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WHEN RECORDED RETURN TO:
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06/02/98 1:59 PM 100.00
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
JAMES R. BLAKESLEY
2102 E 3300 S
SLC, UT 84109
REC BY: V ASHBY DEPUTY - WI

AMENDMENT TO DECLARATION OF CONDOMINIUM
OF
ESSEX COURT CONDOMINIUM PROJECT

This Amendment to the Essex Court Declaration of Condominium is made and executed this 14th day of May, 1998, by the ESSEX COURT CONDOMINIUM HOMEOWNERS ASSOCIATION (hereinafter referred to as the "Association").

RECITALS

A. Original Declaration. The original Declaration of Condominium of Essex Court Condominium Project was recorded May 3, 1979, as Entry No. 3274083, in Book 4856, at Page 488 of the official records of Salt Lake County, Utah (hereinafter referred to as the "Original Declaration").

B. First Amendment. The Original Declaration was amended by a written instrument recorded on May 24, 1979 as Entry No. 3284555, in Book 4868, at Page 548 of the official records of Salt Lake County, Utah.

C. Second Amendment. The Original Declaration, as amended, was again modified by a written instrument recorded on September 14, 1979, as Entry No. 3337709, in Book 4949, at Page 284, of the official records of Salt Lake County, Utah.

D. Third Amendment. The Original Declaration, as amended, was again modified by a written instrument recorded on July 25, 1980, as Entry No. 3457139, in Book 5127, at Page 3351, of the official records of Salt Lake County, Utah.

E. Fourth Amendment. The Original Declaration, as amended, was again modified by a written instrument recorded on August 23, 1993, as Entry No. 5586005, in Book 6737, at Page 933, of the official records of Salt Lake County, Utah.

F. Fifth Amendment. The Original Declaration, as amended, was again modified by a written instrument recorded on December 7, 1995, as Entry No. 6230599, in Book 7285, at Page 2761, of the official records of Salt Lake County, Utah.

G. Sixth Amendment. The Original Declaration, as amended, was again modified by a written instrument recorded on January 29, 1996, as Entry No. 6266313, in Book 7317, at Page 1534, of the official records of Salt Lake County, Utah.

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H. Declaration. The Original Declaration and all supplements or amendments thereto are hereinafter referred to collectively as the "Declaration."

I. Property Description. This Amendment affects that certain real property known as the Essex Court Condominium Project, located in Salt Lake County, Utah, and described with particularity on Exhibit "A" attached hereto and incorporated herein by this reference.

J. Control. The control, operation and management of the Essex Court Condominium Project has been transferred by the original Developer to the Association.

K. Intent. The Association desires by this amendment to modify the following Articles:

- (i) Article I, Definitions by adding definitions that relate to Unit occupancy and leasing of Units in the Project;
- (ii) Article III, Section 15 (a) as it relates to the intended use and occupancy of Units in the Project;
- (iii) Article III, Section 15 (k) as it relates to the leasing of Units in the Project; and
- (iv) Article III, Section 15 (j) as it relates to individual assessments that may be levied against a Unit and its Owner.

J. Voting Requirements Satisfied. All of the voting requirements of Article III, Sections 25 and 26 of the Declaration have been satisfied in that the proposed amendment to the Declaration has been approved by at least 51% of the Percentage Interest of the Unit Owners in person or represented by proxy, as Exhibit "B" attached hereto and incorporated herein by this reference.

NOW, THEREFORE:

1. Article I of the Declaration, entitled "Definitions," is amended to add the following definitions:

22. Corporate Use shall mean and refer to the use or occupancy of a Unit by persons for temporary housing or for Vacation, Transient, Hotel or Seasonal purposes.

23. Guest shall mean and refer to an invitee, visitor or any person whose temporary presence within the Project is approved by or is at the request of a particular Resident.

24. Hotel Use shall mean and refer to the temporary use of a Unit as a resort hotel, as that term is generally defined in its ordinary commercial meaning as a house which is held out and made available to members of the vacationing, traveling or transient public as temporary accommodations for a reasonable rate.

25. Owner-Occupied shall mean and refer to units occupied by the vested

owner of record or his spouse, son, daughter, mother or father.

26. Person shall mean and refer to a natural person, corporation, partnership, trust, limited liability company, or other legal entity.

27. Project Documents shall mean and refer to the Declaration of Condominium, By-Laws and Rules and Regulations.

28. Resident shall mean and refer to any person living or staying at the Project. This includes but is not limited to all lessees, tenants, and the family members of Owners, tenants or lessees.

29. Resort shall mean and refer to a Unit used by persons temporarily as accommodations primarily for recreation and pleasure, Vacation, Transient or Seasonal use.

