

DECLARATION

FOR

FALCON RIDGE ESTATES

a condominium

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DECLARATION

OF

E 1345280 B 2172 P 1059

FALCON RIDGE ESTATES

a CONDOMINIUM

This Declaration is made on the 11 day of August, 1997, by Christian B. Wheeler, hereinafter called "Declarant".

RECITALS

A Declarant is the owner in fee simple of the land in the County of Davis, State of Utah, which is described in the attached Exhibit "A", which, by this reference is made apart hereof

Said land is sometime hereinafter referred to as the "Territory"

B Declarant hereby submits the territory, together with all improvements, easement, rights and appurtenances theretunto belonging to the provisions of the Utah Condominium Ownership Act (37-8-1 et seq., Utah Code Annotated, 1953, as amended) and hereby creates, with respect to the territory, an expandable condominium to be known as Falcon Ridge Estates, a condominium.

ARTICLE I

Definitions

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Terms not otherwise defined herein or on the Record Of Survey Map or as the same may be amended from time to time, shall have the meanings specified in the Utah Condominium Ownership Act.

Section 1. Unit. Unit shall mean that part of the property owned in fee simple by Unit Owners for independent use and shall include the elements of the condominium property which are not owned in common with the Owners of other units as shown on the Map and shall consist of:

- (a) The space contiguous to the undecorated interior surfaces of common bearing walls, ceilings and floors and the walls within a unit;
- (b) Any finishing materials applied or affixed to the interior surfaces of the condominium common walls, floors and ceilings, including, without limitation, paint, lacquer, varnish, wallpaper, tile and paneling;
- (c) Non-supporting interior walls;
- (d) Windows and doors in the perimeter walls, whether located within the bounds of a unit or not, not including any space occupied thereby to the extent located outside the bounds of a unit;
- (e) Any basements as designated on the Map;
- (f) Units forming a part of the condominium property are more particularly described in the Map, which

shows graphically all the particulars of the buildings without limiting the generality of the foregoing, the unit designations and locations.

Section 2. Common Areas. Common areas shall be as defined in the Act and includes recreational areas, landscaped grounds, private streets, walkways and uncovered parking spaces which may be assigned to units by the Management Committee if the need arises.

Section 3. Limited Common Areas and Facilities. The locations of the common areas and facilities to which each unit has direct access are the patios and decks and are shown on the Record of Survey Map and such areas and facilities as may be developed and designated in Supplemental Declarations and Maps.

Section 4. Other Facilities

(A) Reserved Licensed Common Areas and Facilities.

The Management Committee shall have the power, in its discretion, from time to time, to grant revocable licenses in designated common areas and facilities to any Unit Owners under reasonable terms and conditions and for use and/or maintenance thereof. Such designation by the Management Committee shall not be construed as a sale or disposition of the common areas and facilities.

(B) Contract Amenities. The Owners' Association shall have the power, in its discretion, to lease other property for storage and other facilities and to make the same available

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to Unit Owners on a contract basis. In this connection, an affiliate of Declarant may lease property for RV parking to the Owners Association, which lease shall grant to the Owners Association the right to terminate, without penalty at any time after transfer of control from Declarant, upon not more than thirty (30) days notice to Lessor.

Section 5. Mortgage-Mortgagee-Mortgagor. Reference herein to a mortgage shall be deemed to include a Deed of Trust; reference to a mortgagee shall be deemed to include the beneficiary of a Deed of Trust; reference to a mortgagor shall be deemed to include the trustor of a Deed of Trust.

ARTICLE II

General Description of Condominium Property

The project consists of four (4) buildings (A,B,C,D) each having 4 units, for a total of (16) units. The buildings are constructed of frame with brick and either aluminum or vinyl siding. The unit number of each unit is as designated on the Record of Survey Map (exhibit A thru D).

ARTICLE III

Ownership and Use

Section 1. Ownership of a Unit. Except with respect to any of the condominium common areas located within the bounds of a unit, each unit shall be entitled to the exclusive ownership and possession of his unit and to the

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ownership of an undivided interest in the condominium common areas in the equal percentages as provided for hereafter

Section 2 Prohibition Against Subdivisions of Units. Units may not be subdivided into smaller parcels

Section 3 Ownership of Common Areas. The common shall be owned by the Unit Owners as tenants in common and ownership thereof shall remain undivided. No action for partition of any part of the condominium common areas shall be maintained except as specifically provided in the Act and shall be subject to the mortgage protective provisions herein; nor may any Unit Owner otherwise waive or release any rights in the common areas.

Section 4 Use of Common Areas. Each Unit Owner may use the common areas and shall have the exclusive use of the limited common areas adjacent to such unit in accordance with the purpose for which they are intended, which right of use shall be appurtenant to and run with the unit.

Each unit Owner shall have the use of reserved common areas, when, where and as provided by the Management Committee.

Section 5 Interest in Common Areas. The percentage of interest in the condominium common areas for each unit shall be equal

Section 6 Use. The units shall be used only for single family residences.

ARTICLE IV

Percentage of Ownership in the Condominium  
Common Areas

Subject to the provisions of ARTICLE XVII, section 6 the percentage of ownership in the common areas for all purposes attributable to each unit is 6.25% and shall be appurtenant to each unit and shall pass with the title to each unit. The percentage interest for each unit for voting purposes shall not be fractionalized.

ARTICLE V

Agent for Service of Process

The name and place of business of the person in Davis County, State of Utah appointed as first agent to receive service of process in matters pertaining to the property as provided in the Act is Christian B Wheeler, 248 S 500 E., C-1, Clearfield, UT 84015.

ARTICLE VI

Administration

A

Meetings

Section 1. Place of Meeting of Owners. Meeting of the Association of Condominium Unit Owners shall be held at the property or such other suitable place as close thereto as practicable in Davis County, Utah, convenient to the Owners, as may be designated by the Management Committee.

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Section 2. Annual Meeting of Owners. The first annual meeting of Owners shall be held within sixty (30) days after seventy percent (70%) of the sale of all of the units have been closed or within (6) months after the close of the sale or the first unit, whichever occurs first. Thereafter, the annual meetings of the Association of Condominium Unit Owners shall be held on the anniversary date of the first annual meeting, provided, however, that should the anniversary date fall on a legal holiday, then such annual meeting of the Owners shall be held the next day thereafter which is not a legal holiday. At such annual meetings, there shall be elected by ballot of the Owners a Management Committee. At the first annual meeting, the members of the Management Committee shall be elected for a term of one (1) year beginning with the first annual meeting. Unless a member of the Management Committee resigns before the expiration of his term of office, each member shall hold his office until his successor has been elected and the first meeting involving such successor is held. The term of office of any member elected to fill a vacancy created by the resignation of his predecessor shall be the balance of the unserved term of his predecessor. The Unit Owners may also transact such other business of the Association as may properly come before them. Each first mortgagee of a unit may designate a representative to attend all annual meetings of the Owners.

