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NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
BIRCHTREE INDUSTRIAL LLC
1084 N INDUSTRIAL PARK DR
OREM UT 84057
BY: RDJ, DEPUTY - WI 29 p.

**DECLARATION OF CONDOMINIUM
OF
LANDING'S POINTE**

THIS DECLARATION is made as of the date hereinafter set forth by the undersigned Declarant, pursuant to the provisions of the Utah Condominium Ownership Act.

RECITALS

1. Declarant is the owner of real property located at 7984 So. Welby Park Drive in the City of West Jordan, Salt Lake County, State of Utah, as described in Exhibit "A" and referred to collectively as the "Tract".
2. Declarant is developing the Tract into a Condominium Project, with arrangements involving separate ownership of individual condominium units and joint collective ownership of common areas and facilities. The development will be performed in accordance with the plans and drawings contained in the certified Record of Survey Map filed for record simultaneously herewith.
3. Declarant desires, by filing this Declaration and the Record of Survey Map, to submit said Tract and all improvements now or hereafter constructed thereon to the provisions of the Utah Condominium Ownership Act as a Condominium Project to be known as Landing's Pointe.
4. Declarant intends to sell to various purchasers the Fee Title to the individual Units contained in the Project, together with the undivided ownership interest in the Common Areas and Facilities appurtenant to such Units, subject to the covenants, conditions, restrictions, limitations, and easements herein set forth.

NOW THEREFORE, Declarant hereby declares and certifies as follows:

ARTICLE I

DEFINITIONS

When used in this Declaration and in the Bylaws attached hereto as Exhibit "B", the terms shall have the meaning stated in the Utah Condominium Ownership Act and as follows, unless the context requires otherwise.

1. Act shall mean and refer to the Utah Condominium Ownership Act, Title 57, Chapter 8, Utah Code Annotated (1953), as the same may be amended from time to time.
2. Association of Unit Owners or the Association shall mean and refer to the Unit Owners acting as a group in accordance with the Declaration and Bylaws.
3. Common Areas shall mean and refer to and include:

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(a) The land on which the building and other improvements are constructed and submitted by this Declaration to the terms of the Act.

(b) Those Common Areas and Facilities specifically set forth and designated as such in the Map.

(c) That part of the Condominium Project not specifically included in the respective Units as herein defined.

(d) All Limited Common Areas and Facilities.

(e) All exterior walkways, yards, fences, open parking spaces, installation of central services such as power, light, gas, all apparatus and installations existing for common use, and such recreational and community facilities as may be provided for.

(f) All other parts of the Project normally in common use or necessary or convenient to its use, existence, maintenance, safety or management.

(g) All Common Areas and Facilities as defined in the Act, whether or not expressly listed herein.

4. Common Expenses shall mean all items, things and sums described in the Act, this Declaration, the Bylaws, and such rules and regulations pertaining to the Condominium Project as the Management Committee or the Association may from time to time adopt.

5. Condominium Project or Project shall mean and refer to a plan or project whereby two or more units in an existing building are separately offered or proposed to be offered for sale. In this case Project shall mean and refer to the tract of land situated in Salt Lake County, State of Utah, described in Exhibit "A", together with all appurtenances thereto, which shall be called Landing's Pointe.

6. Condominium Unit shall mean and refer to one of the Units intended for independent use, together with the undivided interest in the common areas and facilities appertaining to that unit, as defined in the Act and as shown in the Map. Mechanical equipment and appurtenances located within any one Unit or located without said Unit but designated and designed to serve only that Unit, such as appliances, electrical receptacles and outlets, fixtures and the like, shall be considered part of the Unit, as shall all decorated interiors, all surfaces of interior structural walls, floors and ceilings, windows and window frames, doors, and door frames, and trim, consisting of wallpaper, paint, flooring, carpeting and tile. All pipes, wires, conduits, or other public utility lines or installations constituting a part of the Unit or serving only the Unit, and any structural members of any other property of any kind, including fixtures and appliances within any Unit, which are removable without jeopardizing the soundness, safety, or usefulness of the remainder of the building within which the Unit is situated shall be considered part of the Unit.

7. Conversion shall mean a proposed change in the type of ownership of an existing structure from single ownership such as a multi-family dwelling into a "Condominium Project" as herein defined with arrangements involving separate ownership of individual condominium units and joint collective ownership of common areas or facilities.

8. Declarant shall mean and refer to the person who executes the Declaration or on whose behalf the Declaration is executed.

9. Declaration shall mean and refer to this Declaration, which is a recorded declaration containing covenants, conditions, and restrictions relating to the condominium project and prepared in conformance with the provisions of the Act. Any conflicts shall be construed to comply with the provisions of the Act.

10. Limited Common Areas shall mean those Common Areas designated in the Declaration and shown on the Map as reserved for use of a certain Unit or Units to the exclusion of other Units. Limited Common Areas include any parking spaces specifically assigned for the exclusive use of the individual Unit Owners.

11. Management Committee shall mean and refer to the Committee as provided in the Declaration charged with and having the responsibility and authority to make and to enforce all of the reasonable rules and regulations covering the operation and maintenance of the Property.

12. Map shall mean and refer to the Record of Survey Map filed herewith captioned Landing's Pointe.

13. Mortgage shall mean any mortgage, Deed of Trust, or other security instrument by which a Unit or any part thereof is encumbered.

14. Mortgagee shall mean any person named as a Mortgagee or beneficiary under or holder of a Deed of Trust.

15. Property shall mean and refer to the Tract described in Exhibit "A", the building, all improvements, all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

16. Unit Number shall mean and refer to the number, letter, or combination thereof which designates a Unit on the Map.

17. Unit Owner or Owner shall mean and refer to the Owner of the Fee in a Unit and the Ownership of Undivided Interest in the Common Areas which is appurtenant thereto. The Declarant shall be deemed to be the Owner of all unsold Units. In the event a Unit is the subject of a executory contract of sale, the Buyer shall be considered the Unit Owner, unless the Seller and the Buyer have otherwise agreed and have informed the Committee in writing of such agreement.

ARTICLE II

SUBMISSION TO THE ACT

Declarant hereby submits to the provisions of the Act the real property situated in Salt Lake County, State of Utah, described in Exhibit "A".

ARTICLE III

COVENANTS, CONDITIONS, AND RESTRICTIONS

The foregoing submission is made upon the following covenants, conditions, and restrictions.

1. Description of Improvements. The improvements included in the Project are now or will be located on the Tract and described on the Map. The Map indicates the number of Units which are to be contained in the buildings which comprise a part of such improvements, the dimensions of the Units, and other significant facts relating to the building and Common Areas. The Condominium Project will consist of a total of fourteen (14) Units.

2. Description and Legal Status of Units. The Map shows each Unit, its location, dimensions from which its area may be determined, the Limited Common Areas which are reserved for its use, and the Common Areas of the Project.

3. Voting Rights, Assessments, Common Areas. Voting rights in the entire project are based on one vote per Unit. Assessments for services, insurance, maintenance, landscaping, and related items as authorized in the Declaration and Bylaws are allocated equally to each Unit. The percentage of Common Area of the entire project is allocated equally to each Unit.

4. Common and Limited Common Areas. The common areas contained in the Project are described and identified in Article I hereof and in the Map. Neither the ownership of Undivided Interest in the Common Areas nor the right of exclusive use of a Limited Common Area shall be separated from the Unit to which it appertains; and even though not specifically mentioned in the instrument of conveyance, such percentage of undivided interest and such right of exclusive use shall automatically accompany the conveyance of the Unit to which they relate.

5. Determination of Interest in Common Areas. The proportionate share of the Unit Owners in the Common Areas of the project is based on the ratio that each of the Units bear to the total number of all the Units. The proportionate ownership of the Common Areas shall be used for all purposes, including, but not limited to, assessment for Common Expenses. The maximum interest for each of the Unit Owners in the Common Areas is based upon the square footage of each unit. (SEE EXHIBIT "B")

6. Use of Common Areas and Limited Common Areas. Subject to the limitations contained in the Declaration, any Unit Owner shall have the non-exclusive right to use and enjoy the Limited Common Areas designated herein (and on the Map) for exclusive use by such owner.

