

617193

DECLARATION OF
COVENANTS, CONDITIONS,
AND RESTRICTIONS AND
RESERVATION OF EASEMENTS
FOR WESTMONT CONDOMINIUMS

This declaration of covenants, conditions and restrictions and reservation of easements made this 25th day of May, 1982, by 2425 Service Corporation, a Utah corporation, hereinafter called Declarant, pursuant to and to be subject to the provisions of the Condominium Ownership Act, Chapter 8 of Title 57, Utah Code Annotated 1953 and as the same may from time to time be amended.

I.

RECITALS

A. Declarant is the owner in fee of certain real property in Davis County, Utah, described as follows:

A part of the NE 1/4 of Section 3, T. 4 N. R. 2 W. S. L. B. & M., U. S. Survey, as follows: All of Lot 1, amended plat of Lots 1-5 Westland Subdivision No. 1, Clearfield City, Davis County, Utah, excepting therefrom that portion lying North of the South line of Lot 8, Westland Subdivision No. 1, Clearfield City, Davis County, Utah, extended N. 89° 57' W. to the West line of said Lot 1.

Contains 1.815 acres.

B. Declarant has filed concurrently herewith a Record of Survey Map consisting of certain sheets prepared and certified by Great Basin Engineering Inc., a duly registered Utah Land Surveyor, showing the location and dimensions of the project, the units, common areas and limited common areas appurtenant thereto, all of which are subject to the provisions hereof and the act above referred to.

C. The project comprises 1.815 acres within the City of Clearfield, Davis County, Utah and will consist of 27 units of a two-story town house design in six buildings.

II.

DEFINITIONS

A. "Declarant" shall mean 2425 Service Corporation which has made and executed this declaration.

B. The "Act" shall mean and refer to the Utah Condominium Ownership Act, Title 57, Chapter 8, Utah Code Annotated 1953, as amended.

Abstracted
 Indexed
 Entered

 Platted
 On Margin
 Compared

C. "Condominium" shall mean and refer to the ownership of a single unit in the project, together with an undivided interest in the common areas.

D. "Map" shall mean and refer to the Record of Survey Map of the project recorded herewith.

E. "Articles of incorporation" - The Articles of Incorporation of Westmont Condominium Owners Association, a Nonprofit Corporation.

F. "Association of unit owners" - All of the unit owners acting as a group to govern the affairs of the Westmont Condominium Owners Association.

G. "Building" - A structure containing one or more units that has been or shall hereafter be constructed on the land.

H. "Bylaws" - The Bylaws of the Westmont Condominium Owners Association.

I. "Common areas and facilities" - The land within the condominium project which is hereby submitted to the provisions of the Act; all common areas and facilities as hereinafter described and as designated as such in the Record of Survey Map; all limited common areas and facilities as hereinafter described and as designated as such in the Record of Survey Map; the foundations, columns, girders, beams, supports, perimeter and bearing walls, roofs, halls, stairs, stairways, and entrances and exits designed for the use of more than one unit of the buildings; the sidewalks, walkways, patios, landscaped and planted areas, parking areas, access roads, driveways, fences and walls, exterior lighting, and storage areas; installations such as power, light, gas, hot and cold water, existing for common use; all apparatus and installations existing for common use; recreational and other community facilities; all portions of the property not specifically included within the individual units; and all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common

use, and all areas and facilities designated as common areas and facilities in the Act.

J. "Common expenses" - All expenditures lawfully made or incurred by or on behalf of the unit owners association, together with all funds lawfully assessed for the creation and/or maintenance of reserves; including those reserves set aside for the repair, maintenance and replacement of those common areas and facilities that must be refurbished and/or replaced on a periodic basis.

K. "Common profits" - All income collected or accrued by or on behalf of the unit owners association, other than income derived from assessments.

L. "Condominium unit" - A unit together with the undivided interest in the common areas and facilities appertaining to that unit.

M. "Declarant" - All persons who execute the declaration or on whose behalf the Declaration is executed. Any successors of the persons referred to in this subsection who come to stand in the same relation to the condominium as their predecessors did shall also come within this definition.

N. "Declaration" - This Declaration of Condominium of the Westmont Condominiums, which is the instrument by which the property is submitted to the provisions of the Condominium Ownership Act and its lawful amendments.

O. "Limited common areas and facilities" - Common areas and facilities described in the Record of Survey Map which are appurtenant to and which have been designated in the Declaration as reserved for the use of one or more of the units to the exclusion of the others and include without limitation, patios, yard areas, carports and sheds as they relate to each unit.

P. "Majority" or "majority of unit owners" - The majority of voting unit owners.

Q. "Management committee" - The governing board of the Westmont Condominium Owners Association, a nonprofit corporation, which shall manage and maintain the property and conduct the

affairs of the Association for and in behalf of the Association as provided in the Act, the Utah Nonprofit Corporation and Cooperative Association Act, this Declaration, the Articles, and the Bylaws and all rules and regulations made pursuant thereto.

