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AND RESTRICTION OF  
LA PALOMA CONDOMINIUMS

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DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS OF  
LA PALOMA CONDOMINIUMS

This Declaration of Covenants, Conditions and Restrictions is made pursuant to Utah Code Ann. §57-8-1 et. seq. (1953, as amended) to establish the La Paloma Condominiums.

RECITALS

Declarant is the owner of all the real property located in Washington County, State of Utah, more particularly described below. Declarant is desirous of subjecting the property described below, with the improvements thereon, to the Utah Condominium Ownership Act, (Utah Code Ann. §57-8-1 et. seq., 1953, as amended) dividing, selling and conveying the same to various purchasers subject to the covenants, conditions, restrictions, reservations, assessments, charges and liens herein.

DECLARATION

Declarant hereby declares that all of the properties described below shall be held, sold, conveyed and occupied subject to the following covenants, conditions, restrictions, easements, assessments, charges and liens, and to the Map recorded concurrently. This is for the purpose of protecting the value and desirability of the properties. This Declaration and the Map shall be construed as covenants of equitable servitude, shall run with the properties and be binding on all parties having any right, title or interest in the properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

The Properties are located in St. George, Washington County, Utah, and are described as:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE

ARTICLE I - DEFINITIONS

As used herein, the following terms shall have the indicated meanings:

Section 1. Declaration shall mean and refer to this instrument, and any amendments.

Section 2. Plat or Map means the subdivision plat recorded herewith entitled "La Paloma Condominiums Phase 1A," consisting of two sheets, prepared and certified by James E. Stuercke, a Utah Registered Land Surveyor" or any replacements thereof, or additions thereto.

Section 3. Act shall mean and refer to the Condominium Ownership Act, Utah Code Ann. §57-8-1 et. seq. (1953, as amended).

Section 4. Condominium Project shall mean and refer to the entirety of the units and common area.

Section 5. Unit shall mean and refer to the area or space contained in the perimeter walls of each of the individually numbered areas on the map designated for private ownership.

Section 6. Common Areas and Facilities shall mean and refer to the area designated "common area" on the map, and all other area not included within any unit, and shall specifically include, but not be limited to:

- i. the real property within the condominium project as described on the map;
- ii. that portion of the property not specifically included in the respective units as herein defined;
- iii. all foundations, columns, girders, beams, supports, main walls, roofs, stairways, exterior walkways, driveways, streets, such recreational areas and facilities as may be provided, yards, fences, service and parking areas and entrances and exits,

and in general all other apparatus, installations and other parts of the property necessary or convenient to the existence, maintenance and safety of the common areas and facilities or normally in common use;

- iv. those areas specifically set forth and designated in the Map as "Common Ownership" or "Common Area"; and
- v. all common areas and facilities as defined in the Act, whether or not expressly listed herein.

Section 7. Limited Common Areas shall mean and refer to the designated areas shown on the map as dedicated to the exclusive use and enjoyment of the owners of units to which such limited common area is adjacent and/or appurtenant, subject to rights of the Association, as herein set forth.

Section 8. Condominium shall mean and refer to the entire ownership of any unit owner.

Section 9. Unit Owner shall mean and refer to the entity, person or group of persons owning a unit in fee simple and an appurtenant undivided interest in the fee simple estate of the common areas. Regardless of the number of parties participating in ownership of each unit, those parties shall be treated, as a group, as one "unit owner".

Section 10. Association means all of the unit owners acting as a group in accordance with the declaration and bylaws in the "La Paloma Condominium Association."

Section 11. Management Committee shall mean and refer to the governing body of the condominium project.

Section 12. Bylaws shall mean and refer to the Bylaws of the Association, appended hereto as Exhibit B.

Section 13. Common Expenses shall mean and include:

- i. all sums lawfully assessed against the unit owners;
- ii. expenses of administration, maintenance, repair or replacement of the common areas and facilities;
- iii. expenses agreed upon as common expenses by the Association;
- iv. expenses declared common expenses by provisions of the Act, by this Declaration, by the Bylaws, or by the Management Committee.

Section 14. Mortgagee includes both mortgagees and trust deed beneficiaries with a first lien position on any unit.

## ARTICLE II - PROPERTY RIGHTS

Section 1. Division into Units, Limited Common and Common Area. In order to establish a plan of condominium ownership, the condominium project is hereby divided into the following separate free-hold estates:

- a. Units. The 16 separately designated and legally described freehold estates consisting of the units as defined above and designated on the map. Each unit consists
  - i. horizontally of the area within the interior surface of the sheet rock on walls which form the exterior of the building, and the lines as drawn on the map as constituting boundaries between the unit and common or limited common areas or between the unit and other units, and
  - ii. vertically from the exterior surface of the floor of the unit up to the interior surface of the ceiling. Mechanical equipment and appurtenances located within any one unit or located without said unit but designated and designed to serve only that unit, such as appliances, electrical receptacles and outlets, air conditioning and compressors and other air conditioning apparatus, fixtures and the like, shall be considered part of the unit, as shall all decorated interiors, all surfaces of the

interior structural walls, floors and ceilings, windows and window frames, doors and door frames, and trim consisting of, inter alia and as appropriate, wallpaper, paint, flooring, carpeting and tile. All pipes, wires, conduits, or other public utility lines or installations constituting a part of the unit and serving only the unit, and any structural members of any other property of any kind, including fixtures and appliances within any unit, which are removable without jeopardizing the soundness, safety or usefulness of the remainder of the building within which the unit is situated shall be considered part of the unit.

Appurtenant to and inseparable from each unit shall be a percentage ownership in common areas and facilities and a par value according to the following table:

<u>Unit #</u>	<u>Square Footage</u>	<u>% Ownership of Common Areas and Facilities</u>	<u>Par Value</u>
A101	1045	16%	16
A102	1045	16%	16
A201	1045	16%	16
A202	1045	16%	16
B103	1045	16%	16
B104	1045	16%	16
B203	1045	16%	16
B204	1045	16%	16
C105	1045	16%	16
C106	1045	16%	16
C205	1045	16%	16
C206	1045	16%	16
D107	1045	16%	16
D108	1045	16%	16
D207	1045	16%	16
<u>D208</u>	<u>1045</u>	<u>16%</u>	<u>16</u>
Total		100%	100

These par values may not be changed except by amendment or expansion as provided herein. No unit may be further subdivided. No unit owner shall execute any deed, mortgage, lease or other instrument conveying, leasing or encumbering title to the unit without including therein all interests appurtenant thereto. The purpose of this restriction is to prevent any severance of such combined ownership. Any such deed, mortgage or other instrument purporting to affect one or more of such interests, without including all such interests, shall be deemed to include any omitted interest, even though not expressly mentioned or described therein. Each unit owner has an unrestricted right of ingress and egress to the unit which is appurtenant to ownership of the unit.

Units may be combined in use if owned by the same unit owner.

b. Limited Common Areas. Limited Common Areas, designated on the map, by double cross hatched areas may include carports, balconies, decks and covered decks appurtenant to certain units as contained in the Plat. The exclusive right to use and occupy each limited common area, if any, shall be appurtenant to and shall pass with the title to the unit with which it is associated. Each owner of a unit is hereby granted an irrevocable and exclusive license to use and occupy the limited common areas and facilities reserved exclusively for the use of the unit, subject to the residual rights of the Association therein.

c. The Plat recorded concurrently herewith contains no limited common area.

