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GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
SUPERIOR TITLE  
BY: RDJ, DEPUTY - MI 31 p.

**DECLARATION OF CONDOMINIUM  
OF  
MAPLE RIDGE CONDOMINIUMS PHASE III  
A UTAH CONDOMINIUM PROJECT**

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This Declaration of Condominium, hereinafter referred to as the "Declaration", is made and executed this \_\_\_ day of September, 2001, by The Overlook, L.C., a Utah Limited Liability Company, hereinafter referred to as the "Declarant".

**RECITALS**

A. Description of Land. The Declarant is the owner of the parcel of land, hereinafter referred to as the "land", which is located in the County of Salt Lake, State of Utah and described on Exhibit "A" hereto and incorporated herein by this reference.

B. Building and Improvements. Certain buildings and other improvements have been or will be constructed on the land as shown on the Plat referred to below.

C. Plat. The Declarant intends to execute, acknowledge and record the final project plat, which is the Record of Survey Map for the Project, in the office of the County Recorder of Salt Lake County, State of Utah, entitled "Maple Ridge Condominiums Phase III (the "Plat").

D. Intent and Purpose. The Declarant intends by recording this Declaration and the Plat, to submit the land, the buildings and all other improvements situated in or upon the land to the provisions of the Utah Condominium Ownership Act, Utah Code Annotated, § 57-8, et seq. (hereinafter referred to as the "Condominium Act") as a fee simple Condominium Project and to impose upon said property mutually beneficial restrictions under a general plan of improvement for the benefit of all Condominiums within said Project and including all previous phases.

NOW THEREFORE, the Declarant does hereby make the following declaration:

**ARTICLE I**

**DEFINITIONS**

1.01. Defined Terms. Unless the context clearly indicates otherwise, certain terms as used in this Declaration shall have the meanings set forth in this Article I.

1.02. "Articles of Incorporation" shall mean the Articles of Incorporation of Maple Ridge Condominiums Owners Association, a Utah Nonprofit Corporation, which have previously been filed with the State of Utah.

1.03. "Association" shall mean the Maple Ridge Condominiums Owners Association, a Utah Nonprofit Corporation, organized to be the Association, which shall govern all Phases of the Project referred to herein.

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1.04. "Board of Trustees" shall mean the governing board or management committee of the Association, appointed or elected in accordance with the Declaration and in accordance with the Articles of Incorporation and Bylaws of the Association.

1.05. "Building" shall mean the building(s) containing the Unit(s) that have been constructed on the land, as such building(s) are shown on the Plat.

1.06. "Bylaws" shall mean the Bylaws of the Maple Ridge Condominiums Owners Association, a Utah Nonprofit Corporation.

1.07. "Common Areas" shall mean all areas and facilities in the Project, except the Units; including without limitation the land within the Project which is hereby submitted to the provisions of the Act; all Common Areas and facilities as hereinafter described and designated as such on the Plat; all limited Common Areas and facilities as hereinafter described and as designated as such on the Plat; foundations, bearing walls, bearing columns, girders, beams, supports, perimeter walls, roofs, halls, stairs, stairways, and entrances and exits designed for the use of more than one Unit of the building; the sidewalks, walkways, landscaped and planted areas, parking areas, access roads, driveways, fences and walls, exterior lighting, and storage areas; installations such as power, light, gas, hot and cold water, and all flues, ducts, conduits and wires used in connection therewith, existing for common use; recreational and other community facilities; and all other parts of the Project necessary or convenient to its existence, maintenance and safety; provided that if any chutes, flues, ducts, conduits, wires, bearing walls, bearing columns, or any other apparatus lies partially within or partially outside of the designated boundaries of a Unit, any portions thereof serving only that Unit shall be deemed a part of that Unit, while any portions thereof serving more than one Unit or any portion of the Common Areas and facilities, shall be deemed a part of the common areas and facilities. The Common Areas are subject to change, which could result in expanded facilities and Common Areas, the reduction or transfer of Common Areas, and/or open space as determined by the Declarant or Association where applicable. The interest that each Condominium shall have in the Common Area as represented in Section 1.09 below may be adjusted and subject to change, as determined by the final number of completed Units in the Project which is being constructed in phases.

1.08. "Common Expense Fund" shall mean the fund created or to be created pursuant to the provisions of Article IX of this Declaration and into which all monies of the Association shall be deposited.

1.09. "Condominium" shall mean a Unit and unless otherwise adjusted, upon completion of all phases of the project, a 1/47 undivided interest in the Common Areas appurtenant to such Unit.

1.10. "Condominium Act" shall mean the Utah Condominium Ownership Act, Utah Code Annotated, § 57-8 , et seq.

1.11. "Declarant" shall mean The Overlook, L.C., and its successors and assigns.

1.12. "Institutional Holder" shall mean a mortgagee, which is a bank or other established mortgage lending company, or other entity chartered under federal or state laws, any

corporation or insurance company, or any federal or state agency which has a first mortgage lien on any Unit in the Project.

1.13. "Land" shall mean the land upon which the Project is situated, as more particularly described on Exhibit "A" hereto.

1.14. "Lease" shall mean any agreement for the leasing or rental of the property.

1.15. "Limited Common Areas" shall mean any Common Areas designated as reserved for use of a certain Unit or Units to the exclusion of the other Units in the Project. Structural separations between Units or the space which would be occupied by such structural separations may become Limited Common Areas for the exclusive use of the Owner or Owners of the Units on either side thereof as provided in this Declaration. Any balconies, porches, or storage facilities that are identified on the Plat with the same number or other designation by which a Unit is identified or is (in the case of balconies) adjacent to the Unit, shall be Limited Common Areas for the exclusive use of the Owner of the Unit bearing the same number or designation.

1.16. "Manager" shall mean the person, firm, or company, if any, designated from time to time by the Association to manage, in whole or in part, the affairs of the Association and the Project.

1.17. "Plat" shall mean the final plat, which is the Record of Survey Map, for Maple Ridge Condominiums Phase III recorded or to be recorded in the office of the County Recorder of Salt Lake County, State of Utah.

1.18. "Mortgage" shall mean any mortgage, deed of trust, or other security instrument by which a Condominium or any part thereof is encumbered.

1.19. "Mortgagee" shall mean (i) any persons named as the mortgagee or beneficiary under any Mortgage or Deed of Trust by which the interest of any Owner is encumbered, or (ii) any successor to the interest of such person under such Mortgage or Deed of Trust.

1.20. "Mortgage Servicer" shall mean a Mortgagee who services any Mortgage or Deed of Trust on any individual Condominium Unit in the Project.

1.21. "Owner" shall mean the person or persons, including the Declarant, owning in fee simple a Condominium in the Project, as such ownership is shown by the records of the County Recorder of Salt Lake County, State of Utah. The term "Owner" shall not refer to any Mortgagee (unless such Mortgagee has acquired title for other than security purposes) or to any person or persons purchasing a Condominium under contract (until such contract is fully performed and legal title conveyed of record).

1.22. "Project" shall mean the land, the buildings, and all improvements submitted by this Declaration and the Plat to the provisions of the Condominium Act, which shall include Phase II and Phase III of the Maple Ridge Condominium Project.

1.23. "Reserve Funds" shall mean the fund created or to be created and into which all purchasers of a Unit shall be required as of the time of the closing of the purchase/sale of a

respective Unit, to deposit a sum equal to approximately 2 months worth of the assessment applicable to the subject Unit, as provided in Article IX of this Declaration. The purpose of the Reserve Fund is to defray, in whole or in part, the cost of capital improvements, construction or reconstruction and/or unexpected repair or replacement of the Project, as well as covering any shortfall in the Common Expense Fund.

1.24. "Total Votes of the Association" shall mean the total number of votes appertaining to all Condominiums in the Project.

1.25. "Unit" shall mean one of the proposed 47 individual air space units in the entire Project, including the garage to such Unit, if any, consisting of enclosed rooms occupying part of a building and bounded by the unfinished interior surfaces of the walls, floors, ceilings, windows, and doors along the perimeter boundaries of the air space, as said boundaries are shown on the Plat, together with all fixtures and improvements therein contained, but not including the wallboard/sheetrock and subflooring. Paint and other wall, ceiling, or floor coverings on interior surfaces shall be deemed to be part of the Unit. Notwithstanding the fact that they may be within the boundaries of such air space, the following are not part of a Unit insofar as they are necessary for the support or for the use and enjoyment of another Unit: bearing walls, floors, ceilings, and roofs (except the interior surfaces thereof), foundations, ceiling equipment, tanks, pumps, pipes, vents, ducts, shafts, flues, chutes, conduits, wires, and other utility installations, except the outlets thereof when located within the Unit. The interior surfaces of a window or door mean the points at which such surfaces are located when the window or door is closed. Notwithstanding anything else herein there are also single family structures as part of the Maple Ridge Condominium Project which are all considered condominium air space units. The Map contains the Unit number, location, and dimensions of each Unit in the Project and all other information necessary to identify each such Unit, however, dimensions on the Map are approximate as to size and floor space, and said dimensions are shown for purposes of identification only; purchaser assumes sole responsibility to confirm Unit sizes and conditions prior to closing.

