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AFTER RECORDING, PLEASE RETURN TO:

Robert J. Grow, Esq.
ROOKER, LARSEN, KIMBALL & PARR
185 South State Street, Suite 1300
Salt Lake City, Utah 84111

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DECLARATION OF CONDOMINIUM

OF THE

BEN LOMOND SUITES CONDOMINIUM PROJECT

[An Expandable Condominium Project Containing Convertible Spaces]

THIS DECLARATION is made and executed this 18th day of July, 1984, by BEN LOMOND SUITES, LTD., a Utah Limited Partnership (hereinafter, "Partnership") whose address is 2510 Washington Boulevard, Ogden, Utah 84401, and WEBER COUNTY, a political subdivision of the State of Utah (hereinafter, "County") whose address is 2510 Washington Boulevard, Ogden, Utah 84401. [Partnership and County are sometimes hereinafter collectively referred to as "Declarant".]

RECITALS:

A. Declarant is the record owner of that certain Tract of real property more particularly described in Article II hereof on which is located the historic Ben Lomond Hotel.

B. County and Partnership have caused or will cause certain improvements to be made to the Tract so as to enable its historic restoration and its use and operation as a Condominium Project. The construction of all of such improvements has been or will be performed in accordance with the information contained in this Declaration and in the Record of Survey Map.

C. Declarant desires, by filing this Declaration and the Survey Map, to submit said Tract and all improvements now or hereafter constructed thereon to the provisions of the Act as a Condominium Project to be known as the "Ben Lomond Suites Condominium Project". As more fully set forth in Article XII hereof, Partnership reserves the right to expand the Project to include certain additional real property and improvements thereto. In addition, each of the Convertible Spaces in the Project may hereafter be converted into additional Units and/or Common Areas in accordance with Article XI hereof.

D. As more fully set forth in Article II hereof, following recordation of this Declaration and the Survey Map, County shall be the

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record owner of certain Units and Convertible Spaces in the Project, together with such Units' and Convertible Spaces' undivided interests in the Common Areas and Facilities, and Partnership shall be the record owner of certain other Units and Convertible Spaces, together with such Units' and Convertible Spaces' undivided interests in the Common Areas and Facilities.

E. As more fully set forth hereinafter, Partnership and County intend that a majority of the Units and Convertible Spaces in the Project will initially be sold and operated as a commercial hotel, while the remainder of the Units and Convertible Spaces will initially be operated as office space for County departments.

NOW, THEREFORE, for the foregoing purposes, Declarant hereby makes the following Declaration:

ARTICLE I

DEFINITIONS

1.01. Defined Terms. When used in this Declaration (including in that portion hereof entitled "Recitals"), each of the terms defined in this Article I shall have the meaning indicated. Any term used herein which is defined by the Act shall, to the extent permitted by the context hereof, have the meaning ascribed by the Act.

1.02. Act or Condominium Act shall mean and refer to the Utah Condominium Ownership Act, Utah Code Annotated §§ 57-8-1 through 57-8-36 (Supp. 1983).

1.03. Declaration shall mean and refer to this Declaration of Condominium of the Ben Lomond Suites Condominium Project, as the same may hereafter be modified, amended, supplemented, or expanded in accordance with law and the provisions hereof (and in particular, in accordance with the provisions of Article XI hereof concerning amendments and supplements to this Declaration which are to occur in conjunction with each conversion of a Convertible Space contained within the Project and/or in accordance with the provisions of Article XII hereof concerning amendments and supplements to this Declaration which are to occur in conjunction with each addition to the Project of a portion of the Additional Land).

1.04. Record of Survey Map, Survey Map, or Map shall mean and refer to the Record of Survey Map, filed herewith, entitled "Record of Survey Map of the Ben Lomond Suites Condominium Project", executed and acknowledged by Declarant, consisting of five (5) sheets, and prepared and certified to by John P. Reeve, a duly registered Utah Land Surveyor holding Certificate No. 34927, as the same may hereafter be modified, amended, supplemented, or expanded in accordance with law and the provisions hereof

(and in particular, in accordance with the provisions of Article XI hereof concerning amendments and supplements to the Survey Map which are to occur in conjunction with each conversion of a Convertible Space contained within the Project and/or in accordance with the provisions of Article XII hereof concerning amendments and supplements to the Survey Map which are to occur in conjunction with each addition to the Project of a portion of the Additional Land).

1.05. Tract shall mean, refer to, and consist of the real property which Article II of this Declaration submits to the terms of the Act.

1.06. Condominium Project or Project shall mean and refer to the Ben Lomond Suites Condominium Project.

1.07. Declarant shall mean and refer to County and Partnership, and/or any successor to either of said entities which, either by operation of law or through a voluntary conveyance, transfer, or assignment, comes to stand in the same relation, to the Project, a Convertible Space, and/or the Additional Land (or a portion thereof) as did its predecessor. As more fully set forth in Article XI hereof, the Owner of any Convertible Space shall be deemed to be the Declarant for purposes of converting such Convertible Space and each and any portion thereof into Units and/or Common Areas. As more fully set forth in Article XII hereof, Partnership, and/or any successor to Partnership, shall be deemed to be the Declarant for purposes of adding any portion(s) of the Additional Land to the Project.

1.08. Association shall mean and refer to Ben Lomond Suites Owners Association, a Utah nonprofit corporation being organized by the filing of the Articles of Incorporation with the Utah Secretary of State on or about the date of recordation of this Declaration and the Survey Map.

1.09. Articles or Articles of Incorporation shall mean and refer to the Articles of Incorporation of the Association, as the same may hereafter be modified or amended in accordance with law and the provisions of said Articles and this Declaration.

1.10. Board of Trustees shall mean and refer to the governing board of the Association, appointed or elected in accordance with this Declaration and the Articles of Incorporation.

1.11. Total Votes of the Association shall mean the total number of votes appertaining to all Units in the Project as shown in Exhibit "A" attached hereto.

1.12. Common Areas and Facilities or Common Areas shall mean, refer to, and include:

(a) The real property and interests in real property which this Declaration submits to the terms of the Act, including the entirety of the Tract (but excluding individual Units).

(b) All Common Areas and Facilities designated as such on the Survey Map.

(c) All Limited Common Areas and Facilities.

(d) All foundations, columns, girders, beams, interior loadbearing walls, and supports of the Buildings.

(e) Those portions of the exterior walls of the Buildings (including glass in windows) beyond the exposed face of the drywall and/or of the interior metal enclosures on the Unit side of such walls; those portions of all walls which enclose Units and divide them from corridors, stairs, and other Common Areas and which are located beyond the unfinished surface on the Unit side of such walls; those portions of all walls located between the Units within the unfinished faces of such walls on either side thereof; the concrete floors; the mechanical penthouse; and the roof.

(f) Truck docks and loading platforms and areas giving access thereto.

(g) Halls, corridors, lobbies, stairs, stairways, fire escapes, and entrances and exits of the Buildings which are not contained within a Unit.

(h) All space (if any) intended to be devoted to the use of a manager or superintendent of the Buildings and/or the use of other persons employed in connection with operation of the Project.

(i) All installations and equipment designed and intended to provide utility services for common use, including (but not limited to) telephone, electricity, gas, hot and cold water, sewer, heat, ventilation, air conditioning, and incineration (including all pipes, ducts, vents, wires, cables, and conduits designed and intended for common use in connection therewith), whether or not located within the horizontal and vertical boundaries of a Unit, but excluding from such installations and equipment all parts thereof, and all items affixed or connected thereto, located within the exterior boundaries of a Unit and designed and intended for the sole use of such Unit.

(j) All apparatus and equipment designed and intended for common use such as (but not necessarily limited to) elevators,

tanks, pumps, motors, fans, compressors and control apparatus and equipment, whether or not located within the horizontal and vertical boundaries of a Unit, but excluding from such apparatus and equipment all parts thereof, and all items affixed or connected thereto, located within the exterior boundaries of a Unit and designed and intended for the sole use of such Unit.

(k) All cleaning and maintenance equipment and other personal property at any time leased, acquired, owned, or held by the Association for the use or benefit of all Owners.

(l) All other parts of the Project designed and intended for, or normally in, common use or necessary or convenient to the existence, maintenance, safety, or management of the Project.

The term "common use", as used in this definition, includes without limitation use by or for any two or more Units.

1.13. Limited Common Areas and Facilities or Limited Common Areas shall mean and refer to those Common Areas and Facilities designated in this Declaration or in the Survey Map as reserved for the use of a certain Unit or Units to the exclusion of the other Units.

1.14. Unit shall mean and refer to one of the individual air spaces which is designated as a Unit on the Record of Survey Map and in Exhibit "A" attached hereto (and incorporated herein by this reference). Notwithstanding any information on the Survey Map the contrary, each Unit is or shall be deemed to be bounded by the interior surfaces of the walls, floors, ceilings, window glass, and doors on or along the perimeter boundaries of such individual air space, as said boundaries are shown on the Survey Map. All walls, floors, ceilings, window glass, and doors on or along the perimeters of a Unit shall constitute a part of the Common Areas and Facilities. Paint, and other wall, ceiling, door, or floor coverings on interior surfaces of walls, floors, ceilings, and doors bounding a Unit shall be deemed to be a portion of the Unit. A Unit shall also include any non-loadbearing walls and partitions which are wholly contained within its vertical and horizontal perimeters; provided, however, that a Unit shall not include any part or portion of the Common Areas defined in Paragraphs (d), (i), or (j) of Section 1.12 hereof, but shall include all installations, equipment, apparatus, and items affixed or connected thereto of the character contemplated by said Paragraphs (i) and (j) which are located within the exterior boundaries of such Unit and which are designed for the sole use of such Unit. A Unit shall also include all fixtures contained within its vertical and horizontal perimeters and intended for the sole use of such Unit. The interior surface of a window glass or door shall mean the plane at which such surface is located when the window or door is closed. Notwithstanding any provision of this Declaration to the contrary, a portion of Unit 102 located adjacent to the lobby on the ground and shop mezzanine floors of Building A (as said Building is defined in Section 3.01 hereof) and a portion of Unit 101

located adjacent to the lobby on the ground floor of Building A are bounded by the vertical planes shown and identified on Sheet 2 of the Survey Map. To the extent provided by Section 1.18 hereof, each Convertible Space shall constitute a Unit.

1.15. Unit Number shall mean and refer to the number, letter, or combination thereof which designates a Unit in the attached Exhibit "A" and on the Record of Survey Map.

1.16. Condominium Unit shall mean, refer to, and include a Unit together with its appurtenant undivided ownership interest in the Common Areas and Facilities.

1.17. Unit Owner or Owner shall mean and refer to the person who is the owner of record (in the office of the County Recorder of Weber County, State of Utah) of a fee or an undivided fee interest in a Condominium Unit. 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 party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

1.18. Convertible Space shall mean and refer to one of the individual air spaces which is designated as a Convertible Space on the Record of Survey Map and in Exhibit "A" attached hereto (and incorporated herein by this reference) and which may in whole or part be converted into one or more Units and/or Common Areas and Facilities, including (but not limited to) Limited Common Areas and Facilities, in accordance with the Act and Article XI of this Declaration. Any Convertible Space and any portion of a Convertible Space which has not been so converted shall be treated for all purposes as, and shall be deemed to be, a single Unit until and unless so converted and the Act and this Declaration shall be deemed applicable to any such Convertible Space or portion thereof as though the same were a Unit.

1.19. Convertible Space Number shall mean and refer to the number, letter, or combination thereof which designates a Convertible Space in the attached Exhibit "A" and on the Record of Survey Map.

1.20. Building shall mean and refer to a structure containing or to contain Units.

1.21. Building Number shall mean and refer to the number, letter, or combination thereof which designates a Building in the attached Exhibit "A" and on the Record of Survey Map.

1.22. Size shall mean and constitute the area of the floor space within a Unit (including, notwithstanding the definition of Unit, the area underlying pillars, columns, and walls located within the exterior boundaries of such Unit), in square feet, rounded to the nearest whole number ending in

zero (e.g., 1020, 1180, 1510), and computed and determined as set forth in this Section 1.22 ~~on the basis of dimensions shown on the Survey Map.~~ The measurements used in determining Size shall run from the interior surfaces of the walls (or, in any case where the airspace contained within a Unit is not bounded at the lateral reaches thereof by a wall, from the plane that constitutes the lateral boundary in question) surrounding the Unit concerned and each separate level, story, or floor contained within or making up the Unit shall be taken into account and shall augment the Size thereof to the extent (and only to the extent) that the Unit has actual floor space on the level, story, or floor concerned and is not "open" over a lower level, story, or floor constituting a part of the same Unit. So long as the determination thereof substantially complies with the provisions of this Section and is not arbitrary, the Size of a Unit, as set forth in this Declaration or in any amendment or supplement hereto prepared pursuant to Article XI or Article XII hereof, shall be conclusive.

1.23. Additional Land shall mean, refer to, and consist of the following-described parcel of real property situated in Weber County, State of Utah:

See Exhibit "C" attached hereto and incorporated herein by this reference.

A description of the Additional Land is set forth in this Declaration solely for purposes of identification. This Declaration is not intended as and should not be deemed to constitute any lien, encumbrance, restriction, or limitation upon any portion of the Additional Land unless and until such portion is added to the Project in accordance with law and the provisions hereof (and in particular, in accordance with the provisions of Article XII hereof).

1.24. Common Expenses shall mean and refer to all sums which are expended on behalf of all the Unit Owners and all sums which are required by the Association to perform or exercise its functions, duties, or rights under the Act, this Declaration, the Articles of Incorporation, any management agreement which may be entered into for operation of the Project, and such rules and regulations as the Association may from time to time make and adopt.

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

1.26. Mortgage shall mean and include both a recorded first mortgage on any Condominium Unit and a recorded first deed of trust on any Condominium Unit.

1.27. Mortgagee shall mean and include both a mortgagee under a recorded first mortgage on any Condominium Unit and a beneficiary under a recorded first deed of trust on any Condominium Unit.

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

ARTICLE II

SUBMISSION, DIVISION, AND
INITIAL OWNERSHIP OF PROJECT

2.01. Submission to Act. There is hereby submitted to the provisions of the Act, as the Tract initially associated with the Ben Lomond Suites Condominium Project, the following-described parcel of real property situated in Weber County, State of Utah:

See Exhibit "B" attached hereto and incorporated herein by this reference.

TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described parcel of real property.

RESERVING UNTO PARTNERSHIP, however, such easements and rights of ingress and egress over, across, through, and under the above-described Tract and any improvements now or hereafter constructed thereon as may be reasonably necessary for Partnership or for any assignee or successor of Partnership (in a manner which is reasonable and not inconsistent with the provisions of this Declaration): (i) To construct and complete each of the Buildings and all of the other improvements described in this Declaration or in the Survey Map recorded concurrently herewith, and to do all things reasonably necessary or proper in connection therewith; (ii) To construct and complete on the Additional Land or any portion thereof such improvements as Partnership or said assignee or successor shall determine to build in its sole discretion (and whether or not the Additional Land or said portion has been or thereafter will be added to the Project); (iii) To have rights of unlimited vehicular and pedestrian ingress to and egress from the Additional Land and each portion thereof regardless of the improvements or uses located thereon from time to time (and whether or not the Additional Land or each such portion has been or thereafter will be added to the Project) and the right to rearrange and relocate the landscaping, driveways, and parking areas of the

Project to facilitate such rights of ingress and egress; and (iv) To improve portions of the Tract with such other or additional improvements, facilities, or landscaping designed for the use and enjoyment of all the Owners as Partnership or as such assignee or successor may reasonably determine to be appropriate. If, pursuant to the foregoing reservations, the above-described Tract or any improvement thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements and with the exception of the rights described in the foregoing items (ii) and (iii) of this Paragraph (which rights shall be permanent and perpetual), the reservations hereby effected shall, unless sooner terminated in accordance with their terms, expire 20 years after the date on which this Declaration is filed for record in the office of the County Recorder of Weber County, Utah.

ALL OF THE FOREGOING IS SUBJECT TO; all liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all Patent reservations and exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described Tract or any portion thereof; all instruments of record which affect the above-described Tract or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible easements and rights-of-way; all easements and rights-of-way of record; any easements, rights-of-way, encroachments, or discrepancies shown on or revealed by the Survey Map or otherwise existing; an easement for each and every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the above-described Tract at such time as construction of all Project improvements is complete; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cables, wires, utility lines, and similar facilities.