Section 3. Special Meeting of Owners. Special meetings of the Owners may be called at any time by a

majority of a quorum of the Management Committee, or upon a petition signed by Owners holding at least fifteen percent (15%) of the voting power having been presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice, unless by consent of those Owners holding at least four-fifths (4/5ths) of the voting power of the Association, either in person or by proxy. Each first mortgagee of a unit may designate a representative to attend all special meetings of the Owners.

Section 4 Notice of Meetings of Owners. It shall be the duty of the secretary to mail a notice of each annual or special meeting of Owners, stating the purpose thereof as well as the day, hour and place where it is to be held, to each Owner of record and to each first mortgagee of a unit which has filed a written request for notice with the secretary, at least ten (10) days, but not more than sixty (60) days prior to such meeting. The notice may set forth time limits for speakers and nominating procedures for the meeting. The mailing of a notice, postage prepaid, in the manner provided in this section shall be considered notice served, after said notice has been deposited in a regular depository of the United States mail.

If no address has been furnished to the secretary, notice shall be deemed to have been given to an Owner if posted in a conspicuous place at the condominium project.

Section 5 Adjourned Meeting If any meeting of Owners cannot be organized because a quorum has not attended, the Owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called, at which meeting the quorum requirement shall be the presence, in person or by proxy, of the Owners holding at least twenty-five percent (25%) of the voting power of the Association. Such adjourned meetings may be held without notice thereof, except that notice shall be given by announcement at the meeting at which such adjournment is taken. If a meeting is adjourned for more than thirty (30) days, notice of the adjourned meeting shall be given as in the case of an original meeting.

Section 6. Order of Business. The order of business at all meetings of the Owners shall be as follows:

- (a) Roll call to determine the voting power represented at the meeting,
- (b) Proof of notice of meeting or waiver of notice;
- (c) Reading of Minutes of preceding meeting;
- (d) Reports of officers;
- (e) Reports of Committee,
- (f) Election of inspector of election;
- (g) Election of Management Committee;
- (h) Unfinished business and

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## (1) New business

Meetings of Owners shall be conducted by the officers of the Association, in order of their priority

Section 7 Consent of Absentees. The transactions of any meeting of Owners, either annual or special, however called and noticed, shall be as valid as though had at a meeting duly held after regular call and notice, and a quorum be present either in person or by proxy, and if, either before or after the meeting, each of the Owners not present in person or by proxy, signs a written waiver of notice, or a consent to the holding of such meeting, or an approval of the Minutes thereof. All such waivers, Consent or approvals shall be filed with the corporate records or made a part of the Minutes of the meeting.

Section 8. Minutes, Presumption of Notice. Minutes or a similar record of the proceedings of meetings of Owners, when signed by the Chairman or Secretary, shall be presumed truthfully to evidence the matters set forth therein. A recitation in the Minutes of any such meeting that notice of the meeting was properly given shall be prima facie evidence that such notice was given

## B

Management Committee

Section 1. Number and Qualification. The property, business and affairs of the Association of Condominium Unit Owners shall be governed and managed by a Management Committee composed of five (5) persons, each of whom, except

for those appointed and serving as first members, must either be an Owner of a unit in the condominium project or an agent of Declarant for so long as Declarant owns a unit in the condominium project. The Management Committee may increase, by resolution, the authorized number of members of the committee, provided that the Owners shall have the sole right to elect the new committee members. Management Committee members shall not receive any stated salary for their service as members, provided, however, that.

(a) Nothing herein contained shall be construed to preclude any member from serving the Association in some other capacity and receiving compensation therefore, and

(b) Any member may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 2. Powers and Duties. The Management Committee has the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law or by this Declaration directed to be exercised and done exclusively by the Owners.

Section 3. Special Powers and Duties. Without prejudice to such foregoing general powers and duties and such other powers and duties as are set forth in this Declaration, the Management Committee is vested with and responsible for, the following powers and duties.

(a) To select, appoint and remove all officers, agents and employees of the Association, to prescribe such

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powers and duties for them as may be consistent with law, with this Declaration, to fix their compensation and to require from them security for faithful service when deemed advisable by the Management Committee,

(b) To conduct, manage and control the affairs and business of the Administration and to make and enforce such rules and regulations therefore consistent with law, with this Declaration, as the Committee may deem necessary or advisable,

(c) To change the principal office for the transaction of the business of the Association from one location to another within the County of Davis and to designate any place within said county for the holding of any annual or special meeting or meetings of Owners consistent with the provisions hereof;

(d) To borrow money and to incur indebtedness for the purposes of the Association and to cause to be executed and delivered therefore, in the Association's name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations or other evidences of debt and securities therefore.

(e) To fix and levy, from time to time, assessments upon the Owners, to determine and fix the due date for the payment of such assessments and the date upon which the same shall become delinquent; provided, however, that such assessments shall be fixed and levied only to provide for the payment of the expenses for labor rendered or materials or

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supplies used and consumed, or equipment and appliances furnished for the maintenance, improvement or development of common areas or for the payment of any and all obligations in relation thereto, or in performing or causing to be performed any of the purposes of the Association for the general benefit and welfare of the Owners in accordance with the provisions of this Declaration. The Management Committee is hereby authorized to incur any and all such expenditures for any of the foregoing purposes and to provide, or cause to be provided, adequate reserves;

(f) To enforce the provisions of this Declaration covering the condominium common areas, this Declaration or other agreements of the Association;

(g) To contract for and pay insurance in accordance with the provisions of this Declaration;

(h) To contract for and pay maintenance, gardening, utilities, materials and supplies and services relating to the condominium common areas and to employ personnel necessary for the operation of the condominium common areas, including legal and accounting services and to contract for and pay for improvements and facilities on the condominium common area;

(i) To delegate its powers according to law and this Declaration,

(j) To grant easements where necessary for utilities and sewer facilities over the condominium common areas;

(k) To adopt Such Rules and Regulations as the Management Committee may deem necessary for the management of the condominium common areas, which Rules and Regulations shall become effective and binding after:

(1) they are adopted by a majority of the Management Committee after a meeting called for that purpose or by the written consent of such number of members attached to a copy of the Rules and Regulations of the Association, and

(2) they are posted in a conspicuous place in the condominium common areas.

For so long as Declarant holds or directly controls at least twenty-five percent (25%) of the voting power of the Association, such Rules and Regulations shall not materially affect the rights, privileges or preference of any Owner as established by this Declaration, without the prior written approval of the Utah Commissioner of Real Estate. Such Rules and Regulations may concern, without limitation, use of the common areas, signs, parking restrictions, minimum standards of property maintenance consistent with this Declaration and any other matters within the jurisdiction of the Association as provided in this Declaration; provided, however, that such Rules and Regulations shall be enforceable only to the extent that they are consistent with this Declaration.