## ARTICLE II

### SUBMISSION AND DIVISION OF PROJECT

2.01. Submission to Condominium Act. The Declarant hereby submits the land, the buildings, and all other improvements now or hereafter made in or upon the land to the provisions of the Condominium Act. All of said property is and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, and improved as a fee simple Condominium Project to be known as the Maple Ridge Condominiums Phase III, a Utah Condominium Project. All of said property is and shall be subject to the covenants, conditions, restrictions, uses, limitations, and obligations set forth herein, each and all of which are declared and agreed to be for the benefit of said Project and in furtherance of a plan for improvement of said Property and division thereof into Condominiums; further, each and all of the provisions hereof shall be deemed to run with the land and shall be a burden and a benefit on the land and shall be binding upon the Declarant, its successors and assigns, and to any persons acquiring, leasing, or owning an interest in the real property and improvements comprising the Project, and to their respective personal representatives, heirs, successors, and assigns.

2.02. Division Into Condominiums. The Project is hereby divided into Condominiums, each such Condominium consisting of a Unit and an appurtenant equal undivided interest in the Common Areas.

### ARTICLE III

#### BUILDINGS AND IMPROVEMENTS

3.01. Buildings and Improvements. The buildings and other improvements which have been constructed on the land are described on the Plat. The following information regarding the buildings is also contained on the Plat: (i) the number of floors in a building; and (ii) the number of Units in a building.

3.02. Description of Units. The Plat contains the Unit number, location, and dimensions of each Unit in the Project, including the garage to such Unit, if any, and all other information necessary to identify each such Unit. Said dimensions are approximate as to size and floor space, and said dimensions are shown for the purposes of identification only. Purchaser assumes sole responsibility to confirm Unit sizes and conditions prior to closing.

3.03. Description of Common Areas. The Plat contains a description of the Common Areas of the Project.

3.04. Description of Limited Common Areas. The Plat contains a description of the Limited Common Areas of the Project. The Plat also designates the Unit or Units to which each of the Limited Common Areas is reserved. Subject to any easements or ability to otherwise use the Limited Common Areas reserved by the Declarant or the Association herein, the Limited Common Area Owner for which certain Limited Common Areas are reserved, may fence and individually landscape that certain Limited Common Area subject to the approval of the Association and this Declaration.

3.05. Pool and Sport Court. Certain advertising and preliminary plat drawings indicate that possibility of the Declarant constructing a Pool and Sport Court in the Maple Ridge Phase III Condominium Project. Declarant will evaluate the status and feasibility of the Pool and Sport Court construction after 30 Units have been sold and closed and make a decision within Declarant's complete, unilateral discretion about whether or not to construct the Pool or Sport Court in the Project. Neither the Declarant or the Association shall be liable to any Owner if the Declarant decides, for any reason or no reason, not to construct the Pool and or Sport Court.

3.06. Development in Phases. Declarant has developed two previous Project phases, which shall all be governed by the Association in this project are subject to this Declaration, no matter when constructed.

### ARTICLE IV

#### NATURE OF THE INCIDENTS OF CONDOMINIUM OWNERSHIP

4.01. Interior of Units. Each Owner shall have the exclusive right to paint, repaint, tile, wallpaper, carpet, or otherwise decorate the interior surfaces of the walls, ceilings, floors, and

doors forming the boundaries of his Unit and the surfaces of all walls, ceilings, floors, and doors within such boundaries. Each Owner shall also have the right to construct interior partitions or modifications within his or her Unit provided however, that such partitions, improvements and/or modifications (i) receive the prior written consent of the Board of Trustees, (ii) shall comply with all applicable laws, ordinances, and building codes, (iii) shall not interfere with facilities necessary for the support, use, or enjoyment of any other part of the Project, (iv) shall not impair the structural soundness or integrity of the building in which it is located, and (v) shall not encroach upon the Common Areas or any part thereof, unless the Board of Trustees shall consent in writing to such encroachment.

4.02. Maintenance of Units. Each Owner shall keep the interior of his Unit, including without limitation, interior walls, windows, ceilings, floors and permanent fixtures and appurtenances thereto, in a clean and sanitary condition and in a state of good repair. In the event that any such Unit shall develop an unsanitary or unclean condition or fall into a state of disrepair, and in the event that the Owner of such Unit shall fail to correct such condition or state of disrepair promptly following written notice from the Board of Trustees, the Board of Trustees on behalf of the Association shall have the right, at the expense of the Owner and without liability to the Owner for trespass or otherwise, to enter said Unit and correct or eliminate said unsanitary or unclean condition or state of disrepair; provided, however, that the Association shall in no event have the obligation to correct or eliminate any such condition or state of disrepair.

4.03. Title. Title to a Condominium within the Project may be held or owned by any person or entity, or any combination thereof, and in any manner in which title to any other real property may be held or owned in the State of Utah, including without limitation joint tenancy or tenancy in common, but no Unit shall be owned legally or beneficially by more than eight owners. No Unit shall be separated as to ownership into time intervals. No timeshare arrangement of any kind shall be allowed in the Project.

4.04. Ownership of Common Areas. Each Unit in the Project is hereby allocated an equal undivided interest in the Common Areas in the Project. Except as otherwise provided in this Declaration, any Owner shall be entitled to nonexclusive use of the Common Areas (other than Limited Common Areas) in any manner that does not hinder or encroach upon the rights of other Owners and is not contrary to any rules and regulations promulgated by the Association. Except as otherwise provided in this Declaration, any Owner shall have the exclusive right to use and enjoy any Limited Common Areas that may be designated for exclusive use by such Owner.

4.05. Inseparability. Title to no part of a Condominium within the Project may be separated from any other part thereof, and each Unit and the undivided interest in the Common Areas appurtenant to each Unit shall always be conveyed, devised, encumbered, and otherwise affected only as a complete disposition of a Condominium. Every devise, encumbrance, conveyance, or other disposition of a Condominium, or any part thereof, shall be construed to be a devise, encumbrance, conveyance, or other disposition, respectively, of the entire Condominium, together with all appurtenant rights created by law or by this Declaration, including appurtenant Membership in the Association as hereinafter set forth.

4.06. No Partition. The Common Areas shall be owned in common by all of the Owners, and no Owner may bring any action for partition thereof.

4.07. Separate Mortgage by Owners. Each Owner shall have the right separately to mortgage or otherwise encumber his/her Condominium. No Owner shall attempt to or shall have the right to mortgage or otherwise encumber the Common Areas or any part thereof, except the undivided interest therein appurtenant to his/her Condominium. Any mortgage or other encumbrance of any Condominium within the Project shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure by private power of sale, judicial foreclosure, or otherwise.

4.08. Separate Taxation. Each Condominium within the Project, including each Unit and appurtenant undivided interest in the Common Areas, shall be deemed to be a separate parcel and shall be assessed separately for all taxes, assessments, and other charges of the State of Utah, or of any political subdivision, or of any special improvement district, or of any other taxing or assessing authority. For purposes of such assessment, the valuation of the Common Areas shall be apportioned among the Units in proportion to the undivided interest in Common Areas appurtenant to such Units. All such taxes, assessments, and other charges on each respective Condominium shall be separately levied against the Owner thereof. No forfeiture or sale of any Condominium for delinquent taxes, assessments, or other governmental charges shall divest or in any way affect the title to any other Condominium.

4.09. Mechanic's Liens. No labor performed or material furnished for use in connection with any Unit with the consent or at the request of any Owner or his agent or subcontractor shall create any right to file a statement of mechanic's lien against the Unit of any other Owner not expressly consenting to, or requesting the same, or against any interest in the Common Areas, except the undivided interest therein appurtenant to the Unit of the Owner for whom such labor shall have been performed and such materials shall have been furnished.

4.10. Description of Condominium. Every contract for the sale of a Condominium and every other instrument affecting title to a Condominium within the Project may describe a Unit by its identifying number or symbol as indicated in this Declaration or as shown on the Plat. Such description will be construed to describe the Unit, together with its appurtenant undivided interest in the Common Areas, and to incorporate all of the rights incident to ownership of a Condominium within the Project and all of the limitations on such ownership.

## ARTICLE V

### EASEMENTS

5.01. Easements for Encroachments. If any part of the Common Areas encroaches or shall hereafter encroach upon any Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas, or upon an adjoining Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of the Common Areas or any part of a Unit shall hereafter encroach on real property now owned by the Declarant outside the boundaries of the land, an easement for such encroachment shall and does exist. Such encroachments shall not be considered to be encumbrances either on 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 any Building or any improvement

constructed or to be constructed within the Project, by error in the Plat, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project, or any part thereof, in accordance with the provisions of this Declaration.