2.02. Division into Condominium Units. The Project is hereby divided into Condominium Units, each such Condominium Unit consisting of a Unit and an appurtenant undivided interest in the Common Areas and Facilities, as set forth in Exhibit "A" attached hereto.

2.03. Initial Ownership of the Project. Partnership hereby conveys, transfers, and sets over to County ~~all of Partnership's right, title and interest in and to the following:~~

Units 103, 107, 202 through 207, inclusive, and 301 through 313, inclusive, contained within the Ben Lomond Suites Condominium Project, as the same are identified in the Record of Survey Map for said Project, recorded in Weber County, Utah concurrently with recordation of this Declaration and in this Declaration of Condominium of the Ben Lomond Suites Condominium Project. Together with the undivided ownership interest in said Project's Common Areas and Facilities which is appurtenant to each of said Units as more particularly described in said Declaration.

Convertible Spaces 2, 3, 104, 108, and 201, and a 27.28% undivided ownership interest as a tenant in common in Convertible Space 109, contained within the Ben Lomond Suites Condominium Project, as the same are identified in the Record of Survey Map for said Project recorded in Weber County, Utah, concurrently with recordation of this Declaration and in this Declaration of Condominium of the Ben Lomond Suites Condominium Project. Together with the undivided ownership interest in said Project's Common Areas and Facilities which is appurtenant to each of said Convertible Spaces as more particularly described in said Declaration.

County hereby conveys, transfers, and sets over to Partnership all of County's right, title, and interest in and to the following:

Units 401 through 414, inclusive, 501 through 514, inclusive, 601 through 614, inclusive, 701 through 714, inclusive, 801 through 814, inclusive, 901 through 914, inclusive, 1001 through 1014, inclusive, and 1101 through 1106, inclusive, contained within the Ben Lomond Suites Condominium Project, as the same are identified in the Record of Survey Map for said Project recorded in Weber County, Utah concurrently with recordation of this Declaration and in this Declaration of Condominium of the Ben Lomond Suites Condominium Project. Together with the undivided ownership interest in said Project's Common Areas and Facilities which is appurtenant to each of said Units as more particularly described in said Declaration.

Convertible Spaces 1, 101, 102, 105, 106, 110, 111, 1107, 1108, ~~1201~~ and ~~1301~~, and ~~72-72%~~ undivided ownership interest as a tenant in common in Convertible Space 109, contained within the Ben Lomond Suites Condominium Project, as the same are identified in the Record of Survey Map for said Project recorded in Weber County, Utah, concurrently with recordation of this Declaration and in this Declaration of Condominium of the Ben Lomond Suites Condominium Project. Together with the undivided ownership interest in said Project's Common Areas and Facilities which is appurtenant to each of said Convertible Spaces as more particularly described in said Declaration.

The conveyances effected by the foregoing portions of this Section shall become effective if and when this Declaration is recorded in the Office of the Weber County Recorder.

ARTICLE III

BUILDINGS AND IMPROVEMENTS

3.01. Description of Improvement. The improvements included in the Project are now or will be located upon the Tract. The significant improvements contained in the Project (other than improvements located on or otherwise associated with the Additional Land) include: (i) One hundred and forty-two (142) Units (including Convertible Spaces) located within the historic Ben Lomond Hotel ("Building A") which contains a basement level, a ground floor level, a shop mezzanine level, a mezzanine level, twelve (12) additional above ground levels consisting of floors two through thirteen, inclusive, and a mechanical penthouse on the roof; (ii) A vehicular entrance canopy adjacent (but not attached) to Building A on the south; (iii) twenty-seven (27) uncovered parking spaces; and (iv) landscaping, walkways, and driveways. The location and configuration of the improvements referred to in the foregoing sentence, including the basement, stories, and/or levels of Building A, are depicted on the Survey Map. The four story portion of Building A (consisting of the northwest corner of said Building) is composed primarily of the following materials: footings and foundations are of reinforced concrete and stone; floors and roof are of wood joists surfaced with wood planks; exterior loadbearing walls are of brick and contain glass windows; interior loadbearing walls are of brick; interior nonloadbearing walls are of sheetrock on wood studs; and the roof is surfaced with builtup membrane roofing. The tower portion of Building A (consisting of the south and east parts of said Building) is composed primarily of the following materials: loadbearing girders, columns, footings, foundations, floors, and roof are of reinforced concrete; interior nonloadbearing walls are of sheetrock on metal studs; exterior walls are brick veneer over clay tile

and metal studs and contain glass windows; and the roof is surfaced with builtup membrane roofing.

3.02. Description of Units. The Record of Survey Map shows the Number of each Unit (including each Convertible Space) contained within the Project, its location, dimensions from which its Size may be determined, and the Common Areas and Facilities to which it has immediate access.

3.03. Description of Common Areas (Including Parking). The Map also shows the location and dimensions of the Common Areas and Facilities of the Project, including the location and dimensions of the Limited Common Areas and Facilities. The Common Areas include the "Parking Easement" described and defined on Exhibit "B" attached hereto. By virtue of the Parking Easement, the Project includes a right and easement to use one hundred and seven (107) parking spaces located or to be located on adjacent real property. The Association may make and enforce reasonable rules and regulations to ensure that the use of such parking spaces is equitably allocated to all Units; provided, however, that a first priority right to use the "Reserved Parking Spaces", as hereinafter defined, shall be reserved to the Owners (including any successors in title to County) and occupants of, and invitees to, the "Office Units", as defined in Section 6.02 hereof, during (and only during) the hours of 7:30 a.m. to 5:30 p.m. on normal workdays (excluding all Saturdays, Sundays, and Federal and State holidays). The term "Reserved Parking Spaces", as used in this Section 3.03, shall initially mean and refer to fifty-three (53) of the one hundred and seven (107) parking spaces which may be used as part of the Project by virtue of the Parking Easement. Thereafter, each time a Unit or Convertible Space ceases in accordance with Section 6.02 hereof to be an "Office Unit", the Reserved Parking Spaces shall be reduced to the number of parking spaces determined by multiplying fifty-three (53) by a fraction, the numerator of which is the aggregate Size of the remaining Office Units and the denominator of which is 30,480 square feet (i.e., the aggregate Size of the Office Units initially included in the Project). The location of the "Reserved Parking Spaces" shall be designated from time to time by the Board of Trustees in its sole discretion. The use of the Reserved Parking Spaces shall be allocated among the Owner's, occupants and invitees of the Office Units as such Owners may agree, or in the event no such agreement exists, the use of the Reserved Parking Spaces may (but need not) be allocated from time to time by the Board of Trustees in its sole discretion.

ARTICLE IV

NATURE AND INCIDENTS OF CONDOMINIUM OWNERSHIP

4.01. Interior of Units. Subject to the provisions of this Section 4.01, each Owner shall have the exclusive right to paint, repaint, tile, wax, paper, carpet, or otherwise decorate the interior surfaces of the walls, ceilings, floors, and doors forming the boundaries of his Unit. Each

Owner shall also have the right to construct partition walls, fixtures, and improvements within the boundaries of his Unit, including, without limitation, bathrooms, kitchens, and other significant improvements not inconsistent with the use restrictions on the Unit concerned, (and the right to require the Association to construct additional or different Limited Common Areas or Common Areas of the types described in the second and third sentences, respectively, of Section 4.09 hereof to serve such fixtures and improvements); provided, however, that such partition walls, fixtures, and improvements within the Unit concerned (and such additional or different Limited Common Areas and Common Areas) (i) shall comply with all applicable laws, ordinances, and building codes, (ii) shall not interfere with facilities necessary for the support or use of any other part of the Project, (iii) shall not impair the structural soundness or integrity of a Building, and (iv) shall not encroach upon or interfere with any Common Areas which may be contained within the boundaries of the Unit concerned. In the event any Unit Owner requests the Association to construct additional or different Limited Common Areas or Common Areas pursuant to the foregoing sentence, the Association shall have rights described in Sections 4.09 and 4.10 hereof, and in addition, may in its sole discretion require advance payment of all costs from the Owner concerned before initiating such construction. All blinds, drapes, or other window coverings located on, visible through, or attached to an exterior window of a Building shall be a uniform type, quality and color as determined by the Association and all originals thereof and all replacements therefor shall conform with such determination.

4.02. Maintenance of Units. Each Owner shall keep the interior of his Unit, including without limitation, interior walls, window glass, ceilings, floors, and permanent fixtures and appurtenances thereto, in a clean and sanitary condition and in good repair. In the event that any Unit shall develop an unsanitary or unclean condition or fall into a state of disrepair (and the Owner of such Unit shall fail to correct such condition or state of disrepair promptly following written notice from the Association), the Association shall have the right, at the expense of the Owner and without liability to the Owner for trespass or otherwise, to enter the Unit concerned and correct or eliminate said unsanitary or unclean condition or state of disrepair; provided, however, that the Association shall in no event have the obligation to correct or eliminate any such condition or state of disrepair. Any funds expended by the Association pursuant to the foregoing sentence, together with interest thereon at the rate of eighteen percent (18%) per annum and all costs of collection including reasonable attorneys' fees, shall constitute a lien (from and after the filing of a Notice with respect thereto) upon the Condominium Unit concerned pursuant to Section 8.04 of this Declaration, which lien may be foreclosed by the Association in accordance with said Section.

4.03. Right to Combine Units. With the written consent of the Association, which consent shall not be unreasonably withheld, two or more Units may be utilized by the Owner or Owners thereof as if they were one Unit. To the extent permitted in the written consent of the Association, any

walls, floors, ceilings, or other structural separations between any two such Units, or any space which would be occupied by such structural separations but for the utilization of the two Units as one Unit, may, for as long as the two Units are utilized as one Unit, be utilized by the Owner or Owners of the adjoining Units as Limited Common Areas, except to the extent that any such structural separations are necessary or appropriate, or contain facilities necessary or appropriate, for the support, use, or enjoyment of other parts of the Project. At any time, upon the written request of the Owner of one of such adjoining Units, any opening between the two Units which, but for joint utilization of the two Units, would have been occupied by structural separation, shall be closed, at the equal expense of the Owner or Owners of each of the two Units and the structural separations between the two Units shall thereupon become Common Areas.

4.04. Title. Title to a Condominium Unit within the Project may be held or owned by any person or entity, or any combination thereof, and in any manner in which title to any other real property may be held or owned in the State of Utah, including without limitation joint tenancy or tenancy in common.

4.05. Computation of Undivided Interests in Common Areas and Votes. The percentage of undivided ownership interest in the Common Areas and Facilities which is appurtenant to each Unit initially contained in the Project is equal to the ratio between the Size of such Unit and the aggregate Size of all Units initially included in the Project, but with the minor adjustments described hereafter in this Section. The Total Votes of the Association shall number 100,000. The number of votes in the Association which is appurtenant to each Unit initially contained in the Project is equal to one thousand (1000) multiplied by the percentage of undivided ownership interest in the Common Areas and Facilities which is appurtenant to the Unit concerned. The percentage of undivided ownership interest and the number of votes in the Association which are appurtenant to each Unit initially contained in the Project have been computed in the aforesaid manner, and through use of the minor adjustments described hereafter in this Section, and are set forth on Exhibit "A" to this Declaration. In utilizing the foregoing formulas for determining the percentage of undivided ownership interest in the Common Areas and Facilities and the number of votes in the Association appurtenant to a Unit, minor adjustments may have been made in some or all of the percentage interests and number of votes which result from a strict application thereof for the purposes, but only for the purposes, of assuring that the total undivided ownership interest respecting the Project equals 100.000%, the Total Votes of the Association equals 100,000, and no vote in the Association is divided into fractional parts. From time to time in the future and under the circumstances described in Article XII hereof relating to addition(s) to the Project of portion(s) of the Additional Land, the percentage of undivided ownership interest in the Common Areas and Facilities and the votes in the Association which are appurtenant to each Unit theretofore contained in the Project may be recomputed and redetermined by utilizing the foregoing formulas and making the minor adjustments described in this Section

4.05. In addition, from time to time and utilizing the formulas and making the minor adjustments provided for in ~~paragraph (h)~~ of Section 11.03 of Article XI hereof relating to conversion of Convertible Spaces, the percentage of undivided ownership interest in the Common Areas and Facilities and the votes in the Association appurtenant to a Convertible Space may be reallocated among the Unit(s) created from, and the unconverted portion of, such Convertible Space.

4.06. Limited Common Areas. The Limited Common Areas and Facilities which are contained or to be contained in the Project (other than ~~Limited Common Areas created from~~, in connection with the conversion of, a Convertible Space and Limited Common Areas located on or otherwise associated with the Additional Land) consist of all of the following: (i) the storage areas designated as such on the Survey Map; (ii) all installations, equipment, apparatus, and items affixed or connected thereto of the character contemplated by Paragraphs (i) and (j) of Section 1.12 hereof which are designed and intended for the sole use of a Unit but which are not located within the exterior boundaries of such Unit; and (iii) Patio A and Patio B shown on Sheet 5 of the Survey Map. The exclusive use of such storage areas is reserved to all Units in Building A which are from time to time defined as "Residential Units" and "Commercial Units" in accordance with Sections 6.01 and 6.03, respectively. The exclusive use of all installations, equipment, apparatus, and items referred to in the foregoing item (ii) of this Section is reserved to the Unit which the same are designed and intended to serve. The exclusive use of Patio A and Patio B is reserved to Convertible Space 1201 and Convertible Space 1301, respectively.

4.07. Conveyancing. Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering a Condominium Unit [or Convertible Space] shall describe the interest or estate involved substantially as follows:

Unit [or Convertible Space] contained within the Ben Lomond Suites Condominium Project, as the same is identified in the Record of Survey Map recorded in Weber County, Utah as Entry No. _____ in Book _____ at Page _____ (as said Record of Survey Map may have heretofore been amended or supplemented) and in the Declaration of Condominium of the Ben Lomond Suites Condominium Project recorded in Weber County, Utah as Entry No. _____ in Book _____ at Page _____ (as said Declaration may have heretofore been amended or supplemented); TOGETHER WITH the undivided ownership interest in said Project's Common Areas and Facilities which is appurtenant to said Unit [or Convertible Space] (the referenced Declaration of Condominium providing for periodic alteration both in the magnitude of said undivided ownership interest and in the composition of the

Common Areas and Facilities to which said interest relates) as more particularly described in said Declaration (as said Declaration may have heretofore been amended or supplemented).

Whether or not the description employed in any such instrument is in the above-specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Unit. The percentage of undivided ownership interest in the Common Areas and Facilities, the right of exclusive use of a Limited Common Area and Facility, and Membership in the Association shall not be separated from the Unit to which they appertain; and, even though not specifically mentioned in the instrument of transfer, such percentage of undivided ownership interest, such right of exclusive use, and such Membership shall automatically accompany the transfer of the Unit to which they relate. Notwithstanding any portion of the foregoing which may be construed to the contrary, in conjunction with the execution of a rental and agency agreement, a lease, or similar instrument transferring temporary possession or use of a Unit, the Owner of such Unit may grant to the lessee, renter, or other person similarly situated with respect to such Unit an irrevocably proxy (coupled with such rental and agency agreement, lease, or similar instrument) to exercise such Owner's votes in the Association for the term of the rental and agency agreement, the lease, or similar instrument.

4.08. Division of Utility Costs. The cost of all utility or municipal services (including, without limitation, water, sewer, garbage collection, telephone, electrical, and gas) which are separately metered (if metering is applicable to the service in question) and billed by the suppliers concerned shall be paid by the Owners of the respective Units, if such separate metering and billing applies relative to all Units in the Project. The cost of all such services which are separately metered (if metering is applicable to the service in question) and billed to some but not all Units in the Project either shall be paid directly by the respective Owners of the Units to which the service in question is provided (if and to the extent that separate metering and billing occurs as regards each of said Units) or shall be paid in the first instance by the Association from the Common Expense Fund (if and to the extent that more than one Unit is included in any particular separate metering and billing arrangement); if and to the extent that the Association as aforesaid pays such cost in the first instance from the Common Expense Fund, the Association shall be reimbursed for such cost by the respective Owners of the Units to which the service in question was provided, with the Owner of each such Unit being obligated to make reimbursement for that part of such total cost as bears the same ratio to such total cost as the Size of such Owner's Unit bears to the aggregate Size of all Units to which the service in question was provided. The cost of all such services which are not separately metered (if metering is applicable to the service in question) and billed to any Units (but rather are billed to the Project as a whole), shall be paid by the Association from the Common Expense Fund. Notwithstanding anything to the contrary contained within

the preceding portion of this Section 4.08, in the event that any utility or municipal service is separately metered (if metering is applicable to the service in question) and billed to one or more Units and a portion of such service benefits in whole or in part any other Units or the Common Areas, the Association shall reimburse or credit the Owner(s) of the Unit(s) so billed for the cost of such portion; the determination of such portion, and the cost related thereto which shall be borne by the Association as a Common Expense, shall be made by the Association in a fair and reasonable manner on the basis of the best information reasonably available at the time, and shall be final and binding upon all Unit Owners.

