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DECLARATION OF CONDOMINIUM

OF THE

CAPITOL HEIGHTS CONDOMINIUM

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KATHLEEN L. DIXON
RECORDER
SALT LAKE COUNTY
UTAH

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REC'D OF

William J. Smith

Reyn Spaggiari
EVELYN FROGGETT

2002 Franklin

Salt Lake City

84103

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EXHIBITS

Exhibit "A"	Units, Undivided Ownership Interests, and Votes
Exhibit "B"	Record of Survey Map for Capitol Heights Condominium, a Utah Condominium Project
Exhibit "C"	Articles of Incorporation of Capitol Heights Condominium Owners' Association
Exhibit "D"	Bylaws of Capitol Heights Condominium Owners' Association.

DECLARATION OF CONDOMINIUM
OF THE
CAPITOL HEIGHTS CONDOMINIUM

This Declaration of Condominium, hereinafter referred to as the "Declaration", is made and executed this _____ day of _____, 19____, by William L. Smith, dba Landmark Homes & Development Co., hereinafter referred to as the "Declarant".

RECITALS

A. Description of Land. The Declarant is the owner of the following described parcels of land, hereinafter collectively referred to as the "Land", which are located in Salt Lake City, County of Salt Lake, State of Utah:

Beginning at the Northwest Corner of Lot 5, Block 6, Plat J, Salt Lake City Survey, said point also being N89°59'13"E 50.42 ft. along a monument line and S0°00'47"E 33.00 ft. from a Salt Lake City Monument in the Intersection of Zane Avenue and Wall Street and running,

thence N89°59'13"E 213.0 ft. along the South line of Zane Ave.;
thence South 53.33 ft;
thence S18°31'20"E 56.25 ft;
thence S3°16'23"W 53.06 ft;
thence S27°30'30"E 60.48 ft. to the South line of Lot 12, Block 5 of said plats;
thence S89°59'13"W 133.04 ft. along said South line of Lot 12 to the East line of Wall Street;
thence N29°15'51"W 72.18 feet along the East line of Wall Street;
thence N29°08'43"W 16.92 ft. along the East line of Wall Street;
thence N30°18'27"W 156.97 ft. along the East line of Wall Street to the point of beginning.

B. Buildings and Improvements. The Declarant has constructed or will construct on the Land certain buildings and other improvements as shown on the Map referred to below.

C. Record of Survey Map. The Declarant intends to execute, acknowledge, and record in the office of the County Recorder of Salt Lake County, State of Utah, a certain instrument pertaining to the Project and entitled "Record of Survey Map for Capitol Heights Condominium, a Utah Condominium Project.

D. Intent and Purpose. The Declarant intends by recording this Declaration and the Map to submit the land, the buildings, and all other improvements situated in or upon the land to the provisions of the Utah Condominium Ownership Act, as amended, Utah Code Annotated, Section 57-8-1, et. seq. (hereinafter referred to as the "Condominium Act") as a fee simple Condominium Project and to impose upon said property mutually beneficial restrictions under a general plan of improvement for the benefit of all Condominiums within said Project and the Owners thereof.

NOW, THEREFORE, the Declarant does hereby make the following declaration:

ARTICLE I

DEFINITIONS

1.01 Defined Terms. Unless the context clearly indicates otherwise, certain terms as used in this Declaration shall have the meanings set forth in this Article I.

1.02 "Association" shall mean Capitol Heights Condominium Owners Association, a Utah nonprofit corporation, organized to be the Association referred to herein.

1.03 "Board of Trustees" shall mean the governing board or management committee of the Association, appointed or elected in accordance with the Declaration and in accordance with the Articles of Incorporation and Bylaws of Capitol Heights Condominium Owners Association, attached hereto as Exhibit "C" and Exhibit "D" respectively, and incorporated herein by this reference.

1.04 "Building" shall mean any one of the buildings in the Project containing one or more Units that have been or will hereafter be constructed on the land, as such buildings are shown on the Map.

1.05 "Common Areas" shall mean all physical portions of the Project, except all Units.

1.06 "Common Expense Fund" shall mean the fund created or to be created pursuant to the provisions of Article IX of this Declaration and into which all monies of the Association shall be deposited.

1.07 "Common Facilities" shall mean all furniture, furnishings, equipment, facilities, and other property (real, personal, or mixed) and interests therein at any time leased, acquired, owned, or held by the Association for the use and benefit of the Owners and all other property (real, personal or mixed) hereafter purchased in accordance with this Declaration with monies from the Common Expense Fund. Common Facilities shall be deemed to be part of the Common Areas, except to the extent otherwise expressly provided in this Declaration.

1.08 "Condominium" shall mean a Unit and the undivided interest (expressed as a percentage of the entire ownership interest) in the Common Areas appurtenant to such Unit, as set forth in Exhibit A attached hereto and by this reference made a part hereof.

1.09 "Condominium Act" shall mean the Utah Condominium Ownership Act, Utah Code Annotated, as amended, Section 57-8-1, et. seq.

1.10 "Declarant" shall mean William L. Smith, dba Landmark Homes & Development Co., and its successors and assigns.

1.11 "First Mortgagee" shall mean a Mortgagee which is a bank or savings and loan association or established mortgage company, or other entity chartered under federal or state laws, any corporation or insurance company, or any federal or state agency which has a first mortgage lien on any Condominium in the Project. "Eligible First Mortgagee" shall mean any First Mortgagee who has requested notice of those certain matters referred to in Section 14.01.

1.12 "FHLMC" shall mean the Federal Home Loan Mortgage Corporation.

1.13 "FNMA" shall mean the Federal National Mortgage Association.

1.14 "Land" shall mean the land upon which the Project is situated, as more particularly described in Paragraph A of the Recitals above.

1.15 "Lease" shall mean any agreement for the leasing or rental of the Property.

1.16 "Limited Common Areas" shall mean any Common Areas designated as reserved for use of a certain Unit or Units to the exclusion of the other Units in the Project. Structural separations between Units or the space which would be occupied by such structural separations may become Limited Common Areas for the exclusive use of the Owner or Owners of the Units on either side thereof as provided in Section 4.03 hereof. Any balconies, porches, parking stalls, or storage facilities that are identified on the Map with the same number or other designation by which a Unit is identified shall be Limited Common Areas for the exclusive use of the Owner of the Unit bearing the same number or designation.

1.17 "Manager" shall mean the person, firm, or company, if any, designated from time to time by the Association to manage, in whole or in part, the affairs of the Association and the Project.

1.18 "Map" shall mean the Record of Survey Map for Capitol Heights Condominium, a Utah Condominium Project, attached hereto as Exhibit "B" and incorporated herein by this reference and any Supplemental Maps pertaining to the Project and recorded or to be recorded in the office of the County Recorder of Salt Lake County, State of Utah.

1.19 "Mortgage" shall mean any mortgage, deed of trust, or other security instrument by which a Condominium or any part thereof is encumbered.

1.20 "Mortgagee" shall mean (i) any persons or entities named as the mortgagee or beneficiary under any Mortgage or Deed of Trust by which the interest of any Owner is encumbered, (ii) any successor to the interest of such person or entity under such Mortgage or Deed of Trust, or (iii) any insurer or guarantor of such person or entity under such Mortgage or Deed of Trust.

1.21 "Mortgage Servicer" shall mean a Mortgagee who services any Mortgage or Deed of Trust on any individual Condominium in the Project on behalf of FHLMC and/or FNMA.

1.22 "Owner" shall mean the person or persons, including the Declarant, owning in fee simple a Condominium in the Project, as such ownership is shown by the records of the County Recorder of Salt Lake County, State of Utah. The term "Owner" shall not refer to any Mortgagee (unless such Mortgagee has acquired title for other than security purposes by means of judicial or nonjudicial action, including without limitation, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure) or to any person or persons purchasing a Condominium under contract (until such contract is fully performed and legal title conveyed of record).

1.23 "Project" shall mean the land, the buildings, and all improvements submitted by this Declaration and the Map to the provisions of the Condominium Act.

1.24 "Total Votes of the Association" shall mean the total number of votes appertaining to all Condominiums in the Project, as shown in Exhibit A attached hereto.

1.25 "Unit" shall mean an individual air space unit, consisting of enclosed rooms occupying part of a building and bounded by the unfinished interior surfaces of the walls, floors, ceilings, windows, and doors along the perimeter boundaries of the air space, as said boundaries are shown on the Map, together with all fixtures and improvements therein contained. Paint and other wall, ceiling, or floor coverings on interior surfaces shall be deemed to be part of the Unit. Notwithstanding the fact that they may be within the boundaries of such air space, the following are not part of a Unit insofar as they are necessary for the support or for the use and enjoyment of another Unit: Bearing walls, floors, ceilings, and roofs (except the interior surfaces thereof), foundations, ceiling equipment, tanks, pumps, pipes, vents, ducts, shafts, flues, chutes, conduits, wires, and other utility installations, except the outlets thereof when located within the Unit. The interior surfaces of a window or door mean the points at which such surfaces are located when the window or door is closed.

1.26 "FHA" shall mean the Federal Housing Administration.

1.27 "VA" shall mean the Veteran's Administration.

1.28 "Mortgage Insurer" shall mean FHA or VA.

ARTICLE II

SUBMISSION AND DIVISION OF PROJECT

2.01 Submission to Condominium Act. The Declarant hereby submits the Land, the Buildings, and all other improvements now or hereafter made in or upon the Land to the provisions of the Condominium Act. All of said property is and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, and improved as a fee simple Condominium Project to be known as Capitol Heights Condominium, a Utah Condominium Project. All of said property is and shall be subject to the covenants, conditions, restrictions, uses, limitations, and obligations set forth herein, each and all of which are declared and agreed to be for the benefit of said Project and in furtherance of a plan for improvement of said property and division thereof into Condominiums; further, each and all of the provisions hereof shall be deemed to run with the Land and shall be a burden and a benefit on the Land and shall be binding upon the Declarant, its successors and assigns, and to any person acquiring, leasing, or owning an interest in the real property and improvements comprising the Project, and to their respective personal representatives, heirs, successors, and assigns.

