, the Declaration of Covenants, Conditions and Restrictions or Condominium Record of Survey Map for the Condominium Project in which such Unit is included.

1.15 "Improvement" shall mean Structures, as defined herein, plants such as trees, hedges, shrubs and bushes and landscaping of every kind. "Improvement" shall also mean any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface or subsurface water from, upon, under or across any portion of the Project. "Improvement" shall also mean any utility line, conduit, pipe or other related facility or equipment.

1.16 "Individual Charges" shall mean those charges levied against an Owner by the Master Association as provided in Section 6.5.

1.17 "Lot" shall mean one of the nine (9) parcels in the Project designated on the map as Lots 1-9, inclusive, each of which is designed to be improved with a Condominium Building, or another structure, as described herein. One or more Lots may be improved in such a manner as to constitute a "phase" in the development of the Project, in compliance with Section 22-9C-6 of the Uniform Zoning Ordinance of the Town of Alta.

1.18 "Maintenance Association" shall mean any incorporated or unincorporated association of Lot or Unit Owners (other than the Master Association) which is formed by operation of law or by the execution and filing of certain documents to facilitate the management, maintenance and/or operation of any portion of the Project (i) which portion of the Project is owned by a group of owners of Condominium Units or who are members of such association; or (ii) which portion of the Project is owned by such association for the benefit of a group of owners who are members of such association. Any association of unit owners (as defined in the Act) of a Condominium Project in the Project shall be referred to herein as a "Maintenance Association".



1.19 "Map" shall mean that subdivision map or P.U.D. plat entitled "SUGARPLUM, A PLANNED UNIT DEVELOPMENT", filed concurrently herewith in the Office of the Recorder of Salt Lake County, as the same may be amended from time to time, and which is incorporated herein by this reference.

1.20 "Master Association" shall mean the SUGARPLUM MASTER HOMEOWNERS ASSOCIATION, a Utah nonprofit corporation, the Members of which shall be Declarant and each of the Maintenance Associations organized within the Project.

1.21 "Member" shall mean a person or entity entitled to membership in the Master Association as provided herein.

1.22 "Mortgage" shall mean a mortgage or deed of trust encumbering a Lot or Unit or other portion of the Project. A "Mortgagee" shall include the beneficiary under a deed of trust. A "First Mortgage" or "First Mortgagee" is one having priority as to all other Mortgages or holders of Mortgages encumbering the same Lot or Unit or other portion of the Project. A "First Mortgagee" shall include any holder, insurer, or guarantor of a First Mortgage on a Lot or Unit or other portion of the Project. Any and all Mortgagee protections contained in the Project Documents shall also protect Declarant as the holder of a Mortgage or other security interest in any Lot or Unit in the Project.

1.23 "Owner" shall mean the person or entity holding a record fee simple ownership interest in a Lot or Unit, including Declarant, as well as vendees under installment purchase contracts. "Owner" shall not include persons or entities who hold an interest in a Lot or Unit merely as security for the performance of an obligation. In the case of Lots, "Owner" shall include the record owner or contract vendee of each Lot until the filing of a declaration of condominium and record of survey map with respect to the improvements constructed on such Lot. Thereafter, "Owner" shall refer to the individual owners and contract vendees of Units in the Condominium Project constructed on such Lot.

1.24 "Permit" shall mean the permit, if any, issued by the California Department of Real Estate or any successor state agency pursuant to the California Out-of-State Land Promotions Law (Business and Professions Code Section 10249 et seq.) as it may be amended from time to time. The Declarant may, but shall not be obligation to, sell Lots or Units in the Project to purchasers in California. References in the Project Documents to a Permit shall not be construed as a representation by Declarant that such a Permit has been applied for, will be applied for, has been issued or will be issued for the Project but are included for the sole purpose of assisting the Declarant in qualifying the Project for a Permit when and if it chooses to do so. Where any right contained in the Project Documents is limited by an event

which is defined in relation to the issuance of a Permit, and no such Permit has been issued, such limiting event shall be deemed to have not yet occurred and such right shall continue to exist unlimited by such event.

1.25 "Project" shall mean the real property located in Salt Lake County, Utah and more particularly described as:

Lots 1 through 9, inclusive, as shown on that certain map entitled "SUGARPLUM, A PLANNED UNIT DEVELOPMENT" filed concurrently herewith in the office of the Salt Lake County Recorder, as the same may be amended from time to time, and all improvements erected thereon.

Prior to the filing of the Map with the Salt Lake County Recorder, the Project shall be described as set forth in attached Exhibit "A".

1.26 "Project Documents" shall mean the Articles, Bylaws, Declaration, Rules and Regulations of the Master Association, and Architectural Control Guidelines.

1.27 "Rules and Regulations" shall mean the rules and regulations promulgated by the Master Association to further govern the possession, use and enjoyment of the Project, as amended from time to time.

1.28 "Structure" shall mean any tangible thing or device to be fixed permanently or temporarily to real property including but not limited to any Dwelling, as defined herein, building, garage, driveway, walkway, concrete pad, asphalt pad, gravel pad, porch, patio, shed, greenhouse, bathhouse, tennis court, pool, barn, stable, fence, wall, pole, sign, antenna, or tent.

1.29 "Unit" shall mean each Condominium Unit in the Project.

## ARTICLE II

### DESCRIPTION OF PROJECT; RIGHTS OF OWNERS, DECLARANT

#### 2.1 Description of Project.

##### 2.1.1 Project.

The Project shall consist of all of the real property described in attached Exhibit "A", and all of the improvements thereon.

2.1.2 Lots.

The Project shall consist of nine Lots, each of which are to be improved with one or more Condominium Buildings, commercial buildings and facilities, parking facilities or appurtenant structures or facilities. The Lots do not include the Common Area. Declarant reserves the right to increase or decrease the number of Lots in the Project, subject to the density restrictions described in Section 2.1.4, as well as the right to change the location or size of any Lot prior to the time that such Lot is sold by Declarant to any third party. All such changes to the number, size or location of any Lot shall be effected by a modification of the Map.

2.1.3 Reservation of Air Space.

Declarant hereby reserves unto itself, its successors and assigns, the exclusive right to develop, build upon, lease, sell and otherwise use the air space above Lot 5 (the "Air Space"). Declarant also reserves an easement with respect to Lot 5 for the placement of any pillars, posts, walls, footings or other devices used to support any structures which may be constructed in the Air Space reserved hereby. Declarant and/or any transferee of the Air Space shall have the right to construct any improvements therein for commercial, retail, residential, recreational or any other use permitted by applicable state and local law. No owner of Lot 5 or any part thereof shall impair or restrict development of the Air Space, but shall cooperate fully with such development and execute any such further documents or agreements deemed necessary by Declarant for the development of such space. Declarant further reserves an easement for egress and ingress over Lot 5, and the roads within the Project providing access to Lot 5, for the purpose of constructing and improving the Air Space, and for access to and from the improvements constructed in the Air Space. Such easement shall also be used for ingress and egress by any other owners, lessees, guests, employees, contractors, invitees or customers of Declarant or any subsequent owner(s) of the Air Space or any improvements constructed thereon. Any instrument conveying an interest in Lot 5 shall disclose the reservation of air space rights as described herein, and shall describe the dimensions of the Air Space, in particularity, and the rights reserved therewith and appurtenant thereto.

2.1.4 Maintenance Associations.

There shall be several Maintenance Associations organized in the Project. Each Lot and each Unit in the Project shall be included in a Maintenance Association (commonly referred to as a homeowners' or unit owners' association) created for the purpose of operating, maintaining and governing the use of the Improvements and the common areas and facilities constructed or naturally existing on the Lot(s)

included in each Maintenance Association. Each Maintenance Association shall assess and collect fees from its members, in accordance with the provisions of its governing instruments, to cover the cost of its activities and responsibilities. It is anticipated that each Condominium Project shall establish its own Maintenance Association, although there may be one or more Condominium Buildings in any Condominium Project. A Maintenance Association may be limited to a single Lot and the Improvements thereto, or may be comprised of two or more Lots and the Improvements thereto, at the discretion of the Owner(s) of such Lots, and pursuant to the provisions of Utah State Law.

2.1.5 Density.

The Project is zoned for the construction of a maximum of 200 Units. Declarant shall have the right to allocate the specific number of Units to be constructed on each Lot at the time such Lot is conveyed by Declarant to any third party (or such earlier date as Declarant may desire). Attached Exhibit "B" shall set forth the allocation of Units to be constructed on each Lot in the Project. On or before the sale of any Lot in the Project by Declarant, Exhibit "B" shall be amended, if necessary, to specify the maximum number of Units to be constructed on such Lot. After any Lot has been sold by Declarant to a third party, Exhibit "B" can only be amended with respect to such Lot with the approval of the owner thereof and Declarant. Lot and Unit owners shall execute such documents as are necessary to carry out the provisions of this Subsection 2.1.4, including, but not limited to, amendments hereto, affidavits, consents, etc.

2.1.6 Common Area.

The Common Area shall consist of (i) the property designated as Lot "A" on the Map, (ii) all real property and improvements thereto within the Project, which are owned and maintained by the Master Association for the use and benefit of the Members, including any roads which are not situated entirely on any single Lot, (iii) any leases, easements, or other rights over Project property which are owned by the Master Association for the use and benefit of the Members, and (iv) any portion of the Project which is owned by the Members as tenants-in-common but which is maintained by the Master Association for the use and benefit of the Members. Except as otherwise approved by the Town of Alta, no residential or commercial structures shall be constructed on the Common Area.

2.1.7 Incidents of Lot Ownership,  
Inseparability

Every Lot and Unit shall have appurtenant to it the following interests:

(b) a non-exclusive easement for use, enjoyment, ingress and egress over the Common Area subject to such restrictions and limitations as are contained in the Project Documents and subject to other reasonable regulation by the Master Association.

Such interests shall be appurtenant to and inseparable from ownership of the Lot or Unit. Any attempted sale, conveyance, hypothecation, encumbrance or other transfer of these interests without the Lot or appurtenant Unit shall be null and void. Any sale, conveyance, hypothecation, encumbrance or other transfer of a Lot or Unit shall automatically transfer these interests to the same extent.

2.1.8 Owner's Obligation to Maintain Lot

Except where such duties have been delegated to a Maintenance Association, each Owner shall maintain his Lot or Unit, and all Improvements thereon, in a safe, sanitary and attractive condition. In the event that an Owner fails to maintain his Lot or Unit as provided herein in a manner which the Board reasonably deems necessary to preserve the appearance and/or value of the Project, the Board may notify the Owner of the work required and demand that it be done within a reasonable and specified period. In the event that the Owner fails to carry out such maintenance within said period, the Board shall, subject to the notice and hearing requirements of Section 7.2.1.2, have the right to enter upon the Lot or Unit to cause such work to be done and individually charge the cost thereof to such Owner. Notwithstanding the foregoing, in the event of an emergency arising out of the failure of an Owner to maintain his Lot or Unit, the Board shall have the right to immediately enter upon the Lot or Unit to abate the emergency and Individually Charge the cost thereof to such Owner.