4.09. ~~Division of Certain Installation and Maintenance Costs.~~

Each Unit Owner shall be responsible for, and shall pay all costs associated with, the installation, maintenance, repair, and replacement of all installations, equipment, apparatus, and items affixed or connected thereto of the character contemplated by Paragraphs (i) and (j) of Section 1.12 hereof and which are included in and comprise a part of his Unit. The Association shall be responsible for the installation, maintenance, repair, and replacement of all installations, equipment, apparatus, and items of the character contemplated by said Paragraphs (i) and (j) and which constitute Limited Common Areas pursuant to Section 4.06 of this Declaration; provided, however, that the Association shall be reimbursed for the costs associated with all such installation, maintenance, repair, and replacement by the Owner(s) of the Unit to which the use of such Limited Common Areas, is reserved pursuant to said Section 4.06. The Association shall be responsible for the installation, maintenance, repair, and replacement of all installations, equipment, apparatus, and items of the character contemplated by said Paragraphs (i) and (j) and which comprise a part of the Common Areas (other than Limited Common Areas); provided, however, that the Association shall be reimbursed for the costs associated with such installation, maintenance, repair, and replacement by the respective Owners of the Units which the installations, equipment, apparatus, and items concerned are designed and intended to benefit or serve, with the Owner of each such Unit being obligated to make reimbursement for that part of such total costs as bears the same ratio to such total costs as the Size of such Owner's Unit bears to the aggregate Size of all Units so designed and intended to be benefitted or served.

4.10: ~~Assessments Relating to Sections 4.08 and 4.09.~~ Any reimbursement which an Owner is obligated to make to the Association under the foregoing Section 4.08 or 4.09 shall be due in full ten (10) days after the Association gives written notice of the amount thereof to the Owner concerned. In the event that such Owner fails to timely reimburse the Association for the amount in question, such amount shall in all respects be deemed to be an Assessment against the Condominium Unit of such Owner; Said Assessment shall be deemed to have been made and shall be payable in full on the date that reimbursement was due to the Association. Said Assessment shall be governed by, and shall bear interest, be collectible, and

constitute a lien upon such Condominium Unit as provided in, Sections 8.04 and 8.05 of this Declaration.

ARTICLE V

EASEMENTS

5.01. Encroachments. In the event that any portion of the Common Areas, a Limited Common Area, a Unit, and/or a Building (whether constructed by Declarant or reconstructed so as to substantially duplicate an improvement originally constructed by Declarant) encroaches or comes to encroach on the Common Areas, another Limited Common Area, another Unit, and/or another Building, as a result of construction, reconstruction, repair, shifting, settlement, or movement, an easement for such encroachment and the maintenance thereof is created hereby and shall exist so long as such encroachment exists.

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

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

5.04. Association's Right to Use Common Areas. The Association shall have an easement to make such use of the Common Areas as may be necessary or convenient to perform the duties and functions that it is obligated or permitted to perform pursuant to this Declaration.

ARTICLE VI

RESTRICTIONS ON USE

6.01. Use Restrictions on Residential Units. The term "Residential Units" as used in this Article VI shall mean and refer to: (i) Units 401 through 414, inclusive, 501 through 514, inclusive, 601 through 614, inclusive, 701 through 714, inclusive, 801 through 814, inclusive, 901 through 914, inclusive, 1001 through 1014, inclusive, and 1101 through 1106, inclusive; and (ii) any Unit or Convertible Space which ceases (from and after the time it ceases) to be an "Office Unit", as defined in Section 6.02 hereof. Each Residential Unit shall be used exclusively as a commercial hotel room or sleeping apartment. A Residential Unit may also be used as a single-family residence if the parking for such Unit is approved by Ogden City. No restriction shall be placed on the rental of a Residential Unit for any of such uses, but any and all occupants of a Residential Unit shall be subject to this Declaration and all reasonable rules and regulations governing the Project as promulgated by the Association from time to time. No Residential Unit shall be used for any office, business, industrial, or commercial purposes.

6.02. Use Restrictions on Office Units. The term "Office Units", as used in this Article VI and in Section 3.03, shall mean and refer to Units 103, 107, 202 through 207, inclusive, and 301 through 313, inclusive, Convertible Spaces 2, 3, 104, 108, and 201, and any and all Units created from any of such Convertible Spaces; provided, however, that when any of said Units, Convertible Spaces, or Units created from any of such Convertible Spaces ceases to be used for the purposes applicable to "Office Units" described in this Section 6.02, and is occupied for the first time for any of the purposes applicable to Residential Units described in the foregoing Section 6.01, such Unit, Convertible Space, or Unit created from any of such Convertible Spaces shall irrevocably and immediately cease to be an "Office Unit" and shall automatically become a Residential Unit subject to said Section 6.01. Each Office Unit shall be used exclusively for offices for County departments or for other business offices of the type and quality commonly found in first-class office buildings, including (without limitation) banking and financial facilities and offices, data processing facilities and offices, travel agencies, brokerage offices, and professional offices; provided, however, that the County shall not change its departments occupying any of the Office Units without the prior written consent of Partnership and in any manner which would tend to reduce the value of any other Units or which would negatively impact Partnership's commercial hotel operation or the other uses of Units in the Project. County departments involved in unemployment services, job services, welfare, transient assistance, or similar governmental functions shall not, under any circumstances, use any of the Office Units. No restriction shall be placed on the rental of an Office Unit for any of the uses permitted in this Section, but any and all occupants of, or invitees to, such Unit shall be subject to this Declaration and all reasonable rules and regulations governing the Project as promulgated by the Association from time to time.

6.03. Use Restrictions on Commercial Units. The term "Commercial Units," ~~as used herein shall mean and refer to all Units, Convertible Spaces, and Units created from Convertible Spaces which are not defined in Sections 601 or 602 as Residential Units or Office Units, respectively.~~ Each Commercial Unit shall be used exclusive for: (i) any use necessary or convenient to the operation of a commercial hotel, including (without limitation) uses related to operation of convention facilities, banquet and meeting rooms, restaurants and lounges, and liquor sales facilities; (ii) any commercial or retail uses, including (without limitation) property management offices, sales offices, restaurants or food service facilities, retail shops or stores, theatres, recreation facilities, entertainment facilities, and private or membership clubs or lounges; or (iii) any use permitted under Section 6.01 or 6.02 for Residential Units or Office Units, respectively. No restriction shall be placed on the rental of a Commercial Unit for any of such uses, but any and all occupants of, and invitees to, a Commercial Unit shall be subject to this Declaration and all reasonable rules and regulations governing the Project as promulgated by the Association from time to time. No Commercial Unit shall be used for an Industrial or manufacturing facility.

6.04. No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on in or upon any part of the Project, nor shall anything be done or placed in or upon any part of the Project which is or may become a nuisance or which may cause disturbance or annoyance to Owners. No activities shall be conducted, nor improvements constructed, in or upon any part of the Project which are or may become unsafe or hazardous to any person or property. No Unit Owner or occupant shall discharge, or permit to be discharged, anything into waste lines, vents or flues of a Building which might reasonably be anticipated to cause damage thereto, spread odors or otherwise be offensive. All data processing, computer, graphic arts and printing facilities, business machines and equipment, kitchen equipment and all other mechanical equipment installed in any Unit shall be so designed, installed, maintained and used by the Owner and occupancy of such Unit, at the expense of such Owner, as to minimize insofar as possible and in any event reduce to a reasonably acceptable level the transmission of noise, vibration, odors and other objectionable transmission from such Unit to any other area of the Project.

6.05. Restriction on Signs. No signs, flags, or advertising devices of any nature, including without limitation commercial, political, informational, or directional signs or devices, shall be erected or maintained on the exterior of Building A or elsewhere in the Project without the prior inspection and written approval of the Association (which approval shall not be unreasonably withheld), except as may be necessary temporarily to caution or warn of danger. If the Association consents to the erection of any such signs, flags, or devices, the same shall be removed promptly at the request of the Association. Notwithstanding the foregoing portion of this Section 6.05, the Partnership and/or its successors in interest, without the consent of the Association, may erect and maintain any signs, flags or advertising devices at any location in the Project which it deems necessary or convenient

for the use, operation, enjoyment, or rental, of its Units and Convertible Spaces for any of the uses or purposes permitted by this Declaration. All signs shall be professionally made and shall be of a nature that is reasonable and customary for similar first-class downtown residential and commercial developments.

6.06. No Pets or Animals. No pets or animals of any kind or nature whatsoever shall be permitted in any Unit, in the Common Areas, or in any other part of the Project.

6.07. No Alterations. Except as may be authorized by other provisions of this Declaration, no Owner shall make or cause to be made any alteration, addition, or improvement in or to the Common Areas or any part thereof. No Owner shall do any act that would impair the structural soundness or integrity of a Building or jeopardize the safety of persons or property or impair any easement or hereditament appurtenant to any Condominium Unit kitchens.

6.08. No Obstruction. No Owner shall obstruct the Common Areas or any part thereof. No Owner shall store or cause to be stored in the Common Areas any property whatsoever.

6.09. No Overloading. No Owner shall bring anything into his Unit or permit anything to be done in his Unit that will cause damage to a Building. No Owner shall overload the floor of his Unit.

6.10. Prohibition of Damage and Certain Activities. Nothing shall be done or kept in any Unit, in the Common Areas, or in any other part of the Project that would result in cancellation of the insurance on the Project maintained by the Association, nor shall anything be done or kept in any Unit that would increase the rate of insurance on the Project or any part thereof over that which the Association, but for such activity, would pay. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would be in violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental authority. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or any guest, tenant, licensee, or invitee of any Owner, and each Owner shall indemnify and hold harmless the Association and the other Owners from and against all loss resulting from any such damage or waste cause by such Owner or by the guests, tenants, licensees, or invitees of such Owner.

6.11. Association Rules and Regulations. Each Owner shall comply strictly with all reasonable rules and regulations adopted by the Association for the governance of the Common Areas and the Project, as such rules and regulations may be modified and amended by the Association.

6.12. Construction Period Exemption. During the course of actual construction of any permitted structures or improvements within the

Project, the provisions, covenants, conditions, and restrictions contained in this Declaration shall be deemed waived to the extent reasonably necessary or needful to permit such construction; provided, however, that during the course of such construction, nothing shall be done which will result in a violation of any of said provisions, covenants, conditions, or restrictions upon completion of the construction.

6.13. Partnership's Sales and Leasing Program.

Notwithstanding the provisions of the foregoing Sections of this Article VI, until all Convertible Spaces in the Project have been converted in their entirety and all Additional Land has been added to the Project and all the Units (including those created from Convertible Spaces or on the Additional Land) have been sold for the first time to purchasers, Partnership and any successor of Partnership shall have the following rights in furtherance of any sales, leasing, promotional, or other activities designed to accomplish or facilitate the sale or leasing of all such Units and/or Convertible Spaces owned by Partnership or any such successor:

(a) Partnership or any such successor may maintain a reasonable number of promotional, advertising, and/or directional signs, banners, or similar devices at any place or places on the Tract, but any such device shall be of a size and in a location as is reasonable and customary. Partnership and any such successor shall have the right from time to time to locate or relocate any of such signs, banners, or similar devices, but in connection with each such location or relocation shall observe the limitations imposed by the preceding sentence. Within a reasonable period of time after the end of the period described in the first sentence of this Section 6.13, Partnership or any such successor, as the case may be, shall have the right to remove from the Project any such signs, banners, or similar devices.

(b) Partnership or any such successor may maintain five (5) or less sales offices and/or model Units. Such offices or model Units may be one or more Units (of any floor area and at location) owned by it or any separate structure or facility placed on the Tract or the Additional Land to aid in Partnership's or such successor's sales or leasing effort. Any such separate structure or facility may not have a floor area larger than the largest Unit owned by Partnership or such successor. Within a reasonable period of time after the end of the period described in the first sentence of this Section 6.13, Partnership or any such successor shall have the right to remove any such separate structure or facility.

~~6.14. Zoning Compliance. Notwithstanding the provisions of Sections 6.05 and 6.13 of this Article VI, any sign, banner, or similar devices located in the Project shall comply with applicable zoning ordinances.~~

ARTICLE VII

THE ASSOCIATION

7.01. The Common Areas and Maintenance Responsibility. The Association, subject to the rights and duties of the Owners as set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas (including the Parking Easement) and Facilities and shall keep the same in a good, clean, attractive, safe, and sanitary condition, order, and repair. All goods and services procured by the Association in performing its responsibilities under this Section shall be paid for with funds from the Common Expense Fund. Notwithstanding the foregoing portion of this Section 7.01 or any other provision of this Declaration that may be construed to the contrary, until the County ceases to be an Owner of any interest in any Unit or Convertible Space in the Project, County shall, at its sole cost and expense, provide all maintenance for, and keep in a good, clean, attractive, safe, and sanitary condition, order, and repair: (i) those Common Areas in Building A designated on the Survey Map with "CCA"; (ii) the asphalt and cement walkways, driveways, and parking spaces shown on the Survey Map and located within the Project, (iii) the public sidewalks to the north and west of the Project and to the east of the Parking Easement identified on Exhibit "B" attached hereto; and (iv) each driveway, ramp, or other access to, and each of, the one hundred and seven (107) parking spaces from time to time allocated for the use of the Project pursuant to the Parking Easement and the parking structure or ramp in which said parking spaces are located. In the event the Association is reasonably required to perform any obligation of the County under the immediately foregoing sentence, all costs and expenses (including reasonable attorneys' fees) incurred by the Association in doing so or attempting to cause the County to do so shall be due in full ten (10) days after the Association gives written notice of the amount thereof to the County. In the event that County fails to timely reimburse the Association for the amount in question, such amount shall in all respects be deemed to be an Assessment against the County and the Condominium Unit(s) then owned by the County. Said Assessment shall be deemed to have been made and shall be payable in full on the date that payment was due to the Association. Said Assessment shall be governed by, and shall bear interest, be collectible, and constitute a lien upon such Condominium Unit(s) as provided in, Sections 8.04 and 8.05 of this Declaration. The maintenance to be performed by the County of the areas described in the foregoing items (ii), (iii) and (iv) of this Section shall include, without limitation, sweeping and snow removal. So long as the

~~County performs all of its obligations under the foregoing portion of this Section (and notwithstanding any provision of this Declaration which may be construed to the contrary), those Common Expenses, which are incurred solely for the maintenance of Common Areas located in Building A that do not provide access to or otherwise benefit any of Units 103 or 107 or Convertible Spaces 2, 3, 104, 108, or 201, shall be segregated and assessed as Common Expenses only against the remainder of the Units and Convertible Spaces in the Project on the basis of the relative Sizes of such remaining Units and Convertible Spaces. When the County ceases to be an Owner of any interest in any Unit or Convertible Space in the Project, all but the first and second sentence of this Section 7.01 shall become null and void and be of no further force or effect except with respect to the collection and enforcement of amounts owing, and liens created, as a result of circumstances arising prior to such cessation.~~

7.02. General Powers and Authority of Association. The Condominium Project shall be managed, operated, and maintained by the Association on behalf of the Unit Owners. All duties, responsibilities, rights, and powers imposed upon or granted to the "management committee" or to the "manager" under the Condominium Act shall be duties, responsibilities, rights, and powers of the Association hereunder. In addition to its other authority and powers as set forth in the Act and elsewhere in this Declaration, the Association shall have, and is hereby granted, the following authority and powers (all of which are, however, subject to the provisions of Article XI and Article XII hereof):

(a) The authority, without the vote or consent of the Unit Owners, Mortgagees, or of any other person(s) to grant, or create, on such reasonable terms as it deems advisable, reasonable utility and similar easements over, under, across, and through the Common Areas and Facilities.

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

(c) The authority to enter into contracts for goods and services to fulfill its obligations under the Act and this Declaration.