(L) To make available to Unit Owners, prospective purchasers, lenders and the holders and insurers of the first mortgage on any unit, current copies of this Declaration and

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the Bylaws and other rules governing the condominium project and other books, records and the most recent annual audited financial statement of the Owners' Association. "Available" shall at least mean available for inspection upon request, during normal business hours or under other reasonable circumstances

Further, upon written request from any of HUD, VA FHLMC and/or FNMA which has an interest or prospective interest in the condominium, the Owners' Association, through the Management Committee, shall be required to prepare and furnish, within a reasonable time, an audited financial statement of the Owners' Association for the immediately preceding fiscal year.

Section 4. Management Contract. The Management Committee may contract with any person, firm or association for the management of the common areas.

Section 5. Election and Term of Office. At the first annual meeting of the Owners' Association and thereafter at each annual meeting of the Owners, new members of the Management Committee shall be elected by secret written ballot by a majority of Owners as provided herein. In the event that an annual meeting is not held or the Management Committee is not elected thereat, the Management Committee may be elected at a special meeting of the Owners held for that purpose. Each member shall hold office until his successor has been elected or until his death, resignation, removal or judicial adjudication of mental

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incompetence. Any person serving as a member may be reelected and there shall be no limitation on the number of terms during which he may serve

Section 6 Books, Audit. The Management Committee shall cause to be maintained a full set of books and records showing the financial condition of the affairs of the Owners Association in a manner consistent with generally accepted accounting principles, and at no greater than annual intervals and shall obtain an independent certified audit of such books and records. A copy of each such audit shall be delivered to an Owner within thirty (30) days after the completion of such audit upon written request from an Owner. A balance sheet and an audited operating (income) statement for the Owners' Association shall be distributed to each Owner (and to any institutional holder of a first mortgage on a unit upon request) within sixty (60) days of accounting dates as follows:

(a) An initial balance sheet and an initial operating statement as of an accounting date which shall be the last day of the month closest in time to six (6) months following the date of closing of the first sale on a unit to an Owner; and

(b) Thereafter, an annual balance sheet and an annual operating statement as of the last day of the Owners' Association's fiscal year.

The operating statement for the first six (6) month accounting period referred to in (a) above shall include a

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schedule of assessments received or receivable itemized by unit number and by the name of the person or entity assessed

Section 7 Vacancies. Vacancies in the Management Committee caused by any reason other than the removal of a member by a vote of the Owners of the Association shall be filled by vote of the majority of the remaining members, even though they may constitute less than a quorum, and each person so elected shall be a member until a successor is elected at the next annual meeting of the Owners of the Association, or at a special meeting of the Owners of the Association, or at a special meeting of the Owners called for that purpose. A vacancy or vacancies shall be deemed to exist in case of death, resignation, removal or judicial adjudication of mental incompetence of any member or in case the Owners fail to elect the full number of authorized members at any meeting at which such election is to take place.

Section 8. Removal of Members. At any regular or special meeting of the Owners duly called, any one or more of the members may be removed with or without cause by a majority vote of the Owners of the Association and a successor may then and there be elected to fill the vacancy thus created. Any member whose removal has been proposed by the Owners shall be given an opportunity to be heard at the meeting. If any or all of the members are so removed, new members may be elected at the same meeting

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Section 9 Organization Meeting The first regular Management Committee 'organization' meeting of a newly elected Management Committee shall be held not less than ten (10) nor more than fifteen (15) days after the election of the Management Committee at such place as shall be fixed and announced by the members at the meeting at which such members were elected, for the purpose of organization, election of officers and the transaction of other business. In addition, notice of such meeting shall be mailed or delivered to such members at least five (5) days prior thereto.

Section 10 Other Regular Meetings Other regular meetings of the Management Committee shall be open to the Owners and may be held at such time and place within the common areas as shall be determined, from time to time, by a resolution adopted by a majority of a quorum of the members; provided, however, that such meeting shall be held no less frequently than quarterly. Notice of regular meetings of the Management Committee shall be given to each member, personally or by mail, telephone or telegram, at least seventy-two (72) hours prior to the date named for such a meeting and shall be posted at a prominent place or places within the common areas.

Section 11. Special Meetings Special meetings of the Management Committee shall be open to all Owners and may be called by the Chairman (or, if he is absent or refuse to act, by the Vice-Chairman). At least seventy-two (72) hours notice shall be given to each member, personally or by mail,

telephone or telegram, which notice shall state the time,  
place (as hereinabove provided) and the purpose of the **E 1345280 E 2172 P 1077**  
meeting and shall be posted at a prominent place or places  
within the common areas. If served by mail, each such notice  
shall be sent postage prepaid, to the address reflected on  
the records of the Association, and shall be deemed given, if  
not actually received earlier, at 5.00 P. M. on the second day  
after it is deposited in a regular depository of the United  
States Mail as provided herein. Whenever any member has been  
absent from any special meeting of the Management Committee,  
an entry in the Minutes to the effect that notice has been  
duly given shall be conclusive and incontrovertible evidence,  
that due notice of such meeting was given to such member, as  
required by law and as provided herein

Section 12 Waiver of Notice. Before or at any  
meeting of the Management Committee any member may, in  
writing, waive notice of such meeting and such waiver shall  
be deemed equivalent to the giving of such notice. Attendance  
by a member at any meeting of the Management Committee shall  
be a waiver of notice by him of the time and place thereof.  
If all members are present at any meeting of the Management  
Committee, no notice shall be required and any business may  
be transacted at such meeting. The transactions of any  
meeting of the Management Committee, however called and  
noticed or wherever held, shall be as valid as though had a  
meeting duly held after regular call and notice, if a quorum  
be present and if, either before or after the meeting, each

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of the members not present sign such a written waiver of notice, a consent to holding such meeting or an approval of the Minutes thereof. All such waivers, consents and approvals shall be filed with the records of the Association or made a part of the Minutes of the meeting.

Section 13 Quorum and Adjournment. Except as otherwise expressly provided herein, at all meetings of the Management Committee, a simple majority of the members shall constitute a quorum for the transaction of business and the acts of the majority of the members present at a meeting at which a quorum is present shall be the acts of the Management Committee. If, at any meeting of the Management Committee there is less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 14 Action Without Meeting. The members shall have the right to take any action, in the absence of a meeting, which they could take at a meeting by obtaining the vote or written consent of all the members. Any action so approved shall have the same effect as though taken at a meeting of the members.

Section 15 Fidelity Bonds. Fidelity Bonds shall be maintained as per section "D" under Insurance.

Section 16 Committees. The Management Committee, by resolution from time to time, may designate such

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Committees as it shall desire and may establish the purpose and powers of each such committee created. The resolution designating and establishing the committee shall provide for the appointment of its members as well as a chairman, shall state the purpose of the committee and shall provide for reports, termination and other administrative matters as deemed appropriate by the Management Committee.

### C

#### Officers

Section 1. Designation. The principal officers of the Owners' Association shall be a Chairman, a Vice-Chairman and a Secretary/Treasurer, all of whom shall be elected by the Management Committee.

