

ENT 690046 Bk 825 Pg 610  
DATE 22-JUL-1998 4:26PM FEE 12.00  
MICHAEL L GLEED, RECORDER - FILED BY KM  
CACHE COUNTY, UTAH  
FOR OLSON & HOGGAN

SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS

OF

BLACKHAWK P.U.D. DEVELOPMENT PHASE 1, 2, 3, & 4

AN EXPANDABLE CONDOMINIUM COMMUNITY

THIS SUPPLEMENT, made on the date hereinafter set forth, supplements that certain Declaration of Covenants, Conditions & Restrictions of Blackhawk P.U.D. Development, judicially recognized by the Court of the First Judicial District of Cache County, State of Utah, Case No. 96-244, by an Order dated September 15, 1997, and recorded on October 2, 1997 as Entry No. 668455 in Book 769, Page 670-708 of the Cache County Recorder (the "Declaration").

RECITALS

A. Phase IV of the Blackhawk P.U.D. Development, including all Units and Common Areas, as shown by the official plat thereof recorded September 24, 1997 as filing No. 667858 in the office of the Cache County Recorder, incorporated by this reference ("Phase IV"), has been constructed adjacent to Phases I, II, and III of the Blackhawk P.U.D. Development (the "Development").

B. Pursuant to paragraph 31 of the Declaration, Declarant desires to expand the Development to include Phase IV, and to subject Phase IV to the above-referenced Declaration.

C. Pursuant to paragraph 31(e) of the Declaration, and as a result of the expansion of the Development to include Phase IV, Declarant desires to adjust the ownership of the Unit owners in Common Areas as set forth below.

D. The requirements for expansion of the Development to include Phase IV as set forth in paragraph 31 of the Declaration have been satisfied.

NOW, THEREFORE, the Declaration is hereby Supplemented as follows:

1. The above recitals are incorporated by this reference.
2. The Development is expanded to include Phase IV. The total number of Units in the Development is now 348.
3. Phase IV shall hereafter be subject to and together with the Declaration and all rights, privileges, covenants, conditions and restrictions contained therein, as if Phase IV were a part of the Development at the date of its creation.
4. This Supplement and the Exhibit hereto shall be recorded within seven years of the date of recording of the Declaration.

5. The ownership of each of the Unit Owners in Common Areas of all Phases of the Development is hereby adjusted to 1/348th. Ownership of common areas is subject to future amendment and adjustment.

DATED this 20 day of July, 1998.

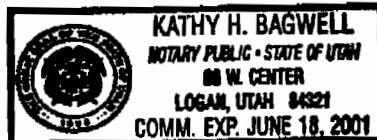
BLACKHAWK HOMEOWNERS ASSOCIATION

Cathie Astle  
Cathie Astle

STATE OF UTAH )  
                  : ss.  
County of Cache )

On the 20 day of July, 1998, personally appeared before me Cathie Astle, the signer of the foregoing instrument, who duly acknowledged to me that she executed the same, and that said instrument was signed in behalf of Blackhawk Homeowners Association by authority of a resolution of the Management Committee or its By-Laws, and the aforesaid officer acknowledged to me that said Association executed the same.

Kathy H. Bagwell  
NOTARY PUBLIC



slp\blackhawk\p4.supp

**DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS**

**OF**

**BLACKHAWK P.U.D. DEVELOPMENT PHASE I & 2, & 3 & 4**

**AN EXPANDABLE CONDOMINIUM COMMUNITY**

**RESTATEMENT**

THIS DECLARATION, made on the date hereinafter set forth, as an amendment and restatement to those certain covenants, conditions and restrictions originally dated October 27, 1980, and recorded October 29, 1980, as Entry No. 437436 in Book 275 on Page 955 of the Cache County Recorder and originally named as Bearclaw Meadows a Planned Unit Development, by the undersigned called "Declarant", for itself, its successors, grantees and assigns, pursuant to the Condominium Ownership Act of the State of Utah.

**RECITALS**

ENT 636116 Bk 689 Pg 476  
DATE 12-MAR-1996 1:03PM FEE 70.00  
MICHAEL L GLEED, RECORDER - FILED BY SA  
**CACHE COUNTY, UTAH**  
For NORTHERN TITLE COMPANY

A. Declarant is the owner of certain real property in Cache County, Utah, more particularly described on Exhibit A attached hereto ("the Land").

B. Declarant is desirous of changing the name from "Bearclaw Meadows" to "Blackhawk" P.U.D. Development.

C. Declarant has or will construct certain buildings and improvements thereon in accordance with the plans and drawings set forth in the Record of Survey Map filed concurrently herewith, consisting of three (3) sheets, prepared and certified by Keith A. Hansen, Utah Registered Land Surveyor.

D. Declarant desires by filing this Declaration and the Record of Survey Map to submit the Land and the said buildings and other improvements constructed or to be constructed thereon to the provisions of the Utah Condominium Ownership Act as Blackhawk P.U.D. Development.

E. Declarant desires the individual units contained in said Planned Unit Development, together with undivided ownership interests in the Common Areas and Facilities appurtenant thereto, be subject to the covenants, limitations, and restrictions contained herein.

ENT 631319 Bk 677 Pg 942  
DATE 12-DEC-1995 2:30PM FEE 70.00  
MICHAEL L GLEED, RECORDER - FILED BY JH  
**CACHE COUNTY, UTAH**  
For BLACKHAWK DEVELOPMENT

F. Declarant desires and intends to develop, and has developed, possible subsequent phases to be built on land contiguous with and adjacent to the Land included in the first and second phases. It is Declarant's intent to subject the Additional Property and Units so developed into the Blackhawk P.U.D. Development by the filing of such amended or supplemental declarations as are necessary to accomplish that purpose.

#### DECLARATION

NOW, THEREFORE, for such purposes, Declarant hereby makes the following Declaration containing covenants, conditions and restrictions relating to this Planned Unit Development which, pursuant to the provisions of the Condominium Ownership Act of the State of Utah, shall be enforceable equitable servitudes, where reasonable, and shall run with the land:

1. Name of the Condominium: The name by which the Planned Unit Development shall be known is Blackhawk P.U.D. Development.

2. Definitions: The terms used in this Declaration including Exhibits attached hereto shall have the meaning stated in the Utah Condominium Ownership Act and as given herein unless the context otherwise requires.

(a) "The Act" shall mean and refer to the Utah Condominium Ownership Act, Utah Code Annotated 1953, Section 57-8-1, et. seq., as the same may be amended from time to time.

(b) "Additional Land" shall mean and refer to any land or an interest therein which may from time to time be added to and subject to the terms and conditions of this Declaration. Such Additional Land may include all or part of the tracts of land situated in Cache County, State of Utah, together with all appurtenances thereto as described on Exhibit "B" attached hereto.

The description of the Additional Land is solely for purposes of identification and is not intended and shall not be deemed to constitute any lien, encumbrance, restriction, or limitation upon any real property or interest in real property other than the Land which the Declaration expressly submits to the provisions of the Act, which Land is expressly described on Exhibit "A" attached hereto.

(c) "Association of Unit Owners" or "Association" shall mean and refer to Blackhawk Homeowner's Association, of which all of the Unit Owners are members. The Association shall be governed in accordance with this Declaration and Bylaws attached hereto as Exhibit "D".

(d) "Common Areas and Facilities" shall mean and refer to:

(1) The Land;

(2) That portion of the Property not specifically included in the respective Units as herein defined;

(3) All foundations, columns, girders, beams, supports, mainwalls, roofs, stairways, exterior walkways, driveways, streets, such recreational areas and facilities as may be provided, yards, fences, service and parking areas and entrances and exits, and in general all other apparatus, installations and other parts of the Property necessary or convenient to the existence, maintenance and safety of the Common Areas and Facilities or normally in common use;

(4) Those areas specifically set forth and designated in the Map as "Common Ownership" or "Limited Common Area"; and

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

(e) "Common Expenses" shall mean and refer to all expenses of administration, maintenance, repair or replacement of the Common Areas and Facilities, except as expressly limited; to all items, things and sums described in the Act which are lawfully assessed against the Unit Owners in accordance with the provisions of the Act, this Declaration, the Bylaws, such rules and regulations pertaining to the Condominium as the Association of Unit Owners or the Management Committee may from time to time adopt, and such other determinations and agreements lawfully made and/or entered into by the Management Committee.