(d) The power and authority to make and enforce reasonable rules and regulations governing the use of the Common Areas and the Project, which rules and regulations shall be consistent with the rights and duties established by this Declaration.

(e) The power to acquire and hold personal property of all types for the use or benefit of all of the Owners and, to dispose

of such property by sale or otherwise. All such property shall be paid for out of the Common Expense Fund and all proceeds from the disposition thereof shall be part of such Fund.

(f) The power and authority to obtain and pay for the services of such personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration.

(g) The power and authority to pay for out of the Common Expense Fund utility and municipal services (for which the Association is obligated to pay under the provisions of this Declaration), insurance, bonds, and other goods and services common to the Units.

(h) The power and authority by written contract to delegate in whole or in part to a professional Manager such of the Association's duties, responsibilities, functions, and powers hereunder as are properly delegable. The services of any Manager retained by the Association shall be paid for with funds from the Common Expense Fund.

(i) The power and authority to perform any other acts and to enter into any other transactions which may be reasonably necessary for the Association to perform its functions on behalf of the Unit Owners.

Any instrument executed by the Association that recites facts which, if true, would establish the Association'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 the value relies upon said instrument.

7.03. Membership in Association. Each Owner shall be entitled and required to be a Member of the Association. Membership shall begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner. If title to a Condominium Unit is held by more than one person, the Membership appurtenant to that Condominium Unit shall be shared by all such persons in the same proportionate interests and by the same type of tenancy in which title to the Condominium Unit is held. An Owner shall be entitled to one Membership for each Condominium Unit owned by him. Each Membership shall be appurtenant to the Condominium Unit to which it relates and shall be transferred automatically by conveyance of that Condominium Unit. Ownership of a Condominium Unit within the Project cannot be separated from

Membership in the Association appurtenant thereto, and any devise, encumbrance, conveyance, or other disposition of a Condominium Unit shall be construed to include a devise, encumbrance, conveyance, or other disposition, respectively, of the Owner's Membership in the Association and rights appurtenant thereto. No person or entity other than an Owner may be a Member of the Association, and Membership in the Association may not be transferred except in connection with the transfer of a Condominium Unit.

7.04. Votes. The number of votes appurtenant to each Condominium Unit shall be as set forth in Exhibit "A" attached hereto and by this reference made a part hereof. Except as otherwise provided in Article XI pertaining to conversion of Convertible Spaces and in Section 4.05 and Article XII pertaining to addition to the Project of the Additional Land, the number of votes appurtenant to each Condominium Unit as set forth in said Exhibit "A" shall have a permanent character and shall not be altered without the unanimous written consent of all Owners and Mortgagees expressed in a duly recorded amendment to this Declaration.

7.05. Principal Office of Association. The principal office of the Association shall be located at the Project. The present street address of the Project is 2510 Washington Boulevard, Ogden, Utah 84401.

7.06. Members' Meetings. Meetings of the Members of the Association shall be governed by the following provisions:

(a) Annual Meetings. Beginning in 1985, the annual meeting of Members shall be held on the second Saturday in October of each year at the hour of 10:00 o'clock a.m. for the purpose of electing Trustees and transacting such other business as may come before the meeting. If the election of Trustees shall not be held on the day designated herein for the annual meeting of the Members, or at any adjournment thereof, the Board of Trustees shall cause the election to be held at a special meeting of the Members to be convened as soon thereafter as may be convenient. The Board of Trustees may from time to time by resolution change the date and time for the annual meeting of the Members.

(b) Special Meetings. Special meetings of the Members may be called by the Board of Trustees, the President, or upon the written request of Members holding not less than ten percent (10%) of the Total Votes of the Association, such written request to state the purpose or purposes of the meeting and to be delivered to the Board of Trustees or the President.

(c) Place of Meetings. The Board of Trustees may designate any place in the City of Ogden, State of Utah as the place of meeting for any annual meeting or for any special meeting called by the Board. A waiver of notice signed by all of the

Members may designate any place, either within or without the State of Utah, as the place for holding such meeting. If no designation is made, or if a special meeting is otherwise called, the place of the meeting shall be at the principal office of the Association.

(d) Notice of Meetings. The Board of Trustees shall cause written or printed notice of the time, place, and purposes of all meetings of the Members (whether annual or special) to be delivered, not more than fifty (50) nor less than ten (10) days prior to the meeting, to each Member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the U.S. mail addressed to the Member at his registered address, with first class postage thereon prepaid. Each Member shall register with the Association such Member's current mailing address for purposes of notice hereunder. Such registered address may be changed from time to time by notice in writing to the Association. If no address is registered with the Association, Association shall make a reasonable effort to obtain the actual mailing address of such Member, but in the event such actual mailing address is not obtainable after such reasonable effort, the address for such Member set forth on the deed by which he obtained title to his Unit shall be deemed to be his address for purposes of notice hereunder. Neither a Member who fails to register his address with the Association, nor any other person or entity, may challenge the propriety or legality of any such meeting, or any action or decision of the Members of the Association at such meeting, on the basis of such member's failure to receive notice of such meeting, if the Association has complied with the provisions of this Paragraph (d).

(e) Members of Record. Upon acquiring a record interest in a Condominium Unit in the Project, each Owner shall promptly furnish to the Association a copy of the recorded instrument by which ownership of such Condominium Unit has been vested in such Owner, which copy shall be maintained in the records of the Association. For the purpose of determining Members entitled to notice of or to vote at any meeting of the Members, or any adjournment thereof, the Board of Trustees may designate a record date, which shall not be more than fifty (50) nor less than ten (10) days prior to the meeting, for determining Members entitled to notice of or to vote at any meeting of the Members. If no record date is designated, the date on which notice of the meeting is mailed shall be deemed to be the record date for determining Members entitled to notice of or to vote at the meeting. The persons or entities appearing in the records of the Association on such record date as the Owners of record of Condominium Units in the Project shall be deemed to be the

Members of record entitled to notice of and to vote at the meeting of the Members; provided, however, that the Board of Trustees, at its option, may act and rely on ownership information (as of the record date) respecting any Condominium Unit or Units which is obtained from the office of the County Recorder of Weber County, Utah.

(f) Quorum. At any meeting of the Members, the presence of Members holding, or holders of proxies entitled to cast, more than fifty percent (50%) of the Total Votes of the Association shall constitute a quorum for the transaction of business. In the event a quorum is not present at a meeting, the Members present (whether represented in person or by proxy), though less than a quorum, may adjourn the meeting to a later date. Notice thereof shall be delivered to the Members and proxy holders present shall constitute a quorum for the transaction of business. Notwithstanding the foregoing provisions of this Paragraph, in any case in which the Act, this Declaration, the Articles of Incorporation, or Utah law requires the affirmative vote of at least a specified percentage of the Total Votes of the Association or of the Project's undivided ownership interest for authorization or approval of a matter, the presence of Members holding and/or the presence of holders of proxies entitled to cast such specified percentage shall be necessary to constitute a quorum at any meeting (whether original or rescheduled) at which action on such matter is taken.

(g) Proxies. At each meeting of the Members, each Member entitled to vote shall be entitled to vote in person or by proxy; provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the Member himself or by his attorney thereunto duly authorized in writing. Such instrument authorizing a proxy to act shall be delivered at the beginning of the meeting to the Secretary of the Association or to such other officer or person who may be acting as secretary of the meeting. Notwithstanding the foregoing portions of this Paragraph (g), the holder of a proxy granted in the manner described in the last sentence of Section 4.07 hereof shall be required to give notice and provide adequate evidence of said proxy only once to the Secretary of the Association, which notice shall be effective, and such proxy shall be exercisable by the holder thereof, from the time of such notice until termination of the lease, rental agreement, or similar instrument to which the proxy relates. The secretary of the meeting shall enter a record of all such proxies in the minutes of the meeting.

(h) Votes. With respect to each matter submitted to a vote of the Members, each Membership entitled to vote at the

meeting shall have the right to cast, in person or by proxy, the number of votes appertaining to the Condominium Unit to which such Membership is related as shown on Exhibit "A" to this Declaration, as said Exhibit may hereafter be amended or supplemented in accordance with Article XI or Article XII of this Declaration. The affirmative vote of a majority of the votes entitled to be cast by the Members present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by the Members, unless a greater proportion as required by the Articles of Incorporation, the Declaration, the Act, or Utah law. The election of Trustees, and any other vote selected by the Board of Trustees in its discretion, shall be by secret ballot. In the event there is more than one Owner of a particular Condominium 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 in person or by proxy shall be conclusively presumed to be the vote attributable to the Condominium Unit concerned unless an objection is immediately made by another Owner of the same Condominium 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.

7.07. Board of Trustees of the Association. The property, affairs, and business of the Association shall be managed by its Board of Trustees. The Board of Trustees of the Association shall be governed by the following provisions:

(a) **Number, Tenure, and Qualifications.** The number of Trustees of the Association shall be five (5). The initial Board of Trustees specified in the Articles of Incorporation shall serve until the first annual meeting of the Members. At the first annual meeting of the Members, the Members shall elect five (5) Trustees to serve for the following respective terms: Two (2) Trustees to serve for terms of three (3) years each; two (2) Trustees to serve for terms of two (2) years each; and one (1) Trustee to serve for a term of one (1) year. At each annual meeting thereafter, the Members shall elect for terms of three (3) years each the appropriate number of Trustees to fill all vacancies created by expiring terms of Trustees. Trustees need not be Members of the Association. Notwithstanding anything in this Section 7.07 to the contrary, and in accordance with Section 57-8-16.5 of the Act, Declarant hereby appoints and authorizes the president of Partnership's corporate general partner, as said office may be filled from time to time, (or such other person as said president may appoint and authorize in writing from time to time) to appoint and remove all members of the Board of Trustees until the first to occur of the following: (i) The expiration of six (6) years after

the date this Declaration is recorded in the office of the County Recorder of Weber County, Utah; or (ii) Units to which an aggregate of at least three-fourths of the undivided ownership interest in the Common Areas appertain have been conveyed by County and/or Partnership or all Additional Land has been added to the Project, whichever last occurs.

(b) Regular Meetings. The regular annual meeting of the Board of Trustees shall be held without other notice than this provision immediately after, and at the same place as, the annual meeting of the Members. The Board of Trustees may provide by resolution the time and place, within the City of Ogden, State of Utah, for the holding of additional regular meetings without other notice than such resolution.

(c) Special Meetings. Special meetings of the Board of Trustees may be called by or at the request of any Trustee. The person or persons authorized to call special meetings of the Board of Trustees may fix any place, within the City of Ogden, State of Utah, as the place for holding any special meeting of the Board of Trustees called by such person or persons. Notice of any special meeting shall be given at least five (5) days prior thereto by written notice delivered personally, or mailed to each Trustee at his registered address, or by telegram. If mailed, such notice shall be deemed to be delivered when deposited in the U.S. mail so addressed, with first class postage thereon prepaid. If notice is given by telegram, such notice shall be deemed to have been delivered when the telegram is delivered to the telegraph company. Any Trustee may waive notice of a meeting.

(d) Quorum and Manner of Acting. A majority of the Trustees then in office shall constitute a quorum for the transaction of business at any meeting of the Board of Trustees. The act of a majority of the Trustees present at any meeting at which a quorum is present shall be the act of the Board of Trustees. The Trustees shall act only as a Board, and individual Trustees shall have no powers as such.

(e) Compensation. Trustees shall receive such compensation for services rendered to the Association as is fixed and approved by the Members. In addition, a Trustee may be reimbursed for expenses incurred in performance of his duties as a Trustee to the extent such expenses are approved by the Board of Trustees.

(f) Resignation and Removal. A Trustee may resign at any time by delivering a written resignation to either the President or the Board of Trustees. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Trustee may

be removed at any time, for or without cause, by the affirmative vote of seventy-five percent (75%) of the Total Votes of the Association at a special meeting of the Members duly called for such purpose.

(g) Vacancies and Newly Created Trusteeships. If a vacancy shall occur in the Board of Trustees by reason of the death, resignation, or removal of a Trustee, or if the authorized number of Trustees shall be increased, the Trustees then in office shall continue to act, and such vacancy or newly created Trusteeships shall be filled by a majority vote of the Trustees then in office. Any vacancy in the Board of Trustees occurring by reason of removal of a Trustee by the Members may be filled by election at the meeting at which such Trustee is removed. Any Trustee elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of his predecessor or for the term of the newly created Trusteeship, as the case may be.

(h) Informal Action by Trustees. Any action that is required or permitted to be taken at a meeting of the Board of Trustees may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Trustees.

7.08. Officers of the Association. The officers of the Association shall be a President, a Vice President, a Secretary, a Treasurer, and such other officers as may from time to time be appointed by the Board of Trustees. Officers of the Association shall be governed by the following provisions:

(a) Election, Tenure, and Qualifications. The officers of the Association shall be chosen by the Board of Trustees annually at the regular annual meeting of the Board of Trustees. In the event of failure to choose officers at such regular annual meeting of the Board of Trustees, officers may be chosen at any regular or special meeting of the Board of Trustees. Each such officer (whether chosen at a regular annual meeting of the Board of Trustees or otherwise) shall hold his office until the next ensuing regular annual meeting of the Board of Trustees and until his successor shall have been chosen and qualified, or until his death, or until his resignation, disqualification, or removal in the manner provided in this Section, whichever first occurs. Any one person may hold any two or more of such offices, except that the President may not also be the Secretary. No person holding two or more offices shall sign any instrument in the capacity of more than one office. Only Trustees may serve as President, Vice President, Secretary, and Treasurer of the Association. Officers need not be Members of the Association.

(b) Subordinate Officers. The Board of Trustees may from time to time appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period, have such authority, and perform such duties as the Board of Trustees may from time to time determine. Subordinate officers need not be Members or Trustees of the Association.

(c) Resignation and Removal. Any officer may resign at any time by delivering a written resignation to the President or the Board of Trustees. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed by the Board of Trustees at any time, for or without cause.

(d) Vacancies and Newly Created Offices. If any vacancy shall occur in any office by reason of death, resignation, removal, disqualification, or any other cause, or if a new office shall be created, such vacancy or newly created office may be filled by the Board of Trustees at any regular or special meeting.

(e) The President. The President shall preside at meetings of the Board of Trustees and at meetings of the Members. He shall sign on behalf of the Association all documents and contracts, and shall do and perform all other acts and things that the Board of Trustees may require of him.

(f) The Vice President. The Vice President shall act in the place and stead of the President in the event of the President's absence or inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board of Trustees.

(g) The Secretary. The Secretary shall keep the minutes of the Association and shall maintain such books and records as this Declaration or any resolution of the Board of Trustees may require him to keep. He shall be the custodian of the seal of the Association, if any, and shall affix such seal, if any, to all papers and instruments requiring the same. He shall perform such other duties as the Board of Trustees may require of him.

(h) The Treasurer. The Treasurer shall have the custody and control of the funds of the Association, subject to the action of the Board of Trustees, and shall, when requested by the President to do so, report the state of the finances of the Association at each annual meeting of the Members and at any meeting of the Board of Trustees. He shall perform such other duties as the Board of Trustees may require of him.

(1) Compensation. Officers shall receive such compensation for ~~services rendered to the Association~~ as is fixed and approved by the Members. In addition, an officer may be reimbursed for expenses incurred in performance of his duties as an officer to the extent such expenses are approved by the Board of Trustees.

7.09. Indemnification--Third Party Actions. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association) by reason of the fact that he is or was a Trustee or officer of the Association against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding, if he acted in good faith and in a manner he believed to be in and not opposed to the best interests of the Association, and with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit, or proceeding by an adverse judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he believed to be in and not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, shall not, of itself, create a presumption that the person had reasonable cause to believe that his conduct was unlawful.

7.10. Indemnification--Association Actions. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that said person is or was a Trustee or officer of the Association against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit, if he acted in good faith and in a manner he believed to be in and not opposed to the best interests of the Association; provided, however, that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for gross negligence or misconduct in the performance of his duty to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

7.11. Rules Governing Indemnification. The following provisions shall govern and apply to the right of indemnification set forth in Sections 7.09 and 7.10:

(a) Notice and Participation. Any person seeking indemnification from the Association under Section 7.09 as a result of being made a party to or being threatened to be made a party to any action, suit, or proceeding shall, within a reasonable time and before taking any significant or material action with respect to such action, suit, or proceeding, notify the Association in writing with respect thereto and provide to the Association the opportunity to reasonably participate in such person's defense thereto and any settlement thereof. Failure to comply with the requirements of this Paragraph (a) shall bar any claim of such person for indemnification by the Association.