7. Holding Title. Title to any Unit may be held or owned by any entity and in any manner in which title to any other real property may be held or owned in the State of Utah.

8. No Separation. No part of any Unit or of the legal rights comprising ownership of a Unit may be separated from any other part thereof during the period of Condominium Ownership described herein, so that each Unit, the Undivided Interest in the Common Areas appurtenant to such Unit, and the exclusive right to use and occupy the Limited Common Areas appurtenant to each Unit, shall always be conveyed, devised, encumbered, and otherwise affected only together and may never be separated from one another. Every gift, devise, bequest, transfer, encumbrance, or other disposition of a Unit or any part thereof, shall constitute a gift, devise, bequest, transfer, encumbrance, or conveyance, respectively of the entire Unit, together with all appurtenant rights created by law or by this Declaration.

9. No Partition. The Common Area shall be owned in common by all of the owners of Units, and no Unit Owner may bring action for partition thereof.

10. Unit Maintenance. Each Owner shall at his own cost and expense maintain, repair, paint, tile, wax, paper or otherwise refinish and decorate the interior walls and trim, the interior surfaces of the walls, ceilings, floors, and windows and doors forming the boundaries of his Unit and all walls, ceilings, floors, windows, and doors within such boundaries. In addition to decorating and keeping the interior of the Unit in good repair and in a clean and sanitary condition, he shall be responsible for the maintenance, repair, or replacement of any plumbing fixtures, water heater, heating equipment, air conditioning equipment, lighting fixtures, refrigerator, dishwasher, disposal equipment, or other appliances or fixtures that may be in or connected with his Unit.

11. Maintenance of Limited Common Areas. Each Owner shall keep the Limited Common Areas designed for use in connection with his Unit in a clean, sanitary, and attractive condition at all times.

12. Easement for Encroachment. If any part of the Common Areas encroaches or shall hereafter encroach upon a Unit or Units, an easement for such encroachment and for the maintenance for the same, shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas or upon an adjoining Unit or Units, an easement for such encroachment and for the maintenance shall and does exist. Such encroachments shall not be considered to be encumbrances either in the Common Areas or the Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of the building on the Tract, by error in the Map, by settling, raising, or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

13. Access for repair of Common Areas. Some of the Common Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Owners of the other Units shall have the irrevocable right, to be exercised by the Committee as their agent, to have access to each Unit and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, repair, or replacement of any of the Common Areas located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Areas or another Unit or Units. The Committee shall also have such rights independent of the agency relationship. Damage to the interior of any part of the Unit or Units resulting from the maintenance, repair, emergency repair, or replacement of any of the Common Areas or as a result of emergency repairs within another Unit at the instance of the Committee or of Unit Owners, shall be an expense of all the Unit Owners and assessed proportionately; provided, however, that if such damage is the result of negligence of the Owner of the Unit, then such Owner shall be held financially responsible for all such damage. Amounts owing by Owners pursuant hereto shall be collected by the Committee by assessment pursuant to the Declaration of Covenants, Conditions and Restrictions concerning the Landing's Pointe Project as above referred to.

14. Right of Ingress, Egress, and Lateral Support. Each Owner shall have the right to ingress and egress over, upon and across the Common Areas designated for use in connection with his Unit, and each Owner shall have the right to the horizontal and lateral support of the Unit, and such rights shall be appurtenant to and pass with the title to each Unit.

15. Easement to Management Committee. The Management Committee shall have non-exclusive easements to make such use of the Common Areas as may be necessary or appropriate to perform the duties and functions which they are obligated or permitted to perform pursuant to this Declaration.

16. Easement for Utility Services. There is hereby created a blanket easement upon, across, over and under the Tract for ingress, egress, installation, replacement, repair, and maintenance of all utilities, including, but not limited to, water, sewer, gas, telephone, electricity, and other utility services.

17. Legal Description of a Unit. Each conveyance or contract for the sale of a Unit and every other instrument affecting title to a Unit may describe that unit by the number shown on the Map with appropriate reference to the Map and to this Declaration, as each shall appear on the Records of the County Recorder of Salt Lake County, State of Utah, and in substantially in the following form:

“Unit _____ shown in the Record of Survey Map for Landing’s Pointe appearing in the records of the County of Salt Lake, State of Utah in Book _____, Page _____, and as defined and described in the Declaration of Condominium of Landing’s Pointe, appearing in such Records in Book _____, Page _____ . This conveyance is subject to the provisions of the Declaration.”

Such description will be construed to describe the Unit, together with an Undivided Interest in and to the Common Areas as the same is established and identified in the Declaration and Map referred to herein above, and to incorporate all the rights incident to Ownership of a Unit and all the limitations of such Ownership as described in this Declaration.

18. Status and General Authority of Committee.

(a) Except as hereinafter provided, the Condominium Project shall be managed, operated and maintained by the Management Committee as agent for the Homeowners Association and Unit Owners. The Committee shall, in connection with its exercise of any of the powers hereinafter provided, constitute a legal entity capable of dealing in the Committee’s name. The Management Committee shall have, as is hereby granted, the following authority and powers:

(1) The authority, with the consent of the Unit Owners or of any other person(s), to grant or create on such terms as it deems advisable, utility and similar easements over, under, across, and through the Common Areas.

(2) The authority to execute and record, on behalf of all Unit Owners, any amendments to the Declaration or the Map which have been approved by the vote or consent necessary to authorize such amendment.

(3) The power to sue and be sued.

(4) The authority to enter into contracts relating to the Common Areas and other matters over which it has jurisdiction so long as any vote or consent of the Unit Owners necessitated by the subject matter of the agreement has been obtained.

(5) The power and authority to convey or transfer any interest in real property, so long as the vote or consent necessary under the circumstances has been obtained.

(6) The power and authority to purchase, or otherwise acquire and accept title to any interest in real property, so long as such action has been authorized by any vote or consent which is necessary under the circumstances.

(7) The power and authority to add any interest in real property obtained pursuant to Subparagraph (6) above to the Project, so long as such action has been authorized by the necessary vote and consent.

(8) The authority to promulgate such reasonable rules, regulations, and procedures as may be necessary or desirable to aid the Committee in carrying out its function or to insure that the Project is maintained and used in a manner consistent with the interests of the Unit Owners.

(9) The power and authority to perform any other acts and to enter into any other transactions, subject to the rights of the Association, which may be reasonable or necessary for the Management Committee to perform its functions as agent for the Unit Owners. Any instrument executed by the Management Committee relating to the Common Areas of the Project that recites facts which, if true, would establish the Committee's power and authority in favor of any person who in good faith and for value relies upon said instrument.

(b) Composition of Committee, Election, Vacancy. The Management Committee shall be composed of three (3) members. Only Unit Owners, spouses, or agents of Unit Owners shall be eligible for Committee Membership. At the annual meeting, each Unit Owner has one vote for as many candidates or committee memberships as there are seats on the Committee to be filled. In case of vacancy, the remaining Committee members shall elect a replacement to sit on the Committee until the expiration of the term for which the member being replaced was elected.

(c) Rights and Duties. The Management Committee, subject to the rights and duties of the Association, this Declaration, and the Bylaws shall be responsible for the general management of the project, including maintenance of the Common Areas.

(d) Delegation to a Manager. The Management Committee may carry out any of its functions which are capable of delegation through a Manager. The Manager so engaged shall be responsible for managing the Common Areas and shall, to the extent permitted by law and the terms of the agreement with the Management Committee, be authorized to perform any of the functions or acts required of permitted to be performed by the Management Committee itself.

