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**DECLARATION OF
PLANNED UNIT DEVELOPMENT
AND
DECLARATIONS OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
STRATFORD PLACE HOMES**

**A RESIDENTIAL PLANNED UNIT DEVELOPMENT
IN
SOUTH SALT LAKE, SALT LAKE COUNTY, UTAH**

TALO LAND COMPANY, LLC

AS DECLARANT

JANUARY 20, 2000

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Declaration of Planned Unit Development

for

Stratford Place Homes

THIS DECLARATION is made as of the date hereinafter set forth by Talo Land Company, a Utah limited liability company (hereinafter referred to as the "Declarant").

RECITALS

A. Declarant is the fee owner of that certain real property situated in Salt Lake City, Salt Lake County, Utah, described on EXHIBIT "A", attached hereto and hereby incorporated by reference (the "Parcel");

B. Declarant desires to submit the Parcel, together with all buildings and improvements proposed to be constructed on the Parcel, and all easements and rights appurtenant thereto (the "Property") consisting of fourteen (14) proposed units and related Common Areas pursuant to Sections 57-8-1 through 57-8-36, Utah code Annotated (the "Project");

C. Declarant desires to establish for its own benefit and for the mutual benefit of all future Owners or Occupants of the Project, certain covenants, conditions, restrictions, easements, rights, privileges, assessments, and liens as set forth herein (hereinafter collectively referred to as the "Restrictions") which shall run with and be a burden upon the Property;

D. Declarant intends that the Owners, Occupants, Lenders, and all other persons hereafter acquiring any interest in the Property shall at all times enjoy the benefits of, and shall hold their interest subject to, this Declaration, which is recorded in furtherance of establishing a general plan of the Planned Unit Development ownership for the Property; and for establishing rules for the use, occupancy, management, and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Project and the quality of life therein;

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NOW, THEREFORE, Declarant, as owner of the Parcel and for the purposes above set forth, declares as follows:

ARTICLE 1. - DEFINITIONS

As used herein, unless the context otherwise requires, as noted;

1.1. "Act" shall mean the Planned Unit Development Ownership Act, codified at Sections 57-8-1 through 57-8-36, Utah Code Annotated, pertaining to the creation, ownership and management of a Planned Unit Development the State of Utah.

1.2. "Allocated Interest" shall mean the undivided interest (expressed as a fraction or percentage in this Declaration) in the Common Areas, the Common Expense liability, and votes in the Association allocated to each Unit.

1.3. "Articles" shall mean the Articles of Incorporation by which the Association is formed under the nonprofit corporation law of the State of Utah.

1.4. "Assessments" shall mean the charges against Owners to defray the Common Expenses as well as miscellaneous Special Assessments, Special Assessments for capital improvements, and Special Assessments for the purpose of restoring and reconstructing the Project in the event of casualty, all as provided in this Declaration.

1.5. "Association" shall refer to STRATFORD PLACE HOMES ASSOCIATION, whose membership shall include each Owner of a unit in the Project, as required by the Act. The Association will be incorporated as a Utah nonprofit corporation prior to the conveyance of the first Unit in the Project by Declarant.

1.6. "Association Rules" shall mean and refer to the rules and regulations adopted by the Association pursuant to this Declaration and in furtherance of the Bylaws and in accordance with Section 57-8-8.

1.7. "Board" shall mean the Board of Directors of the Association elected pursuant to the Bylaws and serving as the management body of the Association.

1.8. "Bylaws" shall mean the bylaws adopted by the Association pursuant to Section 57-8-16 of the Act for the purpose of regulating the affairs of the Association, as the same may be amended from time to time.

1.9. "Common Areas" shall mean the entire Project (including all items listed in Section 57-8-3(3) of the Act, if applicable), excluding the Units.

1.10. "Common Expenses" shall mean the actual and estimated costs for: (a) maintenance, management, operation, repair and replacement of the Common Areas which are maintained by the Association; (b) deficiencies arising by reason of unpaid Assessments; (c) management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees; (d) utilities (other than separately metered utilities for the Units), trash pickup and disposal, extermination, security, gardening, pool service, and other related services; (e) insurance and bonds required by this Declaration or any additional insurance and bonds obtained by the Board in its discretion; (f) the establishment of reasonable reserves as the Board shall deem appropriate in its discretion for the periodic maintenance, repair, and replacement of the Common Areas, which shall in no event be less than two (2) months of the estimated Assessments for each Unit; and (g) other miscellaneous charges incurred by the Association or the Board pursuant to this Declaration, the Bylaws or Association Rules in furtherance of the purposes of the Association or in discharge of the duties and powers of the Association.

1.11. "Project" means this real estate planned unit development project wherein single units in a multi-unit project, together with an undivided interest in the Common Areas of the property, are owned separately.

1.12. "Declarant" shall mean Talo Land Company, a Utah limited liability company, and the successors and assigns of Declarant's rights hereunder.

1.13. "Declaration" shall mean this Declaration including all exhibits attached hereto, which are hereby incorporated by reference, and any and all amendments hereof and supplements hereto.

1.14. "Lender" shall mean a holder of a first mortgage or first deed of trust on a Unit.

1.15. "Limited Common Area" means a portion of the Common Areas specifically designated as a Limited Common Area in this Declaration or the Plat and allocated by this Declaration or the Plat for the exclusive use of one or more but fewer than all of the Units.

1.16. "Occupant" shall mean a Person or Persons, other than an Owner, in possession of, or using a Unit, including, without limitation, family members, tenants, guests, or invitees.

1.17. "Owner" shall mean the Person or Persons who are vested with record title of a Unit, and whose interest in the Unit is held in fee simple, according to the records of the County Recorder of Salt Lake County, Utah; however, Owner shall not include a Person who holds an interest in a Unit merely as security for the performance of an obligation. Declarant shall be considered the record Owner of any Unit prior to its initial conveyance by Declarant.

1.18. "Parcel" shall mean the real property legally described on EXHIBIT "A", and all the buildings, improvements and permanent fixtures located thereon, and all easements and rights appurtenant thereto.

1.19. "Person" shall mean a natural individual, corporation, estate, partnership, limited liability company, trustee, association, joint venture, government, governmental subdivision or agency or other legal entity capable of holding title to real property.

1.20. "Plat" means the record of survey map of the Parcel submitted to this Project and showing thereon fourteen (14) Units, each of which is identified by a Unit Number. A copy of the Plat is included as EXHIBIT "B", attached hereto and hereby incorporated by reference. The original Plat is recorded in Book _____ beginning at Page _____ in the records of the County Recorder of Salt Lake County, Utah. "Plat" shall also refer to any additional plat which may be recorded with any Supplemental Declaration.

1.21. "Property" shall mean the Parcel, together with all the buildings, improvements and permanent fixtures located thereon, and all easements and rights appurtenant thereto.

1.22. "Restrictions" shall mean the covenant, conditions, assessments, easements, liens and restrictions set forth in this Declaration.

1.23. "Special Declarant Rights" shall mean the rights granted to Declarant in this Declaration to do any of the following:

- (a) Construct any improvements provided for in this Declaration;
- (b) Maintain sales offices, models, and signs advertising the

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Project;

- (c) Use easements upon the Common Areas for the purpose of making improvements or marketing Units within the Project; and
- (d) Appoint or remove any Officer or Board Member of the Association prior to the Turnover Date.

1.24. "Supplemental Declaration" shall mean a written instrument recorded in the records of the County Recorder of Salt Lake County, Utah, which refers to this Declaration and which amends, modifies, or supplements this Declaration in accordance with its terms.

1.25. "Turnover Date" shall have the meaning set forth in Section 5.3 below.

1.26. "Unit" shall mean part of the Project as individually numbered upon the Plat, including one or more rooms situated in a building comprising part of the Project, designed or intended for independent ownership and occupancy as a dwelling unit. The respective Allocated Interest in the Common Areas is appurtenant to the Unit.

1.27. "Unit Number" shall mean the number, symbol, or address that identifies one Unit in the Project as set forth upon the Plat.

ARTICLE 2. - CREATION OF THE PROJECT

2.1 Submission. Declarant hereby submits and subjects the Parcel to become a Planned Unit Development Project pursuant to the Act, and in furtherance thereof, makes and declares the Restrictions contained in the Declaration, and Declarant hereby declares and agrees that the Project and all of the Units shall be held, conveyed, transferred, sold, leased, mortgaged, encumbered, occupied, used and improved subject to the restrictions, which Restrictions shall constitute covenants and conditions running with the land and shall be binding upon and inure to the benefit of Declarant, the Association, and each Owner, including their respective heirs, executors, administrators, personal representative, successors and assigns. Subject to the reservations and restrictions set forth herein, the Declarant hereby quit claims all of its right, title and interest in the Common Area to the Association to be held and managed in accordance with the covenant, conditions and restrictions of this Declaration.

2.2 Name and Location. The Project shall be named and known as STRATFORD PLACE HOMES. The Project is located in Salt Lake County, Utah, and the

legal description of the real estate included in the Project is set forth on EXHIBIT "A". The name of the Association is STRATFORD PLACE HOMES ASSOCIATION.

2.3. Interpretation of Declaration and Applicability of the Act. Declarant intends that the Project shall be governed by the Act, except where (in compliance with the Act) Declarant has included specific provisions in this Declaration which legally vary, supersede, or supplement the Act, in which event such specific provisions of the Declaration which are contrary to the Act shall govern the planned unit development project.

2.4. Agent for Service of Process. _____ is designated to act as the registered agent of the Association and is authorized to receive service of process for the Project pursuant to Section 57-8-10(2)(d)(iii) of the Act, until such time as the Board shall duly appoint a new agent and file a supplement hereto.

ARTICLE 3. - DESCRIPTION OF THE UNITS, LIMITED COMMON AREAS, COMMON AREAS, ALLOCATED INTERESTS AND PLAT.

3.1. Description of Boundaries of Each Unit and Unit Number. The square footage, ceiling dimensions and Unit Number of each of the Units within the Project are set forth on the Plat. If any pipes, wires, conduits, chutes, flues, ducts, shafts, public utility, water, or sewer lines, or any other similar fixtures lie partially within and partially outside the designated boundaries of a Unit, any portion serving only that Unit is a Limited Common Area allocated solely to that Unit and any portion serving more than one Unit or any portion of the Common Areas is part of the Common Areas. Subject to the preceding sentence, each Unit shall consist of the space enclosed and bounded by the horizontal and vertical planes as shown on the Plat, and all interior partitions and other fixtures and improvements within such boundaries shall be part of the Unit. Conveyance of a Unit includes the use of the Limited Common Areas appurtenant to said Unit.

3.2. Description of Limited Common Areas for Parking. The parking space or spaces and other areas set forth on the Plat shall be designated as Limited Common Area and may be designated for the exclusive use of an Owner by the Board. Such Limited Common Area shall be appurtenant to the respective Unit and may not be severed from the ownership of the Unit except as determined by the Board.

3.3. Description of Limited Common Areas for Patios, Balconies, Awnings, Entry ways, Fireplaces, and Storage Areas. The patio, balcony (or balconies), awnings, exterior screens and shutters, entryway, fireplace (including firebox and flue), and storeroom, if any, which are adjacent to each respective Unit as set forth and depicted on the Plat shall be exclusive Limited Common Areas for the Unit. These Limited Common Areas shall be

appurtenant to each respective Unit where so identified and may not be severed from the ownership of the Unit.

3.4. Description of Common Areas. The Common Areas shall consist of the entire Project, excluding the Units and any Limited Common Areas appurtenant thereto.

3.5. Allocated Interest of Each Unit in the Common Areas. The designation of the Allocated Interest which each Unit has in the Common Area is a fractional interest where the numerator is the square footage of the Unit and the denominator is the sum of the square footage of all the Units in the Project.

3.6. Allocated Interest of Each Unit in the Votes of the Association. The designation of the Allocated Interest which each Unit has in the votes of the Association is one portion or vote of fourteen (14) portions or votes of the entire project.

3.7. Allocated Interest of Each Unit in the Common Expenses of the Project. The designation of the Allocated interest which each Unit bears in the Common Expenses of the Project is a fraction where the numerator is the square footage of the Unit and the denominator is the sum of the square footage of all of the Units in the Project.

3.8. Current Statement of Allocated Interest. The Allocated Interest of each Unit for purposes of Section 3.5, Section 3.6, and Section 3.7 of the Declaration is set forth in EXHIBIT "C", attached hereto and incorporated herein by reference.

3.9. Plat. The Plat is hereby incorporated into, and made an integral part of, this Declaration and all requirements and specifications set forth on the Plat and which are required by the Act are deemed included in this Declaration.

ARTICLE 4. - MAINTENANCE AND UTILITIES

4.1. Maintenance of Units and Exclusive Limited Common Areas. Each Owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs, and replacements within his own Unit. Such obligation shall include, without limitation,

- (a) The maintenance of all interior and exterior doors, including thresholds and door jams, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, fireboxes of fireplaces, and any other materials constituting the finished surfaces of floors, ceilings, or interior walls (all other portions of the walls, floors, or ceilings are part of the Common Areas);

- (b) Repair and replacement of all window, skylights, and door glass or equivalent materials and the interior and exterior cleaning of such window and door glass;
- (c) The maintenance of, in an open and unobstructed condition, all sewer and drainage pipes, water and other utility lines serving an Owner's respective Unit between the points at which the same enter the respective Unit and the points where the same join the utility lines serving other Units;
- (d) Maintenance, replacement, repair and restoration of all of the following which service an Owner's Unit exclusively: lighting fixtures (except exterior building mounted lights and walkway lights which are not located within patios and balconies), fans, plumbing fixtures, stoves, refrigerators, hot water heaters, air conditioning units (including compressors, condensers and forced air units), intercoms, security systems, and such other appliances, fixtures, and decorations as an Owner may install;
- (e) The maintenance of the Unit and all exclusive Limited Common Areas, such as patios and balconies (including all materials above or upon the support structure, and railings and posts), awnings, exterior screens, shutters, and chimney flues, that are within his exclusive control in a clean and sanitary condition, free of pests and rodents, and in good order and repair, except that the sweeping and maintenance of any parking spaces and driveways that are designated as Limited Common Areas hereunder, shall be the responsibility of the Association. An Owner shall not make any structural or exterior alterations of the Common Areas or the Limited Common Areas without the prior written approval of the Board.