(b) Determinations. To the extent that a person has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section 7.09 or 7.10 hereof, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith. Any other indemnification under Section 7.09 or 7.10 hereof shall be made by the Association only upon a determination that indemnification of the person is proper in the circumstances because he has met the applicable standard of conduct set forth respectively in Section 7.09 or 7.10 hereof. Such determination shall be made either (i) by the Board of Trustees by the affirmative vote of at least a majority of the disinterested Trustees or (ii) by the Members by the affirmative vote of at least a majority of the Total Votes of the Association at any meeting duly called for such purpose.

(c) Advances. Expenses incurred in defending a civil or criminal action, suit, or proceeding as contemplated in Sections 7.09 and 7.10 may be paid by the Association in advance of the final disposition of such action, suit, or proceeding upon a determination by the Board of Trustees by the affirmative vote of at least a majority of the disinterested Trustees and upon receipt of an undertaking by or on behalf of the person to repay such amount or amounts unless it ultimately be determined that he is entitled to be indemnified by the Association as authorized by Sections 7.09 and 7.10.

(d) Scope of Indemnification. The indemnification provided for by Sections 7.09 and 7.10 shall not be deemed exclusive of any other rights to which those persons indemnified may be entitled under any agreements, by a vote of disinterested Members or Trustees, or otherwise, as to action in such persons' official capacity. The indemnification authorized by Sections 7.09 and 7.10 shall apply to all present and future Trustees and officers of the Association and shall continue as to such persons who cease to be Trustees or officers of the Association and shall

Inure to the benefit of the heirs and personal representatives of all such persons and shall be in addition to all other rights to which such persons may be entitled as a matter of law.

(e) Insurance. The Association may purchase and maintain insurance on behalf of any person who was or is a Trustee or officer of the Association against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the laws of the State of Utah, as the same may hereafter be amended or modified.

7.12. Fiscal Year and Seal. The fiscal year of the Association shall begin on the 1st day of January each year and shall end on the 31st day of December next following, except that the first fiscal year shall begin on the date of incorporation of the Association. The Board of Trustees may by resolution provide for a corporate seal which shall be circular in form and shall have inscribed thereon the name of the Association, the state of incorporation, and the words "Corporate Seal".

7.13. Rules and Regulations. The Board of Trustees may from time to time adopt, amend, repeal, and enforce reasonable rules and regulations governing the use and operation of the Project, to the extent that such rules and regulations are not inconsistent with the provisions set forth in the Articles of Incorporation, this Declaration, and the Act. The Members shall be provided with copies of all rules and regulations adopted by the Board of Trustees and with copies of all amendments and revisions thereof.

7.14. Association Contracts with Interested Parties. Trustees and officers of the Association who are officers or employees of, or in any other manner affiliated with, a person or entity shall not be disqualified by reason of such office, employment or other affiliation from participating in action with respect to the authorization, execution, delivery or performance of any contract between the Association and such person or entity provided that such office, employment or other affiliation shall have been disclosed before the authorization of such contract and provided further that the Board of Trustees determines that such contract contains terms which are reasonably competitive with terms that have been or could be obtainable by the Association at the same time and under the same or similar circumstances from reasonably qualified persons other than such person or entity. This Section shall not be applicable to, and the Association and each Unit Owner (for himself and his successors and assigns) hereby expressly authorizes and ratifies, the execution of the Management Agreement attached hereto as Exhibit "D".

7.15. Association Records and Reports. In addition to all other records and reports which the Association is required to maintain under the Act or this Declaration, the Association shall maintain the following:

(a) Records of the membership of the Board of Trustees and all officers appointed by the Board.

(b) Records of the proceedings of the Board of Trustees including minutes of their meetings.

(c) Records of the proceedings of all Members' meetings.

(d) Records of the existence and terms of all proxies referred to in the last sentence of Section 4.07 hereof and in the next to last sentence of Paragraph (g) of Section 7.06 hereof.

(e) Financial records, vouchers authorizing payments, and books of account of the Association.

(f) A separate chronological register of the names and addresses of the Unit Owners and of Mortgagees, listing the Units owned by and mortgaged to them, respectively, and reflecting all changes in any such names and address. (Notwithstanding the preceding sentence and/or the maintenance of any such register of Mortgagees, the Board of Trustees, the Association, and any other interested party may, and are entitled to, rely solely upon information concerning Mortgages and Mortgagees that is obtained from the records of the Recorder of Weber County, Utah [unless a particular Mortgagee has itself furnished to the Association or other interested party, as the case may be, in writing, a more current address for such Mortgagee than the address which appears in such records], in seeking or obtaining any consent, approval, or vote of any Mortgagee required under this Declaration or the Act or in taking any other action relative to any Mortgagee.)

(g) Separate accounts for each Condominium Unit, including assessments and other charges relating to such Condominium Unit, dates when due, amounts paid, and unpaid balances.

(h) Copies of this Declaration, the Survey Map, any supplements or amendments to this Declaration or the Survey Map, and, if reasonably obtainable, the original plans and specification for the restoration of the Project.

(i) Original copies of all insurance policies taken out and other contracts made by the Association.

Every Owner and every Mortgagee shall have the right to inspect, at its expense, upon reasonable notice and during usual business hours, all documents kept by the Association.

7.16. Limitation on Association's Liability. The Association, and its Trustees and officers, shall not be liable for any failure of water service or other utility or municipal service to be obtained and paid for by the Association hereunder, or for injury or damage to any person or property caused by the elements or by any third person in or upon the Project, or resulting from electricity, water, rain, snow, or ice which may leak or flow from outside or from any parts of the Buildings or their drains, pipes, conduits, appliances, or equipment, or from any other place, unless caused by the grossly negligent conduct or willful misconduct of the Association, or of the Trustee or officer, in question, as the case may be. No diminution or abatement of any assessments under this Declaration shall be claimed or allowed for inconvenience or discomfort arising from the making of any repairs or improvements to or maintaining the Project or any part thereof, or from any action taken to comply with the provision of this Declaration or of the Act, or with the laws, ordinances, regulations, rules, or orders of any governmental authority.

ARTICLE VIII

ASSESSMENTS

8.01. Units Subject to Assessment. Each Condominium Unit in the Project shall be subject to all assessments made by the Association for the purposes provided in this Declaration and the Act. Such assessments shall be fixed, established, and collected from time to time as provided in this Article VIII.

8.02. Annual Assessments. Annual Assessments shall be computed and assessed against all Condominium Units in the Project as follows:

(a) Common Expenses. Annual Assessments shall be based upon advance estimates of the Association's cash requirements to provide for payment of all Common Expenses. Such estimated Common Expenses may include, among other things, the following: expenses of management; real property taxes and special assessments (until the Condominium Units are separately assessed); premiums for all insurance that the Association is required or permitted to maintain hereunder; cost of repairs and maintenance; wages for Association employees, including fees for a Manager (if any); utility and municipal charges which the Association is obligated to pay as provided elsewhere in this Declaration; legal and accounting fees; any deficit remaining from a previous period; creation of a reasonable contingency reserve, surplus, and/or sinking funds; and any other expenses and liabilities which may be incurred by the Association under or by reason of this Declaration.

(b) Common Expense Fund. All funds received from assessments under this Section 8.02 shall be maintained as a Common Expense Fund for defraying all Common Expenses as they fall due.

(c) Apportionment. Subject to Sections 4.08, 4.09, and 7.01 hereof, Common Expenses shall be apportioned among and assessed to all Units in proportion to their respective appurtenant undivided interests in the Common Areas. Partnership shall be liable for the amount of any assessments against Condominium Units owned by it and County shall be liable for the amount of any assessments against Condominium Units owned by it.

(d) Annual Budget. Annual Assessments shall be determined on the basis of a fiscal year beginning January 1 and ending December 31 next following; provided the first fiscal year shall begin on the date of recordation of this Declaration. On or before December 15, 1984 and on or before December 15 of each year thereafter, the Association shall prepare and furnish to each Owner, or cause to be prepared and furnished to each Owner, an operating budget for the upcoming fiscal year. The budget shall itemize the estimated Common Expenses for such fiscal year, anticipated receipts (if any), and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the Annual Assessments for the upcoming fiscal year and as the major guideline under which the Project shall be operated during such annual period. Such budgets shall be unnecessary for Annual Assessments relative to, or for operation of the Project during, any operating period ending before January 1, 1985.

(e) Notice and Payment. Except with respect to the fiscal period ending December 31, 1984, the Association shall notify each Owner as to the amount of the Annual Assessment against his Condominium Unit on or before December 15, of each year for the fiscal year beginning on January 1 next following. Each Annual Assessment shall be payable in twelve equal monthly installments, one such installment due on the first day of each calendar month during the fiscal year to which the assessment relates; provided, however, the Annual Assessments for the fiscal period ending December 31, 1984 shall be based upon such portion of the calendar year 1984 as follows: the date of recordation of this Declaration and shall be payable in such installments and at such times as the Association, in the sole discretion of its Board of Trustees, may determine. All unpaid installments of any Annual Assessment shall bear interest at the rate of eighteen percent (18%) per annum (both before and after judgment) from the date each such installment becomes due until paid. The failure of the Association to give timely notice of any Annual Assessment as

provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay such assessment or any other assessment; but the date when the payment shall become due in such case shall be deferred to a date fifteen (15) days after notice of such assessment shall have been given to the Owner in the manner provided in this Declaration.

(f) Inadequate Funds. In the event that the Common Expense Fund proves inadequate at any time for whatever reason, including nonpayment of any Owner's assessment, the Association may levy additional assessments in accordance with the procedure set forth in Section 8.03 below, except that the vote therein specified shall be unnecessary.

(g) Reassessment Upon Conversion. Any amount assessed to a Convertible Space under this Section 8.02 or under the immediately following Section 8.03 shall be reassessed in accordance with this Paragraph (g) in the event that any portion of such Convertible Space is converted pursuant to Article XI of this Declaration during the period that installments or payments relating to such amount are falling due. Any portion of an Annual Assessment or Special Assessment which has been assessed to the Convertible Space concerned, but has not been paid to the Association prior to the time of conversion, shall be deemed reassessed to the Units (including any portion of the Convertible Space concerned that is not converted) created by the conversion in proportion to such Units' respective appurtenant undivided interests in the Common Areas. Such reassessment shall not affect the liability of any Owner(s) of the Convertible Space being converted for Annual and Special Assessments assessed to such Convertible Space prior to such conversion even though some or all of the installments or payments related thereto were not due as of the time of such conversion.

(h) Reassessment Upon Expansion of Project. Any amounts assessed to Units in the Project under this Section 8.02 or under the immediately following Section 8.03 shall be reassessed in accordance with this Paragraph (h) in the event that any portion of the Additional Land is added to the Project during the period that installments or payments relating to such amounts are falling due. Any amount assessed to a Unit which is intended to defray Common Expenses incurred by the Association, or relating to the period, before the portion of the Additional Land is so added to Project shall remain as an assessment to such Unit. Any amount assessed to a Unit which is intended to defray Common Expenses incurred by the Association, or relating to the period, after the portion of the Additional Land is so added to the Project shall be redetermined and reassessed based upon the percentages of

undivided ownership interests appurtenant to the Units in the Project following such expansion and upon a revised budget prepared in accordance with Paragraph (d) of this Section 8.02 reflecting operation of the Project (as so expanded) for the balance of the fiscal year concerned.

8.03. Special Assessments. In addition to the Annual Assessments authorized by this Article, the Association may levy, at any time and from time to time upon the affirmative vote of a majority of the Total Votes of the Association, Special Assessments, payable over such periods as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration (including without limitation Common Expenses). This Section shall not be construed as an independent source of authority for the Association to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections or Articles hereof. Any amounts assessed pursuant thereto shall be assessed to the various Units in proportion to their respective appurtenant undivided interests in the Common Areas. Notice in writing of the amount of each such Special Assessment and the time(s) for payment thereof shall be given promptly to the Owners; no payment shall be due less than fifteen (15) days after such notice shall have been given. All unpaid portions of any Special Assessment shall bear interest at the rate of eighteen percent (18%) per annum (both before and after judgment) from the date such portions become due until paid. All funds received from assessments under this Section shall be part of the Common Expense Fund.

8.04. Lien for Assessments. All sums assessed to any Condominium Unit within the Project pursuant to the provisions of this Article VIII, together with interest on such sums at the rate of eighteen percent (18%) per annum from and after the date each portion thereof becomes due and all costs and expenses of the Association (including reasonable attorneys' fees) incurred, with or without suit or, before or after judgment, in collecting delinquent sums or foreclosing against the Condominium Unit concerned, shall be secured by a lien on such Condominium Unit in favor of the Association. To evidence the lien for such amounts, the Association may prepare a written notice of lien setting forth the amount of the assessment, the date(s) due, the amount remaining unpaid, the name of the Owner(s) of the Condominium Unit, and an identification of the Condominium Unit. Such notice shall be signed and acknowledged by a duly authorized officer of the Association and may be recorded in the office of the County Recorder of Weber County, State of Utah. From and after the recordation of such notice, the lien evidenced thereby shall have the priority provided for in Section 57-8-20 of the Act. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by sale or foreclosure by the Association. Such sale or foreclosure shall be conducted in the same manner as foreclosures in deeds of trust (by power of sale) or mortgages (by judicial foreclosure) or in any other manner permitted by the laws of the State of

Utah. At any time following the filing of a Complaint seeking foreclosure, and without regard to the value of the Condominium Unit concerned or its Owner's equity therein, the Association shall be entitled to the immediate appointment of a receiver to collect any rents, issues, or profits produced by such Unit. The Owner shall also be required to pay to the Association any assessments against the Condominium Unit which shall become due during the period of foreclosure, and all such assessments shall be secured by the lien being foreclosed whether or not referred to in the notice of lien. The Association shall have the right and power to bid in at any foreclosure, sale and, if it is the purchaser at foreclosure; to hold, lease, mortgage, or convey the subject Condominium Unit.

8.05. Personal Obligation of Owner. The amount of any Annual or Special Assessment against any Condominium Unit shall be the joint and several personal obligation of each person who is an Owner of such Condominium Unit when the Assessment or a portion thereof comes due. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his Condominium Unit or by waiving any services or amenities provided for in this Declaration. The involved Owner(s) shall pay the costs and expenses (whether incurred with or without suit or before or after judgment) incurred by the Association in connection with its collection of such assessments, including reasonable attorneys' fees.

8.06. Statement of Account. Upon payment of a reasonable fee not to exceed \$10.00 and upon written request of any Owner, mortgagee, prospective mortgagee, trust deed beneficiary, prospective trust deed beneficiary, or prospective purchaser of a Condominium Unit, the Association shall within ten (10) days after such request issue a written statement setting forth the following: The amount of the unpaid assessments, if any, with respect to such Condominium Unit; the amount of the current Annual Assessment and the date or dates upon which installments thereof become due; and the amount, number, and due dates of all unpaid installments. Such statement shall be conclusive upon the Association in favor of persons who rely thereon in good faith; provided, however, that notwithstanding any inaccuracy in such statement, the Owner(s) of the Condominium Unit concerned shall remain liable for the correct amount of all unpaid assessments.

ARTICLE IX

INSURANCE

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

(a) Fire and Casualty Insurance. The Association shall obtain a policy or policies of insurance on the Project in such amounts as shall provide for replacement thereof in the event of damage or destruction thereof in the event of damage or destruction from the casualty against which such insurance is obtained, which insurance shall be in accordance with coverage customarily maintained by other condominium projects similar in construction, design, and use. Such insurance shall include fire and extended coverage, vandalism and malicious mischief, and such other risks and hazards against which the Association shall deem it appropriate to provide insurance protection. The Association may elect such "deductible" provisions as in the Association's opinion are consistent with good business practice.

(b) Public Liability and Property Damage Insurance. The Association shall obtain a broad form of comprehensive liability insurance coverage, in such amounts and in such forms as it deems advisable to provide adequate protection against liability for personal injury, death, and property damage. Coverage shall include without limitation liability for operation of automobiles on behalf of the Association and all activities in connection with the ownership, operation, maintenance, and other use of the Project or any portion thereof.