(e) Payment of Services, etc. The Management Committee may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Management Committee shall determine to be necessary or desirable for the proper operation of its function in the Project, whether by such Committee or by any person of entity with whom it contracts. The Management Committee may obtain and pay for the operation of the Project or the enforcement of this Declaration. It is recognized that the Committee may arrange with other persons to furnish snow removal, ground maintenance, and other common services to the Project, whether such personnel are furnished or employed directly by the Management Committee.

(f) Personal Property Ownership and Use. The Management Committee may acquire and hold for the use and the benefit of all the Owners tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners in the same proportion as their respective interests in the Common Areas. Such interest shall not be transferable except with the transfer of a Unit. The transfer of a Unit shall transfer to the transferee ownership of the transferor's beneficial interest in such property without reference thereto. Each Owner may

use such property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of other Owners.

(g) Rules and Regulations. The Management Committee may make reasonable rules and regulations governing the operation and use of the Common Areas and of other matters over which it has jurisdiction, which rules and regulations shall be consistent with the rights and duties established in this Declaration and Bylaws. The Management Committee may suspend any Owner's voting rights at the meetings of Unit Owners during any period which such Owner fails to comply with such rules and regulations or any other obligation under this Declaration. The Management Committee may also take judicial action against any Owner to enforce compliance with such rules and regulations or other obligations, or to obtain damages for noncompliance, all to the extent provided by law.

(h) Capital Improvements. There shall no structural alterations, capital additions to, or capital improvements of the Common Areas requiring expenditures in excess of Five Thousand Dollars (\$5,000.00) without the prior approval of the Unit Owners holding a majority of the voting power.

(i) Other Rights and Privileges. The Management Committee may exercise any other right or privilege given to it expressly by this Declaration or by law.

19. Landing's Pointe Homeowners Association. The conveyance of each Unit and its proportionate share of the Common Areas shall be subject to the covenants, conditions, restrictions, easements, charges, and liens as contained in the Declaration. All Unit owners shall automatically become members of the Landing's Pointe Homeowners Association which shall elect the Management Committee to maintain and administer facilities, maintain common areas in the Project, enforce the covenants and restrictions imposed in this Declaration, and collect and disburse the assessments and charges created herein.

20. Assessments.

(a) Agreement to Pay Assessments. Each Owner of a Unit by the acceptance of a deed or contract therefore, whether or not it be so expressed in the deed or contract, shall be deemed to covenant and agree with each other and with the Management Committee to pay annual assessments made by them for the purposes provided in this Declaration, and special assessments for capital improvements and other matters as provided in this Declaration. Such assessments shall be fixed, established and collected from time to time in the manner provided hereunder.

(b) Basis of Assessments. The total annual assessments against all Units shall be based upon advance estimates of cash requirements by the Management Committee to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Areas and/or the Common Properties, which estimates may include expenses of management, taxes and special assessments, premiums for insurance, common lighting, water, sewer, waste management, repair and maintenance of the Common Areas including lawn care and snow removal, legal and accounting fees, deficits from a previous period, creation of a reasonable contingency reserve, surplus and/or sinking fund, and any other expenses and liabilities which may be incurred by the Committee for the benefit of the Owners.

(c) Apportionment of Expenses. Expenses attributable to the Common Area and to the Project as a whole shall be apportioned among all Units equally.

(d) Reserve for Utilities. The Management Committee shall arrange to have an adequate reserve established for the payment of utilities, including water, sewer, and garbage disposal for the Project. If the reserve is depleted and not replenished, or if any utilities are not paid when due, the utilities may be turned off. All Unit Owners are hereby informed and notified that nonpayment of utility bills by the Association or the Management Committee may result in the loss of utility service.

(e) Method, Payment of Assessments, etc. Annual assessments shall be made on a calendar year basis. The Management Committee shall give written notice to each Owner as to the amount of the annual assessment with respect to his Unit not less than thirty (30) days nor more than sixty (60) days prior to the beginning of the next calendar year, provided, however, that the first annual assessment shall be for the balance of the calendar year remaining after the day fixed by the Committee as the date of commencement of the assessment. Each annual assessment shall be due and payable in monthly installments. Each monthly assessment shall bear interest at the rate of twelve (12%) per annum from the date it becomes due and payable if not paid within thirty (30) days after such date. Such monthly assessment becomes payable upon the date the Unit Owner purchases his Unit, whether by conveyance of title or entering into a contract of sale and purchase, and thereafter each monthly payment shall be due and payable on the first day of each and every month in advance.

(f) Special Assessments. In addition to the annual assessments authorized hereunder, the Management Committee may levy in any assessment year special assessments, subject to the provisions of paragraph 18 (h) above, payable over such period as the Management Committee may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Common Areas of the project or any other part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration. Any amount pursuant thereto shall be assessed to Owners in proportion to their respective Undivided Interest in the Common Areas. Notice in writing of the amount of such special assessment and the time for payment thereof shall be given promptly to the Owners, and no payment shall be due less than thirty (30) days after such notice shall have been given. A special assessment shall bear interest at the rate of twelve percent (12%) per annum from the date after it becomes due and payable if not paid within thirty (30) days.

(g) Liens for Unpaid Assessments. All sums assessed to any Unit pursuant to this Section, together with interest thereon as provided herein, shall be secured by a lien on such Unit in favor of the Management Committee. Any such lien shall be superior to all other liens and encumbrances on such Unit, except only for governmental assessment authority, encumbrances on the interest of the Unit Owner recorded prior to the date notice of the lien is recorded, which by law would be a lien prior to subsequently recorded encumbrances.

(1) To evidence a lien for sums assessed pursuant to this Section, the Management Committee may prepare a written notice of the lien setting forth the amount of the assessment, the due date, the amount remaining unpaid, the name of the Owner of the Unit, and a description of the Unit. Such notice shall be signed by the Management Committee and may be recorded in the Office of the County Recorder of Salt Lake County, State of Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by foreclosure by the Management Committee in the same manner in which mortgages or trust deeds on real property may be foreclosed in Utah. In any such foreclosure, the Owner shall be required to pay the cost and expenses of such proceeding, the cost and expenses of filing the notice of lien, and all reasonable attorney's fees. All such costs, expenses and fees shall be secured by the lien being foreclosed. The

lien shall also secure, and the Owner shall also be required to pay to Management Committee, any assessments against the Unit which shall become due during the period of foreclosure. The Management Committee shall have the right and the power to bid an amount equal to its then existing lien at the foreclosure sale or other legal sale to acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the same as the Owner thereof.

(2) A release of lien shall be executed by the Management Committee and recorded in the Office of the County Recorder of Salt Lake County, State of Utah, upon payment of all sums secured by a lien which has been made the subject of a recorded notice of lien.

(3) Any encumbrancer holding a lien on a Unit may pay, but shall not be required to pay, any amounts secured by the lien created by this Section, and upon such payments such encumbrancer shall be subrogated to all rights of the Management Committee with respect to such lien, including priority.

(4) The Management Committee shall report to any encumbrancer of a Unit any unpaid assessments remaining unpaid for longer than sixty (60) days after the same shall become due; provided however, that such encumbrancer first shall have furnished to the Management Committee written notice of such encumbrance.

(h) Personal Obligation Assessments. The amount of any annual or special assessment against any Unit shall be the personal obligation of the Owner thereof to the Management Committee. Suit to recover a money judgment for such personal obligation shall be maintained by the Management Committee without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his Unit.

(i) Information Concerning Unpaid Assessments. Upon payment of a reasonable fee not to exceed Ten Dollars (\$10.00) and upon written request of any Owner or mortgagee, prospective mortgagee, or prospective purchaser of a Unit, the Management Committee shall issue a written statement setting forth the amount of the unpaid assessments, if any, with respect to such portion thereof which has theretofore been paid; credit for advance payments of prepaid items, including, but not limited to, an Owner's share of prepaid insurance premiums and such statement shall be conclusive upon such Management Committee in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within ten (10) days, all unpaid assessments which became due prior to the date of making such request shall be subordinate to the lien of the mortgagee which acquired its interest subsequent to requesting such statement. Where a prospective purchaser makes such request, both the lien for such unpaid assessments and the personal obligation of the purchaser shall be released automatically if the statement is not furnished within the ten (10) day period provided herein and thereafter an additional written request is made by such purchaser and is not complied with within ten (10) days, and the purchaser subsequently acquires the Unit.