2.02 Division into Condominiums. The Project is hereby divided into Condominiums, each such Condominium consisting of a Unit and an appurtenant undivided interest in the Common Areas, as set forth in Exhibit A attached hereto.

ARTICLE III

BUILDINGS AND IMPROVEMENTS

3.01 Buildings and Improvements. The Buildings and other improvements constructed or to be constructed on the land are described on the Map. The following information regarding the Buildings is also contained on the Map: (i) the number of floors and basements in a Building; and (ii) the number of units on each floor of a Building.

3.02 Description of Units. The Map contains the unit number, location, and dimensions of each Unit in the Project and all other information necessary to identify each such Unit. Each Unit shall have at least one parking space which is either part of the Unit or appurtenant to it and reserved for its exclusive use as a Limited Common Area which shall not be severed from such Unit.

3.03 Description of Common Areas. The Map contains a description of the Common Areas of the Project.

3.04 Description of Limited Common Areas. The Map contains a description of the Limited Common Areas of the Project. The Map also designates the Unit or Units to which each of the Limited Common Areas is reserved.

3.05 Principal Construction Materials. The Buildings in the Project will rest on reinforced cement footings and foundations. The walls of the Buildings are frame walls, the exterior surfaces of which are covered with cedar shingles, and the interior surfaces of which are covered with gypsum sheetrock. The floors are covered with carpet, linoleum, asphalt tile or equivalent floor coverings. The Buildings are supported by wood support beams and the roof is a four-ply built-up roof.

ARTICLE IV

NATURE AND INCIDENTS OF CONDOMINIUM OWNERSHIP

4.01 Interior of Units. Each Owner shall have the exclusive right to paint, repaint, tile, wax, paper, carpet, or otherwise decorate the interior surfaces of the walls, ceilings, floors, and doors forming the boundaries of his Unit and the surfaces of all walls, ceilings, floors, and doors within such boundaries. Each Owner shall also have the right to construct partition walls, fixtures, and improvements within the boundaries of his Unit; provided, however, that such partition walls, fixtures and improvements (i) shall comply with all applicable laws, ordinances, and building codes, (ii) shall not interfere with facilities necessary for the support, use, or enjoyment of any other part of the Project, (iii) shall not impair the structural soundness or integrity of the Building in which it is located, and (iv) shall not encroach upon the Common Areas or any part thereof, unless the Board of Trustees shall consent in writing to such encroachment.

4.02 Maintenance of Units. Each Owner shall keep the interior of his Unit, including without limitation, interior walls, windows, ceilings, floors, and permanent fixtures and appurtenances thereto, in a clean and sanitary condition and in a state of good repair. In the event that any such Unit shall develop an unsanitary or unclean or unsafe condition or fall into a state of disrepair, and in the event that the Owner of such Unit shall fail to correct such condition or state of disrepair promptly following written notice from the Board of Trustees, the Board of Trustees in behalf of the Association shall have the right, at the expense of the Owner and without liability to the Owner for trespass or otherwise, to enter said Unit and correct or eliminate said unsanitary or unclean condition or state of disrepair; provided, however, that the Association shall in no event have the obligation to correct or eliminate any such condition or state of disrepair.

4.03 Right to Combine Units. With the written consent of the Board of Trustees, which consent shall not be unreasonably withheld, two or more Units may be utilized by the Owner or Owners thereof as if they were one Unit.

To the extent permitted in the written consent of the Association, any walls, floors, or other structural separations between any two such Units, or any space which would be occupied by such structural separations but for the utilization of the two Units as one Unit, may, for as long as the two Units are utilized as one Unit, be utilized by the Owner or Owners of the adjoining Units as Limited Common Areas, except to the extent that any such structural separations are necessary or contain facilities necessary for the support, use, or enjoyment of other parts of the Project. At any time, upon the request of the Owner of one of such adjoining Units, any opening between the two units which, but for joint utilization of the two Units, would have been occupied by structural separation, shall be closed, at the equal expense of the Owner or Owners of each of the two Units and the structural separations between the two Units shall thereupon become Common Areas.

4.04 Title. Title to a Condominium within the Project may be held or owned by any person or entity, or any combination thereof, and in any manner in which title to any other real property may be held or owned in the State of Utah, including without limitation joint tenancy or tenancy in common.

4.05 Ownership of Common Areas. The undivided interest in the Common Areas appurtenant to each Unit in the Project shall be as set forth in Exhibit A attached hereto. The percentages appurtenant to each Unit as shown in said Exhibit A shall have a permanent character and shall not be altered a) except with the unanimous written consent of all Owners expressed in an amendment to this Declaration duly recorded, or b) except to the extent necessary to allow for the expansion or phasing of the project as provided in Article XVI of this Declaration and the Condominium Act. Except as otherwise provided in this Declaration, any Owner shall be entitled to nonexclusive use of the Common Areas (other than Limited Common Areas) in any manner that does not hinder or encroach upon the rights of other Owners and is not contrary to any rules and regulations promulgated by the Association. Except as otherwise provided in this Declaration, any Owner shall have the exclusive right to use and enjoy any Limited Common Areas that may be designated for exclusive use by such Owner.

4.06 Inseparability. Title to no part of a Condominium within the Project may be separated from any other part thereof, and each Unit and the undivided interest in the Common Areas appurtenant to each Unit shall always be conveyed, devised, encumbered, and otherwise affected only as a complete Condominium. Every devise, encumbrance, conveyance, or other disposition of a Condominium, or any part thereof, shall be construed to be a devise, encumbrance, conveyance, or other disposition, respectively, of the entire Condominium, together with all appurtenant rights created by law or by this Declaration, including appurtenant rights created by law or by this Declaration, including appurtenant Membership in the Association as hereinafter set forth.

4.07 No Partition. The Common Areas shall be owned in common by all of the Owners, and no Owner may bring any action for partition thereof.

4.08 Separate Mortgages by Owners. Each Owner shall have the right separately to mortgage or otherwise encumber his Condominium. No Owner shall attempt to or shall have the right to mortgage or otherwise encumber the Common Areas or any part thereof, except the undivided interest therein appurtenant to his Condominium. Any mortgage or other encumbrance of any Condominium within the Project shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure the provisions of this Declaration shall be binding upon any Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.

4.09 Separate Taxation. Each Condominium within the Project including each Unit and appurtenant undivided interest in the Common Areas, shall be deemed to be a parcel and shall be assessed separately for all taxes, assessments, and other charges of the State of Utah or of any political subdivision or of any special improvement district or of any other taxing or assessing authority. For purposes of such assessment, the valuation of the Common Areas shall be apportioned among the Units in proportion to the undivided interests in Common Areas appurtenant to such Units. All such taxes, assessments, and other charges on each respective Condominium shall be separately levied against the Owner thereof. No forfeiture or sale of any Condominium for delinquent taxes, assessments, or other governmental charges shall divest or in any way affect the title to any other Condominium.

4.10 Mechanics Liens. No labor performed or material furnished for use in connection with any Unit with the consent or at the request of an Owner or his agent or subcontractor shall create any right to file a statement of mechanic's lien against the Unit of any other Owner not expressly consenting to or requesting the same or against any interest in the Common Areas, except the undivided interest therein appurtenant to the Unit of the Owner for whom such labor shall have been performed and such materials shall have been furnished.

4.11 Description of Condominium. Every contract for the sale of a Condominium and every other instrument affecting title to a Condominium within the Project may describe a Unit by its identifying number or symbol as indicated in this Declaration or as shown on the Map. Such description will be construed to describe the Unit, together with its appurtenant undivided interest in the Common Areas, and to incorporate all of the rights incident to ownership of a Condominium within the Project and all of the limitations on such ownership.

ARTICLE V

EASEMENTS

5.01 Easements for Encroachments. If any part of the Common Areas encroaches or shall hereafter encroach upon any Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. If any

part of a Unit encroaches or shall hereafter encroach upon the Common Areas, or upon an adjoining Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of the Common Areas or any part of a Unit shall hereafter encroach on real property now owned by the Declarant outside the boundaries of the land, an easement for such encroachment shall and does exist. Such encroachments shall not be considered to be encumbrances either on the Common Areas or the Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of the Building or any improvements constructed or to be constructed within the Project, by error in the Map, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project, or any part thereof, in accordance with the provisions of this Declaration.

5.02 Easements for Maintenance, Cleaning and Repair. Some of the Common Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Association shall have the irrevocable right to have access to each Unit and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, cleaning, repair or replacement of any Common Areas or for making emergency repairs at any time therein necessary to prevent damage to the Common Areas or to any Unit. In addition, agents of the Association may enter any Unit when necessary in connection with any cleaning, maintenance repair, replacement, landscaping, construction, or reconstruction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Association with funds from the Common Expense Fund.

5.03 Right to Ingress, Egress, and Support. Each Owner shall have the right to ingress and egress over, upon, and across the Common Areas as necessary for access to such Owner's Unit and to any Limited Common Areas appurtenant to such Unit, and shall have the right to horizontal, vertical, and lateral support of such Unit, and such rights shall be perpetual and shall be appurtenant to and pass with title to each Condominium.

5.04 Association's Right to Use Common Areas. The Association shall have an easement to make such use of the Common Areas as may be necessary or convenient to perform the duties and functions that it is obligated or permitted to perform pursuant to this Declaration, including without limitation the right to construct and maintain in the Common Areas (other than Limited Common Areas) facilities for use by Owners generally or by the Association and its agents exclusively.

5.05 Easement for Completion of Project. The Declarant shall have a transferable easement over and on the Common Areas for the purpose of completing construction of the Project and making improvements therein as shown on the Map and for the purpose of doing all things reasonably necessary or appropriate in connection therewith. To the extent that damage is inflicted on any part of the Project by any person utilizing said easement, the Declarant and the person causing the damage shall be liable to the Association for the prompt repair of such damage.