Common Areas and Facilities. A freehold estate consisting of the remaining portion of the real property as defined above as the "common areas and facilities." Every owner shall have a right and easement of use and enjoyment in and to the common area which easement shall be appurtenant to and shall pass with the title to every unit, subject to the following provisions:

(i) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the common area.

- (ii) The right of the Association to limit the number of guests of members using the common area.
- (iii) The right of the Association to suspend the voting rights and/or common utility service of a member for any period during which any assessment or portion thereof against the unit remains unpaid; and for a period of not to exceed sixty (60) days for any infraction of its published rules and regulations.
- (iv) The right of the Association to enter into agreements or leases which provide for use of the common areas and facilities by a similar Association in consideration for use of the common areas and facilities of the other Association, or for cash consideration;
- (v) The right of the Association with the approval of seventy-five percent (75%) of each class of owners, to sell, exchange, hypothecate, alienate, mortgage, encumber, dedicate, release or transfer all or part of the common area to any private individual, corporate entity, public agency, authority, or utility.
- (vi) The right of the Association to grant easements for public utilities or other public purposes consistent with the intended use of the common area by the Association.
- (vii) The right of the Association to take such steps as are reasonably necessary or desirable to protect the common area against foreclosure.
- (viii) The terms and conditions of this Declaration.
- (ix) The right of each individual unit owner to the exclusive use of the limited common area adjacent and appurtenant to the respective unit.

Section 2. Title to the Common Area. The Declarant will convey an interest in fee simple title to the common area and limited common area as each unit is conveyed, free and clear of all encumbrances and liens, but subject to this Declaration, and easements and rights-of-way of record.

Section 3. Description of Building. Each building is to be two-story, containing four units, of wood frame construction erected on wood joists and concrete and tile roof. Open parking is provided for approximately two (2) cars per unit, including handicapped parking. Each common carport area shall be erected upon an asphalt or concrete surface.

Each unit shall contain a minimum of two bedrooms and two baths. Each unit constructed will be finished as follows: self-contained equipment to supply heat and hot water; exterior finish of stucco; interior walls of painted sheet rock, exterior walls fully insulated; all kitchen floor finishings of sheet vinyl, bathroom floors of sheet vinyl; all other floors of wall-to-wall carpeting; kitchens will be equipped with an oven and range, wood or Formica wall cabinets; bathrooms with bathroom vanities, bathtubs or shower enclosures and toilets. Each unit will be separately metered for electricity. Water will be metered in common. Each unit's water supply system will be connected to a public sewage disposal system.

A more detailed description of the units, including the number of stories and rooms is found on the plat. Revised unit descriptions may be contained in subsequent plats, expansions, or amendments.

### ARTICLE III - MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Each unit owner shall automatically upon becoming the owner of a unit, be a member of the Association, and shall remain a member of said Association until such time as the ownership ceases for any reason, at which time membership in the Association shall automatically cease. Membership is appurtenant to and may not be separated from unit ownership. The Management Committee or its delegate may require that a member provide proof of ownership as a condition to recognition. All unit owners are subject to all the rights and duties established in this Declaration and in the Articles of Incorporation and Bylaws of the Association. Unless otherwise provided in these documents, the Declarant, for all unsold units in the project, enjoys the same rights and is subject to the same duties as other owners.

Section 2. Voting. Each unit owner shall be entitled to a number of votes equal to the par value of the owned unit. A unit which has been acquired by the Management Committee in its own name or in the name of its agents, designee or nominee on behalf of all of the unit owners shall not be entitled to vote so long as it continues to be so held. If a unit is owned by more than one person or entity, as joint

tenants, tenants by the entirety or as tenants in common or in partnership, the persons or entities owning such unit shall reach agreement as to the matter voted upon and cast their vote for their unit. A vote cast at any Association meeting by any of such co-owners, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the unit concerned unless written objection is made prior to said meeting or verbal objection is made at said meeting by another co-owner of the same unit. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

#### ARTICLE IV - MANAGEMENT COMMITTEE

Section 1. Management Committee. The affairs of the Association shall be governed by a Management Committee composed of three (3) persons elected by the Association. The number of persons on the Management Committee may be changed by amendment of the Bylaws of the Association. The Management Committee shall have the power to manage the condominium project in accordance with the Act, this Declaration and the Bylaws. The Declarant may appoint and remove all the members of the Management Committee, all officers of the unit owners' association and exercise all powers and responsibilities delegated by this declaration and the Act to the association, its officers and the Management Committee for a period ending (a) three years after the recording of this declaration or (b) until the units to which three-fourths of the undivided interest in the common areas and facilities have been conveyed, whichever last occurs.

Section 2. Indemnification. The Management Committee, and each of them, shall be indemnified by the Association against any loss, damage, claims or liability, including reasonable counsel fees, suffered or incurred by reason of such position, except to the extent such damage, claim, loss or liability is covered by any type of insurance; provided, however, that no such person shall be indemnified against, or be reimbursed for any expense incurred in connection with, any claim or liability arising out of that persons own willful misconduct or gross negligence.

Section 3. Books and Records. The Management Committee shall maintain current copies of the Declaration, Articles, Bylaws, Rules and other similar documents, as well as its own books, records and financial statements which shall all be available for inspection by unit owners as well as by holders, insurers and guarantors of first mortgages during normal business hours upon reasonable notice. Charges shall be made for copying, researching or extracting from such documents. The Management Committee shall keep detailed, accurate records in chronological order, of receipts and expenditures affecting the common areas and facilities.

Section 4. Audited Financial Statement. If the Condominium Project consists of 50 or more Units and has been established for a full fiscal year, the Association shall make an audited financial statement at the end of each year which it shall make available within 120 days of its fiscal year-end to a Mortgagee, or to an insurer or guarantor of a Mortgagee on receipt of a written request. If the Condominium Project consists of less than 50 Units, the Association shall allow any Mortgagee to have an audited financial statement prepared at the Mortgagee's expense.

Section 5. Rulemaking Power. The Management Committee may, from time to time and subject to the provisions of this Declaration and the Bylaws, adopt, amend and repeal rules and regulations governing, among other things, use of any common areas under the jurisdiction of the Association, parking restrictions and limitations, limitations upon vehicular travel on the properties, and restrictions on other activities or improvements on the properties which creates a hazard.

Section 6. Promulgation of Rules. A copy of the Rules, as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each owner and may be, but need not be, recorded. Upon such mailing or other delivery, said Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration and the Bylaws.

Section 7. Management Agreement. The Management Committee shall have the power to enter into management agreements for a term not to exceed three (3) years, cancelable upon ninety (90) days or less written notice without cause or cancellation fee.