5.02. Easements for Maintenance, Cleaning and Repair. Some of the Common Areas or Limited Common Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Association shall have the irrevocable right to have access to each Unit, the Limited Common Areas, and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, cleaning, repair or replacement of any Unit, Common Areas or Limited Common Areas, or for making emergency repairs at any time therein necessary to prevent damage to the Common Areas, Limited Common Areas or to any Unit. In addition, agents of the Association may enter any Unit, Common Area, or Limited Common Area when necessary in connection with any cleaning, maintenance, repair, replacement, landscaping, construction, or reconstruction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Association with funds from the Common Area Expense Fund.

5.03. Right to Ingress, Egress and Support. Each Owner shall have the right to ingress and egress over, upon, and across the Limited Common Areas appurtenant to such Unit, and shall have the right to horizontal, vertical, and lateral support of such Unit, and such rights shall be appurtenant to and pass with title to each Condominium.

5.04. Association's Right to Use Common Areas. The Association shall have an easement to make such use of the Common Areas and Limited Common Areas as may be necessary or convenient to perform the duties and functions that it is obligated or permitted to perform pursuant to this Declaration, including without limitation the right to construct and maintain in the Common Areas (other than Limited Common Areas) facilities for use by Owners generally or by the Association and its agents exclusively.

5.05. Easement Deemed Created. All conveyance of Condominiums within the Project hereafter made, whether by the Declarant or otherwise, shall be construed to grant and reserve such reciprocal easements as are provided herein, even though no specific references to such easements appears in any such conveyance.

## ARTICLE VI

### RESTRICTIONS ON USE

6.01. Residential Use. All Units within the Project shall be used exclusively for residential and for no other purpose. Subject to Section 6.10 below, rental of Units is not prohibited.

6.02. No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on, in or upon any part of the Project, nor shall anything be done or placed in or upon any part of the Project which is or may become a nuisance or which may cause disturbance or annoyance to Owners. No activities shall be conducted, nor improvements constructed, in or upon any part of the Project which are or may become unsafe or hazardous to any person or



property.

6.03. Restrictions on Signs. No signs, flags, or advertising devices of any nature, including without limitation, commercial, political, informational, or directional signs or devices, shall be erected or maintained on any part of the Project, without prior inspection and written approval of the Board of Trustees, except as may be necessary temporarily to caution or warn of danger. If the Association consents to the erection of any such signs or devices, the same shall be removed promptly at the request of the Association. The Declarant's signs, including but not limited to sales and advertising signs are exempt from the restrictions of this provision.

6.04. Pets and Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept in any Unit or in the Common Areas except that common household pets such as a dog or cat, may be kept or housed in Units. Each Owner who desires to keep a pet in his Unit other than a common household pet such as a dog or cat, shall apply in writing to the Board of Trustees for permission to keep such pet. In no event shall any pet be permitted in any portions of the Common Areas unless carried or on a leash. Each Owner who keeps a pet in a Unit shall indemnify and hold all other Owners harmless against any loss or liability of any kind or character whatsoever arising from or as a result of having a pet in the Project. If a pet disturbs other Owners by barking or biting or in other ways becoming obnoxious, the Board of Trustees will give notice to the Owner of such pet to cause such annoyance to be discontinued; and if such annoyance is not discontinued and corrected, the Board of Trustees may revoke its permission to keep the pet in the Project and notify the Owner of the pet to remove the pet from the Project. In the event the Owner fails to remove the pet from the Project within 10 days from the date of notice from the Board, the Board shall have the right to cause the pet to be removed from the Project and to charge the cost thereof to the Owner.

6.05. No Alterations. No Owner shall, without the prior written consent of the Board of Trustees in each specific instance, make or cause to be made any alteration, addition, removal, or improvement in or to the Common Areas or any part thereof, or do any act that would impair the structural soundness or integrity of the Buildings or other improvements, or jeopardize the safety of persons or property or impair any easement or hereditament appurtenant to the Project. Privacy fencing may be allowed pursuant to specifications established by the Board of Trustees and upon the Board of Trustees prior written approval.

6.06. No Obstructions. No Owner shall obstruct the Common Areas or any part thereof. No Owner shall store or cause to be stored in the Common Areas any property whatsoever, unless the Board of Trustees shall consent thereto in writing.

6.07. No Overloading. No Owner shall bring anything into his Unit or permit anything to be done in his Unit that will cause damage to the Building. No Owner shall overload the floor of his Unit. No Owner shall permit the use or operation in his Unit of any equipment, machinery, or other apparatus that will in any manner injure, vibrate, or shake the building, adjoining Units, or portions thereof.

6.08. Prohibition of Damage and Certain Activities. Except with the prior written consent of the Board of Trustees, nothing shall be done or kept in any Unit, in the Common Areas, or in any other part of the Project that would result in cancellation of the insurance on the Project or any part thereof, nor shall anything be done or kept in any Unit that would increase the

rate of insurance on the Project or any part thereof over that which the Association, but for such activity, would pay. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would be in violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental authority. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or guest of any Owner, and each Owner shall indemnify and hold harmless the Association and the other Owners from and against all loss resulting from any such damage or waste caused by such Owner or by the guests, tenants, licensees, or invitees of such Owner.

6.09. Business Uses. No portion of the Project may be used for any commercial business use; provided however, that nothing in this provision is intended to prevent (a) the Declarant from using one or more Lots or Units for purposes of a construction office or sales office, or (b) the use by any Owner of his or her Unit for a home occupation. No home occupation will be permitted, however, which requires or encourages the Owner's clients, customers, patients or others to come to the Unit to conduct business, or which requires any employees outside of the Owner's immediate family or household. No retail sales of any kind may be made in the Project. No material, machinery, equipment, or inventory associated with any Unit home occupation may be stored outside of any Unit. No signs associated with any home occupation are permitted.

6.10. Rules and Regulations. Each Owner shall comply strictly with all rules and regulations adopted by the Association for the governance of the Units, Limited Common Areas, Common Areas, and the Project, as such rules and regulations may be modified, amended, and construed from time to time by the Association in the sole discretion of its Board of Trustees.

6.11. Construction Period Exemption. During the course of actual construction of any permitted structures or improvements within the Project and with the advance written consent of the Association, the provisions, covenants, conditions, and restrictions contained in this Declaration shall be deemed waived to the extent necessary or convenient to permit such construction; provided, however, that during the course of such construction, nothing shall be done which will result in a violation of any said provisions, covenants, conditions, or restrictions upon completion of the construction.

## ARTICLE VII

### THE ASSOCIATION

7.01. Membership. Each Owner shall be entitled and required to be a Member of the Association; Membership shall begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner. If a title to a Condominium is held by more than one person, the Membership appurtenant to that Condominium shall be shared by all such persons in the same proportionate interest and by the same type of tenancy in which title to the Condominium is held. An Owner shall be entitled to one Membership for each Condominium owned by him. Each Membership shall be appurtenant to the Condominium to which it relates and shall be transferred automatically by conveyance of that Condominium. Ownership of a Condominium within the Project cannot be separated from Membership in the Association appurtenant thereto, and transfer of the Unit by devise, encumbrance, conveyance, or other disposition, respectively transfers the Owner's Membership

in the Association and rights appurtenant thereto. No person or entity other than an Owner may be a Member of the Association, and Membership in the Association may not be transferred except in connection with the transfer of a Condominium.

7.02. Board of Trustees. Until such time as the responsibility for electing the Trustees of the Association is turned over to the Owners in accordance with Utah law, the Declarant shall have the exclusive right to appoint and to remove all such trustees. This exclusive right shall terminate after the first to occur of the following:

- (a) Five years from the date on which this Declaration is recorded, or
- (b) After Units to which ninety percent (90%) of the undivided interest in the Common Areas appertain have been conveyed.

7.03. Voting Rights. The Association shall have two 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 Unit owned.

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 Unit owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) Five years from the date on which this Declaration is recorded, or
- (b) After Units to which ninety percent (90%) of the undivided interest in the Common Areas appertain have been conveyed.

7.04. Amplification. The provisions of this Article VII may be amplified by the Articles of Incorporation and Bylaws of the Association; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth in this Declaration.

## ARTICLE VIII

### CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION AND BOARD OF TRUSTEES

8.01. The Common Areas. The Board of Trustees, acting on behalf of the Association and, subject to the rights and duties of the Owners as set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereof (including the Common Facilities if any), and shall keep the same in good, clean, attractive, safe, and sanitary condition, order, and repair; provided, however, that unless otherwise stated herein, each Owner shall keep the Limited Common Areas designated for use in connection with his or her Unit, if any, in a clean, sanitary, and attractive condition. The Association shall be responsible for the maintenance and repair of the exterior of the Buildings, other improvements and grounds, including without limitation painting thereof, repair and

replacement of exterior trim, roofs and fences, maintenance of landscaping, walkways, driveways, and parking areas. The Board of Trustees shall also be responsible for maintenance, repair, and replacement of any Common Areas within the Buildings, including without limitation landings, stairways, utility lines, Common Facilities, and all improvements and other items located within or used in connection with the Common Areas. The specification of duties of the Board of Trustees with respect to particular Common Areas shall not be construed to limit its duties with respect to other Common Areas. All goods and services procured by the Board of Trustees in performing its responsibilities under this Section shall be paid for with funds from the Common Expense Fund. The Association is responsible for all snow removal on the roads of the Project; the Owners are responsible for all snow removal for the sidewalks bordering their Unit, parking area, and Limited Common Area.