2.1.9 Maintenance Association's Obligation to Maintain

Maintenance Associations shall be responsible for the maintenance of a certain Lot or Lots in the Project pursuant to a recorded declaration of covenants, conditions and restrictions with respect to such Lot or Lots.

The Master Association will be responsible for maintaining (including snow removal), repairing and replacing of all of the private roads in the Project, but shall assess each Maintenance Association for its share of the cost of such maintenance, repair and replacement as follows:

(a) Each of the Maintenance Associations having responsibility for Lots 1-3 shall individually bear the expense of maintaining the road(s) located on the Lot(s) included in each such Maintenance Association.

(b) The Maintenance Association(s) having responsibility for Lots 4-9 shall bear the expense of maintaining the road(s) providing access to such Lots from Little Cottonwood Road, as shown on the Map.

The cost of maintaining, repairing and replacing all other private roads in the Project shall be a common expense of the Project. In the event that the maintenance expenses for a particular road are to be paid by more than one Maintenance Association as set forth above, such expenses shall be allocated between the Maintenance Associations to be charged based on the number of Units in each of such Maintenance Associations.

Each Maintenance Association shall maintain, repair and replace its area of responsibility and all Improvements thereon, in a safe, sanitary and attractive condition. Such maintenance responsibility shall include, but shall not be limited to, the control of rubbish, trash, garbage and landscaping visible from other portions of the Project. In the event that a Maintenance Association fails to maintain its area of responsibility as provided herein in a manner which the Board reasonably deems necessary to preserve the appearance and/or value of the Project, the Board shall notify the Maintenance Association of the work required and demand that it be done within a reasonable and specified period. In the event that the Maintenance Association fails to carry out such maintenance within said period, the Board shall, subject to the notice and hearing requirements of Section 7.2.1.2, have the right to enter upon said area of responsibility to cause such work to be done and individually charge the cost thereof to such Maintenance Association. Notwithstanding the foregoing, in the event of an emergency arising out of the failure of a Maintenance Association to maintain its area of responsibility, the Board shall have the right to immediately enter upon said area of responsibility to abate the emergency and individually charge the cost thereof to such Maintenance Association.

#### 2.1.8 Encroachment Easements

Each Owner is hereby declared to have an easement appurtenant to his Lot, over all adjoining Lots and the Common Area for the purpose of accommodating the encroachment due to minor and professionally acceptable errors in engineering, original construction, settlement or shifting of a building, or any other cause. The Master Association is hereby declared to have an easement appurtenant to the Common Area over all adjoining Lots for the purpose of accommodating any Common Area encroachment due to minor and professionally acceptable errors in engineering, original construction, settlement, or shifting of a building or any other cause. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachments, settlement or shifting;

provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Lot agree that minor encroachments over adjoining Lots or Common Area or by Common Area over Lots shall be permitted and that there shall be a valid easement for the maintenance of such encroachments so long as they shall exist.

2.1.9 Delegation of Use; Contract Purchasers, Lessees, Tenants

Any Owner may temporarily delegate his rights of use and enjoyment in the Project to the members of his family, his guests, and invitees, and to such other persons as may be permitted by the Project Documents, subject however, to the Project Documents. However, if an Owner of a Lot or Unit has sold his Lot or Unit to a contract purchaser, leased or rented it, the Owner, members of his family, his guests and invitees shall not be entitled to use and enjoy the Project while such contract of sale or lease is in force. Instead, the contract purchaser, lessee or tenant, while such contract or lease remains in force, shall be entitled to use and enjoy the Project and may delegate the rights of use and enjoyment in the same manner as if such contract purchaser, lessee or tenant were an Owner during the period of his occupancy. Each Owner shall notify the secretary of the Master Association of the names of any contract purchasers, lessees or tenants of such Owner's Lot or Unit. Each Owner, contract purchaser, lessee or tenant also shall notify the secretary of the Master Association of the names of all persons to whom such Owner, contract purchaser, lessee or tenant has delegated any rights of use and enjoyment in the Project and the relationship that each such person bears to the Owner, contract purchaser, lessee or tenant. Any delegated rights of use and enjoyment are subject to suspension to the same extent as are the rights of Owners.

2.1.10 Responsibility for Common Area Damage

The cost of repair or replacement of any portion of the Common Area resulting from the willful or negligent act of an Owner, his contract purchasers, lessees, tenants, family, guests or invitees shall be, in addition to the party at fault, the joint responsibility of such Owner to the extent that it is not covered by insurance maintained by the Master Association. The Master Association shall cause such repairs and replacements to be made and the cost thereof may be levied as an Individual Charge against such Owner.

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2.2 Rights of Declarant

2.2.1 Reservation of Easements to Complete, Sell

Declarant hereby reserves in itself, its successors, assigns and any other Developers the following easements over the Project to the extent reasonably necessary to complete and sell, lease, rent or otherwise dispose of the Lots or Units constructed thereon:

(a) easements for ingress and egress, drainage, encroachment, utilities, maintenance of temporary structures, operation and storage of construction equipment and vehicles, for doing all acts reasonably necessary to complete or repair the Project, or to discharge any other duty of Declarant and any other Developers under the Project Documents or sales contracts or otherwise imposed by Law.

(b) easements for activity reasonably necessary to sell, lease, rent or otherwise dispose of the Lots or Units.

These easements shall exist until the date on which the last Lot or Unit is sold by Declarant or any Developer.

2.3 Utilities

2.3.1 Rights and Duties

Whenever sanitary sewer, water, electric, gas, television receiving, telephone lines or other utility connections are located or installed within the Project, the Owner of each Unit served by said connections shall be entitled to the non-exclusive use and enjoyment of such portions of said connections as service his Unit. Every Owner shall pay all utility charges which are separately metered or billed to his Unit. The Maintenance Association established by any Condominium Building(s) in the Project shall pay all utility charges which are metered or billed to the structures served by such Maintenance Association. Every Owner shall maintain all utility installations located in or upon his Unit except for those installations maintained by the Master Association, a Maintenance Association, or utility companies, public or private. The Master Association, Maintenance Associations and utility companies shall have the right, at reasonable times after reasonable notice to enter upon the Units, Common Area, or other portions of the Project to discharge any duty to maintain Project utilities.

Whenever sanitary sewer, water, electric, gas, television receiving, telephone lines or other utility connections, are located within the Project, the Owner of a Unit served by said connections shall have the right, and is hereby granted an easement to the full extent necessary therefore, to at



reasonable times after reasonable notice enter upon Units, Lots, Common Area or other portions of the Project or to have his agents or the utility companies enter upon the Lots, Units, Common Area, or other portions of the Project to maintain said connections.

In the event of a dispute between Owners with respect to the maintenance, repair or rebuilding of said connections, or with respect to the sharing of the cost thereof, then the matter shall be submitted to the Board, which shall have final authority to resolve each such dispute.

### 2.3.2 Easements for Utilities and Maintenance

Easements over and under the Project for the installation, repair and maintenance of sanitary sewer, water, electric, gas, and telephone lines, cable or master television antenna lines, and drainage facilities, which are of record in the office of the Salt Lake County Recorder, or as may be hereafter required to serve the Project, are hereby reserved for Declarant and the Master Association, together with the right to grant and transfer the same.

## ARTICLE III

### USE RESTRICTIONS

In addition to all of the covenants contained herein, the use of the Project and each Lot and Unit therein is subject to the following:

#### 3.1 Use of Individual Lots

Except as otherwise provided herein, each Lot may be used in any manner consistent with the requirements of applicable zoning and other land use ordinances and regulations. Nevertheless, without limiting the nature of the Improvements that may be constructed on any Lot or the nature of the form of legal ownership of such improvements (e.g. condominiums, planned unit developments, subdivision of Lots, etc.), it is anticipated that Lots 1-4, inclusive, and 6-9, inclusive, shall be improved with Condominium Buildings, commercial buildings, and appurtenant facilities;

Lot 5 shall be reserved for and improved with a parking facility for the owners of Lot 4 and Lots 6-9 and the Units constructed thereon, subject to Declarant's reservation of the air space rights to Lot 5 as described in Section 2.1.3 above. In addition, Declarant, its successors or assigns, and other Developers may use any Units in the Project owned by Declarant or

such other Developers for model home units, sales offices, project management offices and other general administrative facilities.

Lot A shall be part of the Common Area, as described in Section 2.1.5 above, and shall not be developed or improved with any residential or commercial buildings.

### 3.2 Nuisances

No noxious, illegal, or offensive activities shall be carried on in any Unit, Lot or other part of the Project, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to or which may in any way interfere with each owner's quiet enjoyment of his respective Lot or Unit, or which shall in any way increase the rate of insurance for the Project or for any other Lot or Unit, or cause any insurance policy to be cancelled or cause a refusal to renew the same.

### 3.3 Parking

Unless otherwise permitted by the Board, no motor vehicles shall be parked or left on any portion of the Project other than within a driveway, garage, carport or other parking structure.

No truck larger than three-quarter (3/4) ton, nor trailer, nor camper shell (other than attached to a pickup truck regularly used by an Owner), nor vehicles designed and operated as off the road equipment for racing or other sporting events, shall be permitted on the Project for longer than twenty-four hours without the consent of the Board. The Master Association may reserve certain portions of any parking facility constructed in the Project for the parking of such vehicles.

### 3.4 Signs

No sign of any kind shall be displayed to the public view from any Lot, Unit or from the Common Area or from any other portion of the Project without the approval of the Board except (i) one sign of customary and reasonable dimensions advertising a Lot or Unit for sale, lease or rent displayed from such Lot or Unit, and (ii) such signs as may be used by Declarant or its assignees for the purpose of selling Lots or Units as permitted by Section 2.2.1. However, the provisions of this Subsection 3.4 shall not apply to any improvements constructed in the Air Space above Lot 5.

BOOK 5482 PAGE 1190

### 3.5 Animals

Unless expressly authorized by the Board, no animals of any kind shall be raised, bred, or kept on any portion of the Project.

### 3.6 Garbage and Refuse Disposal

All rubbish, trash and garbage and other waste shall be regularly removed from the Project, and shall not be allowed to accumulate thereon. Rubbish, trash, garbage and other waste shall be kept in sanitary containers. All equipment, garbage cans, or storage piles shall be kept screened and concealed from the view of other portions of the Project, except for the scheduled day for trash pick-up.

### 3.7 Radio and Television Antennas

No Owner may construct, use, or operate his own external radio, television or other electronic antenna or satellite receiver without the consent of the Board. No Citizens Band or other transmission shall be permitted from the Project without the consent of the Board.

### 3.8 Right to Lease, Rent

Nothing in this Declaration shall prevent an Owner from leasing or renting his Lot or Unit. However, any lease or rental agreement shall be in writing and be expressly subject to the Project Documents and any lease or rental agreement must specify that failure to abide by such provisions shall be a default under the lease or rental agreement.