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

(d) Fidelity Insurance or Bond. The Association shall purchase, in such amounts and in such forms as it deems appropriate, fidelity insurance or a bond to cover against dishonesty of Trustees, officers, employees, Managers, and employees of Managers, destruction or disappearance of money or securities, and forgery.

9.02. Form of Insurance. Insurance coverage on the Project, insofar as possible, shall be in the following form:

(a) Fire and Casualty Insurance. Casualty insurance shall be carried in a form or forms naming the Association as the insured, as trustee for the Owners and Mortgagees, and such policy or policies shall specify, if required, the interest of each Owner (Owner's name, Unit number, and the appurtenant undivided interest in the Common Areas). Each policy shall include a standard noncontributory mortgagee clause in favor of each Mortgagee which from time to time shall give notice to the Association of its Mortgage. Each policy also shall provide that it

cannot be cancelled or reduced in coverage either by the insured or by the insurance company until after thirty (30) days prior written notice is given to each Owner and to each Mortgagee whose interests are protected by the policy. The Association shall furnish to each Owner, and to each Mortgagee requesting the same, a certificate of coverage, including an identification of the Owner's or Mortgagee's interest.

(b) Public Liability and Property Damage Insurance. Public liability and property damage insurance shall name the Association and each Owner as the insureds, and shall protect the Association and each Owner against liability for acts or omissions of the Association and the Owners, and if obtainable at a reasonable cost, against liability for acts or omissions of all other persons and entities in connection with the ownership, operation, maintenance, or other use of the Project. Each such policy shall provide that it cannot be cancelled or reduced in coverage either by any insured or by the insurance company until after thirty (30) days prior written notice to the Association and each Owner.

(c) Policies. The Association shall make every effort to secure insurance policies that will provide for the following:

(i) The insurer shall waive subrogation claims against the Association, the Manager, the Owners, and their respective servants, agents, and guests;

(ii) The policy or policies on the Project cannot be cancelled, invalidated, or suspended on account of the conduct of any one or more individual Owners;

(iii) The policy or policies on the Project cannot be cancelled, invalidated, or suspended on account of the conduct of any Trustee, officer, or employee of the Association, without a prior demand in writing that the Association cure the defect; and

(iv) Any "no other insurance" clause in the policy or policies on the Project shall exclude individual Owners' policies from consideration.

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

9.04. Adjustment and Contribution. Exclusive authority to adjust losses under policies hereafter in force on the Project shall be vested in the Association, subject, however, to the rights of Mortgagees. In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Owners of their Mortgagees.

9.05. Owner's Own Insurance. Each Owner may obtain additional insurance providing coverage upon his Condominium Unit, his personal property, and/or for his personal liability, and covering such other risks as he may deem appropriate.

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

ARTICLE X

DESTRUCTION, CONDEMNATION, AND OBSOLESCENCE

10.01. Purpose and Definitions. The provisions of this Article shall apply with respect to the destruction, condemnation, or obsolescence of the Project. As used in this Article each of the following terms shall have the meaning indicated:

(a) Destruction. "Substantial Destruction" shall exist whenever, as a result of any damage or destruction to the Project or any part thereof, the excess of Estimated Costs of Restoration over Available Funds is twenty-five percent (25%) or more of the estimated Restored Value of the Project. "Partial Destruction" shall mean any other damage or destruction to the Project or any part thereof.

(b) Condemnation. "Substantial Condemnation" shall exist whenever a complete taking of the Project or a taking of part of the Project has occurred under eminent domain or by grant or conveyance in lieu of condemnation, and the excess of the Estimated Costs of Restoration over Available Funds is twenty-five percent (25%) or more of the estimated Restored Value of the Project. "Partial Condemnation" shall mean any other such taking by eminent domain or grant or conveyance in lieu thereof.

(c) Obsolescence. "Substantial Obsolescence" shall exist whenever the Project or any part thereof has reached such a state of obsolescence or disrepair that the excess of Estimated Costs of Restoration over Available Funds is twenty-five percent (25%) or more of the estimated Restored Value of the Project. "Partial Obsolescence" shall mean any state of obsolescence or disrepair which does not constitute Substantial Obsolescence.

(d) Restoration. "Restoration," in the case of any damage or destruction, shall mean restoration of the Project to a condition the same or substantially the same as the condition in which it existed prior to the damage or destruction concerned; in the case of condemnation, shall mean restoration of the remaining portion of the Project to an attractive, sound, and desirable condition; and, in the case of obsolescence, shall mean restoration of the Project to an attractive, sound, and desirable condition.

(e) Restored Value. "Restored value" shall mean the value of the Project after Restoration.

(f) Estimated Costs of Restoration. "Estimated Costs of Restoration" shall mean the estimated costs of Restoration.

(g) Available Funds. "Available Funds" shall mean any proceeds of insurance, condemnation awards, payments in lieu of condemnation, and any uncommitted funds of the Association, including amounts contained in any reserve or contingency fund. Available Funds shall not include that portion of insurance proceeds legally required to be paid to any party other than the Association, including a Mortgagee, or that portion of any condemnation award or payment in lieu of condemnation payable to the Owner or Mortgagee of a Condominium Unit for the condemnation or taking of the Condominium Unit in which they are interested.

10.02. Determination by Board of Trustees. Upon the occurrence of any damage or destruction to the Project or any part thereof, or upon a complete or partial taking of the Project under eminent domain or by grant or conveyance in lieu thereof, the Board of Trustees shall make a determination as to whether the excess of Estimated Costs of Restoration over Available Funds is twenty-five percent (25%) or more of the estimated Restored Value of the Project. In addition, the Board of Trustees shall, from time to time, review the condition of the Project to determine whether Substantial Obsolescence exists. In making such determinations the Board of Trustees shall retain and shall take into account information provided by one or more qualified appraisers or other professionals.

10.03. Restoration of Project. Restoration of the Project shall be undertaken by the Association promptly without a vote of the Owners in the

event of Partial Destruction, Partial Condemnation, or Partial Obsolescence. Restoration of the Project shall be undertaken in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence unless a decision not to undertake restoration is consented to by Owners collectively holding at least sixty-seven percent (67%) of the Total Votes, of the Association and Mortgagees holding Mortgages on Units which, considered together, have appurtenant thereto at least sixty-seven percent (67%) of such part of the total undivided ownership interest in the Common Areas and Facilities as is then subject to one or more Mortgages. Within thirty (30) days after the Board of Trustees has determined that Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence exists, it shall send to each Owner and Mortgagee a written description of the destruction, condemnation, or state of obsolescence involved, shall take appropriate steps to ascertain the preferences of the Mortgagees concerning Restoration, and shall, with or without a meeting of the Owners (but in any event in accordance with the applicable provisions of this Declaration), take appropriate steps to determine the preferences of the Owners regarding Restoration. Restoration shall be undertaken unless the consents required by this Section to not restore the Project in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence are obtained within twelve (12) months after the Association sends said written description to the Owners and Mortgagees. In the event insurance proceeds, condemnation awards, or payments in lieu of condemnation actually received by the Association exceed the cost of Restoration when Restoration is undertaken, the excess shall be paid and distributed to the Owners in proportion to their respective undivided ownership interests in the Common Areas. Payment to any Owner whose Condominium Unit is subject to a Mortgage shall be made jointly to such Owner and the interested Mortgagee. In the event the cost of Restoration exceeds Available Funds, all of the Condominium Units shall be assessed for the deficiency on the basis of their respective undivided interests in the Common Areas.

10.04. Sale of Project. The Project shall be sold if restoration of the Project is not undertaken in accordance with the preceding Section 10.03 in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence. In the event of such sale, condominium ownership under this Declaration and the Survey Map shall terminate and the proceeds of sale and any Available Funds shall be distributed by the Association to the Owners in proportion to their respective undivided ownership interests in the Common Areas. Payment to any Owner whose Condominium Unit is then subject to a Mortgage shall be made jointly to such Owner and the interested Mortgagee.

10.05. Authority of Association to Restore or Sell. The Association, as attorney-in-fact for each Owner, shall have and is hereby granted full power and authority to restore or to sell the Project and each Condominium Unit therein whenever Restoration or sale, as the case may be, is undertaken as hereinabove provided. Such authority shall include the

right and power to enter into any contracts, deeds, or other instruments which may be necessary or appropriate for Restoration or sale, as the case may be.

10.06. Inapplicability of Act Provisions. The provisions of this Article X shall in all respects apply to the Project in lieu of, and shall be deemed to supercede and replace, Sections 57-8-30, 57-8-31, and 57-8-32 of the Act.

ARTICLE XI

CONVERTIBLE SPACES

11.01. Effective Date of Conversion and State of Title to New Units Produced by Conversion. A Convertible Space, or the portion or portions thereof concerned, shall be deemed converted into Unit(s) and/or Common Areas as set forth in this Article XI at such time as supplements to this Declaration and to the Survey Map containing the information, and executed or consented to by the parties, required by this Article XI and the Act have been recorded, with respect to such Convertible Space, or the portion or portions thereof concerned. After the recordation of such supplements, title to each new Unit thereby created from the Convertible Space (or portion or portions thereof) concerned and its appurtenant undivided ownership interest in the Common Areas shall be vested in and held by the person(s) who constituted the Owner(s) of the Convertible space concerned at the time of such recordation (in the same manner in which such person(s) held title to such Convertible Space at the time of such recordation), and none of the other Owners shall have any claim or title or interest in such new Unit or its appurtenant undivided ownership interest in the Common Areas. If at the time conversion of a Convertible Space (or portion or portions thereof) occurs there is of record a mortgage, deed of trust, or other such instrument which covers such Convertible Space, then such mortgage, deed of trust, or other such instrument shall, upon the conversion of the Convertible Space (or portion or portions thereof) concerned and whether or not such mortgage, deed of trust, or other such instrument does so by its terms, automatically cover, encumber, and include each new Unit thereby created from such Convertible Space and such new Unit's appurtenant undivided ownership interest in the Common Areas. Nothing herein shall prevent the granting of a mortgage, deed of trust, or other such instrument on any new Condominium Unit produced by the conversion of a Convertible Space (or portion or portions thereof), but any such mortgage, deed of trust, or other such instrument shall be subject and inferior to the lien on or interests in such Condominium Unit which are contemplated by the immediately preceding sentence.

11.02. Power to Convert. The Owner of any Convertible Space shall have the sole power and authority to convert, and shall be deemed to be the Declarant for the purpose of converting, such Convertible space and each

and any portion thereof into Units and/or Common Areas as set forth in this Article, subject, however, to the limitations and provisions contained in this Article and in the Act. For purposes of this Article, the Owner of a Convertible Space who undertakes any conversion of such Convertible Space or any portion or portions thereof, is referred to as the "Converter". County hereby irrevocably assigns, transfers, and sets over to Partnership all of County's rights, powers, and authority as Declarant which are in any way related to or connected with the right, power, or authority to so convert Convertible Spaces 1, 101, 102, 105, 106, 110, 111, 1107, 1108, 1201, and 1301, and each and any portion thereof. Partnership hereby irrevocably assigns, transfers, and sets over to County all of Partnership's rights, powers, and authority as Declarant which are in any way related to or connected with the right, power, or authority to so convert Convertible Spaces 2, 3, 104, 108, and 201, and each and any portion thereof. The right, power, and authority to so convert Convertible Space 109 shall initially be jointly held by County and Partnership. The right, power, and authority to so convert any particular Convertible Space shall be an appurtenance of the Convertible Space in question, may not be separated from the ownership of such Space, and shall be automatically transferred to and held by any successor in title to Partnership or County who becomes the Owner of such Convertible Space.

11.03. Conversion of Convertible Spaces. Subject to the limitations and provisions set forth in this Article XI and in the Act, the converter of any Convertible Space may, at any time and from time to time, convert such Convertible space, or any portion or portions thereof, into one or more Units and/or into Common Areas (including Limited Common Areas) by executing, acknowledging, and recording (in the office of the County Recorder of Weber County, Utah) supplements to the Declaration and Survey Map which comply with the following provisions and requirements and which, when taken together, contain all of the following information and other materials:

(a) Data sufficient to identify this Declaration (as initially constituted), as recorded, and the Survey Map (as initially constituted), as recorded.

(b) The Number of the Convertible Space (or remaining portion(s) thereof) which, in whole or in part, is being converted.

(c) The supplement in question to the Survey Map shall be such as to comply with the requirements of Section 57-8-13(3) of the Act.

(d) The supplement in question to this Declaration shall be such as to comply with the requirements of Section 57-8-13.4(2) of the Act.

(e) The Unit Number of each new Unit which is being created from the Convertible Space (or from the remaining portion(s) thereof) and any other data necessary for the proper identification of each such new Unit. (The Unit Number ascribed to each such new Unit must be different than any number used to identify any of the Convertible Spaces in the Project, any of the Units then included in the Project, any Building in the Project, any Limited Common Area then included in the Project, and any Limited Common Area which is being created through the conversion in question.)

(f) The Size of each new Unit which is being created from the Convertible Space (or from the remaining portion(s) thereof).

(g) The Size of the remaining portion(s) of the Convertible Space, if the Convertible Space in question is not being converted in its entirety in connection with the conversion involved.

(h) The percentage of undivided ownership interest in the Common Areas of the Project which, upon the conversion, shall appertain to: (i) Each new Unit being created from the Convertible space (or from the remaining portion(s) thereof); and (ii) The remaining portion(s) of the Convertible Space (if the Convertible Space in question is not being converted in its entirety in connection with the conversion involved). Such percentages of undivided ownership interest shall be determined by reallocating, to and among the new Unit(s) and the remaining portion(s) of the Convertible Space contemplated by the preceding items (i) and (ii), the percentage of undivided ownership interest which immediately prior to the conversion appertained to the Convertible Space in question (or to the remaining portion(s) of the Convertible Space in question). Such reallocation shall be accomplished in accordance with the ratio between the Size of each new Unit or the Size of the remaining portion(s) of the Convertible Space contemplated by the preceding items (i) and (ii) and the aggregate Size of all new Unit(s) and of the remaining portion(s) of the Convertible Space contemplated by said items (i) and (ii), but with such minor adjustments in some or all of the resulting percentage interests as may be necessary for the purposes, but only for the purposes, of assuring that the aggregate of the percentages resulting from such reallocation is exactly the same as the percentage interest which previously appertained to the Convertible Space (or to the remaining portion(s) thereof) in question and that no vote in the Association is divided into fractional parts.

(i) The number of votes in the Association which, upon the conversion, shall appertain to each new Unit and to the remaining portion(s) of the Convertible Space contemplated by items (i) and (ii) of the foregoing paragraph (h). Such number of votes shall be determined by multiplying by 1000 the percentage of undivided ownership interest in the Common Areas which, upon the conversion, is to appertain to the new Unit in question or to such remaining portion(s) of the Convertible Space.

(j) A description of the Common Areas, if any, which are being created from the Convertible Space (or from the remaining portion(s) thereof).

(k) A description of the Limited Common Areas, if any, which are being created from the Convertible Space (or from the remaining portion(s) thereof). (Any number, letter, or other such label ascribed to any such newly created Limited Common Area must be different than any number used to identify any of the Convertible Spaces in the Project, any of the Units then included in the Project, any Building in the Project, any Limited Common Area then included in the Project, and any new Unit which is being created through the conversion in question.)

(l) A designation of the Unit or Units to which shall appertain exclusive use of each of the newly created Limited Common Areas contemplated by the preceding paragraph (k). [Such Unit or Units must consist only of: (x) New Unit(s) being created from the Convertible Space (or from the remaining portion(s) thereof); and/or (y) The remaining portion(s) of the Convertible Space (if the Convertible Space in question is not being converted in its entirety in connection with the conversion involved).]

(m) A designation of the Unit or Units to which shall appertain, after accomplishment of the conversion in question, exclusive use of each of the Limited Common Areas which, immediately prior to such conversion, was appurtenant to the Convertible Space (or remaining portion(s) thereof) which in whole or in part is being converted. [Such Unit or Units must consist only of: (x) New Unit(s) being created from the Convertible Space (or from the remaining portion(s) thereof); (y) The remaining portion(s) of the Convertible Space if the Convertible Space in question is not being converted in its entirety in connection with the conversion involved; and/or (z) Unit(s)--other than the Unit dealt with by the preceding item (y)--existing prior to the conversion involved to which appertained (prior to such conversion) the exclusive use of the Limited Common Area in question.] In the event the designations required to be made pursuant to this paragraph (m) fail to treat, or

inaccurately treat, any of the Units which fall within the class described in the preceding item (z), such failure or inaccurate treatment shall not in any way affect or prejudice the rights or interests of any persons who have an interest in the Unit in question.