(f) "Condominium Unit" shall mean and refer to the ownership of a single unit in this Planned Unit Development together with an undivided interest in the Common Areas and Facilities of the Property.

(g) "Condominium Community", "Condominium" "Planned Unit Development" or sometimes the "Project" shall mean and refer to the entire Property, as defined below, together with all rights, obligations and organizations established by this Declaration. At any point in time the Project shall consist of the first and second Phase and all subsequent Phases which theretofore have been added to and merged with the first PhaseS.

(h) "Declarant" shall mean individual Unit Owners of Blackhawk Homeowner's Association, a Utah Corporation, and Blackhawk L.A. Development,\* which has made and executed this Declaration, and/or its successor which, by either  
\*and Blackhawk Real Estate LLC

operation of law or through a voluntary conveyance, transfer or assignment, comes to stand in the same relation to the Project as did its predecessor. As to the expansion of project, Declarant shall mean Blackhawk L.A. Development or Blackhawk Real Estate LLC.

(i) "Declaration" shall mean this instrument by which Blackhawk P.U.D. Development is established as a Planned Unit Development Condominium Project, as may hereafter be modified, amended, supplemented or expanded.

(j) "Land" shall mean and refer to the real property described on Exhibit A submitted to the provision of the Act, together with any Additional Land which is added to the Project.

(k) "Limited Common Areas and Facilities" or "Limited Common Areas" shall mean and refer to those Common Areas and Facilities designated herein or on the Map as reserved for use of a certain Unit to the exclusion of the other units including patios, entrances and walkways assigned by the association with each unit.

(l) "Management Committee" or "Committee" shall mean and refer to the committee as provided in the Declaration and the Bylaws attached hereto (which Bylaws are hereby incorporated by reference and made a part of this Declaration). Said Committee is charged with and shall have the responsibility and authority to make and to enforce all of the reasonable rules and regulations covering the operation and maintenance of the Project.

(m) "Manager" shall mean and refer to the person, persons or corporation selected by the Management Committee to manage the affairs of the Condominium Project.

(n) "Map" shall mean and refer to the Record of Survey map of the Project recorded as No. 603549, Index 1994-899 on June 13, 1994, and No. 615424, Index 1995-927 in the Office of the Cache County Recorder, State of Utah.

(o) "Ownership Interest" shall mean an equal undivided interest of <sup>and</sup> each Unit Owner in the Common Areas at any point in time as may be revised from time to time upon expansion of the Project.

(p) "Phase" shall mean and refer to each separate step in development of the land and Additional Land which is initiated through the submission of a tract to the terms of the Act. The term shall also include all improvements which are constructed and all appurtenances, rights, obligations, and legal relationships which come into existence in conjunction with the submission of any single tract.

(q) "Property" shall mean and include the land, the building, all improvements and structures thereon, all easements, right and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

(r) "Unit" or "Condominium Unit" shall mean and refer to one of the Units designated as a Unit on the Map. Mechanical equipment and appurtenances located within any one Unit or located without said Unit but designated and designed to serve only that Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus, furnaces, stoves, fixtures and the like, shall be considered part of the Unit, as shall all decorated interiors, all surfaces of interior structural walls, floors and ceilings, windows and window frames, doors and door frames, and trim, consisting of, inter alia and as appropriate, wallpaper, paint, flooring, carpeting and tile. All pipes, wires, conduits, or other public utility lines or installations constituting a part of the Unit and serving only the Unit, and any structural members other than bearing walls and structural members other than bearing walls and structural members, of any other property of any kind, including fixtures and appliances within any Unit, which are removable without jeopardizing the soundness, safety or usefulness of the remainder of the building within which the Unit is situated shall be considered part of the Unit.

(s) "Unit Owner" or "Owner" shall mean the person or persons owning a Unit in fee simple and an equal undivided interest in the fee simple estate of the Common Areas and Facilities as shown in the records of the County Recorder of Cache County, Utah. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term Unit Owner or Owner shall not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such a party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

(t) Those definitions contained in the Act, to the extent they are applicable to and not inconsistent herewith, shall be and are hereby incorporated herein by reference and shall have the same effect as if expressly set forth herein and made a part hereof.

3. Submission to Condominium Ownership. Declarant hereby submits the Land, buildings, and other improvements constructed thereon or hereafter to be constructed, together with all appurtenances thereto, to the provisions of the Act as a Condominium and this Declaration is submitted in accordance with the terms and the provisions of the Act and shall be construed in accordance therewith. It is the intention of Declarant that the provisions of the Act shall apply to the Property.

4. Covenants to Run with the Land. This Declaration containing covenants, conditions and restrictions relating to the Project shall be enforceable equitable servitudes which shall run with the land and this Declaration and its servitudes shall be binding upon Declarant, its successors and assigns and upon all Unit Owners or subsequent Unit Owners, their grantees, mortgagees, successors, heirs, executors, administrators, devisees and assigns.

5. Description of Property.

(a) Description of Land. The Land is that tract or parcel, more particularly described in Exhibit "A" attached hereto.

(b) Description of Improvements. The significant improvements contained or to be contained in the Project include two story buildings containing four (4) Units each constructed principally of concrete foundation with exterior walls of stucco, asphalt shingle roofing, interior walls of wood studs, plywood and dry wall plaster. Each unit has an assigned garage. The Project also includes landscaping, guest parking and other facilities located substantially as shown in the Map and will be subject to easements which are reserved through the Project as may be required for utility services.

(c) Description and Legal Status of Units. The Map shows the Unit Number of each Unit, its location, those Limited Common Areas and Facilities which are reserved for its use, and the Common Areas and Facilities to which it has immediate access. All Units, of whatever type, shall be capable of being independently owned, along with its assigned garage, encumbered and conveyed.

(1) Each Unit has immediate access to the outside and shall include that part of the building containing the Unit which lies within the boundaries of the Unit, which boundary lines of each Unit are the undecorated and/or unfinished interior surfaces of its perimeter walls, bearing walls, lowermost floor, uppermost ceiling, all window panes, interior surfaces of doors, window frames and door frames and trim. Each Unit shall include both the portions of the building that are not common areas and facilities within such boundary lines and the space so encompassed. Without limitation, a Unit shall include any finishing material applied or affixed to the interior surfaces of the interior walls and all utility pipes, lines, systems, fixtures, or appliances found within the boundary lines of the unit and servicing only that unit.

(d) Common Areas and Facilities. Except as otherwise provided in the Declaration, the Common Areas and Facilities shall consist of the areas and facilities described in the definitions and constitute in general all of the parts of the Property except the Units. Without limiting the generality of the foregoing, the Common Areas

and Facilities shall include the following, whether located within the bounds of a Unit or not;

- (1) All structural parts of the buildings including, without limitation, foundations, columns, joists, beams, supports, supporting walls, floors, ceilings and roofs;
- (2) Driveways, parking areas, lawns, shrubs, and gardens, and recreational areas;
- (3) Any utility pipe or line or system servicing more than a single Unit, and all ducts, wires, conduits, and other accessories used therewith;
- (4) All other parts of the Property necessary or convenient to its existence, maintenance and safety, or normally in common use, or which have been designated as Common Areas and Facilities in the Map;
- (5) The Limited Common Areas and Facilities herein described; and
- (6) All repairs and replacements of any of the foregoing.