(j) Purchaser's Obligation. Subject to the provisions of Subparagraph (h), a purchaser of a Unit shall be jointly and severally liable with the seller for all unpaid assessments against the Unit up to the time of the grant or conveyance, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

(k) Collection by the Committee. It is recognized that the Management Committee under this Declaration will maintain the Common Areas of the Project, except as otherwise provided herein, and will

levy assessments for the purposes of performing functions it is authorized to perform within the Project. With respect to the Units in the Project, the Management Committee shall be authorized to collect from the Unit Owners and enforce liability for the payment of assessments levied pursuant to this Declaration.

21. Use of Condominium. Each of the Units in the Project is intended to be used for residential purposes and is restricted to such use.

(a) Restriction Concerning Common Areas. There shall be no obstruction on the Common Areas by the Owners, their tenants, guests, or invitees without the prior written consent of the Management Committee. The Management Committee may by rules and regulations prohibit or limit the use of the Common Areas as may be reasonably necessary for protecting the interests of all the Owners or protecting the Units or the Common Areas. Nothing shall be kept or stored on any part of the Common Areas without the prior written consent of the Management Committee, except as specifically provided herein. Nothing shall be altered on, constructed in, or removed from the Common Areas, except upon written consent of the Management Committee.

(b) Parking Restrictions. The Management Committee may establish reasonable parking restrictions and shall strictly enforce compliance with the applicable parking provisions contained in the municipal ordinances.

(c) Miscellaneous Restrictions. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would result in the cancellation of the insurance of the Project, or increase the rate of the insurance on the Project, without the prior written consent of the Management Committee. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirements of any governmental body. No damage to or waste of the Common Areas or any part thereof shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Management Committee and the other Owners harmless against all loss resulting from any such damage or waste caused by him or his invitee. No noxious, destructive, or offensive activity shall be carried on in any Unit or in the Common Areas or any part thereof, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any person at any time lawfully residing in the Project.

(d) Animals. No animals may be kept outside any Unit. Whenever pets are taken outside they must be under leash and in the possession and control of the owner at all times. Barking and other disturbing behavior by pets is not allowed. Pets must not be allowed to defecate or urinate anywhere on the common areas. Pets, pet messes, and damages caused by pets are the responsibility of the pet owner or Unit owner.

(e) No Violation of Rules and Regulations. No Owner shall violate the rules and regulations for the use of the Units and the Common Areas as adopted from time to time by the Management Committee.

(f) Restrictions on Alterations. No structural alterations to any Unit shall be made by any Owner without the prior written consent of the Management Committee, which will not be unreasonably withheld.

(g) Declarant's Right to Sell Units. Notwithstanding anything contained herein to the contrary, until the Declarant has completed and sold all of the Units, the Unit Owners who have purchased Units from the Declarant shall not interfere with the completion of the contemplated improvements and sale of the remaining Units. The Declarant may make such use of the unsold Units and the Common Areas as may

facilitate such completion and sale, including, but not limited to, the showing of the Units, and the display of signs.

22. **Insurance.** The Management Committee shall secure or cause to be secured and maintained at all times the following insurance and bond coverage:

(a) A policy of fire and casualty insurance with extended coverage endorsement, for the full insurable replacement value of the entire Project. Such policy or policies shall be made payable to the Committee and all persons holding an interest in the Project or any of the Units, as their interest may appear.

(b) The securing of appropriate fidelity bond coverage is recommended for any person or entity handling funds of the Association, including, but not limited to, employees of the professional managers. Such fidelity bonds should name the Association as an obligee, and be written in an amount equal to at least one hundred fifty percent (150%) of the estimated annual operating expenses of the Condominium Project, including reserves.

(c) A policy insuring the Management Committee, the Manager, and the Unit Owners against any liability incident to the ownership, use or operation of the Project or of any Unit which may arise among themselves, to the public, or to any invitees or tenants of the Project or of the Unit Owners. Limits of liability under such insurance shall not be less than Three Hundred Thousand Dollars (\$300,000) for any person injured, One Million Dollars (\$1,000,000) for all persons injured in any one accident, and One Million Dollars (\$1,000,000) for property damage resulting from one occurrence.

(d) The following additional provisions shall apply with respect to insurance:

(1) In addition to the insurance described above, the Management Committee shall secure and at all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with condominium projects similar to the Project in construction, nature and use.

(2) The Management Committee shall have the authority to adjust losses.

(3) Insurance secured and maintained by the Management Committee shall not conflict with insurance held by the individual Unit Owners or their mortgages.

(4) Each policy of insurance obtained by the Management Committee shall, if possible, provide a waiver of the insurer's subrogation rights with respect to the Management Committee, the Manager, the Unit Owners, and their respective agents and guests; that it cannot be canceled, suspended, or invalidated due to the conduct of any member, officer, or employee of the Committee or of the Manager without prior written notice that the defect be cured; and that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Unit Owners.

(5) Each individual Unit Owner will be responsible to insure his or her personal property to cover any loss or damage. Any Unit Owner may obtain additional insurance at his own expense, so long as such additional insurance does not have the effect of decreasing the amount which may be realized under any policy maintained by the Management Committee. Any Unit Owner who

individually obtains insurance covering any portion of the Project shall supply the Management Committee with a copy of his policy within thirty (30) days after he acquires such insurance.

23. Damage to Project. In the event of damage to or destruction of part or all of the improvements in the Condominium Project, the following procedures shall apply:

(a) If proceeds of the insurance maintained by the Management Committee are alone sufficient to repair or reconstruct the damaged or destroyed improvement, such repair or reconstruction shall be carried out.

(b) If less than seventy-five percent (75%) of the Project's improvements are destroyed or substantially damaged, or if proceeds of the insurance maintained by the Management Committee are not alone sufficient to accomplish repair or reconstruction, restoration shall be carried out upon approval of at least seventy-five percent (75%) of the affected Unit Owners. All affected Owners shall be assessed for any deficiency on the basis of their respective percentages of Undivided Interest in the Common Areas and Facilities.

(c) If seventy-five percent (75%) or more of the Project's improvements are destroyed or substantially damaged, if proceeds of the insurance maintained by the Management Committee are insufficient to accomplish restoration, and if the Unit Owners do not, within one hundred (100) days after the destruction or damage and by a vote of at least seventy-five percent (75%), elect to repair or reconstruct the affected improvements and the Management Committee shall promptly record with the Salt Lake County Recorder such notice. The provisions of Subsections (1) through (4) of the Section 57-8-31, Utah Code Annotated (1953) shall apply and govern the rights of all parties having an interest in the Project or any of the Units. Any reconstruction or repair which is required to be carried out by this Paragraph 23 shall be accomplished at the direction of the Management Committee. Any determination which is required to be made by this Paragraph 23 regarding the extent of the damage to or destruction of Project improvements shall be made by a qualified appraiser selected by the Management Committee.

24. Amendments. Except as provided below, the vote of at least seventy-five percent (75%) of the undivided ownership interest in the Common Areas and Facilities shall be required to amend this Declaration or the Record of Survey Map. Any amendment so authorized shall be accomplished through the recordation of any instrument executed by the Management Committee. In such instrument, the Management Committee shall certify that the vote required by this Paragraph for Amendment has occurred. Until Units representing seventy-five percent (75%) of the Undivided Ownership Interest in the Project have been sold or the expiration of five (5) years after the first conveyance of title to any Unit purchased, whichever comes first, Declarant shall have and is hereby vested with the right to amend this Declaration or the Record of Survey Map. Such right shall exist without regard to the subject matter of the amendment, so long as the amendment involved is consistent with law.