### 3.9 Power Equipment and Car Maintenance

No power equipment, work shops, or car maintenance or any nature, other than emergency repair, shall be permitted on the Project without the consent of the Board. In deciding whether to grant approval, the Board shall consider the effects of noise, air pollution, dirt or grease, unsightliness, fire hazard, interference with radio or television reception, and similar objections.

### 3.10 Drainage

No Owner shall do any act or construct any improvement which would interfere with the natural or established drainage systems or patterns within the Project without the approval of the Board. Provided, however, drainage from the back portion of each Lot on which Improvements are constructed shall comply with the requirements of the Salt Lake County Flood Control District.

### 3.11 Mineral Exploration

Subject to the right of the owners of mineral rights with respect to the Project (provided this Subsection shall not be deemed to increase the scope of such rights or grant any additional rights to such owners), no portion of the Project shall be used in any manner to explore for or to remove any oil or other hydrocarbons, minerals of any kind, gravel, or earth substance. No drilling, exploration, refining, quarrying, or mining operations of any kind shall be conducted or permitted to be conducted thereon; nor shall wells, tanks, tunnels, mineral excavations, shafts, derricks, or pumps used to mine or drill for any substances be located on the Project. No drilling for water or geothermal resources or the installation of such wells shall be allowed unless specifically approved by the Board.

### 3.12 Water Use

No Owner of a Lot or Unit contiguous to a stream or body of water shall have any rights over or above those of other Owners with respect to use of the water, the land thereunder, or the water therein. No person shall acquire or be divested of title to any land adjacent to or beneath such water within the Project due to accretion, erosion, or change in water levels. No Lot shall be contoured or sloped, nor may drains be placed upon any Lot, so as to encourage drainage of water from such Lot into any body of water without the approval of the Architectural Control Committee. All streams and other natural bodies of water within the Project are protected as watershed, and access thereto by persons and animals is strictly prohibited.

### 3.13 Maintenance Association Use Restrictions

Nothing herein shall prevent Declarant, a Developer or a Maintenance Association from adopting use restrictions for a Lot or portion of the Project which are more restrictive than those set forth herein, provided that such restrictions shall in no way modify the provisions hereof.

### 3.14 Fair Housing

No Owner shall either directly or indirectly forbid or restrict the conveyance, encumbrance, lease, mortgaging or occupancy of his Lot or Unit to any person on the basis of race, color, religion, ancestry or national origin.

### 3.15 Compliance with Project Documents

Each Owner, contract purchaser, lessee, tenant, guest, invitee, or other occupant of a Lot or Unit or user of the Common Area shall comply with the provisions of the Project Documents.

### 3.16 Use of Common Area by Public

The general public shall have a right of entry through and over the Common Area for the purpose of access to any portion of the Project used for commercial purposes in accordance with the terms and provisions hereof.

### 3.17 Timeshare

Except as otherwise approved by the Town of Alta, no Units of the Project shall be developed as timeshare projects, nor shall any "timeshare interests" (as that term is defined in the Utah Uniform Land and Timeshare Sales Practices Act, U.C.A. §57-11-2(11) [1953, as amended in 1983]) be created or sold in the Project.

### 3.18 Lock-Out

In the event of avalanche or the threat thereof, authorized agents of the Town of Alta may prohibit all ingress and egress to and from the Project, as well as all access to or exit from any Building in the Project by any Owners, lessees, guests, employees or any other persons. In the event of any such prohibition on access and travel, neither the Town of Alta nor its authorized agents shall be liable to Declarant, the Owners, their lessees, guests, employees or any other persons for loss or damage occasioned by or resulting from such prohibition.

## ARTICLE IV

### THE ASSOCIATION MEMBERSHIP AND VOTING

#### 4.1 Master Association

Sugarplum Master Homeowners Association, a Utah nonprofit corporation, shall be the Master Association.

#### 4.2 Management of Project

The management of the Project shall be vested in the Master Association in accordance with the Project Documents and all applicable laws, regulations and ordinances of any governmental or quasi governmental body or agency having jurisdiction over the Project.

#### 4.3 Membership

Declarant and each Maintenance Association shall be a Member of the Master Association, subject to the Project Documents.

#### 4.4 Transferred Membership

Membership in the Master Association shall not be transferred, pledged, or alienated in any way by, or on behalf of, any Maintenance Association.

#### 4.5 Voting

There shall be two hundred (200) votes in the Master Association, allocated between the Maintenance Associations, based on one (1) vote for each Unit included in each Maintenance Association. Declarant shall be entitled to exercise any remaining votes. However, in the event that the Town of Alta or any other governmental entity having jurisdiction over the Project shall restrict the total number of Units which can be constructed on the Project to more or less than 200 Units, then the total number of votes in the Master Association shall be increased or decreased by the same amount.

The President of each Maintenance Association or his Agent shall cast all of the votes to which such Association is entitled.

#### 4.6 Record Date

The Association shall fix, in advance, a date as a record date for the determination of the number of votes exercisable by each Maintenance Association. The record date shall be not less than ten (10) days nor more than ninety (90) days prior to any meeting or taking action.

#### 4.7 Commencement of Voting Rights

The voting rights of each Maintenance Association with respect to the Units included therein shall not vest until Assessments have been levied against those Units by the Master Association, as set forth in Subsection 6.8 hereof; provided, however, Declarant's voting rights shall vest upon execution of this Declaration.

#### 4.8 Special Majorities

There are various sections of the Project Documents which require the vote or written assent of a majority of the voting power of the Association residing in Members other than Declarant prior to the undertaking of certain actions by the Master Association or the Board. In no event shall such provisions be deemed to preclude Declarant from casting the votes to which it is entitled pursuant to Subsection 4.5 hereof. Therefore, with the exception of the voting requirements of Article X hereof, any provision in the Project Documents which requires the vote or written assent of a majority of the voting power of the Association residing in Members other than Declarant

shall also require the vote or written assent of a majority of the total voting power of the Association.

#### 4.9 Membership Meetings

Regular and special meetings of the Master Association shall be held with the frequency, at the time and place and in accordance with the provisions of the Bylaws.

#### 4.10 Board of Trustees

The affairs of the Master Association shall be managed by the Board of Trustees, which shall be established, and which shall conduct regular and special meetings according to the provisions of the Articles and Bylaws.

### ARTICLE V

#### MASTER ASSOCIATION POWERS, RIGHTS, DUTIES, LIMITATIONS

##### 5.1 Generally

The Master Association shall have the power to perform any action reasonably necessary to exercise any right or discharge any duty enumerated in this Article V or elsewhere in the Project Documents or reasonably necessary to operate the Project. In addition, the Master Association shall have all the powers and rights of a nonprofit corporation under the laws of the State of Utah.

The Master Association shall act through its Board of Trustees and the Board shall have the power, right and duty to act for the Master Association except that actions which require the approval of the Members of the Master Association shall first receive such approval.

The powers, rights, duties and limitations of the Master Association set forth in this Article V and elsewhere in the Project Documents shall rest in and be imposed on the Master Association concurrently with the close for the first sale of a Lot in the Project.

##### 5.2 Enumerated Rights

In addition to those Master Association rights which are provided elsewhere in the Project Documents the Master Association shall have the following rights:

5.2.1 Delegation

To elect, employ, appoint, to assign and to delegate the rights and duties of the Master Association to officers, employees, agents and independent contractors.

5.2.2 Enter Contracts

To enter contracts with third parties to furnish goods or services to the Project subject to the limitations of Section 5.4.

5.2.3 Borrow Money

To borrow money and with the approval by vote or written assent of a majority of the voting power of the Master Association, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

5.2.4 Dedicate and Grant Easements

To dedicate or transfer all or any part of the Common Area to any public agency, authority or utility or any other entity for such purposes and subject to such conditions as may be agreed to by the Master Association; provided, however, that no such dedication or transfer shall be effective unless (i) such dedication or transfer is approved by two thirds (2/3) of the voting power of the Master Association, and (ii) an instrument in writing is signed by the Secretary of the Master Association certifying that such dedication or transfer has been approved by the required vote or written assent.

5.2.5 Establish Rules and Regulations

To adopt reasonable rules not inconsistent with this Declaration, the Articles or the Bylaws, relating to the use of the Common Area and all facilities thereon, and the conduct of Owners, Developers and their contract purchasers, lessees, tenants and guests with respect to the Project and other Owners. Pursuant to those Rules and Regulations, the Master Association shall have the right to limit the number of guests of an Owner or Developer utilizing the Common Area, the manner in which the Common Area may be used, and the right to charge reasonable admission and other fees for the use of any recreational facility situated on the Common Area. A copy of the Rules shall be mailed or otherwise delivered to each Owner and Developer and a copy shall be posted in a conspicuous place within the Common Area.

BOOK 5482 PAGE 1156



5.2.6 Entry

To enter upon any portion of the Project, including any Lot or Unit after giving reasonable notice to the Owner thereof, for any purpose reasonably related to the performance by the Master Association of its duties under this Declaration. In the event of an emergency such right of entry upon any Lot or Unit shall be immediate.

5.3 Enumerated Duties

In addition to those Master Association duties which are imposed elsewhere in the Project Documents the Master Association shall have the following duties:

5.3.1 Manage, Maintain Common Area

The Master Association shall manage, operate, maintain, repair and replace any property acquired by or subject to the control of the Master Association, including personal property, in a safe, sanitary and attractive condition.

5.3.2 Enforce Project Documents

To enforce the provisions of the Project Documents by appropriate means as provided at Article 7.

5.3.3 Maintain Flood Control System.

To maintain, repair and replace the flood control facilities and equipment located on and serving the Project.

5.3.4 Levy and Collection of Assessments and Individual Charges

To fix, levy and collect Assessments and Individual Charges in the manner provided in Articles VI and VII.

5.3.5 Taxes and Assessments

To pay all real and personal property taxes and assessments and all other taxes levied against the Common Area, personal property owned by the Master Association or against the Master Association. Such taxes and assessments may be contested or compromised by the Master Association; provided, that they are paid or that a bond or other security insuring payment is posted before the sale or the disposition of any property to satisfy the payment of such taxes.

To prepare and file annual tax returns with the Federal government and the State of Utah and to make such elections as may be necessary to reduce or eliminate the tax liability of the Master Association.

5.3.6 Water and Other Utilities

To acquire, provide and pay for utility services as necessary for the Common Area.

5.3.7 Legal and Accounting

To obtain and pay the cost of legal and accounting services necessary or proper to the maintenance and operation of the Project and the enforcement of the Project Documents.

5.3.8 Insurance

To obtain and pay the cost of insurance for the Project as provided in Section 8.1.

5.3.9 Bank Accounts

To deposit all funds collected from Owners pursuant to Articles VI and VII hereof and all other amounts collected by the Master Association as follows:

(a) All funds shall be deposited in a separate bank account ("General Account") with a federally insured bank located in the State of Utah. The Funds deposited in such account may be used by the Master Association only for the purposes for which such funds have been collected.