8.02. Manager. The Board of Trustees may by written contract delegate in whole or in part to a Manager such of the duties, responsibilities, functions, and powers hereunder of the Board of Trustees as are delegable. The services of any Manager retained by the Board of Trustees shall be paid for with funds from the Common Expense Fund. Appropriate fidelity bond coverage may be required for any employee of the Manger who handles funds of the Association.

8.03. Miscellaneous Goods and Services. The Board of Trustees may, in behalf of the Association, obtain and pay for the services of such personnel as the Board of Trustees shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. The Board of Trustees may, on behalf of the Association, obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration. In addition to the foregoing, the Board of Trustees may, on behalf of the Association, acquire and pay for out of the Common Expense Fund: water, sewer, garbage collection, electrical, gas, other necessary or desirable utility services for the Common Areas (and for the Units to the extent not separately metered or billed), insurance, bonds, and other goods and services common to the Units.

8.04. Real and Personal Property. The Board of Trustees may acquire and hold on behalf of the Association, real, personal, and mixed property of all types for the use or benefit of all of the Owners and may dispose of such property by sale or otherwise; provided that any disposition of any real, personal or mixed property by the Board of Trustees wherein the value of such property exceeds \$5,000 must be approved by a vote of at least fifty one percent (51%) of the Total Votes of the Association at a meeting duly called for that purpose. All common property shall be paid for out of the Common Expense Fund and all proceeds from the disposition thereof shall be part of the fund.

8.05. Rules and Regulations. The Board of Trustees may, from time to time, make reasonable rules and regulations governing the use of the Units, the Common Areas, the Limited Common Areas, and all parts of the Project, which rules and regulations shall be consistent with the rights and duties established by this Declaration. The Board of Trustees on behalf of the Association may take judicial action against any Owner to enforce compliance with such rules and regulations or other obligations of such Owner arising hereunder, or to obtain damages for noncompliance therewith, as permitted by law. In the event of such judicial action, the Association shall be entitled to recover its costs, including reasonable attorneys' fees, from the

offending Owner.

8.06. Granting Easements. The Board of Trustees may, without the vote or consent of the Owners or of any other person, grant or create, on such terms as it deems advisable, utility and similar easements and rights way over, under, across, and through the Common Areas.

8.07. Statutory Duties and Powers. All duties, responsibilities, rights, and powers imposed upon or granted to the "Management Committee" or to the "Manager" under the Condominium Act shall be duties, responsibilities, rights, and powers of the Board of Trustees hereunder.

8.08. Implied Rights. The Association may exercise any right, power, or privilege given to it expressly by this declaration or by law, and every other right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

8.09. Express Limitation of Liability Regarding Detention Pond. There is a water detention pond which will be constructed by the Declarant which is identified in the Plat. The Declarant and the Association shall have no liability for any damages or injury caused to any party or property related in any way to the water detention pond, or any water drainage from or to the same or flooding related thereto. Certain lots within the subdivision may contain portions of the storm water detention pond or drainage system; property owners shall not fill these ponds or otherwise render them inoperable. Similarly property owners shall not interfere with the drainage of water to or from the detention pond.

## ARTICLE IX

### ASSESSMENTS

9.01. Agreement to Pay Assessments. The Declarant, for each Condominium owned by it within the Project, and for and as the Owner of the Project and every part thereof, hereby covenants and each Owner of any Condominium by the acceptance of instruments of conveyance and transfer therefor, whether or not it be so expressed in said instruments, shall be deemed to covenant and agree with each other and with the Association to pay to the Association all assessments made by the Association for the purposes provided in this Declaration. Such assessments shall be fixed, established, and collected from time to time as provided in this Article IX. The obligation of the Declarant to pay assessments for any Unit shall not commence until one hundred fifty (150) days after completion of the construction of the respective Unit and issuance of an occupancy permit.

9.02. Annual Assessments. Annual Assessments shall be computed and assessed against all Condominiums in the Project as follows:

(a) Common Expense. Annual Assessments shall be based upon advance estimates of the Association's cash requirements to provide for payment of all estimated expenses arising out of or connected with maintenance and operation of the Common Areas. Such estimated expenses may include, among other things, the following: expenses of management; real property taxes and special assessments (unless and until the condominiums are separately assessed); premiums for all insurance that the Association is required or permitted to maintain

hereunder, repairs and maintenance, wages for Association employees, including fees for a Manager (if any); utility charges, including charges for utility services to the Units to the extent not separately metered or billed, legal and accounting fees, any deficit remaining from a previous period, creation of an adequate contingency reserve, major maintenance reserve, and/or sinking fund; creation of an adequate reserve fund for maintenance repairs, and replacement of those Common Areas that must be replaced on a periodic basis, and such extraordinary special assessments, and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under or by reason of this Declaration. At a minimum, the Association shall maintain a reserve fund of four month's of the Owner's common expense assessments. Such shall constitute the Common Expense, and all funds received from assessments under this Section 9.02 shall be part of the Common Expense/Operating Fund.

(b) Apportionment. Expenses attributed to the Common Expense or to the Project as a whole, including the funding of a separate reserve fund, shall be apportioned among and assessed to all Owners in proportion to their respective undivided interests in the Common Areas. The Declarant shall be liable for the amount of any assessments against Condominiums owned by it.

(c) Annual Budget. Annual Assessments shall be determined on the basis of a fiscal year as shall be determined by the Board of Trustees. The Board of Trustees shall prepare and furnish to each Owner, or cause to be prepared and furnished to each Owner, an operating budget for the upcoming fiscal year. The budget shall itemize the estimated expenses of Common Expense for such fiscal year, anticipated receipts (if any), and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the Annual Assessment for the upcoming fiscal year and as the major guideline under which the Project shall be operated during such annual period.

(d) Notice and Payment. The Board of Trustees shall notify each Owner as to the amount of the Annual Assessment against his Condominium. Each Annual Assessment shall be payable in advance and in such installments and at such times as the Association, in the sole discretion of its Board of Trustees, may determine. The time for and interval of payment of installments shall be established by the Board of Trustees. All unpaid installments of any Annual Assessment shall bear interest at the rate of eighteen percent (18%) per annum from the date each such installment becomes due, until paid. In addition, in the event that any installment of any Annual Assessment is not paid on the date such installment becomes due, it shall be subject to a penalty for late payment of ten dollars (\$10.00) per day from the date each such installment becomes due until paid. The failure of the Board of Trustees to give timely notice of any Annual Assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay such assessment or any other assessment; but the date when the payment shall become due in such case shall be deferred to a date fifteen (15) days after notice of such assessment shall have been given to the Owner in the manner provided in this Declaration.

(e) Inadequate Funds. In the event that the Common Expense Fund proves inadequate at any time for whatever reason, including non payment of any Owner's assessment, the Board of Trustees may, on behalf of the Association: (i) use such a portion of the Reserve Fund as the Board deems necessary; and/or (ii) levy additional assessments in accordance with the procedures set forth in Section 9.03 below, except that the vote therein specified shall be

unnecessary. Any additional assessments may be used to replenish the Reserve Fund to the amount existing therein just prior to the Board's use of the same.

9.03. Special Assessments. In addition to the Annual Assessments authorized by this Article, the Board of Trustees may, on behalf of the Association, levy, at any time and from time to time, upon affirmative vote of at least fifty one percent (51%) of the Total Votes of the Association, Special Assessments, payable over such periods as the Board of Trustees 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 Project or any part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration (including without limitation Common Expenses). This Section shall not be construed as an independent source of authority for the Association to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections or Articles herein. Any amounts assessed pursuant hereto shall be assessed to Owners in proportion to their respective undivided interests in the Common Areas. Notice in writing of the amount of each such Special Assessment and the time for payment shall be due not less than fifteen (15) days after such notice shall have been given. All unpaid portions of any Special Assessment shall bear interest at the rate of eighteen percent (18%) per annum from the date such portions become due until paid. In addition, in the event that any Special Assessment is not paid on the date such Special Assessment becomes due, it shall be subject to penalty for late payment of ten dollars (\$10.00) per day from the date each such Special Assessment becomes due until paid. All funds received from assessments under this Section shall be a part of the Common Expense Fund.

