

JOINT USE AND OPERATION AGREEMENT

This Joint Use and Operation Agreement is entered into by and between COTTON MANOR P.U.D. OWNERS ASSOCIATION, a Utah non-profit corporation (referred to as "PUD Association") established for the administration of Cotton Manor P.U.D., a Planned Unit Development, and COTTON MANOR CONDOMINIUM ASSOCIATION, a Utah non-profit corporation (referred to as "Condominium Association") established for the administration of Cotton Manor Condominiums.

R E C I T A L S:

A. The Condominium Association is organized for the purpose of maintaining, operating, and governing Cotton Manor Condominiums consisting of 28 constructed units (Nos. 113-124, 129-144), and additional unconstructed units (Nos. 145-152) for a total of 36 residential units and related common elements and areas (hereinafter the "Condominium Project"); and

B. The PUD Association is organized as a non-profit corporation for the purpose of maintaining, operating, and governing Cotton Manor P.U.D., a Planned Unit Development consisting of twenty-one (21) residential units in two Phases and related common elements and areas (hereinafter the "PUD Project") (which project may be expanded as provided in its Declaration);

C. The Condominium Project is situated upon real property identified on Exhibit A attached and incorporated by this reference, and is subject to a Declaration of the Cotton Manor and

supplemental declarations which are of record in the office of the Washington County Recorder;

D. The PUD Project is situated upon real property identified on exhibit B attached and incorporated by this reference, and is subject to a Declaration of Covenants which is of record in the office of the Washington County Recorder;

E. The area comprising the PUD Project was originally projected to be part of an expansion of the Declaration of Condominium referred to above;

F. The Declarant (as defined in the Declarations) has determined that establishment of a Planned Unit Development form of ownership will better suit the marketing and administration of the portion of the development known as Cotton Manor Planned Unit Development.

G. Rules and regulations governing the establishment of Condominium and PUD projects will not allow the direct administration of the PUD project by the Condominium Association nor will merger of the two Associations be permitted;

H. The Common Areas and Facilities in the condominium project were developed with the view of servicing all the owners in each project. The financial support of all the owners was assumed in developing such Common Area and Facilities;

I. The two Associations have determined that joint operation, management and maintenance services relating to the common elements, limited common elements, and common expenses of the Projects will be more economical and reflect fulfillment of the

original conception of the development;

J. The Associations desire to have the benefit of the Common Areas and Facilities of each Association for the benefit of the members of both Associations; and

K. The parties desire that taxes assessed on the Common Areas and Facilities shall be apportioned equally among all members of each Association.

NOW, THEREFORE, in consideration of the premises and the mutual promises and covenants of the parties and for other good and valuable consideration, receipt of which is acknowledged by each of the parties, the parties covenant and agree as follows:

ARTICLE I

JOINT OPERATION

The operation of the two Associations shall be joint, insofar as legally and practically possible. Under this agreement, the Associations shall cooperatively administer the responsibilities conferred upon them by the Declarations of the respective projects, including maintenance of common and limited common areas in both projects and the exteriors of townhomes; planning and establishment of reserves for repair and replacement of common and limited common areas and the exteriors of townhomes; procurement of insurance; negotiation of contracts for service of managers, maintenance personnel and other service providers and for purchase of common utility services and supplies; creation, maintenance, and safekeeping of necessary records; billing and collection of monthly assessments and other charges; and other functions.

ARTICLE II

JOINT USE OF FACILITIES

The members of each Association shall have the use of the Common Areas and Facilities of that Association and the other Association. Any rules and regulations respecting use of the Common Areas and Facilities shall be equally applied to members of each Association and any such rules passed by an individual Association shall be subject to the review and approval of the Joint Board.

ARTICLE III

JOINT ESTABLISHMENT OF FEES

Fees shall be divided by the number of units in each Association. The Condominium Association shall divide their share of the total by their respective undivided interests as required by Utah law. Each Association shall pay to the Joint Operations Fund the assessments levied and received on each lot or unit. As lots or units are added the fees shall be reallocated, and units shall pay fees upon initial occupancy by a retail buyer.

The assessments shall be established in accordance with the Declarations, Articles and Bylaws of each Association.

ARTICLE IV

FORMATION OF JOINT OPERATIONS BOARD

The Management Committee of the Condominium Association consisting of _____ (____) members and the Board of Trustees of the PUD Association consisting of _____ (____) members shall jointly

form a Joint Operations Board. In the event either Association has a lesser number in its independent governing board, that Board shall appoint a member of its Association to serve as a member of the Joint Operations Board until its Board is brought to the number herein specified. In the event either Association has a greater number in its independent governing board, that Board shall determine which of its members shall serve as members of the Joint Operations Board.

ARTICLE V

SELECTION OF JOINT OPERATIONS OFFICERS

The Joint Operations Board shall designate the President from one of the Associations as its President, and shall designate its Treasurer from the other Association. The terms of service as such officers shall be from January 1 until December 31 of that year. In the following year, the President of the other Association which did not have a President serving the prior year and a Treasurer from the Association which did not have a President serving the prior year, shall be appointed respectively President and Treasurer of the Joint Operations.