(b) Funds which the Master Association shall collect for reserves for capital expenditures relating to the repair and maintenance of the Common Area, and for such other contingencies as are required by good business practice shall, within ten (10) days after deposit in the General Account, be deposited into an interest bearing account with a federally insured bank or savings and loan association located in the State of Utah and selected by the Master Association, or invested in Treasury Bills or Certificates of Deposit or otherwise prudently invested which shall all herein be collectively referred to as the "Reserve Account". Funds deposited into the Reserve Account shall be held in trust and may be used by the Master Association only for the purposes for which such amounts have been collected.

5.3.10 Annual Report of Domestic Nonprofit Corporation

To make timely filings of the annual report required by Section 16-6-97 and 16-6-98 of the Utah Nonprofit Corporation and Cooperative Association Act. Such annual report shall be made on forms prescribed and furnished by the Secretary of State of Utah and shall be delivered to the Secretary of State between the first day of January and the first day of April of

each year, except that the first annual report shall be filed between the first day of January and the first day of April of the year next succeeding the calendar year in which the certificate of incorporation was issued by the Secretary of State.

5.3.11 Preparation and Distribution of  
Financial Information

To regularly prepare budgets and financial statements and to distribute copies to each Member and each Owner as follows:

(a) A pro-forma operating statement (budget) for each fiscal year shall be distributed not less than sixty (60) days before the beginning of the fiscal year;

(b) A balance sheet as of an accounting date which is the last day of the month closest in time to six months from the date of closing of the first sale of a Lot or Unit, and an operating statement, for the period from the date of the first closing to the said accounting date, shall be distributed within 60 days after the accounting date. This operating statement shall include a schedule of assessments received and receivable identified by the number of the subdivision Lot or Unit and the name of the entity assessed.

(c) An annual report consisting of the following shall be distributed within one hundred twenty (120) days after the close of the fiscal year as defined below;

- (i) A balance sheet as of the last day of the fiscal year;
- (ii) An operating (income) statement for said fiscal year;
- (iii) A statement of changes in financial position for said fiscal year.

For any fiscal year in which the gross income to the Master Association exceeds Seventy-Five Thousand Dollars (\$75,000.00) the annual report referred to above shall be prepared by an independent accountant. If the annual report is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized Officer of the Master Association that the statements were prepared without an audit from the books and records of the Master Association.

5.3.12 Maintenance and Inspection of books and Records

To cause to be kept adequate and correct books of account, a register of Members, minutes of Member and Board meetings, a record of all corporate acts, and other records as are reasonably necessary for the prudent management of the Project and to present a statement thereof to the Members at the annual meeting of Members.

The Membership register (including names, addresses and voting rights), books of account and minutes of meetings of the Members, of the Board, and of committees shall be made available for inspection and copying by any Member of the Master Association, or by its duly appointed representative, and any Owner, at any reasonable time and for a purpose reasonably related to his interest as a Member, at the principal office of the Master Association or at such other place within the Project as the Board of Trustees shall prescribe. The Board shall establish reasonable rules with respect to:

- (a) Notice to be given to the custodian of the records by the Member or Owner desiring to make the inspection;
- (b) Hours and days of the week when such an inspection may be made;
- (c) Payment of the cost of reproducing copies of the documents requested by a Member or Owner.

Every Trustee shall have the absolute right at any reasonable time to inspect all books, records and documents of the Master Association and the physical properties owned or controlled by the Master Association. The right of inspection by a Trustee includes the right to make extracts and copies of documents.

5.3.13 Statements of Status

To provide, upon the request of any Owner or Mortgagee, a written statement setting forth the amount, as of a given date, of any unpaid Assessments or Individual Charges against any Member. Such statement, for which a reasonable fee may be charged, shall be binding upon the Master Association in favor of any person who may rely thereon in good faith. Such written statement shall be provided within ten (10) days of the request.

BOOK 5482 PAGE 1200

5.3.14 Architectural Control

To maintain architectural control over the Project and appoint the members of the Architectural Control Committee in connection therewith, pursuant to Article XI.

5.4 Enumerated Limitations

Except with the vote or written assent of a majority of the total voting power of the Master Association residing in Members other than Declarant, the Board shall be prohibited from taking any of the following actions:

(a) Entering into a contract with a third person wherein the third person will furnish goods or services for the Common Area or to the Master Association for a term longer than one (1) year with the following exceptions:

(i) A contract with a public utility company if the rates charged for the materials or services are regulated by a public utilities entity; provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.

(ii) Prepaid casualty and/or liability insurance policies of not to exceed three (3) years duration provided that the policy permits short rate cancellation by the insured.

(iii) Lease agreements for laundry room fixtures and equipment of not to exceed five (5) years duration provided that the lessor under the agreement is not an entity in which the Declarant has a direct or indirect ownership interest of ten percent (10%) or more.

(b) Incurring aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Master Association for that fiscal year;

(c) Selling during any fiscal year property of the Master Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Master Association for that fiscal year;

(d) Paying compensation to Trustees or to Officers of the Master Association for services performed in the conduct of the Association's business; provided, however, that the Board may reimburse a Trustee or Officer for expenses incurred in carrying on the business of the Master Association;

(e) Filling a vacancy on the Board created by the removal of a Director.

## ARTICLE VI

### ASSESSMENTS

#### 6.1 Agreement to Pay Assessments and Individual Charges; Vacant Lot Exemption

Declarant for each Lot or Unit owned by it, hereby covenants and agrees, and each Owner, by acceptance of a deed for a Lot or Unit, is deemed to covenant and agree for each Lot or Unit owned, to pay all Regular Assessments and all Special Assessments (collectively "Assessments"), and all Individual Charges, to be established and collected as provided in this Declaration and in the other Project Documents. All Assessments shall be levied against each of the Maintenance Associations for the Lots and Units included in each such Maintenance Association. Each Maintenance Association shall be responsible for collecting from its members, each member's pro-rata share of such Assessments, in accordance with the governing instruments of the Maintenance Association.

#### 6.2 Purpose of Assessments

The purpose of Assessments is to raise funds necessary to operate the Project. Assessments shall be used exclusively to promote the recreation, health, safety and welfare of all the Owners and for the improvement, maintenance and administration of the Project and other expenditures incurred in the performance of the duties of the Master Association as set forth in the Project Documents.

#### 6.3 Regular Assessments

The purpose of Regular Assessments is to raise funds necessary to pay the anticipated costs of operating the Project during the fiscal year and to accumulate reserves to pay costs anticipated in future years. Not less than sixty (60) days before the beginning of each fiscal year, the Board shall prepare or cause to be prepared, and distributed to each Member, a proposed pro forma operating statement or budget for the forthcoming fiscal year. Copies of the proposed budget shall be made available to all Owners upon request. Any Member and any Owner may make written comments to the Board with respect to said pro forma operating statement. The pro forma operating statement shall be prepared consistently with the prior fiscal year's operating statement and shall include adequate reserves for contingencies and for maintenance, repairs and replacement of the

Common Area improvements or Master Association personal property likely to need maintenance, repair or replacement in the future.

Not more than sixty (60) days nor less than thirty (30) days before the beginning of each fiscal year, the Board shall meet for the purpose of establishing the Regular Assessment for the forthcoming fiscal year. At such meeting the Board shall review the proposed pro forma operating statement or budget, and written comments received and any other information available to it and, after making any adjustments that the Board deems appropriate, shall establish the Regular Assessment for the forthcoming fiscal year; provided, however, that the Board may not establish a Regular Assessment for any fiscal year which is more than twenty percent (20%) greater than the Regular Assessment for the immediately proceeding fiscal year without the approval of a majority of the voting power of the Master Association residing in Members other than Declarant. Not less than thirty (30) days before the beginning of each fiscal year the Board shall distribute to each Member and each Owner a final copy of the pro forma operating statement or budget for the forthcoming fiscal year. Regular Assessments shall be payable in equal monthly installments due on the first day of each month, unless the Board adopts some other basis for collection.

#### 6.4 Special Assessments

##### 6.4.1 General

If the Board determines that the estimated total amount of funds necessary to defray the common expenses of the Master Association for a given fiscal year is or will become inadequate to meet expenses for any reason, including, but not limited to, unanticipated delinquencies, costs of construction, unexpected repairs or replacements of capital improvements on the Common Area, the Board shall determine the approximate amount necessary to defray such expenses, and if the amount is approved by the Board it shall become a Special Assessment. The Board may, in its discretion, provide for the payment in installments of such Special Assessment over the remaining months of the fiscal year or levy the Assessment immediately against each Unit. Special Assessments shall be due on the first day of the month following notice of their levy.

##### 6.4.2 Limitation on Special Assessments

Any Special Assessment which singly or in the aggregate with previous Special Assessments for the fiscal year would amount to more than five percent (5%) of the budgeted gross expense of the Association for the fiscal year, shall require approval of a majority of the voting power of the Association residing in Members other than Declarant.

#### 6.5 Individual Charges

Individual Charges may be levied against an Owner (i) as a monetary penalty imposed by the Master Association as a disciplinary measure for the failure of the Owner, his guests, invitees, or lessees, to comply with the Project Documents, or (ii) as a means of reimbursing the Master Association for costs incurred by the Master Association for repair of damage to Common Areas and facilities for which the Owner was responsible, or to otherwise bring the Owner and his Unit into compliance with the Project Documents. Individual Charges against an Owner shall not be enforceable through the lien provisions of the Project Documents. Notwithstanding the foregoing, charges imposed against a Unit and its Owner consisting of reasonable late payment penalties and/or charges to reimburse the Master Association for loss of interest, and/or for costs reasonably incurred (including attorney's fees) in the efforts to collect delinquent Assessments shall be fully enforceable through the lien provisions of the Project Documents.

#### 6.6 Personal Obligation for Individual Charges

All Individual Charges, together with late charges, interest, costs, and reasonable attorney's fees incurred in collecting Individual Charges, shall be the personal obligation of the Owner of such Unit at the time when the Individual Charges fell due. If more than one person or entity was the Owner of a Unit at the time the Individual Charges fell due, the personal obligation to pay each Individual Charge shall be joint and several. No Owner may exempt himself from liability for his Individual Charges by waiver of the use or enjoyment of any of the Project.

#### 6.7 Allocation of Regular and Special Assessments

Except as otherwise provided herein, Regular and Special Assessments shall be levied against each Maintenance Association based on the number of Units included in each Maintenance Association. The Regular and Special Assessments to be levied against any particular Association shall be calculated by multiplying the total amount of such Assessments by a fraction, the numerator of which is the number of Units included in such Maintenance Association, and the denominator of which is the total number of Units for which assessments are to be levied, as determined in accordance with the provisions of Section 6.8.