4.2. Maintenance of Common Areas and Non-exclusive Limited Common Areas. The Association, or its duly delegated representative, shall, to the extent that it has funds available:

- (a) Maintain and otherwise manage the Common Areas and non-exclusive Limited Common Areas, including, but not limited to, the landscaping, parking areas, streets and recreational facilities, if any, located thereon and maintain all parking areas and exterior building mounted lights not within patios and balconies, walkway and landscape area lights not within patios and balconies, walkway and landscape area lights (located outside patios and balconies), the structural support components of patios and roofs and flashing and other materials on patios and roofs that were installed to exclusively function as a roof, however, excluding skylights;

- (b) Replace injured and deceased trees or other vegetation in any Common Areas, and plant trees, shrubs and ground cover to the extent that the Board deems necessary for the conservation of water and soil or for aesthetic purposes;
- (c) Place and maintain upon any Common Areas, such signs, markers and lights as the Board may deem appropriate for the proper identification, use and regulation thereof, subject to the approval of the Board;
- (d) Pay all electrical, water, gas and other utility charges or fees for services furnished to the Common Areas as the same become due and payable except that the electrical charges for exterior lighting of each Unit and the walkways and landscape areas adjacent thereto shall be paid by each respective Unit Owner; and
- (e) Do all such other and further acts which the Board deems necessary to preserve and protect the Common Areas and the beauty thereof, in accordance with the general purposes specified in this Declaration.

The Board shall be the sole judge as to the appropriate maintenance of the Common Areas. If the need for maintenance or repair is caused through the willful or negligent act of an Owner, his family, guests, licensees, lessees or invitees, the cost of such maintenance or repair shall be paid by such Owner, upon demand, to the Association, and the Association may enforce collection of such amounts as provided hereinbelow for the collection of Assessments.

4.3. Owner Default in Maintenance. If an Owner fails to so maintain his Unit or make repairs thereto in such a manner as may be deemed reasonably necessary in the judgment of the Board to preserve and protect the attractive appearance and value of the Project, or if an Owner shall fail to observe any covenant or restriction imposed on such Owner by the terms of the Declaration, then the Board or its authorized representative shall give written notice to such Owner stating with particularity the nature of the default and the corrective action which the Board determines to be required and requesting that the same be carried out within a period of fourteen (14) days after the giving of such written notice. If such Owner fails to carry out such action within the period specified by the notice, the Board may cause such action to be taken and may levy a Special Assessment for the cost thereof on such Owner, such Special Assessment to be due and payable within thirty (30) days after the Board gives written notice thereof and to be secured by the Assessment lien created in Section 6.1 of this Declaration.

4.4. Utilities. All utilities for individual Units (except those utility costs which are metered collectively and paid by the Association as a Common Expense item) will be metered separately to each Unit and such utility charges shall be the responsibility of the respective Owners. The Owner of each respective Unit shall also be responsible to pay the electric utility charges for all exterior lighting of each Unit and lighting of walkways and landscaping areas adjacent to the Unit.

ARTICLE 5. - MANAGEMENT

5.1 Association. The Association will be organized no later than the date the first Unit in the Project is conveyed to an Owner other than Declarant to serve as the governing body for all Owners and shall make provisions for the maintenance, repair, replacement, administration and operation of the Common Areas, assessment of expenses, payment of losses, division of profits, acquisition of hazard insurance and disposition of such hazard insurance proceeds, and other matters as provided in the Act, the Declaration and Bylaws. The Association shall have all rights and powers granted to it under the Act and in this Declaration, the Articles and Bylaws, including, without limitation, the right to assign its future income. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Owners in accordance with the Declaration, the Articles and the Bylaws.

5.2. Membership. Membership in the Association shall at all times consist exclusively of the Unit Owners and each Owner shall be a member of the Association so long as he shall be an Owner and such membership shall automatically terminate when he ceases to be an Owner. Upon the transfer of an ownership interest in a Unit, the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association.

5.3. Voting. The Association shall have two (2) classes of voting membership.

Class A. Class A members shall be Owners, with the exception of the Declarant. Each Class A member shall be entitled to the number of votes appurtenant to each respective Unit as shown on Exhibit C. In the event more than one Class A member owns an interest in a Unit the votes of such Unit shall be exercised as they themselves determine, but in no case shall more than one vote be voted, in its entirety with respect to any one Unit by Class A members.

Class B. The Class B member shall be the Declarant, his successor or assigns, who shall be entitled to three times (3x) the number of votes appurtenant to each respective Unit as shown in Exhibit C for each Unit owned by the Declarant. The Class B

membership shall cease and be converted to Class A membership on the happening of either of the following events, which ever occurs earlier (the "Turnover Date")

- a) when the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership, or
- b) 3 years from the date of this Declaration.

Upon the Turnover Date, Declarant shall retain the voting rights of a Class A Member even though the special voting and control rights of the Class B Member have ceased and terminated. Declarant may voluntarily surrender the right to elect, appoint and remove the members of the Board and the officers prior to the Turnover Date, but, in that event, Declarant may require that specified actions of the Association or the Board taken prior to the Turnover Date, as described in a recorded instrument executed by Declarant, be approved by Declarant before they become effective. Upon the Turnover Date, the process of transferring control of the Association from the Declarant to the Owners shall commence and be completed within a reasonable period of time. This process shall include the Owners' election of the Board of Directors and shall be considered completed on the date of the initial meeting of the Board of directors elected by the Owners. The Owners' election of the initial Board of Directors may be conducted at a regular or special meeting of the Association or by a mailed balloting procedure, within thirty (30) days following the Turnover Date.

Any lease, management contract or other agreement entered into by the Association prior to the Turnover Date designed to benefit the Declarant shall not be binding upon the Association after the Turnover Date unless approved by a majority of the Unit Owners.

5.4. Board of Directors. The governing body of the Association shall be the Board of Directors elected pursuant to the Bylaws. Cumulative voting shall apply for the purpose of electing members of the Board. The Board shall consist of not less than three (3) members and not more than five (5) members. Except as otherwise provided in this Declaration, the Bylaws, or Association Rules, the Board may act in all instances on behalf of the Association. The Board shall act to adopt the Bylaws as required by the Act at the time the Association is organized, and the Board may, as it deems appropriate, adopt, amend and repeal Association Rules.

5.5. Qualifications of Directors. Except for Board members elected or appointed by Declarant, each Director shall be an Owner or the spouse of an Owner (or if an Owner is a corporation, partnership, limited liability company, or trust, a Director may be an officer, partner, member or manager of the limited liability company, trustee or beneficiary of such Owner). If a Director shall cease to meet such qualifications during his

term, he will thereupon cease to be a Director and his place on the Board shall be deemed vacant.

5.6. Action by Owners. Except as specifically provided herein, the Board may not act on behalf of the Association to amend or terminate this Declaration, to elect members of the Board, except in filling vacancies in its membership for the unexpired portion of any term, or to determine the qualifications, powers and duties or terms of the members of the Board of Directors.

5.7. Annual Meeting. The Association shall hold an annual meeting as provided in the Bylaws.

5.8. Right of Association to Enter Units. The Association acting through the Board or its duly authorized Agent shall have the right at any time in case of an emergency to enter upon or in any Unit. to abate any infractions, to make repairs, or correct any violation of any of the Restrictions herein set forth, and in connection therewith shall have the further right to assess all costs incurred against the Owner, such assessment to be secured by the lien provided in Section 6.1.

5.9. Association Rules. The Board may adopt and administer Association Rules in furtherance of the Bylaws for the regulation and operation of the Project.

5.10. Working Capital Fund. Declarant shall establish a working capital fund to meet unforeseen expenditures or to purchase any additional equipment or services needed for the operation of the Project. The initial amount of the working capital fund shall be at least equal to two (2) months of estimated Common Expenses for each unit. The Declarant can collect these charges at the earlier to occur of (i) the time the sale of each Unit is closed, or (ii) when control of the Project is transferred pursuant to Section 5.3. Any amounts collected and paid into this fund shall not be considered advance payments of Assessments. This fund cannot be used by the Declarant to defray any of its expenses, reserve contributions or construction costs or to make up any budget deficits; provided, however that to the extent Declarant has paid the Association for an unsold Unit's share of this fund, Declarant shall be entitled to a reimbursement, to be paid at the time of closing out of the closing proceeds, for such amounts when such Unit is sold. Once the Declarant has transferred control to the Association, pursuant to Section 5.3, this fund shall be transferred to the Association.

5.11. Reserve Fund. The Association shall maintain an adequate reserve fund for maintenance, repair and replacement of those Common Areas that must be replaced on a periodic basis, and such reserve shall be funded as part of monthly Assessments. To the extent the Board deems necessary, surplus monies of the Association may be retained as

additional reserves rather than being paid to Unit Owners or being credited to future Assessments.

5.12. Availability of Planned Unit Development Documents. The Association will maintain current copies of this Declaration, the Articles, Bylaws, and Association Rules concerning the planned unit development and the Association's own books, records, and financial statements available for inspection, upon request, during normal business hours by an Owner or Lender (or any insurer or guarantor of a Lender).

5.13. Managing Agent. The Board may contract with a professional management agent to assist the Board in the management and operation of the Project and may delegate such of its powers and duties to the management agent as it deems appropriate; provided, however, that only the Board shall have the right to approve Association budgets, to impose a Special Assessment and to authorize foreclosure of an Assessment lien.

ARTICLE 6. - COVENANT FOR ASSESSMENTS

6.1. Creation of Lien and Personal Obligation for Assessments. Each Owner, including Declarant to the extent Declarant is an Owner as defined herein, of each Unit, by acceptance of a deed or other instrument creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other instrument, is deemed to covenant and agree to pay to the Association, such Assessments to be fixed, established and collected from time to time as provided in this Declaration. The Assessments, together with interest thereon, collection charges, attorneys' fees, court costs and other costs of collection as hereinafter provided, shall be secured by a continuing lien upon the Unit against which each such Assessment is made in favor of the Association. Each such Assessment, together with such interest, collection charges, costs and attorneys' fees, shall also be the personal obligation of the Owner of such Unit at the time the Assessment becomes due. The personal obligation shall not pass to the successor in title of an Owner unless expressly assumed by such successor.

6.2. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively of the purposes of promoting the health, safety and welfare of the Owners, the management, maintenance, care, preservation and protection of the Project, enhancing the quality of life in the Project and the value of the Project including, without limitation, the improvement and maintenance of the services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas, or in furtherance of any other duty or power of the Association.

6.3. Regular Assessments. The Board is expressly authorized to adopt and amend budgets from time to time. Not later than thirty (30) days prior to the beginning of each fiscal year, the Board shall adopt a proforma operating statement or budget for the upcoming fiscal year which shall, among other things, estimate the total Common Expenses to be incurred for such fiscal year. The Board may, but is not required to, send a written summary of the budget to all Owners within thirty (30) days after the adoption of the proposed budget. The Board shall at that time determine the amount of the regular Assessment to be paid by each Owner. Each Owner shall thereafter pay to the Association his regular Assessment in equal monthly installments on the first day of each month. In the event the Board shall determine that the estimate of total charges for the current year is, or will become, inadequate to meet all Common Expenses for any reason, it shall then immediately determine the approximate amount of such inadequacy and issue a supplemental estimate of the Common Expenses and determine the revised amount of the regular Assessment against each Owner, and the date or dates when due. The Owners shall have no right to ratify any budget, or amendment thereof, adopted by the Board.

6.4. Capital Improvement Assessments. In addition to regular Assessments, the Board may levy in any fiscal year a capital improvement Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction or replacement (other than due to destruction) of a described capital improvement upon the Common Areas, including the necessary fixtures and personal property related thereto. The Board shall not impose a capital improvement Assessment exceeding ten percent (10%) of the then estimated annual Common Expenses without the approval of Owners holding a majority of the Allocated Interest in the votes of the Association. All amounts collected as capital improvement Assessments may only be used for capital improvements and shall be deposited by the Board in a separate bank account or the Association's account for reserve funds, to be held in trust for such purposes and said funds shall not be commingled with any other funds (other than reserve funds) of the Association.

6.5. Percentage Assessments. Except as otherwise provided herein, all Assessments (other than Special Assessments) shall be an amount based on the percentage interest for each Unit as contained in EXHIBIT "C", as amended from time to time.

6.6. Rules Regarding Billing and Collection Procedures. The Board shall have the right and responsibility to adopt rules and regulations setting forth procedures for the purpose of making the Assessments provided herein and for the billing and collection of regular and Special Assessments, provided that said procedures are not inconsistent with the provisions hereof. The failure of the Association to send a bill to an Owner shall not relieve any Owner of his liability for any Assessment or charge under this Declaration, but the Assessment lien therefor shall not be foreclosed or otherwise enforced until the Owner has been given not less than thirty (30) days written notice prior to such

foreclosure or enforcement, at the address of the Owner on the records of the Association, that the Assessment or any installment thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after delinquency of such payment.

6.7. Certificate of Payment. The Association shall, within twenty (20) business days after written demand, furnish to any Owner liable for Assessments, a recordable written statement or certificate signed by an officer or authorized agent of the Association setting forth whether the Assessments relating to a specified Unit have been paid and the amount of delinquency, if any. To the extent permitted by law, a reasonable charge may be collected by the Board for the issuance of each such certificate. Each certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

6.8. Special Assessments. Special Assessments shall be levied by the Board against a Unit and its Owner to reimburse the Association for:

- (a) costs incurred in bringing an Owner and his Unit into compliance with the provisions of this Declaration, the Articles, the Bylaws or Association Rules;
- (b) costs associated with the maintenance, repair or replacement of a Limited Common Area and Facility assigned to such Unit;
- (c) any other charge designated as a Special Assessment in this Declaration, the Articles, the Bylaws or Association Rules; and
- (c) attorneys' fees, interest, and other charges relating thereto as provided in this Declaration.

In the event the Association undertakes to provide materials or services which benefit individual Units and which can be accepted or not by individual Owners, such Owners, in accepting such materials or services, agree that the costs thereof shall be a Special Assessment.

6.9. Date of Commencement of Assessments. Regular and other Assessments as to Units within the Project for which construction has been substantially completed shall commence as to all such substantially completed Units on the first day of the month following the conveyance of the first Unit by Declarant to an Owner. Thereafter, regular and other Assessments shall commence as to newly completed Units on the first day of the month following the substantial completion of construction for each respective

Unit. Until the Association makes an Assessment, the Declarant shall pay all Common Expenses of the Association. No assessments shall be payable on Units for which construction has not been substantially completed; provided, however, that Declarant shall be obligated to pay to the Association any deficiencies in monies available to pay Common Expenses due to the Declarant not having paid an Assessment on uncompleted Units and which are necessary for the Association to be able to pay all common Expenses in a timely manner. Notwithstanding the above, all Units, including uncompleted Units, shall be allocated full Assessments no later than sixty (60) days after the first Unit is conveyed from Declarant to an Owner.