5.06 Easements Deemed Created. All conveyances of Condominiums within the Project hereafter made, whether by the Declarant or otherwise, shall be construed to grant and reserve such reciprocal easements as are provided herein, even though no specific reference to such easements appears in any such conveyance.

ARTICLE VI

RESTRICTIONS ON USE

6.01 Residential Use. No part of the Project shall be used for other than housing and the common recreational purposes for which the Project was designed. Each Condominium shall be used as a residence for a single family and for no other purposes. No condominium shall be timeshared or otherwise further subdivided or put to timeshare use.

6.02 No Noxious or Offensive Activity. No noxious, destructive or offensive activity shall be carried on or placed in or upon any Unit, or in the Common Areas, or Limited Common Areas, or any part thereof, which shall interfere with the legal rights of other Owners, nor shall anything be done therein which is or may become an annoyance or nuisance to any other Owner or to any person at any time lawfully residing in the Project. No activities shall be conducted, nor improvements constructed, in or upon any part of the Project which are or may become unsafe or hazardous to any person or property.

6.03 Restrictions on Signs. No signs, flags, or advertising devices of any nature, including without limitation, commercial, political, informational, or directional signs or devices, shall be erected or maintained on any part of the Project, without the prior inspection and written approval of the Board of Trustees, except as may be necessary temporarily to caution or warn of danger. If the Association consents to the erection of any such signs or devices, the same shall be removed promptly at the request of the Association. Any signs or similar devices and any separate structure or facility constructed by Declarant to facilitate the marketing of the Project shall comply with applicable zoning ordinances.

6.04 Pets and Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept in any Unit or in the Common Areas except that household pets may be kept or housed in Units when expressly permitted in writing by the Board of Trustees. Each owner who desires to keep a pet in his Unit shall apply in writing to the Board of Trustees for permission to keep such pet. In no event shall any pet be permitted in any portions of the Common Areas unless carried or on a leash. Each owner who keeps a pet in a unit shall indemnify and hold all other owners harmless against any loss or liability of any kind or character whatsoever arising from or as a result of having such pet in the Project. If a pet disturbs other owners by barking or biting or in other ways becoming obnoxious, the Board of Trustees will give

6.05 No Alterations. No Owner shall, without the prior written consent of the Board of Trustees in each specific instance, make or cause to be made any alteration, addition, removal, or improvement in or to the Common Areas or any part thereof, or do any act that would impair the structural soundness or integrity of the Buildings or other improvements, or jeopardize the safety of persons or property or impair any easement or hereditament appurtenant to the Project; provided that the Owners shall have the right to landscape the Limited Common Areas appurtenant to their respective Units without obtaining in each specific instance the prior written consent of the Board of Trustees so long as any landscaping undertaken in such Limited Common Areas is completed in a timely fashion, does not create a harmful or unsafe condition, and does not result in an increase in the cost of insurance on the Common Areas of the Project.

6.06 No Obstructions. No Owner shall obstruct the Common Areas or any part thereof. No Owner shall store or cause to be stored in the Common Areas any property whatsoever, unless the Board of Trustees shall consent thereto in writing.

6.07 No Overloading. No Owner shall bring anything into his Unit or permit anything to be done in his Unit that will cause damage to the Building. No Owner shall overload the floor of his Unit. No Owner shall permit the use or operation in his Unit of any equipment, machinery, or other apparatus that will in any manner injure, vibrate, or shake the Building or portions thereof.

6.08 Prohibition of Damage and Certain Activities. Except with the prior written consent of the Board of Trustees, nothing shall be done or kept in any Unit, in the Common Areas, or in any other part of the Project that would result in cancellation of the insurance on the Project or any part thereof, nor shall anything be done or kept in any Unit that would increase the rate of insurance on the Project or any part thereof over that which the Association, but for such activity, would pay. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would be in violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental authority. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or guest of any Owner, and each Owner shall indemnify and hold harmless the Association and the other Owners from and against all loss resulting from any such damage or waste caused by such Owner or by the guests, tenants, licensees, or invitees of such Owner.

6.09 No Commercial Business. No commercial business shall be permitted within the Project.

6.10 Leasing Restrictions. No Owner shall be permitted to lease his or her Condominium for a period of less than thirty (30) days. Any lease agreement shall be required to provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, the Articles,

and the Bylaws, and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be in writing.

6.11 Rules and Regulations. Each Owner shall comply strictly with all rules and regulations adopted by the Association for the governance of the Units, the Common Areas, and the Project, as such rules and regulations may be modified, amended, and construed by the Association in the sole discretion of its Board of Trustees.

6.12 Construction Period Exemption. During the course of actual construction of any permitted structures or improvements within the Project, the provisions, covenants, conditions, and restrictions contained in this Declaration shall be deemed waived to the extent necessary or convenient to permit such construction; provided, however, that during the course of such construction, nothing shall be done which will result in a violation of any said provisions, covenants, conditions, or restrictions upon completion of the construction.

ARTICLE VII

THE ASSOCIATION

7.01 Membership. Each Owner shall be entitled and required to be a Member of the Association. Membership shall begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner. If title to a Condominium is held by more than one person, the Membership appurtenant to that Condominium shall be shared by all such persons in the same proportionate interest and by the same type of tenancy in which title to the Condominium is held. An Owner shall be entitled to one Membership for each Condominium owned by him. Each Membership shall be appurtenant to the Condominium to which it relates and shall be transferred automatically by conveyance of that Condominium. Ownership of a Condominium within the Project cannot be separated from Membership in the Association appurtenant thereto, and any devise, encumbrance, conveyance, or other disposition, respectively, of the Owner's Membership in the Association and rights appurtenant thereto. No person or entity other than an Owner may be a Member of the Association, and Membership in the Association may not be transferred except in connection with the transfer of a condominium. The Association shall make available to the Owners, Mortgagers and the holders, insurers and guarantors of the first mortgage on any Unit, current copies of the Declaration, Articles, Bylaws and other rules governing the Project and other books, records and financial statements of the Association. The Association also shall be required to make available to prospective purchasers of Units current copies of the Declaration, Articles, Bylaws, other rules governing the Project and the most recent annual audited financial

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statement of the Association, if such is prepared. "Available" shall mean available for inspection, upon request, during normal business hours or under other reasonable circumstances.

7.02 Board of Trustees. Until such time as the responsibility for electing the Trustees of the Association is turned over to the Owners in accordance with Utah law, the Declarant shall have the exclusive right to appoint and to remove all such trustees. This exclusive right shall terminate after the first to occur of the following:

(a) Five (5) years from the date on which the first Condominium in the Project is conveyed; or

(b) One hundred and twenty (120) days after seventy-five percent (75%) of the Condominiums in the Project have been conveyed by Declarant to the purchasers thereof.

7.03 Right of Board of Trustees to Bind Association. Until such time as the responsibility for electing the trustees of the Association is turned over to the Owners in accordance with Section 7.02, the Board of Trustees shall not have any authority to enter into any contracts, agreements, or leases on behalf of the Association, either directly or indirectly, unless such contracts, agreements or leases may be terminated by the Association at any time without cause or penalty at any time after such transfer of control, upon thirty (30) days prior written notice.

7.04 Votes. The number of votes appurtenant to each respective Condominium shall be based on the square footage of each Unit, as set forth in Exhibit "A". The number of votes appurtenant to each Condominium as set forth in said Exhibit "A" shall have a permanent character and shall not be altered without the unanimous written consent of all Owners expressed in a duly recorded amendment to this Declaration.

7.05 Amplification. The provisions of this Article VII may be amplified by the Articles and the Bylaws; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth in this Declaration. The initial Bylaws of the Association shall be in the form of Exhibit D.

ARTICLE VIII

CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION AND BOARD OF TRUSTEES

8.01 The Common Areas. The Board of Trustees, acting on behalf of the Association and, subject to the rights and duties of the Owners as set forth in this Declaration, shall be responsible for the exclusive management

and control of the Common Areas and all improvements thereon (including the Common Facilities), and shall keep the same in a good, clean, attractive, safe, and sanitary condition, order, and repair; provided, however, that unless otherwise stated herein, each Owner shall keep the Limited Common Areas designated for use in connection with his Unit, if any, in a clean, sanitary, and attractive condition. The Association shall be responsible for the maintenance and repair of the exterior of the Buildings, other improvements and grounds, including without limitation painting thereof, repair and replacement of exterior trim, roofs and fences, and maintenance of landscaping, walkways, driveways, and parking areas. The Board of Trustees shall also be responsible for maintenance, repair, and replacement of Common Areas within the Buildings, including, without limitation landings, stairways, utility lines, Common Facilities, and all improvements and other items located within or used in connection with the Common Areas. The specification of duties of the Board of Trustees with respect to particular Common Areas shall not be construed to limit its duties with respect to other Common Areas. All goods and services procured by the Board of Trustees in performing its responsibilities under this Section shall be paid for with funds from the Common Expense Fund.

8.02 Manager. If required by a First Mortgagee, the Board of Trustees shall retain at all times the services of an experienced, professional Manager to manage the Project. Appropriate fidelity bond coverage shall be required for any employee of the Manager who handles funds of the Association. The Board of Trustees may by written contract delegate in whole or in part to a Manager such of the duties, responsibilities, functions and powers hereunder of the Board of Trustees as are delegable. The services of any Manager retained by the Board of Trustees shall be paid for with funds from the Common Expense Fund. Any management contract, employment contract, or lease of recreational or parking areas on facilities, or any contract or lease, including franchises or licenses, to which the Declarant is a party which binds the Association either directly or indirectly shall provide that without cause such agreement may be terminated by the Board of Trustees or the Association, without penalty at any time after transfer of control by the Declarant, upon not more than ninety (90) days written notice to the other party thereto. Any such agreement shall provide that it is terminable upon thirty (30) days written notice for cause or if it is on agreement negotiated by the Declarant. The terms of any such agreement may not exceed one year, renewable by agreement of the parties for successive one-year periods.