9.04. Lien for Assessments. All sums assessed to Owners of any Condominium within the Project pursuant to the provisions of this Article IX, together with penalties and interest thereon as provided herein, shall be secured by a lien on such Condominium in favor of the Association. To evidence a lien for sums assessed pursuant to this Article IX, the Board of Trustees may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Condominium, and a description of the Condominium. Such a notice shall be signed and acknowledged by a duly authorized officer or agent of the Association 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: (i) there is a delinquency in payment of the assessment, and (ii) the subject Owner has been sent via certified mail to Owner's address, a Notice of Delinquency which provides Owner a period of 30 days within which to cure the delinquency in assessments and said Owner fails to cure the delinquency within the 30 days. Such lien may be enforced by sale or foreclosure conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any other manner permitted under the laws of the State of Utah. In any foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees) and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessments against the Condominium which shall become due during the period of foreclosure, and all such assessments shall be secured by the lien being foreclosed. The Board of Trustees shall have the right and power on behalf of the Association to bid in at any foreclosure sale, and to hold, lease, mortgage, or convey the subject Condominium in the name of the Association.

9.05. Personal Obligation of Owner. The amount of any Annual or Special Assessment against any Condominium shall be the personal obligation of the Owner of such Condominium

to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his Condominium or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment for unpaid assessments hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorneys' fees.

9.06. Statement of Account. Upon payment of a reasonable fee not to exceed \$30.00 and upon written request of any Owner, Mortgagee, or prospective purchaser of a Condominium, the Board of Trustees shall issue a written statement setting forth the following: The amount of the unpaid assessments, if any, with respect to such Condominium; the amount of the current Annual Assessments and the date or dates upon which installments thereof become due, less credit for advanced payments or prepaid items, including without limitation the Owner's share of prepaid insurance premiums. Such statement shall be conclusive upon the Association in favor of persons who rely thereon in good faith.

9.07. Personal Liability of Purchaser. A purchaser of a Condominium shall be jointly and severally liable with the seller thereof for all unpaid assessments against such Condominium up to the time of the grant or conveyance; provided, however, that the provisions of this Section shall not prejudice the purchasers right to recover from the seller the amount paid by the purchaser for such assessments.

9.08. Amendment of Article. This Article IX shall not be amended unless the Owners of at least two thirds (2/3) of the Condominium Units in the Project consent and agree to such amendment in a duly recorded instrument.

## ARTICLE X

### INSURANCE

10.01. Types of Insurance. The Association shall obtain and keep in full force and effect at all times the following types of insurance coverage, provided by companies licensed to do business in the State of Utah.

(a) Master Property Insurance. The Association shall obtain and maintain a "master" or "blanket" Multi Peril policy of property insurance on the Project equal to a full replacement value (i.e., 100% of current "replacement cost" exclusive of land, foundation, excavation and other items normally excluded from coverage) of the Project (including all building service equipment and the like and any fixtures or equipment within the Condominium Unit which are financed under the mortgage) with an Agreed Amount Endorsement or its equivalent, if available, or an Inflation Guard Endorsement and, if required by FNMA or FHLMC, Demolition and Contingent Liability from Operation of Building Laws Endorsements, an Increased Cost of Construction Endorsement, an Earthquake Damage Endorsement, and other endorsements as necessary. Such insurance shall afford protection against loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water



damage, and such other risks as are customarily covered in similar projects and as are commonly required by private institutional mortgage investors for projects similar in construction, location and use. All policies of property insurance shall provide that, despite any provisions giving the insurance carrier the right to elect to restore damage in lieu of a cash settlement, such option shall not be exercisable without the prior written approval of the Association (or any Insurance Trustee) or when in conflict with the provisions of any insurance Trust Agreement to which the Association may be a party, or any requirement by law. Any blanket policy of property insurance shall contain or have attached a standard mortgagee clause (without contribution) customarily used in the area in which the Project is located which must be endorsed to provide that any proceeds shall be paid to the Maple Ridge Condominiums Owners Association for the use and benefit of first mortgagees as their interests may appear.

(b) Public Liability Insurance. The Association shall obtain and maintain a comprehensive policy of public liability insurance covering all of the Common Areas and Facilities, commercial spaces and public ways (if any) in the Project, with a Severability of Interest Endorsement or equivalent coverage which would preclude the insurer from denying the claim of a condominium Unit owner because of the negligent acts of the Association or another condominium Unit owner, with limits not less than \$1,000,000.00 covering all claims for personal injury and/or property damage arising out of a single occurrence including protection against water damage liability, liability for non owned and hired automobiles, liability for property of others, and such other risks as are customarily covered in similar projects. The scope of coverage also includes all other coverage in the kinds and amounts required by private institutional mortgage investors for projects similar in construction, location and use.

(c) Workmen's Compensation Insurance. The Association shall obtain and maintain workmen's compensation and employers liability insurance and all other similar insurance with respect to employees of the Association if any in the amounts and in the forms now or hereafter required by law.

(d) Fidelity Insurance or Bond. The Association if it shall so choose may obtain and maintain adequate fidelity coverage to protect against dishonest acts by its officers, members of the Board of Trustees, and employees and all others who are responsible for handling funds of the Association. Such fidelity bonds shall meet the following requirements:

(i) all shall name the Association as an obligee;

(ii) all shall be written in an amount equal to at least 100% of the estimated annual operating expenses and reserves of the Project, (Exceptions to this requirement will be considered on a case by case basis);

(iii) all shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression, or shall contain an appropriate endorsement to the policy to cover any persons who serve without compensation if the policy would not otherwise cover volunteers;

(e) Flood Insurance. In the event that the Project should be declared to be in such a flood area, the Association shall at that time obtain and maintain at all times a blanket policy of flood insurance that meets the then existing FHLMC/FNMA flood insurance requirements for

similar condominium projects. Such policy shall contain the standard mortgagee clause customarily used in the area in which the Project is located and provided that any proceeds shall be paid to the Maple Ridge Condominiums Owners Association for the use and benefit of mortgagees as their interest may appear.

(f) Other Insurance. Notwithstanding any other provisions contained herein to the contrary, 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 condominium development projects established by the Federal National Mortgage Association and the Government National Mortgage Association, so long as either is a mortgagee or Owner of a Condominium within the Project, except to the extent such coverage is not available or has been waived in writing by the Federal National Mortgage Association or the Government National Mortgage Association.

10.02. Insurance Policy Requirements. The Master Multi Peril Property, Public Liability and Flood Insurance policies obtained by the Association pursuant to Section 10.01 shall be subject to the following:

(a) the named insured under any such policies shall be the Association, as a trustee for the Unit Owners, or its authorized representative, including any trustee with which such 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 these policies;

(b) insurance coverage obtained and maintained pursuant to the requirement of Section 10.01 (a) and (b) shall not be brought into contribution with insurance purchase by the Unit or their mortgagees;

(c) coverage must not be prejudiced by (i) an act or neglect of the Unit Owners when such act or neglect is not within the control of the Association or (ii) any failure of the Association to comply with any warranty or condition regarding any portion of the premises over which the Association has no control;

(d) coverage may not be canceled or substantially modified (including cancellation for non payment of premium) without at least thirty (30) days prior to written notice to any and all insured;

(e) all policies must contain a waiver of subrogation by the insurer as to any and all claims against the Association, the Owner of any condominium Unit and/or their respective agents, employees or tenants, and of any defenses based on co insurance or on invalidity arising from the acts of the insured;

(f) each hazard insurance policy shall be written by a hazard insurance carrier which has a financial rating by Best's Insurance Reports of Class A or better;

(g) policies shall be deemed unacceptable where (i) under the terms of the carrier's charter, bylaws or policy, contributions or assessments may be made against a Condominium Unit Owner, his first mortgagee or any first mortgagee's designee or such designee's designee; or

(ii) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policy holders, or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent a Condominium Unit Owner, his first mortgagee or any first mortgagee's designee or such designee's designee from collecting insurance proceeds; and

(h) all policies of hazard insurance shall contain or have attached the standard mortgagee clause commonly accepted by private institutional mortgage investors in the area in which the Project is located.

10.03. Custody of Insurance Policies. Upon written request and payment of a \$10.00 processing fee, the Board of Trustees shall provide a Condominium Unit Owner, his first mortgagee or any first mortgagee's designee or such designee's designee, with a copy of the "master" or "blanket" policy of Multi Peril property insurance, including copies of endorsements to such policy as required by FHLMC or FNMA, and where applicable, a copy of any flood insurance policy, a copy of the comprehensive policy of public liability insurance an appropriate certificate or memorandum of insurance as to each Unit in the Project which is the subject of a mortgage being serviced for FHLMC and FNMA and all other insurance drafts, policies, notices, invoices and other similar documents.

10.04. Additional Coverage. The provisions of this Declaration shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage in addition to any insurance coverage required by this Declaration, in such amounts and in such forms as the Association may deem appropriate from time to time.