R. "Mortgage" - Any mortgage or deed of trust or other conveyance of a lot to secure the performance of an obligation which will be void and reconveyed upon the completion of such performance. The term "deed of trust" or "trust deed" when used herein shall be synonymous with the term "mortgage".

S. "Mortgagee" - Any person or entity that is a holder of a mortgage or a beneficiary of a deed of trust. The term "first mortgagee" shall mean the person or entity holding a mortgage on the unit which is first in priority to other mortgagees. "Mortgagor" shall mean a person or entity who mortgages his or its property to another (i.e., the maker of a mortgage) and shall include the Trustor of a deed of trust. The term "trustor" shall be synonymous with the term "mortgagor".

T. "Property" - The land, the buildings, improvements and structures, all easements, servitudes, rights and appurtenances belonging thereto, and all chattels intended for use in connection therewith, which have been or are intended to be submitted to the provisions of the Act.

U. "Unit" - A portion of the condominium designed and intended for individual ownership and use.

III.

DESCRIPTION

A. The project shall consist of twenty-seven (27) units as described in the Record of Survey Map. Each unit depicted in the Record of Survey Map is identified by a specific numeral designation. The Record of Survey Map also describes the limited common areas and facilities which are

reserved for the exclusive use of one or more of the units, and the common areas and facilities to which each unit has immediate access. All units shall be capable of being independently owned, encumbered, and conveyed. A condominium unit shall include that part of the building containing the unit which lies within the boundaries of the unit, which boundary shall be determined in the following manner:

1. The upper boundary shall be the plane of the lower surface of the uppermost ceiling;
2. The lower boundary shall be the plane of the upper surface of the lowermost floor; and
3. The vertical boundaries of the unit shall be the interior surface of the perimeter walls of the building bounding a unit.

B. Description of the Common Areas and Facilities

Except as otherwise provided in the Declaration, the common areas and facilities shall consist of the areas and facilities described in the definitions and in the Record of Survey Map and constitute in general all parts of the property except the units. Without limiting the generality of the foregoing, the common areas and facilities shall include the following, whether located within the bounds of a unit or not:

1. The land within the Westmont Condominium;
2. All structural parts of the buildings, including, without limitation, foundations, perimeter and bearing walls, joists, beams, supports, ceilings and roofs;
3. Driveways, parking spaces, porches, doorsteps, patios, balconies, carports, landscaped and planted areas, sidewalks, fences, walls, common storage areas, recreational facilities, exterior lighting and roadways located within the property;
4. Any utility pipe or line or system servicing more than a single unit, and all ducts, wires, conduits, and other accessories used therewith;

5. The limited common areas and facilities herein described; and

6. All repairs and replacements of any of the foregoing.

C. Description of the Limited Common Areas and Facilities

The limited common areas and facilities appurtenant to each of the twenty-seven (27) units shall include a patio area located at the rear of each unit, an entry located at the front and rear of each unit and two carport stalls located behind each building. The limited common areas and facilities are more fully described in the Record of Survey Map. The use of such carport stall shall be designated by a letter corresponding to the unit letter.

D. Percentage Interests.

The unit number and maximum percentage of undivided interest in the common areas and facilities appurtenant to each unit and its owner for all purposes, including voting, is equal. Except as provided by the Act, the percentage of undivided interest in the common areas and facilities appurtenant to any unit shall not be changed except with the unanimous consent of all of the unit owners in the Westmont Condominium expressed in an amendment to this Declaration duly executed by all such owners and recorded.

E. Method of Computing Percentage Interests.

Such percentages have been realized by recognizing that the square footage of the units is substantially equal or so close as not to afford a reasonable basis for distinction.

IV.

GENERALA. Purpose of Property

The purpose of the Westmont Condominium is to provide residential housing and associated facilities for unit owners, their respective families, tenants, guests, and servants. Each unit in the property shall be restricted exclusively to residential purposes and single family use.

The units and common areas and facilities of the Westmont Condominium shall be occupied and used pursuant to this Declaration, the Articles, and the Bylaws as follows:

1. No commercial business shall be permitted within the property.
2. There shall be no obstruction of the common areas and facilities. Except in the case of designated storage areas, nothing shall be stored in the common areas and facilities without the prior written consent of the Management Committee.
3. Nothing shall be done or kept in any unit or in the general or limited common areas and facilities which will increase the rate of insurance on the general or limited common areas and facilities without the prior written consent of the Management Committee. No owner shall permit anything to be done or kept in his unit or in the general or limited common areas and facilities which will result in the cancellation of insurance of any unit or any part of the general or limited common areas and facilities, or which would be in violation of any law. No waste will be committed of the general common areas and facilities or limited common areas and facilities.
4. No sign of any kind shall be displayed to the public view or from any unit or from the general or limited common areas and facilities without the prior written consent of the Management Committee.