## ARTICLE V - ASSESSMENTS & LIENS

Section 1. Assessments. The Management Committee has authority, and is required, to set and levy assessments on a periodic basis for:

- (a) payment of taxes, insurance and common utility charges;
- (b) payment of cost of repairing, replacing, maintaining, and constructing or acquiring additions to the common areas and facilities.
- (c) establishment and maintenance of an adequate reserve fund for the replacement of the common area and facilities, which by their nature, will require replacement on a periodic basis;
- (d) payment of administrative expenses of the Association;
- (e) payment of prior years' deficits;
- (f) at the discretion of the Management Committee, for the payment of trash collection, sewer and water costs, cable television, and other charges required by this Declaration or that the Management Committee shall determine to be necessary to meet the primary purposes of the Association.

Section 2. Creation of Lien and Personal Obligation of Assessments. The Declarant and each subsequent owner of any unit by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, covenants and agrees to pay to the Association (1) annual assessments or charges; (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided; (3) any other amount or assessment levied or charged by the Association or Board of Trustees pursuant to this Declaration, and (4) interest, costs of collection and a reasonable attorney's fee, as hereinafter provided. All such amounts shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment or amount is charged. Such assessments and other amounts shall be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. Successors-in-title shall not be personally liable for assessments delinquent at the time they took title unless that obligation is expressly assumed by them.

If any unit owner shall fail or refuse to make any payment to the Association when due, the entire amount thereof shall constitute a lien on the interest of the owner in the property, and upon the recording of notice thereof by the manager or management committee shall be a lien upon the unit owner's interest in the property prior to all other liens and encumbrances, recorded or unrecorded except only

- (1) tax and special assessment liens on the unit in favor of any assessing unit or special improvement district, and
- (2) voluntary encumbrances on the interest of a unit owner recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

Sale or transfer of any unit shall not affect the assessment lien. However, the sale or transfer of any unit pursuant to foreclosure of a first mortgage or any proceeding in lieu thereof, shall extinguish the assessment lien as to payments which became due prior to such sale or transfer. No sale or transfer, however, shall relieve a unit or owner from personal liability for assessments coming due after he takes title or from the lien of such later assessments.

Section 3. Maximum of Annual Assessments. Until January 1 following recording of this Declaration, the maximum annual assessment shall be Nine Hundred Dollars (\$900.00) per unit. This amount shall be the basis of calculation for future maximum annual assessments.

- (a) From and after the date referred to above the maximum annual assessment shall increase each year by five percent (5%) above the maximum assessment for the previous year, without a vote of the membership.
- (b) The Association may change the basis and maximum of the assessments fixed by this Section prospectively for any annual period provided that any such change shall have the assent of sixty-seven percent (67%) of the members, voting in person or by proxy, at a meeting duly called for this purpose.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments, the Management Committee may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or

reconstruction, repair or replacement of common or limited common area structures, fixtures and personal property related thereto. Special assessments must have the assent of sixty-seven percent (67%) of the votes of all of the members authorized to vote, in person or by proxy, at a meeting duly called for this purpose.

**Section 5. Additional Assessments.** In addition to the annual assessments and special assessments for capital improvements authorized herein the Management Committee shall levy such assessments as may be necessary from time to time for the purpose of repairing and restoring damage or disruption to streets or other common or limited common areas resulting from the activities of the City of St. George in maintaining, repairing or replacing utility lines and facilities thereon. It is acknowledged that the ownership of said utility lines, underground or otherwise, is in the City up to and including the meters for individual units, and that they are installed and shall be maintained to City specifications.

**Section 6. Notice and Quorum for Any Action Authorized Under Sections 3, 4, and 5.** Written notice setting forth the purpose of any meeting of members called for the purpose of taking any action authorized under Sections 3, 4, or 5 shall be sent to all members at least thirty (30) days in advance of said meeting. At the first meeting called, the presence at the meeting of members, or of proxies, entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called with at least thirty (30) days advance written notice. The required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**Section 7. Rates of Assessment: Periodic Assessment.** Both annual and special assessments must be fixed based on the par value of each unit; provided, however, that for sixty (60) days following the conveyance of the first unit, unsold and unoccupied units owned by the Declarant shall be assessed at twenty-five percent (25%) of their full assessment. Sixty (60) days after the first unit is conveyed, all units shall be fully assessed. This method of determining assessments, dues and charges may not be changed without the prior written approval of all first mortgagees.

**Section 8. Date of Commencement of Annual Assessments: Due Dates.** The annual assessment provided for herein shall commence to accrue on the date fixed by the Management Committee. The first annual assessment may be set at any time and shall be adjusted according to the number of months remaining in the calendar year.

At least thirty (30) days prior to the commencement of each new assessment period, the Management Committee shall send or cause to be sent a written notice of the annual assessment to each owner subject thereto. This notice will include the amount of the past year's budget, plus a status of reserve funds and anticipated reserve needs. This notice shall not be a pre-requisite to validity of the assessment.

In the absence of a determination by the Management Committee as to the amount of said assessment, the annual assessment shall be an amount equal to 90% of the maximum annual assessment determined as provided above.

The assessment due dates shall be established by the Management Committee. The Management Committee may provide for the payment of annual and special assessments in equal installments throughout the assessment year.

The Management Committee shall prepare a roster of the units and the assessments and payments applicable thereto at the same time that it shall fix the amount of the annual assessment. The roster may be inspected by any member at reasonable times.

**Section 9. Effect of Non-Payment of Assessment - Remedies of the Association.** Any assessment or installment thereof not paid within thirty (30) days after the due date shall be delinquent and shall bear interest from the due date at the rate of eighteen percent (18%) per annum (or such lesser rate as the Management Committee shall determine appropriate) until paid. In addition, the Management Committee may assess a late fee for each delinquent installment which shall not exceed ten per cent (10%) of the installment.

The Management Committee may, in the name of the Association, (a) bring an action at law against the owner personally obligated to pay any such delinquent assessment without waiving the lien of assessment, or (b) may foreclose the lien against the property in accordance with the laws of the State of

Utah applicable to the exercise of powers of sale in deeds of trust or to the foreclosure of mortgages, or in any other manner permitted by law, and/or (c) may restrict, limit, or totally terminate any or all services performed by the Association in behalf of the delinquent member.

There shall be added to the amount of any delinquent assessment the costs and expenses of any action, sale or foreclosure, and a reasonable attorney's fee, together with an account for the reasonable rental for the unit from time to time from commencement of the foreclosure. The Association shall be entitled to the appointment of a receiver to collect the rental income or the reasonable rental without regard to the value of the other security.

A power of sale is hereby conferred upon the Association which it may exercise. Under the power of sale the unit of an owner may be sold in the manner provided by Utah law pertaining to deeds of trust as if said Association were beneficiary under a deed of trust. The Association may designate any person or entity qualified by law to serve as Trustee for purposes of power of sale foreclosure.

No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common area or by abandonment of the unit.

**Section 10. Statement of Amount.** The Management Committee shall, upon the written request of any unit owner or any encumbrancer or prospective encumbrancer of a unit, upon payment of a reasonable fee not to exceed \$10, issue a written statement setting forth the unpaid common expenses with respect to the unit covered by the request. Such a statement shall be conclusive upon the remaining unit owners and upon the Management Committee in favor of all persons who rely thereon in good faith. Unless the requested statement of indebtedness is provided within ten days, all unpaid common expenses which became due prior to the date of the making of such request shall be subordinate to the lien or position of ownership held by the person requesting the statement. Any encumbrancer holding a lien on a unit may pay any unpaid common expenses payable with respect to such unit. Upon payment, the encumbrancer shall have a lien on the unit for the amounts paid of the same rank as the lien of the respective encumbrance.