#### 6.8 Commencement of Assessments and Individual Charges

The right to levy Assessments and Individual Charges against a Maintenance Association shall commence as to all Units in a Condominium Building included in the Maintenance Association on the first day of the month following the closing of the first sale of a Unit in that Building. Thereafter, Regular Assessments



shall be levied on the first day of each month of the fiscal year.

## ARTICLE VII

### ENFORCEMENT OF RESTRICTIONS

#### 7.1 General

The Master Association, any Maintenance Association or any Owner shall have the right to enforce compliance with the Project Documents in any manner provided by law or in equity, including without limitation, the right to enforce the Project Documents by bringing an action for damages, an action to enjoin the violation or specifically enforce the provisions of the Project Documents, to enforce the liens provided for herein (except that no Owner or Maintenance Association shall have the right to enforce independently of the Master Association any Assessment, Individual Charge, or Assessment lien created herein) and any statutory lien provided by law, including the foreclosure of any such lien and the appointment of a receiver for an Owner and the right to take possession of the Lot or Unit in the manner provided by law. In the event the Master Association, a Maintenance Association, or any Owner shall employ an attorney to enforce the provisions of the Project Documents against any Owner or Maintenance Association, the prevailing party shall be entitled to reasonable attorneys' fees and costs in addition to any other amounts due as provided for herein. All sums payable hereunder by an Owner or Maintenance Association shall bear interest at eighteen percent (18%) per annum from the due date, or if advanced or incurred by the Master Association, or any other Owner or Maintenance Association pursuant to authorization contained in the Project Documents, commencing fifteen (15) days after repayment is demanded. All enforcement powers of the Master Association shall be cumulative. Failure by the Master Association or any Owner or Maintenance Association, to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

#### 7.2 Specific Enforcement Rights

In amplification of, and not in limitation of, the general rights specified in Section 7.1 above, the Master Association shall have the following rights:

BOOK 5482 PAGE 1205

7.2.1 Enforcement by Sanctions

7.2.1.1 Limitation

The Master Association shall have no power to cause a forfeiture or abridgment of an Owner's right to the full use and enjoyment of his Lot or Unit on account of a failure by the Owner to comply with provisions of the Project Documents except where the loss or forfeiture is the result of the judgment of a court or a decision arising out of arbitration or on account of a foreclosure or sale under a power of sale for failure to pay Assessments levied by the Master Association.

7.2.1.2 Disciplinary Action

The Master Association may impose reasonable monetary penalties or other appropriate discipline for failure to comply with the Project Documents. Notwithstanding the foregoing, the Master Association shall have no right to interfere with an Owner's right of ingress or egress to his Unit.

Before disciplinary action authorized under this subarticle can be imposed by the Master Association the Owner against whom such action is proposed to be taken shall be given notice and the opportunity to be heard as follows:

(a) The Board shall give written notice to the Owner at least fifteen (15) days prior to the meeting at which the Board will consider imposing disciplinary action. Such notice shall set forth those facts which the Board believes justify disciplinary action, and the time and place of the meeting;

(b) At such meeting the Owner shall be given the opportunity to be heard, including the right to present evidence, either orally or in writing, and to question witnesses;

(c) The Board shall notify the Owner in writing of its decision within three (3) days of the decision. The effective date of any disciplinary action imposed by the Board shall not be less than eight (8) days after the date of said decision.

7.2.1.3 No Lien for Monetary Penalties

A monetary penalty imposed by the Master Association as a disciplinary measure for failure of an Owner to comply with the Project Documents or as a means of reimbursing the Master Association for costs incurred by the Master Association in the repair of damage to Common Area for which the Owner was allegedly responsible or in bringing the

BOOK 5182  
PAGE 1236

Owner and his Lot or Unit into compliance with the Project Documents shall not be considered an assessment which may become a lien against the Owner's Lot or Unit. Provided, however, the provisions of this subsection do not apply to charges imposed against an Owner or Maintenance Association consisting of reasonable late payment penalties for delinquent assessments and/or charges to reimburse the Master Association for the loss of interest and for costs reasonably incurred (including attorneys' fees) in its efforts to collect delinquent assessments.

7.2.2 Suit to Collect Delinquent Assessments or Individual Charges

A suit to recover a money judgment for unpaid Assessments or unpaid Individual Charges, together with late charges, interest, costs, and reasonable attorneys' fees shall be maintainable by the Master Association. In the case of unpaid Assessments such suit shall be maintainable without foreclosing or waiving the lien securing such unpaid Assessments.

7.2.3 Enforcement of Lien

If there is a delinquency in the payment of any Assessment or installment levied against a Maintenance Association, any amounts that are delinquent together with the late charges, interest at eighteen percent (18%) per annum, costs of collection and reasonable attorneys' fees, shall be a lien against all of the Units included in such Maintenance Association upon the recordation in the office of the County Recorder of a Notice of Delinquent Assessment. The Notice of Delinquent Assessment shall be signed by an authorized representative of the Master Association and shall state the amount of the delinquent Assessment, a description of the affected Units, and the name of the record Owner(s). Such lien shall be prior to all other liens and encumbrances, recorded or unrecorded, except only:

(a) Tax and special assessment liens on the Unit in favor of any assessing agency or special district; and

(b) First Mortgages on the Unit recorded prior to the date that the Notice of Delinquent Assessment was recorded.

The Notice of Delinquent Assessment shall not be recorded unless and until the Board or its authorized representative has mailed to the delinquent Maintenance Association and each Owner who is a member of such Maintenance Association, not less than fifteen (15) days before the recordation of the Notice of Delinquent Assessment, a written demand for payment, and unless the delinquency has not been cured within said fifteen (15) day period. Any Owner may pay directly to the Master Association his pro-rata share of the delinquent Assessment levied against the Maintenance Association of which he

is a member (calculated by dividing the total amount of the delinquent Assessment by the number of Units in such Maintenance Association). In the event of payment by an Owner of his pro-rata share of any delinquent Assessment, the Master Association shall prepare and record a document releasing such Owner's Unit from the lien of the delinquent Assessment which is so cured. The governing instruments for each Maintenance Association shall provide that any payment made by an Owner to the Master Association for his pro-rata share of the Master Association Assessments may be applied by such Owner as a credit against the Assessments levied by his Maintenance Association next be coming due.

After the recording of the Notice of Delinquent Assessment, the Board or its authorized representative may cause the Units with respect to which a Notice of Delinquent Assessment has been recorded to be sold in the same manner as a sale is conducted under Utah law for the exercise of powers of sale, or through judicial foreclosure. In connection with any sale under Utah law for the exercise of a power of sale, the Board is authorized to appoint its attorney or any title insurance company authorized to do business in Utah as trustee for purpose of giving notice and conducting the sale, and such trustee is hereby given a power of sale. If a delinquency including Assessments and other proper charges is cured after recordation of the Notice of Delinquent Assessment but before sale, or before completing a judicial foreclosure, either by the appropriate Maintenance Association or by any Owner with respect to the Unit(s) owned by him, the Board or its authorized representative shall cause to be recorded in the office of the County Recorder a certificate setting forth the satisfaction of such claim and release of such lien, as to those Units for which such lien obligation has been cured. The Master Association, acting on behalf of the Owners, shall have the power to bid upon the Unit at foreclosure sale and to acquire, hold, lease, mortgage and convey the Unit.

#### 7.2.4 Transfer by Sale or Foreclosure

The sale or transfer of any Unit shall not affect the Assessments lien or lien right. However, the sale or transfer of any Unit pursuant to the exercise of a power of sale or judicial foreclosure involving a default under a First Mortgage shall extinguish the lien for Assessments which became due prior to such sale or transfer. No transfer of the Unit as the result of a foreclosure or exercise of a power of sale shall relieve the new Owner, whether it be the former beneficiary of the First Mortgagee or another person, from the lien for any Assessments or Individual Charges thereafter becoming due.

BOOK 5482 PAGE 1208

ARTICLE VIII

INSURANCE, DESTRUCTION, CONDEMNATION

8.1 Insurance

In addition to other insurance required to be maintained by the Project Documents, the Master Association shall maintain in effect at all times the following insurance:

8.1.1 Liability Insurance

The Master Association shall obtain and maintain comprehensive public liability insurance insuring the Master Association, the Board, the Declarant, Owners, occupants of Units, their respective family members, guests, invitees, and the agents and employees of each, against any liability incident to the ownership, use or maintenance of the Common Area and including, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. The limits of such insurance shall not be less than One Million Dollars (\$1,000,000) covering all claims for death, personal injury and property damage arising out of a single occurrence. Such insurance shall include coverage against any liability customarily covered with respect to projects similar in construction, location, and use.

8.1.2 Casualty Insurance

The Master Association also shall obtain and maintain a policy of casualty insurance for the full replacement value (without deduction for depreciation) of all of the improvements within the Common Area. Such insurance shall include coverage against any risk customarily covered with respect to projects similar in construction, location, and use. The policy shall name as insured the Master Association for the benefit of the Owners and Declarant, as long as Declarant is the Owner of any Lot or Unit, and all Mortgagees as their respective interests may appear, and may contain a loss payable endorsement in favor of any trustee described in Section 8.1.3.

8.1.3 Trustee

All casualty insurance proceeds payable under Sections 8.1.2 for losses to real property and improvements may be paid to a trustee, to be held and expended for the benefit of the Owners, Mortgagees, and others, as their respective interests shall appear. Said trustee shall be a commercial bank or trust company in the County in which the Project is located that agrees in writing to accept such trust.

#### 8.1.4 Other Insurance

The Board shall purchase and maintain worker's compensation insurance, to the extent that it is required by law, for all employees or uninsured contractors of the Master Association. The Board also may purchase and maintain fidelity coverage against dishonest acts on the part of Trustees, Officers, managers, trustees, employees or volunteers who handle or who are responsible to handle the funds of the Master Association, and such fidelity bonds shall name the Master Association obligee, and shall be written in an amount equal to one hundred fifty percent (150%) of the estimated annual operating expenses of the Master Association, including reserves. In connection with such fidelity coverage, an appropriate endorsement to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers. The Board shall also purchase and maintain insurance on personal property owned by the Master Association, and any other insurance that it deems necessary or is customarily obtained for projects similar in construction, location and use.

#### 8.1.5 Owner's Liability Insurance

An Owner, individually or through the Maintenance Association of which his Lot or Unit is a part, may carry whatever personal and property damage liability insurance with respect to his Lot or Unit that he desires.

#### 8.1.6 Owner's Fire and Extended Coverage Insurance

Each Owner shall obtain and maintain fire, casualty and extended coverage insurance for the full replacement value of all of the improvements on his Lot or Unit. Notwithstanding the foregoing this subarticle shall be deemed satisfied where a Maintenance Association has obtained fire, casualty and extended coverage insurance for an Owner's Lot or Unit (including condominiums). An Owner may insure his personal property.

#### 8.1.7 Officer and Director Insurance

The Master Association may purchase and maintain insurance on behalf of any Trustee, Officer, or member of a committee of the Master Association (collectively the "agent") against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not the Master Association would have the power to indemnify the agent against such liability under applicable law.