ARTICLE VI

JOINT OPERATIONS ACCOUNT

The Associations shall maintain a joint operations account in a federally insured financial institution. The Joint Operations Board shall collect Association revenues in the name of the Associations and deposit such revenues in the Joint Operations

Account. Signers on the account shall include each member of the Joint Operations Board and the Treasurer of each Association. Checks drawn on the Operating Account shall require one (1) signature for any check drawn for any amount equal to or less than \$100. Any check in the amount of \$101 or more shall require two (2) signatures.

ARTICLE VII

TERM OF AGREEMENT

This Agreement shall become effective on the date signed by the last party executing the Agreement, and shall continue for an initial term of thirty (30) years thereafter, and shall thereupon be renewed for an additional term of thirty (30) years unless terminated by either party hereto within six (6) months prior to the date of expiration.

ARTICLE VIII

APPORTIONMENT OF TAXES

The Washington County Assessor shall apportion the real property taxes attributable to the Common Areas and Facilities among all the owners and members of both Associations.

ARTICLE IX

INDEMNIFICATION OF BOARD AND OFFICERS

The Board Members and Officers shall not be liable to third parties for any debt, liability or obligations of the Associations.

Board Members and Officers shall not be liable to the Associations or members thereof for any act or omission in the performance of this Agreement, except for gross negligence or

willful misconduct.

Except for willful misconduct or gross negligence, the Associations agree to indemnify and hold the Board Members and Officers harmless for all liability, costs, claims, actions, damages and expenses (including attorney's fees and court costs) sustained by them when carrying out the provisions of this Agreement or acting under the express or implied direction of the Associations, and to indemnify and hold them harmless from all liability, costs, claims, damages and expenses (including counsel fees and court costs) sustained by them as a result of the actions of the Associations and the Associations will defend any action or proceeding against Manager arising therefrom.

ARTICLE X

MISCELLANEOUS

This Agreement shall inure to the benefit of and be binding upon all parties and their respective successors and assigns.

Any dispute arising in connection with the construction or enforcement of the provisions of this Agreement, or in the application or validity thereof, shall be submitted to arbitration, such arbitration proceedings to be held in St. George, Utah, in accordance with the rules then obtaining of the American Arbitration Association, and this agreement to arbitrate shall be specifically enforceable. Any award rendered in any such arbitration proceeding shall be final and binding on any such of the parties, and judgment may be entered thereon in the appropriate District Court of the State of Utah or any other court of competent

jurisdiction. The costs and fees of any such arbitration proceeding shall be borne by the respective parties thereto, but the arbitrators may in their discretion award costs and reasonable attorneys' fees to the prevailing party.

The captions of Articles in this Agreement are for the convenience of the reader only and are not intended to be part of this Agreement. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identification of the person, firm, corporation or other entity referred to may require.

This Agreement, the construction of its terms and the rights and duties of the parties hereunder shall be governed by the laws of the State of Utah.

This instrument contains the entire agreement between the parties hereto, and no representations, warranties or covenants not included in this Agreement may be relied upon by any party hereto. This Agreement may be amended, modified or otherwise changed only by an instrument in writing executed by all of the parties, and no waiver, alteration or modification of any of the provisions hereof shall be binding upon a party unless in writing and signed by the party or its duly authorized representative.

Any provision of this Agreement that in any way contravenes the provisions of applicable law shall, to the extent the law is contravened, be considered severable and not applicable and shall

not alter or affect any other provision of this Agreement.

EXECUTED at St. George, Utah, on 25th Aug, 1993.

"CONDOMINIUM ASSOCIATION":

COTTON MANOR CONDOMINIUM ASSOCIATION

By: Quone A. Marchant
Its: Pres

"PUD ASSOCIATION":

COTTON MANOR P.U.D. OWNERS ASSOCIATION

By: Quone A. Marchant
Its: Pres

STATE OF UTAH)
) ss
COUNTY OF WASHINGTON)

On the 25 day of Aug., 1993, personally appeared before me Duane Marchant, who being by me duly sworn did say that he is the president of COTTON MANOR CONDOMINIUM ASSOCIATION, that the within and foregoing instrument was signed on behalf of said corporation and said person acknowledged to me that said corporation executed the same pursuant to authority granted by the Board of Directors of COTTON MANOR CONDOMINIUM ASSOCIATION.

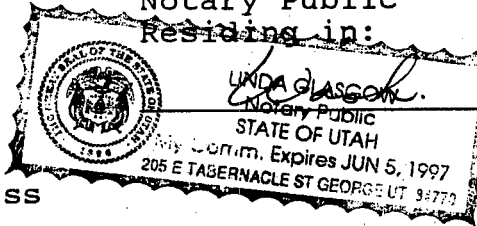
Linda Glasgow

Notary Public

Residing in:

My Commission Expires:

6-5-97



Linda Glasgow County

STATE OF UTAH)
) ss
COUNTY OF WASHINGTON)

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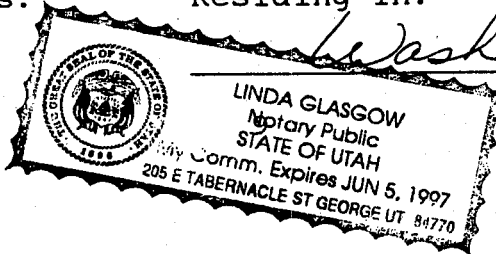
Linda Glasgow

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Residing in:

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6-5-97



Linda Glasgow Wash. County