**Section 11. Working Capital Fund.** The Declarant shall establish an initial working capital fund in an amount equal to at least two months of the estimated common expenses for each unit. The fund shall be used to meet unforeseen expenditures or to purchase additional equipment or services for the Association not covered by regular assessments. Each unit's share of the working capital fund shall be paid either on closing of the sale of a unit, or when control of the project is transferred to the unit owners, whichever is earlier. Any amounts paid into this fund shall not be considered advance payments of regular assessments. The fund shall be transferred to the Association for deposit to a segregated account when control of the Association is transferred to the unit owners. The Declarant shall not use the fund to defray any of its expenses, reserve contributions, or construction costs, or to make up any budget deficits while it is in control of the Association. However, the Declarant may reimburse itself for funds it paid the Association for an unsold unit's share of the working capital fund by using funds collected at closing when such unit is sold.

## ARTICLE VI - INSURANCE

**Section 1. Property Damage and Liability Insurance.** The Management Committee shall procure the following types of property damage and public liability insurance:

(a) A "master" or "blanket" policy of property insurance equal to full replacement value (exclusive of land, foundation, excavation and other like items) of the condominium project affording protection against at least loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and by debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage and such other risks are customarily covered in similar projects. The policy must cover all of the general and limited common elements normally included in coverage including fixtures, building service equipment, and the Association's personal property and supplies. The maximum deductible amount must be the lesser of \$10,000 or 1% of the policy face amount. The policy must be written by an insurance carrier that has an acceptable rating from either the A.M. Best Company, Demtech, Inc., or Standard and Poor's, Inc.

(b) A comprehensive policy of commercial general liability insurance covering all of the common areas in the condominium project, with a Severability of Interest Endorsement or equivalent coverage which would preclude the company from denying the claim of a unit owner because of the

negligent acts of the Association or another unit owner, with limits not less than \$1,000,000 covering all claims for personal injury and/or property damage arising out of a single occurrence, including protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others and such other risks as are customarily covered in similar projects. The policy should provide that coverage not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least 30 days' prior written notice to any and all insureds, including holders of first mortgages who have filed written request for such notice including its name and address and the unit number on which it has the mortgage.

**Section 2. Endorsements for Section 1 Policies.** The policy described in Section 1 above shall include an Inflation Guard Endorsement, when it can be obtained; a Building Ordinance or Law Endorsement, if the enforcement of any building, zoning, or land-use law will result in loss or damage, increased cost of repairs or reconstruction, or additional demolition and removal costs; and a Steam Boiler and Machinery Coverage Endorsement, if the project has central heating or cooling. This endorsement should provide for the insurer's minimum liability per accident to at least equal the lesser of \$2 million or the insurable value of the building(s) housing the boiler or machinery. In lieu of this, the project may purchase separate boiler and machinery coverage. The policy should include a Guaranteed Replacement Cost Endorsement or a Replacement Cost Endorsement and an Agreed Amount Endorsement.

**Section 3. Other Provisions of Section 1 Policies.** Any insurance obtained pursuant to Section 1 above shall provide that:

- (a) any Insurance Trust Agreement will be recognized;
- (b) the named insured under any such policies shall be the Association of the condominium project, as a trustee for the unit owners and holder of each unit's mortgage, and shall have standard mortgagee clauses;
- (c) insurance coverage obtained and maintained pursuant to the requirements of Section 1 may not be brought into contribution with insurance purchased by the unit owners or their mortgagees, and the coverage shall in all events be primary even if other insurance covers the same loss;
- (d) coverage must not be prejudiced by (i) any act or neglect of the unit owners when such act or neglect is not within the control of the Association or (ii) any failure of the Association to comply with any warranty or condition regarding any portion of the premises over which the Association has no control;
- (e) coverage may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least 10 days' prior written notice to any and all insureds, including holders of first mortgages who have filed written request for such notice including its name and address and the unit number on which it has the mortgage;
- (f) the insurer shall waive subrogation as to any and all claims against the Association, the owner of any condominium unit and/or their respective agents, employees or tenants, and of any defenses based on co-insurance or on invalidity arising from the acts of the insured;
- (g) any provisions that the carrier may elect to restore damage in lieu of a cash settlement shall not be exercisable without the prior written approval of the Association or when in conflict with any requirement of law.

**Section 4. Flood Insurance.** If any part of the Project's improvements are in a Special Flood Hazard Area, the Association must maintain a "master" or "blanket" policy of flood insurance covering the common element buildings and any other common property. The amount should be at least the lesser of 100% of the insurable value of the facilities or the maximum coverage available. The deductible shall be the lesser of \$5,000 or 1% of the policy's face amount. Funds to cover this deductible should be in the Association's reserve account.

**Section 5. Use of Proceeds.** Except as provided by statute in case of substantial loss to the units and/or common area and facilities of the condominium project, unless at least two-thirds (2/3) of the first mortgagees and owners of the individual condominium units have given their prior written approval, the Association shall not be entitled to use hazard insurance proceeds for the losses to any condominium property for other than the repair, replacement or reconstruction or such condominium property.

Section 6. **Fidelity Insurance.** If the Project contains 21 or more units, the Association must maintain adequate fidelity coverage to protect against dishonest acts by the Management Committee, their agents and employees and all others who are responsible for handling funds of the Association meeting the following requirements:

- (a) naming the Association as the insured;
- (b) written in an amount equal to at least three months' assessments plus all reserve funds;
- (c) containing waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

The policy must include a provision that calls for ten days' written notice to the Association and first mortgagees before the policy can be canceled or substantially modified for any reason. A management agent that handles funds for the Association should be covered by its own fidelity policy, which must provide the same coverage required herein.

Section 7. **Premiums.** Any insurance premiums shall be common expenses.

Section 8. **Individual Owner's Insurance.** Insurance obtained by the Association shall not prejudice the rights of the individual owners to obtain insurance, and said unit owners shall insure their personal property and installed fixtures.

#### ARTICLE VII - DAMAGE: CONDEMNATION

Section 1. **Damage or Destruction.** In the event of damage or destruction by fire or other casualty to any portion of the development covered by insurance written in the name of the Association, the Management Committee shall, with concurrence of the mortgagee, if any, upon receipt of the insurance proceeds, contract to rebuild, restore, or repair such damaged or destroyed portions of the development to its former condition.

Section 2. **Notification of Damage or Condemnation.** The Management Committee shall give written notice to the holder of any first mortgage of damage to a unit exceeding One Thousand Dollars (\$1,000.00), or of damage to the common areas and facilities exceeding Ten Thousand Dollars (\$10,000.00).

Written notice of any condemnation proceedings against the condominium project, or any part thereof, shall be given to all first mortgagees upon the mortgagee's filing of a written request for such notice stating its name and address and the unit number of the unit on which it has the mortgage.

Section 3. **Priority to Proceeds.** Nothing in this Article shall be construed to give the Association or unit owners priority over a first mortgagee to proceeds of insurance, damage or condemnation claims.