(e) Description of Limited Common Areas and Facilities. Each Owner of a Unit is hereby granted an irrevocable and exclusive license to use and occupy the Limited Common Areas and Facilities reserved exclusively for the use of his Unit. The Limited Common Areas appurtenant to any given Unit consist of a patio, entrance walkway contiguous with the Unit as indicated on the Map. The exclusive right to use and occupy each Limited Common Area shall be appurtenant to and shall pass with the title to the Unit with which it is associated.

6. Statement of Purpose and Restriction on Use.

(a) Purpose. The purpose of the Condominium Project is to provide residential housing and parking space for Unit Owners and to tenants and guests, all in accordance with the provisions of the Act.

(b) Restrictions on Use. The Units and Common Areas and Facilities shall be used and occupied as hereinafter set forth.

(1) Each of the Units shall be occupied by the Unit Owner, his family, servants, guests or tenants as a private residence and for no other purpose.

(2) No parking area shall be used for parking of trailers, mobile homes, boats, snowmobiles or campers which have been detached from trucks or repair of any vehicle, trailer or boat may be performed in any parking or common area. There shall be no storage of any kind except of vehicles as above provided in any parking stall or common area. Each Unit owner shall use only one (1) parking stall.

(3) The Common Areas and Facilities shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the Units.

(4) Nothing shall be done or kept in any Unit or in the Common Areas and Facilities which will increase the rate of insurance on the buildings or contents thereof beyond that customarily applicable for residential use, or will result in the cancellation of insurance on the buildings, or the contents thereof, without the prior written consent of the Management Committee. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Areas and Facilities which is in violation of any law, ordinance or regulation of any governmental authority.

(5) No Unit Owner shall cause or permit anything (including, without limitation, a sign, awning, canopy, shutter, radio, television antenna, or satellite dish) clothes lines, pots, plants, wind chimes or other decorative items to hang, be displayed or otherwise affixed to or placed on the exterior walls or roof or any part thereof, or on the inside or outside of windows or doors, without the prior written consent of the Management Committee. Temporary open house signs may be placed subject to written approval of the Management Committee as to location, duration, size and design. If signs are placed without written approval, the Committee retains the right to remove them. No signs for the sale of a unit may be placed in or upon any vehicle on common areas.

(6) Horizontal levelor type window blinds are allowed subject to Management Committee approval of the color. No plastic, sun screen or reflective type material shall be used on the interior or exterior of the windows.

(7) No noxious or offensive activity shall be carried on or permitted in any Unit or in the Common Areas and Facilities, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Unit Owners or occupants.

(8) Nothing shall be done in any Unit or in, on, or to the Common Areas and Facilities which will impair the structural integrity of the buildings or any part thereof or which would structurally change the buildings or any part thereof except as is otherwise provided herein.

(9) No animals or pets of any kind are to be raised, bred or kept in any Unit or in the Common Areas or Limited Common Areas without the prior written approval of the Management Committee with respect to the specific pet. Unit Owner shall keep the pet off the Common Areas. If the pet becomes a nuisance to other Unit owners, the pet owner shall remove the pet from the Project upon written notice by the Management Committee or its representative.

(10) The Common Areas and Facilities shall be kept free and clear of all rubbish, debris and other unsightly materials.

(11) No Owner shall violate the rules and regulations regarding use of the Units and of the Common Areas as adopted from time to time by the Management Committee.

7. Person to Receive Service of Process. The person to receive service of process in the cases provided herein or in the Act is Gregory Skabelund, whose address is 2176 North Main, Suite 102, North Logan, Utah 84341. The said person may be changed by the recordation by the Management Committee of an appropriate instrument.

8. Ownership and Use.

(a) Ownership of a Unit. Except with respect to any of the Common Areas and Facilities located within the bounds of a Unit, each Unit Owner shall be entitled to the exclusive ownership and possession of his Unit and assigned garage and to the ownership of an undivided interest in the Common Areas and Facilities.

(b) Nature of and Restrictions on Ownership and Use. Each Unit Owner shall have and enjoy the rights and privileges of fee simple ownership of his Unit and assigned garage. There shall be no requirements concerning who may own Units, it being intended that they may and shall be owned as any other property rights by persons, corporations, partnerships, or trusts and in the form of common tenancy. The Unit Owners may lease or rent their Units with their appurtenant rights subject to terms and conditions of this declaration. All unit Owners, their tenants and other occupants or users of the Project, shall be subject to the Act, this Declaration, the Bylaws, and all rules and regulations of the Association of Unit Owners and Management Committee.

(c) Prohibition Against Subdivision of Unit. No Unit Owner, by deed plat or otherwise, shall subdivide or in any manner cause the ownership of his Unit to be separated into physical tracts or parcels smaller than the whole Unit as shown on the Map and no garage assigned to any Unit shall be conveyed separately from such Unit.

(d) Ownership of Common Areas and Facilities. The Common Areas and Facilities contained in the Project are described and identified in this Declaration. Said Common Areas and Facilities shall be owned by the Unit Owners as tenants in common. Each Unit owner will have an equal undivided ownership interest in the Common Areas and Facilities with all other unit owners. Such an undivided ownership interest shall automatically accompany the transfer of the Unit to which it relates. The Common Areas and Facilities shall be used only in a manner which is consistent with their community nature and with the use restrictions applicable to the Units contained in the Project.

(e) Use of Common Areas and Facilities. Except with respect to Limited Common Areas each Unit Owner may use the Common Areas and Facilities in accordance with the purpose for which they are intended, but subject to this Declaration, the Bylaws, and the rules and regulations of the Management Committee. This right of use shall be appurtenant to and run with each Unit.

9. Use of Limited Common Areas and Facilities. A Unit Owner's exclusive right of use and occupancy of the Limited Common Areas and Facilities reserved for his Unit shall be subject to and in accordance with this Declaration and the Bylaws. Any Limited Common Area appurtenant to a Unit may be leased only to persons who reside in the Project or used by the family, servants or guests thereof on a temporary basis.

10. Voting-Multiple Ownership. The vote attributable to and exercisable in connection with a Unit shall be one vote for each Unit owned. In the event there is more than one Owner of a particular Unit, the vote relating to such Unit shall be exercised as such Owners may determine among themselves. A vote cast at any meeting by any of such Owners shall be conclusively presumed to be the vote attributable to the Unit concerned unless an objection is immediately made by another Owner of the same Unit. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

11. Management.

(a) Management Committee. the business, property and affairs of the Condominium shall be managed, operated and maintained by the Management Committee of the Association as agent for the Unit Owners. The Management Committee shall have, and is hereby granted, the following authority and powers:

(1) The authority, without the vote or consent of the Unit Owners or of any other person(s), to grant or create, on such terms as it deems advisable, utility and similar easements, over, under, across and through the Common Areas and Facilities; and work performed pursuant to such easements must be done in

a workmanlike manner and any damage to the interior structure or decor of a Unit must be repaired;

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

(3) The authority to enter into contracts which in any way concern the Project, so long as any vote or consent of the Unit Owners necessitated by the subject matter of the agreement has been obtained;

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

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

(6) The power and authority to add any interest in real property obtained pursuant to paragraph (5) above to the Condominium Project, so long as such action has been authorized by the necessary vote or consent;

(7) The power to sue and be sued.

(8) The authority to license persons not otherwise entitled to use any of the recreational areas and facilities to use the same from time to time as the Committee deems appropriate upon payment of fees prescribed by it to help defray the cost of maintenance thereof.

(9) The power and authority to borrow money, provided that no indebtedness for borrowed funds shall exceed in the aggregate at any given time the sum of \$5,000.00 without the prior vote or approval of the Association at a meeting duly called and convened at which a quorum is present.

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

(11) The power and authority to perform any other acts and to enter into any other transactions which may be reasonably necessary for the Management Committee to perform its functions as agent for the Unit Owners.

Any instrument executed by the Management Committee that recites facts which, if true, would establish the Committee's power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument.