10.05. Owner's Own Insurance. Each Owner, at his own expense, shall procure and maintain at all times fire and extended coverage insurance covering personal property of such owner and additional fixtures and improvements added by such owner against loss by fire and other casualties, including without limitation vandalism and malicious mischief. All policies providing such casualty insurance shall provide that they do not diminish the insurance carrier's coverage for liability arising under insurance policies obtained by the Association pursuant to this Article. Notwithstanding the provisions hereof, each Owner may obtain insurance at his own expense providing such other coverage upon his Condominium, his personal property, for his personal liability, and covering such other risks as he may deem appropriate; provided that each such policy shall provide that it does not diminish the insurance carrier's coverage for liability arising under insurance policies obtained by the Association pursuant to this Article. If obtainable under industry practice without an unreasonable additional charge for such waiver, all such insurance shall contain a waiver of the insurance company's right of subrogation against the Association, the Declarant, the Manager, other Owners, and their respective servants, agents and guests.

10.06. Review of Insurance. The Association shall review annually the coverage and policy limits of all insurance on the Project and adjust the same at its discretion. Such annual review may include an appraisal of the improvements in the Project by a representative of the insurance carrier or carriers providing the policy or policies on the Project, or by such other qualified appraisers as the Association may select.

## ARTICLE XI

### DAMAGE OR DESTRUCTION

11.01. Association as Attorney in Fact. All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney in fact in their name, place, and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute an appointment by said grantee of the Association as his attorney in fact as herein provided. As attorney in fact, the Association shall have full and complete authorization, right and power to make, execute, and deliver any contract, deed, or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted.

11.02. Definition of Repair and Reconstruction. Repair and reconstruction of the improvements as used herein means restoring the Project to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas having substantially the same vertical and horizontal boundaries as before.

11.03. Procedures. In the event any part of the Project is damaged or destroyed, the Association shall proceed as follows:

(a) Notices to First Mortgagees. The Association shall give timely written notice to any Institutional Holder of any first mortgage on a Unit in the event of substantial damage to or destruction of any Unit or any part of the Common Areas.

(b) Estimate of Costs. As soon as practicable after an event causing damage to or destruction of any part of the Project, the Association shall obtain complete and reliable estimate of the costs to repair and reconstruct that part of the Project damaged or destroyed.

(c) Sufficient Insurance. If the proceeds of the insurance maintained by the Association exceed the estimated costs to repair and reconstruct the damaged or destroyed part of the Project, such repair and reconstruction shall be carried out.

(d) Insufficient Insurance, Less than 75% Destruction. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project, and if less than seventy five percent (75%) of the Project is damaged or destroyed, such repair and reconstruction shall nevertheless be carried out. The Association shall levy a Special Assessment sufficient to provide funds to pay the actual costs of such repair and reconstruction to the extent that such insurance proceeds are insufficient to pay such costs. Such Special Assessment shall be allocated and collected as provided in Section 9.03 hereof, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected (together with the proceeds of insurance) are insufficient to pay all actual costs of such repair and reconstruction.

(e) Insufficient Insurance, 75% or More Destruction. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project, and if seventy five percent (75%) or more of the Project is damaged or destroyed, such damage or destruction shall be repaired and reconstructed

as provided herein, if, but only if, within one hundred (100) days following the damage or destruction, the Owners shall elect by a vote of at least seventy five percent (75%) of the Total Votes of the Association to carry out such repair and reconstruction. If, however, the Owners shall not, within one hundred (100) days after such damage or destruction, elect by a vote of at least seventy five percent (75%) of the Total Votes of the Association to carry out such repair and reconstruction, the Association shall record in the office of the County Recorder of Salt Lake County, State of Utah, a notice setting forth such facts. Upon the recording of such notice the following shall occur:

(i) The Project shall be deemed to be owned in common by the Owners;

(ii) The undivided interest in the Project owned in common which shall appertain to each Owner shall be the percentage of the undivided interest previously owned by such Owner in the Common Areas;

(iii) Any liens affecting any of the Condominiums shall be deemed to be transferred, in accordance with the existing priorities, to the undivided interest of the respective Owner in the Project; and

(iv) The Project shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of any sale resulting from such suit for partition, together with the net proceeds of the insurance of the Project, if any, shall be considered as one fund and shall be divided among all Owners in a percentage equal to the percentage of undivided interest owned by each respective Owner in the Common Areas, as set forth in Exhibit A hereto, after first paying out of the respective share of each Owner, to the extent sufficient for the purposes, all liens on the undivided interest in the Project owned by such Owner.

(f) In no event shall an owner of a Unit or any other party have priority over the Institutional Holder of any first mortgage on such Unit with respect to the distribution to such Unit of any insurance proceeds.

11.04. Repair or Reconstruction. If the damage or destruction is to be repaired and reconstructed as provided above, the Association shall, as soon as practicable after receiving the said estimate of costs, commence and diligently pursue to completion the repair and reconstruction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair and reconstruction, as attorney in fact for the Owners, and no consent or other action by an Owner shall be necessary in connection therewith, except as otherwise expressly provided herein. The Project shall be restored or repaired to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas having the same vertical and horizontal boundaries as before.

11.05. Disbursement of Funds for Repair and Reconstruction. If repair or reconstruction is to occur, the insurance proceeds held by the Association and any amounts received from assessments made pursuant to the relevant provisions herein shall constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for cost of repair and reconstruction shall be made from insurance proceeds, if there is a balance after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners in proportion to their respective percentages of

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Ownership of the Common Areas:

11.06. Amendment of Article. This Article XI shall not be amended unless the Owners of at least two thirds (2/3) of the Condominium Units in the Project consent and agree to such amendment by duly executed and recorded instruments.

**ARTICLE XII**

**CONDEMNATION**

12.01. Condemnation. If at any time or times all or any part of the Project shall be taken or condemned by any public authority under power of eminent domain, the provisions of this Article shall apply. A voluntary sale or conveyance of all or any part of the Project in lieu of condemnation, but under threat of condemnation, shall be deemed to be a taking by power of eminent domain. If any Unit or portion thereof, or the common areas and facilities or any portion thereof, is made the subject matter of any condemnation or eminent domain proceedings or is otherwise sought to be acquired by a condemning authority, the Board of Trustees shall give prompt written notice of any such proceeding or proposed acquisition to each Unit owner in the Project and to any Institutional Holder of any first mortgage on a Unit in the Project.

12.02. Proceeds. All compensation, damages, and other proceeds from any such taking by power of eminent domain (hereinafter the "condemnation award") shall be made payable to the Association and shall be distributed by the Board of Trustees, on behalf of the Association as herein provided.

12.03. Complete Taking. In the event the entire Project is taken by power of eminent domain, condominium ownership pursuant hereto shall terminate and the condemnation award shall be allocated among and distributed to the Owners in proportion to their respective undivided interests in the Common Areas. Such distribution shall be made by check payable jointly to the respective Owners and their respective Mortgagees, as appropriate.

12.04. Partial Taking. In the event less than the entire Project is taken by power of eminent domain, the following shall occur:

(a) Allocation of Award. As soon as practicable, the Board of Trustees shall, on behalf of the Association, apportion the condemnation award between compensation, severance damages, or other proceeds, and shall allocate such apportioned amounts and pay the same to the Owners as follows:

(i) The total amount apportioned to taking of, or injury to, the Common Areas shall be allocated among and distributed to all Owners (including Owners whose entire Units have been taken) in proportion to their respective undivided interests in the Common Areas;

(ii) The total amount apportioned to severance damages shall be allocated among and distributed to the Owners of those Condominiums that have not been taken, in proportion to their respective undivided interests in the Common Areas;

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(iii) The respective amounts apportioned to the taking of or injury to a particular Unit shall be allocated and distributed to the Owner of such Unit;

(iv) The total amount apportioned to consequential damages and any other takings or injuries shall be allocated and distributed as the Association determined to be equitable under the circumstances;

(v) If apportionment or allocation is already established by negotiation, judicial decree, statute, or otherwise, the Association shall employ such apportionment and allocation to the extent it is relevant and applicable;

(vi) Distribution of allocated proceeds shall be made by check payable jointly to individual Owners and their respective Mortgagees, as appropriate; and

(vii) No provision of this Article XII or any other provision in this Declaration, the Articles, or the Bylaws shall entitle the owner of a Unit or other party to priority over any institutional holder of any first mortgage on such Unit with respect to the distribution to such Unit of the proceeds of any award, settlement, or proceeds from any eminent domain or condemnation proceedings.

(b) Continuation and Reorganization. If less than the entire Project is taken by power of eminent domain, condominium ownership pursuant hereto shall not terminate, but shall continue. In such event the Project shall be reorganized as follows:

(i) If any partial taking results in the taking of an entire Unit, then the Owner thereof shall cease to be a Member of the Association and all voting rights and the undivided interest in the Common Areas appertaining to such Unit shall be reallocated to, and shall appertain to, the remaining Units in proportion to their respective undivided interests in the Common Areas.

(ii) If any partial taking results in the taking of a portion of a Unit and if no determination is made by the Board of Trustees that such taking makes it impractical to use the remaining portion of such Unit for any lawful purpose permitted by this Declaration, then the fair market value of such remaining portion of the Unit shall be determined by the Board of Trustees and all voting rights and the undivided interest in the Common Areas appertaining to such Unit shall be reduced in proportion to the diminution in fair market value of such Unit resulting from the taking. The voting rights and undivided interest in the Common Areas so divested from such Unit shall be reallocated to, and shall appertain to, such Unit and the other respective undivided interests in the Common Areas; provided, however, that such Unit shall participate in such reallocation on the basis of the undivided interest reduced in accordance with the preceding sentence.