5. No animals, livestock or poultry of any kind shall be raised, bred or kept in any unit or in the general or limited common areas and facilities; except that household pets may be kept or housed in units when expressly permitted in writing by the Management Committee. Each owner who desires to keep a pet in his unit shall apply in writing to the Management Committee for permission to keep such pet. In no event shall any pet be permitted in any portions of the common areas and facilities 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 Westmont Condominium. If a pet disturbs other owners by barking or biting or in other ways becoming obnoxious, the Management Committee will give notice to the owner of such pet to cause such annoyance to be discontinued and if such annoyance is not discontinued and corrected, the Management Committee may revoke its permission to keep the pet in the Westmont Condominium and the pet shall be removed from the property.

6. No noxious, dangerous or offensive activity shall be carried on in any unit or in the general or limited common areas and facilities, nor shall anything be done therein which may be or become an annoyance or nuisance to other owners.

7. Nothing shall be altered or constructed in or removed from the general or limited common areas and facilities, except upon the prior written consent of the Management Committee. All requests for permission to alter, construct in or remove any portion of the common areas and facilities shall be made in writing to the Management Committee and shall include plans and specifications detailing the nature and extent of such alteration, construction or removal.

8. No recreational vehicle (motor homes, campers, trailers, boats, or similar items) shall be parked on any portion of the general or limited common areas and facilities.

9. The Management Committee is authorized to adopt rules for the use of the general or limited common areas and facilities, and to prescribe penalties for any violation thereof, and shall furnish such rules in writing to the owners, who shall be bound thereby.

10. None of the rights and obligations of the owners created herein, or by the deeds conveying the condominiums, shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of an owner or owners if said encroachment occurred due to the willful conduct of said owner or owners.

B. Declarant shall have the right to reserve two units in each building for the purpose of serving as model units for such period of time as it may deem necessary in order to stimulate sales. Declarant shall further have the right to locate and maintain a sales office until the last unit shall be sold.

C. Advertising Signs.

Declarant further reserves the right to maintain advertising signs on the property and on any additional land that may be added thereto and to place the same in any location, and remove the same at the sole discretion of Declarant.

D. Reservation of Easement to Facilitate Creation of Improvements on Land Within Project and on Additional and Convertible Land.

Declarant, and persons it may select, shall have the right of ingress and egress over, upon, and across the general and limited common areas and facilities, or any additional land or convertible land which may hereafter be added to the

Westmont Condominium in accordance with the provisions hereof and the right to store materials thereon and make such other use thereof as may be reasonably necessary incident to construction, development, and sales of the condominiums and operation of the units and common areas and facilities in connection with the Westmont Condominium and the overall development of which the property is a part. Declarant and its agent shall retain the right to use the sales office and model units and the general and limited common areas and facilities in connection therewith during the period of development and sale of the Westmont Condominium, including any additional phase of development.

E. Service of Process.

David P. Bertagnolli, whose address is 2425 Washington Boulevard, Ogden, Utah 84401, is the person to receive service of process in cases authorized by the Act. The Management Committee may, however, have the right to appoint a successor or substitute process agent. Such successor or substitute agent and his address shall be specified by an appropriate instrument filed in the office of the County Recorder of Davis County, State of Utah.

F. Management Committee.

The governing board of the Westmont Condominium Owners Association, a nonprofit corporation, shall for and in behalf of the Association manage and maintain the property and conduct the affairs of the Association pursuant to the provisions of the Act, the Utah Nonprofit Corporation and Cooperative Association Act, this Declaration, the Articles, the Bylaws, and all rules and regulations made pursuant thereto.

G. Declarant Control of Management Committee and Association.

Until the time that three-fourths (3/4) of the undivided interest in the common areas and facilities appertain have

been conveyed Declarant shall have the right to appoint and remove some or all of the members of the Management Committee or some or all of the officers of the Association, or to exercise powers and responsibilities otherwise assigned by this Declaration, the Articles, the Bylaws, and the Act to the Association, its officers, or the Management Committee.

H. Maintenance, Repair and Replacement of Common Areas.

The maintenance, repair, and replacement of those elements that must be replaced on a periodic basis and repair of the common areas and facilities shall be responsibility of the Association and the cost thereof shall be a common expense. The Association shall replace and repair storage areas, carports, and other limited common areas. The Association shall also maintain, replace, and repair all conduits, ducts, plumbing and wiring, and other facilities for the furnishing of heat, gas, light, powers, water and sewer contained in the portions of the units that service part or parts of the property other than the unit in which they are contained including the servicing of chimney flues. All incidental damages caused to a unit by the maintenance, replacement and repair of the common areas and facilities or utility services shall be repaired promptly at the expense of the Association.

I. Maintenance, Replacement, and Repair of Units.

Each owner shall at his own cost and expense maintain, repair, paint, repaint, tile, paper or otherwise refinish and decorate the interior surfaces of the walls, ceilings, floors, windows and doors forming the boundaries of his unit and all walls, ceilings, floors, windows and doors within such boundaries. In addition to decorating and keeping the interior of his unit in good repair and in a clean and sanitary condition, he shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, including rooftop coolers, water

heater, heating equipment, air conditioner, lighting fixtures, refrigerator, dishwasher, disposal equipment, range, or other appliances or fixtures that may be in, connected with, or service only his unit. Each unit shall be maintained so as not to detract from the appearance of the property and so as not to affect adversely the value or use of any other unit. Each unit owner shall keep clean and in a sanitary condition his storage areas, balconies, patios, carport, and other limited common areas, if any.