8.03 Miscellaneous Goods and Services. The Board of Trustees may, in behalf of the Association, obtain and pay for the services of such personnel as the Board of Trustees shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Board of Trustees may, in behalf of the Association, obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project of the enforcement of this Declaration. In addition to the foregoing, the Board of Trustees may, in behalf of the Association, acquire and pay for out of the Common Expense Fund water, sewer, garbage collection, electrical, gas, and other necessary or

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desirable utility services for the Common Areas (and for the Units to the extent not separately metered or billed), insurance, bonds, and other goods and services common to the units.

8.04 Real and Personal Property. The Board of Trustees may acquire and hold on behalf of the Association real, personal, and mixed property of all types for the use or benefit of all of the Owners and may dispose of such property by sale or otherwise; provided that any acquisition or disposition of any real, personal or mixed property by the Board of Trustees wherein the value of such property exceeds \$2,500 must be approved by a vote of at least fifty-one percent (51%) of the Total Votes of the Association at a meeting duly called for that purpose. All such property, including Common Facilities, shall be paid for out of the Common Expense Fund and all proceeds from the disposition thereof shall be part of such fund.

8.05 Rules and Regulations. The Board of Trustees may make reasonable rules and regulations governing the use of the Units, the Common Areas, the Limited Common Areas, and all parts of the Project, which rules and regulations shall be consistent with the rights and duties established by this Declaration. The Board of Trustees in behalf of the Association may take judicial action against any Owner to enforce compliance with such rules and regulations or other obligations of such Owner arising hereunder, or to obtain damages for noncompliance therewith, as permitted by law. In the event of such judicial action, the Association shall be entitled to recover its costs, including reasonable attorneys' fees, from the offending Owner.

8.06 Granting Easements. The Board of Trustees may, without the vote or consent of the Owners or of any other person, grant or create, on such terms as it deems advisable, easements, licenses and rights-of-way over, under, across, and through the Common Areas for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance or operation of the Project.

8.07 Statutory Duties and Powers. All duties, responsibilities, rights, and powers imposed upon or granted to the "management committee" or to the "manager" under the Condominium Act shall be duties, responsibilities, rights, and powers of the Board of Trustees hereunder.

8.08 Implied Rights. The Association may exercise any right, power, or privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonably implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

8.09 Power of Attorney and Amendments. Each Owner makes, constitutes and appoints the Association his true and lawful attorney in his name, place and stead to make, execute, sign, acknowledge and file with respect to the Project such amendments to this Declaration and the Map as may be required by law or by Vote taken pursuant to the provisions of the Declaration.

ARTICLE IX

ASSESSMENTS

9.01 Agreement to Pay Assessments. The Declarant, for each Condominium owned by it within the Project, and for and as the owner of the Project and every part thereof, hereby covenants and each Owner of any Condominium by the acceptance of instruments of conveyance and transfer therefor, whether or not it be so expressed in said instruments, shall be deemed to covenant and agree with each other and with the Association to pay to the Association all assessments made by the Association for the purposes provided in this Declaration. Such assessments shall be fixed, established, and collected from time to time as provided in this Article IX.

9.02 Annual Assessments. Annual Assessments shall be computed and assessed against all Condominiums in the Project as follows:

(a) Common Expense. Annual Assessments shall be based upon advance estimates of the Association's cash requirements to provide for payment of all estimated expenses arising out of or connected with the maintenance and operation of the Common Areas and Facilities and/or furnishing utility services and other common items to the Units. Such estimated expenses may include, without limitation, the following: Expenses of management; real property taxes and special assessments (unless and until the Condominiums are separately assessed); premiums for all insurance that the Association is required or permitted to maintain hereunder; repairs and maintenance; wages for Association employees, including fees for a Manager (if any); utility charges, including charges for utility services to the Units to the extent not separately metered or billed; legal and accounting fees; any deficit remaining from a previous period; creation of an adequate contingency reserve, major maintenance reserve, and/or sinking fund; creation of an adequate reserve fund for maintenance repairs, and replacement of those Common Areas and Facilities that must be replaced on a periodic basis, and such reserve shall be funded by monthly payments rather than extraordinary special assessments; and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under or by reason of this Declaration. Such shall constitute the Common Expense, and all funds received from assessments under this Section 9.02 shall be part of the Common Expense Fund.

(b) Apportionment. Expenses attributable to the Common Expense or to the Project as a whole shall be apportioned among and assessed to all Owners in proportion to their respective undivided interests in the Common Areas. The Declarant shall be liable for the amount of any assessments against Condominiums owned by it.

(c) Annual Budget. Annual Assessments shall be determined on the basis of a fiscal year beginning January 1 and ending December 31 next following; provided the first fiscal year shall begin on the date

of this Declaration and on or before December 15 of each year thereafter, the Board of Trustees shall prepare and furnish to each Owner, or cause to be prepared and furnished to each Owner, an operating budget for the upcoming fiscal year. The budget shall itemize the estimated expenses of Common Expense for such fiscal year, anticipated receipts (if any), and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the Annual Assessment for the upcoming fiscal year and as the major guideline under which the Project shall be operated during such annual period. Such budgets shall be unnecessary for Annual Assessments relative to, or for operation of the Project during, any operating period ending before January 1, 1984.

(d) Notice and Payment. Except with respect to the first fiscal year, the Board of Trustees shall notify each Owner as to the amount of the Annual Assessment against his or her Condominium on or before December 15 each year for the fiscal year beginning on January 1 next following. Each Annual Assessment shall be payable in twelve equal monthly installments, one such installment due on the first day of each calendar month during the fiscal year to which the assessment relates; provided, however, the Annual Assessment for the first fiscal year shall be based upon such portion of the first fiscal year. The Owners shall commence payment of the full monthly assessments against their respective Condominiums no later than sixty (60) days after the conveyance of the first Condominium in the Project or phase. All unpaid installments of any Annual Assessment shall bear interest at the rate of eighteen percent (18%) per annum from the date each such installment became due until paid. In addition, in the event that any installment of the Annual Assessment is not paid within fifteen (15) days of the date such installment becomes due, the Association may, at its option, and upon fifteen (15) days prior written notice to the Owner accelerate the due date for all remaining unpaid installments of the Annual Assessment for the remainder of the fiscal year and all accrued but unpaid interest thereon. Payment of the Annual Assessment installments so accelerated shall be due at the expiration of said fifteen (15) day notice period and interest shall accrue on the entire sum at the rate of eighteen percent (18%) per annum from such date until paid in full. The failure of the Board of Trustees to give timely notice of any Annual Assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay such assessment or any other assessment; but the date when the payment shall become due in such case shall be deferred to a date fifteen (15) days after notice of such assessment shall have been given to the Owner in the manner provided in this Declaration.

(e) Inadequate Funds. In the event that the Common Expense Fund proves inadequate at any time for whatever reason, including non-payment of any Owner's assessment, the Board of Trustees may on behalf of the Association levy additional assessments in accordance with the procedure set forth in Section 9.03 below, except that the vote therein specified shall be unnecessary.

9.03 Special Assessments. In addition to the Annual Assessments authorized by this Article, the Board of Trustees may, on behalf of the Association, levy, at any time and from time to time, upon the affirmative vote of at least Fifty-One Percent (51%) of the Total Votes of the Association, Special Assessments, payable over such periods as the Board of Trustees may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration (including without limitation Common Expenses). This Section shall not be construed as an independent source of authority for the Association to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections or Articles hereof. Any amounts assessed pursuant hereto shall be assessed to Owners in proportion to their respective undivided interests in the Common Areas. Notice in writing of the amount of each such Special Assessment and the time for payment thereof shall be given promptly to the Owners; no payment shall be due less than fifteen (15) days after such notice shall have been given. All unpaid portions of any Special Assessment shall bear interest at the rate of eighteen percent (18%) per annum from the date such portions become due until paid. All funds received from assessments under this Section shall be part of the Common Expense Fund.

9.04 Lien for Assessments. All sums assessed to Owners of any Condominium within the Project pursuant to the provisions of this Article IX, together with penalties and interest thereon as provided herein, shall be secured by a lien on such Condominium in favor of the Association. To evidence a lien for sums assessed pursuant to this Article IX, the Board of Trustees may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Condominium, and a description of the Condominium. Such a notice shall be signed and acknowledged by a duly authorized officer of the Association and may be recorded in the office of the County Recorder of Salt Lake County, State of Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by sale or foreclosure conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any other manner permitted by law by the Association in the same manner in which mortgages on real property may be foreclosed under the laws of the State of Utah. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees) and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessments against the Condominium which shall become due during the period of foreclosure, and all such assessments shall be secured by the lien being foreclosed. The Board of Trustees shall have the right and power in behalf of the Association to bid in at any foreclosure sale, and to hold, lease, mortgage, or convey the subject Condominium in the name of the Association.

9.05 Personal Obligation of Owner. The amount of any Annual or Special Assessment against any Condominium shall be the personal obligation

of the Owner of such Condominium to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his Condominium or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment for unpaid assessments hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorneys' fees.

9.06 Statement of Account. Upon payment of a reasonable fee not to exceed \$10.00 and upon written request of any Owner, Mortgagee, or prospective purchaser of a Condominium, the Board of Trustees shall issue a written statement setting forth the following: The amount of the unpaid assessments, if any, with respect to such Condominium; the amount of the current Annual Assessment and the date or dates upon which installments thereof become due; credit for advanced payments or prepaid items, including without limitation the Owner's share of prepaid insurance premiums. Such statements shall be conclusive upon the Association in favor of persons who rely thereon in good faith. In the event that the Board of Trustees fails upon written request to issue such a written statement, any unpaid assessments with respect to such Condominium which became due prior to the written receipt of such written request by the Board of Trustees shall become subordinate to a lien held by the person or entity requesting such statement.

9.07 Personal Liability of Purchaser. Subject to the provisions of Sections 9.06 and 14.08, a purchaser of a Condominium shall be jointly and severally liable with the seller thereof for all unpaid assessments against such Condominium up to the time of the grant or conveyance; provided, however, that the provisions of this Section shall not prejudice the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

9.08 Reserves and Working Capital. The Association shall establish the following funds:

(a) Reserve Fund. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Areas and Facilities and to the Limited Common Areas the Association may be obligated to maintain. The reserve fund shall be maintained out of regular assessments for common expenses.