(b) Composition of Management Committee. The Committee shall be composed of three (3) members. At the first regular Association meeting two (2) Committee members shall be elected for three-year terms, and one (1) Committee member shall be elected for a one-year term. At each annual Association meeting thereafter any vacant seat on the Committee shall be filled with a member elected for a three-year term. Only Unit Owners and officers and agents of Owners other than individuals shall be eligible for Committee membership. At the annual meeting, a Unit Owner may vote in favor of as many candidates for Committee membership as there are seats on the Committee to be filled.

Any Committee member who fails on three successive occasions to attend Committee meetings (whether regular or special) or who has failed to attend at least 25% of all Committee meetings (whether regular or special) held during any twelve-month period shall automatically forfeit his or her seat. The remaining Committee members shall elect a replacement to sit on the Committee until the expiration of the term for which the member being replaced was elected. Unless a member forfeits or otherwise loses his or her seat as herein provided, a member shall serve on the Committee until his successor is elected. Committee members shall be reimbursed for all expense reasonably incurred in connection with Committee business.

(c) Responsibility. The Management Committee shall be responsible for the control, operation and management of the Project in accordance with the provisions of the Act, this Declaration, such administrative, management and operational rules and regulations as it may adopt from time to time as herein provided, and all agreements and determinations lawfully made and entered into by said Committee.

(d) Additional Facilities. The Management Committee shall, subject to any necessary approval, have the authority to provide such facilities, in addition to those for which provision has already been made, as it may deem to be in the best interests of the Unit Owners and to effect the necessary amendment of documents and maps in connection therewith.

(e) Name. The Management Committee shall be known as Blackhawk Management Committee.

(f) Manager. The Committee may carry out through a Professional Property Manager any of its functions which are properly the subject of delegation. Any Manager so engaged shall be an independent contractor and not an agent or employee of the Committee, shall be responsible for managing the Project for the benefit of the Committee and the Unit Owners, and shall, to the extent permitted by law and the terms of the agreement with the Committee, be authorized to perform any of the functions or acts required or permitted to be performed by the Management Committee itself. Any agreement for professional management of the project which may be entered into by the Management Committee or the Association shall call for a term not exceeding one (1) year renewable by agreement of the parties for successive one-year periods, and shall provide that such management agreement may be terminated with or without cause by either party upon not more than thirty (30) days written notice, and without any payment of a termination fee.

12. Easements.

(a) Each Unit shall be subject to such easements as may be necessary for the installation, maintenance, repair or replacement of any Common Areas and Facilities located within the boundaries of such Unit.

(b) In the event that, by reason of the construction, reconstruction, repair, settlement, movement or shifting of any part of the building, any part of the Common Areas and Facilities encroaches or shall hereafter encroach upon any part of any Unit or any part of the Common Areas and Facilities or any other Unit, valid easements for such encroachment and the maintenance of such encroachment are hereby established and shall exist for the benefit of such Unit and the Common Areas and Facilities, as the case may be, so long as all or any part of the building containing any such Unit shall remain standing; provided, however, that in no event shall a valid easement or any encroachment be created in favor of any Unit Owner or in favor of the Unit Owners as owners of the Common Areas and Facilities if such encroachment occurred due to the willful conduct of such Unit Owner or Owners.

(c) Some of the Common Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Owners of the other Units shall have the irrevocable right, to be exercised by the Committee as its agent, to have access to each Unit and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Areas located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Areas or to another Unit or Units. The Committee shall also have such rights independent of the agency relationship. Damage to the interior of any part of a Unit or Units resulting from the maintenance, repair, emergency repair, or replacement of any of the Common Areas or as a result of emergency repairs within another Unit at the instance of the

Committee or of Unit Owners shall be the responsibility of the Association; provided, that if such damage is the result of negligence of the Owner of a Unit, then such Owner shall be financially responsible for all such damage. Such damage shall be repaired and the property shall be restored substantially to the same condition as existed prior to damage. Amounts owing by Owners pursuant hereto shall be collected by the Committee by assessment.

(d) The Management Committee shall have non-exclusive easements to make such use of the Common Areas as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration.

13. Change in Ownership. The Management Committee shall maintain up-to-date records showing the name of each person who is an Owner, the address of such person, and the Unit which is owned by him. In the event of any transfer of a fee or undivided fee interest in a Unit either the transferor or transferee shall furnish the Management Committee with evidence establishing that the transfer has occurred and that the Deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Cache County, Utah. The Management Committee may for all purposes act and rely on the information concerning Owners and Unit ownership which is thus acquired by it or, at its option, the Management Committee may act and rely on current ownership information respecting any Unit or Units which is obtained from the office of the County Recorder of Cache County, Utah. The address of an Owner shall be deemed to be the address of the Unit owned by such person unless the Management Committee is otherwise advised in writing.

14. Assessments. Every Unit Owner shall pay his equal share of the Common Expenses. Payment thereof shall be in such amounts and at such times as the Management Committee determines in accordance with the Act, the Declaration or the Bylaws. There shall be a lien for nonpayment of Common Expenses as provided by the Act.

No assessment for a single improvement in the nature of a capital expenditure which exceeds the sum of \$5,000 shall be made without the same having been first voted on and approved by at least a majority of the Project's undivided ownership interest.

15. Destruction or Damage. In the event of destruction or damage of part or all of the improvements in the Condominium Project, the procedures of this section 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 75% of the Project's improvements are destroyed or substantially damaged, and if proceeds of the insurance maintained by the Committee are not alone sufficient to accomplish repair or reconstruction, restoration shall be carried out and all of the Units shall be assessed for any deficiency on the basis of their respective ownership interest.
- (c) If 75% or more of the Project's improvements are destroyed or substantially damaged, if proceeds of the insurance maintained by the Management Committee are not alone sufficient to accomplish restoration, and if the Unit Owners within 100 days after the destruction or damage by a vote of at least 75% of the entire undivided ownership interest in the Project elect to repair or reconstruct the affected improvements, restoration shall be accomplished in the manner directed under subsection (b) above.
- (d) If 75% or more of the Project's improvements are destroyed or substantially damaged, if proceeds of the insurance maintained by the Committee are insufficient to accomplish restoration, and if the Unit Owners do not, within 100 days after the destruction or damage and by a vote of at least 75% of the entire undivided ownership interest in the Project, elect to repair or reconstruct the affected improvements, the Management Committee shall promptly record with the Cache County Recorder a notice setting forth such facts. Upon the recording of such notice the provisions of subsections (1) through (4) of Section 57-8-31, Utah Code Annotated (1953), as amended from time to time, shall apply and shall govern the rights of all parties having an interest in the Project or any of the Units.
- (e) Any reconstruction or repair which is required to be carried out by this section shall be accomplished at the instance and direction of the Management Committee. Any question regarding the extent of damage to or destruction of Project improvements shall be made by an MAI appraiser selected by the Management Committee who shall determine the figure representing the percentage of project improvements which have been destroyed or substantially damaged.

16. Taxes. It is understood that under the Act each Unit, together with its undivided interest in the Common Areas and Facilities in the Project, is deemed a parcel and subject to separate assessment and taxation by each assessing unit and special district for all types of taxes authorized by law. Each Unit Owner will, accordingly, pay and discharge any and all taxes which may be assessed against his Condominium Unit.

managers (and employees of manager), trustees, employees, officers, Committee shall at all times maintain in force fidelity coverage against dishonest acts on the part of (b) Fidelity Insurance. The Management Committee or Association

any requirement of law or without the prior written approval of the Association making a cash settlement, such option shall not be exercisable if it is in conflict with provision thereof which gives the carrier the right to elect to restore damage in lieu of (4) Each such policy shall provide that notwithstanding any

advantage of the effective date of any reduction in or cancellation of the policy, that the insurance carrier shall notify each Eligible Mortgagor at least thirty (30) days in protect the interests of Mortgagors. In addition, the mortgage clause shall provide Mortgagors as their interests may appear or shall be otherwise endorsed to fully proceeds shall be paid to the Association of Unit Owners for the use and benefit of clause (without contribution) which either shall be endorsed to provide that any (3) Each such policy shall include the standard mortgage

use and benefit of the individual Owners.