J. Access for Repair of Common Areas.

Some of the common areas and facilities are or may be located within the units or may be conveniently accessible only through the units. The owners of the other units shall have the irrevocable right, to be exercised by the Management Committee, as its agent, to have access to each unit and to all common areas and facilities from time to time during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the common areas and facilities located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the common areas and facilities or to another unit or units. The Management Committee shall also have such rights independent of the agency relationship. Damage to the interior of any part of a unit or units resulting from the maintenance, repair, emergency repair, or replacement of any of the common areas and facilities or as a result of emergency repairs within another unit at the instance of the Management Committee or of unit owners shall be the obligation of the Association; provided, that if such damage is the result of negligence of the owner of a unit, then such owner shall be financially responsible for all such damage. Such damage shall be repaired and the property shall be restored substantially to the same condition as existed prior to damage. Amounts owing by owners pursuant hereto shall be

collected by the Management Committee by assessment.

K. Easement to Management.

The Management Committee shall have nonexclusive easements to make such use of the common areas and facilities as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration, the Articles, and the Bylaws.

L. Easement for Utility Services.

There is hereby created a blanket easement upon, across, over and under the property above described for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to, water, sewers, gas, telephones, electricity, and other utility services.

V.

DESTRUCTION, DAMAGE, INSURANCE

A. Less than 3/4 of Property Destroyed.

In case of fire or any other disaster which causes damage or destruction to all or part of the property, the Management Committee, with the help of an independent appraisal, shall determine the percentage of the property that was destroyed or substantially damaged. If less than three-fourths (3/4) of the total property was destroyed or substantially damaged, the Management Committee shall arrange for the prompt repair and restoration of said property using the proceeds of insurance on the same for that purpose, and the unit owners shall be liable for assessment for any deficiency, if any, in proportion to their respective percentages of undivided interest in the common areas and facilities. Reconstruction of the property shall mean the restoring of the building or buildings to substantially the same condition they were in prior to the damage or destruction, with each unit and the common areas and facilities having the same vertical and horizontal boundaries as before.

B. Greater Than 3/4 of Property Destroyed.

If three-fourths (3/4) or more of the total property

is destroyed or substantially damaged, the Management Committee shall, within thirty (30) days after such destruction or damage, call a special meeting of the unit owners for the purpose of deciding whether or not the property shall be repaired and restored. If at least three-fourths (3/4) of the unit owners, in person or by proxy, vote not to repair or restore the building or buildings, the Management Committee shall record, with the County Recorder, a notice setting forth such facts; and upon the recording of such notice:

(i) the property shall be deemed to be owned in common by the unit owners; (ii) the undivided interest in the property owned in common which shall appertain to each unit owner shall be the percentage of undivided interest previously owned by such owner in the common areas and facilities; (iii) any liens affecting any of the units shall be deemed to be transferred in accordance with the existing priorities to the undivided interest of the unit owner in the property; and (iv) the property shall be subject to an action for partition at the suit of any unit owner, in which event the net proceeds of sale, together with the net proceeds of the insurance of the property, shall be considered as one fund and shall be divided among all unit owners in a percentage equal to the percentage of undivided interest owned by each owner in the property, after first paying out of the respective shares of the unit owners, to the extent sufficient for such purposes, all sums necessary to satisfy liens on the undivided interest in the property owned by each unit owner. However, in the event at least three-fourths (3/4) of the total property is destroyed or substantially damaged, and less than three-fourths (3/4) of the unit owners vote against reconstruction of the property, the Management Committee shall promptly arrange for the reconstruction of the same, using the proceeds of insurance on the buildings affected

for that purpose, and the unit owners shall be liable for assessment for any deficiency, if any, in proportion of their respective percentage of undivided interest in the common areas and facilities.

C. Contents of Insurance Coverage.

The Association shall obtain and maintain at all times insurance coverage to carry out the purposes of the Declaration. Such coverage shall be of the type and kind as provided herein and include insurance for such other risks, of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other properties similar to the property in construction, design, and use. The Association shall obtain insurance with the following provisions or endorsements:

1. Exclusive authority to adjust losses shall be vested in the Management Committee;
2. The insurance coverage shall not be brought into contribution with insurance purchased by individual unit owners or their respective mortgagees;
3. Each unit owner may obtain additional insurance covering his real property interest at his own expense;
4. The insurer waives its right of subrogation as to any claims against the Association, the Management Committee, the manager, the unit owners, and their respective servants, agents, and guests;
5. The insurance coverage cannot be cancelled, invalidated or suspended because of the conduct of any one or more individual unit owners or their respective lessees, employees, agents, contractors, or guests;
6. The insurance coverage cannot be cancelled, invalidated or suspended because of the conduct of any officer, employee, agent or contractor of the Association, Management Committee, or manager, without prior demand in writing that the Association cure the defect and then only if the defect is not cured within fifteen (15) days;

7. All hazard insurance policies shall be written by a hazard insurance carrier which has a financial rating by Best's Insurance Reports of Class VI or better. Such hazard insurance carrier shall be specifically licensed or authorized by law to transact business within the State of Utah.