Section 4. **Association to Represent Unit Owners.** Each Unit Owner hereby appoints the Management Committee as an attorney-in-fact to represent the Unit Owner in negotiations, settlements, agreements, and related proceedings resulting from damage or destruction to the project, or from condemnation or liquidation of all or a part of the project, or from termination of the project. Proceeds from a settlement will be paid to the Association for the benefit of the Unit owners and their mortgage holders. Any losses, awards, or proceeds from the condemnation, destruction, or liquidation of all or a part of the project, or from the termination of the project, shall be allocated among unit owners based on the relative value of each unit and in accordance with the par value of each unit.

#### ARTICLE VIII - MAINTENANCE & ALTERATIONS

Section 1. **Maintenance.** It shall be the responsibility of the Association to maintain, repair or replace:

- (a) all portions of the unit which contribute to the support of the building, including main bearing walls, but excluding painting, wall papering, decorating or other work on the interior surfaces of walls, ceilings and floors within the unit.

- (b) all portions of the unit which constitute a part of the exterior of the building, or which front the common areas.
- (c) all common areas, common elements and limited common areas.
- (d) all incidental damage caused by the work done by direction of the Association.

It shall be the responsibility of the unit owner:

- (a) to maintain, repair, or replace at the owner's expense all portions of the unit which may cause injury or damage to the other units or to the common elements.
- (b) to paint, wallpaper, decorate and maintain the interior surfaces of all walls, ceilings and floors within the unit.
- (c) to perform all responsibilities in such a manner and at such reasonable hours so as not to unreasonably disturb other unit owners in the building.
- (d) to refrain from repairing, altering, replacing, painting, decorating or changing the exterior of the unit or any exterior appendages whether exclusively used by the unit owner or otherwise without obtaining the written consent of the Management Committee.

Section 2. Alteration or Improvement of Units. No structural alterations shall be made to any unit. No alteration or improvement to the unit which would alter or affect the common elements may be made by any unit owner without the written consent of the Management Committee. No application shall be filed with any governmental authority for a permit covering an addition, alteration or improvement to be made in a unit which alters or affects the common elements, unless approved and executed by the Management Committee without, however, incurring any liability on the part of the Association, or any of them, to any contractor, subcontractor, materialman, architect or engineer by reason of such addition, alteration or improvement or to any person having any claim for injury to person or damage to property arising therefrom. Consent shall be requested in writing. The Management Committee shall have the obligation to answer within forty (40) days and failure to do so within the stipulated time shall mean that there is no objection to the proposed modification or alteration. The Management Committee may require that the unit owner making such improvement, alteration or addition obtain such insurance coverages and in such amounts, as the Management Committee deems proper.

#### ARTICLE IX - USE RESTRICTIONS

Section 1. Use of Units. All units are restricted for use by the unit owner, the owner's family, servants, tenants or guests as a private permanent or temporary residence and for no other purpose. No part of the property shall be used for any commercial, manufacturing, mercantile, storing, vending, or other such non-residential purposes, including an in-home business as defined by local ordinances. Declarant, its successors or assigns, may use the property for model home site displays, and may use such models as a sales office during the construction and sales period. No unit shall be used, occupied, or altered in violation of law, so as to create a nuisance or interfere with the rights of any unit owner or in a way which would result in an increase in the cost of any insurance covering the common areas.

Section 2. Use of Common Area. Except for the rights of ingress and egress, owners are hereby prohibited and restricted from using any of said common area, other than as permitted in this declaration of covenants or as may be allowed by the Management Committee. It is expressly acknowledged and agreed by all parties concerned that this restriction is for the mutual benefit of all owners of units and is necessary for the protection of the interests of all said owners in and to the common area.

As part of the overall program of development of the properties into a residential community and to encourage the marketing thereof, the Declarant shall have the right of use of the common area and facilities thereon, including any community buildings, without charge during the sales and construction period to aid in its marketing activities.

Section 3. Responsibility for Damage. Anyone individual who causes damage to any common or limited common area shall be personally responsible for said damage and repair or restoration of the same.

Section 4. Construction, Business and Sales. Notwithstanding any provisions to the contrary herein contained, it shall be expressly permissible for Declarant to maintain such facilities and conduct such activities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the construction and sale of units during the period of construction and sale of said units and upon such portion of the premises as Declarant deems necessary including but not limited to a business office, storage areas, construction yard, signs, model units and sales offices. There are no limitations on the number, size, location and relocation of any sales office and model units.

Section 5. Prohibited Uses. No unit owner shall permit anything to be done or kept in the unit or in the common areas and facilities which is in violation of any law, ordinance or regulation of any governmental authority.

Section 6. Signs: Commercial Activity. Except for one "For Rent" or "For Sale" sign of not more than four (4) square feet, no advertising signs, billboards, objects of unsightly appearance, or nuisances shall be erected, placed, or permitted to remain on any unit or any portion of the properties. No commercial activities of any kind whatever shall be conducted in any building or on any portion of the properties. The foregoing restrictions shall not apply to the commercial activities, signs and billboards, if any, of the Declarant or its agents during the construction and sales period or by the Association in furtherance of its powers and purposes set forth hereinafter and in its Articles of Incorporation, Bylaws and Rules and Regulations, as the same may be amended from time to time.

Section 7. Quiet Enjoyment. No noxious or offensive activity shall be carried on upon any part of the properties nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the owners or which shall in any way increase the rate of insurance.

Section 8. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any of said units, except that one dog, or one cat or one other household pet may be kept provided that they are not kept, bred or maintained for any commercial purpose. Notwithstanding the foregoing, no animals or fowl may be kept on the property which result in an annoyance or are obnoxious, by noise, smell or otherwise, to unit owners. All pets must be kept in the units or on a leash when in the common areas. This provision may be made more restrictive by Rule of the Association.

Section 9. Planting and Gardening. No planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon any property except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Management Committee.

Section 10. Garbage Removal. All rubbish, trash and garbage shall be regularly removed from the units and shall not be allowed to accumulate thereon. Garbage should be placed in proper containers.

Section 11. External Apparatus. No unit owner shall cause or permit anything (including, without limitation, external material, awnings, canopies or shutters) to hang, be displayed or otherwise affixed to or placed on the exterior walls or roof or any part thereof, or on the outside of windows or doors, without the prior written consent of the Management Committee.

Section 12. Electronic Antennas. No television, radio, or other electronic antenna or device of any type shall be erected, constructed, placed or permitted to remain on or in any of the units unless and until the same shall have been approved in writing by the Management Committee.

Section 13. Leases. Owners may not lease only a portion of their unit, or lease their units for a term of less than seven days. Any lease agreement between a unit owner and a lessee must be in writing and must provide that:

- (a) The terms of the lease shall in all respects be subject to the provisions of the Declaration, Bylaws and rules of the Association;
- (b) Any failure by the lessee to comply with the terms of such documents shall constitute a default under the lease.

Section 14. **Parking.** Parking spaces within the properties shall be used for parking of motor vehicles actually used by the owner or the owner's immediate family for personal use and not for commercial use. Parking spaces are limited to not more than two vehicles per unit. No motor vehicle which is inoperable shall be placed in parking areas, and any motor vehicle which remains parked over 72 hours shall be subject to removal by the Association, at the owner's expense. Such expense of removal shall be secured by the lien for assessment obligations previously provided. No vehicle repairs of any kind shall be performed in the parking areas. Parking areas may not be used for storage purposes of any kind.