Section 2. Election of Officers. The officers of the Owners' Association shall be elected annually by the Management Committee and each officer shall hold his office at the pleasure of the Management Committee, until he shall resign or be removed or otherwise disqualified to serve.

Section 3. Removal of Officers. Upon an affirmative vote of a majority of the entire Management Committee, any officer may be removed, either with or without cause and his successor elected at any regular meeting of the Management Committee, or at any special meeting of the Management Committee called for such purpose. Any officer may resign at any time by giving written notice to the Management Committee or to the Chairman or Secretary/Treasurer. Any such

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resignation shall take effect at the date of receipt of such notice or at any later time specified therein and unless otherwise specified in said notice, acceptance of such resignation by the Management Committee shall not be necessary to make it effective.

Section 4. Compensation. Officers, agents and employees shall receive such reasonable compensation for their services as may be authorized or ratified by the Management Committee.

Section 5. Chairman. The Chairman shall be the chief executive officer of the Owners' Association. He shall preside at all meetings of the Owners' Association and of the Management Committee. He shall have all of the general powers and duties which are usually vested in the office of the President of a corporation, including, but not limited to, the power to appoint committees from among the members from time to time as he may, in his discretion, decide is appropriate to assist in the conduct of the affairs of the Owners' Association. The Chairman shall, subject to the control of the Management Committee, have general supervision, direction and control of the business of the Owners' Association. The Chairman shall be ex officio a member of all standing committees and he shall have such other powers and duties as may be prescribed by the Management Committee.

Section 6. Vice-Chairman. The Vice-Chairman shall take the place of the Chairman and perform his duties

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whenever the Chairman shall be absent, disabled, refuses or is unable to act. If neither the Chairman nor the ViceChairman is able to act, the Management Committee shall appoint some other member of said Management Committee to do so on an interim basis. The Vice-Chairman shall also perform such other duties as shall, from time to time, be imposed upon him by the Management Committee.

Section 7 Secretary/Treasurer. The Secretary shall keep the Minutes of all meetings of the Management Committee and the Minutes of all meetings of the Owners' Association at the principal office of the Owners' Association or at such other place as the Management Committee may order. The Secretary/Treasurer shall have charge of such books and papers as the Management Committee may direct; the Secretary/Treasurer shall, in general, perform all of the duties incident to the office of Secretary/ Treasurer. The Secretary/Treasurer shall give or cause to be given, notices of all meetings of the Owners and of the Management Committee required by this Declaration or by law to be given. The Secretary/Treasurer shall maintain a book of record Owners listing the names and addresses of the Owners as furnished to the Owners' Association and such books shall be changed only at such time as satisfactory evidence of a change in ownership of a unit is presented to the Secretary/Treasurer.

The Secretary/Treasurer shall have responsibility for the Owners' Association funds and shall be responsible for keeping or causing to be kept, full and accurate

accounts, tax records and business transactions of the Owners' Association, including accounts of all assets, liabilities, receipts and disbursements in books belonging to the Owners' Association. The Secretary/Treasurer shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Owners' Association in such depositories as may, from time to time, be designated by the Management Committee. The Secretary/Treasurer shall sign all checks and promissory notes on behalf of the Owners' Association as may be ordered by the Management Committee in accordance with this Declaration; shall render to the Chairman and the members, upon request, an account of all of his transaction as Secretary/Treasurer and of the financial conditions of the Owners' Association and shall have such other powers and perform such other duties as may be prescribed by the Management Committee.

Section 8 Name of Management Committee. The Management Committee shall be known by such name or designation as it or the Unit Owners, at any meeting, may assign.

Whenever there is a change of ownership of a unit and its appurtenant rights, for whatever reason, the Management Committee or the Manager may require, as condition to recognizing the new Unit Owner or Owners as such, that the new Unit Owner or Owners furnish evidence substantiating the new ownership.

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## D

Assessments

Section 1 Every Owner of a unit which is substantially constructed and ready for occupancy, including Declarant, shall pay his proportionate share of the condominium common expenses. Payment thereof shall be in such amounts and at such times as the Management Committee determines in accordance with the Act, this Declaration and the Bylaws. There shall be a lien for non-payment of condominium common expense as provided by Utah Code Annotated, Section 57-8-20, 1953, as amended.

In assessing Unit Owners or requiring them to pay for the building improvements and other improvements of the condominium common areas and facilities following the execution of this Declaration, it is agreed that no assessment for a single improvement in the nature of the capital expenditure exceeding the sum of THREE THOUSAND (\$3,000.00) DOLLARS in cost shall be made without the same having been first voted on and approved by Owners of seventy five percent (75%) or more of the undivided interests in the condominium common areas and facilities. The foregoing sentence shall not apply in connection with the replacement or reconstruction occasioned by fire or other casualty.

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Furthermore, since not all units in the project have balconies, the Home Owners Association shall have the power to assess units with balconies separately if needed

#### ARTICLE VII

##### Destruction or Damage

In the event of damage to or destruction of part or all of the improvements in the condominium project, the following Procedure shall apply:

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

(b) If less than seventy-five percent (75%) of the project's improvements are destroyed or substantially damaged and if proceeds of the insurance maintained by the Management Committee are not alone sufficient to accomplish repair or reconstruction, restoration shall be carried out and all the Unit Owners shall be assessed for any deficiency on the basis of their respective percentages of undivided interest in the common areas and facilities.

(c) If seventy-five percent (75%) or more of the project's improvements are destroyed or substantially damaged and if proceeds of the insurance maintained by the Management Committee are not alone sufficient to accomplish repair or reconstruction, and if the Unit Owners, within 100 days after the destruction or damage by a vote of at least seventy-five

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percent (75%) elect to repair or reconstruct the affected improvements, restoration shall be accomplished in the manner directed under subparagraph (b) above

(d) If seventy-five percent (75%) or more of the project's improvements are destroyed or substantially damaged, and if proceeds of the insurance maintained by the Management Committee are insufficient to accomplish restoration and if the Unit Owners do not, within 100 days after the destruction or damage and by vote of at least seventy-five percent (75%) elect to repair or reconstruct the affected improvements, the Management Committee shall promptly record, with the Davis County Recorder, a notice setting forth such facts. Upon the recording of such notice the provision of subsections (1) through (4) of Section 57-8-31, Utah Code Annotated, 1953, as amended, shall apply and shall govern the rights of all parties having an interest in the project or any of the units.

Any reconstruction or repair which is required to be carried out by this paragraph shall be accomplished at the instance and direction of the Management Committee. Any determination which is required to be made by this paragraph regarding the extent of damage to or destruction of protect improvements shall be made as follows. The Management Committee shall elect three (3) appraisers; each appraiser shall independently arrive at a figure representing the percentage of protect improvements which have been destroyed or substantially damaged; the percentage which governs the

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application of the provisions of this paragraph shall be the average of the two closest appraisal figures

#### ARTICLE VIII

##### Taxes

It is understood that under Utah Code Annotated 578-27, 1953, as amended, each unit and its percentage of undivided interest in the condominium common areas and facilities in the project are subject to separate assessments and taxation by each assessing unit and the special district for all types of taxes authorized by law, and that as a result thereof, no taxes will be assessed or payable against the project as such. Each Unit Owner will, accordingly, pay and discharge any and all taxes which may be assessed against him and his percentage of undivided interest in the condominium common areas and facilities.