8. Each policy of insurance obtained by the Association shall provide: a standard mortgagee clause commonly accepted by private institutional mortgage investors in the area in which the property is located. Such mortgagee clause shall provide that the insurance carrier shall notify the first mortgagee at least ten (10) days in advance of the effective date of any reduction in or cancellation of any policy or policies.

D. Multi-peril Fire and Casualty Insurance.

The Association shall maintain a multi-peril type policy covering the entire Westmont Condominium with the provisions and endorsements set forth above, providing as a minimum fire and extended coverage and all other coverage in the kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use on a replacement cost basis in an amount not less than one hundred per cent (100%) of the insurable value (based upon replacement cost). Each such policy shall contain the standard mortgagee clause which must:

1. Be endorsed to provide that any proceeds shall be paid to the Association for the use and benefit of mortgagees as their interests may appear; and

2. Provide that the insurance carrier shall notify the first mortgagee (or trustee) at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.

Each such policy shall state that the insured is the Westmont Condominium Owners Association for the use and benefit of the individual owners. If such policy contains a fall of building clause, such clause must be waived. The limits and

coverage of said insurance shall be reviewed at least annually by the Management Committee and shall include an appraisal of the property by a qualified representative of the insurance company writing the master policy on the property. The Association shall, upon request, furnish a letter wherein the Association agrees to notify FHLMC (c/o the first mortgagee) whenever:

i. Damage to a condominium unit covered by a mortgage purchased in whole or in part by FHLMC exceeds \$1,000, or

ii. Damage to common elements and related facilities exceeds \$10,000.

E. Comprehensive Public Liability Insurance.

The Association shall obtain a comprehensive policy of public liability insurance insuring the Association, the Management Committee, the manager, and the unit owners against any liability incident to the ownership, use or operation of the common areas and facilities, commercial spaces, if any, and public ways in the property or of any unit which may arise among themselves, to the public, or to any invitees, or tenants of the property, or of the unit owners. Limits of liability under such insurance shall not be less than one million dollars per occurrence, for personal injury and/or property damage. Such insurance policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a unit owner because of negligent acts of the Association or other unit owners. The scope of coverage must include all other coverage in the types and amounts required by private institutional mortgage investors for projects similar in location, construction and use. The limits in coverage of said liability policy or policies shall be reviewed at least annually by the Management Committee, including an evaluation of the adequacy of the policy by a qualified representative of the insurance company writing the master policy on the property, and shall be increased at the discretion of the Management Committee. Said policy or

policies shall be issued on a comprehensive liability basis and, if possible, shall provide cross-liability endorsements for possible claims for any one or more or group of insureds against any one or more or group of insureds, without prejudice to the right of a named insured under the policies to maintain an action against another named insured.

F. Owners Duty to Notify Management Committee of Improvements.

Each unit owner shall be required to notify the Management Committee of, and shall be liable for, any increased insurance premium for insurance maintained by the Management Committee on all improvements made by the unit owner to his unit. Each unit owner shall bear the risk of loss for all improvements made to his unit that were not the subject of notice to the Management Committee.

G. Copy of Individual Unit Policy to Management Committee.

Any unit owner who obtains individual insurance coverage covering any portion of the property, other than personal property belonging to such unit owner, shall be required to file a copy of such individual policy or policies with the Management Committee within thirty (30) days after obtaining such insurance coverage.

H. Individual Policies Not to Decrease Coverage of Master Policy.

No unit owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount that the Management Committee, on behalf of all of the unit owners, may realize under any insurance policy that the Management Committee may have in force covering the property or any part thereof at any time.

I. Flood Insurance.

The property is not located in an area identified by the Department of Housing and Urban Development as an area having special flood hazards. In the event that at some future time the property should be declared to be in such a flood area, a blanket policy of flood insurance on the property shall be

maintained in the amount of the aggregate of the outstanding principal balances of the mortgage loans on the units comprising the property or the maximum limit of coverage available under the National Flood Insurance Act of 1968, as amended, whichever is less. The name of the insured under each required policy must be in form and substance as that required by the Federal Home Loan Mortgage Corporation at any given time.

J. Notwithstanding any provision in this Declaration, the Articles, and the Bylaws to the contrary, no provision of this Article V shall be amended without the consent of all first mortgagees.

K. Where 3/4 of Property is Destroyed.

In the event three-fourths (3/4) of the property is destroyed or substantially damaged, and if at least three-fourths (3/4) of the unit owners vote not to reconstruct the buildings, the property shall be removed from the provisions of the Act without further agreement thirty-one (31) days after such destruction or damage.