8.1.8 Waiver of Subrogation

All property and liability insurance carried by the Master Association, or the Owners shall contain provisions whereby the insurer waives rights of subrogation as to the Master Association, Trustees, Officers, Committee members, Declarant, Owners, their family, guests, agents and employees.

8.1.9 Notice of Cancellation

Insurance carried by the Master Association may require the insurer to notify any First Mortgagee requesting such notice at least fifteen (15) days in advance of the effective date of any reduction or cancellation of the policy.

8.1.10 Annual Review of Policies

All insurance policies shall be reviewed at least annually by the Board in order to ascertain whether the coverage contained in the policies is adequate in light of increased construction costs, inflation or any other factor which tends to indicate that either additional insurance policies or increased coverage under existing policies are necessary or desirable to protect the interest of the Master Association.

8.1.11 Payment of Premiums

Premiums on insurance maintained by the Master Association shall be a common expense funded by Assessments levied by the Master Association.

8.2 Destruction

8.2.1 Minor Destruction Affecting the Common Area

Notwithstanding Section 8.2.2 the Board shall have the duty to repair and reconstruct the Common Area without the consent of Members and irrespective of the amount of available insurance proceeds, in all instances of destruction where the estimated cost of repair and reconstruction does not exceed five percent (5%) of the budgeted gross expenses of the Master Association for that fiscal year.

8.2.2 Major Destruction Affecting the Common Area

8.2.2.1 Destruction; Proceeds Exceed 85% of Reconstruction Costs

If there is a total or partial destruction of the Common Area, and if the available proceeds of the insurance carried pursuant to Section 8.1 are sufficient to

cover not less than eight-five percent (85%) of the costs of repair and reconstruction, the Common Area shall be promptly rebuilt unless, within forty-five (45) days from the date of destruction, Members then holding at least seventy-five percent (75%) of the voting power of the Master Association determine that repair and reconstruction shall not take place.

8.2.2.2 Destruction; Proceeds Less than 85% of Reconstruction Costs

If the proceeds of insurance carried pursuant to Section 8.1 are less than eighty-five percent (85%) of the costs of repair and reconstruction, repair and reconstruction of the Common Area shall not take place unless, within forty-five (45) days from the date of destruction, Members then holding at least a majority of the voting power of the Members other than Declarant determine that repair and reconstruction shall take place.

8.2.2.3 Special Assessment to Rebuild

If the determination is made to rebuild, the Master Association shall levy a Special Assessment against all Members to cover the cost of rebuilding not covered by insurance proceeds.

8.2.2.4 Rebuilding Contract

If the determination is made to rebuild, the Board shall obtain bids from at least two (2) reputable contractors, and shall award the repair and reconstruction work to the most reasonable bidder in the opinion of a majority of the Board. The Board shall have the authority to enter into a written contract with the contractor for the repair and reconstruction, and the insurance proceeds be disbursed to said contractor according to the terms of the contract. It shall be the obligation of the Board to take all steps necessary to assure the commencement and completion of authorized repair and reconstruction within a reasonable time.

8.2.2.5 Rebuilding Not Authorized

If the determination is made not to rebuild, then any insurance proceeds and any other funds held for rebuilding of the Common Area shall be distributed among the Members on the same basis as their Regular Assessment obligation, and between the Members and Mortgagee(s) as their interests shall appear.



8.2.3 Destruction Affecting Lots.

If there is a total or partial destruction of a Condominium Building, the Owners of Units therein, through their Maintenance Association shall have the following options:

(a) the Owners shall rebuild or repair the Condominium Building in substantial conformity with its appearance, design and structural integrity immediately prior to the damage or destruction. However, the Maintenance Association of an affected Condominium Lot or Building may apply to the Architectural Control Committee for reconstruction of its Building in a manner which will provide for an exterior appearance and/or design which is different from that which existed prior to the date of the destruction. Application for such approval shall be made in compliance with the provisions of Article XI; or

(b) the Maintenance Association shall clear all structures from the Condominium Lot and shall landscape it in a manner which is approved by the Architectural Control Committee.

Rebuilding or landscaping shall be commenced within a reasonable time after the date of the damage or destruction and shall be diligently pursued to completion.

8.3 Condemnation

8.3.1 Condemnation Affecting Common Area

8.3.1.1 Sale in Lieu

If an action for condemnation of all or a portion of the Common Area is proposed or threatened by any entity having the right of eminent domain, then on the written consent of seventy-five percent (75%) of the Owners and subject to the rights of all Mortgagees, the Common Area, or a portion of it may be sold by the Board. The proceeds of the sale shall be distributed among the Maintenance Associations on the same basis as their Regular Assessment obligations and between the Unit Owners in accordance with the provisions of the governing instruments of their respective Maintenance Associations.

8.3.1.2 Award

If the Common Area, or a portion of it, is not sold but is instead taken, the judgment of condemnation shall by its terms apportion the award among the Maintenance Associations or Owners and their respective Mortgagees. If the judgment of condemnation does not apportion the award then the award shall be distributed as provided in subarticle 8.3.1.1.

8.3.2 Condemnation Affecting Lots

If an action for condemnation of all or a portion of, or otherwise affecting a Lot is proposed or threatened, the Owner and the Mortgagees of the affected Lot, as their respective interests shall appear, shall be entitled to the proceeds of any sale or award relating to the affected Lot.

If any Lot is rendered irreparably uninhabitable as a result of such a taking, that portion of the Lot so taken shall be deemed deleted from the Project and the Owners and Mortgagees of the affected Lot, upon receiving the award and any portion of the reserve funds of the Master Association reserved for the Lot, shall be released from the applicability of the Project Documents and deemed divested of any interest in the Common Area. Any portion of such Lot remaining after the taking shall be included as part of the Common Area of the Project. Provided, however, the governing documents of each Condominium Lot shall govern the effect of condemnation upon the owners of Units constructed on such Lot and the Common Areas and facilities of such condominium regime.

ARTICLE IX

MORTGAGEE PROTECTIONS

9.1 Mortgages Permitted

Any Owner may encumber his Lot or Unit with Mortgages.

9.2 Subordination

Any lien created or claimed under the provisions of this Declaration is expressly made subject and subordinate to the rights of any First Mortgage that encumbers any Lot or Unit or other portion of the Project, made in good faith for value, and no such lien shall in any way defeat, invalidate, or impair the obligation or priority of such First Mortgage unless the First Mortgagee expressly subordinates his interest, in writing, to such lien.

9.3 Effect of Breach

No breach of any provision of this Declaration shall invalidate the lien of any Mortgage in good faith and for value, but all of the covenants, conditions and restrictions shall be binding on any Owner whose title is derived through foreclosure sale, trustee's sale, or otherwise.

BOOK 5482 PAGE 1214

9.4 Non-Curable Breach

No Mortgagee who acquires title to a Lot or Unit by foreclosure or by deed in lieu of foreclosure or assignment-in-lieu of foreclosure shall be obligated to cure any breach of this Declaration that is non-curable or of a type that is not practical or feasible to cure.

9.5 Right to Appear at Meetings

Any Mortgagee may appear at meetings of the Master Association or the Board, in accordance with the provisions of the Bylaws.

9.6 Right to Furnish Information

Any Mortgagee may furnish information to the Board concerning the status of any Mortgage.

9.7 Right to Examine Books and Records, Etc.

The Master Association shall make available to Owners, prospective purchasers and First Mortgagees, current copies of the Project Documents and the books, records and financial statements of the Master Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances.

Any First Mortgagee shall be entitled, upon written request, to a financial statement of the Master Association for the immediately preceding fiscal year, free of charge. Such financial statement shall be furnished by the Master Association within a reasonable time following such request.

9.8 Owners Right to Ingress and Egress

There shall be no restriction upon any Owners' right of ingress and egress to his Lot or Unit, which right shall be perpetual and appurtenant to his Lot ownership.

9.9 Notice of Intended Action

Upon written request to the Master Association, any First Mortgagee shall be entitled to timely written notice of:

(a) Any proposed termination of the legal status of the Project as a Planned Unit Development.

(b) Any condemnation loss or casualty loss which affects a material portion of the Project or any Lot or Unit on which there is a First Mortgage held, insured, or guaranteed by such requesting party.

(c) Any delinquency in the payment of Assessments or Individual Charges owed by an Owner or Maintenance Association of a Lot or Unit subject to a First Mortgage held, insured or guaranteed by such requesting party which remains uncured for a period of sixty (60) days.

9.10 First Mortgagee Assessment Liability for Individual Charges

Any First Mortgagee who obtains a title to a Lot or Unit pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage shall not be liable for such Unit's Individual Charges which are assessed prior to the acquisition of title to such Lot or Unit by the Mortgagee, but shall be liable for Individual Charges assessed thereafter.

9.11 Distribution; Insurance and Condemnation Proceeds

No provision of the Project Documents shall give a Lot or Unit Owner, or any other party, priority over any rights of the First Mortgagee of the Lot or Unit pursuant to its Mortgage in the case of a distribution to such Lot or Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of the Lot, Unit and/or Common Area.

9.12 Taxes

First Mortgagees of Lots or Units may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such Common Area, and First Mortgagees making such payments shall be owed reimbursement therefore from the Master Association. Entitlement to such reimbursement shall be reflected in an agreement in favor of all First Mortgagees of Lots duly executed by the Master Association, and an original or certified copy of such agreement shall be possessed by Declarant.

9.13 Maintenance Reserves

Master Association Assessments or charges shall include an adequate reserve fund for maintenance, repairs, and replacement of those elements of the Project that must be replaced on a periodic basis and shall be payable in regular installments rather than by special assessments.

9.14 Notice of Default

A First Mortgagee, upon request, shall be entitled to written notification from the Master Association of any default in the performance by the affected Lot or Unit Owner of any

obligation under the Project Documents which is not cured within sixty (60) days.

9.15 Conflicts

In the event of a conflict of any of the provisions of this Article IX and any other provisions of this Declaration, the provisions of this Article IX shall control.

ARTICLE X

ENFORCEMENT OF DECLARANT'S DUTY TO COMPLETE THE PROJECT

Where any Common Area improvements in the Project have not been completed prior to the issuance of a Permit, and where the Master Association is obligee under a bond or other arrangement ("Bond") to secure performance of the commitment of Declarant to complete such improvements, the Board shall consider and vote on the question of action by the Master Association to enforce the obligations under the Bond with respect to any improvement for which a Notice of Completion has not been filed within sixty (60) days after the completion date specified for that improvement in the Planned Construction Statement appended to the Bond. If the Master Association has given an extension in writing for the completion of any Common Area improvement, the Board shall consider and vote on the aforesaid question if a Notice of Completion has not been filed within thirty (30) days after the expiration of the extension. A special meeting of Members of the Master Association for the purpose of voting to override a decision by the Board not to initiate action to enforce the obligations under the Bond or on the failure of the Board to consider and vote on the question, shall be held not less than thirty-five (35) days nor more than forty-five (45) days after receipt by the Board of a petition for such meeting signed by Members representing five percent (5%) or more of the total voting power of the Master Association. At such special meeting a vote of a majority of the voting power of the Master Association residing in Members present other than Declarant to take action to enforce the obligations under the Bond shall be deemed to be the decision of the Master Association and the Board shall thereafter implement this decision by initiating and pursuing appropriate action in the name of the Master Association.