6.10. Application of Excess Assessments. In the event the amount budgeted to meet Common Expenses for a particular fiscal year proves to be excessive in light of the actual Common Expenses, the Board in its discretion may apply the excess to reserves, credit the excess against future Assessments, or pay the excess to the Owners in proportion to the Allocated Interest of each Unit in the Common Expenses of the Project, as the Board deems appropriate. The decision of the Board shall be binding and conclusive. In addition, the Association shall not be obligated to reduce the amount of Assessments in succeeding years if an excess exists for a prior year.

6.11. No Offsets. All Assessments shall be payable in the amount specified by the Assessment and no offsets against such amount shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in the Declaration.

6.12. Homestead Waiver. Each Owner, to the extent permitted by law, does hereby waive, to the extent of any liens created pursuant to this Declaration, whether such liens are now in existence or are created at any time in the future, the benefit of any homestead or exemption laws of the State of Utah now in effect, or in effect from time to time hereafter.

ARTICLE 7. - EFFECT OF NON-PAYMENT OF ASSESSMENTS AND REMEDIES

7.1. Due Date and Delinquency. The first day of each month shall be the Assessment due date for that month. Any Assessment which is not paid within thirty (30) days after it becomes due shall be delinquent. Whenever an Assessment is delinquent, the Board may at its option invoke any or all of the sanctions provided for herein.

7.2. Collection Charge. If any Assessment is delinquent, the Owner shall be obligated to pay the collection charge then provided for in the Bylaws. The amount of such collection charge until paid shall constitute part of the Assessment lien as provided for in Section 6.1 of this Declaration.

7.3. Interest If any Assessment is delinquent, interest at the rate set forth in the Bylaws at the time may be assessed on the amount owing from the date due until such time as it is paid.

7.4. Action at Law. The Association may bring an action to recover a delinquent Assessment either personally against the Owner obligated to pay same or foreclose the Assessment lien; provided, however, that the Association's choice of one remedy shall not prejudice or constitute a waiver of the Association's right to exercise the other. The costs of preparing and filing the complaint shall be assessed against the delinquent Owner and his Unit and reasonable attorneys' fees and court costs will thereafter be added to the amount in delinquency (plus interest and/or collection charges, if appropriate) in the event that a judgment is obtained by the Association. Each Owner vests in the Association or its assigns the right and power to bring actions at law and/or lien foreclosures against such Owner or Owners for the collection of delinquent Assessments.

7.5. Foreclosure Sale. Any foreclosure sale provided for in this Declaration is to be conducted in accordance with applicable provisions relating to the foreclosure of realty mortgages in the State of Utah. The Association, upon approval by a majority of the Allocated Interest in the votes of the Association, may through its duly authorized agents have and exercise the power to bid on the Unit at the foreclosure sale and to acquire, hold, lease, mortgage and convey such Unit.

7.6. Suspension of Votes. The Board may suspend the obligated Owner's right to vote on any matter at regular or special meetings of the Association and the Owner's right to use all or any portion of the Common Areas (exclusive of the Limited Common Areas appurtenant to the Owner's Unit) for the entire period during which an Assessment or other amount due under any of the provisions of the Declaration remains delinquent.

ARTICLE 8. - EASEMENTS

8.1. General Easements to Common Areas and Units. Subject to this Declaration and the Association Rules, non-exclusive perpetual reciprocal easements are hereby reserved and created for the purpose of support, ingress and egress to each Unit, access, use and enjoyment in favor of each Owner, upon across, over, under and through the Common Areas (exclusive of the Limited Common Areas), including the use of all pipes, wires, ducts, cables, conduits, and public utility lines, which easements shall be appurtenant to each Unit. The Association, acting through the Board or its authorized agent, and public utility companies providing service to the Project, shall have

nonexclusive easements with the right of access to each Unit to make inspections, to remove violations, to maintain, repair, replace or effectuate the restoration of the Common Areas accessible from such Unit; provided, however, such rights shall be exercised in a reasonable manner and at reasonable times with prior notification, unless emergency situations demand immediate access. The Association, acting through the board or its authorized agent, shall have non-exclusive right to grant permits, licenses and easements upon, across, over, under and through the Common Areas for purposes necessary for the proper operation of the Project; provided, however, such rights shall be exercised in a reasonable manner and at reasonable times with prior notification, unless emergency situations demand immediate access.

8.2. Public Utilities. Easements and rights over the Project for the installation and maintenance of electricity lines, telephone lines, cable television, water lines, gas lines, sanitary sewer lines, drainage facilities, and such other public utilities needed to serve the Project are hereby reserved by Declarant and, after the Turnover Date, to the Association, together with the right to grant and transfer the same; provided, however, such easements and rights shall not unreasonably interfere with the use of the Common Areas and the Units by the Owners or Occupants. Declarant or the Association shall have the power to grant and convey, in the name of all of the Owners as their attorney-in-fact, to any other person easements and rights-of-way in, on, over or under the Common Areas for the purpose of constructing, erecting, operating or maintaining lines, cables, wires, conduits, or other devices for electricity, cable television, power, telephone, public sewers, storm water drains and pipes, water systems, sprinkling systems, water heating and gas lines or pipes, and any similar public or quasi-public improvements or facility, and each Owner in accepting the deed to a Unit expressly consents to such easements and rights-of-way and authorizes and appoints the Association and Declarant (as long as Declarant owns one or more Units in the Project) as attorney-in-fact of such Owner to execute any and all instruments conveying or creating such easements or rights-of-way. However, no such easement can be granted if it would permanently interfere with the use, occupancy, or enjoyment by any Owner or such Owner's Unit.

8.3. Easements for Encroachments. If any portion of the Common Areas now encroaches upon any Unit, or if any Unit now encroaches upon any other Unit or the Common Areas, or if any such encroachment shall occur hereafter as a result of the manner in which the buildings have been constructed or due to settling, shifting, alteration, replacement, repair, or restoration by Declarant or the Association, a valid easement for encroachment, and maintenance of such encroachment, shall exist so long as the buildings stand.

8.4. Development Easements for Declarant. Until all Units have been sold by Declarant, there are hereby reserved to Declarant, together with the right to grant and

transfer the same to others, including Declarant's sales agents, representatives and assigns, easements and rights upon, across, over, under and through the Project for construction, display (including the use of the Units as models), maintenance, sales and exhibit purposes (including the use of signs and other advertising devices) in connection with the erection, remodeling and sale or lease of Units within the Project; provided, however, that no such use by Declarant or its agents shall otherwise restrict Owners or Occupants in the reasonable use and enjoyment of their Units.

ARTICLE 9. - USE RESTRICTIONS

9.1. Signs. No signs whatsoever (including, but not limited to commercial, political, sale or rental and similar signs) shall be erected or maintained on the Property whether in a window or otherwise, except:

- (a) such signs as may be required by legal proceedings;
- (b) one house number identification as originally placed by the Declarant with a face area of seventy-two (72) square inches or less;
- (c) such signs, the nature, number, and location of which have been approved by the Board in advance; and
- (d) street identification and traffic directional signs erected on or adjacent to Project by South Salt Lake City or Salt Lake County, or any other municipal entity, which signs shall not require prior approval from the Board.

Nothing included herein shall prevent Declarant and its agents and assigns from utilizing reasonable signs, flags, markers, and sales devices in furtherance of sales activities until all Units have been sold by Declarant.

9.2. Nuisance. No noxious or offensive activity shall be carried on upon the Project, nor shall any activity which might be or become an annoyance or nuisance to Owners or Occupants be permitted to interfere with their rights of quiet enjoyment or increase the rate of any insurance or decrease the value of the Units. No Owner or Occupant shall engage in activity within the Project in violation of any law, ordinance, statute, rule or regulation of any local, county, state or federal body. Nothing included herein shall be construed to prevent Declarant and its agents from engaging in all forms of construction and sales activities until all Units have been sold by Declarant.

9.3. Temporary Structures. No structure or building of a temporary character, including a tent or shack, shall be placed upon the Project or used therein unless the same and its proposed use are approved by the Board. Nothing included herein shall be construed as preventing Declarant from using temporary structures or trailers for construction and/or sales purposes or engaging in all forms of construction and sales activities within the Project.

9.4. Parking and Use of Covered Parking/Visitor Parking. Unless otherwise permitted by the Association, and except for "customary parking" and "temporary parking," as permitted by this Section 9.4, no automobiles or other vehicles of any type (including, without limitation, motorcycles, trailers, campers, vans, recreational vehicles or boats) shall be parked, stored, or located within any portion of the Project, including any Unit, Limited Common Areas, or Common Areas. "Customary parking" shall mean the parking of operable automobiles, motorcycles, recreational vehicles or boats, small trucks, and vans (each of which must not be used for commercial purposes and each of which must not exceed 3/4 ton in size and/or seven (7) feet in height measured from ground level and eighteen (18) feet in length) within the parking spaces designated as an exclusive Limited Common Area and Facility for each respective Unit. "Temporary parking" shall mean the use of designated parking areas within the Project for parking of operable vehicles belonging to invitee's of Owners and Occupants, including the parking of delivery trucks, service vehicles, and other commercial vehicles being used in the furnishing of goods and services to the Owners and Occupants as well as parking of vehicles belonging to or being used by Owners, Occupants and invitees during social engagements and for loading and unloading purposes. The Association may adopt Association Rules relating to the admission and temporary parking of vehicles within the Project and the use of the visitor parking spaces identified on the Plat, including, without limitation, the right to lease or license the visitor parking spaces in the discretion of the Association, the right to remove or cause to be removed any vehicles that are improperly parked, restrictions on the time visitor spaces may be used, and the assessment of charges to Owners and Occupants who violate, or whose invitees violate, such rules. Any charges so assessed shall be Special Assessments. Nothing included herein shall be construed to prevent Declarant from using temporary structures or trailers for construction and/or sales purposes or engaging in all forms of construction and sales activities within the Project.

9.5. External Fixtures. No external items such as, but not limited to, television and radio antenna, satellite dishes, flag poles, clotheslines, wiring, insulation, air conditioning equipment, water softening equipment, fences, awnings, ornamental screens, screen doors, porch or patio or balcony enclosures, sunshades, lighting fixtures, walls, landscaping and planting, other than those provided in connection with the original construction of the Project, and any replacements thereof, and other than those approved

by the Board, and any replacements thereof, shall be constructed, erected or maintained on the Project. The foregoing notwithstanding, nothing included herein shall be construed as preventing Declarant and its agents and assigns from engaging in all forms of construction and sales activities within the Project.

9.6. Window Covers. Only curtains, drapes, shades, shutters, and blinds may be installed as window covers. No window shall be covered by paint, foil, sheets or similar items. The Board may adopt Association Rules regulating the type, color and design of the external surface of window covers. The Board may also require use of a uniform color and fabric for draperies, under-draperies and drapery linings to the extent such are visible from outside a Unit.

9.7. External Laundering. Unless otherwise permitted by the Board, external laundering and drying of clothing and other items is prohibited.

9.8. Outside Speakers and Amplifiers. No radio, stereo, broadcast or loudspeaker units and no amplifiers of any kind shall be placed upon or outside, or be directed to the outside of, any Unit without the prior written approval of the Board.

9.9. Repairs. No repairs of any detached machinery, equipment or fixtures, including without limitation, motor vehicles, shall be made upon the Project.

9.10. Unsightly Items. All rubbish, debris or unsightly materials or objects of any kind shall be regularly removed from Units and shall not be allowed to accumulate therein or thereon. Refuse containers and machinery and equipment not a part of the Units, shall be prohibited upon any Unit unless obscured from view of adjoining Units and Common Areas. Trash and garbage not disposed of by equipment contained within the Units shall be placed in containers by Owners and Occupants for removal from the Project in accordance with Association Rules applicable thereto adopted by the Board. The Board may adopt rules applicable to the provisions of this Section and their enforcement, including the assessment of charges to Owners and Occupants who violate, or whose invitee's violate, such rules. Any charges so assessed shall be Special Assessments. The foregoing notwithstanding, nothing included herein shall be construed as preventing Declarant and its agents and assigns from engaging in all forms of construction and sales activities within the Project.

9.11. Oil and Mineral Activity. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon the surface of the Project, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be installed upon the surface of the Project or within five hundred (500) feet below the surface

of the Project. No derrick or other structure designed for use in boring for water, oil or natural gas shall be erected, maintained or permitted upon the Project.

9.12. Animals. No animals, livestock, birds, reptiles, or poultry of any kind shall be raised, bred or kept in any Unit or upon the Project, except that one (1) dog, one (1) domestic cat, or other common household pets approved by the Board may be kept by Owners within a Unit provided such pets are not raised, bred, kept or maintained for any commercial purpose. Notwithstanding the foregoing, no animal or fowl may be kept within a Unit which, in the good faith judgment of the Board, results in an annoyance or is obnoxious to Owners or Occupants within the Project and the board may exercise this judgment for specific pets even though others are permitted to remain. All animals permitted to be kept by this Section shall be kept on a leash, and all fecal matter shall be immediately cleaned up when on any portion of the Project except within a Unit. The Board may adopt Association rules applicable to the provisions of this Section and to the keeping of pets within the Project, and their enforcement, including the assessment of charges to Owners and Occupants who violate such rules. Any charges so assessed shall be Special Assessments.

9.13. Leases. Any agreement for the leasing, rental, or occupancy of a Unit (hereinafter in this Section referred to as a "lease") shall be in writing and a copy thereof shall be delivered to the Association before the term of the Lease commences. Every lease shall provide that the terms of such lease shall be subject in all respects to the provisions of this Declaration, the Bylaws and the Association Rules. Said lease shall further provide that any failure by the Occupant thereunder to comply with the terms of the foregoing documents shall be a default under the lease. If any lease does not contain the foregoing provisions, such provisions shall nevertheless be deemed to be a part of the lease and binding on the Owner and Occupant by virtue of their inclusion in this Declaration. No Owner shall be permitted to lease his Unit for transient or hotel purposes, which shall be defined as rental for any period of less than thirty (30) days. No Owner may lease less than his entire Unit. Any Owner who shall lease his Unit shall be responsible for assuring compliance by the Occupant with this Declaration, the Bylaws and the Association Rules. Failure by an Owner to take legal action, including the institution of a forcible entry and detainer proceeding against his Occupant who is in violation of this Declaration, the Bylaws or the Association Rules within ten (10) days after receipt of written demand so to do from the Board, shall entitle the Association, through the Board, to take any and all such action including the institution of proceedings in forcible entry and detainer on behalf of such Owner against his Occupant. Neither the Association nor any agent retained by the Association to manage the Project shall be liable to the Owner or Occupant for any eviction under this Section that is made in good faith. Any expenses incurred by the Association, including attorneys' fees and costs of suit, shall be repaid to it by such Owner. Failure by such Owner to make such repayment within ten (10) days after receipt of a

written demand therefor shall entitle the Board to levy a Special Assessment against such Owner and his Unit for all such expenses incurred by the Association. In the event such Special Assessment is not paid within thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof. Other than as stated in this Section 9.13, there is no restriction on the right of any Owner to lease or otherwise grant occupancy rights to a Unit.