25. Consent Equivalent to Vote. In those cases in which the Act or this Declaration requires the vote of a stated percentage of the Project's Undivided Ownership Interest for the authorization or approval of a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Unit Owners who collectively hold at least the necessary percentage of Undivided Ownership Interest.

26. Service of Process. Service of Process shall be received by Larry O. Franck, managing member of Birchtree Industrial, L.L.C., the Declarant, at 1084 North Industrial Park Drive, Orem, Utah 84057, until a President of the Association is elected, after which time service of Process shall be received by the President of the Association at the official address of the Project. He shall serve as agent for service of process in cases authorized by the Act. The Management Committee shall have the right to appoint a successor or substitute process agent. Such successor or substitute agent and his address shall be specified by an appropriate instrument filed in the office of the County Recorder of Salt Lake County, State of Utah.

27. Mortgage Protection. Notwithstanding anything to the contrary in the Declaration:

(a) An adequate reserve fund for replacement of the Common Areas must be established and shall be funded by regular monthly payments rather than by special assessments.

(b) There shall be established a working capital fund for the initial months of operation of the Project equal to a minimum amount of two (2) months estimated Common Area charge for each Unit.

(c) Any mortgage holder which comes into possession of a Unit pursuant to the remedies provided in the mortgage or foreclosure of the mortgage or deed (or assignment in lieu of foreclosure) shall be exempt from any provisions relating to sale or lease of the Units in the Project.

(d) Any management agreement for the Project shall be terminable by the Management Committee for cause upon thirty (30) days written notice thereof, and the term of any such agreement shall not exceed one year, but may be renewable by agreement of the parties for successive one year periods.

(e) In the event of substantial damage to or destruction of any Unit or any part of the Common Areas, the institutional holder of any first mortgage on a Unit shall be entitled to timely written notice of any such damage or destruction. No Unit Owner or other party shall be entitled to priority over such institutional holder with respect to the distribution to such Unit of any insurance proceeds.

(f) If any Unit or portion thereof or the Common Areas or any portion thereof is made the subject matter of any condemnation proceeding by a condemning authority, the institutional holder of any first mortgage on a Unit shall be entitled to timely written notice of any such proceeding or proposed acquisition, and no Unit Owner or other party shall have priority over such institutional holder with respect to the distribution to such Unit of the proceeds of any award or settlement.

(g) There shall be no prohibition or restriction on a Unit Owner's right to lease his or her Unit. Any lease agreement shall provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration and Bylaws and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be in writing.

(h) Each holder of the first mortgage lien on a Unit who comes into possession of a Unit by virtue of foreclosure of the mortgage, or by deed or assignment in lieu of foreclosure, or any purchase at a foreclosure sale, shall take the Unit free of any unpaid claims or assessments and charges against the Unit which accrue prior to the time such holder comes into possession of the Unit.

(i) Any holder of the mortgage is entitled to written notification from the Management Committee of any default by the mortgagor of such Unit in the performance of such mortgagor's obligation under the Declaration which is not cured within thirty (30) days of notice of default.

(j) Any lien which the Management Committee may have on any Unit in the Project for the payment of Common Expense assessments attributable to such Unit will be subordinate to the lien or equivalent security interest of any first mortgage on a Unit recorded prior to the date any such Common Expense assessments become due.

(k) Unless at least seventy-five percent (75%) of the first mortgagees (based on one vote for each mortgage owned) of the Units have given their prior written approval, neither the Management Committee nor the Unit Owners shall:

(1) By act or omission, seek to abandon or terminate the Project, except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain.

(2) Change the pro-rata interest on obligation of any Unit for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, and for determining the pro-rata share or ownership of each Unit in the appurtenant Common Areas.

(3) Partition or subdivide any unit.

(4) Make any material amendment to the Declaration or to the Bylaws of the Association, including, but not limited to any amendments which would change the percentage of interest of the Unit Owners in the Common Areas, except as provided in Paragraph 24.

(5) By act or omission, seek to amend, partition, subdivide, encumber, sell or transfer the Common Areas. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas of the Project shall not be deemed a transfer within the meaning of this Subparagraph.

(6) Use hazard insurance proceeds for losses to any condominium property, whether to Units or to the Common Areas, for other than repair, replacement, or reconstruction of such improvements, except as provided by statute in cases of substantial loss to the Units and/or the Common Areas of the Project.

(7) Terminate professional management and assume self-management of the Project, which action is subject to thirty (30) days written notice upon termination.

(l) Mortgage Protection, notwithstanding all other provisions hereto:

(1) The liens created hereunder upon any Unit shall be subject and subordinate to and shall not affect the rights of the holder of the indebtedness secured by any recorded first mortgage (meaning a mortgage or trust deed with first priority over other encumbrances) upon such interest made in good faith and for value.

(2) No amendment to this Paragraph shall affect the rights of the holder of any such mortgage recorded prior to the recordation of such amendment that is not joined in the execution thereof.

(3) By subordination agreement executed by a majority of the Management Committee, the benefits of (1) and (2) above may be extended to mortgages not otherwise entitled thereto.

28. Duty of Owner to Pay Taxes on Unit Owned. It is understood that under the Act, each Unit (and its percentage of interest in the Common Areas) in the Project is subject to separate assessments and taxes authorized by law, and that as a result thereof no taxes will be assessed or levied against the Project as such. Accordingly, each Unit Owner will pay any and all taxes and assessments which may be assessed against him or his Unit.

29. Enforcement. Each Unit Owner shall comply strictly with the provisions of this Declaration and with the administrative rules and regulations drafted pursuant thereto as the same may be lawfully amended from time to time and with the decisions adopted pursuant to this Declaration and the administrative rules and regulations. Failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Management Committee or Manager on behalf of the Unit Owners, or in a proper case, by an aggrieved Unit Owner.

30. Indemnification of Management Committee. Each member of the Management Committee shall be indemnified and held harmless by the Unit Owners against all costs, expenses, and liabilities whatsoever (excluding fraudulent and/or criminal actions) including, without limitation, attorney's fees reasonably incurred by him in connection with his being or having been a member of the Management Committee.

(a) Suits, Proceedings, and Other Actions. Notwithstanding any provision of this Declaration to the contrary, any suit, proceeding, or other action as may be deemed necessary to recover a money judgment respecting any assessments levied or fixed by the Management Committee shall be maintained on behalf of the Association at the instance and suit of the Management Committee.

(b) Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land and/or an equitable servitude, as the case may be, and shall be binding upon and inure to the benefit of Declarant, all parties who hereafter acquire any interest in a Unit or in the Project, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Unit shall comply with, and all interests in all Units shall be subject to, the terms of the Act, the terms of this Declaration, the Bylaws, and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration, and failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Management Committee on behalf of the Unit Owners, or, in a proper case, by an aggrieved Unit Owner. By acquiring any interest in a Unit or in the Project, the party acquiring such interest consents to and agrees to be bound by each and every provision of this Declaration.

(c) Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of failure to enforce the same, regardless of the number of violations or breaches which may occur.

31. Number and Gender. Whenever used herein, unless the context provides otherwise, the singular number shall include the plural, the plural, the singular, and the use of any gender shall include all genders.

32. Severability. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of the Declaration, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstance shall not be affected thereby.

33. Topical Headings. The headings appearing at the beginning of the paragraphs of this Declaration are only for convenience of reference and are not intended to describe, interpret, define or otherwise affect the content, meaning or intent of this Declaration or any paragraph provision hereof.

34. Effective Date. This Declaration shall take effect upon recording in the office of the County Recorder of Salt Lake County, State of Utah.

35. All Amenities. All amenities are a part of the Project and are covered by the mortgage at least to the same extent as are the Common Areas and Facilities.

ARTICLE IV

NON-EXPANDABLE CONDOMINIUM

1. Non-Expandable. The Project will not be expanded.

IN WITNESS WHEREOF, the undersigned Declarant has executed this instrument on the 3rd day of May, 2000.