#### ARTICLE IX

##### Insurance

Section 1 Type and Scope of Insurance Coverage Required.

(A) Insurance for Fire and Other Perils. The Owners' Association must obtain, maintain and pay the premiums upon, as a common expense, a "master" or "blanket" type policy of property insurance covering all of the common elements and limited common elements (except land, foundation, excavation and other items normally excluded from coverage), including fixtures, to the extent they are part of the common elements

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of the condominium, building service equipment and supplies and other common personal property belonging to the Owners' Association. All references herein to a "master" or "blanket" type policy of property insurance are intended to denote single entity condominium insurance coverage. In addition, any fixtures, equipment or other property within the units which are to be financed by a mortgage to be purchased by FNMA or FHLMC (regardless of whether or not such property is a part of the common elements), must be covered in such "master" or "blanket" policy.

Such policy must be consistent with state and local insurance laws and at least equal to such coverage as is commonly required by prudent institutional mortgage investors in the area. The policy shall be in an amount equal to 100% of current replacement cost of the condominium exclusive of land, foundation, excavation and other items normally excluded from coverage.

The name of the insured under such policies must be set forth therein substantially as follows:

"Association of Owners of FALCON RIDGE ESTATES condominiums for use and benefit of the individual owners (designated by name if required by law).

The policies may also be issued in the name of an authorized representative of the Owners' Association, including any insurance trustee with whom the Owners' Association has entered into an Insurance Trust Agreement, or any successor trustee, as insured, for the use and benefit of

the individual Owners. Loss payable shall be in favor of the Owners' Association (or Insurance Trustee), as a trustee, for each Unit Owner and each such Owner's mortgagee. The Owners' Association or Insurance Trustee, if any, must be required to hold any proceeds of insurance in trust for Unit Owners and their first mortgage holders, as their interests may appear. Each Unit Owner and each Unit Owner's mortgagee, if any, shall be beneficiaries of the policy in the percentage of common ownership. Certificates of Insurance shall be issued to each Unit Owner and mortgagee upon request.

Such policies shall contain the standard mortgage clause or equivalent endorsement (without contribution), which is commonly accepted by private institutional mortgage investors in the area and which appropriately names FNMA and FHLMC if such corporations are holders of first mortgages on units within the condominium project. Such policies must also provide that they may not be canceled or substantially modified without at least ten (10) days prior written notice to the Owners' Association and to each holder of a first mortgage listed as a scheduled holder of a first mortgage in the policies.

Policies are unacceptable where:

(a) Under the terms of the insurance carrier's charter, bylaws or policy, contributions or assessments may be made against borrowers, FNMA, FHLMC or the designee of FNMA or FHLMC, or

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(b) By the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's Board of Directors, policyholders or members, or

(c) The policy includes any limiting clauses (other than insurance conditions) which could prevent FNMA, FHLMC or the borrowers from collecting insurance proceeds

The policies must also provide for the following:

(a) Recognition of any Insurance Trust Agreement,

(b) A waiver of the right of subrogation against Unit Owners individually,

(c) That the insurance is not prejudiced by any act or neglect of individual Unit Owners; and

(d) That the policy is primary in the event the Unit Owner has other insurance covering the same loss.

The insurance policy shall afford, as a minimum, protection against the following:

(a) Loss or damage by fire and other perils normally covered by the standard extended coverage endorsement;

(b) In the event the condominium contains a steam boiler, loss or damage resulting from steam boiler equipment accidents in an amount not less than \$50,000.00 per accident per location (or such greater amount as deemed prudent based on the nature of the property);

(c) All other perils which are customarily covered with respect to condominiums similar in construction, location

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and use, including all perils normally covered by the standard all-risk endorsement, where such is available

In addition, such policies shall include an "Agreed Amount Endorsement" and, if available, an "Inflation Guard Endorsement"

(B) Liability Insurance. The Owners' Association must obtain and maintain comprehensive general liability insurance coverage covering all of the common elements, commercial space owned and leased by the Owners' Association and public ways of the condominium project. Coverage limits shall be in amounts generally required by private institutional mortgage investors projects similar in construction, location and use. However, such coverage shall be for at least \$1,000,000.00 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability of the Insures for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the common elements, and legal liability arising out of lawsuits related to employment contracts of the Owners' Association. Such policies must provide that they may not be canceled or substantially modified, by any part, without at least ten (10) days prior written notice to the Owners' Association and to each holder of a first mortgage on any unit in the condominium which is listed as a scheduled holder of a first mortgage in the insurance policy. Such coverage must include

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protection against such other risks as are customarily covered with respect to condominiums similar in construction, location and use, including but not limited to, host liquor liability, employers liability insurance, contractual and all-written contract insurance and comprehensive automobile liability insurance.

(C) Flood Insurance. In the event the condominium is located within an area which has been officially identified by the Secretary of Housing and Urban Development as having special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program (NFIP), the Owners' Association must obtain and pay the premiums upon, as a common expense, a "master" or "blanket" policy of flood insurance on the buildings and any other property covered by the required form of policy (herein insurable property), in an amount deemed appropriate by the Owners' Association, but not less than the following:

The lesser of: (a) the maximum coverage available under the NFIP for all buildings and other insurable property within the condominium to the extent that such buildings and other insurable property are within an area having special flood hazards, or (b) 100% of current "replacement cost" of all such buildings and other insurable property within such area.

Such policy shall be in a form which meets the criteria set forth in the most current guidelines on the subject issued by the Federal Insurance Administrator.

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(D) Fidelity Bonds. Fidelity bonds shall be required to be maintained by the Owners' Association for all officers and employees of the Owners' Association and all other persons handling or responsible for, funds of or administered by the Owners' Association. Where the management agent has the responsibility for handling or administering funds of the Owners' Association, the management agent shall be required to maintain fidelity bond coverage for its officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Owners' Association. Such fidelity bonds shall name the Owners' Association as an obligee and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Owners' Association or the management agent, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bonds be less than a sum equal to three months aggregate assessments on all units plus reserve funds. The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. The premiums on all bonds required herein, except those maintained by the management agent, shall be paid by the Owners' Association as a common expense. The bonds shall provide that they may not be canceled or substantially modified (including cancellation for non-payment) without at least ten (10) days prior written

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notice to the Owners' Association or Insurance Trustee. Such bonds must also provide that the FNMA Servicer, on behalf of FNMA, also receive such notice of cancellation or modification.

Section 2 Insurance Trustee, Power of Attorney.

Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured, on behalf of the Owners' Association, the Owners' Association's authorized representative, including any trustee with whom such Owners' Association may enter into any Insurance Trust Agreement or any successor to such trustee (each of whom shall be referred to herein as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance and to perform such other functions as are necessary to accomplish this purpose.

Each Unit Owner appoints the Owners' Association, or any Insurance Trustee or substitute Insurance Trustee designated by the Owners' Association, as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including:

- (a) The collection and appropriate disposition of the proceeds thereof;
- (b) The negotiation of losses and execution of releases of liability;

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(c) The execution of all documents, and  
(d) The performance of all other acts necessary to  
accomplish such purposes.

Section 3. Qualifications of Insurance Carriers.

The Owners' Association shall use generally acceptable  
insurance carriers.

Section 4. Condemnation and Total or Partial Loss or  
Destruction. The Owners' Association shall represent the  
Unit Owners in the condemnation proceedings or in  
negotiations, settlements and agreements with the condemning  
authority for acquisition of the common elements, or part  
thereof, by the condemning authority. Where appropriate under  
applicable law, this Declaration should contain a provision  
whereby each Unit Owner appoints the Owners' Association as  
attorney-in-fact for such purpose.

In the event of taking or acquisition of part or  
all of the common elements by a condemning authority, the  
award or proceeds of settlement shall be payable to the  
Owners' Association, or any Trustee, to be held in trust for  
the Unit Owners and their first mortgage holders as their  
interest may appear.

ARTICLE X

Assessments Subordinate

The lien or claim against a condominium unit for  
unpaid assessments or charges levied by the Management  
Committee or by the Association of Condominium Unit Owners

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pursuant to the Declaration of the Utah Condominium Ownership Act shall be subordinate to the mortgage affecting such unit and the mortgagees or a successor to the mortgagee thereunder which comes into possession of the unit shall take the same free of such lien or claim for unpaid assessments or charges, which accrue prior to foreclosure of the mortgage, exercise of a power of sale available thereunder, or deed or assignment in lieu of foreclosure. No assessment, charge, lien or claim which is described in the preceding sentence as being subordinate to a mortgage or as not to burden a mortgagee which comes into possession shall be collected or enforced by either the Management Committee or the Association of Unit Owners from or against a mortgagee, a successor in title to a mortgagee or the condominium unit affected or previously affected by the mortgage concerned.

#### ARTICLE XI

##### Maintenance of Units

Each Unit Owner, at his own expense, shall keep the interior of his unit and its appurtenances and equipment in good order, condition and repair and in a clean and sanitary condition and shall do all redecoration and painting which may, at any time be necessary to maintain a good appearance for his unit.

Except to the extent that the Management Committee is protected by insurance against such injury, the Unit Owner shall repair all injury to damages to the unit or condominium project caused by the act or negligence of lessee or any

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member of the Unit Owner's family or the family of any lessee or subleasees and all such repairs, decorating and painting shall be of a quality and kind equal to the original work

In addition to decorating and keeping the interior of the unit in good repair, the Unit Owner shall be responsible for the maintenance and/or replacement of any plumbing fixtures that may be in or connected with the unit. In connection with the foregoing responsibilities of Unit Owners, the Management Committee shall give written notice to the affected owner of the unit, stating specifically that which is required and setting a time within which to complete the same. If the Unit Owner disagrees with said requirements or any part thereof, he shall have ten (10) days from the date of the notice within which to object thereto in writing, mailed or delivered to the Management Committee, otherwise, he shall comply with such request. In the event of objection aforesaid, the Management Committee shall set the matter for hearing no less than ten (10) nor more than thirty (30) days from the date of the objection and give the Unit Owner at least ten (10) days written notice of the time and place of the hearing. At the hearing, the Management Committee shall take and receive relevant evidence and decide the issues.

With the written permission of the Management Committee, the Unit Owner may make, or permit to be made, structural alterations, improvements or additions in or to the unit, which said permission shall be liberally granted. However, the Unit Owner shall not alter, paint or decorate

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any portion of the exterior of the building where his unit is located

#### ARTICLE XII

##### Right of Entry

The Management Committee and its duly authorized agents have the right to enter any and all of the units in case of an emergency originating in or threatening such unit or any other part of the project, whether or not the Unit Owner or occupant thereof is present at the time. The Management Committee and its duly authorized agents shall also have the right to enter into any and all of said units at all reasonable times as required for the purpose of making necessary repairs upon the condominium common areas and facilities of the project for the purpose of performing emergency installations, alterations or repairs to the mechanical or electrical devices or installation located therein or thereon, provided, however, such emergency installations, alterations or repairs are necessary to prevent damage or threatened damage to other units in the project and provided further, that the Unit Owner affected by such entry shall first be notified thereof if available and if time permits.

#### ARTICLE XIII

##### Obligation to Comply Herewith

Each Unit Owner, tenant or occupant of a unit shall comply with the provisions of the Act, this Declaration and the Rules and Regulations, all agreements and determinations

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lawfully made and/or entered into by the Management Committee or the Unit Owners when acting in accordance with their authority and any failure to comply with any of the provisions thereof shall be grounds for an action by the Management Committee to recover any loss or damage resulting therefrom or injunctive relief.

#### ARTICLE XIV

##### Indemnification of Management Committee

Each member of the Management Committee shall be indemnified and held harmless by the Unit Owners against all costs, expenses and liabilities whatsoever, including, without limitation, attorney's Fees reasonably incurred by them in connection with any proceeding to which it may become involved by reason of its being or having been a member of such Management Committee. Provided, however, a member of the Management Committee shall not be under this paragraph for any acts which constitute gross negligence or willful misconduct

#### ARTICLE XV

##### Transfer or Lease of Units

Any Unit Owner may transfer or lease his unit free from restriction of any right of first refusal. Provided, however, the following leasing restrictions shall obtain:

- (a) All leases shall be in writing and shall be subject to this Declaration; and
- (b) All leases must have an initial term of at least six (6) months.

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ARTICLE XVIFirst Lien Holders' Rights

Section 1 Notice of Action. A holder, insurer or guarantor of a first mortgage, upon written request to the Owners' Association (such request to state the name and address of such holder, insurer or guarantor and the unit number), will be entitled to timely written notice of

(a) Any proposed amendment of the condominium instruments effecting a change in:

(i) the boundaries of any unit or the exclusive easement rights appertaining thereto;

(ii) the interest in the general or limited common elements appertaining to any unit or the liability for common expenses appertaining thereto;

(iii) the number of votes in the Owners' Association appertaining to any unit, or

(iv) the purposes to which any unit or the common elements are restricted,

(b) Any proposed termination of the condominium regime,

(c) Any condemnation loss or any casualty loss which affects a material portion of the condominium or which affects any unit on which there is a first mortgage held, insured or guaranteed by such eligible holder;

(d) Any delinquency in the payment of assessments or charges owed by a Unit Owner subject to the mortgage of

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such eligible holder, insurer or guarantor, where such delinquency has continued for a period of sixty (60) days, and

(e) Any lapse, cancellation or material modification of any insurance policy maintained by the Owners' Association pursuant to Article 14(a), (i) and (ii).