If parking spaces are designated with numbers corresponding to unit numbers, each such space is for the exclusive use of the unit owner. All unit owners shall have co-equal right to use of common parking spaces, unless specifically assigned to individual units by the Management Committee. No owner may use more than the owner's proportionate share of such common parking area. Recreational vehicles, boats, travel trailers and similar property may not be parked in the Properties.

Section 15. **Skateboards and Rollerblades.** Skateboarding and Rollerblading are prohibited within the Properties.

#### ARTICLE X - EASEMENTS

Section 1. **Encroachments.** If any portion of the common areas and facilities now encroaches upon any one unit, or if any unit encroaches upon any other unit or upon any portion of the common areas and facilities as a result of the construction of the buildings (including the units and all other improvements to the land), or if any such encroachment shall occur hereinafter as a result of settling or shifting of the buildings or from other movement of any portion of the improvements, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the buildings stand and so long as the physical boundaries of the units are in substantial accord with the description in the Declaration. In the event the buildings, the unit, any adjoining unit or any adjoining common areas or facilities shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings and then rebuilt, encroachments of parts of the common areas and facilities upon any unit or of any unit upon any other unit or upon any portion of the common areas and facilities due to such rebuilding, shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as the building shall stand and so long as the physical boundaries of the units are in substantial accord with the description in the Declaration.

Section 2. **Utilities.** There is hereby created a blanket easement upon, across, over and under all of the properties for public utility purposes. By virtue of this easement, it shall be expressly permissible for all public utilities serving the properties to lay, construct, renew, operate and maintain conduits, cables, pipes, mains, ducts, wires and other necessary equipment on the properties, provided that all such services shall be placed underground, except that said public utilities may affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under roofs and exterior walls. Notwithstanding anything to the contrary contained in this section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the properties in such a way as to unreasonably encroach upon or limit the use of the common area or limited common area or any structure thereon. In the initial exercise of easement rights under this Section, a utility shall make reasonable efforts to occupy and use the same physical location or lane as other utilities. After a utility service has initially exercised its easement rights under this Section, the utility shall make reasonable efforts to occupy and use the same physical location as its prior installations. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant or the Association shall have the right to grant such easement on said property without conflicting with the terms hereof.

Section 3. **Police, Fire and Ambulance Service.** An easement is hereby granted to all police, fire protection, ambulance services and all similar persons to enter upon the common areas and facilities and units in the performance of their duties.

Section 4. **Maintenance by Association.** An easement is hereby granted to the Association, its officers, agents, employees and to any maintenance company selected by the Association to enter in

any unit in case of emergency or to perform the duties of maintenance and repair, in the event the same are neglected by the unit owner or for the purpose of repair to the common areas and facilities.

Section 5. **Easement for Declarant.** The declarant shall have a transferable easement over and on the common areas and facilities for the purpose of making improvements on the land within the project or on any additional land under the declaration and this act, and for the purpose of doing all things reasonably necessary and proper in connection with the same.

#### ARTICLE XI - EXPANSION

Declarant reserves the right at its sole election to expand the Properties to include additional property more particularly described below by unilateral action of Declarant without the consent of owners for a period of seven (7) years from the date of recording of this Declaration in the office of the Washington County Recorder, County of Washington, State of Utah.

The property all or part of which may be included in one or more expansions, is located in Washington County, Utah, and is more particularly described as follows:

SEE EXHIBIT "C" ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE

There are no limitations on the maximum or minimum amount of the above property which may be added. There may be more than one expansion and the expansion may be made as to any amount or in any order.

Expansion shall occur by the Declarant filing

1. an additional subdivision plat or plats creating additional condominiums on the property described above, stating on each plat the intention to have the property described on said plat bound by the terms, covenants and conditions of this Declaration upon the filing of a Declaration of Annexation and
2. a Declaration of Annexation (after satisfying conditions hereafter stated), which shall state the Declarant's intention to have the area described therein subject to this Declaration. Upon the recording of such a Declaration of Annexation the property described therein shall be subject to this Declaration.

Any additional properties annexed hereto by the Declarant shall be exclusively for residential purposes, architecturally compatible to the existing units, substantially identical to the units depicted in the plat, constructed out of similar materials, with substantially similar unit size. The total maximum number of units to be added shall be 134. The maximum number of units per acre shall be 15. The units shall all be restricted to residential use. No other assurances are made as to the improvements which will be made on the expansion land. The Declarant shall have the sole discretion as to development of the common area in any expansion area and may include any facilities or amenities thereon that Declarant deems necessary and such common areas shall be managed by the Association. Additional common and limited common area shall be added in any expansion area to maintain a ratio of common and limited common area to total unit area similar to the ratio which now exists.

The improvements in an expansion area shall be substantially completed prior to recordation of the Declaration of Annexation. Owners in the original and expansion areas shall have the same undivided interest and rights to the use and enjoyment of the property and facilities of the Association. The liability for assessments shall be of each unit and unit owner in any expansion area shall be equal to the liability of each unit and unit owner in the original properties.

## ARTICLE XII - RIGHTS OF FIRST MORTGAGEES

Notwithstanding any other provisions of this Declaration, but subject to provisions of law which may require greater voting percentages, the following provisions shall govern the rights of first mortgagees:

Section 1. Consent of All Unit Owners Required. Any amendment of the Declaration affecting the Declarants' control of the Association, its officers and Management Committee under Article IV or the undivided interest of each unit owner in the common areas and facilities, including voting rights; shall not be effective without written consent of at least fifty-one percent (51%) of the first mortgagees and all the owners. The consent of all Unit owners and all affected lien holders shall be required to remove a property from the provisions of this Declaration and the Act.

Section 2. Consent of Majority of Mortgagees and Sixty-seven Percent (67%) of Owners Required. Any amendment of the Declaration affecting the following shall not be effective without written consent of at least fifty-one percent (51%) of the first mortgagees and sixty-seven percent (67%) of the owners: increases in annual assessments by more than 25% over the previous year; assessment liens, or the priority of assessment liens; reductions in reserves for maintenance, repair, or replacement of common areas; responsibility for maintenance and repairs; expansion of the Condominium Project, or the addition or annexation of property to or from the Project; hazard or fidelity insurance requirements; imposition of restrictions on leasing of units; imposition of any restrictions on an owner's right to sell or transfer the unit; if the Association Project contains 50 or more units, a decision by the Association to establish self management if professional management had been required previously by a Mortgagee, by this Declaration or the Bylaws; or any provisions that expressly benefit mortgage holders, insurers or guarantors.

This section may not be amended without the prior approval of all first mortgagees. Nothing in this paragraph shall limit the right of Declarant to amend this Declaration as provided elsewhere in this Declaration.