(2) The named insured under each policy required to be maintained by the foregoing item (1) shall be in form and substance essentially as follows: "Blackhawk Homeowners Association, or its authorized representative, for the

Operation of Building Laws Endorsement" or its equivalent. "Special Condition Endorsement" or its equivalence, and a "Contingent Liability from appropriate, an "Increased Cost of Construction Endorsement" or its equivalent or equivalent, a "Demolition Endorsement" or its equivalence, and, if necessary or replacement cost). Such policy shall include an "Agreed Amount Endorsement" or its less than one hundred percent (100%) of the full insurable value (based upon necessary to comply with any construction deductible specified in the policy, but not shall provide coverage on a replacement cost basis in an amount not less than that similar to the Project in construction, location, and use. As a minimum, such policy and such other risks as customarily are covered with respect to condominium projects removal, cost of demolition, vandalism, malicious mischief, windstorm, water damage, other hazards covered by the standard extended coverage endorsement, debits maintained. Such policy shall provide coverage against loss or damage by fire and entire Condominium Project (both Units and Common Areas and Facilities) shall be requirements:

(1) A multi-peril type "master" or "blanket" policy covering the

Unit Owners shall at all times maintain in force hazard insurance meeting the following (a) Hazard Insurance. The Management Committee or Association of

members, or volunteers responsible for handling funds belonging to or administered by the Management Committee or Association of Unit Owners. The fidelity bond or insurance shall name the Association as the obligee or insured and shall be written in an amount sufficient to afford the protection reasonably necessary, but in no event less than one hundred fifty percent (150%) of the estimated annual operating expenses of the Project including reserve funds, unless a greater amount is required by a majority of the Mortgagors or their designees. Such fidelity bond or insurance shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression. In addition, the mortgage clause shall provide that the insurance carrier shall notify each Eligible Mortgagor at least thirty (30) days in advance of the effective date of any reduction in or cancellation of the policy.

(c) Liability Insurance. The Management Committee or Association of Unit Owners shall at all times maintain in force a Comprehensive policy of public liability insurance covering all of the Common Areas and Facilities. Such insurance shall include a "Separability of Interest Endorsement" or its equivalent which shall preclude the insurer from denying the claim of a Unit Owner because of negligent acts of other Owners, the Management Committee, or the Association of Unit Owners. The coverage afforded by such public liability insurance shall include protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others, and such other risks as customarily are covered with respect to condominium projects similar to the Project in construction, location and use. The limit of liability under such insurance shall not be less than \$250,000 for all claims for personal injury and/or property damage arising out of a single occurrence.

(d) General Requirements Concerning Insurance. Each insurance policy or fidelity bond maintained pursuant to the foregoing Sections 17(a) through 17(c) shall be written by an insurance carrier which is licensed to transact business in the State of Utah. No such policy or fidelity bond shall be maintained where: (1) under the terms of the carrier's charter, bylaws, bond or policy, contributions may be required from, or assessments may be made against, a Unit, a Mortgagee, the Management Committee, the Association of Unit Owners, a Unit, the Common Areas, or the Project; (2) by the terms of the carrier's charter, bylaws, bond or policy, loss payments are continuing upon action by the carrier's board of directors, policy holders, or members; (3) the bond or policy includes any limiting clauses (other than insurance conditions) which could prevent the party entitled from collecting insurance proceeds; or (4) the bond or policy provides that the insurance thereunder shall be brought into contribution with insurance purchased by the individual Unit Owners or their contributions to the control of the Association of Unit Owners or the Management Committee is not be prejudiced by any act or neglect of the Unit Owners when such act or neglect is not within the control of the Association of Unit Owners or the Management Committee.

(5) Any Unit Owner may obtain additional insurance at his own expense, so long as such additional insurance does not have the effect of decreasing the amount which may be realized under any policy maintained by the Committee. Any Unit Owner who individually obtains insurance covering any portion of the Project shall supply the Committee with a copy of his policy within thirty (30) days after he acquires such insurance.

(4) Each policy of insurance obtained by the Committee shall be customarily insured against such risks as are of hereafter described and at all times maintain insurance against such risks as are of hereafter provided: A waiver of the Insurer's subrogation rights with respect to the possible, provide: A waiver of the Committee's right to sue the Insurer for damage to the Project in connection with conduct of any member, officer, or employee of the Manager without a prior written request; that it cannot be canceled, suspended, or invalidated due to the conduct of any guest; that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Unit Owners.

(3) Insurance secured and maintained by the Committee shall not be brought into contribution with individual Unit Owners or their mortgagees.

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

(1) In addition to the insurance described above, the Committee shall secure and at all times maintain insurance against such risks as are of hereafter described and at all times maintain insurance with conduct of any member, officer, or employee of the Project in connection with conduct of any member, officer, or employee of the Manager without a prior written request; that it cannot be canceled, suspended, or invalidated due to the conduct of any guest; that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Unit Owners.

(e) Additional Provisions. The following additional provisions shall apply with respect to insurance:

the insurance coverage required to be obtained and maintained under the Association or the Committee shall obtain and maintain such substitutions as the through 17(c) hereof can reasonably be secured, with respect to such coverage the insurance coverage described in paragraph 17(a) tenants, if due to changed circumstances, excessive cost, or any other reason, the Management Committee, and Unit Owner, and/or their respective agents, employees or right to subrogation it might have as to any and all claims against the Association, herein, including any Mortgage named as an insured; and (d) the insurer waives any cancellation or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days prior written notice to any and all insureds named which the Association and Committee have no control; (c) coverage may not be completely with any warranty or condition with regard to any portion of the Project over therein, including any Mortgage named as an insured; and (d) the insurer waives any cancellation or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days prior written notice to any and all insureds named which the Association and Committee have no control; (c) coverage may not be completely with any warranty or condition with regard to any portion of the Project over

(c) The portion payable with respect to each Unit in and for each year for a portion of a year shall be a sum equal to the aggregate amount of such

payable in that year.  
reserve against liabilities or expenses then accrued or thereafter to accrue although not sums which the Management Committee may deem necessary or prudent to provide a cash requirements for a previous year, but were not included therein; and also any accrued or became payable in the previous year, or which might have been included in include in the cash requirements for any year, any liabilities or items of expense which increase or diminish the amount previously fixed or determined for such year. It may close of the year for which such cash requirements have been so fixed or determined, Gonodominium Project. The Management Committee may, from time to time, up to the reserve of surpluses fund, as well as all other costs and expenses relating to the Management under or by reason of this Declaration, the payment of any deficit remaining fees, management fees, expenses and liabilities incurred by the Management individual Units by the utility or party furnishing such service), legal and accounting areas and Facilities, (other than services which are separately billed or metered to the lighting, landscaping, and the care of the grounds, repairs, and renovations to Common casually, flood, fidelity, public liability and other insurance or bond premiums, common may include, among other things, the cost of management, special assessments, fire, Management Committee to pay all estimated expenses and outlays of the sum as the Management Committee from time to time shall determine, in its judgment, portions of the year, are hereby defined and shall be deemed to be such aggregate (b) The Common Expenses above referred to for each year, or

proceedings brought to collect such unpaid common expenses.  
together with all costs and expenses, including attorney's fees, incurred in any the date when such installment shall become due to the date of the payment thereof, pay interest on the installment at the rate of eighteen percent (18%) per annum from the same becomes due, the Owner shall pay a ten dollar (\$10.00) late fee and shall if the Unit Owner shall fail to pay any installment within five (5) days of the time when or Association. Each installment shall be due on or before the first day of each month, of any set-off or claim which the Owner may have against the Management Committee terms, at the time, and in the manner herein provided without any deduction on account necessary by the Management Committee to manage and operate the Project, upon the allocaled portion, past, present, and future, of the Common Expenses demanded (a) Each Unit Owner shall pay the Management Committee his