30. Seasonal Use shall mean and refer to the temporary use of a Unit during the winter, spring, summer or fall, or, for example, the ski season.

31. Single Family shall mean and refer to a collective body of two (2) or more persons living together in one Unit as their common home.

32. Time Share shall mean and refer to an annually recurring part or parts of a year, less than six (6) months, when the Resident has the legal right to occupy the Unit.

33. Temporary shall mean and refer to a period of less than six (6) months.

34. Transient Use shall mean and refer to the temporary use of a Unit which is not permanent or lasting and which is of passing or short duration, fleeting, or momentary.

35. Vacation Use shall mean and refer to the temporary use of a Unit for a rest, recess, leave of absence, respite or time of rest, recess, leave of absence or respite from one's primary residence, work or employment.

2. ARTICLE III, Section 15, Paragraph (a), of the Declaration is hereby deleted in its entirety and the following language is substituted in lieu thereof:

(a) Each of the Units in the Project is intended to be used for single family, owner-occupied residential housing, subject to the leasing restrictions, and is restricted to such use.

3. ARTICLE III, Section 15, Paragraph (k), of the Declaration, entitled "Leasehold Restrictions," is hereby deleted in its entirety and the following language is substituted in lieu thereof:

(k) Leasehold Restrictions. In order to assure a community of congenial owners and thus protect the value of the units, the leasing of a unit by any owner shall be subject

to the following restrictions so long as the property shall be owned in accordance with the terms and conditions of this Declaration and the Act:

(1) Entirety. Units may be rented only in their entirety and no fractions of portions thereof may be rented;

(2) Hotel. No transient leases may be accommodated therein, all rentals or leases must be for an initial term of no less than six (6) months, and no Resort, Hotel, Corporate, Executive, Seasonal, or Time Share uses are permitted;

(3) Subject to the Act and Project Documents. All leases and lessees shall be subject to the provisions of the Act and the Project Documents. Any owner who leases his Unit shall be responsible for assuring the Residents' compliance with the Act and the Project Documents;

(4) Failure to Take Legal Action. Failure by an Owner to take legal action against his Resident who is in violation of the Act or Project Documents within ten (10) days after delivery of written demand to so do from the Committee, shall entitle the Association to take any and all such action for and in behalf of said Owner and as his agent, including but not limited to the institution of legal proceedings on behalf of such Owner against his Resident for eviction, injunctive relief or damages. Neither the Association nor any agent retained by the Association to manage the Project shall be liable to the Owner or Resident for any legal action commenced under this Section that is made in good faith. Any expenses incurred by the Association, including reasonable attorneys' fees and costs of suit, shall be repaid to it by such Owner. The amount of the costs and expenses is a debt of the Owner at the time the assessment is made and is collectible as such. If any Owner fails or refuses to make payment that amount constitutes a lien on the interest of the Owner in the property. Delivery of the notice of default shall be deemed effective the date it is hand delivered or three (3) days after it is deposited with U.S. Postal Service, regular mail, postage prepaid, addressed to the Unit Owner at his last known mailing address. If notice in writing of the Unit Owner's change of address has not been received by the Secretary of the Association the address of the Unit shall be deemed to be the Owner's mailing address;

(5) Fixed Percentage Limitation. No Units may be leased or rented without the prior written consent of the Management Committee. The Management Committee shall be empowered to allow up to but no more than twenty-five (25%) percent of the Units in the Project (including the Grandfathered Units) to be leased, rented or occupied by nonowner residents. Any Owner who intends to lease or rent his or her Unit shall submit a written application to the Committee requesting permission to do so, which consent shall not be unreasonably withheld so long as at least seventy-five (75%) percent of the Units in the Project are owner occupied;

(6) Hardship Exception. The Management Committee, in its sole discretion, shall be empowered to allow reasonable leasing or renting of Units beyond the percentage limitation set forth above upon written application to avoid undue hardship on an Owner,

provided the total number of nonowner occupied Units does not exceed thirty percent (30%) including the Grandfathered Units. By way of illustration and not by limitations, examples of circumstances which would constitute undue hardship are those in which: a) an Owner must relocate his residence and cannot, within ninety (90) days from the date the Unit was placed on the market, sell the Unit while offering it for sale at a reasonable price no greater than its current appraised market value; b) the Owner dies and the Unit is being administered by his estate; c) the Owner takes a leave of absence or temporarily relocates and intends to return to reside in the Unit; d) the Unit is to be leased to a member of the Owner's immediate family, which shall be deemed to encompass children, grandchildren, grandparents, brothers, sisters, parents, and spouses. Those Owners who have demonstrated that the inability to lease their Unit would result in undue hardship and have obtained the requisite approval of the Committee may lease their Units for such duration as the Committee reasonably determines is necessary to prevent undue hardship;