BOOK 5182 PAGE 1217

ARTICLE XI

ARCHITECTURAL CONTROL

11.1 Approval of Alteration and Improvements

11.1.1 General Limitation

Subject to the exceptions described at Section 11.1.2 no Improvement may be constructed, painted, altered or in any other way changed on any portion of the Project without the prior written approval of the Architectural Control Committee ("Committee").

11.1.2 Exemption

Notwithstanding Section 11.1.1, no Committee approval shall be required for (i) initial Improvements constructed by, or with the express written approval of Declarant; (ii) normal maintenance of exempt or previously approved Improvements; (iii) rebuilding an exempt or previously approved Improvement; (iv) changes to the interior of an exempt or previously approved Structure; (v) work reasonably required to be performed in an emergency for the purpose of protecting any person or property from damage.

11.2 Architectural Control Committee

11.2.1 Number, Appointment, Terms

The Committee shall be composed of five (5) members. Declarant shall appoint all of the initial members, and reserves the right to appoint a majority of the members of the Committee until ninety (90%) of all Units to be constructed in the Project have been sold or until the fifth anniversary of the original issuance of the final Permit for the Project, whichever first occurs.

After one (1) year from the date of issuance of the first Permit with respect to any Units of the Project, the Board shall have the right to appoint one (1) member of the Committee until ninety percent (90%) of all Units to be constructed in the Project have been sold or until the fifth anniversary of the original issuance of the final Permit for the Project, whichever first occurs. Thereafter the Board shall have the right to appoint all members of the Committee.

Members appointed to the Committee by the Board shall be from the Membership of any Maintenance Association. Members appointed to the Committee by Declarant need not be members of the Master Association or any Maintenance Association.

The terms of the initial members of the Committee shall be until the first anniversary of the issuance of the first Permit for the Project, or five (5) years following the filing of this Declaration, whichever occurs first. Thereafter, the terms of the Committee members shall be four (4) years. Any new member appointed to replace a member who has resigned or been removed shall serve such member's unexpired term. Vacancies on the Committee caused by resignation or removal of a member shall be filled by the party empowered to originally appoint such member. No member of the Committee may be removed without the vote or written consent of the Board; provided, however, that Declarant may change its designated members of the Committee without such vote or consent.

#### 11.2.2 Operation

The Committee shall meet from time to time as necessary to properly perform its duties hereunder. The requirements for valid Committee meetings and actions shall be the same as that which is required for valid Board meetings and action as provided in the Bylaws. The Committee shall keep and maintain a record of all action from time to time taken by the Committee at meetings or otherwise, and shall maintain files of all documents submitted to it, along with records of its activities. Unless authorized by the Master Association, the members of the Committee shall not receive any compensation for services rendered. All members shall be entitled to reimbursement by the Master Association for reasonable expenses incurred by them in connection with the performance of their duties.

#### 11.2.3 Duties

The Committee shall adopt Architectural Control Guidelines ("Guidelines") as provided in Section 11.3 and shall perform other duties imposed upon it by the Project Documents or delegated to it by the Board.

The address of the Committee shall be the principal office of the Master Association as designated by the Board pursuant to the Bylaws. Such address shall be the place for the submittal of plans and specifications and the place where current copies of the Guidelines shall be kept.

### 11.3 Architectural Standards, Guidelines

#### 11.3.1 Committee Guidelines

The Board shall approve the initial Guidelines adopted by the Committee. The Committee may, from time to time, amend said Guidelines prospectively, if approved by four (4) members of the Committee; otherwise Board approval shall be required for any amendment. Said Guidelines shall interpret and

implement the provisions of this Article XI by setting forth more specific standards and procedures for Committee review. All Guidelines shall be in compliance with all applicable laws and regulations of any governmental entity having jurisdiction over Improvements on the Project, shall incorporate high standards of architectural design and construction engineering, shall be in compliance with the minimum standards of Section 11.3.2 and otherwise shall be in conformity with the purposes and provisions of the Project Documents.

A copy of the current Guidelines shall be available for inspection and copying by any Lot or Unit Owner at any reasonable time during business hours of the Master Association.

#### 11.3.2 Standards

The following minimum standards shall apply to any Improvements constructed on the Project:

(a) All Improvements shall be constructed in compliance with the applicable zoning laws, building codes, subdivision restrictions and all other laws, ordinances and regulations applicable to Project Improvements.

(b) In reviewing proposed Improvements for approval, the Committee shall consider at least the following:

- (i) Does the proposed Improvement conform to the purposes and provisions of the Project Documents?
- (ii) Is the proposed Improvement of a quality of workmanship and materials comparable to other Improvements that are proposed or existing on the Project?
- (iii) Is the proposed Improvement of a design and character which is harmonious with proposed or existing Improvements and with the natural topography in the immediate vicinity?

#### 11.4 Committee Approval Process

##### 11.4.1 Approval Application

Any Owner proposing to construct, paint, alter or change any Improvement on the Project which requires the prior approval of the Committee shall apply to the Committee in writing for approval of the work to be performed and a proposed time schedule for performing the work. The Committee may charge an Owner a reasonable fee for application review.



In the event additional plans and specifications for the work are required by the Committee, the applicant shall be notified of the requirement within thirty (30) days of receipt by the Committee of his initial application or the application shall be deemed sufficiently submitted. If timely notified the applicant shall submit plans and specifications for the proposed work in the form and context reasonably required by the Committee and the date of his application shall not be deemed submitted until that date. Such plans and specifications may include, but are not limited to, showing the nature, kind, shape, color, size, materials and location of the proposed work, or the size, species and location of any plants, trees, shrubs and other proposed landscaping.

#### 11.4.2 Review and Approval

Upon receipt of all documents reasonably required by the Committee to consider the application, the Committee shall proceed expeditiously to review all of such documents to determine whether the proposed work is in compliance with the provisions and purposes of the Project Documents and all Guidelines of the Committee in effect at the time the documents are submitted. In the event the Committee fails to approve an application, it shall notify the applicant in writing of the specific matters to which it objects. In the event the Committee fails to notify the applicant within forty-five (45) days after receipt of all documents reasonably required to consider an application or a correction or resubmittal thereof of the action taken by the Committee, the application shall be deemed approved. One set of plans as finally approved shall be retained by the Committee as a permanent record. The determination of the Committee shall be final and conclusive and, except for an application to the Committee for reconsideration, there shall be no appeal therefrom.

#### 11.4.3 Commencement, and Completion of Approved Work

Upon receipt of the approval of the Committee, the applicant shall proceed to have the work commenced and diligently and continuously pursued to completion in substantial compliance with the approval of the Committee including all conditions imposed therewith. The approval of the Committee shall be effective for a period of one (1) year after the date of the approval subject to the right of the Committee to provide for a longer period at the time of its approval, or subsequently to extend the period upon a showing of good cause, and in the event the approved work is not commenced within the effective period of the approval, then the applicant, before commencing any work, shall be required to resubmit its application for the approval of the Committee.

BB011/002  
PAGE 1221

All work approved shall be completed within one (1) year after the date of commencement, or such other reasonable period specified by the Committee at the time of approval, with the period of time subject to extension, at the option of the Committee, by the number of days that work is delayed by causes not under the control of the applicant or his contractor or as otherwise extended by the Board. Upon completion of approved work, the applicant shall give written notice thereof to the Committee.

If for any reason the Committee fails to notify the applicant of any noncompliance within sixty (60) days after receipt of said notice of completion from the application, the improvement shall be deemed to be completed in accordance with said approved plans.

#### 11.4.4 Inspection, Non-Compliance

The Committee, or any authorized representative shall have the right at any reasonable time, after reasonable notice, to enter upon any portion of the Project for the purpose of determining whether or not any work is being performed or was performed in compliance with the Project Documents.

If at any time the Committee determines that work is not being performed or was not performed in compliance with the Project Documents or the Guidelines, whether based on a failure to apply for or obtain approval, a failure to comply with approval, a failure to timely commence or complete approved work or otherwise, the Committee shall notify the Owner in writing of such non-compliance specifying the particulars of non-compliance within a reasonable and specified time period.

In the event that the offending owner fails to remedy such non-compliance within the specified period the Committee shall notify the Board in writing of such failure. The Board shall, subject to the notice and hearing requirements of Section 7.2.1.2, have the right to remedy the non-compliance in any appropriate manner permitted by the Project Documents or otherwise permitted by law, or in equity, including but not limited to removing the non-complying Improvement, or recording a notice of non-compliance on the property, as appropriate. The owner shall have the obligation to reimburse the Master Association for any costs incurred in enforcing these provisions and if the Master Association is not reimbursed upon demand the Board shall have the right to Individually Charge the cost thereof to such owner.

#### 11.5 Waiver

The approval by the Committee of any plans, drawings, specifications of any Improvements constructed or proposed, or in

connection with any matter requiring the approval of the Committee under the Project Documents shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter submitted for approval. Where unusual circumstances warrant it, the Committee may grant reasonable variances from the architectural control provisions hereof or from the Guidelines. Such variances shall be made on a case-by-case basis and shall not serve as precedent for the granting of any other variance.

#### 11.6 Estoppel Certificate

Within thirty (30) days after written demand is delivered therefor to the Committee by any Maintenance Association, Owner or Mortgagee, and upon payment to the Master Association of a reasonable fee (as fixed from time to time by the Board), the Committee shall execute and deliver in recordable form, if requested, an estoppel certificate executed by any three (3) of its members, certifying, with respect to any portion of the Project, that as of the date thereof either (a) all Improvements made and other work done upon or within said portion of the Project comply with the Project Documents, or (b) such Improvements or work do not so comply in which event the certificate shall also identify the noncomplying Improvements or work and set forth with particularity the basis of such noncompliance. Such statement shall be binding upon the Master Association and Committee in favor of any person who may rely thereon in good faith.

#### 11.7 Liability

Neither the Declarant, the Committee, the Board nor any member thereof shall be liable to the Master Association or to any Owner or to any third party for any damages, loss, prejudice suffered or claimed on account of (a) the approval or disapproval of such plans, drawings and specifications, whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, (c) the development of any portion of the Project, or (d) the execution and filing of an estoppel certificate pursuant to Section 11.6 or the execution and filing of a notice of noncompliance or noncompletion pursuant to Section 11.4.4, whether or not the facts therein are correct, if the Declarant, the Board, the Committee or such member has acted in good faith on the basis of such information as may be possessed by them. Specifically, but not by way of limitation, it is understood that plans and specifications neither the Committee, the members thereof, the Master Association, the Members, the Board nor Declarant assumes liability or responsibility therefor, or for any defect in any structure constructed from such plans and specifications.