- (d) Common Expenses for such year, or portion of year, determined as aforesaid, multiplied by the percentage of undivided interest in the Common Areas and Facilities appurtenant to such Unit. Such assessments, together with any additional sums accruing under this Declaration, shall be payable monthly in advance, or in such payments and installments as shall be required by the Management Committee, prescribing the manner of maintaining and operating the Project and to determine the cash requirements of the Association to be paid as aforesaid by the Owners under this Declaration. Every such reasonable determination by the Management Committee within the bounds of the Act and this Declaration shall be final and conclusive as to the boundaries, and any expenditures made by the Management Committee, within the bounds of the Act and this Declaration shall be against the Owner be deemed necessary and sufficient payment and discharge of such tenant or subtenant and the Owner to the extent of the amount so paid.
- (e) If an Owner shall at any time let or sublet his Unit and shall default for a period of one month in the payment of any assessments, the Management Committee may, at its option, so long as such default continues, demand and receive from any tenant or subtenant of the Owner occupying the Unit the rent due or becoming due and payment of such rent to the Owner occupying the Unit the rent due or receiving any rental or subtenant of such tenant or subtenant and the Owner to the extent of the amount so paid.
- (f) Each monthly assessment and each special assessment shall be separate, distinct and personal obligations of the Owner(s) of the Unit against which it is assessed at the time the assessment is made and shall be collectible as such. Suit to recover a money judgment for unpaid common expenses may be maintained without foreclosing or waiving the following lien securing the same: the amount of any assessment, whether regular or special, assessed to a Unit plus interest at eighteen percent (18%) per annum plus late fees, and costs, including reasonable attorney's fees, shall become a lien upon such Unit upon recordation of a notice of assessment as provided by the Act. The said lien for nonpayment of common expenses shall have priority over all other liens and encumbrances, recorded or unrecorded, except only:
- (1) Tax and special assessment liens on the Unit in favor of any assessment unit, and special district; and
- (2) Encumbrances on the interest of the Unit Owner recorded prior to the date such notice is recorded by law would be a lien prior to subsequently recorded encumbrances.

32.5, Utah Code Annotated (1953, as amended) from time to time, shall apply.  
commencement against the Project or any portion thereof, the provisions of Section 57-8-  
19. **Eminent Domain.** In the event that eminent domain proceedings are

a reasonable rental for the Condominium Unit and the Plaintiff in the foreclosure action  
shall be entitled to the appportionment of a receiver to collect the rental without regard to  
the value of the mortgage security. The Manager shall have the power to bid in the Condominium Unit  
lease, mortgagor and convey the Condominium Unit to hold,  
have the power to bid in the Condominium Unit at foreclosure or other sale and to hold,  
the value of the mortgage security. The Manager shall  
shall be entitled to the appportionment of a receiver to collect the rental without regard to  
a reasonable rental for the Condominium Unit and the Plaintiff in the foreclosure action  
(i) In the event of foreclosure, the Unit Owner shall be required to pay  
reasonable attorney's fees.

Owner shall be required to pay the costs and expenses of such proceedings including  
mortgages or in any manner permitted by law. In any foreclosure or sale, the Unit  
of the law applicable to the exercise of powers of sale or foreclosure in deeds of trust or  
Management Committee, such sale to be conducted in accordance with the provisions  
Committee or by a bank or trust company or title insurance company authorized by the  
nonpayment of assessment may be enforced by sale of the Unit by the Management  
Committee shall cause to be recorded in the same manner as the notice of assessment  
notice of assessment has been recorded or other satisfaction thereon, the Management  
Committee shall cause to be recorded in the same manner as the notice of assessment  
(h) Upon payment of delinquent assessments concerning which a  
recorder from the seller the amount paid by the purchaser for such assessments.  
up to the time of the grant or conveyance, without prejudice to the purchaser's right to  
be jointly and severally liable with the seller for all unpaid assessments against the Unit  
subject to the provisions of this subparagraph, a purchaser of a Unit shall

amounts paid of the same rank as the lien of his encumbrance.  
and upon such payment such encumbrance shall have a lien on such Unit for the  
pay any unpaid Common Expenses payable with respect to such Condominium Unit  
making the request. Any encumbrance holding a lien on a Condominium Unit may  
request shall be subordinate to the lien or interest held by or obtained by the person  
unpaid common expenses which became due prior to the date of making of such  
request for a certificate of indebtedness shall be compiled within ten (10) days, all  
Unit upon request at a reasonable fee not to exceed Ten Dollars (\$10.00). Unless the  
Owner or encumbrance or prospective Owner or encumbrance of a Condominium  
persons who rely thereon in good faith, and such certificate shall be furnished to any  
as to the amount of such indebtedness on the date of the certificate, in favor of all  
respect to a Unit shall be conclusive upon the Management Committee and the Owners  
Management Committee certifying the unpaid common expenses then outstanding with  
(g) A certificate executed and acknowledged by the Manager or

Common Areas and Facilities of the Project for the purpose of performing emergency installations, alterations or repairs to the mechanical or electrical devices or installations located therein or thereon; provided, however, such emergency installations, alterations or repairs to the Unit Owner or other Units in the Project, and provided further, that the Unit Owner or reasonable times as required for the purpose of making necessary repairs upon the Unit or any other party of the Project, whether or not the Unit Owner or other Units have the right to enter into any and all of said Units and Limited Common Areas at all times if present at the time. The Committee and its duly authorized agents shall also have the right to inspect any and all of the Units and the Limited Common Agents shall have the right to enter any and all of the Units and the Limited Common Areas appurtenant thereto in case of an emergency originating in or threatening such Agents shall have the right to enter the Units and the Limited Common Agents shall have the right to enter any and all of the Units and the Limited Common Areas appurtenant thereto in case of an emergency originating in or threatening such Units.

**21. Right of Entry.** The Management Committee and its duly authorized

Management Committee shall have no obligation regarding maintenance or care of them clean, functional, attractive and generally in good condition and repair. The Limited Common Areas and Facilities as may be reasonably necessary to keep the Limited Common Areas and Facilities and of provide for such maintenance and operation of the Common Areas and Facilities and of the Management Committee shall provide for such maintenance and operation of the Common Areas and Facilities and of the Management Committee shall

incorporating any Limited Common Area.

plant any portion of the exterior of the Unit or of the building in which the Unit is located parking stalls, or in or to the exterior of the buildings, and shall not paint, decorate or not make or permit to be made any structural alteration, in or to the Unit, garages or permission of the Management Committee first had and obtained, a Unit Owner shall not limited common patio except the fences surrounding such areas. Without the written dispositions, ranges, etc., that may be in or connected with the Unit, and the maintenance plumbing, fixtures, refrigerators, air conditioning and heating equipment, dishwashers, the Unit Owner shall be responsible for the maintenance or replacement of any Commitee. In addition todecorating and keeping the interior of the Unit in good repair, equal to the original work as determined and approved in writing by the Management subcontractor and all such repairs, redecorating and painting shall be of a quality and kind substantial, or any member of the Unit Owner's family or of the family of any tenant or the act, negligence or carelessness of the Unit Owner or that of any tenant or Owner shall repair all injury or damages to the Unit or building or buildings caused by extent that the Association is protected by insurance against such injury. Except to the such Unit and its equipment and appurtenances in good order, condition and repair and in a clean and sanitary condition, and shall do all redecorating and painting which may at any time be necessary to maintain the good appearance of such Unit. Except to the (a) Each owner of a Unit at his own expense shall keep the interior of

**20. Maintenance.**

26. Consent in Lieu of Vote. In any case in which the Act or this Declaration requires the vote of a stated percentage of the Project's undivided ownership interest certify that the vote or consent required by this Section has occurred.
25. Amendment. This Declaration and/or the Map may be amended upon the affirmative vote of ~~approval~~ and consent of not less than 66.6% [one hundred percent (100%)] of the undivided interest of a Unit Owner in Common Areas and Facilities of the undivided interest of the Common Areas and Amenagement so authorized shall be accomplished by recordation of an instrument executed by the Management Committee. In said instrument the Committee shall certify that the vote or consent required by this Section has occurred.