(iii) If any partial taking results in the taking of a portion of a Unit and if there is a determination made by the Board of Trustees that such taking makes it impractical to use the remaining portion of such Unit for any lawful purpose permitted by this Declaration, then all voting rights and the entire undivided interest in the Common Areas appertaining to such Unit shall be reallocated to and shall appertain to the remaining Units in proportion to their respective

undivided interests in the Common Areas, and the remaining portion of such Unit shall thenceforth be part of the Common Area.

(iv) The Board of Trustees shall have the duty and authority to make all determinations and to take all actions necessary or appropriate to effectuate reorganization of the Project under the provisions of this Section 12.04 (b) ; provided, however, that if any such determination shall have been or such action taken by judicial decree, the Board of Trustees shall defer thereto and proceed in accordance therewith.

(c) Repair and Reconstruction. Any repair and reconstruction necessitated by condemnation shall be governed by its provisions specified in Article XI hereof for cases of Damage or Destruction; provided, however, that the provisions of said Article dealing with sufficiency or insufficiency of insurance proceeds shall not be applicable.

### ARTICLE XIII

#### OBSOLESCENCE

13.01. Adoption of Plan. Subject to the provisions of Section XIV hereof, Owners holding seventy five percent (75%) or more of the Total Votes of the Association may agree that the Project is obsolete and adopt a written plan for the renewal and reconstruction of the Project. Written notice of adoption of such a plan shall be given to all Owners and Institutional Holders.

13.02. Payment for Renewal and Reconstruction. The Association shall levy a Special Assessment sufficient to provide funds to pay the estimated expenses of renewal or reconstruction. Such Special Assessment shall be allocated and collected as provided in Article IX hereof. Further levies may be made in like manner if the amounts collected prove insufficient to pay the actual expenses of such renewal or reconstruction. In the event the amounts collected pursuant hereto are in excess of the amounts required for renewal or reconstruction, such excess shall be distributed to the Owners in proportion to their respective percentages of ownership of the Common Areas.

13.03. Sale of Project. Subject to the provisions of Section XIV hereof, the Owners may at any time that the Project is declared obsolete hereunder, by an affirmative vote of at least seventy five percent (75%) of the Total Votes of the Association, at a special meeting of the Members of the Association duly called for such purpose, elect to sell or otherwise dispose of the Project. In such event, the Board of Trustees shall forthwith record in the office of the County Recorder of Salt Lake County, State of Utah, a notice setting forth such facts, and upon the recording of such notice by the Board of Trustees, the Project shall be sold or otherwise disposed of by the Board of Trustees as attorney in fact for all of the Owners. Such action shall be binding upon all Owners and each Owner shall have the duty to execute and deliver such instruments and to perform all acts in such manner and form as may be necessary or appropriate to effect such sale or other disposition of the Project. The proceeds of such sale or disposition shall be apportioned among the Owners in proportion to their respective undivided interests in the Common Areas, and such apportioned proceeds shall be paid into separate accounts, each such account representing one Condominium. Each such account shall remain in the name of the Association, and shall be further identified by the Condominium designation and the name of the Owner. The Board of Trustees, as attorney in fact, shall use and disburse the total amount of each



such account, without contribution from one account to another, first to the payment of valid tax and special assessment liens on the Condominium in favor of any governmental assessing authority, second to the payment of any Institutional Holder of a first mortgage lien on the Condominium, third to the payment of assessments made pursuant to this Declaration, fourth to the payment of other holders of liens or encumbrances on the Condominium in the order of priority of their liens, and the balance remaining, if any, to the respective Owner.

13.04. Amendment of Article. This Article XIII shall not be amended unless the Owners of seventy five percent (75%) of the Condominiums in the Project and at least seventy five percent (75%) of all Institutional Holders which have a first mortgage lien on any Unit in the Project, based on one vote for each mortgage, consent and agree to such amendment by duly executed and recorded instruments.

## ARTICLE XIV

### MORTGAGE PROTECTION

14.01. Matters Requiring Prior Mortgagee Approval. Except as provided by the Condominium Act in case of condemnation or substantial loss to the Units and/or Common Areas of the Project, unless at least eighty percent (80%) of all First Mortgagees (including Institutional Holders) which hold first mortgage liens on Condominium Units in the Project (based upon one vote for each First Mortgage owned) have given their prior written approval, the Association shall not be entitled to:

(a) 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;

(b) Cause any amendment to be made to the Declaration, the Articles, or the Bylaws, which would change the pro rata interest or obligations of any individual condominium for the purpose of: (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of each condominium in the Common Areas; or

14.02. Matters That May Require Prior Mortgagee Approval. Except as provided by the Condominium Act in case of condemnation or substantial loss to the Units and/or Common Areas of the Project, unless at least eighty percent (80%) of the First Mortgagees (based upon one vote for each First Mortgage owned), and, (subject to the provision of Section 16.11 hereof and the Condominium Act) all of the Owners of the individual Condominium Units have given their prior written approval, the Association shall not be entitled to:

(a) Partition or subdivide any Condominium Unit;

(b) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas of the Project; or

(c) Use hazard insurance proceeds for losses to any Condominium property (whether to the Condominium Units, or to the Common Areas) for other than repair, replacement or

reconstruction of such Condominium property, except as provided by the Condominium Act in case of substantial loss to the Condominium Units and/or Common Areas of the Project.

14.03. Prior Liens Relate Only to Individual Units. All taxes, assessments and charges which may become liens prior to the first mortgage under local law shall relate only to the individual Condominiums and not to the Project as a whole.

14.04. Subordination of Common Expense Lien. Any lien which the Association may have on any Unit in the Project for the payment of common expense assessments attributable to such Unit shall be subordinate to the lien of equivalent security interest of any first mortgage on the Unit recorded prior to the date on which any such common expense assessments became due.

14.05. Information Made Available to Mortgagee Upon Request. Any Institutional Holder of a first mortgage on a Unit in the Project shall, upon request, be entitled to: (a) inspect the books and records of the Association during normal business hours; and (b) receive an annual audited financial statement of the Association within 90 days following the end of any fiscal year of the Project; and (c) written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings.

14.06. Priority of Mortgagee in Event of Damage. In the event of substantial damage to or destruction of any Unit or any part of the Common Areas, the Holder of any first mortgage on a Unit shall be entitled to timely written notice of any such damage or destruction and no provision of the Declaration, Articles, or Bylaws or any amendment thereto shall entitle the Owner of a Unit or other party to priority over such holder with respect to the distribution to such Unit of any insurance proceeds.

14.07. Priority of Mortgagee in Event of Condemnation. If any Unit or portion thereof, or the Common Areas or any portion thereof, is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the Holder of any first mortgage on a Unit shall be entitled to timely written notice of any such proceeding or proposed acquisition and no provision of the Declaration, Articles, or Bylaws or any amendment thereto, shall entitle the Owner of a Unit or other party to priority over such holder with respect to the distribution to such Unit of the proceeds of any award or settlement.

14.08. Mortgagee Rights in Event of Foreclosure. Each Holder of a first mortgage lien on a Unit who comes into possession of the Unit by the foreclosure of a mortgagee, or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Unit free of any claims for unpaid assessments and charges against the Unit which accrue prior to the time such holder comes into possession of the Unit, except for the claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all Units in the Project, including the mortgaged Unit.

14.09. Notice to First Mortgagees. The Association shall give Institutional Holders of first mortgages who have requested in writing such notice, prompt notice of any default in the Unit mortgagor's obligations under the condominium documents not cured within thirty (30) days of default.

14.10. No Right of First Refusal. No "right of first refusal" shall be included in or added by amendment to the Declaration, Articles or Bylaws which would impair the rights of any holder of a first mortgage on a Unit in the Project to:

- (a) foreclose or take title to a condominium Unit pursuant to the remedies provided in the mortgage, or
- (b) accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor, or
- (c) interfere with a subsequent sale or lease of a Unit so acquired by the mortgage.

14.11. Identification of Mortgagee. An Owner who mortgages his Unit shall, within ten (10) days after such mortgage has been executed, notify the Board of Trustees of the name and address of his mortgagee for purposes of the mortgagee's receipt of Notices hereunder.

14.12. Amendment. No provision of this Article XIV shall be amended without the prior written consent of at least eighty percent (80%) of all First Mortgagees (including all Institutional Holders which have a first mortgage on any Condominium Unit in the Project), based on one vote for each mortgagee.

## ARTICLE XV

### COMPLIANCE WITH DECLARATION AND BYLAWS

15.01. Compliance. Each Owner shall comply strictly with the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association rules and regulations promulgated by the Association, and the decisions and resolutions of the Association adopted pursuant thereto, as the same may lawfully be modified and amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or for injunctive relief or for both, maintainable by the Association or, in a proper case, by an aggrieved Owner.