L. By Vote of Mortgagees or Owners.

If at least 75 per cent of the first mortgagees (based upon one vote for each first mortgage owned) or the unit owners in person or by proxy, vote to remove the property from the provisions of the Act, the property shall be removed from the provisions of the Act by an instrument duly recorded to that effect, provided that the holders of all liens affecting any of the units consent or agree by instruments duly recorded, that their liens be transferred to the percentage of the undivided interest of the unit owners in the property.

M. Tenants in Common After Termination.

After removal of the property from the Act, the unit owners shall own the property and all assets of the Association as tenants in common and the respective mortgagees and lienors shall have mortgages and liens upon the respective

undivided interests of the unit owners. Such undivided interests of the unit owners shall be the same as the percentage of undivided interest in the common areas and facilities appurtenant to the owners' units prior to removal from the Act.

VI.

ASSESSMENTS; MORTGAGEES, EASEMENTSA. Mortgagee Protection.

Notwithstanding anything to the contrary contained in the Declaration, the Articles, or the Bylaws:

1. Common expense assessments shall include an adequate reserve fund for maintenance, repairs and replacement of those common areas and facilities that must be replaced on a periodic basis, and shall be payable in regular installments rather than by special assessments.

B. No provision of this Declaration, the Articles or the Bylaws shall give a unit owner, or any other party, priority over any rights of the first mortgagee of the condominium unit pursuant to its mortgage or otherwise in the case of a distribution to such unit owner of insurance proceeds or condemnation awards for losses to or a taking of condominium units and/or common areas and facilities.

C. Any "right of first refusal" that may hereafter be added to this Declaration, the Articles, or the Bylaws shall not impair the rights of a first mortgagee to:

1. Foreclose or take title to a condominium unit pursuant to the remedies provided in the mortgage, or
2. Accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor, or
3. Interfere with a subsequent sale or lease of a unit so acquired by the mortgagee.

D. With the exception of a lender in possession of a unit following a default in a first mortgage, a foreclosure

proceeding or any deed or other arrangement in lieu of foreclosure, no unit owner shall be permitted to lease his unit for transient or hotel purposes. No unit owner may lease less than the entire unit. Any lease agreement shall provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration, the Articles and 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.

E. Any first mortgagee who obtains title to a condominium unit pursuant to the remedies provided in the mortgage or foreclosure or deed in lieu of foreclosure of the mortgage will not be liable for such unit's unpaid dues or charges which accrue prior to the acquisition of title to such unit by the mortgagee.

F. A first mortgagee, upon request, will be entitled to written notification from the Association of any default in the performance by the mortgagor-unit owner of any obligation under this Declaration, the Articles, or the Bylaws which is not cured within sixty (60) days.

G. Unless at least two-thirds (2/3) of the first mortgagees (based upon one vote for each first mortgage owned), or owners (other than Declarant) of the individual condominium units have given their prior written approval, the Association shall not be entitled to:

1. By act or omission, seek to abandon or terminate the condominium project;
2. Change the prorata interest or obligations of any individual condominium unit for the purpose of: (a) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (b) determining the prorata share of ownership of each condominium unit

in the common areas and facilities, except as necessary to allow for the phasing or add-ons as provided in this Declaration;

3. Partition or subdivide any condominium unit;

4. By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the common elements.

(The granting of easements for public utilities or for other public purposes consistent with the intended use of the common areas and facilities by the condominium project shall not be deemed a transfer within the meaning of this clause);

5. Use hazard insurance proceeds for losses to the property (whether to units or to common areas and facilities) for other than the repair, replacement or reconstruction of such condominium property, except as provided by the Act in case of substantial loss to the units and/or common areas and facilities of the condominium project.

H. A mortgagee, trustee, or beneficiary under a deed of trust who has acquired title to a unit in the Westmont Condominium pursuant to any remedy under the mortgage or deed of trust, or any proceeding or procedure in lieu thereof, shall thereby become a member of the Westmont Condominium Owners Association.

I. No condominium unit owner, or any other party shall have priority over any rights of a first mortgagee of a condominium unit pursuant to its mortgage or otherwise in the case of a distribution to such unit owner of insurance proceeds or condemnation awards for losses to or a taking of condominium units and/or common areas and facilities. All first mortgagees shall be entitled to receive such insurance proceeds and awards for losses to or a taking of condominium units and/or common areas and facilities on a first priority basis, as provided in the mortgage instruments.

J. The holders of first mortgages (or trust deeds) shall have the right to examine the books and records of the property.

K. Whenever there is a change in ownership of a unit, the Management Committee shall require that the new unit owner furnish the Management Committee with the name of the holder of any first mortgage (or trust deed) affecting such unit. The Management Committee or Manager shall maintain a current roster of unit owners and of the holders of first mortgages (or trust deeds) affecting units in the property.