BOOK 5482 PAGE 1223

ARTICLE XII

GENERAL PROVISIONS

12.1 Notices

Notices provided for in the Project Documents shall be in writing and shall be deemed sufficiently given when delivered personally or 48 hours after deposit in the United States mail, postage prepaid, addressed to an Owner at the last address such Owner designates to the Master Association for delivery of notices, or in the event of no such designation, at such Owner's last known address, or if there be none, at the address of the Owner's Lot or Unit. Notices to the Master Association shall be addressed to the address designated by the Master Association by written notice to all owners.

12.2 Notice of Transfer

No later than five (5) days after the sale or transfer of any Lot or Unit under circumstances whereby the transferee becomes the Owner thereof, the transferee shall notify the Master Association in writing of such sale or transfer. Such notice shall set forth: (i) the Lot or Unit involved; (ii) the name and address of the transferee and transferor; and (iii) the date of sale. Unless and until such notice is given, the Master Association shall not be required to recognize the transferee for any purpose, and any action taken by the transferor as an Owner may be recognized by the Master Association. Prior to receipt of any such notification by the Master Association, any and all communications required or permitted to be given by the Master Association shall be deemed duly given and made to the transferee if duly and timely made and given to such transferee's transferor.

12.3 Construction, Headings

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a planned community and for the maintenance of the Project. The Article headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

12.4 Severability

The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or provisions contained herein shall not invalidate any other provisions hereof.

BOOK 5482 PAGE 1224

12.5 Exhibits

All exhibits referred to are incorporated herein by such reference.

12.6 Easements Reserved and Granted

Any easements or air space rights referred to in this Declaration shall be deemed reserved or granted as applicable, or both reserved and granted, by reference to this Declaration in a deed to any Lot.

12.7 Binding Effect

This Declaration shall inure to the benefit of and be binding on the successors and assigns of the Declarant, and the heirs, personal representatives, grantees, tenants, successors and assigns of any Owner.

12.8 Violations and Nuisance

Every act or omission whereby a covenant, condition or restriction of this Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by Declarant, the Master Association or any Owner or Owners.

12.9 Violation of Law

Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any of the Project is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures herein set forth.

12.10 Singular Includes Plural

Whenever the context of this Declaration requires same, the singular shall include the plural and the masculine shall include the feminine.

12.11 Conflict of Project Documents

If there is any conflict among or between the Project Documents, the provisions of this Declaration shall prevail; thereafter, priority shall be given to Project Documents in the following order: Articles, Bylaws, Rules and Regulations of the Master Association and Architectural Control Guidelines.

#### 12.12 Termination of Declaration

This Declaration shall run with the land, and shall continue in full force and effect for a period of fifty (50) years from the date on which this Declaration is executed. After that time, this Declaration and all its covenants and other provisions shall be automatically extended for successive ten (10) year periods unless this Declaration is revoked by an instrument executed by Owners of not less than three-fourths (3/4) of the Lots and Units in the Project, and recorded in the Office of the Salt Lake County Recorder within one year prior to the end of said 50-year period or any succeeding 10-year period.

### ARTICLE XIII

#### AMENDMENT

##### 13.1 Amendment Prior to First Sale

Until sale of the first Lot or Unit Declarant shall have the right to amend this Declaration.

##### 13.2 Amendment After the First Sale

After the first sale of a Lot or Unit this Declaration shall be amended upon the vote or written assent of a majority of the total voting power of the Master Association, and a majority of the total voting power of the Master Association other than Declarant; provided, however Declarant shall have the sole authority at any time to amend this Declaration, and the Map, if necessary, for the purpose of allocating density to Lots owned by Declarant or changing the configuration, size or location of Lots owned by Declarant, in accordance with Subsections 2.1.2 and 2.1.4 hereof. All Owners shall execute any documents necessary to carry out the provisions of this Subsection 13.2.

##### 13.2.1 Specific Provisions

The percentage of the voting power necessary to amend a specific clause or provision herein shall not be less than the percentage of affirmative votes prescribed for action to be taken under said clause or provision.

##### 13.3 Amendment to Satisfy Other State Laws

Declarant or others may sell Lots or Units in the Project to purchasers in several states, including California. In the event that the Project Documents do not comply with the requirements of any state in which Declarant intends to sell Lots or Units, Declarant shall have the unilateral right, without the

approval of the Board or of the Members, to amend the Project Documents as necessary to conform to the requirements of the applicable state, including California. In the event of conflict between this Section 13.3 and any other provision of Article XIII, this Section 13.3 shall control.

13.4 Amendment Instrument

An amendment shall become effective when it has received the required approvals and the Board has executed, acknowledged and recorded in the Office of the Salt Lake County Recorder, an instrument expressing the amendment and certifying that the required approvals were received.

The undersigned, being the Declarant herein, has executed this Declaration on July 27, 1983

SORENSEN RESOURCES COMPANY

By: [Signature]

Title: President

By: [Signature]

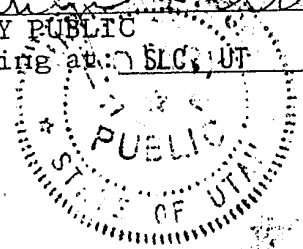
Title: Secretary

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

On the 27th day of July, 1983, personally appeared before me James L. Sorenson, who being by me duly sworn did say that he the said James L. Sorenson is the President of SORENSON RESOURCES COMPANY, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors, and said \_\_\_\_\_ duly acknowledged to me that said corporation executed the same.

My Commission Expires:  
3/12/84

[Signature]  
NOTARY PUBLIC  
Residing at: SLC, UT



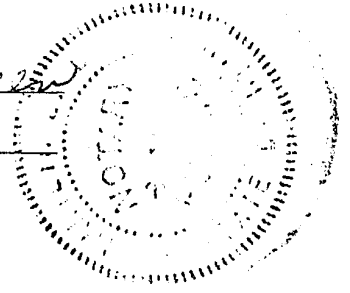
BOOK 5482 PAGE 1227

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

On the 27th day of July, 1983, personally appeared before me Walter J. Plumb, II, who being by me duly sworn did say that he the said Walter J. Plumb, III is the Secretary of SORENSON RESOURCES COMPANY, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors, and said \_\_\_\_\_ duly acknowledged to me that said corporation executed the same.

My Commission Expires:  
3/12/84

Marilyn L. Green  
NOTARY PUBLIC  
Residing at: SLC, UT



BOOK 5482 PAGE 1228



EXHIBIT A

LEGAL DESCRIPTION OF THE PROJECT

I Edmund W. Allen, registered land surveyor, state of Utah, certify that I have surveyed the surface rights only to the following described property:

BEGINNING at a 2" steel pipe placed in the rock kern of corner #2 of the Blackjack Mining Lode Claim, Survey #5288, said claim corner being located S 32°13'19" W 3,377.23 feet, more or less, from the Northeast corner of Section 6, Township 3 South, Range 3 East, Salt Lake Base and Meridian, and running thence S 18°16' E 263.39 feet along the West line of said Blackjack Claim; thence N 71°45' E 187.88 feet; thence S 17°07' W 221.95 feet to the beginning point of a 442.256 foot radius curve to the left; thence Southerly 132.00 feet along the arc of said curve to a point on said West line of the Blackjack Claim; thence S 18°16' E 37.99 feet to Corner #3 of said Blackjack Claim; thence N 71°42'58" E 57.42 feet along the South line of said Blackjack Claim to a point on the arc of a 376.256 foot radius curve to the left; thence Southerly 183.785 feet along the arc of said curve; thence S 30°46' E 51.10 feet to a point on the Southeasterly line of the Snowbird claim, Survey #5152; thence N 22°44'53" E 307.27 feet along said Southeasterly line to a point on said South line of the Blackjack Claim; thence N 71°42'58" E 490.31 feet to a point on the North line of the Martha Claim, Survey #5897; thence N 49°42' E 403.65 feet along said North line; thence N 16°32'40" W 323.28 feet; thence S 22°40' W 212.12 feet; thence N 67°20' W 152.0 feet; thence N 22°41'34" E 134.98 feet; thence S 73°29'05" W 116.41 feet to a point on the Southeasterly line of the Hellgate No. 2 Mineral Mining Lode Claim, Survey #5282; thence N 22°40' E 153.85 feet to corner #1 of said Hellgate No. 2 Claim; thence N 66°37' W 35.28 feet along the North line of said Hellgate No. 2 Claim to a point on the South line of the Hellgate Mineral Mining Lode Claim, Survey #5282; thence N 65°32'42" E 550.52 feet to corner #2 of said Hellgate Claim; thence N 15°50'49" W 239.0 feet along the East line of said Hellgate Claim; thence N 42°35'38" W 73.70 feet; thence N 22°42' W 65.0 feet; thence S 53°53' W 68.0 feet; thence S 76°19' W 54.0 feet; thence Southwesterly 1595 feet more or less along the Centerline of Little Cottonwood Creek to a point on the South line of said Hellgate No. 2 Claim; thence S 67°14'21" E 186.96 feet more or less along South line to a point on the North line of said Blackjack Claim; thence S 71°42'58" W 113.55 feet to the point of beginning.

TOGETHER with an access easement, being a forty foot wide non-exclusive right of way for ingress, and egress, twenty feet to either side of a center line described as follows:

BEGINNING at a point 13 feet South of Engineering Station 56 + 30.35 of Utah State Bypass Highway in Little Cottonwood Canyon, Salt Lake County, Utah said point being N 79°58'58" W 116.39 feet from Utah Department of Highways Monument No. SL-A-13, which said monument is S 13°39'21" W 2531 feet from the Northeast corner of Section 6, Township 3 South, Range 3 East, Salt Lake Base and Meridian; and running thence Southwesterly to the corner No. 1 of the surveyed Hellgate No. 2 Mineral Mining Lode Claim, Survey No. 5282; thence S 22°40' W along the Southeast Boundary line of said Hellgate No. 2 Mineral Mining Lode Claim 200.0 feet, more or less, to the Southwest corner of Lot 1 of Blackjack Village Subdivision, according to the official plat thereof recorded in Salt Lake County, State of Utah; thence N 73°32'30" E 116.41 feet to the boundary of the subject property described above,

CONTAINS: 25.78 acres

BB011/002a

BOX 5482  
PAGE 1229

EXHIBIT B

DENSITY

<u>Lot</u>	<u>Units to be Constructed</u>
1	20
2	6
3	9
4	85
5	parking and commercial development of the Air Space
6	20
7	20
8	20
9	20

NOTE: Pursuant to Section 2.1.5 of this Declaration and the provisions of that certain Agreement dated June 16, 1982, by and between the Town of Alta and Sorenson Resources Company, no more than 200 residential units shall be constructed on the Project; provided that Sorenson Resources Company shall, pursuant to this Declaration, have the right to reallocate the number of Units to be constructed on each Lot.

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