(b) Working Capital Fund. The Association shall also establish and maintain for the initial months of the Project, a working capital fund equal to at least two (2) months' Common Area charges for each Condominium. Each Condominium's share of the working capital fund must be collected and transferred to the Association at the time of the closing of sale of that Condominium. The working capital fund must be maintained in a segregated account for the use and benefit of the Association. The contribution to the working capital fund for each

unsold Condominium in a legal phase of the Project shall be paid to the Association within sixty (60) days after the date of conveyance of the first Condominium in such legal phase of the Project. The purpose of the working capital fund is to insure that the Association will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Association. Amounts paid into the working capital fund are not to be considered adverse payment of any regular assessment.

9.09 Amendment of Article. This Article IX shall not be amended unless the Owners of Seventy-Five Percent (75%) of the Condominiums in the Project consent and agree to such amendment in a duly executed and recorded instrument.

ARTICLE X

INSURANCE

10.01 Types of Insurance. The Association shall obtain and keep in full force and effect at all times the following types of insurance coverage, provided by companies licensed to do business in the State of Utah:

(a) Hazard Insurance. The Association shall obtain, maintain and pay for as a Common Expense a "master" or "blanket" multi-peril policy of property insurance covering the entire Project, including, without limitation, fixtures and Building service equipment to the extent that they are part of the Common Areas and Facilities, Limited Common Areas, common personal property and supplies belonging to the Association, and any fixtures, equipment or other property owned by the Association and any such property that is within the Units which are encumbered by a Mortgage purchased by FNMA or FHLMC. Such master policy of hazard insurance shall provide, as a minimum, protection against the following:

(i) loss or damage by fire and other perils normally covered by the standard extended coverage endorsement; and

(ii) all other perils customarily covered with respect to projects similar to the Project in construction, location, and use, and any other perils for which coverage is commonly required by private institutional mortgage investors for such projects, including all perils normally covered by the standard "all risk" endorsement, where such is available.

The policy shall be in an amount equal to 100% of the current replacement cost of the Project and all property covered by the policy. In addition, such master policy of hazard insurance shall include the following

endorsements, if available: an Agreed Amount and Inflation Guard Endorsement; and, if the Project should hereafter become subject to a construction code provision which would require the Association to incur a significant expense in order to effect code required changes in the undamaged portions of the Project in the event of the partial destruction of the Project by an insured peril, Construction Code Endorsements (e.g., a Demolition Cost Endorsement, a Contingent Liability from Operation of Building Laws Endorsement and an Increased Cost of Construction Endorsement).

(b) Public Liability Insurance. The Association shall obtain and maintain a comprehensive policy of public liability insurance covering all of the Common Areas and Common Facilities, commercial spaces and public ways (if any) in the Project, whether or not they are leased to a third party. Such insurance policy shall contain a Severability of Interest Endorsement or equivalent coverage which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or another Owner. The scope of coverage shall include, without limitation:

(i) legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Areas and Facilities and legal liability arising out of law suits related to employment contracts of the Association; and

(ii) additional coverages as may be required to include protection against such other risks as are customarily covered with respect to projects similar to the Project in construction, location and use, any other coverage in the kinds and amounts required by private institutional mortgage investors for such projects, including, but not limited to, host liquor liability, contractual and all-written contract insurance, and comprehensive automobile liability insurance.

Coverage limits shall be in amounts generally required by private institutional mortgage investors for projects similar to the Project in construction, location and use; provided, however, that such coverage shall be for at least \$1,000,000 for bodily injury, including deaths of persons, and property damage arising out of a single occurrence.

(c) Workmen's Compensation Insurance. The Association shall obtain and maintain workmen's compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by law.

(d) Fidelity Insurance or Bond. The Association shall obtain and maintain blanket fidelity bonds for all officers, directors, trustees, and employees of the Association and all other persons, including without limitation, volunteers, handling or responsible for funds of or

administered by the Association. Furthermore, where the Association has designated some or all of the responsibility for the handling of funds to a management agent, such bonds shall be required for such management agent's officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. Such fidelity bonds shall meet the following requirements:

(i) all shall name the Association as an obligee and the named insured;

(ii) all shall be based on the best business judgment of the Association and shall not be written in an amount less than the estimated maximum of funds, including reserve funds in the custody of the Association or the Manager at any time during the term of each fidelity bond. However, in no event may the aggregate amount of such bonds be less than a sum equal to three (3) months' aggregate assessments on all Condominiums plus reserve funds.

(iii) all shall contain waivers by the issuers of the bonds or policies of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar terms or expressions, or shall contain an appropriate endorsement to the policy to cover any persons who serve without compensation if the policy would not otherwise cover volunteers;

(iv) all shall provide that they may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days prior written notice to the Association or any Insurance Trustee and each Mortgage Servicer on behalf of FNMA, or FHLMC; and

(v) the premiums shall all be paid by the Association as a common expense, except for premiums on fidelity bonds or insurance maintained by a management agent for its officers, employees and agents.

(e) Flood Insurance. The Project is not located in either an area identified by the Secretary of Housing and Urban Development or the Federal Emergency Management Agency as an area having special flood hazards for which flood insurance is not available because the community in which the Project is located is ineligible for participation in the National Flood Insurance Program or an area having special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program. In the event that at some future time the Project should be declared to be an area having special flood hazards and for which flood insurance is available under the National Flood Insurance Program, the Association shall at that time obtain and maintain at all times a blanket policy of flood insurance that meets the then existing FHLMC/FNMA flood insurance requirements for similar condominium projects.

(f) Notwithstanding any other provisions contained herein to the contrary, the Association shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for condominium development projects established by FHA, VA, FNMA and the Government National Mortgage Association, so long as any of them is a mortgagee, Mortgage Insurer, or owner of a Condominium within the Project, except to the extent such coverage is not available or has been waived in writing by FHA, VA, FNMA or the Government National Mortgage Association.

10.02 Insurance Policy Requirements. The Hazard, Public Liability and Flood Insurance policies obtained by the Association pursuant to Section 10.01 (a), (b), and (e) shall be subject to the following:

(a) The named insured under any such policies shall be set forth therein substantially as follows: "Capitol Heights Condominium Owners Association for the use and benefit of the individual Owners (designated by name if required by law)." The policies may also be issued in the name of an authorized representative of the Association, including any Insurance Trustee with whom the Association has entered into an Insurance Trust Agreement, or any successor to such trustee (each of which shall be referred to as "Insurance Trustee"), for the use and benefit of the individual Owners. Loss payable shall be paid in favor of the Association (or Insurance Trustee), as a trustee for each Owner and each such Owner's Mortgagee. Each Owner and each such Owner's Mortgagee, if any, shall be beneficiaries of the policies according to the undivided interest in the Common Areas appurtenant to each Owner's respective Condominium in the percentage of common ownership. Evidence of insurance shall be issued to each Owner and Mortgagee upon request.

(b) Insurance coverage obtained and maintained pursuant to the requirement of Section 10.01 (a), (b) and (e) shall be primary in the event any Owner has insurance covering the same loss;

(c) Insurance coverage must not be prejudiced by an act or neglect of individual Owners when such act or neglect is not within the control of either such Owners collectively or the Association;

(d) Coverage may not be cancelled, changed in a way which is adverse to Mortgagee, or substantially reduced or modified (including cancellation for nonpayment of premium) without at least ten (10) days prior written notice to any and all insured parties, including any Mortgage Servicer on behalf of FNMA or FHLMC, and any First Mortgagee; and

(e) All policies must contain a waiver of subrogation by the insurer as to any and all claims against the Association, any Owner and/or their respective agents, employees or tenants;

(f) Each hazard insurance policy shall be written by a hazard insurance carrier which has a current financial rating by Best's Insurance Reports of Class B+/VI or better;

(g) Policies shall be deemed unacceptable where (i) under the terms of the carrier's charter, bylaws or policy, contributions or assessments may be made against the Association, an Owner, FNMA, FHLMC or any designee of FNMA or FHLMC; or (ii) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent FNMA or an Owner from collecting insurance proceeds;

(h) All policies shall contain or have attached the standard mortgagee clause, or equivalent endorsement (without contribution), which is commonly accepted by private institutional mortgage investors in the area in which the Project is located and which appropriately names FHLMC, FNMA or FNMA's Mortgage Servicer in the policy if such corporations are holders of one or more first mortgages on Units within the Project. If Mortgage Servicer is named as Mortgagee in the mortgagee clause, Mortgage Servicer's name shall be followed by the phrase "its successors and assigns." The standard mortgagee clause in each policy must be endorsed to provide that any proceeds shall be paid to the Association, or any Insurance Trustee, for the use and benefit of the Owners and their first mortgage holders as their interests may appear, or must be otherwise endorsed to fully protect FNMA's or FHLMC's interests;

(i) Policy contracts shall provide that no assessment may be made against FNMA, FHLMC (or their designees), and that any assessment made against others may not become a lien on the Mortgaged Premises superior to the first mortgage; and

(j) Policies shall be in compliance with and consistent with applicable local and State insurance law. Each insurer and any reinsurer must be specifically licensed or authorized by law to transact business within the State of Utah.

10.03 Evidence of Insurance. The Board of Trustees shall provide the Mortgage Servicer with a copy of the "master" or "blanket" policy of Multi-Peril property insurance, including copies of endorsements to such policy as required by FHLMC or FNMA, and where applicable, a copy of any flood insurance policy, a copy of the comprehensive policy of public liability insurance, an appropriate certificate or memorandum of insurance as to each Condominium in the Project which is the subject of a mortgage being serviced for FHLMC or FNMA, any other insurance drafts, policies, notices, invoices and other similar documents.

10.04 Additional Coverage. The provisions of this Declaration shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage in addition to any insurance coverage

required by this Declaration, in such amounts and in such forms as the Association may deem appropriate from time to time.