BIRCHTREE INDUSTRIAL, L.L.C.,
a Utah limited liability company

Willard R. Moulton
Eric P. Moulton

WILLARD R. MOULTON, an owner,
by Eric P. Moulton, his attorney in fact
Margie V. Moulton
Eric P. Moulton

MARGIE V. MOULTON, an owner,
by Eric P. Moulton, her attorney in fact

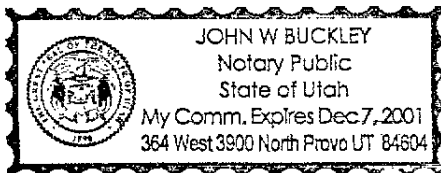
Larry O. Franck

LARRY O. FRANCK, Managing Member
Eric P. Moulton

ERIC P. MOULTON, Managing Member

STATE OF UTAH)
 : ss.
COUNTY OF UTAH)

On the 3rd day of May, 2000, personally appeared before me Larry O. Franck and Eric P. Moulton, the managing members of the Declarant, Birchtree Industrial, L.L.C., and Eric P. Moulton, the attorney in fact for the unit owners Willard R. Moulton and Margie V. Moulton, the signers of this instrument who duly acknowledged that they executed the same.



John W. Buckley

NOTARY PUBLIC

EXHIBIT "A"

PROPERTY DESCRIPTION

OVERALL DESCRIPTION

ALL OF LOT 8 OF THE WELBY PARK MANUFACTURING PARK SUBDIVISION AS RECORDED ON THE OFFICIAL PLAT THEREOF. SAID PROPERTY LAYS ENTIRELY IN THE CITY OF WEST JORDAN, COUNTY OF SALT LAKE, STATE OF UTAH.

LOT 8A (WEST)

BEGINNING AT A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF THE NEW BINGHAM HIGHWAY, WHICH POINT IS SOUTH $00^{\circ}18'11''$ WEST ALONG THE QUARTER SECTION LINE 1235.04 FEET AND WEST 445.07 FEET FROM THE NORTH QUARTER OF SECTION 31, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN THENCE SOUTH $31^{\circ}47'10''$ EAST 325 FEET; THENCE SOUTH $22^{\circ}08'53''$ EAST 38.71 FEET; THENCE SOUTH $29^{\circ}41'49''$ EAST 40.00 FEET TO THE WESTERLY LINE OF WELBY PARK DRIVE, THENCE SOUTH $60^{\circ}18'11''$ WEST ALONG SAID STREET LINE 90.00 FEET; THENCE CONTINUING ALONG SAID STREET LINE SOUTHWESTERLY 174.64 FEET AROUND THE PERIPHERY OF A CURVE TO THE LEFT CONCAVE SOUTHEASTERLY HAVE A RADIUS OF 260.00 FEET (CHORD= $S41^{\circ}03'35''$ W 171.38 FEET); THENCE NORTH $43^{\circ}09'17''$ WEST 459.42 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID HIGHWAY; THENCE NORTH $58^{\circ}12'50''$ EAST ALONG SAID RIGHT OF WAY LINE 352.20 FEET TO THE POINT OF BEGINNING.

CONTAINING 2.921 ACRES

LOT 8B (EAST)

BEGINNING AT A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF THE NEW BINGHAM HIGHWAY, WHICH POINT IS SOUTH $00^{\circ}18'11''$ WEST ALONG THE QUARTER SECTION LINE 1235.04 FEET AND WEST 445.07 FEET FROM THE NORTH QUARTER CORNER OF SECTION 31, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN; THENCE NORTH $58^{\circ}12'50''$ EAST 335.21 FEET; THENCE SOUTHEASTERLY 63.90 FEET AROUND THE PERIPHERY OF A CURVE TO THE RIGHT CONCAVE SOUTHERLY HAVING A RADIUS OF 40 FEET (CHORD= $S76^{\circ}01'04''$ E 57.32 FEET) TO THE WESTERLY LINE OF WELBY PARK DRIVE;

THENCE ALONG SAID STREET LINE SOUTHEASTERLY 81.49 FEET AROUND THE PERIPHERY OF A CURVE TO THE RIGHT CONCAVE WESTERLY HAVING A RADIUS OF 159.63 FEET (CHORD= $S15^{\circ}37'29''$ E 80.61 FEET); THENCE SOUTH $01^{\circ}00'00''$ EAST CONTINUING ALONG SAID STREET LINE 10.27 FEET; THENCE SOUTH $03^{\circ}26'45''$ EAST CONTINUING ALONG SAID STREET LINE 196.34 FEET; THENCE SOUTH $01^{\circ}00'00''$ EAST CONTINUING ALONG SAID STREET LINE 9.73 FEET; THENCE CONTINUING ALONG SAID STREET LINE SOUTHWESTERLY 213.99 FEET AROUND THE PERIPHERY OF A CURVE TO THE RIGHT CONCAVE WESTERLY HAVING A RADIUS OF 200.00 FEET (CHORD= $S29^{\circ}39'05''$ W 203.93 FEET); THENCE SOUTH $60^{\circ}18'11''$ WEST CONTINUING ALONG SAID STREET LINE 78.20 FEET; THENCE NORTH $29^{\circ}41'49''$ WEST 40.00 FEET; THENCE NORTH $22^{\circ}08'53''$ WEST 38.71 FEET THENCE NORTH $31^{\circ}47'10''$ WEST 325 FEET TO THE POINT OF THE BEGINNING.

CONTAINING 2.768 ACRES

BK8365PG8252

EXHIBIT "B"

COMMON AREA PERCENTAGE OF INTEREST PER UNIT

Unit #	Warehouse	Office	Percent
101	6,980	720	.0928
201	6,980	720	.0928
102	6,980	720	.0928
202	6,980	720	.0928
103	3,680	720	.0530
203	3,680	720	.0530
104	3,680	720	.0530
204	3,680	720	.0530
105	4,080	720	.0580
205	4,080	720	.0580
106	5,520	720	.0752
206	5,520	720	.0752
107	5,520	720	.0752
207	5,520	720	.0752

EXHIBIT "B"

**BYLAWS
OF
LANDING'S POINTE**

ARTICLE I

PLAN OF OWNERSHIP

1. Ownership. The Project is known as Landing's Pointe and is located at 7984 So. Welby Park Drive, in the City of West Jordan, Salt Lake County, State of Utah. Said property is hereby submitted to the provisions of the Utah Condominium Ownership Act, Title 57, Chapter 8, Utah Code Annotated (1953), as the same may be amended from time to time.

2. Bylaws Applicability. The provisions of these Bylaws are applicable to the Project.

3. Personal Application. All present or future Owners, tenants, their employees, or any other person that might use the facilities of the Project in any manner are subject to the regulations set forth in these Bylaws. The mere acquisition or rental of any of the Units of the Project or the mere act of occupancy of any one of the Units will signify that these Bylaws are accepted, ratified and will be complied with.

ARTICLE II

VOTING, MAJORITY OF OWNERS, QUORUM, PROXIES

1. Voting. Voting shall be one vote per Unit.

2. Majority of Owners. As used in these Bylaws the term "majority of Owners" shall mean those owners holding seventy-five percent (75%) of the votes.

3. Quorum. Except as otherwise provided in these Bylaws, the presence in person or by proxy of a "majority of Owners" as defined in the preceding paragraph of this Article shall constitute a Quorum.

4. Proxies. Votes may be cast in person or by proxy. Proxies must be filed with the Secretary before the appointed time of each meeting.

ARTICLE III

ADMINISTRATION

1. Association Responsibilities. The Owners of the Units will constitute the Landing's Pointe Homeowners Association hereinafter referred to as the Association, who will have the responsibility of approving the annual budget and special assessments presented by the Management Committee as set forth in the Declaration, and electing the Members of the Management Committee who will administer the Project,

establish and collect monthly assessments and arrange for the operation, maintenance and management of the Project on behalf of the Association.

2. Place of Meetings. Meeting of the Association shall be held at such suitable place convenient to the Owners as may be designated by the Management Committee.