9.14. Landscape Maintenance. The Declarant and the Association shall have the right to maintain all landscaping in the Common Areas and Limited Areas and Facilities as specified in Article 4 hereof. The Declarant and the Association shall have the right of access to all areas of the Project which are necessary for such landscape maintenance.

~~9.15. Fencing. There shall be fencing only on the perimeter of the entire project. No unit will be allowed to fence any portion of the Common Area or any area that could be attached to any unit. Any request for pet or garden fencing is to be approved by the Board on a case by case basis.~~

9.16. Single Family Occupancy. The use of each Unit is restricted to single family occupancy and accessory uses as permitted herein. Except for those activities conducted as part of the marketing and development program for the Project by Declarant, no industry, business, trade, or commercial activities (other than home professional pursuits without employees, public visits, or nonresidential storage), or other use of the Unit, shall be conducted, maintained, or permitted in any part of a Unit, nor shall any Unit be used or rented for transient, hotel, or motel purposes. Single family occupancy is defined as a single housekeeping unit, operated on a nonprofit, noncommercial basis between its occupants, cooking and eating with a common kitchen and dining area, where all residents are members of a family related by blood, adoption, or marriage, except for not more than two (2) additional persons not so related may reside in a Unit.

9.17. No Subdivision of Units or Further Restriction. No Unit shall be split, subdivided, or separated into two or more Units, and no Owner of a Unit shall sell or lease less than all of the Unit. An owner of two (2) or more adjacent Units may, however, combine those units to make a single unit and separate the single Unit into the original Units for purposes of selling one or more of the Units; provided however, that no such combination or subsequent separation shall be allowed until the Board has approved such combination or separation. No subdivision plat or further covenants, conditions, or restrictions shall be recorded by any Owner or other Person with respect to any Unit unless the Board has first approved the plat or the proposed covenants, conditions, or restrictions, such approval to be evidenced by the Association's signature on the final

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recorded plat or instrument imposing the covenants, conditions, or restrictions. Any plat or covenants, conditions, or restrictions recorded in violation of this Section shall be absolutely null and void. The Board's review shall be for the purpose of assuring, in the sole and absolute discretion of the Board, that the plat or covenants, conditions, and restrictions are consistent and compatible with the overall plan of development of the Property. However, in no event shall the approval of the Board of any plat or covenant, condition, or restriction be deemed an abandonment or waiver of any provision of this Declaration. The provisions of this Declaration shall be and remain superior to any such plat or covenant, conditions, or restriction.

9.18. Architectural Control. . No exterior changes whatsoever shall be commenced, erected, maintained, made or done without the prior written approval of the Board or any committee established by the Board for that purpose. By way of illustration but not of limitation the following are considered exterior changes: painting, landscaping, repairs, excavation, patio covers, screens, doors, evaporative coolers, fireplaces, skylights, storage buildings, solar collectors, shade screens, awnings, window coating or tinting, decorative alterations or other work which in any way alters the exterior appearance of the Property. The Board, or committee established by the Board for that purpose, may designate the design, style, model and manufacturer of any exterior improvement or alteration which is acceptable to the Board. Such designations shall be for the purpose of achieving uniformity of appearance and preservation of property values.

9.19. Lighting. Exterior lighting fixtures and walkway and landscaping lights shall be required for each unit and must be illuminated from dusk to dawn each day as determined by the Board. Exterior lighting of Limited Common Areas and Facilities shall be allowed only to the extent approved by the Board.

9.20. Association Rules. . The Association shall have the power to make and adopt reasonable Association Rules with respect to activities which may be conducted on any part of the Project. The Board's determination as to whether a particular activity being conducted or to be conducted violates or will violate such Association Rules shall be conclusive unless, at a regular or Special meeting of the Association, Owners representing a majority of the Allocated Interests in the votes of the Association vote to the contrary.

9.21. Variances. The Board may, at its option and in extenuating circumstances, grant variances from the Restrictions set forth in Article 9 of this Declaration if the Board determines in its discretion (a) either (i) that a Restriction would create an unreasonable hardship or burden on an Owner or Occupant, or (ii) that a change of circumstances since the recordation of this Declaration has rendered such Restriction obsolete and (b) that the activity permitted under the variance will not have

any substantial adverse effect on the Owners or Occupants of the Project and is consistent with the high quality of life intended for residents of the Project.

ARTICLE 10. - INSURANCE

10.1. Authority to Purchase. Commencing not later than the date a Unit is conveyed to a Person other than Declarant, the Association shall have the authority to and shall obtain and maintain, to the extent reasonably available, the insurance specified in the Article; provided, however, the Association shall always comply with the insurance requirements of the Act.

10.2. Hazard Insurance. To the extent available, the Board shall obtain a master or blanket policy of property insurance on the entire Project including the Units and the Common Areas and Facilities (excluding land and personal property) insuring the Project against loss or damage by fire, and other hazards covered by the standard extended coverage endorsement, and against loss or damage by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage not resulting from poor design or workmanship or lack of routine maintenance. Such master policy of property insurance shall be in total amount of insurance equal to the greater of (i) 80% of the actual cash value of the insured property at the time insurance is purchased and at each renewal date or (ii) 100% of the current replacement cost, exclusive of land, excavations, foundations and other items normally excluded from such property policies. Such master policy of property insurance shall contain an Agreed Amount Endorsement or its equivalent, if available, or an Inflation Guard Endorsement, together with such endorsements as the Association deems appropriate to protect the Association and the Owners.

10.3. Comprehensive Public Liability Insurance. To the extent available, the Association shall obtain comprehensive general liability insurance insuring the Association, the Declarant, the agents and employees of the Association and the Declarant, the Owners and Occupants and the respective family members, guests and invitee's of the Owners and Occupants, against liability incident to the use, ownership, or maintenance of the Common Areas and Facilities or membership in the Association. The limits of such insurance shall not be less than \$1,000,000.00 covering all claims for death of or injury to any one person and/or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which would preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or another Owner or Occupant. Such insurance shall also include protection against water damage liability, liability for non-owned and hired automobiles, and liability for the property of others. Such insurance must provide that, despite any provisions giving the carrier the right to elect to restore damage in lieu of a cash

settlement, such option shall not be exercisable without the approval of the Association. The Board shall adjust the amount of the insurance carried under this Section from time to time.

10.4 Workmen's Compensation Insurance. The Board shall purchase and maintain in effect workmen's compensation insurance for all employees of the Association to the extent that such insurance is required by law.

10.5 Fidelity Insurance. The Board shall obtain fidelity coverage against dishonest acts on the part of directors, officers, employees or volunteers who handle or who are responsible for handling the funds of the Association. Such fidelity bonds shall name the Association as obligee and shall be written in an amount equal to one hundred fifty percent (150%) of the estimated current annual Common Expenses of the Association, including reserves, and shall contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

10.6 Premiums. Premiums upon insurance policies purchased by the Board on behalf of the Association shall be paid by the Association as part of the Common Expenses.

10.7 Policy Provisions.

- (a) Any insurer that has issued an insurance policy to the Association under this Article shall also issue a certificate or memoranda of insurance to the Association and, upon request, to any Owner or Lender.
- (b) The named insured under any policy of insurance shall be the Association, as trustee for the Owners, or its authorized representative, including any trustee with which the Association may enter into any Insurance Trust Agreement, or any successor trustee, each of which shall be referred to as the "Insurance Trustee" who shall have exclusive authority to negotiate losses under the policies. The policy shall provide with respect to liability arising out of his or her interest in the Common Areas and Facilities or membership in the Association. Each Owner hereby appoints the Association, or any Insurance Trustee, as attorney-in-fact for the purpose of purchasing and maintaining insurance required by this Article, and adjustment of all losses related thereto, including: the collection and appropriate disposition of all insurance proceeds, the negotiation of all losses and execution of releases of liability, the execution of all documents and the performance of all other acts necessary to administer such

insurance. The Association shall receive, hold, or otherwise properly dispose of any proceeds of insurance in trust for the Owners and their Lenders, as their interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors or assigns of an Owner.

- (c) The Association's insurance shall contain the "Special Planned Unit Development Endorsement" or its equivalent. Insurance coverage obtained by the Association shall be primary insurance and may not be brought into contribution with insurance purchased by the Owners.
- (d) Coverage may not be limited by (i) any act or neglect by Owners or Occupants which is not within control of the Association; or (ii) any failure of the Association to comply with any warranty or condition regarding any portion of the Project over which the Association has no control.
- (e) Coverage may not be canceled or substantially modified (including cancellation for nonpayment of premiums) and the insurer may not refuse to renew the policy without at least thirty (30) days prior written notice to the Association and all Lenders, and to any Owner to whom a certificate has been issued.
- (f) All policies must contain a waiver of subordination by the insurer as to any and all claims against the Association, Owners, Occupants and their respective agents and employees, and any defenses based on coinsurance or on invalidity arising from acts of the insured.

10.8. Supplemental Insurance. The Board may obtain such other policies of insurance in the name of the Association as the Board deems appropriate to protect the Association and Owners. The Board shall obtain director's and officer's liability insurance for officers and directors of the Association in accordance with the Articles. Notwithstanding any other provisions herein, the Association shall continuously maintain in effect such casualty, flood, and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for planned unit development projects established by Federal National Mortgage Association and Government National Mortgage Association, so long as either is a mortgagee or Owner of a Unit, except to the extent such coverage is not available or has been waived in writing by Federal National Mortgage Association or Government National Mortgage Association.

10.9. Annual Insurance Report. Not later than sixty (60) days prior to the beginning of each fiscal year, the Board may obtain a written report by a reputable

independent insurance broker or consultant setting forth the existing insurance obtained pursuant to this Article and stating whether, in the opinion of such broker or consultant, the insurance complies with the requirements of this Article and the Act. Such report may also set forth recommendations regarding current policy provisions and for additional insurance reasonably required for the protection of the Owners and Lenders in light of the insurance then available and the prevailing practice with respect to other similar Condominium project. The Board shall be fully protected in relying on the written report furnished pursuant to this Section provided reasonable care and prudence were exercised in selecting such independent insurance broker or consultant.

10.10. Insurance Obtained by Owners. Notwithstanding the above, and pursuant to Section 578-29 of the Act, an Owner or Occupant shall be permitted to insure his own Unit for his own benefit.

ARTICLE 11. - DESTRUCTION OF IMPROVEMENTS

11.1. Automatic Reconstruction. In the event of partial or total destruction of a building or buildings or any portion of the Common Areas and Facilities within the Project, the Board shall promptly take the following action:

- (a) The Board shall ascertain the cost of reconstruction by obtaining fixed price bids from at least two (2) reputable contractors, including the obligation to obtain performance and lien payment bonds.
- (b) The Board shall determine the amount of insurance proceeds, if any, payable by contacting the appropriate representative of the insurer carrying the policy covering the Project.
- (c) Pursuant to Section 57-8-30 of the Act, if the insurance proceeds are sufficient to reconstruct the building, said proceeds shall be applied to such reconstruction.
- (d) If the Board determines: (i) that insurance proceeds will cover eighty-five percent (85 %) or more, but not all, of the estimated cost of reconstruction, or (ii) that available insurance proceeds together with available reserve and/or a Special Assessment equal to twenty-five percent (25%) or less of the then aggregate annual regular Assessments for all Units will completely cover the estimated cost of reconstruction, then the Board shall cause notice to be sent to all Owners and to all Lenders encumbering Units within the Project setting forth such findings and informing said Owners and Lenders that the Board intends to commence

reconstruction pursuant to this Declaration. In the event that Owners representing at least twenty percent (20%) of the Allocated Interest in the votes of the Association object in writing to such reconstruction as indicated in such notice, the Board shall call a special meeting of the Owners pursuant to Section 11.2. In the event that the foregoing requirements are satisfied and the requisite number of Owners do not object in writing to such reconstruction, the Board shall cause reconstruction to take place as promptly as practicable thereafter. In connection with such reconstruction, the Board shall levy a uniform Special Assessment against each Owner at such time and in such amount as the Board shall determine is necessary to cover the costs of reconstruction in excess of insurance proceeds and available reserves.

- (e) If the Board in good faith determines that none of the bids submitted under this Section reasonably reflects the anticipated reconstruction costs, the Board shall continue to attempt to obtain an additional bid which it determines reasonably reflects such costs. Such determination shall be made by the Board as soon as possible. However, if such determination cannot be made within ninety (90) days after the date of such destruction because of the unavailability or unacceptability of an insurance estimate or reconstruction bid, or otherwise, the Board shall immediately call a meeting of the affected Owners and all Lenders pursuant to Section 11.2.
- (f) If the Board determines that any Unit has become uninhabitable by reason of its total or partial destruction, Assessments may abate against the Owner thereof until the Board determines that habitability has been restored. However, if the Board determines that such abatement would adversely and substantially affect the management, maintenance and operation of the Project, it may elect to disallow such abatement.

11.2. Reconstruction by Vote. If reconstruction is not to take place pursuant to Section 11.1, as soon as practicable after same has been determined the Board shall call a special meeting of the Owners by mailing a notice of such meeting to each such Owner. Such meeting shall be held not less than ten (10) days and not more than sixty (60) days after the date of such notice. Unless the Owners, by a vote at such meeting or by the written consent of not less than eighty percent (80%) of the Allocated Interest in the votes of the Association (including every Owner of a Unit or an allocated Limited Common Area and Facility which will not be rebuilt) determine not to proceed with such reconstruction, reconstruction must take place and the Board shall levy a uniform Special Assessment against each Owner at such time and in such amount as the Board shall determine is

necessary to cover the costs of reconstruction in excess of insurance proceeds and available reserves.

11.3. Procedure for Minor Reconstruction. If the cost of reconstruction is equal to or less than ten percent (10%) of the estimated fair market value of all of the Units in the Project, then the Board shall contract with a licensed contractor or contractors to rebuild or repair such damaged or destroyed portions of the Project in conformance with the original plans and specifications, or if the Board determines that adherence to such original plans and specifications is impracticable or is not in conformance with applicable laws, ordinances, building codes, or other governmental rules or regulations then in effect, then such repairs or rebuilding shall be of a kind and quality substantially equivalent to the original construction of such improvements.