10.05 Owner's Own Insurance. Each Owner, at his own expense, may procure and maintain at all times fire and extended coverage insurance covering personal property of such owner and additional fixtures and improvements added by such Owner against loss by fire and other casualties, including without limitation vandalism and malicious mischief. All policies providing such casualty insurance shall provide that they do not diminish the insurance carrier's coverage for liability arising under insurance policies obtained by the Association pursuant to this Article. Notwithstanding the provisions hereof, each Owner may obtain insurance at his own expense providing such other coverage upon his Condominium, his personal property, for his personal liability, and covering such other risks as he may deem appropriate; provided that each such policy shall provide that it does not diminish the insurance carrier's coverage for liability arising under insurance policies obtained by the Association pursuant to this Article. If obtainable under industry practice without an unreasonable additional charge for such waiver, all such insurance shall contain a waiver of the insurance company's right of subrogation against the Association, the Declarant, the Manager, other Owners, and their respective servants, agents and guests.

10.06 Review of Insurance. The Association shall review annually the coverage and policy limits of all insurance on the Project and adjust the same at its discretion. Such annual review may include an appraisal of the improvements in the Project by a representative of the insurance carrier or carriers providing the policy or policies on the Project, or by such other qualified appraisers as the Association may select.

10.07 Insurance Trustee, Power of Attorney. Notwithstanding anything to the contrary in this Declaration, the Hazard, Public Liability, and Flood Insurance policies obtained by the Association pursuant to Section 10.01(a), (b), and (e) may name as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement or any successor to such trustee (each of whom shall be referred to herein as the "Insurance Trustee"). All such policies obtained by the Association must provide for recognition of any Insurance Trust Agreement, and the Insurance Trustee, or such other authorized representative, shall have exclusive authority to negotiate losses under any such policy. Each Owner appoints the Association, or the Insurance Trustee (in the event a trustee is designated hereafter to represent the Association), as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Association or any Insurance Trustee must hold or otherwise properly dispose of any proceeds of insurance in trust for the Owners and their first mortgage holders, as their interests may appear.

ARTICLE XI

DAMAGE OR DESTRUCTION

11.01 Association as Attorney in Fact. All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney in fact in their name, place, and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute an appointment by said grantee of the Association as his attorney in fact as herein provided. As attorney in fact, the Association shall have full and complete authorization, right and power to make, execute, and deliver any contract, deed, or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted.

11.02 Definition of Repair and Reconstruction. Repair and reconstruction of the improvements as used herein means restoring the Project to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas having substantially the same vertical and horizontal boundaries as before.

11.03 Procedures. In the event all or any part of the Project is damaged or destroyed and subject to the provisions of Article XIV below, the Association shall proceed as follows:

(a) Notice to First Mortgagees. The Association shall give timely written notice to any institutional holder of any first mortgage on a unit in the event of substantial damage to or destruction of any unit or any part of the Common Areas.

(b) Estimate of Costs. As soon as practicable after an event causing damage to or destruction of any part of the Project, the Association shall obtain complete and reliable estimates of the costs to repair and reconstruct that part of the Project damaged or destroyed.

(c) Sufficient Insurance. If the proceeds of the insurance maintained by the Association exceed the estimated costs to repair and reconstruct the damaged or destroyed part of the Project, such repair and reconstruction shall be carried out.

(d) Insufficient Insurance--Less than 75% Destruction. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project and if less than seventy-five percent (75%) of the Project is damaged or destroyed, such repair and reconstruction shall nevertheless be carried out. The Association shall levy a Special Assessment sufficient to provide funds to pay the actual costs of such repair and reconstruction to the extent that such insurance proceeds are insufficient to pay such costs. Such Special Assessment shall be allocated and collected as provided in Section 9.03 hereof, except that the

vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected (together with the proceeds of insurance) are insufficient to pay all actual costs of such repair and reconstruction.

(e) Insufficient Insurance—75% or More Destruction. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project and if seventy-five percent (75%) or more of the Project is damaged or destroyed, such damage or destruction shall be repaired and reconstructed as provided in Section 11.03(c) hereof if, but only if, either not enough Eligible First Mortgagees approve the termination of the Project pursuant to Section 14.02(a) or, within one hundred (100) days following the damage or destruction, the Owners shall elect by a vote of at least seventy-five percent (75%) of the Total Votes of the Association to carry out such repair and reconstruction. If, however, the termination of the Project is approved a sufficient number of Eligible First Mortgagees pursuant to Section 14.02(a) and the Owners do not, within one hundred (100) days after such damage or destruction, elect by a vote of at least seventy-five percent (75%) of the Total Votes of the Association to carry out such repair and reconstruction, the Association shall record in the office of the County Recorder of Salt Lake County, State of Utah, a notice setting forth such facts. Upon the recording of such notice, the following shall occur:

(i) the Project shall be deemed to be owned in common by the Owners;

(ii) the undivided interest in the Project owned in common which shall appertain to each Owner shall be the percentage of the undivided interest previously owned by such Owner in the Common Areas;

(iii) any liens affecting any of the Condominiums shall be deemed to be transferred, in accordance with the existing priorities, to the undivided interest of the respective Owner in the Project; and

(iv) the Project shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of any sale resulting from such suit for partition, together with the net proceeds of the insurance of the Project, if any, shall be considered as one fund and shall be divided among all Owners in a percentage equal to the percentage of undivided interest owned by each respective Owner in the Common Areas, as set forth in Exhibit A hereto, after first paying out of the respective share of each Owner, to the extent sufficient for the purposes, all liens on the undivided interest in the Project owned by such Owner.

(f) In no event shall an owner of a unit or any other party have priority over the institutional holder of any first mortgage on such unit with respect to the distribution to such unit of any insurance proceeds.

11.04 Repair or Reconstruction. If the damage or destruction is to be repaired and reconstructed as provided above, the Association shall, as soon as practicable after receiving the said estimate of costs, commence and diligently pursue to completion the repair and reconstruction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair and reconstruction, as attorney-in-fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith, except as otherwise expressly provided herein. The Project shall be restored or repaired to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas having the same vertical and horizontal boundaries as before. Any restoration or repair of the Project, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the Declaration and the original architectural plans and specifications, unless other action is first approved in writing by a sufficient number of Eligible First Mortgagees pursuant to Section 14.02(g).

11.05 Disbursement of Funds for Repair and Reconstruction. If repair or reconstruction is to occur, the insurance proceeds held by the Association and any amounts received from assessments made pursuant to Sections 11.03(c) and (d) hereof shall constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for cost of repair and reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners in proportion to their respective percentages of Ownership of the Common Areas.

11.06 Amendment of Article. This Article XI shall not be amended unless the Owners of Seventy-Five Percent (75%) of the Condominiums in the Project consent and agree to such amendment in a duly executed and recorded instrument.

ARTICLE XII

CONDEMNATION

12.01 Condemnation. If at any time or times all or any part of the Project shall be taken or condemned by any public authority under power of eminent domain, the provisions of this Article shall apply. A voluntary sale or conveyance of all or any part of the Project in lieu of condemnation, but under threat of condemnation, shall be deemed to be a taking by power of

eminent domain. If any Unit or portion thereof or the Common Areas and facilities or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the Board of Trustees shall give prompt written notice of any such proceeding or proposed acquisition to each Owner in the Project and to any First Mortgagee. The Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements, and agreements with the condemning authority for acquisition of the Common Areas, or any part thereof, and each Owner hereby appoints the Association as such Owners's attorney-in-fact for the purposes of such representation.

12.02 Proceeds. All compensation, damages, and other proceeds from any such taking by power of eminent domain (hereinafter the "condemnation award") shall be made payable to the Association and shall be distributed by the Board of Trustees, on behalf of the Association as herein provided.

12.03 Complete Taking. In the event the entire Project is taken by power of eminent domain, condominium ownership pursuant hereto shall terminate and the condemnation award shall be allocated among and distributed to the Owners in proportion to their respective undivided interests in the Common Areas. Such distribution shall be made by check payable jointly to the respective Owners and their respective Mortgagees, as appropriate.

12.04 Partial Taking. In the event less than the entire Project is taken by power of eminent domain, the following shall occur:

(a) Allocation of Award. As soon as practicable, the Board of Trustees shall, on behalf of the Association, reasonably and in good faith, apportion the condemnation award between compensation, severance damages, or other proceeds, and shall allocate such apportioned amounts and pay the same to the Owners as follows:

(i) the total amount apportioned to taking of or injury to the Common Areas shall be allocated among and distributed to all Owners (including Owners whose entire Units have been taken) in proportion to their respective undivided interests in the Common Areas;

(ii) the total amount apportioned to severance damages shall be allocated among and distributed to the Owners of those Condominiums that have not been taken, in proportion to their respective undivided interests in the Common Areas;

(iii) the respective amounts apportioned to the taking of or injury to a particular Unit shall be allocated and distributed to the Owner of such Unit;

(iv) the total amount apportioned to consequential damages and any other takings or injuries shall be allocated and distributed as the Association determines to be equitable under the circumstances;

(v) if apportionment or allocation is already established by negotiation, judicial decree, statute, or otherwise, the Association shall employ such apportionment and allocation to the extent it is relevant and applicable;

(vi) distribution of allocated proceeds shall be made by check payable jointly to individual Owners and their respective Mortgagees, as their interests may appear; and

(vii) no provision of this Article XII or any other provisions in this Declaration, the Articles, or the Bylaws shall entitle the owner of a unit or other party to priority over any First Mortgagee holding such Unit with respect to the distribution to such Unit of the proceeds of any award, settlement, or proceeds from any eminent domain or condemnation proceeding.