(7) Application for Hardship Exception. Any Owner who believes that he must lease his Unit to avoid undue hardship shall submit a written application to the Committee setting forth the circumstances necessitating the leasing, a copy of the proposed lease, and such other information as the Committee may reasonably require. Leasing in the case of undue hardship shall be permitted only upon the Committee's written approval of the Owner's application;

(8) Copy of Lease. When the leasing of a Unit is approved, a copy of the lease (and each replacement lease), signed by the lessee and lessor, shall be submitted to the Committee within ten (10) days after it has been signed by both parties. The Committee may recover from the Owner its attorney's fees and costs incurred in obtaining a copy of the lease if one is not provided in a timely manner or within ten (10) days of its request in writing;

(9) Fines, Citations and Sanctions. The Management Committee shall have the power to enforce the Project Documents and to issue fines, citations and sanctions in order to maintain and operate the Project and to institute these leasing restrictions;

(10) Voidable Transactions. Any transaction which does not comply with this Section shall be voidable at the option of the Committee;

(11) Grandfathered Units. Anything to the contrary notwithstanding, the foregoing restrictions stated in paragraph five (5) shall not apply to the Units noted below (the "Grandfathered Units"). The Grandfathered Units may continue to be leased without complying to the restrictions stated in paragraph five (5) for so long as the record of title to said Unit remains vested in the name of the respective Owner(s) thereof (the "Grandfathered Owner(s)"). The Term "Grandfathered Owner" shall include a succeeding "Trust" or other "Person" (as defined in Article I of the Declaration) (the "Qualified Successor Owner(s)") in which the Grandfathered Owner or such Owner's spouse, son, daughter, father or mother holds a beneficial interest in such Grandfathered Unit by the Grandfathered Owner of at least fifty percent (50%). Upon conveyance of the Grandfathered Unit by the Grandfathered Owner or Qualified Successor Owner, the said

Unit shall immediately become subject to all restrictions set forth above.

Grandfathered Units:

<u>Unit No.</u>	<u>Homeowner</u>
955 Essex Court Way #2	Mark Laughrey
955 Essex Court Way #4	Galaxy Investments L.C.
955 Essex Court Way #6	Sheri & Shane Dunleavey
975 Essex Court Way #5	Greg & Annette Telesco
975 Essex Court Way #6	Harry Butterfield
975 Essex Court Way #8	Kenneth D. & Maria E. Camden
985 Essex Court Way #2	Laura & Larry Green
985 Essex Court Way #3	Laura & Larry Green
994 Essex Court Way #2	Hans Beck
994 Essex Court Way #3	Clayton Wilkinson
995 Essex Court Way #2	Robert Heers
995 Essex Court Way #3	Robert Heers
6980 Essex Court Circle #7	Alice Colwell
7000 Essex Court Circle #2	Greg Moore
7000 Essex Court Circle #8	David Richards
7005 Essex Court Circle #1	Archie Young

4. Article III, Section 19 of the Declaration, entitled "Agreement to Pay Assessment," is amended to add the following subsection:

(i) Individual Assessments. Individual assessments may be levied by the Committee against a Unit and its Owner for:

(1) administrative costs and expenses incurred by the Committee in enforcing the Project Documents;

(2) costs associated with the maintenance, repair or replacement of Common Area for which the Unit Owner is responsible;

(3) any other charge, fee, fine, due, expense, or cost designated as an Individual Assessment in the Project Documents or by the Management Committee; and

(4) reasonable attorneys' fees, interest, and other charges relating thereto as provided in this Declaration.

5. This Amendment shall become effective as soon as it is recorded in the office of the County Recorder of Salt Lake County, Utah.

IN WITNESS WHEREOF, the Essex Court Homeowners Association has executed this instrument on the day and year first above written.

ESSEX COURT CONDOMINIUM

EXHIBIT "A"

LEGAL DESCRIPTION

The LAND described in the foregoing Amendment to the Declaration of Condominium is located in SALT LAKE County, UTAH and is described more particularly as follows:

PHASE 1

Beginning at a point that is South 131.514 feet and East 2344.864 feet from the NW corner of Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian; thence North 149.598 feet, thence S87° 27'22" seconds W 126.125 feet; thence South 8.732 feet, thence S87°06'49" W 187.265 feet, thence N4°07'07" E 102.257 feet, thence N87°47'04" E 1542.962 feet; thence N0°02" W 61.000 feet thence S89°58" W 181.000 feet, thence N0°02" W 45.000 feet, thence S89°52'20" W 17.000 feet, thence N0°01'40" W 84.051 feet, thence N89°52'20" E 38.752 feet, to a point of 140.00 feet radius curve to the right (bearing to center curve bears S0°07'40" E), thence Southeasterly 44.295 feet, along the arc of said curve, thence S72° E 75.004 feet, thence N18° E 42.298 feet, thence N11°10'05" E 94.372 feet, thence S72° E 110.000 feet, thence S18° W 136.000 feet, thence S72° E 55.000 feet, thence N18° E 12.563 feet, thence S54°18' E 59.441 feet, thence N35°42' E 138.00 feet, thence S66° E 53.940 feet, thence S53° E 40.00 feet, thence S30° E 21.802 feet, thence East 13.644 feet, thence S52°35'18" E 140.341 feet, thence S35°42' W 12.067 feet, thence S46°36'03" E 29.762 feet, thence S24°33' E 31.000 feet, thence N65°27' E 133.000 feet, thence S18° E 37.474 feet, thence S33° E 75.000 feet, thence S77°09'16" W 110.488 feet, thence S65°27' W 26.284 feet, thence S24°33' E 47.073 feet, thence South 8.76 feet, thence S30°36'37" E 34.857 feet, thence S18° E 70.000 feet, thence West 204.11 feet, to the point of beginning. Contains 3.5125 acres.

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OF RECORDS

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Phase 2

PARCEL ONE:

Beginning at a point that is North 292.132 feet and East 1993.927 feet from the NW corner of Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian; thence $N0^{\circ}01'40''$ W 163.000 feet, thence $S72^{\circ}$ E 194.586 feet, thence $S11^{\circ}10'05''$ W 94.312 feet, thence $S18^{\circ}$ W 42.298 feet; thence $N72^{\circ}$ W 75.004 feet to a point of a 140.00 feet radius curve to the left (bearing to center curve bears $S18^{\circ}07'40''$ W), thence Northwesterly 44.295 feet along the arm of said curve, thence $S89^{\circ}52'20''$ W 38.725 feet, to the point of beginning. Contains 0.772 acres.

PARCEL TWO:

Beginning at a point that is North 231.673 feet and East 2241.500 feet from the NW corner of Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian; thence $N18^{\circ}$ E 136.000 feet, thence $S72^{\circ}$ E 58.050 feet, thence $S66^{\circ}$ E 96.060 feet, thence $S35^{\circ}42'$ W 138.000 feet, thence $N54^{\circ}18'$ W 59.441 feet, thence $S18^{\circ}$ W 12.563 feet, thence $N72^{\circ}$ W 55.000 feet, to the point of beginning. Contains 0.4059 acres.

PARCEL THREE:

Beginning at a point that is North 144.054 feet and East 2413.759 feet from the NW corner of Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian; thence $N35^{\circ}42'$ E 12.067 feet, thence $N52^{\circ}35'18''$ E 140.341 feet, thence East 8.230 feet, thence $S18^{\circ}$ E 93.000 feet, thence $S65^{\circ}27'$ W 133.000 feet, thence $N24^{\circ}33'$ W 31.000 feet, thence $N46^{\circ}36'03''$ W 29.762 feet, to the point of beginning. Contains 0.2601 acres.

PARCEL FOUR:

Beginning at a point that is North 96.317 feet and East 2039.182 feet from the NW corner of Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian; thence $N4^{\circ}07'07''$ E 67.000 feet, thence $N89^{\circ}58'$ E 148.000 feet, thence $S0^{\circ}02'$ E 61.000 feet, thence $S87^{\circ}47'04''$ W 152.962 feet, to the point of beginning. Contains 0.2205 acres.

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CO. RECORDER

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Phase 3

PARCEL ONE:

Beginning at a point that is South 131.514 feet and East 2022.776 feet from the Northwest Corner of Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian; thence N4*07'07" E 126.164 feet, thence N87*06'49" E 187.265 feet, thence North 8.732 feet; thence N87*27'22" E 126.125 feet; thence South 149.598 feet; thence West 322.098 feet to the point of beginning. Contains 0.9983 Acres.

PARCEL TWO:

Beginning at a point that is South 131.514 feet and East 2548.976 feet from the Northwest Corner of Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian; thence N 18* W 70.00 feet; thence N30*36'37" W 34.857 feet; thence North 8.76 feet; thence N24*33' W 47.073 feet; thence N65*27" E 26.284 feet; thence N77*09'16" E 110.488 feet; thence S33* E. 94.220 feet; thence S. 18* E. 110.00 feet; thence West 158.00 feet to the point of beginning. Contains 0.612 Acres.

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