24. Indemnification of Management Committee. Each member of the Management Committee shall be indemnified and held harmless by the Association of Unit Owners against all costs, expenses and liabilities whatsoever, including, without limitation, attorney's fees, reasonably incurred by him in connection with any proceeding to which he may become involved by reason of his having been a member of said Committee; provided, however, the foregoing indemnification shall not apply if the loss, expense or liability involved resulted from the willful misconduct, gross negligence or other intentional act of the member.

23. Obligation to Comply with Declaration, Bylaws, Articles, Rules and Regulations. Each Unit Owner, tenant, subtenant or other occupant of a Unit shall comply with the provisions of the Act, this Declaration, the Bylaws, and the rules and regulations, all agreements and determinations lawfully made and/or entered into by the Management Committee or the Unit Owners, when a copy of any amendment or alteration of provision for repeal of any rule or rules has been furnished to the Unit Owners, such amendment, alteration or provision shall be taken to be a part of such rules. Unit Owners shall at all times obey such rules and see that they are faithfully observed by those persons over whom they have or may exercise control and supervision, it being understood that such rules shall apply and be binding upon all Unit Owners, tenants, subtenants or other occupants of the Units.

22. Administrative Rules and Regulations. The Management Committee shall have the power to adopt and establish by resolution, such building management and operational rules as it may deem necessary for the maintenance, operation, management and control of the Project. The Committee may, from time to time by resolution, amend and repeal such rules. When a copy of any amendment or alteration or provision for repeal of any rule or rules has been furnished to the Unit Owners, such amendment, alteration or provision shall be taken to be a part of such rules. Unit Owners shall at all times obey such rules and see that they are faithfully observed by those persons over whom they have or may exercise control and supervision, it being understood that such rules shall apply and be binding upon all Unit Owners, tenants, subtenants or other occupants of the Units.

occupant affected by such entry shall first be notified thereof if available and if time permits.

29. **Release of Units.** With the exception of a lender in possession of a Unit following a default in a first mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no Unit Owner shall be permitted to lease his unit for transient or hotel purposes which means the initial term of any lease shall be at least six (6) months. No Unit Owner may lease less than the entire unit except a garage may be leased to another Unit Owner. A lease agreement shall be required to provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration and the bylaws attached as an exhibit, and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease to the management committee five (5) days prior to occupancy by the tenant. The Unit Owner shall notify the Management Committee of the names of the lessee of the Unit in the event of a lease of a Unit, only the tenant and not the Unit Owner shall have the right to the use of the Common Areas and Facilities while the Unit is leased. In the event of a lease, then those Unit owners shall pay their portion of the increased costs of rentals, insurance costs covered by paragraph 17 are increased due to the percentage of rentals, then those Unit owners shall pay their portion of the increased costs of insurance charged.
28. **Declarant's Rights Assignable.** All of the rights of Declarant under this voluntary conveyance, transfer or assignment.
27. **Severability.** The invalidity of any one or more phrases, sentences,
- paragraphs, subsections or subsections of section or sections had not been inserted, phrases, sentence or sentences, subparagraph or subparagraphs, paragraph or instrument invalid, this instrument shall be construed as if such invalid phrase or portion of portions of this instrument should be invalid or should operate to render this remaining portions of this instrument or any part thereof, and in the event that any subparagraphs, paragraphs, subsections or sections hereof shall not affect the taken into account for any purpose, and
- (b) Any change in ownership of a Unit which occurs after consent has been obtained from the Owner having an interest therein shall not be considered or ninety (90) days after the first consent is given by any Owner.

(a) All necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Owner.

for authorization or approval of a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Unit Owners who collectively hold at least such stated percentage of undivided ownership interest. The following additional provisions shall govern any application of this section:

Units as was required on the Map with respect to the Phase One Units. The expansion supplemental Map or Maps containing the same information with respect to the new containing a legal description of the site or sites for new Units, together with this Declaration is recorded, a Supplemental or Supplements to this Declaration County Recorder of Cache County, Utah, no later than seven (7) years from the date expansion may be accomplished by the filing for record by Declarant in the office of the County Recorder of Cache County, Utah, no later than seven (7) years from the date this Declaration is recorded, a Supplemental or Supplements to this Declaration containing a legal description of the site or sites for new Units, together with this Declaration is recorded, a Supplemental or Supplements to this Declaration.

(b) **Supplemental Declarations and Supplemental Maps.** Such

(250) units and the maximum number of units per acre of Additional Property shall be total number of Units in the Project, as expanded, shall not exceed two hundred fifty such Units shall be constructed on any or all portions of the Additional Property. The consent or vote of Unit Owners and shall be limited only as herein specifically provided, prior to said seven (7) years. Such right may be exercised without first obtaining the such option, there being no other circumstances which will cause the option to expire date of the Declaration unless sooner terminated by Declarant's Recorded Waiver of limitation, provided however, the option shall expire seven (7) years from the effective date of the Declaration, unless sooner terminated by Declarant's Recorded Waiver of option to expand the Project to include additional Units in any order. Without expanding may be exercised from time to time, at different times and in any order, this option to expand the Project to include additional Units in the Project. This option to expand and individual interest in the Common Areas, and to incorporate all the rights incident to such description of a Unit and all the limitations on such ownership as described in this Declaration.

Such description will be construed to describe the Unit, together with the appendant undivided interest in the Common Areas, and to incorporate all the rights incident to ownership of a Unit and all the limitations on such ownership as described in this Declaration.

This conveyance is subject to the provisions of the aforesaid Declaration if Condominium.  
such records in Book \_\_\_\_\_, Page \_\_\_\_\_ of Records.  
Project appearing in the Records of the County Recorder of Cache County, Utah, in Book \_\_\_\_\_, Page \_\_\_\_\_ of Plats, and as detailed and described in the Declaration of Condominium, appearing in such records in Book \_\_\_\_\_, Page \_\_\_\_\_ of Records.

Declarant, as each shall appear in the official records of Cache County, Utah, and in number shown on the Map with the appropriate reference to the Map and to this a Unit and every other instrument affecting title to a Unit may describe that Unit by the substantiality the following form:  
30. **Legal Description of a Unit.** Every conveyance or contract for the sale of

(e) Right of Declarant to Adjust Ownership Interest in Common Areas.

Each deed of a Unit shall be deemed to irrevocably reserve to the Declarant the power to appoint to Unit Owners, from time to time, the percentages in the Common Areas set forth in Supplemental of Amended Declaration. The proportionate interest of each Unit Owner in Supplemental of Amended Declaration shall be an undivided interest of the Declarant, its successors and assigns, as attorney in fact to shift percentages of the Common Areas in accordance with Supplemental Declaration to the Declarant, its successors and assigns, as attorney in fact to shift percentages of the Common Areas to the other toward the end that a valid shifting of the Common Areas can be accomplished. Notwithstanding anything to the contrary herein, no change in the percentage of undivided interest in the Common Areas may be deemed supplemental to the other toward the end that a valid shifting of the Common Areas of the Units may contain clauses designed to accomplish a shifting of grants of such power to the Declarant. Various provisions of this Declaration and deeds recorded pursuant hereto and each deed of a Unit in the Project shall be deemed a grant of such power to the Declarant. 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 supplemental to the other toward the end that a valid shifting of the Common Areas may be accomplished.

(d) Declaration Operative on New Units.

The new Units shall be subject to all the terms and conditions of this Declaration and therein shall be subject to condominium ownership with all the incidents pertaining thereto as specified herein, upon recording the Supplemental Map and Supplemental declaration in the said office of the Cache County Recorder.