(b) Continuation and Reorganization. If less than the entire Project is taken by power of eminent domain, condominium ownership pursuant hereto shall not terminate, but shall continue. In such event the Project shall be reorganized as follows:

(i) if any partial taking results in the taking of an entire Unit, then the Owner thereof shall cease to be a Member of the Association and all voting rights and the undivided interest in the Common Areas appertaining to such Unit shall be reallocated to, and shall appertain to, the remaining Units in proportion to their respective undivided interests in the Common Areas;

(ii) if any partial taking results in the taking of a portion of a Unit and if no determination is made by the Board of Trustees, after duly considering any recommendations, proposals or other input from the Owners, that such taking does not make it impractical to use the remaining portion of such Unit for any lawful purpose permitted by this Declaration, then all voting rights and the undivided interest in the Common Areas appertaining to such Unit shall be reduced in proportion to the reduction in square footage of floor area of such Unit resulting from the taking. The voting rights and undivided interest in the Common Areas so divested from such Unit shall be reallocated to, and shall appertain to, such Unit and the other Units in the Project in proportion to their respective undivided interests in the Common Areas; provided, however, that such Unit shall participate in such reallocation on the basis of the undivided interest reduced in accordance with the preceding sentence;

(iii) if any partial taking results in the taking of a portion of a Unit and if there is a determination made by the Board of Trustees, after duly considering any recommendations, proposals, or other input from the Owners, that such taking makes it impractical to use the remaining portion of such Unit for any lawful purpose permitted by this Declaration, then all voting rights and

the entire undivided interest in the Common Areas appertaining to such Unit shall be reallocated to, and shall appertain to, the remaining Units in proportion to their respective undivided interests in the Common Areas, and the remaining portion of such Unit shall thenceforth be part of the Common Areas;

(iv) the Board of Trustees, after duly considering any recommendations, proposals or other input from the Owners, shall have the duty and authority to make all determinations and to take all actions necessary or appropriate to effectuate reorganization of the Project under the provisions of this Section 12.04(b); provided, however, that if any such determination shall have been or such action taken by judicial decree, the Board of Trustees shall defer thereto and proceed in accordance therewith.

(c) Repair and Reconstruction. Any repair and reconstruction necessitated by condemnation shall be governed by its provisions specified in Article XI hereof for cases of Damage or Destruction; provided, however, that the provisions of said Article dealing with sufficiency or insufficiency of insurance proceeds shall not be applicable.

ARTICLE XIII

OBSOLESCENCE

13.01 Adoption of Plan. Subject to the provisions of Section XIV hereof, Owners holding seventy-five percent (75%) or more of the Total Votes of the Association may agree that the Project is obsolete and adopt a written plan for the renewal and reconstruction of the Project. Written notice of adoption of such a plan shall be given to all Owners and First Mortgagees.

13.02 Payment for Renewal and Reconstruction. The Association shall levy a Special Assessment sufficient to provide funds to pay the estimated expenses of renewal or reconstruction. Such Special Assessment shall be allocated and collected as provided in Section 9.03 hereof, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected prove insufficient to pay the actual expenses of such renewal or reconstruction. In the event amounts collected pursuant hereto are in excess of the amounts required for renewal or reconstruction, such excess shall be distributed to the Owners in proportion to their respective percentages of ownership of the Common Areas.

13.03 Sale of Project. Subject to the provisions of Section XIV hereof, the Owners may at any time, by an affirmative vote of at least seventy-five percent (75%) of the Total Votes of the Association, at a special meeting of the Members of the Association duly called for such purpose, elect to sell or otherwise dispose of the Project. In such event, the Board of Trustees shall forthwith record in the office of the County Recorder of Salt

Lake County, State of Utah, a notice setting forth such facts, and upon the recording of such notice by the Board of Trustees, the Project shall be sold or otherwise disposed of by the Board of Trustees as attorney in fact for all of the Owners. Such action shall be binding upon all Owners and each Owner shall have the duty to execute and deliver such instruments and to perform all acts in such manner and form as may be necessary or appropriate to effect such sale or other disposition of the Project. The proceeds of such sale or disposition shall be apportioned among the Owners in proportion to their respective undivided interests in the Common Areas, and such apportioned proceeds shall be paid into separate accounts, each such account representing one Condominium. Each such account shall remain in the name of the Association, and shall be further identified by the Condominium designation and the name of the Owner. The Board of Trustees, as attorney in fact, shall use and disburse the total amount of each such account, without contribution from one account to another, first to the payment of valid tax and special assessment liens on the Condominium in favor of any governmental assessing authority, second to the payment of any First Mortgagee holding a first mortgage lien on the Condominium, third to the payment of assessments made pursuant to this Declaration, fourth to the payment of other holders of liens or encumbrances on the Condominium in the order of priority of their liens, and the balance remaining, if any, to the respective Owners.

13.04 Amendment of Article. This Article XIII shall not be amended unless the Owners of Seventy-Five Percent (75%) of the Condominiums in the Project and at least Seventy-Five Percent (75%) of First Mortgagees which have a first mortgage lien on any unit in the Project, based on one vote for each Mortgage, consent and agree to such amendment by duly executed and recorded instruments.

ARTICLE XIV

MORTGAGE PROTECTION

14.01 Notice of Action. Upon written request made to the Association by a First Mortgagee, or an issuer or governmental guarantor of a First Mortgage, which written request shall identify the name and address of such First Mortgagee, issuer or governmental guarantor, and the Unit number or address of the Unit, any such First Mortgagee, issuer or governmental guarantor shall be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Project or any Condominium on which there is a first mortgage held, insured, or guaranteed by such First Mortgagee, issuer or governmental guarantor;

(b) Any default in the performance by the Owner of a Condominium which is held or is subject to a First Mortgage held, insured, or guaranteed by such First Mortgagee, insurer, or governmental guarantor,

of any obligation under this Declaration, including, without limitation, any delinquency in the payment of assessments or charges owed by such Owner, which default remains uncured for a period of 60 days;

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and

(d) Any proposed action which would require the consent of a specified percentage of Eligible First Mortgagees as specified in Section 14.02 below.

14.02 Matters Requiring Prior Mortgage Insurer and Eligible First Mortgagee Approval. Except as may be required to give effect to the provisions of Article XVI relating to the expansion and phased development of the Project, the prior written consent of Owners entitled to vote at least Sixty-Seven Percent (67%) of the Total Votes in the Association (unless pursuant to a specific provision of this Declaration the consent of Owners entitled to vote a greater percentage of the Total Votes in the Association is required, in which case such specific provisions shall control), Mortgage Insurers to the extent they have guaranteed the Mortgage of any Condominium in the Project, and Eligible First Mortgagees holding First Mortgages on Condominiums having at least Sixty-Seven Percent (67%) of the votes of the Condominiums subject to First Mortgages held by Eligible First Mortgagees shall be required to:

(a) Abandon or terminate the legal status of the Project (whether by act or omission); provided that any election to terminate the legal status of the Project following the substantial destruction or a substantial taking of the Project through condemnation shall only require the prior written consent of Eligible First Mortgagees holding First Mortgages on the remaining Condominiums, whether such remaining Condominiums are existing in whole or in part, having at least Fifty-One Percent (51%) of the votes of the remaining Condominiums subject to First Mortgages held by Eligible First Mortgagees;

(b) Sell or otherwise dispose of the Project pursuant to Section 13.03 of this Declaration;

(c) Establish self-management of the Project by the Association when professional management has been previously required by any Eligible First Mortgagee, Mortgage Insurer, insurer, or guarantor;

(d) Add or amend any material provision of the Declaration, Articles, Bylaws or Map, which establishes, provides for, governs or regulates any of the following (an addition or amendment to such documents shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only):

(i) voting;

(ii) assessments, assement liens or subordination of such liens;

(iii) reserves for maintenance, repair and replacement of the Common Areas;

(iv) Fidelity Bonds or Insurance;

(v) rights to use of Common Areas and Common Facilities;

(vi) responsibility for maintenance and repair of the several portions of the Project;

(viii) boundaries of any Unit;

(viii) the undivided ownership interests in the Common Areas, the Common Facilities or Limited Common Areas.

(xi) imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey his or her Condominium; and

(xii) any provisions which are for the express benefit of First Mortgagees.

(e) Change the pro rata interest or obligations of any individual Condominium for the purpose of:

(i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condensation awards; or

(ii) determining the pro rata ownership of each Condominium in the Common Areas.

(f) Partition or subdivide any Condominium;

(g) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas. (The granting of easements by the Association for public utilities or for other public purposes consistent with the intended use of the Common Areas by the Owners shall not be deemed a transfer within the meaning of this clause);

(h) Except as provided in Section 14.02(a), use hazard insurance proceeds for losses to any portion of the Project (whether to Units or to Common Areas) for other than the repair, replacement or reconstruction of the Project.

In addition, the prior written approval of Mortgage Insurers, to the extent they have guaranteed the Mortgage of any Condominium in the Project,

and Eligible First Mortgagees holding First Mortgages on Condominiums having at least Fifty-One Percent (51%) of the votes of Condominiums subject to First Mortgages held by Eligible First Mortgagees shall be required to (i) effect any restoration or repair of the Project, after a partial condemnation or damage due to an insurable hazard, which will not be substantially in accordance with the Declaration and the original architectural plans and specifications of the Project, (ii) expand or contract the Project or add to or withdraw any property from the Project, or (iii) convert any of the Units in the Project into Common Areas or Common Areas into Units. Any Mortgage Insurer or Eligible First Mortgagee who receives a written request from the Association to approve additions or amendments to the constituent documents and who fails to deliver or post to the Association a negative response within thirty (30) days shall be deemed to have approved such request.

14.03 Prior Liens Relate Only to Individual Condominiums. All taxes, assessments and charges which may become liens prior to the first mortgage under local law shall relate only to the individual Condominiums and not to the Project as a whole.

14.04 Subordination of Common Expense Lien. Any lien which the Association may have on any Condominium in the Project for the payment of common expense assessments attributable to such Condominium and any fees, late charges, taxes or interest levied by the Association in connection therewith shall be subordinate to the lien or equivalent security interest of any First Mortgage on the Condominium recorded prior to the date on which any such common expense assessments became due.