L. No provision of this Article shall be amended without the consent of all first mortgagees.

M. Conveyances, Easements.

1. Unit Identifying Number.

Every deed, lease, mortgage or other instrument may describe a unit by its identifying number. Every such description shall be deemed good and sufficient for all purposes and shall be deemed to convey, transfer, encumber or otherwise affect the unit owner's corresponding percentage of undivided ownership in the common areas and facilities, as a tenant in common even though the same is not exactly mentioned or described.

2. Easements Excepted and Reserved.

Every deed, lease, mortgage or other similar instrument shall be deemed to:

a. Except and reserve with respect to a unit:
(i) any portion of the common areas and facilities lying within said unit; (ii) easements through said unit, appurtenant to the common areas and facilities and all other units, for support and repair of the common areas and facilities and all other units; and (iii) easements, appurtenant to the common areas and facilities, for encroachment upon the air space of said unit by those portions of the common areas and facilities located within said unit.

b. Include with respect to a unit nonexclusive easements for ingress and support of said unit through the common areas and facilities, for the repair of said unit through all other units and through the common areas and facilities.

c. Except and reserve, with respect to the undivided percentage interest in the common areas and facilities, nonexclusive easements appurtenant to all units for ingress, egress, support and repair.

d. Include, with respect to the undivided percentage interest in the common areas and facilities, nonexclusive easements through each unit for support and repair of the common areas and facilities and nonexclusive easements for encroachments upon the air space of all of the units by and for the portions of the common areas and facilities lying within the units.

e. If any part of the general or limited common areas or facilities encroaches or shall hereafter encroach upon a unit or units, 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 general or limited common areas, or upon an adjoining unit or units, an easement for such encroachment and for the maintenance of the same shall and does exist. Such encroachments shall not be considered to be encumbrances either to 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(s) on the property, by error in the Record of Survey Map, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Westmont Condominium or any part thereof.

N. Agreement to Pay Assessments.

Each owner of a unit by the acceptance of a deed or contract therefor, whether or not it be so expressed in the deed or contract, shall be deemed to covenant and agree with each other and with the Management Committee to pay his proportionate share of the common expenses and special

assessments for capital improvements and other matters in such amounts and at such times as determined by the Management Committee in accordance with the terms of the Bylaws.

O. Lien for Unpaid Assessments.

All sums assessed to any unit together with interest thereon, shall be secured by a lien on such unit in favor of the Management Committee. Such lien shall be superior to all other liens and encumbrances, except as provided for in the Bylaws and foreclosure and collection shall be as therein provided for.

P. Amendment by Vote of Owners

Except as otherwise provided and except as prohibited by the Act, the provisions of this Declaration may be amended only by an instrument in writing signed and acknowledged by owners who own undivided percentage interests of not less than seventy-five per cent (75%) of the common areas and facilities in the Westmont Condominium Project, which amendment shall be effective upon recording.

Q. Enforcement.

Each unit owner shall strictly comply with the provisions of the Declaration, the Articles, the Bylaws, the community rules and regulations and decisions issued pursuant thereto. Failure to so comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Management Committee or its designee on behalf of the unit owners, or in an appropriate case, by an aggrieved unit owner.

R. Severability.

The provisions of this Declaration 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 provision hereof.

VII.

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

VIII.

EFFECTIVE DATE

This Declaration shall take effect when recorded.

IN WITNESS WHEREOF these presents are executed the day and year first above written.

2425 SERVICE CORPORATION

By Richard M. Mercer
Richard M. Mercer
President

Attest:

Georgia S. Budge
Georgia S. Budge
Secretary

STATE OF UTAH)
 : ss
COUNTY OF WEBER)

On the 25th day of May, 1982, personally appeared before me RICHARD M. MERCER and GEORGIA S. BUDGE, who being by me duly sworn did say, each for himself, that he, the said RICHARD M. MERCER is the President, and she, the said GEORGIA S. BUDGE is the Secretary of 2425 Service Corporation and that the within and foregoing instrument was signed in behalf of said Corporation by authority of a resolution of its Board of Directors and said RICHARD M. MERCER and GEORGIA S. BUDGE each duly acknowledged to me that said Corporation executed the same.

Mark R. Busch
Notary Public
Residing at Ogden, Utah
My commission expires: 8-9-82

BYLAWS
OF THE
WESTMONT CONDOMINIUM OWNERS ASSOCIATION
A UTAH NONPROFIT CORPORATION

ARTICLE I

Definitions

SECTION 1. "Association" shall mean and refer to WESTMONT CONDOMINIUM OWNERS ASSOCIATION, its successors and assigns.

SECTION 2. "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

SECTION 3. "Common Area" shall mean and refer to all real property owned or administered by the Association for the common use and enjoyment of the Owners.

SECTION 4. "Home" shall mean and refer to a unit as shown on the survey map, including all rights and appurtenances.

SECTION 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any home which is part of the properties, including contract buyers, but excluding those having an interest merely as security for the performance of an obligation.

SECTION 6. "Declarant" shall mean and refer to 2425 SERVICE CORPORATION, a Utah corporation, its successors and assigns, if such successors or assigns should acquire more than one undeveloped home from the Declarant for the purpose of development.