(n) The supplement in question to the Survey Map and the supplement in question to this Declaration must each have appearing thereon and as a part thereof legend(s), executed and acknowledged by or on behalf of each and every mortgagee and trust deed beneficiary contemplated by Section 11.04 below, whereby each such mortgagee or beneficiary consents to the conversion accomplished by such supplements and consents to the recordation of the supplement on which such legend(s) appear(s).

Upon recordation of the supplements contemplated by the foregoing to the Declaration and Survey Map, the information contained therein shall become effective for all purposes and such supplements shall automatically supplement this Declaration, the Survey Map, and any other similar supplements previously recorded. At any point in time, the Declaration and Survey Map for the Project shall consist of this Declaration and the Survey Map initially effective hereunder, as amended, expanded, and supplemented by all supplements theretofore recorded pursuant to the terms of this Declaration.

11.04. Need for Consent by Encumbrance Holders. In order for the conversion of any Convertible Space (or any portion(s) thereof) to be accomplished or effective, the supplements to the Survey Map and to this Declaration which are recorded in order to effect such conversion must each have appearing thereon and as a part thereof legend(s), executed and acknowledged by or on behalf of each and every mortgagee and trust deed beneficiary which holds a recorded mortgage or a recorded deed of trust that covers the Convertible Space (or the remaining portion(s) of the Convertible Space) that is the subject of the conversion, whereby each such mortgagee or beneficiary consents to the conversion accomplished by such supplements and consents to the recordation of the supplement on which such legend(s) appear(s). Such consent may be withheld only if the proposed conversion would materially impair the value of the collateral encumbered by the mortgage or trust deed held by the mortgagee or beneficiary whose consent is requested with respect to the proposed conversion. If such supplements do not include such legends executed by or on behalf of all of such mortgagees and trust deed beneficiaries, then such supplements and the recordation thereof shall be a nullity for all purposes and shall be wholly and completely ineffective for any purpose, including accomplishment of the conversion in question.

11.05. Limitations and Restrictions. Each conversion of a Convertible Space or any portion thereof shall be subject to the following limitations and restrictions, in addition to those limitations and restrictions which are set forth elsewhere in this Article XI:

(a) Unit Size. No Unit formed out of a Convertible Space shall have a Size of less than one hundred (100) square feet.

(b) Common Areas. No more than twenty-five (25%) of the total floor space contained in any Convertible Space as initially constituted shall be converted (through one or more successive conversions of the Convertible Space in question) to Common Areas (including Limited Common Areas), unless the Association shall consent to a higher percentage by executing a legend granting such consent on either the supplement to the Declaration or the supplement to the Survey Map accomplishing the conversion which increases the percentage of floor space so converted above the allowable percentage.

(c) Independent Use. Each Unit formed out of a Convertible Space must be capable of independent use and must have direct access to Common Areas intended and sufficient for pedestrian access to such Unit.

11.06. Amendment of Article. None of the provisions of this Article may be amended without the consent of all Owners of, and of all persons and entities whose consent would be required under Section 11.04 to accomplish the conversion of, each and every Convertible Space which, at the time of the amendment in question, has not theretofore been converted in its entirety. All of the consents required by the preceding sentence must be in writing and must appear on and be a part of the instrument accomplishing the amendment in question.

ARTICLE XII

EXPANSION OF PROJECT

12.01. Right to Expand, Effective Date of Expansion, and State of Title to New Units Created by Expansion. There is hereby granted unto Partnership, and Partnership hereby reserves, the absolute right and option to expand the Project at any time (within the limits herein prescribed) and from time to time by adding to the Project the Additional Land or a portion or portions thereof. County hereby irrevocably assigns, transfers, and sets over to Partnership all of County's rights, powers, and authority as Declarant which are in any way related to or connected with the right, power, or authority to add each and every portion of the Additional Land to the Project. Notwithstanding any provision of the Act or this Declaration which might be construed to the contrary, such right and option may be exercised without obtaining the vote or consent of any other person (including any Unit Owner or Mortgagee) except as expressly required by Section 12.04 hereof and shall be limited only as specifically provided in the Act and this Declaration. Any given portion of the Additional Land shall be

deemed added to the Project at such time as a supplement to this Declaration and to the Survey Map containing the information required by the Act and by Section 12.03 below has been recorded with respect to the portion of the Additional Land concerned. After the recordation of such supplements, title to each Unit thereby created within the portion of the Additional Land concerned and its appurtenant percentage of undivided ownership interest in the Common Areas shall be vested in and held by Partnership, and none of the other Unit Owners shall have any claim or title to or interest in such Unit or its appurtenant percentage of undivided ownership interest. If at the time a particular portion of the Additional Land is added to the Project there is of record a mortgage or deed of trust which by its terms describes the real property thereby encumbered by a metes and bounds description or other description describing the lateral or perimetric boundaries of such real property (as distinguished from the description of a Condominium Unit), and if the parcel of real property defined by the description set forth in such mortgage or trust deed includes the portion of the Additional Land then being added to the Project, and irrespective of whether or not any partial release or reconveyance pertaining to such mortgage or trust deed has theretofore been recorded with respect to any other Condominium Unit in the Project, then and in that event such mortgage or trust deed shall, upon the addition to the Project of that portion of the Additional Land concerned and whether or not such mortgage or trust deed does so by its terms, automatically cover, encumber, and include each Unit thereby created within such portion of the Additional Land and such Unit's appurtenant undivided ownership interest in the Common Areas. Nothing herein shall prevent the granting of a mortgage or trust deed on any Condominium Unit produced by the addition to the Project of a portion of the Additional Land, but any such mortgage or trust deed shall be subject and inferior to the lien on or interests in such Condominium Unit which arise by operation of the immediately preceding sentence.

12.02. Rights and Statements Respecting Additional Land.

Partnership hereby furnishes the following information and statements respecting the Additional Land and Partnership's right and option concerning expansion of the Project by the addition thereto of the Additional Land or a portion or portions thereof:

(a) All of the Additional Land need not be added to the Project if any of such Land is added. Rather, a portion or portions of the Additional Land may be added to the Project at any time (within the limits herein prescribed) and from time to time.

(b) Except for the limitations and requirements set forth in the following item (d), there are no limitations or requirements relative to the size, location, or configuration of any given portion of the Additional Land which can be added to the Project or relative to the order in which particular portions of the Additional Land can be added to the Project.

(c) There are no limitations or requirements relative to the location of improvements that may be made on any portion of the Additional Land which is added to the Project.

(d) Assuming that the entirety of the Additional Land is added to the Project, the maximum number of Units which may be created on the Additional Land is three hundred (300). At any given time the total number of Units created on such portion(s) of the Additional Land as has (have) theretofore been added to the Project shall not exceed a density of nine hundred (900) Units per acre of land so added to the Project.

(e) Each Unit created on any portion of the Additional Land which is added to the Project may be designed and used for any of the purposes (as selected by Partnership) described in Sections 6.01, 6.02, and 6.03 hereof.

(f) Any Building or other structure erected on a portion of the Additional Land added to the Project need not be of the same architectural style or comprised of the same materials as structures within the pre-existing Project. Nevertheless, any such Building or other structure shall be constructed in a good and workmanlike manner.

(g) In addition to the Building or Buildings, if any, created on a portion of the Additional Land added to the Project, the significant improvements made to such portion may include asphalt roadways, open parking spaces, garages and parking ramps, concrete sidewalks or walkways, fences, outdoor lighting, landscaping, recreational facilities, and other related improvements. All of the mentioned improvements may be of the type and in the location determined to be appropriate by Partnership.

(h) Each Building which is created on a portion of the Additional Land added to the Project may have one or more below ground levels and one or more above ground levels, may include patios, balconies, and/or decks, and may contain one or more Units. The size of any Unit contained in such a Building may range from a minimum of approximately 400 square feet to a maximum of approximately 15,000 square feet. Any such Unit may include space located on any number of levels.

(i) In conjunction with the addition to the Project of a portion of the Additional Land Partnership shall have the right to create Limited Common Areas within such portion. Each of said Limited Common Areas shall be appurtenant to a Unit located within such portion of the Additional Land. Such Limited Common Areas

may include and consist of patios, balconies, and/or decks, storage areas or spaces and open or enclosed parking spaces.

(j) In conjunction with the addition to the Project of a portion of the Additional Land Partnership shall have the right to reserve, in the instruments through which the addition is accomplished, reasonable rights-of-way and/or easements for purposes of enabling access to, furnishing utilities to, and facilitating or enabling development of, such of the Additional Land as has then not been added to the Project.

(k) Any expansion(s) of the Project through the addition thereto of the Additional Land or portions thereof and through the creation on the portions of the Additional Lands concerned of additional Units shall be such that the percentage of undivided ownership interest in the Common Areas which at any point in time is appurtenant to any Unit then in the Project is not more than 15% and not less than .01%.

12.03. Procedure for Expansion. The supplements to this Declaration and to the Survey Map by which addition to the Project of any portion of the Additional Land is accomplished shall be executed by Partnership, shall be in recordable form, must be filed for record in the office of the County Recorder of Weber County, Utah on or before seven (7) years from the date that this Declaration is recorded, and when taken together shall contain the following information for that portion of the Additional Land which is being added to the Project:

(a) Data sufficient to identify this Declaration and the Record of Survey Map.

(b) The legal description of the portion of the Additional Land being added to the Project.

(c) A description of the Building(s), if any, located or to be located on the portion of the Additional Land concerned and of all other significant improvements located or to be located on such portion. Such description shall provide essentially the same type of information as is provided in this Declaration with respect to the Building and improvements initially included in the Project.

(d) The Unit Number of each Unit being created within the portion of the Additional Land concerned and any other data necessary for the proper identification thereof.

(e) A description of any Limited Common Areas being created within the portion of the Additional Land concerned, together with a designation of the Unit(s) to which each is appurtenant.

(f) The Survey Map information required to be furnished by Section 57-8-13(2) of the Act.

(g) Such rights-of-way and/or easements as are being reserved by Partnership pursuant to Item (j) of the foregoing Section 12.02.

(h) An amended Exhibit-"A" to this Declaration setting forth the percentage of undivided ownership interest which, after addition of that portion of the Additional Land concerned, shall appertain to each Unit in the Project, computed and derived as described in Section 4.05 hereof.

(i) Such other matters as may be necessary, desirable, or appropriate and as are not inconsistent with any limitation imposed by this Declaration.

Upon the recordation of the supplements contemplated above, the revised schedule of undivided interests contained therein shall automatically become effective for all purposes and shall completely supersede any similar schedule which was contained in any Declaration or supplement previously recorded in connection with the Project or any portion of the Additional Land. And upon the recordation of such supplements they shall automatically supplement this Declaration, the Survey Map, and any supplements previously recorded. At any point in time, the Declaration and Survey Map for the Project shall consist of this Declaration and the Survey Map initially effective hereunder, as amended and expanded by all supplements theretofore recorded pursuant to the terms of this Declaration.

12.04. Need for Consent by Encumbrance Holders. In order for any addition to the Project of any portion of the Additional Land to be accomplished or effective, the supplements to the Survey Map and to this Declaration which are recorded in order to effect such addition must each have appearing (hereon and as a part thereof legend(s), executed and acknowledged by or on behalf of each and every mortgagee and trust deed beneficiary which holds a recorded mortgage or a recorded deed of trust that covers any part of the portion of the Additional Land that is the subject of the addition, whereby each such mortgagee or beneficiary consents to the addition accomplished by such supplements and consents to the recordation of the supplement on which such legend(s) appear(s). Such consent may be withheld only if the proposed addition would materially impair the value of the collateral encumbered by the mortgage or trust deed held by the mortgagee or beneficiary whose consent is requested with respect to the proposed addition. If such supplements do not include such legends executed by or on behalf of all of such mortgagees and trust deed beneficiaries, then such supplements and the recordation thereof shall be a nullity for all purposes and shall be wholly and completely ineffective for any purpose, including accomplishment of the addition in question.

12.05. Additional Land--Miscellaneous. Such parts of or interests in a portion of the Additional Land which is added to the Project as do not become Units shall be and remain Common Areas and Facilities. Until such time as any given portion of the Additional Land added to the Project has been fully developed and improved in the manner contemplated by the instruments through which such portion was added, unless Partnership gives its prior written consent thereto, neither the Board of Trustees nor the Association shall grant or create any easement, right-of-way, or similar matter affecting any part of such portion, improve or work on any part of such portion, or take any other action with respect to such portion which would or might impair Partnership's ability to exercise its rights concerning the same.

12.06. No Obligation to Expand. Except to the extent specifically indicated herein, this Declaration is not intended, and shall not be construed so as, to impose upon Partnership any obligation respecting, or to restrict Partnership in any way with regard to: (i) The addition to the Project of any or all of the Additional Land; (ii) The creation or construction of any Unit, Building, or other improvement; (iii) The carrying out in any particular way or within any particular time of any development or addition to the Project which may be undertaken; or (iv) The taking of any particular action with respect to the Tract, the Project, or any portion of the Additional Land. Except to the extent specifically indicated herein, no covenant, restriction, limitation, representation, or commitment in this Declaration concerning anything that is or is not to occur, apply, or be done on or relative to the Additional Land or any portion thereof shall be binding as to such of the Additional Land as is never added to the Project.

12.07. Amendment of Article. None of the provisions of this Article may be amended without the consent of all persons or entities who would be required to execute supplements to this Declaration and the Survey Map in order to add to the Project all portions of the Additional Land that has not theretofore been added to the Project. All consents required by the preceding sentence must be in writing and must appear on and be part of the instrument accomplishing the amendment in question.

ARTICLE XIII

GENERAL PROVISIONS

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

13.02. **Mortgagee Protection.** From and after the time that a Mortgagee makes written request to the Association therefor, the Association shall notify such Mortgagee in writing in the event that the Owner of the Condominium Unit encumbered by the Mortgage held by such Mortgagee neglect for a period of 60 or more days to cure any failure on his part to perform any of his obligations under this Declaration.

The lien or claim against a Condominium Unit for unpaid assessments or charges levied by the Association pursuant to this Declaration or the Act shall be subordinate to the Mortgage affecting such Condominium Unit, and the Mortgagee thereunder which comes into possession of or which obtains title to the Condominium Unit shall take the same free of such lien or claim for unpaid assessments or charges, but only to the extent of assessments or charges which accrue prior to foreclosure of the Mortgage, exercise of a power of sale available thereunder, or deed or assignment in lieu of foreclosure (except for claims for a pro rata share of such prior assessments or charges resulting from a pro rata reallocation thereof to all Condominium Units including the Condominium Unit in which the Mortgagee is interested). No assessment, charge, lien, or claim which is described in the preceding sentence as being subordinate to a Mortgage or as not to burden a Mortgagee which comes into possession or which obtains title shall be collected or enforced by the Association from or against a Mortgagee, a successor in title to a Mortgagee, or the Condominium Unit affected or previously affected by the Mortgage concerned (to the extent any such collection or enforcement would prejudice the interests of the Mortgagee or successor in title to the Mortgagee interested in such Unit).

Unless Mortgagees holding Mortgages on Units which, considered together, have appurtenant thereto at least sixty-seven percent (67%) of such part of the total undivided ownership interest in the Common Areas as is then subject to one or more Mortgages have given their prior written approval, neither the Association nor the Owners shall be entitled, by act, omission, or otherwise:

(a) To abandon or terminate the Condominium Project or to abandon or terminate the arrangement which is established by this Declaration and the Record of Survey Map (except as provided in Article X in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence);

(b) To partition or subdivide any Condominium Unit (except as provided in Article XI with respect to the conversion of a Convertible Space or portion(s) thereof);

(c) To abandon, partition, subdivide, encumber, sell, or transfer all or any part of the Common Areas and Facilities (except for the granting of easements for utilities and similar purposes consistent with the intended use of the Common Areas except as provided in Article X in the event of Substantial

Destruction, Substantial Condemnation, or Substantial Obsolescence, and except as such matters [arguably] might result from the addition to the Project of some or all of the Additional Land);

(d) To use casualty insurance proceeds resulting from damage to any part of the Condominium Project (whether to Units or to the Common Areas) for purposes other than the repair, replacement, or reconstruction of such improvements (except as provided in Article X in the event of Substantial Destruction); or

(e) To change the pro rata interests or obligations of any Unit which apply for (i) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards and for (ii) determining the pro rata share of ownership of each Unit in the Common Areas and Facilities (except as such changes may occur as a result of the conversion of a Convertible Space under Article XI hereof or the addition of some or all of the Additional Land to the Project under Article XII hereof).