(c) Expansion of Definitions.

In initially submitted under the Declaration, plus any Additional Property referred to the Project as so expanded. E.g., "Property" shall mean the real property defined in this Declaration shall mean this Declaration as so supplemented. All conveyances of Project by a Supplemental Declaration or by Supplemental Declarations, and reference to this Declaration shall be effective to transfer rights in the Project, as Units after such expansion shall be effective to transfer rights in the Project, as references to the Supplemental Declaration and the Supplemental Map. The recordation in the Office of Cache County Recorder of a Supplemental Map incident to any expansion shall operate automatically to grant, transfer, and convey to them owners of Units in the new Common Areas added to the Project as a result of such expansion. Such recordation shall also operate to vest in any then mortgagor of any undivided interests in the new Common Areas added to the Project as a result of such expansion. Such recordation shall also operate such expansion the respective Unit in the Project as it existed before such expansion of the Unit in the Project as it existed so acquired by the Owner of the Unit in the Project as a result of such expansion. Such recordation shall also operate such expansion the respective Unit in the Project as it existed so acquired by the Owner of the Unit in the Project as a result of such expansion of the Unit in the Project as it existed so acquired by the Owner of the Unit in the Project as it existed so acquired by the Owner of the Unit in the Project as a result of such expansion.

may be accomplished in phases by successive supplements or in one supplemental expansion.

Declaration except pursuant to Amendment as provided in Paragraph 25.

effected more than seven (7) years after the effective date of the Phase One

Supplemental Map incident to any expansion, the revised schedule of undivided

interests in the Common Areas contained therein shall automatically become effective

for all purposes and shall fully supersede any similar schedule which was contained in

any declaration assogciated with any prior phase. In the event the provisions of the

separate instruments relating to the Project conflict irreconcilably, the terms of that

instrument which was recorded most recently shall control.

(f) Other Provisions Concerning Expansion. If the Project is

expanded as hereinbefore contained, then it is further provided that:

(1) All or any part of the Additional Land may be added to the Project without any limitation as to dwelling unit.

Project without any limitations whatsoever save and except that all additional Units

documented to build roads and access ways to the right without further convenience or

(3) Declarant shall have the right without further consent of Unit Owners shall not allow

(4) No assurances are made concerning:

(a) The locations of any improvements that may be made on any portion of the Additional Land that may be added to the Project.

(b) Type, kind or nature of improvements which may be created on any portion of the Additional Land, except that the common facilities other

than community center building and recreational areas will be comparable to the Phase One and Phase Two facilities on a per unit basis and will be of a similar quality of materials and construction to those within the initial Project except

that Units will be of a similar quality of materials and construction as the Units in Phase One.

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Ert 631319 Bk 677 Pg 968

Ert 636116 Bk 689 Pg 502



PARCEL 2: BEGINNING AT A POINT 3.42 CHAINS SOUTH OF THE NORTHWEST CORNER OF LOT 3, BLOCK 28, PLAT "A" PROVIDENCE FARM SURVEY, AND RUNNING THENCE SOUTH 14.67 CHAINS, THENCE EAST 10 CHAINS, THENCE NORTH 10.19 CHAINS TO CENTER OF BALLARD'S SLOUGH; THENCE FOLLOWING CENTER OF SAID SLOUGH TOWNSHIP 11 NORTH, RANGE 1 EAST OF BEGINNING, BEING SITE IN SECTION 9, (02-090-0007) TO BE KNOWN AS PROPOSED BLACKHAWK PUD DEVELOPMENT PHASE IV.



Notary Public

On the 12 day of March, 1998 personally  
appeared before me NEIL L. ANDERSON, ALLEN C. LYLE, and STEVEN L. LYLE, who,  
being duly sworn, did say they are the Members of Blackhawk Real Estate,  
LLC, and that the said instrument was signed in behalf of said Limited Liability  
Company by authority of its Articles of Organization and operating Agreement.  
The foregoing individuals acknowledged to me that said Company executed the same.

STATE OF UTAH )  
County of Cache )  
ss :  
STEVEN L. LYLE, Member

ALLEN C. LYLE, Member  
NEIL L. ANDERSON, Member  
A Utah Limited Liability Company  
BLACKHAWK REAL ESTATE LLC

IN WITNESS WHEREOF, the Declarant has executed this Declaration this  
day of March, 1998.

4. This Supplement and the Exhibit(s) hereto shall be recorded within seven years of the date of recording of the Declaration.

3. Phase IV shall hereafter be subject to and together with the Declaration and all rights, privileges, covenants, conditions and restrictions contained therein, as if Phase IV were a part of the Development at the date of its creation.

2. The Development is expanded to include Phase IV. The total number of units in the Development is now 348.

1. The above recitals are incorporated by this reference.

NOW, THEREFORE, the Declaration is hereby Supplemented as follows:

D. The requirements for expansion of the Declaration to include Phase IV as set forth in paragraph 31 of the Declaration have been satisfied.

C. Pursuant to paragraph 31(e) of the Declaration, and as a result of the expansion of the Development to include Phase IV, declarant desires to adjust the Development to include Phase IV, common areas as set forth below.

B. Pursuant to paragraph 31 of the Declaration, declarant desires to expand the Development to include Phase IV, and to subject Phase IV to the above-referenced Declaration.

A. Phase IV of the Blackhawk P.U.D. Development, including all units and common areas, as shown by the official plat hereof recorded September 24, 1997 as filing No. 667858 in the office of Cache County Recorder, is incorporated by this reference. Blackhawk P.U.D. Development (the "Development"), has been constructed adjacent to Phases I, II, and III of the IV", has been recorded on October 2, 1997 as Entry No. 668455 in Book 769, Page 670-708 of the Cache County Recorder (the "Declaration").

THIS SUPPLEMENT, made on the date hereinafter set forth, supplements that certain Declaration of Covenants, Conditions & Restrictions of Blackhawk P.U.D. Development, judicially recognized by the Court of Appeals, Case No. 96-244, by an order dated September 15, 1997, State of Utah, Case No. 96-244, by an order dated September 15, 1997, State of Cache County Recorder, judicially recognized by the Court of Appeals, Case No. 96-244, by an order dated September 15, 1997, State of Cache County Recorder, recorded on October 2, 1997 as Entry No. 668455 in Book 769, Page 670-708 of the Cache County Recorder (the "Declaration").

#### AN EXPANDABLE COMMUNITY

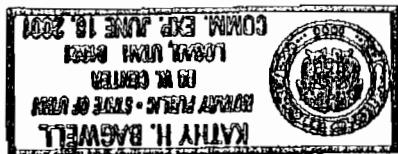
BLACKHAWK P.U.D. DEVELOPMENT PHASE 1, 2, 3, & 4

OF

SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS

ENT 690046 BK 325 P. 610  
DATE 22-JUL-1998 426EN FEE 12.00  
MICHAEL L GLEED, RECORDER - FILED BY KIM  
CACHE COUNTY, UTAH  
For DLRON & HOGGAN

BLP\Blackhawk\PA.SUPP



NOTARY PUBLIC

*Kathy H. Bagwell*

On the 20 day of July, 1998, personally appeared me Cathie Estelle, the signor of the foregoing instrument, who duly acknowledged to me that she executed the same, and that said instrument was signed in behalf of the Blackhawk Homeowners Association by authority of a resolution of the Blackhawk Homeowners Association, and that said laws, and the aforementioned officer acknowledged to me that said association executed the same.

STATE OF UTAH ( )  
COUNTY OF Cache ( )  
: ss.

Cathie Estelle

*Cathie Estelle*

BLACKHAWK HOMEOWNERS ASSOCIATION

DATED this 20 day of July, 1998.

5. The ownership of each of the Unit Owners in Common Areas of all Phases of the Development is hereby subject to future amendment and ownership of common areas is subject to 1/348th adjustment.