11.4. Procedure for Major Reconstruction. If the cost of reconstruction is greater than ten percent (10%) of the estimated fair market value of all of the Units in the Project, all insurance proceeds, together with such amounts from available reserves or Special Assessments as are needed to complete the cost of reconstruction, shall be paid directly to a bank or savings and loan association located in Salt Lake County, Utah, whose accounts are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or the successor to either agency, as designated by the Board, as trustee (hereinafter called the "Insurance Trustee") for all Owners and Lenders. Such proceeds shall be received, held and administered by the Insurance Trustee subject to the provisions of an insurance trust agreement which shall be consistent with the provisions of this Declaration and which shall be entered into between the Insurance Trustee and the Board. Disbursement of such funds shall be made only upon the signatures of two members of the Board and upon the terms and conditions provided in this Section. As soon as practicable after notification of the receipt of insurance proceeds by the Insurance Trustee, the Board shall enter into a contract with a licensed contractor or contractors for the repair or rebuilding of all of the damaged or destroyed Units and Common Areas and Facilities according to the original plans and specifications of said improvements or, if the Board determines that adherence to such original plans and specifications is impracticable or not in conformity with applicable statutes, ordinances, building codes, or other governmental rules and regulations then in effect, then of a quality and kind substantially equivalent to the original construction of such improvements. The contract with such licensed contractor or contractors shall provide for payment to the contractor or contractors of a specified sum for performance and execution of the work therein described, and shall have provisions for periodic disbursement of funds by the Insurance Trustee, which shall be consistent with procedures then followed by prudent lending institutions doing business in Salt Lake County, Utah. Such periodic disbursements of funds shall be for specific dollar amounts and shall not be paid until the contractor who is engaged by the Board shall furnish to the Board before the

commencement of construction a full performance and lien payment bond written by a good and responsible corporate surety. Disbursements to the contractor shall be made subject to the prior presentation of an architect's certificate or other documentation containing such provisions as may be appropriate in the circumstances and deemed suitable by the Board. The Board may employ a licensed architect to supervise the repair and rebuilding to insure that all work, services and supplies are in conformity with the requirements of the construction contract.

11.5 Determination no to Reconstruct Without Termination. If Owners of not less than eighty percent (80%) of the Allocated Interests in the votes of the Association (including every Owner of a Unit or an allocated Limited Common Area and Facility which will not be rebuilt after a casualty) vote not to rebuild and the entire Project is not repaired or replaced, and the Project is not terminated in accordance with the Act, the insurance proceeds shall be distributed as provided by the Act and the Allocated Interests are automatically reallocated as provided by the Act. In such event the Association shall promptly prepare, execute and record an amendment to the Declaration reflecting the re-allocations.

11.6. Negotiations with Insurer. The Association shall have full authority to negotiate in good faith with representatives of the insurer of any totally or partially destroyed building or any other portion of the Common Areas and Facilities, and to make settlements with the insurer for less than full insurance coverage on the damage to such building or any other portion of the Common Areas and Facilities. Any settlement made by the Association in good faith shall be binding upon all Owners and Lenders.

11.7. Repair of Units. Installation of improvements to, and repair of any damage to, the interior of a Unit shall be made by and at the individual expense of the Owner of that Unit and, in the event of a determination to reconstruct after partial or total destruction, shall be completed as promptly as practicable and in a lawful and workmanlike manner.

11.8. Priority. Nothing contained in this Article shall entitle an Owner to priority over any Lender under a lien encumbering his Unit as to any portion of insurance proceeds allocated to such Unit.

ARTICLE 12. - EMINENT DOMAIN

12.1. Total Taking of a Unit. If a Unit is taken by eminent domain, or sold under threat thereof, or if a Unit is taken by eminent domain, or sold under threat thereof, leaving the Owner with a remnant which may not be practically or lawfully used for any

purpose permitted by this Declaration, the award must compensate the Owner for his Unit and Allocated Interest in the Common Areas and Facilities, regardless of whether any Common Areas and Facilities are taken. Upon such a taking, unless the decree otherwise provides, that Unit's Allocated Interest in the Common Areas and Facilities shall automatically be reallocated to the remaining Units in proportion to their respective interests immediately before the taking. Upon such a taking, the Association shall prepare, execute, and record an amendment to the Declaration in compliance with the Act. Any remnant of a Unit remaining after part of a Unit is taken becomes a Common Area and Facility.

12.2. Partial Taking of a Unit. Except as provided in Section 12.1, if part of a Unit is taken by eminent domain, or sold under threat thereof, so that such Unit may still be practically and lawfully used under this Declaration, the award must compensate the Owner for the reduction in the value of his Unit and Allocated Interest in the Common Areas, regardless of whether any Common Areas are taken. Upon such a taking, unless the decree otherwise provides, that Unit's Allocated Interest in the Common Areas shall remain the same, but if the decree provides for a reduction of the Allocated Interest for such Unit, the reduced amount shall automatically be reallocated to that Unit and the remaining Units in proportion to their respective Allocated Interests immediately before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced Allocated Interest.

12.3. Taking of a Limited Common Area and Facility. If the portion of the Project taken by eminent domain, or sold under threat thereof, is comprised of or includes any Limited Common Area and Facility or portion thereof, the portion of the award attributable to the Limited Common Area and Facility so taken shall be divided among the Owners of the Units to which such Limited Common Area and Facility was allocated at the time of the acquisition.

12.4. Taking of the Common Areas. If the portion of the Project taken by eminent domain, or sold under threat thereof, shall not be comprised of, or include, any Unit or Limited Common Area and Facility, the Board shall, as soon as practicable, cause the award to be utilized for the purpose of repairing or restoring the portion of the Project so taken, and the portion of the award not used for restoration shall be divided among the Owners in proportion to their Allocated Interest in the Common Areas before the taking.

12.5. Taking of Entire Project. In the event the Project in its entirety is taken by eminent domain, or sold under threat thereof, the Project is terminated and the provisions of the Act apply.

12.6. Priority and Power of Attorney. Nothing contained in this Article shall entitle an Owner to priority over any Lender under a lien encumbering his Unit as to any portion of any condemnation award allocated to such Unit. Each Owner hereby appoints the Association as attorney-in-fact for the purpose of negotiations and settlement with the condemning authority for the acquisition of the Common Areas, or any part thereof. In the event a taking involves all or part of any Unit or the Common Areas or Limited Common Areas, the award or proceeds shall be payable to the Association for the use and benefit of the Owners and their Lenders as their interests may appear. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors or assigns of an Owner.

ARTICLE 13. - RIGHTS OF LENDERS

13.1. Notices of Lenders. A Lender shall not be entitled to receive any notice which this Declaration requires the Association to deliver to Lenders for notice, approval or consent regarding a proposed action or otherwise, unless and until such Lender, or its mortgage servicing contractor, has delivered to the Association a written notice stating that such Lender is the holder of a loan encumbering a Unit within the Project and setting forth the information described in Section 13.6. Notwithstanding the foregoing, if any right of a Lender under this Declaration is conditioned on a specific written request to the Association, in addition to having delivered the notice provided in this Section a Lender must also make such request in writing delivered to the Association. Except as provided in this Section, a Lender's rights pursuant to this Declaration, including, without limitation, the priority of any mortgage lien over the lien of Assessments levied by the Association hereunder shall not be affected by the failure to deliver a notice or request to the Association.

13.2. Priority Of Lenders. No breach of the Restrictions herein contained, nor the enforcement of any lien provision herein, shall affect, impair, defeat or render invalid the lien or charge of any Lender made in good faith and for value encumbering any Unit, but all of said Restrictions shall be binding upon and effective against any Owner whose title to a Unit is derived through foreclosure or trustee's sale, or otherwise.

13.3. Relationship With Assessment Liens.

- (a) The lien provided for in Article 6 for the payment of Assessments shall be subordinate to the lien of any Lender which was recorded prior to the date any such Assessment becomes due.

- (b) If any Unit which is subject to a monetary lien created by this Declaration is also subject to the lien of a Lender, then: (i) the foreclosure of any lien created by this Declaration shall not operate to affect or impair the lien of such Lender; and (ii) the foreclosure of the lien of a Lender or the sale under a power of sale included in a mortgage or deed of trust shall not operate to affect or impair the lien hereof, except that any Person who obtains an interest thereafter shall take title free of any lien created by this Declaration for any Assessments which became due after the recordation of the mortgage or deed of trust, or any personal obligation for such charges that shall accrue subsequent to such foreclosure.
- (c) Without limiting the provisions of subsection (b) of this Section, any Lender who obtains title to a Unit by reason of any foreclosure, or deed or assignment in lieu of foreclosure, or any Person who obtains title at a private or judicial foreclosure sale, shall take title to such Unit free of any lien or claim for unpaid Assessments against such Unit which accrued prior to the time such Lender or purchaser takes title to such Unit, except for liens or claims for a share of such Assessments resulting from a pro rata reallocation of such Assessments to all Units within the Project.
- (d) Nothing in this Section shall be construed as releasing any Person from his personal obligation to pay for any Assessments levied pursuant to this Declaration during the period such Person is an Owner.

13.4. Required Lender Approval. Except upon the prior written approval of seventy-five percent (75%) of all Lenders which have provided notice to the Association as described in Section 13.1 and Section 13.6, based on one vote for each Unit encumbered by a loan, neither the Association nor the Board shall be entitled by action or inaction to do any of the following:

- (a) Abandon or terminate by any act or omission the legal status of the Project, except for abandonment or termination provided by the Act and/or this Declaration in the case of substantial destruction by fire or other casualty or in the case of a taking by eminent domain; or
- (b) Except as specifically provided by this Declaration, amend any provisions governing the following:
 - (i) voting rights;

- (ii) increases in Assessments that raise the previously assessed amount by more than twenty-five percent (25%), Assessment liens, or the priority of Assessment liens;
- (iii) reductions in reserves for maintenance, repair and replacement of Common Areas;
- (iv) responsibility for maintenance and repairs;
- (v) reallocation of interests in the Common Areas or Limited Common Areas, or rights to their use;
- (vi) redefinition of any Unit boundaries;
- (vii) convertibility of Units into Common Areas or vice versa;
- (viii) expansion or contraction of the Project, or the addition, annexation, or withdrawal of property to or from the Project;
- (ix) hazard or fidelity insurance requirements;
- (x) imposition of any restrictions on the leasing of Units;
- (xi) imposition of any restrictions on an Owner's right to sell or transfer his or her Unit;
- (xii) restoration or repair of the Project (after damage or partial condemnation) in a manner other than that specified in the Declaration, Articles of Incorporation or Bylaws; or
- (xiii) any provision that expressly benefits Lenders (including their insurers or guarantors).

Any Lender who receives, by certified or registered mail, a written request, with a return receipt requested, to approve a change and who does not return a negative response within thirty (30) days shall be deemed to have approved such request.

13.5. Other Rights Of Lenders. Any Lender (and such Lender's insurer or guarantor) shall, upon written request to the Association, be entitled:

- (a) To inspect current copies of this Declaration (any amendments), the Association's Articles, Bylaws, Association Rules, and other books and records of the Association during normal business hours; and
- (b) To receive an audited annual financial statement of the Association within ninety (90) days following the end of the Association's fiscal year.

13.6. Notices of Action. Upon written request to the Association identifying the name and address of the Lender (and the name and address of the Lender's insurer or guarantor, if desired) and the Unit Number or address, any such Lender (or any such insurer or guarantor) will be entitled to timely written notice of:

- (a) Any condemnation or casualty loss, which affects a material portion of the Project or any Unit on which there is a first lien held by such Lender;
- (b) Any delinquency in the payment of Assessments or charges owed by an Owner of a Unit subject to the lien of a Lender, which remains uncured for a period of sixty (60) days;
- (c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and
- (d) Any proposed action by the Owners or the Association which would amount to a material change in the Declaration as identified in Section 13.4 hereof.

ARTICLE 14. - LIMITATIONS UPON PARTITION AND SEVERANCE

14.1. No Partition. The right to partition the Project is hereby suspended, except that the right to partition shall revive and the Project may be sold as a whole when the conditions for such action set forth in Article 11 dealing with Destruction of Improvements and Article 12 dealing with Eminent Domain have been met; provided, however, nothing continued in this Section shall be construed as limited partition by joint Owners, upon the prior written approval of an applicable Lender, of one or more Units as to individual ownership of such Units provided the Project is not terminated.

14.2. No Severance. The elements of a Unit and other rights appurtenant to the ownership of a Unit, including interest in Common Areas and Limited Common Areas, if any, are inseparable, and each Owner agrees that he shall not, while this Declaration is in effect, make any conveyance of less than an entire Unit and such appurtenances. Any conveyance made in transfer (whether voluntary or involuntary) shall be void.

14.3. Proceeds of Partition Sale. If an action is brought for the partition of the Project by sale, whether upon the occurrence of an event of destruction and a decision not to reconstruct or the taking of all or a portion of the Project by eminent domain. Owners shall share in the proceeds of such sale in the same proportion as their Allocated Interest in the Common Areas (or as otherwise provided by the Act), but in such event, the liens and provisions of all Lenders or Assessment liens encumbering Units within the Project so encumbered shall extend to each applicable Owner's interest in the proceeds of such partition and sale. The interest of an Owner in such proceeds shall not be distributed to such Owner except upon the prior payment in full of any Assessment lien or lien of a Lender encumbering such proceeds.

ARTICLE 15. - GENERAL PROVISIONS

15.1. Enforcement. The Association or any Owner shall have the right to enforce, by proceedings at law or in equity, all Restrictions and other provisions now or hereafter imposed by this Declaration, or any amendments thereto, including the right to prevent the violation of any such Restrictions, and the right to recover damages and other sums for such violation. The Association or any Owner shall also have the right to enforce by proceedings at law or in equity the provisions of the Bylaws and Association Rules and any respective amendments thereof.

15.2. No Waiver. Failure by the Association or by any Owner to enforce any Restriction or provision herein contained, or contained in the Bylaws or Association Rules, in any certain instances or on any particular occasion shall not be deemed a waiver of such right of enforcement as to any such future breach of the same or any other Restriction or provision.

15.3. Cumulative Remedies. All rights, options and remedies of Declarant, the Association, the Owners or the Lenders under this Declaration are cumulative, and no one of them shall be exclusive of any other, and Declarant, the Association, the Owners and the Lenders shall have the right to pursue any one or all of such rights, options and remedies or any other remedy or relief which may be provided by law, whether or not stated in this Declaration.

15.4. Severability. Invalidation of any one or a portion of the Restrictions or provisions set forth in this Declaration or in the Bylaws or Association Rules by judgment or court order shall in now way affect any other Restrictions or provisions contained herein or therein which shall remain in full force and effect.

15.5. Covenants To Run With The Land; Term. The Restrictions and other provisions of this Declaration shall run with and bind the Project as equitable servitude and also as covenants running with the land and shall inure to the benefit of and be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time the Restrictions and other provisions shall be automatically extended for successive periods of ten (10) years, unless an instrument, signed and acknowledged by Owners of not less than seventy-five percent (75 %) of the Allocated Interests in the votes of the Association and their Lenders, has been recorded prior to the end of any such period agreeing to change or revoke the Restrictions and other provisions of this Declaration in whole or in part.