Section 3. Consent of Sixty-seven Percent (67%) of Mortgagees and Seventy Five Percent (75%) of Owners Required. Unless the Association shall receive the prior written approval of at least (1) sixty-seven percent (67%) of all first mortgagees of the units and (2) seventy-five percent (75%) of the owners (not including units owned by Declarant) the Association shall not be entitled:

- (a) by act or omission seek to abandon or terminate the legal status of the Condominium Project. For purposes of this paragraph only, implied approval may be assumed if an eligible mortgage holder fails to submit a response to any written proposal for an amendment within 30 days after it receives notice of the proposal, if notice was delivered by certified or registered mail, with a return receipt requested; or
- (b) to change the pro rata interest or obligation of any condominium unit in order to levy assessments or charges, allocate distribution of hazard insurance proceeds or condemnation awards, or determine the pro rata share of ownership of each condominium unit in the common elements; or
- (c) by act or omission to seek to abandon, partition, subdivide, encumber, sell or transfer the common areas, except to grant easements for utilities and similar or related purposes, as herein elsewhere reserved.

This paragraph may not be amended without the prior approval of all first mortgagees. Nothing in this paragraph shall limit the right of Declarant to amend these Declarations as provided elsewhere in this Declaration.

Section 4. Notice of Matters Affecting Security. The Association shall give written notice to the holder, insurer, or guarantor of any first mortgage of any unit which makes written request for such notice (including its name, address and the number of the unit on which it has, insures, or guarantees the mortgage) under the circumstances enumerated in this Article or whenever any of the following matters come up for consideration or effectuation by the Association:

- (a) any condemnation or casualty loss that affects either a material portion of the project or the unit securing its mortgage; or
- (b) a lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

- (c) any sixty-day delinquency in the payment of assessments or charges owed by the owner of any unit on which it holds the mortgage; or
- (d) any proposed action that requires the consent of a specified percentage of eligible mortgage holders.

#### ARTICLE XIII - GENERAL PROVISIONS

Section 1. **Enforcement.** The Association, Management Committee, the Declarant or any unit owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, or any rule of the Association, including but not limited to any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants. Failure of the Association, Management Committee or of any owner to enforce any covenant or restriction herein contained or any rule of the Association shall in no event be deemed a waiver of the right of the Association, Management Committee or any owner to do so thereafter. In the event action, with or without suit, is undertaken to enforce any provision hereof or any rule of the Association, the party against whom enforcement is sought shall pay to the Association, Management Committee, or enforcing owner a reasonable attorney's fee. The Management Committee may levy a fine or penalty not to exceed 10% of the amount of the maximum annual assessment against any owner and/or occupant, and/or owner's agent who fails to refrain from violation of these covenants or a rule of the Association, after three (3) days written notice.

The Management Committee members shall not be liable to any lessee, tenant, unit owner, member or other person for mistake in judgment, or for any negligence arising in connection with the performance or non performance of duties under the Declaration or Bylaws.

Section 2. **Severability.** All of said conditions, covenants and reservations contained in this Declaration shall be construed together, but if any one of said conditions, covenants or reservations, or any part thereof, shall at any time be held invalid, or for any reason become unenforceable, no other condition, covenant, or reservation, or any part thereof, shall be thereby affected or impaired; and the Association and owners, their successors, heirs and assigns shall be bound by each article, section, subsection, paragraph, sentence, clause and phrase of this Declaration, irrespective of the invalidity of unenforceability of any other article, section, subsection, paragraph, sentence, clause or phrase.

Section 3. **Duration.** The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, Management Committee or the owner of any unit subject to this Declaration, their respective legal representatives, heirs, successors, and assigns.

Section 4. **Amendment.** The covenants, conditions and restrictions of this Declaration may be amended by an instrument signed by not less than sixty-seven percent (67%) of the owners, unless the amendment affects a provision of this declaration requiring a greater percentage vote, or in case of an amendment which by law requires a greater percentage, in which case the greater percentage requirement shall govern. Any amendment must be properly recorded in the records of Washington County, Utah, to become effective.

Notwithstanding the foregoing, the Declarant reserves the right to unilaterally amend the Declaration to comply with City, State or other laws, or regulations or requirements of holders, insurers, or guarantors of first mortgages, subject to compliance with applicable guidelines of the Federal Housing Administration or Veterans Administration.

Section 5. **Notices.** Any notice required to be sent under the provisions of this Declaration shall be conclusively deemed to have been given when deposited in the U.S. Mail, postage paid, to the last known address of the person who is entitled to receive it.

Section 6. **Gender and Grammar.** The singular, wherever used herein, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions

hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully express.

Section 7. **Waivers.** No provision contained in the Declaration shall be deemed to have been waived by reason of any failure to enforce it, irrespective of the number of violations which may occur.

Section 8. Topical Headings. The topical headings contained in this Declaration are for convenience only and do not define, limit or construe the contents of the Declaration.

#### ARTICLE XIV - ASSIGNMENT OF POWERS

Any and all rights and powers of Declarant herein contained may be delegated, transferred or assigned.

**ARTICLE XV - AGENT FOR SERVICE**

Derrill C. Larkin whose address is 50 North 600 East, St. George, Utah, is hereby appointed agent for service of process in those cases provided under the Utah Condominium Ownership Act. Utah Code Ann. §57-8-10(h). This resident agent may be changed by Management Committee by filing with the Secretary of State in the manner provided for use of assumed names.

I hereby accept appointment as registered agent of the Association.

Derrick Larkin  
DERRILL C. LARKIN

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 17th day of August, 1994.

DECLARANT:  
LA PALOMA, LC

By   
DERRILL C. LARKIN, Manager

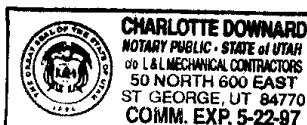
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COUNTY OF WASHINGTON )  
 ) SS.

On this 175 day of August, 1994, before me personally appeared Derrill C. Larkin, whose identity is personally known to or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that he is the Manager of La Paloma LLC, a Utah limited liability company, and that the foregoing document was signed by him on behalf of that Company by proper authority and he acknowledged before me that the company executed the document and the document was the act of the partnership for its stated purpose.

Charlotte Slownard  
NOTARY PUBLIC

My Commission Expires: 5-22-97

MC/DC/DN:L:Larkin, D. 748802 La Paloma:cc&r4 072794 748802 dn



Declaration of Covenants, Conditions and Restrictions of La Paloma Condominium

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EXHIBIT A

ALL THAT PORTION OF SECTION 29, TOWNSHIP 42 SOUTH, RANGE 15 WEST, SALT LAKE BASE & MERIDIAN, WASHINGTON COUNTY, UTAH, ALSO LYING WITHIN BLOCK 13, PLAT "E", ST. GEORGE CITY SURVEY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH 1/4 CORNER OF SAID SECTION 29;  
THENCE N00°43'13"W, 1903.77 FEET ALONG THE CENTER SECTION LINE OF SAID SECTION 29;  
THENCE S89°51'16"E, 360.48 FEET ALONG THE CENTER LINE OF 400 SOUTH STREET TO THE CENTERLINE OF 1200 EAST STREET, A TYPE I CITY MONUMENT;  
THENCE N00°08'44"E, 340.00 FEET ALONG THE CENTERLINE OF SAID 1200 EAST STREET;  
THENCE N89°51'16"W, 25.00 FEET TO THE POINT OF BEGINNING;  
THENCE N89°51'16"W, 177.51 FEET;  
THENCE NORTH, 68.50 FEET;  
THENCE N89°51'16"W, 20.58 FEET;  
THENCE NORTH, 64.50 FEET;  
THENCE S89°51'16"E, 20.58 FEET;  
THENCE NORTH, 120.00 FEET TO THE SOUTH LINE OF 300 SOUTH STREET;  
THENCE S89°51'16"E, 158.15 FEET ALONG SAID SOUTH LINE TO A CURVE CONCAVE SOUTHWESTERLY AND HAVING A 20.00 FOOT RADIUS;  
THENCE SOUTHEASTERLY, 31.42 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 90°0'0" TO THE WEST LINE OF 1200 EAST STREET;  
THENCE S00°08'44"W, 233.00 FEET ALONG SAID WEST LINE TO THE POINT OF BEGINNING.