3. Annual Meetings. The first meeting of the Association shall be held within thirty (30) days of the sale of the third Unit. Thereafter, annual meetings shall be held on the 2nd Thursday of January of each succeeding year. At such meetings there shall be elected by ballot a Management Committee in accordance with the requirements of Section Five of Article IV of these Bylaws. The Owners may also transact such other business of Association as may properly come before them.

4. Special Meetings. It shall be the duty of the President to call a special meeting of the Owners as directed by resolution of the Management Committee or on a petition signed by at least seventy-five percent (75%) of the Owners and having been presented to the Secretary. No business shall be transacted at a special meeting except as stated in the notice unless by consent of seventy-five percent (75%) of the Owners present, either in person or by proxy.

5. Notice of Meetings. It shall be the duty of the Secretary to mail a notice of each annual or special meeting stating the purpose thereof as well as the time and place of the meeting, to each Owner of record, at least five (5) but no more than fifteen (15) days prior to such meeting. The mailing of notice in the manner provided in this Section shall be considered notice served.

6. Adjourned Meetings. If any meeting of Owners cannot be organized because of a quorum has not been established, the Owners who are present either in person or by proxy may adjourn the meeting to a time no less than forty-eight (48) hours from the time the original meeting was scheduled.

7. Order of Business. The order of business at all Association meetings shall be as follows:

- a. Roll Call
- b. Proof of notice of meeting or waiver of notice
- c. Reading of minutes of preceding meeting
- d. Reports of Officers
- e. Reports of Committees
- f. Appointment of election supervisors and vote counters
- g. Election of Management Committee Members
- h. Unfinished Business
- i. New Business

ARTICLE IV

MANAGEMENT COMMITTEE

1. Number and Qualifications. The Association's affairs shall be governed by a Management Committee composed of three (3) members, as set forth in the Declaration.

2. Powers and Duties. The Management Committee shall have the powers and duties necessary for the administration of Association's affairs as set forth in the Declaration.

3. Other Duties. In addition to duties imposed by these Bylaws, or by resolutions of the Association, the Management Committee shall be responsible for the following:

- a. Care, upkeep and surveillance of the Project Common Areas and Facilities.
- b. Collection of monthly assessments from the Owners.
- c. Designation and dismissal of the personnel necessary for the maintenance and operation of the Project, the Common Areas and Facilities, and the Limited Common Areas and Facilities.

4. Management Agent. The Management Committee may employ for the Association a management agent at a compensation established by the Committee to perform such duties and services as the Committee shall authorize, including, but not limited to, the duties listed in Section Three above.

5. Election and Term of Office. At the first annual meeting of the Association the term of office of the Committee Members shall be fixed as follows: one for one (1) year, one for two (2) years, and one for three (3) years. At the expiration of the initial term of office of each respective Committee Member, his successor shall be elected to serve a term of three (3) years. The Members shall hold office until their successors have been elected and hold their first meeting.

6. Vacancies. Vacancies in the Management Committee caused by any reason other than the removal of a Member by a vote of the Association shall be filled by a vote of a quorum of the remaining Members of the Management Committee, and each person so elected shall be a member until a successor is elected at the next annual meeting of the Association.

7. Removal of Committee Members. At any regular or special meeting duly called, any one or more of the Committee Members may be removed with or without cause by a majority of the Owners, and a successor may then and there be elected to fill the vacancy thus created. Any Committee Member whose removal has been proposed by the Owners shall be given an opportunity to be heard at the meeting.

8. Organization Meeting. The first meeting of the newly elected Management Committee shall be held within ten (10) days of election at such place as shall be fixed by the Members at the meeting at which such Committee Members were elected, and no notice shall be necessary to the newly elected Members in order legally to constitute such meeting, provided a majority of the whole Committee shall be present.

9. Regular Meetings. Regular meetings of the Management Committee may be held at such time and place as shall be determined from time to time, by a majority of the Members, but at least two (2) such meetings shall be held during each fiscal year. Notice of regular meetings of the Management Committee shall be given to each Member, personally or by mail or telephone at least three (3) days prior to the day named for such meeting.

10. Special Meetings. Special meetings of the Management Committee may be called by the President on three (3) days' notice to each Committee Member, given personally, by mail or telephone, which notice shall state the time, place, and purpose of the meeting. Special meetings of the Management

Committee shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) Committee Members.

11. Waiver of Notice. Before or at any meeting of the Management Committee, any member may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Committee Member at any meeting of the Management Committee shall be a waiver of notice by him of the time and place thereof. If all Committee Members are present at any meeting of the Management Committee, no notice shall be required and any business may be transacted at such meeting.

12. Management Committee's Quorum. At all meetings of the Management Committee, a majority of the Members shall constitute an quorum for the transaction of business, and the acts of the quorum shall be the acts of the Management Committee. If, at any meeting of the Management Committee, there is less than a quorum present, the Members present may adjourn the meeting and the meeting shall automatically be held the following day at the same time. At any such meeting, any business that may have been transacted at the meeting as originally called may be transacted without further notice.

13. Fidelity Bond Coverage. The securing of appropriate fidelity bond coverage is recommended for any person or entity handling the funds of the Association, including, but not limited to, employees of the professional managers. Such fidelity bonds should name the Association as an obligee, and be written in an amount equal to at least one hundred fifty percent (150%) of the estimated annual operating expenses of the Condominium Project, including reserves.

ARTICLE V

OFFICERS

1. Designation. The principle officers of the Association shall be a President, Vice President, Secretary and Treasurer, all of whom shall be elected by and from the Management Committee. The Committee members may appoint an Assistant Secretary and an Assistant Treasurer, and such other officers as in their judgment may be necessary. The offices of Treasurer and Secretary may be filled by the same person.

2. Election of Officers. The officers of the Association shall be elected annually by the Management Committee at the organization meeting of each new Committee and shall hold office at the pleasure of the Committee.

3. Removal of Officers. On an affirmative vote of a majority of the Members of the Management Committee, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Management Committee or at any special meeting of the Management Committee called for such purpose.

4. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Management Committee. He shall have all of the general powers and duties that are usually vested in the office of President of an Association, including, but not limited to, the power to appoint committees from among the Owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the Association's affairs.

5. Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor Vice President is able to act, the Management Committee shall appoint some other Member of the Committee to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed on him by the Management Committee.

6. Secretary. The Secretary shall keep the minutes of all the meetings of the Management Committee and the minutes of all meetings of the Association. He shall have charge of such books and papers as the Management Committee may direct, and he shall, in general, perform all the duties incident to the office of Secretary.

7. Treasurer. The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all money and other valuable effects in the name, and to the credit of, the Association, in such depositories as may from time to time be designated by the Management Committee. All Association funds will be disbursed under approval of the Management Committee.

ARTICLE VI

OBLIGATION OF OWNERS

1. Assessments. All Owners are obligated to pay monthly assessments imposed by the Management Committee to meet all Project common expenses, which may include a liability insurance policy premium and an insurance premium for a policy to cover repair and reconstruction work in case of fire, earthquake, or other hazard. The assessments shall be allocated equally to each Unit, as stipulated in the Declaration. Such assessments shall include monthly payments to a general operating reserve and a reserve fund for replacements. Assessments shall be subject to change. Each Unit Owner shall pay his or her own utility costs which are individually metered in the Project.