15.6. Allocation Upon Termination. Unless provided otherwise herein, upon any liquidation or termination of all or part of the Project, the Association shall represent the Owners in any proceedings, negotiations, settlements or agreements related thereto. Each Owner hereby appoints the Association as attorney-in-fact for such purpose, including the allocation of any losses, awards or proceeds resulting from such termination or liquidation. Any proceeds generated by such a termination or liquidation shall be made payable to the Association, who will hold such proceeds for the benefit of the Owners and their Lenders. Owners shall share in the proceeds of such termination or liquidation in the same proportion as their Allocated Interest in the Common Areas (or as otherwise provided by the Act), but in such event, the liens and provisions of all Lenders or Assessment liens encumbering Units within the Project so encumbered shall extend to each applicable Owner's interest in such proceeds. The interest of an Owner in such proceeds shall not be distributed to such Owner except upon the prior payment in full of any Assessment lien or lien of a Lender encumbering such proceeds.

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

15.8. Gender and Number. Whenever the context of this Declaration requires, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and the neuter, and vice versa.

15.9. Nuisance. The result of every act or omission whereby any provision or Restriction contained in this Declaration or any provision contained in the Bylaws or Association Rules is violated in whole or in part is hereby declared to be and shall constitute a nuisance, and every remedy allowed at law or in equity against a nuisance, either public or private, shall be applicable with respect to the abatement thereof and may be exercised by the Association or any Owner. Such remedy shall be deemed cumulative to all other remedies set forth in this Declaration and shall not be deemed exclusive.

15.10. Attorneys' Fees. In the event any action is instituted to enforce any of the provisions contained in this Declaration, the Bylaws or Association Rules, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment reasonable attorneys' fees and costs of suit.

15.11. Notices. Any notice to be given to an Owner, a Lender or the Association under the provisions of this Declaration shall be in writing and shall be delivered as follows:

- (a) Notice to an Owner shall be delivered personally or placed in the first class United States mail, postage prepaid, to the most recent address furnished by such Owner in writing to the Association for the purpose of giving notice, or if no such address shall have been furnished, then to the street address of such Owner's Unit. Any notice so deposited in the mail shall be deemed delivered seventy-two (72) hours after such deposit. In the case of co-Owners, any such notice may be delivered or sent to any one of the co-Owners on behalf of all co-Owners and shall be deemed delivered to all such co-Owners.
- (b) Notice to a Lender shall be delivered by first class United States mail, postage prepaid, to the most recent address furnished by such Lender in writing to the Association for the purpose of notice or, if no such address shall have been furnished, to any office of the Lender in Salt Lake County, Utah, or if no such office is located in Salt Lake County, to any office of such Lender. Any notice so deposited in the mail shall be deemed delivered seventy-two (72) hours after such deposit.
- (c) The declaration of an officer or authorized agent of the Association declaring under penalty of perjury that a notice has been mailed to any Owner or Owners, or to any Lender or Lenders, to the address or addresses for the giving of notice pursuant to this Section, shall be deemed conclusive proof of such mailing.

- (d) Notice to the Association shall be delivered by registered or certified United States mail, postage prepaid, addressed to the office of the statutory agent of the Association or as follows:

Any notice so deposited in the mail shall be deemed delivered upon the date of receipt.

15.12. Effect of Declaration. This Declaration is made for the purposes set forth in the recitals in this Declaration and Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration, or as to the compliance of any of these provisions with public laws, ordinances, regulations and the like applicable thereto. Declarant shall have no liability whatsoever if any of the provisions of this Declaration, the Bylaws or Association Rules are determined to be unenforceable in whole or in part or under certain circumstances.

15.13. Personal Covenant. To the extent the acceptance of a conveyance of a Unit creates a personal covenant between the Owner of such Unit and Declarant, other Owners or the Association, such personal covenant shall terminate and be of no further force or effect from and after the date when a Person ceases to be an Owner except to the extent this Declaration provides for personal liability with respect to the Assessments incurred during the period a Person is an Owner.

15.14. Non-liability of Officials. To the fullest extent permitted by law, neither the Board nor any officer of the Association shall be liable to any Owner or the Association for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval, course of action, act, omission, error or negligence if such Board member or officer acted in good faith within the scope of his or their duties.

15.15. Use of Funds Collected by the Association. All funds collected by the Association, including Assessments and contributions to the Association paid by Owners, if any, shall be held by the Association in a fiduciary capacity to be expended in their entirety for non-profit purposes of the Association in managing, maintaining, caring for and preserving the Common Areas and for other permitted purposes as set forth in this Declaration. No part of said funds shall inure to the benefit of any Owner (other than as a result of the Association managing, maintaining, caring for and preserving the Common

Areas and facilities and other than as a result of expenditures made for other permitted purposes as set forth in this Declaration).

15.16. Notification of Sale and Transfer Fee. Concurrently with the consummation of the sale or other transfer of any Unit, or within fourteen (14) days after the date of such transfer, the transferee shall notify the Association in writing of such transfer and shall accompany such written notice with any non-refundable transfer fee payable pursuant to the Association Rules, to cover Association documentation and processing. The Board may establish a transfer fee, from time to time, which shall be no more than the amount of the then current regular monthly assessment. The written notice shall set forth the name of the transferee and his transferor, the street address of the Unit purchased or acquired by the transferee, the transferee's mailing address, the date of the sale or transfer and the name and address of the transferee's Lender, if any. Prior to the receipt of such written notice, all notices required or permitted to be given by the Association to the Owner shall be deemed to be duly made or given to the transferee if duly and timely made and given to the transferee's predecessor in interest. The transfer fee shall be the personal obligation of the new Owner and shall be secured by the lien in Section 6.1 hereof. Notwithstanding the other provisions hereof, this Section shall not apply to a Lender who becomes an Owner by a foreclosure proceeding or any deed or assignment in lieu of foreclosure.

15.17. Owner Liability and Indemnification. Each Owner shall be liable to the remaining Owners and to the Association for any damage to the Common Areas that may be sustained by reason of the negligence of that Owner or such Owner's family members, tenants, guests or invitee's, but only to the extent that any damage is not covered by casualty insurance in favor of the Association. Each Owner, by acceptance of a deed for a Unit, agrees personally and for family members, tenants, guests and invitee's to indemnify each and every other Owner, and to hold such other Owners harmless from, and to defend such Owners against, any claim of any person for personal injury or property damage occurring within the Unit of that particular Owner, including any Limited Common Areas, if any, except to the extent (a) that such injury or damage is covered by liability insurance in favor of the Association or any other Owner, or (b) the injury or damage occurred by reason of the willful or negligent act or omission of the Association or other Owner or other person temporarily visiting such Unit.

15.18. Conflicting Provisions. In the case of any conflict between this Declaration and the Bylaws, or Association Rules, this Declaration shall control. In the case of any conflict between this Declaration and the Act, to the extent the Act does not legally allow the Declaration to contain provisions contrary to the Act, the Act shall control and this Declaration shall be deemed modified accordingly. Notwithstanding the above, this

Declaration shall be deemed modified and amended only to the extent necessary to come into compliance with the Act.

ARTICLE 16. - AMENDMENTS

16.1. Amendments by Declarant Prior to First Sale. Except as provided elsewhere in this Declaration, prior to the conveyance of the first Unit to an Owner other than a Declarant, this Declaration and any amendments thereto may be amended or revoked by the execution by Declarant of an instrument amending or revoking the same.

16.2. Amendments by Declarant After First Sale. Except as provided elsewhere in this Declaration, Declarant (without obtaining the approval of Owners, the Association, or existing Lenders) may unilaterally amend or modify this Declaration in the exercise of its rights set forth in this Declaration. Also, notwithstanding anything herein to the contrary, ~~Declarant shall have the unilateral right (without obtaining the approval of the Owners, the Association, or existing Lenders) to amend this Declaration until the Turnover Date (as defined in Section 5.3 of the Declaration), if such amendment is required solely:~~

- (i) to comply with applicable law or to correct any error or inconsistency of the Declaration and if such amendment does not adversely affect the rights of any Owner or Lender, or
- (ii) to comply with the rules or guidelines, in effect from time to time, of any governmental or quasi-governmental entity or federal corporation guaranteeing or insuring mortgage loans or governing transactions involving mortgage instruments (including, without limitation, the Veterans Administration, Federal Housing Administration, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, or any similar agency). If such amendment bears recitation that it is recorded based on such technical error or the requirements of any of the foregoing agencies; such amendment shall not require approval of any Owners or Lenders.

16.3. General Amendment Requirements. Except as permitted by Article 3, Section 16.1, Section 16.2, or as otherwise permitted or required by the Act, this Declaration may be amended only by vote or agreement of Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated. ~~Prior to the Turnover Date, this Declaration shall not be amended without Declarant's prior written consent.~~

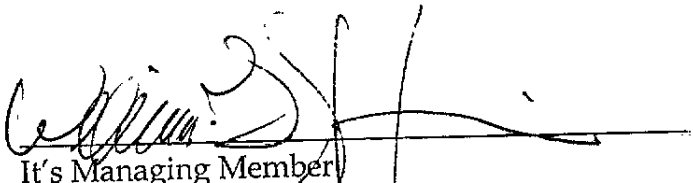
16.4. Protection of Declarant Rights. An amendment shall not terminate or decrease any unexpired Development Right, Special Declarant Right, or period of Declarant control unless the Declarant approves or consents in writing.

16.5. Execution of Amendments. An amendment or revocation which only requires the execution of an instrument by Declarant as herein above provided shall be effective when executed by Declarant and when recorded in the office of the County Recorder of Salt Lake County, Utah. An amendment which requires the affirmative written assent or vote of the Owners as herein above provided shall be effective when executed by the President and Secretary of the Association who shall certify that the amendment has been so approved and the Declarant if the Declarant's consent is also required, and when the amendment has been recorded in the office of the County Recorder of Salt Lake County, Utah.

16.6. Lender Approval. Subject to the foregoing, any provision of this Declaration which expressly requires the approval of a specified percentage of the Lenders for action to be taken under said provision can be amended only with the affirmative written assent or vote of not less than the same percentage of the Lenders, provided that in the event approval is requested in writing from a Lender with respect to a proposed amendment and a negative response is not returned within thirty (30) days following the Lender's receipt of the request, by certified or registered mail, with a return receipt requested, the Lender shall be deemed to have approved the proposed amendment.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of this 27th day of APRIL, 2000.

DECLARANT:
TALO L.C. DBA
TALO LAND COMPANY, ~~LLC~~ *LLC*


It's Managing Member
By: William L. Jefferies

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

On this, the 27th day of April, 2000, before me, the undersigned officer, personally appeared William L. Jefferies, who acknowledged himself to be the Managing Member of ~~Talco Ltd.~~ DEA TALCO LTD COMPANY, a Utah limited liability company, and that he, as such Managing Member, being authorized so to do, executed the foregoing instrument for the purpose therein contained and the capacity therein stated.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

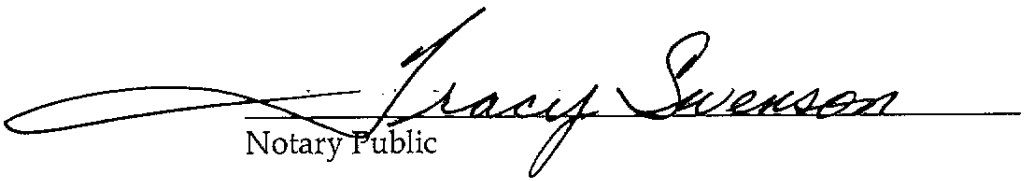

Notary Public



EXHIBIT "A"

PROPERTY DESCRIPTION

A parcel of land lying and situated in the Northeast quarter of Section 30, Township 1 South, Range 1 East, Salt Lake Base and Meridian, South Salt Lake City, Salt Lake County, Utah. Comprising 2.0 acres created by combining Lots 9, 10, 11 and 12, Homefield Addition, a Sub Division of Lots 10, 11, 12 and 13, Block 31 and Lot 6, Block 30, Ten Acre Plat, Big Field Survey, (recorded October 22, 1912, at page 93, in Book F of Plats, of the Salt Lake County Official Records). The Basis of Bearing for subject parcel being South 00deg21'50" West 4662.87 feet (measured) between the brass cap well monuments at the intersections of 500 East Street and 2700 South Street and 500 East Street and 3300 South Street. Subject parcel being more particularly described as follows:

Beginning at the Southwest corner of Lot 9 of said Homefield Sub Division said point being located North 00deg12'00" East 661.80 feet along the center line of Adams Street and South 89deg48'00" East 33.00 feet from the brass cap well monument marking the point of intersection of Adams Street (430 East) and Welby Avenue (2975 South); Thence North 00deg12'00" East 336.00 feet along the West line of said Lots 9, 10, 11 and 12 to the Northwest corner of said Lot 12; Thence South 89deg48'00" East 258.74 feet along the North line of said Lot 12 to the Northeast corner thereof; Thence South 00deg12'00" West 336.00 feet along the East line of said Lots to the Southeast corner of said Lot 9; Thence North 89deg48'0" West 258.74 feet along the South line of said Lot 9 to the point of beginning. Contains 1.996 Acres

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EXHIBIT "B"

THE PLAT

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EXHIBIT "C"
ALLOCATED INTERESTS

<u>LOT NUMBER</u>	<u>% INTEREST</u>
1	1/14
2	1/14
3	1/14
4	1/14
5	1/14
6	1/14
7	1/14
8	1/14
9	1/14
10	1/14
11	1/14
12	1/14
13	1/14
14	1/14

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ARTICLES OF INCORPORATION
OF
STRATFORD PLACE HOMES ASSOCIATION

In compliance with the requirements of Utah Nonprofit Corporation and Cooperative Association Act, §16-6-18, et seq., Utah Code Annotated, 1953, as amended, the undersigned all of whom are residents of the State of Utah and all of whom are of full age, hereby certify that the following are the Articles of Incorporation of STRATFORD PLACE HOMES ASSOCIATION.

ARTICLE I

NAME

The name of the corporation is STRATFORD PLACE HOMES ASSOCIATION, hereinafter called the "Association".

ARTICLE II

DURATION

The period of duration of the Association shall be perpetual.

ARTICLE III

PURPOSE

The purpose of the corporation shall be to manage, administer and own the Common Area and associated facilities of the Stratford Place Homes Planned Unit Development Project and to take all lawful actions reasonably associated therewith.

ARTICLE IV

REGISTERED AGENT

William L. Jefferies, whose address is 4578 South Russell Street, Holladay, UT 84117, is hereby appointed the initial registered agent of the Association. The initial principal office of the Association is located at 4578 South Russell Street, Holladay, UT 84117.