Section 2. Other Provisions for First Lien Holders

(A) Any restoration or repair of the condominium after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with this Declaration and the original plans and specifications unless the approval of the eligible holders of first mortgages on units to which at least fifty-one percent (51%) of the votes of units subject to mortgages held by such eligible holders are allocated, is obtained,

(B) Any election to terminate the condominium regime after substantial destruction or a substantial taking in condemnation of the condominium property must require the approval of the eligible holders of first mortgages on units to which at least fifty-one percent (51%) of the votes of units subject to mortgages held by such eligible holders are allocated; and

(C) No reallocation of interests in the common elements resulting from a partial condemnation or partial destruction of the condominium project may be effected without the prior approval of the eligible holders of first mortgages on units to which at least fifty-one percent (51%)

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of the votes of units subject to mortgages held by such eligible holders are allocated. NOTE As used in this section, the term "eligible holder, insured or guarantor" shall mean a holder, insurer or guarantor of a first mortgage on a unit in a condominium which has requested notice in accordance with the provision of Section 1 above.

#### ARTICLE XVII

##### Expansion

Section 1 Additional Property. The Declarant anticipates that the condominium project may be expanded to include certain real property which adjoins the condominium property, which is shown in the preliminary plan, attached hereto. Such expansion shall be contiguous to the development.

Section 2. Reservation of Right to Expand. Declarant hereby reserves the right to expand the condominium project, without the consent of the Unit Owners, additional structures and units which shall be compatible with the structures and units of this present project in terms of quality of construction, the principal materials to be used and architectural style, to be constructed on the real property shown in the preliminary plan or any portion thereof. The total number of units which may be constructed on said additional property shall not exceed 16 units, and the entire project, including this present project and all subsequent phases shall not exceed a total of 32 units. The

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project shall consist of a minimum of 16 units and a possible maximum of 32 units

Section 3      Supplemental Declarations and Supplemental Maps. Such expansion may be accomplished by the filing for record by Declarant in the office of the County Recorder of Davis County, Utah, no later than seven (7) years from the date this Declaration is recorded in said office, a supplement or supplements to this Declaration containing a legal description of the site or sites for new units, together with supplemental Map or Maps containing the same information with respect to the new units as was required on the original Map with respect to the initial units. The expansion may be accomplished in phases by successive supplements or in one supplemental expansion.

Section 4.      Expansion of Provisions. In the event of such expansion, the provision used in this Declaration automatically shall be expanded to encompass and refer to the project as so expanded and reference to this Declaration shall mean this Declaration as so supplemented. All conveyances of units after such expansion shall be effective to transfer rights in the project, as expanded, by use of the forms of description set forth herein, with additional reference to the supplemental Declarations and the supplemental Maps. The recordation in the office of the Davis County Recorder, Farmington, Utah, of a supplemental Map incident to any expansion shall operate automatically to grant, transfer and convey pro tanto to then owners of units

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in the project as a result of such expansion and to reduce pro tanto their percentages of interest in the original condominium property as it then exists. Substantial identical units in all phases will be awarded substantially identical interest in the common areas. Such recordation shall also operate to vest in any then mortgagee of any unit in the project as it exists, such interest so acquired by the owner of the unit encumbering the new common areas added to the project as a result of such expansion and to conform the percentage interests of Unit Owners and mortgagees to the interests set forth in the supplemental Declaration

Section 5. Declaration Operative on New Units. The new units shall be subject to all the terms and conditions of this Declaration and of a supplemental Declaration and the units therein shall be subject to condominium ownership with all the incidents pertaining thereto as specified herein, upon filing the supplemental Map and supplemental Declaration in the said office of the Davis County Recorder

Section 6. Right of Declarant to Adjust Percentages of Common Areas. Each deed of a unit shall be deemed to irrevocably reserve to Declarant the power to appoint to Unit Owners, from time to time, the percentages in the common areas set forth in supplemental or amended Declarations. A power coupled with an interest is hereby granted to Declarant, as attorney-in-fact to shift percentages of the common areas and facilities in accordance with supplemental or amended Declarations recorded pursuant hereto and each

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deed of a unit in the project shall be deemed a grant of such power of said attorney-in-fact. Various provisions of this Declaration and deeds and mortgages of the units may contain clauses designed to accomplish a shifting of the common areas. None of said provisions shall invalidate the other but each shall be deemed supplementary to the other toward the end that a valid shifting of the common areas and facilities can be accomplished. The maximum interest in the common areas of Unit Owners in this project shall be as indicated in this Declaration. Furthermore, all Unit Owners in this project shall have a maximum interest in the common areas of 6.25% and a minimum interest in the common areas of at least 3.125% after all possible phases of this project have been filed.

Section 7. Improvements, Liens and Consent.

(A) All improvements on the property to be added shall be substantially complete before such property is added to the project;

(B) Liens arising in connection with the Declarant's ownership of and construction of improvements upon the property to be added must not adversely affect the rights of existing Unit Owners or the priority of first mortgages on units in the existing condominium project. All taxes and other assessments relating to such property covering any period prior to the addition of the property must be paid or otherwise satisfactorily provided for by the Declarant, and

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(C) No additional property shall be added to the condominium project without the prior written consent of each of FHLMC, HUD, VA and/or FNMA that holds, insures or guarantees any mortgage in any existing condominium unit at the time such property is added.

Section 8. Restrictions and/or Limitations. There shall be no restrictions or limitations as to what portion or portions additional land may be added to the condominium project. Portions of additional land may be added without regard to time (except as provided at Section 3 above) or boundaries.

No assessments are made with regard to the locations of any improvements that may be made on any portions of the additional land; other improvements that will or will not be made on any portion of the additional land will be substantially identical to the units on the land originally within the project; and types, sizes and maximum number of limited common areas and facilities within any portion of additional land.

Section 9 Liability Insurance. In the event of expansion, developer shall purchase, at its expense, a liability insurance policy in an amount to cover any liability to which owners of previous sold units might be exposed. This policy shall be endorsed "as owners' interest might appear".