14.05 Information Made Available to Owners, Lenders, and Holders, Insurers and Guarantors of any First Mortgages. Any Owner, lender, or holder, insurer, or guarantor of any First Mortgage shall, upon request, be entitled to inspect current copies of the Declaration, Bylaws, other rules and regulations concerning the Project, and the books, records and financial statements of the Association during normal business hours or under other reasonable circumstances.

14.06 Additional Information Made Available to Holders, Insurers and Guarantors of First Mortgages. In addition to the rights granted in Section 14.05, any holder, insurer, or guarantor shall, upon request, be entitled written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings.

14.07 Priority of First Mortgagee in Event of Damage. In the event of substantial damage to or destruction of any Unit or any part of the Common Area, no provision of the Declaration, Articles, or Bylaws or any amendment thereto shall entitle the owner of a Unit or other party to priority over any First Mortgagee with respect to the distribution to such Unit of any insurance proceeds.

14.08 Priority of First Mortgagee in Event of Condemnation. If any Unit or portion thereof or the Common Areas or any portion thereof is made

the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, no provision of the Declaration, Articles, or Bylaws or any amendment thereto, shall entitle the Owner of a Unit, or any other party, to priority over any First Mortgagee with respect to the distribution to such Unit of the proceeds of any award or settlement.

14.09 First Mortgagee Rights in Event of Foreclosure. Each holder of a first mortgage lien on a Unit who obtains title to the Unit pursuant to the remedies provided in the Mortgage, or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Unit free of any claims for unpaid assessments and charges against the Unit which accrue prior to the acquisition of title to such Unit by the Mortgagee, except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges as a common expense to all Units in the Project, including the mortgaged Unit.

14.10 No Right of First Refusal. No "right of first refusal" shall be included in or added by amendment to the Declaration, Articles or Bylaws.

ARTICLE XV

COMPLIANCE WITH DECLARATION AND BYLAWS

15.01 Compliance. Each Owner shall comply strictly with the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association, rules and regulations promulgated by the Association, and the decisions and resolutions of the Association adopted pursuant thereto, as the same may lawfully be modified and amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or for injunctive relief or for both, maintainable by the Association or, in a proper case, by an aggrieved Owner.

15.02 Enforcement and Remedies. The obligations, provisions, covenants, restrictions, and conditions contained in this Declaration, or in any Supplemental or Amended Declaration, with respect to the Association or Condominiums within the Project shall be enforceable by the Declarant or by any Owner of a Condominium within the Project, subject to this Declaration, by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages or to recover any amount due or unpaid. The obligations, provisions, covenants, restrictions, and conditions contained in this Declaration, or in any Supplemental or Amended Declaration, with respect to a person or entity or property of a person or entity other than the Association shall be enforceable by the Declarant or by the Association or, in a proper case, by an aggrieved Owner by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages or to recover any amount due or unpaid. No summary abatement or similar procedure may be utilized through non-judicial means to alter or demolish items of construction.

ARTICLE XVI

GENERAL PROVISIONS

16.01 Intent and Purpose. The provisions of this Declaration, and any Supplemental or Amended Declaration, shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of a Condominium Project. Failure to enforce any provision, restriction, covenant, or condition contained in this Declaration, or in any Supplemental or Amended Declaration, shall not operate as a waiver of any such provision, restriction, covenant, or condition or of any other provisions, restrictions, covenants, or conditions.

16.02 Construction. The provisions of this Declaration shall be in addition and supplemental to the provisions of the Condominium Act and all other provisions of law. Whenever used herein, unless the context shall otherwise require, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both genders. The Article and Section headings set forth herein are for convenience and reference only and are not intended to expand, limit, or otherwise affect the meaning or interpretation of this Declaration or any provision hereof. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provisions hereof.

16.03 Notices and Registration of Mailing Address. Each Owner shall register from time to time with the Association his current mailing address. All notices, demands, and other communications to any Owner as provided for in this Declaration shall be in writing and shall be sufficient for all purposes if personally served or if sent by first class U.S. mail, postage prepaid, addressed to the Owner at his registered mailing address or, if no address has been registered, to the Unit of such Owner. All notices, demands, and other communications to the Association as provided for in this Declaration shall be in writing and shall be sufficient for all purposes if personally served or if sent by first class U.S. mail, postage prepaid, addressed to the Association at its offices at 2002 Laurelhurst Drive, Salt Lake City, Utah 84108, or to such other address as the Association may hereafter specify to the Owners in writing. Any notice, demand, or communication referred to in this Declaration shall be deemed to have been given and received when personally served or when deposited in the U.S. mail, postage prepaid, and in the form provided for in this Section, as the case may be.

16.04 Audit. Any Owner may at any reasonable time, upon appointment and at his own expense, cause an audit or inspection to be made of the books and records maintained by the Association. The Association, at the expense of the Common Expense Fund, shall obtain an audit, by certified public accountants, of all books and records pertaining to the Project at no greater than annual intervals, and copies thereof shall be furnished to the Owners.

16.05 Amendment. Except as otherwise provided herein, this Declaration may be amended if Owners holding at least two-thirds (2/3) of the Total Votes in the Association consent and agree to such amendment by instruments which are duly recorded in the office of the County Recorder of Salt Lake County, State of Utah.

16.06 Effective Date. This Declaration shall take effect upon recording.

16.07 Agent for Service. The name and address of the person to receive service of process in all cases provided by the Condominium Act shall be the registered agent and address of the Association as shown on the official corporate records maintained in the office of the Secretary of State of the State of Utah. On the date of this Declaration, the registered agent of the Association is William E. Smith, dba Landmark Homes & Development Co., 2002 Laurelhurst Drive, Salt Lake City, Utah 84108.

16.08 Limitation on Association's Liability. The Association shall not be liable for any failure of water service or other utility service (if any) to be obtained and paid for by the Association hereunder, or for injury or damage to any person or property caused by the elements or by another Owner or person in or upon the Project, or resulting from electricity, water, rain, snow, or ice which may leak or flow from outside or from any parts of the Building or its drains, pipes, conduits, appliances, or equipment, or from any other place, unless caused by the grossly negligent or willful misconduct of the Association. No diminution or abatement of any assessments under this Declaration shall be claimed or allowed for inconvenience or discomfort arising from the making of any repairs or improvements to or maintaining the Project or any part thereof, or from any action taken to comply with the provisions of this Declaration or with the laws, ordinances, regulations, rules, or order of any governmental authority.

16.09 Owner's Obligations. All obligations of an Owner, under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that he may be leasing, renting, or selling under contract his Condominium. The Owner of a Condominium within the Project shall have no obligation for expenses or other obligations accruing after he conveys such Condominium.

16.10 Model Units, Sales Offices and Advertising Signs. Declarant and Declarant's duly authorized agents, representatives and employees shall have the right to establish and maintain model units and sales offices on the land within the Project, and the right to use such model units and sales offices during the period that Condominiums in the Project remain unsold. No more than two model units and one sales office will be established and maintained by Declarant in the Project. Declarant reserves the right to relocate the same from time to time within the Project. Declarant further reserves the right to maintain advertising signs on the Project and to place the same in any location, and to relocate, replace and remove the same at the sole discretion of Declarant during the period that units in the Project remain unsold. Following the completion of Declarant's efforts to sell the

OWNER'S CONSENT

On this 24th day of August, 1983, the undersigned William L. Smith and Marjorie J. Smith, husband and wife, as the owner of the land upon which the Project is located, do hereby consent to and execute these Bylaws in accordance with the provisions of the Utah Condominium Ownership Act.

William L. Smith
William L. Smith

Marjorie J. Smith
Marjorie J. Smith

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

On the 24th day of August, 1983, personally appeared before me William L. Smith and Marjorie J. Smith, husband and wife, the signers of the within and foregoing Owner's Consent, each of whom duly acknowledged to me that he/she executed the same.

Mary Ellen Duke
NOTARY PUBLIC
Residing at: Salt Lake City, Ut.

My Commission Expires:
2/03/87

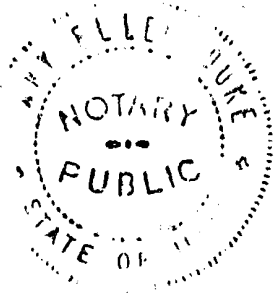


EXHIBIT "A"

(Attached to and forming a part of the Declaration of Condominium of the Capital Heights Condominium, a Utah Condominium Project.)

UNITS, UNDIVIDED OWNERSHIP INTERESTS, AND VOTES:

<u>UNIT NO.</u>	<u>LIMITED COMMON* PARKING ASSIGNMENT</u>	<u>UNDIVIDED OWNERSHIP INTERESTS (Fraction)</u>	<u>VOTES</u>
A101	A101	1/18	1
A102	A102	1/18	1
A201	A201	1/18	1
A202	A202	1/18	1
B101	B101	1/18	1
B102	B102	1/18	1
B103	B103	1/18	1
B201	B201	1/18	1
B202	B202	1/18	1
B203	B203	1/18	1
C101	C101	1/18	1
C102	C102	1/18	1
C103	C103	1/18	1
C104	C104	1/18	1
C201	C201	1/18	1
C202	C202	1/18	1
C203	C203	1/18	1
C204	C204	1/18	1

* Each Unit in the Project has been assigned an appurtenant Limited Common Area parking stall as noted in this Exhibit "A" and as described on the map.

** All Units in the Project have been allocated equal Undivided Ownership Interests as shown above.

APPROVAL BY CITY

SALT LAKE CITY, a body corporate and politic, and the City in which Capitol Heights Condominium, a Utah condominium project, is located, by and through its duly elected Mayor, does hereby give final approval to the said Project, to the foregoing Declaration, to the Record of Survey Map recorded concurrently herewith, and to the attributes of the said Project which are mentioned in Section 57-8-35(3) of the Utah Condominium Ownership Act, as amended and expanded by the laws of Utah, 1975, Chapter 173, Section 18.

DATED: SEP 13 1989

SALT LAKE CITY

By [Signature]
Mayor

ATTEST:

[Signature]
[Seal of Salt Lake City, Utah]

DEPUTY
Recorder