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ARTICLE V

PURPOSE AND POWERS OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide, for maintenance, preservation and control of the Planned Unit Development Project known as Stratford Place Homes Planned Unit Development within that certain tract of property described on Exhibit "A", attached hereto and hereby incorporated by reference, and to promote the health, safety and welfare of the residents within the above-described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association for this purpose to:

- (a) Exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions and Restrictions, hereinafter called the "Declaration", applicable to the property and recorded or to be recorded in the Office of the Salt Lake County Recorder, State of Utah, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as set forth at length;
- (b) Fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association.
- (c) Acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;
- (d) Borrow money, and with the assent of two-thirds (2/3) of each class of members mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;
- (e) Dedicate, sell or transfer all or any part of the common area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by two-thirds (2/3) of each class of members, agreeing to such dedication, sale or transfer;
- (f) Participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional residential property and common area, provided that any such merger, consolidation or annexation shall have the assent of two-thirds (2/3) of each class of members;

(g) Have and to exercise any and all powers, rights and privileges which a corporation organized under the Utah Nonprofit Corporation and Cooperative Association Act by law may now or hereafter have or exercise.

ARTICLE VI

MEMBERSHIP

The Corporation shall have members but no stock shall be issued. Every person or entity who is a record owner of a fee or undivided fee interest in any lot which is subject to the declaration of record or to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to any may not be separated from ownership of any unit which is subject to assessment by the Association.

ARTICLE VII

VOTING RIGHTS

The Association shall have two (2) classes of voting membership;

Class A. Class A members shall be all owners, with the exception of the Declarant, and shall be entitled to one vote for each Planned Unit Development units owned. When more than one person holds an interest in any Unit, all persons shall be members. The vote for such unit shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any lot.

Class B. The Class B member(s) shall be the Declarant (as defined in the Declaration), and shall be entitled to three (3) votes for each lot owned. The Class B membership shall cease to be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

(b) On _____, provided, however, that the Declarant shall transfer control of the Association after 75% of the units in the project have been conveyed to unit purchasers.

ARTICLE VIII

MANAGEMENT COMMITTEE

The affairs of this Association shall be managed by a Board of Directors consisting of three (3) individuals, who need not be members of the Association. The number of Board of Directors may be exchanged by amendment of the Bylaws of the Association. At the first annual meeting, the Declarant under the Declaration or members shall elect one (1) Member of the Board of Directors for a term of three (3) years, one member of the Board of Directors for a term of two (2) year, and one member for a term of one (1) year. At each annual meeting thereafter, the members shall elect a number of memberships then becoming vacant for a term of two (2) years.

ARTICLE IX

DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by not less than three quarters (3/4) of each class of members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

ARTICLE X

BYLAWS

The initial affairs of the corporation shall be regulated by the Bylaws adopted by the Board of Directors.

DATED this 24th day of APRIL, 2000.
[Signature]
Susan Beuchert, Incorporator
1981 E Murray-Holladay Rd #110
Salt Lake City UT 84117
BY: [Signature]
TALO L.C., DBA
TALO LAND COMPANY, INCORPORATOR
William L. Jefferies, Incorporator
4578 South Russell Street
Holladay, UT 84117
MANAGING MEMBER

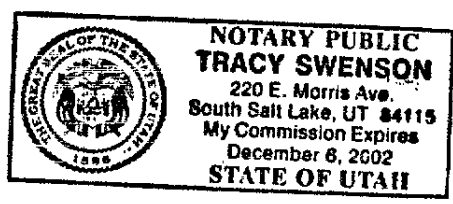
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STATE OF UTAH)
)ss.
COUNTY OF SALT LAKE)

On the 24th day April, 2000 personally appeared before me Susan Beuchert, the signer of the foregoing instrument individually and as registered agent and after being duly sworn, acknowledged to me that she signed the same of her own free will.

Tracy Swenson
NOTARY PUBLIC
Residing in:

My commission expires:
12/6/2002

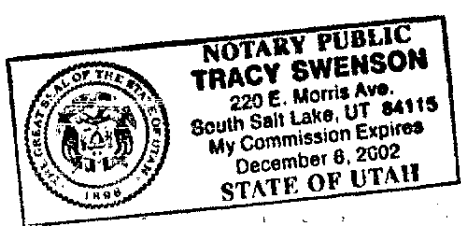


STATE OF UTAH)
)ss.
COUNTY OF SALT LAKE)

On the personally appeared before me William L. Jefferies, the signer of the foregoing instrument and after being duly sworn, acknowledged to me that he signed the same of his own free will, AS MANAGING MEMBER TALO L.C., DBA TALO LAND COMPANY.

Tracy Swenson
NOTARY PUBLIC
Residing in:

My commission expires:
12/6/2002



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**BYLAWS OF
STRATFORD PLACE HOMES
A Utah Nonprofit Corporation**

I. NAME AND LOCATION.

1. The name of the Association is STRATFORD PLACE HOMES, A PLANNED UNIT DEVELOPMENT ASSOCIATION ("Association"). The Association is organized as a Utah Nonprofit Corporation. The principal office of the Association shall be located in Salt Lake City, Utah. Meetings of Members shall be held at those places specified in the Bylaws.

II. DEFINITIONS.

1. Terms used in these Bylaws shall have the meaning given to them in the DECLARATION OF PLANNED UNIT DEVELOPMENT AND DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR STRATFORD PLACE HOMES (the "Declaration"), recorded on the _____ day of _____, 2000, as Entry No. _____ in the offices of the Salt Lake County Recorders Office.

III. MEMBERSHIP: VOTING RIGHTS.

1. Membership.

(a) **Qualifications.** Each Owner of a Unit, including Declarant, shall be Member of the Association. No Owner shall hold more than one membership in the Association even though such Owner may own, or own an interest in, more than one Unit. Ownership of a Unit or interest in it shall be the sole qualification for membership in the Association. Each Owner shall remain a Member of the Association until his membership in the Association shall automatically cease. Persons or entities who hold an interest in a Unit merely as security for performance of an obligation are not to be regarded as Members.

(b) **Members' Rights and Duties.** Each Member shall have the rights, duties, and obligations set forth in these Bylaws, the Articles, the Declaration and the Association rules and all their amendments.

(c) **Transfer of Membership.** The Association membership of each person or entity who owns, or owns an interest in, one or more Units shall be appurtenant to each such Unit, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except on a transfer of title to each Unit or interest in it and then only to the transferee. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Unit or interest in it shall operate automatically to transfer the appurtenant membership rights in the Association to the new Owner.

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2. **Voting.**

(a) **Number of Votes.** The Association shall have two (2) classes of voting membership.

(i) **Class A:** Class A Members are all Owners, with the exception of Declarant. Each Unit owned by a Class A Member shall be entitled to one (1) vote. If such a Unit is owned by more than one Class A Member, the vote for such Unit shall be exercised as they themselves determine, but in no case shall more than one (1) vote be cast with respect to any one Unit.

(ii) **Class B:** The Class B Member shall be the Declarant who shall be entitled to three (3) votes for each Unit owned. The Class B membership shall cease upon the terms and conditions set forth in the Declaration or as required under state law.

(b) **Joint Owner Votes.** The voting rights for each Unit may not be cast on a fractional basis. If the joint Owners of a Unit are unable to agree among themselves as to how their voting rights shall be cast, they shall forfeit the vote on the matter in question. If any Owner exercises the voting rights of a particular Unit, it will be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Unit. If more than one (1) person or entity exercises the voting rights for a particular Unit, their votes shall not be counted and shall be deemed void.

(c) **Secret Ballot; Cumulative Voting.** In any election involving the election or removal or more than one member of the Board of Directors voting shall be by cumulative voting. All votes for election to or removal from the Board of Directors shall be by secret written ballot. Each Member shall be entitled to vote, in person or by proxy, as many votes as such Member is entitled to exercise as provided in the Declaration. As to removal, unless the entire Board of Directors is removed by a vote of Association Members an individual member of the Board of Directors shall not be removed unless the number of votes in favor of removal satisfies the requirements of the Utah Nonprofit Corporations Act.

IV. **MEETING OF MEMBERS.**

1. **Annual Meetings.** The organizational meeting and the first annual meeting of the Members shall be held as described in the Declaration. Subsequent annual meetings of Members of the Association shall be held in each succeeding year within one week before or after the anniversary date of the first annual meeting on a day to be determined by the Board of Directors, which day shall not be a legal holiday.

2. **Special Meetings.** Special meetings of the Members may be called at any time by the President or by a majority of a quorum of the Board of Directors, or upon written request of the Members representing at least five percent (5%) of the total voting power.

3. **Notice of Meetings.** Notice of all Members' meetings, annual or special, shall be given by personal delivery, mail or telegram and shall be given not less than ten (10) days nor more than ninety (90) days before the time of the meeting and shall set forth the place (which shall be at the Project or as close thereto as reasonably feasible and, unless unusual circumstances exist, shall not be outside Salt Lake County), date, and hour of the meeting, and the nature of the business to be undertaken. Notices shall be given by, or at the direction of, the secretary or person authorized to call the meeting, and shall be transmitted to each Member entitled to vote and to each Mortgagee who has requested in writing that such notice be sent to it; the notices shall be addressed to the Member's or Mortgagee's address last appearing on the books of the Association, or supplied by the Member or Mortgagee to the Association for the purpose of notice. Mailed notices shall be deemed received forty-eight (48) hours after they are mailed by certified mail, return receipt requested; notice by telegram shall be deemed received twenty-four (24) hours after they are sent. Notices to Members may also be personally delivered and shall be deemed received upon delivery to any occupant of the Member's residence.

4. **Quorum.** The presence at any meeting in person or by proxy of Members entitled to cast at least sixty percent (60%) of the total votes of all Members constitutes a quorum. If any meeting cannot be held because a quorum is not present, a majority of those present, either in person or by proxy, may adjourn the meeting for a period of not more than three (3) business days to acquire the proxy or presence of a quorum of Members. If the required quorum cannot be obtained, another meeting may be called subject to the notice requirement and the required quorum at the subsequently noticed 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. Any meeting of the Members at which a quorum is present may be adjourned for any reasons to a time not less than forty-eight (48) hours nor more than thirty (30) days from the time of such meeting by Members representing a majority of the votes present either in person or by proxy. If after the adjournment a new date is fixed for the adjourned meeting, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for regular meetings.

5. **Proxies.** At all meetings of Members, each Member may be present in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy is revocable and automatically ceases when the ownership interest or interests which entitles a Member to a membership in the Association ceases, and at automatically eleven (11) months from the date of its execution unless otherwise provided in the proxy, and in all cases, such proxy shall terminate three (3) years from its date.

6. **Order of Business.** The order of business of all meetings of the Members shall be as follows:

- (a) roll call;
- (b) proof of notice of meeting or waiver of notice;
- (c) a reading of minutes of preceding meeting;

- (d) reports of Board of Directors and officers;
- (e) election of members of the Board of Directors, if any are to be elected;
- (f) unfinished business; and
- (g) new business.

7. **Parliamentary Procedure.** All questions of parliamentary procedure shall be in accordance with Roberts Rules of Order.

8. **Majority of Owners.** Except as otherwise provided here or in the Declaration, the majority of the total voting power present, in person or by proxy, shall prevail at all meetings.

9. **Action Without Meeting.** Any action other than election of Board of Directors that may be taken at a meeting of the Members may be taken without a meeting if done in compliance with the provision of §16-6-26, et seq. of the Utah Nonprofit Corporations Act.

10. **Rights of Mortgagees.** Any Mortgagee through its designated representative shall be entitled to attend any Members' meeting but shall only be entitled to vote on the matters set forth in the Declaration.

V. **SELECTION AND TERM OF OFFICE OF MANAGEMENT COMMITTEE.**

1. **Number.** The Board of Directors shall consist of three (3) members who need not be Members of the Association.

2. **Term of Office.**

(a) On the date of the first annual meeting of the Members, three members of the Board of Directors shall be elected or appointed in accordance with these Bylaws and the Declaration. The initial term of office for these three Board of Directors members shall be as follows: (i) one Member, who shall serve for a term of three years; (ii) one Member shall serve for a term of two years; (iii) one Member shall serve for a term of one year. Thereafter, the term of office for a Board of Directors Member shall be two (2) years.

(b) Pursuant to the authority given by Section 10.1.1 of the Declaration, Declarant shall appoint all members of the Board of Directors on the date of the first annual meeting of Members.

3. **Election, Removal, Vacancies.**

(a) When the death, or resignation, of a Board of Directors Member occurs, his successor shall be selected by the remaining Members of the Board and shall serve for the unexpired term of his predecessor, except that Declarant shall select a successor for the Board of

Directors appointed by Declarant so long as Declarant has the power to appoint Board of Directors Members pursuant to Section 5.3 of the Declaration.

(b) The Members by majority vote at any annual or special meeting may remove any Director and may elect a new Director to serve the unexpired term of any Director so removed, provided, however, that unless the entire Board of Directors is removed, an individual Director shall not be removed if the number of votes against the resolution for his removal or not consenting to removal, would be sufficient to elect said Director if voted cumulatively at an election at which the same total number of votes were cast, and the same number of Directors were being elected at the time of the most recent election. Provided, further, a Director who has been elected to office solely by the votes of Members other than the Declarant may be removed from office prior to the expiration of his term of office only by a vote of at least a simple majority of the voting power residing in the Members other than the Declarant. Provided further, that such rights of removal shall be subject to Declarant's rights of appointment as provided in Section 5.3 of the Declaration.

4. **Compensation.** A Director shall not receive any compensation for any services he may render to the Association except upon the prior approval (i) of holders of a majority of the voting power of the Association and (ii) of holders of a majority of the voting power of the Association excluding Declarant. Any Director may be reimbursed for actual out-of-pocket expenses incurred by him in the performance of his duties.

VI. **NOMINATION AND ELECTION OF BOARD OF DIRECTORS.**

1. **Nomination.** Nomination for election to the Board of Directors shall be made by a nominating committee consisting of three (3) persons. Nominations also may be made from the floor at each annual meeting. The nominating committee shall consist of a chairman, who shall be a Director and two (2) other persons who may be either Members of the Association or representatives of Declarant. Each Member of the nominating committee shall be appointed by the Board of Directors to serve for a period of one (1) year and vacancies shall be filled by the Board of Directors. The nominating committee shall make as many nominations for election as it may, in its discretion, determine, but not less than the number of vacancies to be filled. Nominations may be made from among Members or non-Members.