ARTICLE XVIIIAmendments to Documents

The following provisions do not apply to amendments to the constituent documents or termination of the condominium regime made as result of destruction, damage or condemnation or to a reallocation of interests in the common elements which is provided for at Article XVII regarding expansion

(a) The consent of the Owners of units to which at least sixty-seven percent (67%) of the votes in the Owners' Association are allocated and the approval of the eligible holders of first mortgages on units to which at least sixty seven percent (67%) of the votes of units subject to a mortgage appertain, shall be required to terminate the condominium regime;

(b) The consent of Owners of units to which at least sixty-seven percent (67%) of the votes in the Owners' Association are allocated and the approval of eligible holders of first mortgages on units to which at least fifty-one percent (51%) of the votes of units subject to a mortgage appertain, shall be required to materially amend any provision of this Declaration or equivalent documents of the condominium or to add any material provision thereto, which establish, provide for, govern or regulate any of the following:

(1) Voting;

(2) Assessments, assessment liens or subordination of such liens,

(3) Reserves for maintenance, repair and replacement of the common elements;

(4) Insurance or fidelity bonds;

(5) Right to use of the common elements;

(6) Responsibility for maintenance and repair of the several portions of the condominium;

(7) Expansion or contraction of the condominium regime or the addition, annexation or withdrawal of property to or from the regime;

(8) Boundaries of any unit;

(9) The interests in the general or limited common elements,

(10) Convertibility of units into common elements or of common elements into units;

(11) Leasing of units;

(12) Imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer or otherwise convey his unit in the condominium project; and

(13) Establishment of self-management by the condominium association where professional management has been required by any of the agencies or corporations.

(c) The consent of Owners of units to which at least sixty-seven percent (67%) of the votes in the Owners' Association are allocated and the approval of eligible

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holders of first mortgages on units to which at least fifty-one percent (51%) of the votes of units subject to a mortgage appertain, shall be required to amend any provisions included in this Declaration or equivalent documents of the condominium which are for the express benefit of holders or insurers of first mortgages on units in the condominium project

(d) This Declaration may not be amended or merged with a successor condominium regime without prior written approval of the Administrator of Veteran Affairs, so long as there is a mortgage held or guaranteed by the VA.

(e) For first mortgagees to be eligible holders under Article XVIII, they must request notice in accordance with the provisions of Article XVI, Section 1.

#### Article XIX

##### Declarant's Rights and Restrictions

Section 1. Declarant's Rights. The following rights in the common areas are reserved by Declarant for a reasonable period of time, subject to a concomitant obligation to restore:

(a) Easement over and upon the common areas and upon lands appurtenant to the condominium project for the purpose of completing necessary contemplated improvements, but only if access thereto is otherwise not reasonably available.

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(b) Easement over and upon the common elements for the purpose of making repairs required pursuant to the declaration of contracts of sale made with unit purchasers

(c) Right to maintain facilities in the project which are reasonably necessary to market the units. These may include sales and management offices, model units, parking areas and advertising signs.

(d) Right to exercise the options to expand

Section 2. Transfer of Control. The Declarant shall relinquish all special rights, express or implied, through which the Declarant may directly or indirectly control, direct, modify or veto any action of the Owners' Association, its Management Committee or a majority of Unit Owners and control of the Owners' Association shall pass to the Unit Owners within the project not later than the earlier of the following:

(a) 120 days after the date by which seventy-five percent (75%) of the units have been conveyed to unit purchasers; or

(b) Within seven (7) years following the recordation of this Declaration

#### ARTICLE XX

##### Right of First Refusal

The right of a Unit Owner to sell, transfer or otherwise convey his unit shall not be subject to any right of first refusal or similar restriction.

E 1345289 E 2172 P 1110

ARTICLE XXI Severability

The invalidity of any one or more phrases, sentence, clauses, paragraphs or sections hereof shall not affect the remaining portions of this instrument or any part thereof, all of which are inserted conditionally on their being held valid in law and in the event that one or more of the phrases, sentence, clauses, paragraphs or section contained therein should be invalid or should operate to render this Declaration invalid, this instrument shall be construed as if such invalid phrase or phrases, sentence or sentences, clause or clauses, paragraph or paragraphs, section or sections had not been inserted.

ARTICLE XXIIGender

The singular, wherever used herein, shall be construed to mean the plural when applicable and the necessary grammatical changes required to make the provisions hereof apply either to corporate or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

ARTICLETopical Headings

The topical headings of the paragraphs contained in this Declaration are for convenience only and do not define, limit or construe the contents of the paragraphs or of this Declaration.

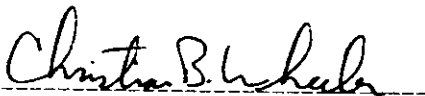
E 1345280 2 2172 F 1111

ARTICLE XXVEffective Date

This Declaration Shall take effect upon recording  
in the office of the Davis County Recorder, Farmington, Utah.

IN WITNESS WHEREOF, the undersigned, being  
the Declarant herein, have hereunto Set their hands  
and seals this 19th day of August, 1997.

ATTEST:


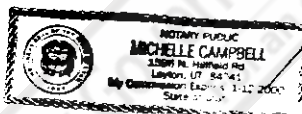


Christian B. Wheeler

State of Utah

County of Davis

On the 19th day of August, 1997, personally appeared before me,  
CHRISTIAN B. WHEELER, the signer of the within instrument who duly acknowledged  
to me that he executed the same.

  
NOTARY PUBLIC

## EXHIBIT A

## FALCON RIDGE ESTATES PHASE A-D BOUNDARY DESCRIPTION

PART OF THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 4 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTER OF SAID SECTION; THENCE SOUTH 00 DEG. 26 MIN. 22 SEC. WEST ALONG THE EAST QUARTER SECTION LINE OF SAID SOUTHWEST QUARTER, ALSO BEING THE WEST RIGHT-OF-WAY LINE OF 500 EAST STREET 246.87 FEET; THENCE NORTH 89 DEG. 45 MIN. 34 SEC. WEST 226.74 FEET; THENCE NORTH 00 DEG. 14 MIN. 26 SEC. EAST 246.87 FEET TO THE NORTH QUARTER SECTION LINE OF SAID SOUTHWEST QUARTER, ALSO BEING THE SOUTH RIGHT-OF-WAY LINE OF 200 SOUTH STREET; THENCE SOUTH 89 DEG. 45 MIN. 34 SEC. EAST ALONG SAID LINE 227.60 FEET TO THE POINT OF BEGINNING.

## REMAINDER DESCRIPTION

PART OF THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 4 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS ON THE EAST QUARTER SECTION LINE OF SAID SOUTHWEST QUARTER, ALSO BEING THE WEST RIGHT-OF-WAY LINE OF 500 EAST STREET, SAID POINT BEING SOUTH 00 DEG. 26 MIN. 22 SEC. WEST ALONG SAID EAST QUARTER SECTION LINE 246.87 FEET FROM THE CENTER OF SAID SECTION; THENCE SOUTH 00 DEG. 26 MIN. 22 SEC. WEST ALONG SAID EAST QUARTER SECTION LINE 229.53 FEET; THENCE NORTH 89 DEG. 54 MIN. 27 SEC. WEST 100.02 FEET; THENCE SOUTH 00 DEG. 26 MIN. 03 SEC. WEST 80.00 FEET; THENCE NORTH 89 DEG. 54 MIN. 27 SEC. WEST 125.66 FEET; THENCE NORTH 00 DEG. 14 MIN. 26 SEC. EAST 310.11 FEET; THENCE SOUTH 89 DEG. 45 MIN. 34 SEC. EAST 226.74 FEET TO THE POINT OF BEGINNING.