CONTAINING 1.061 ACRES.

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**EXHIBIT B**

**00478898 Bk0851 Pg0102**

EXHIBIT C

PARCEL 1

BEGINNING AT A POINT WHICH LIES NORTH 00°43'13" WEST 2,243.83 FEET ALONG THE CENTER SECTION LINE FROM THE SOUTH QUARTER CORNER OF SECTION 29, TOWNSHIP 42 SOUTH, RANGE 15 WEST, SALT LAKE BASE AND MERIDIAN, THENCE NORTH 00°43'13" WEST, ALONG SAID CENTER SECTION LINE, 253.02 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF 300 SOUTH STREET; THENCE SOUTH 89°51'16" EAST 324.44 FEET, ALONG SAID SOUTHERLY RIGHT-OF-WAY, TO THE POINT OF A 20 FOOT RADIUS CURVE TO THE RIGHT; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE AND THROUGH A CENTRAL ANGLE OF 90°00'00", A DISTANCE OF 31.42 FEET TO THE POINT OF TANGENCY, SAID POINT BEING ALSO ON THE WESTERLY RIGHT-OF-WAY LINE OF 1200 EAST STREET; THENCE S 00°08'44" W ALONG WAID WEST RIGHT OF WAY LINE, 233.00 FEET; THENCE NORTH 89°51'16" WEST 340.62 FEET TO THE POINT OF BEGINNING. CONTAINING 1.99 ACRES.

**LESS AND EXCEPTING:**

ALL THAT PORTION OF SECTION 29, TOWNSHIP 42 SOUTH, RANGE 15 WEST, SALT LAKE BASE & MERIDIAN, WASHINGTON COUNTY, UTAH, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH 1/4 CORNER OF SAID SECTION 29; THENCE N 00°43'13" W, 1903.77 FEET ALONG THE CENTER SECTION LINE OF SAID SECTION 29; THENCE S 89°51'16" E, 361.00 FEET ALONG THE CENTER LINE OF 400 SOUTH STREET TO THE CENTERLINE OF 1200 EAST STREET; THENCE N 00°08'44" E, 340.00 FEET ALONG THE CENTERLINE OF SAID 1200 EAST STREET; THENCE N 89°51'16" W, 25.00 FEET TO THE POINT OF BEGINNING; THENCE N 89°51'16" W, 177.51 FEET; THENCE NORTH 68.50 FEET; THENCE N 89°51'16" W, 20.58 FEET; THENCE NORTH 64.50 FEET; THENCE S 89°51'16" E, 20.58 FEET; THENCE NORTH 120.00 FEET TO THE SOUTH LINE OF 300 SOUTH STREET; THENCE S 89°51'16" E, 158.15 FEET ALONG SAID SOUTH LINE TO A CURVE CONCAVE SOUTHWESTERLY AND HAVING A 20.00 FOOT RADIUS; THENCE SOUTHEASTERLY, 31.42 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" TO THE WEST LINE OF 1200 EAST STREET; THENCE S 00°08'44" W, 233.00 FEET ALONG SAID WEST LINE TO THE POINT OF BEGINNING. CONTAINING 1.061 ACRES.

PARCEL 2

BEGINNING AT A POINT WHICH LIES NORTH 0° 43'13" WEST 2,212.83 FEET ALONG THE CENTER SECTION LINE FROM THE SOUTH QUARTER CORNER OF SECTION 29, TOWNSHIP 42 SOUTH, RANGE 15 WEST, SALT LAKE BASE AND MERIDIAN, SAID POINT ALSO BEING SOUTH 89°15'56" WEST 295.53 FEET AND NORTH 0°43'13" WEST 284.04 FEET FROM THE SOUTHEAST CORNER OF BLOCK 13, PLAT E OF THE ST. GEORGE CITY SURVEY, AND RUNNING THENCE NORTH 89°51'16" WEST 273.85 FEET; THENCE NORTH 0°08'44" EAST 264.00 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF 300 SOUTH STREET; THENCE SOUTH 89°51'16" EAST 269.86 FEET ALONG SAID SOUTHERLY RIGHT-OF-WAY TO A POINT ON SAID CENTER SECTION LINE; THENCE SOUTH 0°43'13" EAST 264.03 FEET ALONG SAID CENTER SECTION LINE TO THE POINT OF BEGINNING. CONTAINING 1.65 ACRES.

PARCEL 3

BEGINNING AT A POINT IN THE NORTH RIGHT OF WAY LINE OF 300 SOUTH STREET, SAID POINT BEING NORTH 0°43'13" WEST ALONG THE CENTER SECTION LINE 2546.86 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 29, TOWNSHIP 42 SOUTH, RANGE 15 WEST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE SOUTH 89°51'16" EAST ALONG SAID NORTH RIGHT OF WAY LINE 325.20 FEET TO A POINT OF CURVATURE; THENCE LEFT 31.42 FEET ALONG THE ARC OF A CURVE WHOSE RADIUS IS 20.00 FEET AND THE CENTRAL ANGLE IS 90° TO A POINT ON THE WEST RIGHT OF WAY LINE OF 1200 EAST STREET; THENCE NORTH 0°08'44" EAST ALONG SAID WEST RIGHT OF WAY LINE 508.00 FEET TO A POINT OF CURVATURE; THENCE LEFT 31.42 FEET ALONG THE ARC OF A

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CURVE WHOSE RADIUS IS 20.00 FEET AND THE CENTRAL ANGLE IS 90° TO A POINT ON THE SOUTH  
RIGHT OF WAY LINE OF 200 SOUTH STREET; THENCE NORTH 89°51'16" WEST ALONG SAID SOUTH  
RIGHT OF WAY LINE 309.92 FEET TO A POINT OF CURVATURE; THENCE LEFT 25.61 FEET ALONG THE  
ARC OF A CURVE WHOSE RADIUS IS 35.36 FEET AND CENTRAL ANGLE IS 41°30'16" TO THE CENTER  
SECTION LINE; THENCE SOUTH 0°43'13" EAST ALONG CENTER SECTION LINE 539.18 FEET TO THE  
NORTH RIGHT OF WAY LINE OF 300 SOUTH STREET AND THE POINT OF BEGINNING. CONTAINS A  
PORTION OF BLOCK 20, PLAT "E", ST. GEORGE CITY SURVEY AND A TOTAL OF 4.389 ACRES, MORE  
OR LESS.

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