2. **Election.** Election to the Board of Directors shall be by secret ballot. At the election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to cast under provisions of the Bylaws of the Declaration (and subject to cumulative voting and to the provisions respecting specially elected Directors as are described therein). The candidates receiving the highest number of votes shall be deemed elected.

VII. **MEETINGS OF THE BOARD OF DIRECTORS.**

1. **Regular Meetings.** Regular meetings of the Board of Directors shall be held monthly, at such place and hour as may be fixed from time to time by resolution of the Board of Directors. Should any such meeting fall on a legal holiday, then that meeting shall be held at the

same time on the next day that is not a legal holiday. Notice of the time and place of any such meeting shall be posted at a prominent place or places within the Common Area, and communicated to Board of Director Members not less than four (4) days prior to the meeting; provided, however, that notice of a meeting need not be given to any Director who has signed a waiver of notice or a written consent to holding of the meeting. Meetings shall be held at the Project, if possible, and if not, as close thereto as possible.

2. **Special Meeting.** Special meetings of the Board of Directors for any purpose or purposes shall be called at any time by written notice signed by any two (2) Directors. Written notice of the time and place of special meetings and the nature of any special business to be considered shall be delivered personally to all Directors or the Director's residence, or sent to each Director by letter or by telegram, charges prepaid, addressed to him at his address as it is shown upon the records of the Association. In case such notice is delivered personally or by telegraph, it shall be delivered at least seventy-two (72) hours prior to the time of holding the meeting; in case such notice is mailed, it shall be deposited in the United States mail, first-class, registered or certified at least four (4) days prior to the time of holding the meeting. Such mailing, telegraphing or delivery as above provided shall be due, legal and personal notice to such Director. Additionally, such notice shall be posted at a prominent place within the Common Area at least seventy-two (72) hours prior to the meeting. However, notice of the special meeting need not be given to any Director who signed a waiver of notice or a written consent to holding of the meeting.

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

4. **Conduct of Meetings.** Regular and special meetings of the Board of Directors shall be open to all Members of the Association; provided, however, that Association Members who are not on the Board of Directors may not participate in any deliberation or discussion unless expressly authorized by a vote of the majority of a quorum of the Board of Directors. The Board of Directors may, with the approval of a majority of a quorum of the Board of Director Members adjourn a meeting and reconvene in executive session to discuss and vote on personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar or otherwise sensitive nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

VIII. **POWER AND DUTIES OF THE BOARD OF DIRECTORS.**

1. **Powers.** The Board of Directors has all powers conferred upon the Association that are specified here and in the Declaration except those powers expressly reserved to the Members.

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

- (a) to cause to be kept a complete record of all of its acts and doings and to present a statement of them to the Members at each annual meeting of the Members, or at any special meeting when such statement is requested in writing by the Members representing one-fourth (1/4) of the Members;
- (b) to supervise all officers, agents, and employees of the Association, and to see that their duties are properly performed; and
- (c) to delegate its powers as provided in the Declaration;
- (d) to formulate and enforce any reasonable requirements pertaining to the use and maintenance of the units, the Common Areas and Facilities to prevent the unreasonable interference of the use of such areas among the respective Owners. This duty and power shall include the assignment of parking facilities and other facilities within the Common Areas, as necessary.

3. **Notice of Action by Written Consent.**

- (a) The Board of Directors may take actions without a meeting if all of the Board of Directors Members consent in writing to the action to be taken.
- (b) If the Board of Directors resolves by unanimous written consent to take action, an explanation of the action taken shall be posted at a prominent place or places within the Common Area within three (3) days after the written consents of all directors have been obtained.

IX. **OFFICERS AND THEIR DUTIES.**

- 1. **Enumeration of Officers.** The officers of the Association shall be a president and vice-president, who shall at all times be Members of the Board of Directors, a secretary/treasurer, and such other officers as the Board of Directors may create from time to time by resolution. Emuneration shall be approved by majority vote of each Association Member.
- 2. **Election of Officers.** The election of officers shall take place at the organizational meeting of the Board of Directors and at each meeting of the Board of Directors that follows each annual meeting of the Members.
- 3. **Term.** The officers of this Association shall be elected annually by the Board of Directors and each shall hold office for one year unless he resigns, is removed, or becomes otherwise disqualified to serve.
- 4. **Special Appointments.** The Board of Directors 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 of Directors may from time to time determine.

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

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

7. **Multiple Offices.** The offices of the 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 under Section 9.4 of these Bylaws.

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

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

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

(c) **Secretary.** The secretary shall record the votes and keep the minutes all of all meetings and proceedings of the Board of Directors and of the Members, shall keep appropriate current records showing the Members and their addresses, and shall perform such other duties as required by the Board of Directors.

(d) **Treasurer.** The Chief Financial Officer shall receive and deposit in appropriate bank accounts all money of the Association and shall disburse such funds as directed by resolution of the Board of Directors, shall co-sign all checks and promissory notes of the Association, shall keep proper books of account and shall cause the financial statement provided in Section 14 of the Bylaws for the Association for its fiscal year to be prepared and distributed to each Member as required therein.

9. **Fees and Compensation.** Officers shall be entitled to receive reasonable reimbursement for costs as determined by the Board of Directors. Nothing herein contained shall be construed or preclude any Officer from serving the Association in any other capacity as an officer, agent, employee or otherwise, and receiving compensation therefor. It is not

contemplated that officers will receive compensation for performing their duties as officers, but in the event that the Board of Directors decides to pay an officer compensation for his services, such officer, if he is a Member of the Board of Directors shall not participate in fixing such compensation, and any compensation paid a Member of the Board of Directors (regardless of the services rendered) must be approved by a vote (i) of holders of a majority of the voting power of the Association, and (ii) of holders of a majority of the voting power of the Association excluding Declarant.

X. **COMMITTEES.**

1. Subject to any contrary provisions of the Declaration and these Bylaws, the Board of Directors may appoint a nominating committee as provided in these Bylaws. In addition, the Board of Directors may appoint such other committees as it deems appropriate to carry out its purposes.

XI. **ASSESSMENTS.**

1. As more fully provided in the Declaration, each Member is obliged to pay to the Association annual and special assessments to be collected as described in that section, all of which is incorporated here by reference.

XII. **AMENDMENTS.**

1. These Bylaws can be amended only with a vote or written consent of Members entitled to cast at least fifty-one percent (51 %) of the voting power of the membership in the Association, and the vote or written consent of Members entitled to cast at least fifty-one percent (51 %) of the voting power of the membership in the Association, excluding Declarant.

2. Section 12.1 is not intended to limit the percentage of the voting power of the Association of Members (other than Declarant) necessary to amend a specific provision of these Bylaws when the specified provision requires a different percentage of affirmative votes. If more than fifty-one percent (51%) of the voting power is required by any specific provision of the Bylaws, the percentage in the specific provision shall control.

3. The adoption of any amendment to these Bylaws must comply with the provisions of the Utah Nonprofit Corporations Act.

XIII. **GENERAL PROVISIONS.**

1. **Conflicting Provisions.** In case of conflict between any provision of the Declaration and these Bylaws, the provisions of the Declaration shall control.

2. **Fiscal Year.** The fiscal year of the Association shall be a calendar year unless a different fiscal year is adopted by the Members at a duly constituted meeting.

3. **Proof of Membership.** No person can exercise the rights of membership in the Association until satisfactory proof of membership has been furnished to the secretary. Such proof may consist of either a copy of a duly executed and acknowledged grant deed or title insurance policy showing said person to be the Owner of a Unit entitling him to membership. The deed or policy is conclusive in the absence of a conflicting claim based on a later deed or policy.

4. **Absentee Ballots.** The Board of Directors may make such provisions as it considers necessary or desirable for absentee ballots.

5. **Consent to Waiver of Notice.** The transactions at any meeting of the Board of Directors, or Members, however noticed, shall be valid as though they occurred at a meeting held after regular notice of a quorum is present, and if either before or after the meeting each absent Board of Directors Member or Member of the Association signs a written waiver of notice or a consent to the holding of such meeting or an approval of its correct minute. All such waivers, consents, or approvals shall be filed with the records of the Board of Directors and made a part of its minutes.

6. **Reserves.** Any amounts collected by or paid to the Association in excess of operational needs shall be set aside as reserves for future financial needs in the manner described in the Declaration and shall be deposited into insured interest-bearing accounts. These sums may include amounts collected by Declarant from Owners through the purchase escrows that represent capital contribution by Members of the Association.

XIV. ANNUAL STATEMENT OF CERTAIN TRANSACTIONS AND INDEMNIFICATION.

1. **Budgets and Financial Statements.**

(a) The following financial statements for the Association shall be regularly prepared and distributed to all Members regardless of the number of Members or the amount of assets of the Association:

- (i) A budget for each fiscal year consisting of at least the following information shall be distributed not less than forty-five (45) days prior to the beginning of the fiscal year.
 - (1) Estimated revenue and expenses on an accrual basis.
 - (2) The amount of the total cash reserves of the Association currently available for replacement or major repair of common facilities and for contingencies.
 - (3) An itemized estimate of the remaining life of, and the methods of funding to defray repair, replacement or

additions to major components to the Common Areas and facilities for which the Association is responsible.

- (4) A general statement setting forth the procedures used by the Board of Directors in the calculations and establishment of reserves to defray the costs of repair, replacement or additions to major components of the Common Areas and facilities for which the Association is responsible.
- (ii) A balance sheet--as of an accounting date which is the last day of the month closest in time to six (6) months from the date of closing of the first sale of an interest in the subdivision--and an operating statement for the period from the date of the first closing to the said accounting date, shall be distributed within sixty (60) days after the accounting date. This operating statement shall include a schedule of assessments received and receivable identified by the number of the subdivision interest and the name of the entity assessed.
 - (iii) A report consisting of the following shall be distributed within one hundred twenty (120) days after the closing of the fiscal year.
 - (1) A balance sheet as of the end of the fiscal year.
 - (2) An operating (income) statement for the fiscal year.
 - (3) A statement of changes in financial position for the fiscal year.
 - (4) For any fiscal year in which the gross income to the Association exceeds \$75,000.00, a copy of the review of the annual report prepared in accordance with the generally accepted accounting principles by a licensee of the Utah State Board of Accountancy.

(b) If the report referred to in 14.1.1 (c) above is not prepared by an independent account, it shall be accompanied by the certificate of an authorized officer of the Association that the statement was prepared without independent audit from the books and records of the Association.

(c) In addition to financial statements, the governing body shall annually distribute within sixty (60) days prior to the beginning of the fiscal year a statement of the Association's policies and practices in enforcing its remedies against Members for defaults in the payment of regular and special assessments including the recording and foreclosing of liens against Members' subdivision interests.

2. The Board of Directors shall cause an annual statement of certain transactions and indemnification's to be sent to its Members not later than sixty (60) days after the close of the fiscal year of the Association. If the association issues an annual report to all Members, this requirement shall be satisfied by including the required information, as set forth below, in said annual report. Such annual statement shall describe:

(a) The amount and circumstances of any indemnification or advances aggregating to more than Ten Thousand Dollars (\$10,000.00) paid during the fiscal year of the Association to any officer of the Association; provided, that no such report need be named in the case of indemnification approved by the Members; and

(b) Any "covered transaction," as defined herein, during the previous fiscal year of the Association involving:

- (i) more than Forty Thousand Dollars (\$40,000.00) or,
- (ii) which was one of a number of "covered transactions" in which the same "interested person," as defined herein, had a direct or indirect material financial interest, and which transactions in the aggregate involved more than Forty Thousand Dollars (\$40,000.00). The statement shall describe the names of any "interested person(s)" involved in such covered transactions, including such "interested person(s)" relationship to the Association, the nature of such person's interest in the transaction, and, where practicable, the amount of such interest; provided, that in the case of a transaction with a partnership of which the interested person is a partner, only the interest of the partnership need be stated, for purposes of this Section, a "covered transaction" is a transaction in which the Association, or its parent or subsidiary, was a party, and in which either of the following had a direct or indirect material financial interest:
 - (1) Any Director or officer of the Association, or its parent or subsidiary; or
 - (2) Any holder of more than ten percent (10%) of the voting power of the Association, or of its parent or subsidiary.

For purposes of this Section, any person described in either subparagraph (i) or (ii) above is an "interested person."

3. The Association shall provide each new Unit owner with a copy of the most current financial statements which have already been distributed to the previous Unit Owner in accordance with Section 14.1 of these Bylaws.

XV. INSPECTION OF ASSOCIATION BOOKS AND RECORDS.

1. Any membership register, books of account and minutes of meetings of the Members, the Board of Directors and committees of the Board of the Association shall be made available for inspection and copying by any Member of the Association, or his duly appointed representative, or any Mortgagee, at any reasonable time and for a purpose reasonably related to his interest as a Member, at the office of the Association or at such other place within the Project as the Board of Directors prescribe.

2. The Board of Directors shall establish by resolution reasonable rules with respect to:

(a) Notice to be given to the custodian of the records of the Association by the Member, representative or Mortgagee desiring to make an inspection.

(b) Hours and days of the week when inspection may be made.

(c) Payment of the cost of reproducing copies of documents requested by a Member or by a representative or Mortgagee.

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

ADOPTED this 24th day of APRIL, 2000.

TALO L.C., DBA
TALO LAND ~~MANAGEMENT~~ COMPANY (LLC) (WFO)
By [Signature]
MANAGING MEMBER SR
[Signature]

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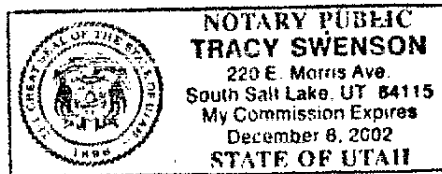
STATE OF UTAH)
)ss.
COUNTY OF SALT LAKE)

On the 24th day April, 2000 personally appeared before me Susan Beuchert, the signer of the foregoing instrument individually and as registered agent and after being duly sworn, acknowledged to me that she signed the same of her own free will.

Tracy Swenson
NOTARY PUBLIC
Residing in:

My commission expires:

12/6/2002



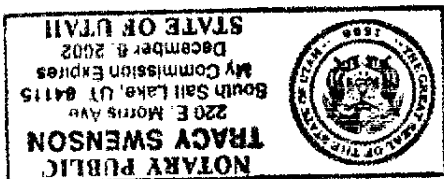
STATE OF UTAH)
)ss.
COUNTY OF SALT LAKE)

On the _____ personally appeared before me William L. Jefferies, the signer of the foregoing instrument and after being duly sworn, acknowledged to me that he signed the same of his own free will, **AS MANAGING MEMBER OF TALO L.C. DBA TALO LAND COMPANY.**

Tracy Swenson
NOTARY PUBLIC
Residing in:

My commission expires:

12/6/2002



NOTARY SEAL NOT LEGIBLE
- CO RECORDER -

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