2. Maintenance and Repair.

a. Every Owner must perform promptly all maintenance and repair work within his own Unit which, if omitted, would affect the Project in its entirety or in a part belonging to other Owners, being expressly responsible for the damages and liabilities that his failure to do so may engender.

b. All the repairs of internal installations in a Unit such as water, light, gas, power, sewage, telephones, air conditioning, sanitary installations, doors, windows, lamps, and all other accessories designated to a particular Unit shall be at the Owner's expense.

c. An Owner shall reimburse the Management Committee for any expenditure incurred in repairing or replacing any Common Area or Facility damaged through his fault, and such expenditure shall become an assessment to the Unit Owner.

d. Each Unit Owner is responsible for the interior maintenance of his Unit.

e. In addition to maintenance upon the common areas, the Management Committee shall provide exterior maintenance upon each Unit which is subject to assessment hereunder, as follows: paint, repair, replacement and care of roofs, gutters, downspout, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements. Such exterior maintenance shall not include glass surfaces. In the event that the need for maintenance or repair of a Unit or the improvements thereon is caused through the willful or negligent acts of the guests or invitees of the Owner of the Unit needing such maintenance and repair, the cost of such exterior maintenance shall be added to and become a part of the assessment to which such Unit is subject.

3. Use of Individual Units.

a. All Units shall be utilized for residential purposes only.

b. An Owner shall not make structural modifications or alterations in or to the outside of his Unit without first notifying the Management Committee in writing. The Management Committee shall have the obligation to answer within twenty (20) days, and failure to do so within the stipulated time shall mean that there is no objection to the proposed modification.

4. Use of Common Areas and Facilities.

a. The Common Areas may be scheduled with the Secretary of the Management Committee for use by Owners and guests. During the times when the Common Areas are not scheduled they are available to Members of the Association on a first come first served basis.

b. Owners and guests using the Common Areas are responsible for cleaning up any litter as a result of such use.

5. Right of Entry.

a. An Owner shall grant the right of entry to the Management Committee or to any other person authorized by the Management Committee in case of emergency originating in or threatening his Unit, whether the Owner is present at the time or not.

b. An Owner shall permit other Owners, or their representatives, when so required, to enter his Unit for the purpose of installing, altering, or repairing mechanical or electrical services, provided that the requests for such entry are made in advance and that such entry is at a time convenient to the Owner. In case of emergency, such rights of entry shall be immediate.

6. Rules of Conduct.

a. No resident of the Project shall post any advertisements or posters of any kind in or on the Project except as authorized by the Management Committee, in which event any and all such signs shall be displayed in a tasteful manner.

b. Owners shall exercise care in minimizing noise and using radios, television, and other devices that may disturb other Owners.

c. Throwing of garbage or trash outside of the installations provided for such disposal in the service area is prohibited.

d. No Owner or lessee shall install wiring for electrical or telephone installation, television and antennae, machines, air conditioning units, or the like, on the exterior of the Project or that protrude through the walls or the roof of the Project except as authorized by the Management Committee.

ARTICLE VII

METHOD OF AMENDING BYLAWS

These Bylaws may be amended by the Association in a duly constituted meeting for such purpose, and no amendment shall take effect unless approved by Owners representing at least seventy-five percent (75%) of all Units in the Project.

ARTICLE VIII

MORTGAGES

Notice to the Management Committee. An Owner who mortgages his Unit shall notify the Management Committee of the name and address of his mortgagee, and the Management Committee shall maintain such information in a book entitled "Mortgagee of Unit."

ARTICLE IX

COMPLIANCE

These Bylaws are set forth to comply with the requirements of the Utah Code Annotated. In case there is any conflict between these Bylaws and the Utah Code Annotated, the provisions of the Utah Code Annotated will supersede and apply.

Adopted and executed by the Declarant and owners as of the 3rd day of May, 2000.

BIRCHTREE INDUSTRIAL, L.L.C.,
a Utah limited liability company

Willard R. Moulton
Eric P. Moulton
WILLARD R. MOULTON, an owner,
by Eric P. Moulton, his attorney in fact

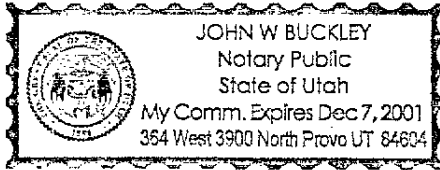
[Signature]
LARRY O. FRANK, Managing Member

Margie V. Moulton
Eric P. Moulton
MARGIE V. MOULTON, an owner,
by Eric P. Moulton, her attorney in fact

Eric P. Moulton
ERIC P. MOULTON, Managing Member

STATE OF UTAH)
 : ss.
COUNTY OF UTAH)

On the 3rd day of May, 2000, personally appeared before me Larry O. Franck and Eric P. Moulton, the managing members of the Declarant, Birchtree Industrial, L.L.C., and Eric P. Moulton, the attorney in fact for the unit owners Willard R. Moulton and Margie V. Moulton, the signers of this instrument who duly acknowledged that they executed the same.



John W. Buckley

NOTARY PUBLIC

POWER OF ATTORNEY
(Real Estate)

RECORDED
APR 7, 2000
ENTRY # 7613780
S.C.C. RECORDER'S OFFICE

KNOW ALL MEN BY THESE PRESENTS, that I, Willard R. Moulton and Margie V. Moulton, hereby make, constitute and appoint Eric P. Moulton, as my true and lawful attorney in fact with full power and authority in my name and in my stead and on my behalf:

1. The power to perform and all acts necessary to purchase, sell, convey, transfer title, deliver deeds, bargain, encumber, or contract for the sale or purchase of certain real property described as follows:

See Exhibit "A", attached hereto and made a part hereof.

2. To execute and deliver a Warranty Deed or Quit Claim Deed conveying said real property to a third party.
3. To execute a promissory note or notes creating and evidencing an obligation as therein set forth, and to execute a Deed of Trust encumbering the above described real property and securing the repayment of the obligation described in said promissory note, and to executed all assignments of rents, financing statements, and security agreements in addition to the Deed of Trust to secure repayment of the obligation set forth in said promissory note.
4. To sign on my behalf settlement statements, disclosure statements, acceptance statements, affidavits concerning mechanic's liens, assignment of security deposits, extensions of the contract for purchase and sale, and any and all other documents and instrument required as part of the closing function pertinent hereto.

AND in general I give my said attorney in fact full power to handle all my business affairs in such manner and with such authority as myself might exercise, including the power to make, execute, and acknowledge instruments of every kind which may be proper or requisite to effectuate all or any of the premises.

I hereby ratify, confirm and approve each and every act of my said attorney heretofore and hereafter taken in conformity with this power of attorney.

THIS power of attorney shall be effective until revoked by me in writing, such revocation to be delivered to the attorney if fact above named. Everyone dealing with my said attorney in fact shall be entitle to rely upon the certificate of such attorney in fact to the effect that his/her power is in effect and has not be revoked.

*THIS POWER OF ATTORNEY SHALL NOT BE AFFECTED BY THE DISABILITY OF THE PRINCIPAL.
*THIS POWER OF ATTONREY SHALL AUTOMATICALLY EXPIRE BY ITS OWN TERMS UPON COMPLETION OF THE LIMITED PURPOSE SET FORTH ABOVE.

IN WITNESS WHEREOF, I have set my hand on this 31 day of MARCH, 2000.

COPY
CO. RECORDER

BK 8365 PG 8262

Willard R. Moulton
WILLARD R. MOULTON (Principal)

Social Security No.: 552-40-0456

Margie V. Moulton
MARGIE V. MOULTON (Principal)

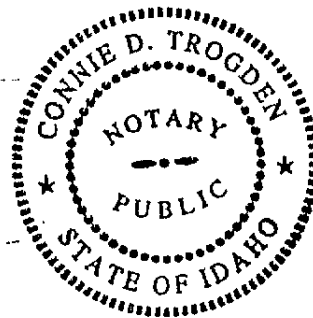
Social Security No.: 519-05-5982

STATE OF IDAHO)
County of Lamhi) ss:

On this 31st day of March, 2000, before me, the undersigned, a Notary Public, in and for said State, personally appeared WILLARD R. MOULTON and MARGIE V. MOULTON, known to me, and/or identified to me on the basis of satisfactory evidence, to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that they executed the same.

WITNESS MY HAND AND OFFICIAL SEAL.

Connie D. Trogden
Notary Public
Residing at: Salmon, Idaho
Commission Expires: 6-9-2004



-COPY-
CO. RECORDER

BK 8365 PG 8263