SECTION 7. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of the County Recorder of Davis County, Utah.

SECTION 8. "Member" shall mean and refer to an owner provided that only one vote may be cast where ownership is divided or joint.

ARTICLE II

Meeting of the Members

SECTION 1. Annual Meetings. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, at a time and place designated by the Board and each subsequent regular meeting of the membership shall be held on the same day of the same month of each year thereafter. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday. All meetings shall be at a time and place designated.

SECTION 2. Special Meeting. Special meetings of the members may be called at any time by the President or by the Board of Directors, or upon written request of 1/4 of the members who are entitled to vote.

SECTION 3. Notice of Meetings. Written notice of all meetings of the members and the purpose thereof shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 15 days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the date, place and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

SECTION 4. Quorum. The presence at the meeting of at least 50% of the members entitled to vote shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If,

however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

SECTION 5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his home.

SECTION 6. Roberts Rules of Order shall prevail at all meetings.

ARTICLE III

BOARD OF DIRECTORS: Selection; Term of Office

SECTION 1. Number. The affairs of this Association shall be managed by a Board of not less than three (3) nor more than five (5) Directors, who shall be members of the Association or who shall reside within a unit in the project area.

SECTION 2. Term of Office. The Directors shall serve for a term of one year or until their successor shall have been elected and qualified. They shall be elected at the annual meeting.

SECTION 3. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

SECTION 4. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

SECTION 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence

of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE IV

Nomination and Election of Directors

SECTION 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nomination Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

SECTION 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to the vacancies, as many votes as they are entitled to exercise under the provisions of the Declaration.

ARTICLE V

Meetings of Directors

SECTION 1. Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice, at such places and hours as may be fixed from time to time by resolution of the Board. Should said meetings fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

SECTION 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two directors, after not less than three (3) days notice to each director.

SECTION 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VI

Powers and Duties of the Board of Directors

SECTION 1. Powers. The Board of Directors shall have power to:

(a) adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period of not to exceed sixty (60) days for infraction of published rules and regulations;

(c) exercise for the Association all powers, duties and authority reserved to the membership by other provisions of the law, these Bylaws, the Articles of Incorporation, or the Declaration as the same may be specifically provided or necessarily implied;

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

(e) act as the management committee;

(f) employ a manager, an independent contractor, or such other employee as they deem necessary, and to prescribe their duties and provide for their compensation.

SECTION 2. Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such a statement is requested in writing by one-fourth (1/4) of the members who are entitled to vote;

(b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

1. fix the amount of the annual assessment against each home at least thirty days (30) in advance of each annual assessment period;

2. send written notice of each assessment to every owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

3. foreclose the lien against any property for which assessments are not paid within sixty (60) days after the due date or to bring an action at law against the owner personally obligated to pay the same.

(d) issue, or to cause an appropriate officer to issue, upon proper demand, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificates shall be conclusive evidence of such payment;

(e) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Common Area and Limited Common Areas to be maintained.

ARTICLE VII

Officers and Their Duties

SECTION 1. Enumeration of Offices. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary and a treasurer, and such other officers as the Board of Directors may from time to time by resolution create.

SECTION 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

SECTION 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

SECTION 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

SECTION 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

SECTION 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

SECTION 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

SECTION 8. Duties. The duties of the officers are as follows:

President

(a) The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Vice-President

(b) The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

(c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

Treasurer

(d) The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account and prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting.

ARTICLE VIIICommittees

The Board of Directors may from time to time appoint such committees as deemed appropriate in carrying out its purposes, prescribe their duties and provide for their compensation, if any.

ARTICLE IXBooks and Records

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased for a reasonable fee.

ARTICLE XAssessments

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid within thirty (30) days after the due date shall be delinquent and shall bear interest from the date of delinquency at the rate of eighteen per cent (18%) per annum, and the Association may bring an action at law against the owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees incurred in any such action shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common area or abandonment of his unit.

ARTICLE XICorporate Seal

The Association shall have a seal in circular form having within its circumference the words: WESTMONT CONDOMINIUM OWNERS ASSOCIATION.

ARTICLE XIIAmendments

SECTION 1. These Bylaws may be amended, at a regular or special meeting of the members, by a vote of the majority of a quorum of members present in person or by proxy.

SECTION 2. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

ARTICLE XIIIMiscellaneous

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of each year.

ARTICLE XIVMiscellaneous

Unless all holders of the first mortgage liens on individual homes have given their prior written approval, the association of owners of the condominium project shall not be entitled to:

1. Partition or subdivide any home or the common elements of the project; nor
2. By act or omission seek to abandon the condominium status of the project except as provided by statute in case of substantial loss to the homes and common elements thereof.

ARTICLE XVInsurance

Fire and extended coverage insurance on insurable common areas as is appropriate shall be maintained by the Association.

These Bylaws shall take effect upon the recordation of the Declaration of the Westmont Condominiums to which they are attached.