15.02. Enforcement and Remedies. The obligations, provisions, covenants, restrictions, and conditions contained in this Declaration, or in any Supplemental or Amended Declaration, with respect to the Association or Condominiums within the Project shall be enforceable by the Declarant or by any Owner of a Condominium within the Project, subject to this Declaration, by a proceeding for a prohibitive or mandatory injunction. The obligations, provisions, covenants, restrictions, and conditions contained in this Declaration, or in any Supplemental or Amended Declaration, with respect to a person or entity or property of a person or entity other than the Association or the Declarant shall be enforceable by the Declarant or by the Association or, in a proper case, by an aggrieved Owner by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages or to recover any amount due or unpaid. If any party must resort to any process to enforce any term of this Declaration or any rule, policy, or document authorized hereby, the breaching party is liable to pay the enforcing party's fees and costs of enforcement including reasonable attorney fees whether or not incurred in actual litigation.

## ARTICLE XVI

### GENERAL PROVISIONS

16.01. Intent and Purpose. The provisions of this Declaration, and any Supplemental or Amended Declaration, shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of a Condominium Project. Failure to enforce any provision, restriction, covenant, or condition contained in this Declaration, or in any Supplemental or Amended Declaration, shall not operate as a waiver of any such provision, restriction, covenant, or condition or of any other provisions, restrictions, covenants, or conditions.

16.02. Construction. The provisions of this Declaration shall be in addition and supplemental to the provisions of the Condominium Act and all other provisions of law. Whenever used herein, unless the context shall otherwise require, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both genders. The Article and Section headings set forth herein are for convenience and reference only and are not intended to expand, limit, or otherwise affect the meaning or interpretation of this Declaration or any provision hereof. The provisions hereof shall be deemed independent and severable, and the invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provisions hereof.

16.03. Notices and Registration of Mailing Address. Each Owner shall register from time to time with the Association his current mailing address. All notices, demands, and other communications to any Owner as provided for in this Declaration shall be in writing and shall be sufficient for all purposes if personally served or if sent by first class U.S. certified Mail, postage prepaid, addressed to the Owner at his registered mailing address or, if no address has been registered, to the Unit address of such Owner. All notices, demands, and other communications to the Association as provided for in this Declaration shall be in writing and shall be sufficient for all purposes if personally served or if sent by first class U.S. Certified mail, postage prepaid, addressed to the Association at its designated address or to such other address as the Association may hereafter specify to the Owners in writing. Any notice, demand or communication referred to in this Declaration shall be deemed to have been given and received when personally served or when deposited in the U.S. Certified mail, postage prepaid and in the form provided for in this Section, as the case may be.

16.04. Audit. Any Owner may at any reasonable time, upon appointment and at his own expense, cause an audit or inspection to be made of the books and records maintained by the Association. The Association, at the expense of the Common Expense Fund, shall obtain an audit, by public accountants, of all books and records pertaining to the Project at no greater than annual intervals, and copies thereof shall be furnished to the Owners.

16.05. Amendment. Except as otherwise provided herein and after the Declarant transfers the Common Areas to the Association, this Declaration may be amended if Owners holding at least two thirds (2/3) of the Total Votes in the Association consent and agree to such amendment by instruments which are duly recorded in the office of the County Recorder of Salt Lake County, State of Utah.

16.06. Effective Date. This Declaration shall take effect upon recording.

16.07. Agent for Service. The name and address of the person to receive service of process in all cases provided by the Condominium Act shall be the registered agent and address of the association as shown on the official corporate records maintained in the office of the Division of Corporations of the Utah Department of Commerce. On the date of this Declaration, the registered agent of the Association is Paul Colosimo, 970 East 3300 South, #7C, Salt Lake City, Utah 84106.

16.08. Limitation on Association's Liability. The Association shall not be liable for any failure of water service or other utility service (if any) to be obtained and paid for by the Association hereunder, or for injury or damage to any person or property caused by the elements or by another Owner or person in or upon the Project, or resulting from electricity, water, rain, snow, or ice which may leak or flow from outside or from any parts of the Building or its drains, pipes, conduits, appliances, or equipment, or from any other place, unless caused by the grossly negligent or willful misconduct of the Association. No diminution or abatement of any assessments under this Declaration shall be claimed or allowed for inconvenience or discomfort arising from the making of any repairs or improvements to or maintaining the Project or any part thereof, or from any action taken to comply with the provisions of this Declaration or with the laws, ordinances, regulations, rules, or order of any governmental authority.

16.09. Owner's Obligation. All obligations of an Owner, under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that he may be leasing, renting, or selling under contract his Condominium. The Owner of a Condominium within the Project shall have no obligation for expenses or other obligations accruing after he conveys such Condominium.

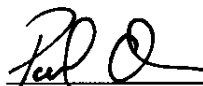
16.10. Model Units, Sales Offices and Advertising Signs. Declarant and Declarant's duly authorized agents, representatives and employees shall have the right to establish and maintain model Units and sales offices on the land within the Project, and the right to use such model Units and sales office during the period that Units in the Project remain unsold. Declarant reserves the right to relocate the same from time to time within the Project. Declarant further reserves the right to maintain advertising signs on the Project and to place the same in any location, and to relocate, replace, and remove the same at the sole discretion of Declarant during the period that Units in the project remain unsold.

16.11. Termination. The prior written approval of (a) at least two thirds (2/3) of all First Mortgagees (including Institutional Holders) which hold first mortgage liens on Condominium Units in the Project, based on one vote for each First Mortgage owned, and (b) all of the Owners of Condominium Units in the Project shall be required before the Project may be abandoned or terminated except as 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.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration the day and year first above written.

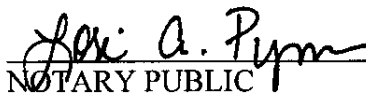
**DECLARANT:  
THE OVERLOOK, L.C.**



Paul Colosimo, Manager

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

On this 20 day of September, 2001, personally appeared before me Paul Colosimo, the Manager of The Overlook, L.C., whose identity is personally known to me, or proved to me on the basis of satisfactory evidence, and who by me duly sworn, did say that he is the Manager of The Overlook, L.C., and that said Declaration of Condominium of Maple Ridge Condominiums Phase III was signed by him in behalf of said limited liability company by authority of its Operating Agreement and Resolutions of The Overlook, L.C., and said Paul Colosimo acknowledged to me that said limited liability company executed the same.



NOTARY PUBLIC

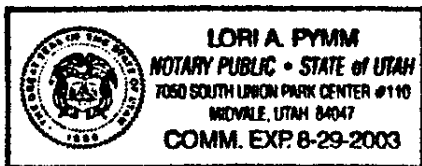


EXHIBIT "A"

PROPERTY DESCRIPTION

BEGINNING AT A POINT WHICH IS SOUTH 89°47'55" WEST 347.21 FEET AND SOUTH 0°07'00" WEST 1052.15 FEET AND SOUTH 89°24'05" EAST 158.00 FEET AND NORTH 8.00 FEET AND SOUTH 89°24'05" EAST 195.87 FEET FROM THE NORTHEAST CORNER OF SECTION 17, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SLB&M, (MONUMENT NOT FOUND), SAID POINT OF BEGINNING BEING NORTH 0°07'00" EAST 312.00 FEET ALONG THE MONUMENT LINE OF 1300 EAST STREET AND SOUTH 89°24'05" EAST 158.00 FEET AND NORTH 8.00 FEET AND SOUTH 89°24'05" EAST 195.87 FEET FROM THE MONUMENT MARKING THE INTERSECTION OF 5600 SOUTH STREET AND 1300 EAST STREET, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF MAPLE RIDGE CONDOMINIUMS PHASE 2, AND RUNNING THE NEXT 5 COURSES ALONG SAID SUBDIVISION, RUNNING NORTH 00°07'09" EAST 127.25 FEET TO A POINT ON A NON TANGENT 314.50 FOOT RADIUS CURVE TO THE LEFT 7.26 FEET, (CENTRAL ANGLE = 01°19'23", CHORD BEARING AND DISTANCE = NORTH 82°47'13" EAST 7.26 FEET); THENCE NORTH 82°07'31" EAST 35.89 FEET TO A POINT ON A TANGENT 135.50 FOOT RADIUS CURVE TO THE RIGHT 9.31 FEET, (CENTRAL ANGLE = 3°56'08", CHORD BEARING AND DISTANCE = NORTH 84°05'35" EAST 9.31 FEET); THENCE NORTH 00°32'18" EAST 237.16 FEET; THENCE SOUTH 77°08'00" EAST 287.35 FEET; THENCE, DUE SOUTH 57.68 FEET; THENCE, SOUTH 00°07'00" WEST 253.00 FEET; THENCE NORTH 89°24'05" WEST 334.14 FEET TO THE POINT OF BEGINNING. SAID PARCEL CONTAINS 2.362 ACRES.