Any Mortgagee shall have the right, at its request and expense and upon reasonable notice, to examine during normal business hours the books and records of the Association or of the Condominium Project. From and after the time a Mortgagee makes written request to the Association therefor, the Association shall furnish to such Mortgagee copies of such annual operating reports and other reports or writings summarizing or reflecting the financial position or history of the Association and/or the Condominium Project as may be prepared for distribution to or use by the Association or the Unit Owners. From and after the time a Mortgagee makes written request to the Association therefor, the Association shall furnish to such Mortgagee written notice of each scheduled meeting of the Members of the Association. Each and any Mortgagee shall have the right, through its designated representative, to attend any meeting of the Members of the Association.

The Association shall notify in writing each Mortgagee whose interest may be affected thereby in the event that there occurs any damage, destruction, or loss to, or taking or anticipated condemnation of: (i) the Common Areas involving an amount reasonably estimated to be in excess of Ten Thousand Dollars (\$10,000.00); or (ii) Any Unit involving an amount reasonably estimated to be in excess of Five Thousand (\$5,000.00). Said notice shall be given within ten (10) days after the Association learns of such damage, destruction, loss, taking, or anticipated condemnation.

The Association shall establish an adequate reserve to cover the cost of reasonably predictable and necessary major repairs and replacements of the Common Areas and Facilities and shall cause such reserve to be funded by regular monthly or other periodic assessments against the Units rather than by special assessments.

No provision of this Declaration gives or may give a Unit Owner or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution to Unit Owners or other parties of insurance proceeds or condemnation awards (or payments in lieu of condemnation awards) for loss to or taking of Units and/or the Common Areas and Facilities.

In the event another provision or clause of this Declaration deals with the same subject matter as is dealt with in any provision or clause of this Section 13.02, the provision or clause which results in the greatest protection and security for a Mortgagee shall control the rights, obligations, or limits of authority, as the case may be, applicable to the Association and/or to the Owners with respect to the subject concerned.

No amendment to this Section 13.02 which has the effect of diminishing the rights, protection, or security afforded to Mortgagees shall be accomplished or effective unless all of the Mortgagees of the individual Units have given their prior written approval to such amendment. In the instrument accomplishing the amendment in question, an officer of the Association shall certify that any prior written approval of Mortgagees required by this Section 13.02 as a condition of amendment has been obtained.

13.03. Interpretation. To the extent the provisions of the Act are consistent with this Declaration, such provisions shall supplement the terms hereof and are incorporated herein. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context or the circumstances so require, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

13.04. Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Declarant, all parties who hereafter acquire any interest in a Unit or in the Project, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Unit shall comply with, and all interests in all Condominium Units shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, supplements, amendments, and determinations contemplated by this Declaration. By acquiring any interest in a Unit or in the Project, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

13.05. Notices and Registration of Mailing Address. Each Owner shall register from time to time with the Association his current mailing

address. All notices, demands, and other communications from the Association to any Owner as provided for in this Declaration shall be in writing and shall be sufficient and deemed delivered for all purposes if personally delivered to the Owner or if mailed to the Owner in the manner prescribed in the second and fifth sentences of Paragraph (d) of Section 7.06 of this Declaration. Any notice to the Association as provided for in this Declaration shall be in writing and shall be sufficient for all purposes if personally delivered to a Trustee or an officer of the Association or if sent by first class U.S. mail, postage prepaid, addressed to the Association at its principal office as set forth in Section 7.05, hereof, or at such other address as the Association may hereafter specify to the Owners in writing.

13.06. **Amendment.** Except as provided in and/or subject to the terms of items (a) through (d) below, the vote of at least two-thirds (2/3) of the Total Votes of the Association shall be required and shall be sufficient to amend this Declaration or the Record of Survey Map. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the Association (and, if the subject matter of the amendment in question so requires under the applicable provisions of this Declaration, also executed by the Owners and/or by the mortgagees and trust deed beneficiaries required by such provisions). In such instrument the Association shall certify that the vote required by this Section (or, if applicable, by other specified provisions of this Declaration for amendment has occurred, and, if certain approval or consent of Mortgagees is required for such amendment, that such approval or consent has been obtained. No amendment of this Declaration or the Record of Survey Map shall be effective until approved by Ogden City and recorded in the office of the recorder of Weber County, Utah. The foregoing right of amendment shall, however, be subject to the following:

(a) A Converter (as defined in Article XI) shall have the right unilaterally to amend and supplement this Declaration and the Survey Map in conjunction with the conversion of any Convertible Space or of portion(s) thereof, all in the manner and to the extent, but only to the extent, provided for in Article XI of this Declaration.

(b) Partnership shall have the right unilaterally to amend and supplement this Declaration and the Survey Map in conjunction with its addition to the Project of each portion of the Additional Land, all in the manner and to the extent, but only to the manner and to the extent, provided for in Article XII of this Declaration.

(c) Any amendment to Section 13.02 hereof shall be subject to the matters treated in the last Paragraph of said Section.

(d) Each and every limitation on and condition to the right to accomplish amendments as set forth elsewhere in this Declaration.

13.07. Consent in Lieu of Vote. In any case in which the Act or this Declaration requires the vote of a stated percentage of the Total Votes of the Association or of the Project's undivided ownership interests for authorization or approval of an act or a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such act or transaction from all Unit Owners. The following additional provisions shall govern any application of this Section:

(a) All necessary consents must be obtained prior to the expiration of one hundred and twenty (120) days after the first consent is given by any Owner.

(b) Any change in ownership of a Condominium Unit which occurs after consent has been obtained from the Owner having an interest therein shall not be considered or taken into account for any purpose.

(c) Unless the consent of all Owners having an interest in the same Condominium unit is obtained, the consent of none of such Owners shall be effective.

13.08. Agent for Service of Process. Daniel W. Cook whose address is 4014 Beus Drive, Ogden, Utah 84403, is the person to receive service of process in the cases authorized by the Act. The Association shall, however, have the right to appoint a successor or substitute process agent. Such successor or substitute agent and his address shall be specified by an appropriate instrument filed in the office of the County Recorder of Weber County, State of Utah.

13.09. Effective Date. This Declaration, any amendment or supplement hereto, the Survey Map, and any amendment or supplement to the Survey Map shall take effect upon its being filed for record in the office of the County Recorder of Weber County, Utah.

EXECUTED by Declarant on this 18th day of July, 1984.

"Declarant":

BEN LOMOND SUITES, LTD.,
a Utah Limited Partnership,
By Its General Partner, DCA
Development Corporation, a
Montana corporation

ATTEST:

By *David M. Fink*
Its SECRETARY

By *David M. Fink*
Its PRESIDENT

WEBER COUNTY, a political
subdivision of the State of Utah

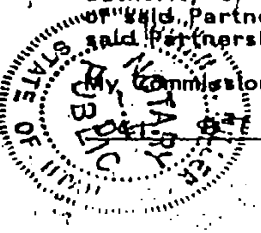
By *Richard A. Hunter*
County Commissioner

By *Wesley S. ...*
County Commissioner

By *William A. Bailey*
County Commissioner

STATE OF UTAH)
) ss.
COUNTY OF WEBER)

On this 18th day of July, 1984, personally appeared before me DANIEL COOK and EDWARD F. GIBBE, who each being by me duly sworn did say that they are the PRESIDENT and SECRETARY, respectively, of DCA Development Corporation, a Montana corporation, that said corporation is the General Partner of BEN LOMOND SUITES, LTD., a Utah Limited Partnership, that the foregoing Declaration of Condominium was signed on behalf of said corporation by authority of its bylaws or a resolution of its Board of Directors and on behalf of said Partnership by proper authority, and did each acknowledge to me that said Partnership executed the same.

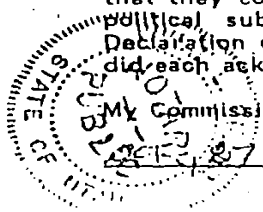


My Commission Expires: _____

Olivia J. Miller
NOTARY PUBLIC
Residing at: OGDN

STATE OF UTAH)
) ss.
COUNTY OF WEBER)

On this 18th day of July, 1984, personally appeared before me ROBERT HUNTER and KATE LAWSON, and WILLIAM BAILEY, who each being by me duly sworn did say that they constitute the Board of County Commissioners of WEBER COUNTY, a political subdivision of the State of Utah, that they signed the foregoing Declaration of Condominium on behalf of said County by proper authority, and did each acknowledge to me that said County executed the same.



My Commission Expires: _____

Olivia J. Miller
NOTARY PUBLIC
Residing at: OGDN

APPROVAL BY CITY

OGDEN CITY, a body corporate and politic and the City in which the Ben Lomond Suites Condominium Project is or is to be located, by and through its duly elected Mayor, does hereby give final approval to the Project, to the foregoing Declaration of Condominium, to the Record of Survey Map recorded concurrently, with said Declaration, and to the attributes of the said Project which are mentioned in Section 57-8-35(3) of the Utah Condominium Ownership Act.

DATED this 17th day of ~~July~~^{Sept}, 1984.

OGDEN CITY

ATTEST:

Donna Adam
Its Recorder

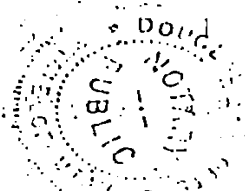
By R. A. Maasen
Its Mayor

STATE OF UTAH)
 : ss.
COUNTY OF WEBER)

On this 17th day of ~~July~~^{Sept}, 1984, personally appeared before me Robert A. Maasen and Donna Adam, who being by me duly sworn did say that they are the Mayor and Recorder, respectively, of Ogden City; a municipal corporation of the State of Utah, and that they signed the foregoing Approval by proper authority, and each did acknowledge to me that said City executed the same.

My Commission Expires:
5-15-85

Robert W. Cliff
NOTARY PUBLIC
Residing at: Ogden, Utah



CONSENT OF MORTGAGEE

WESTERN SAVINGS AND LOAN COMPANY, a Utah corporation being the Trustee and Beneficiary of the Trust Deed affecting the real property being submitted by this Declaration and the Survey Map to the provisions of the Condominium Act, does hereby consent to this Declaration and the Survey Map and to such submission. In so consenting, the undersigned merely submits its interests in said real property to the provisions of the Condominium Act. The undersigned has made no representations or warranties in the Declaration or Survey Map and does not assume any of the obligations of the Declarant set forth therein.

Dated this ____ day of July, 1984.

ATTEST:

WESTERN SAVINGS AND LOAN COMPANY

By Lery M. Taniyama
Its SECRETARY

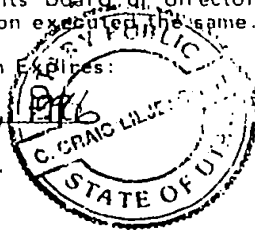
By [Signature]
Its [Signature]

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

On the 11th day of Sept., 1984, personally appeared before me NEIL H. BURT and LERY M. TANIYAMA, who each being by me duly sworn did say that they are the VICE PRES. and SECRETARY, respectively, of WESTERN SAVINGS AND LOAN COMPANY, a Utah corporation, and that the foregoing Consent of Mortgagee was signed in behalf of said corporation by the authority of its bylaws or a resolution of its board of directors, and each duly acknowledged to me that said corporation executed the same.

My Commission Expires:

SEPT. 15, 1986



[Signature]
NOTARY PUBLIC
Residing at: CANON, UTAH

EXHIBIT "A"

TO

DECLARATION OF CONDOMINIUM

OF THE BEN. LOMOND SUITES CONDOMINIUM PROJECT

[An Expandable Condominium Project Containing Convertible Spaces]

Unit or Convertible Space No.	Building No.	"Size"	Percentage of Undivided Ownership in Common Areas	Number of Votes
1*	A	6160	5.323	5323
2*	A	5170	4.467	4467
3*	A	2590	2.238	2238
101*	A	5530	4.778	4778
102*	A	1320	1.141	1141
103	A	80	0.069	69
104*	A	3580	3.093	3093
105*	A	1800	1.555	1555
106*	A	650	0.562	562
107	A	300	0.259	259
108*	A	2940	2.540	2540
109*	A	3570	3.085	3085
110*	A	2690	2.324	2324
111*	A	1510	1.305	1305
201*	A	4840	4.182	4182
202	A	620	0.536	536
203	A	1150	0.994	994
204	A	700	0.605	605
205	A	510	0.441	441
206	A	530	0.458	458
207	A	620	0.536	536
301	A	610	0.527	527
302	A	530	0.458	458
303	A	530	0.458	458
304	A	530	0.458	458
305	A	520	0.449	449
306	A	520	0.449	449
307	A	520	0.449	449
308	A	510	0.441	441
309	A	530	0.458	458
310	A	870	0.752	752
311	A	550	0.475	475

* signifies that the number identified thereby is a Convertible Space Number.

Unit or Convertible Space No.	Building No.	"Size"	Percentage of Undivided Ownership in Common Areas	Number of Votes
312	A	460	0.397	397
313	A	450	0.389	389
401	A	610	0.527	527
402	A	530	0.458	458
403	A	530	0.458	458
404	A	530	0.458	458
405	A	520	0.449	449
406	A	520	0.449	449
407	A	520	0.449	449
408	A	510	0.441	441
409	A	530	0.458	458
410	A	560	0.484	484
411	A	510	0.441	441
412	A	510	0.441	441
413	A	460	0.397	397
414	A	460	0.397	397
501	A	610	0.527	527
502	A	530	0.458	458
503	A	530	0.458	458
504	A	530	0.458	458
505	A	520	0.449	449
506	A	520	0.449	449
507	A	520	0.449	449
508	A	510	0.441	441
509	A	530	0.458	458
510	A	560	0.484	484
511	A	510	0.441	441
512	A	510	0.441	441
513	A	460	0.397	397
514	A	460	0.397	397
601	A	610	0.527	527
602	A	530	0.458	458
603	A	530	0.458	458
604	A	530	0.458	458
605	A	520	0.449	449
606	A	520	0.449	449
607	A	520	0.449	449
608	A	510	0.441	441
609	A	530	0.458	458
610	A	560	0.484	484
611	A	510	0.441	441

* signifies that the number identified is a Convertible Space Number.

<u>Unit or Convertible Space No.</u>	<u>Building No.</u>	<u>"Size"</u>	<u>Percentage of Undivided Owncrship in Common Areas</u>	<u>Number of Votes</u>
612	A	510	0.441	441
613	A	460	0.397	397
614	A	460	0.397	397
701	A	610	0.527	527
702	A	530	0.458	458
703	A	530	0.458	458
704	A	530	0.458	458
705	A	520	0.449	449
706	A	520	0.449	449
707	A	520	0.449	449
708	A	510	0.441	441
709	A	530	0.458	458
710	A	560	0.484	484
711	A	510	0.441	441
712	A	510	0.441	441
713	A	460	0.397	397
714	A	460	0.397	397
801	A	610	0.527	527
802	A	530	0.458	458
803	A	530	0.458	458
804	A	530	0.458	458
805	A	520	0.449	449
806	A	520	0.449	449
807	A	520	0.449	449
808	A	510	0.441	441
809	A	530	0.458	458
810	A	560	0.484	484
811	A	510	0.441	441
812	A	510	0.441	441
813	A	460	0.397	397
814	A	460	0.397	397
901	A	610	0.527	527
902	A	530	0.458	458
903	A	530	0.458	458
904	A	530	0.458	458
905	A	520	0.449	449
906	A	520	0.449	449
907	A	520	0.449	449
908	A	510	0.441	441
909	A	530	0.458	458
910	A	560	0.484	484

* signifies that the number identified thereby is a Convertible Space Number.

<u>Unit or Convertible Space No.</u>	<u>Building No.</u>	<u>"Size"</u>	<u>Percentage of Undivided Ownership in Common Areas</u>	<u>Number of Votes</u>
911	A	510	0.441	441
912	A	510	0.441	441
913	A	460	0.397	397
914	A	460	0.397	397
1001	A	610	0.527	527
1002	A	530	0.458	458
1003	A	530	0.458	458
1004	A	530	0.458	458
1005	A	520	0.449	449
1006	A	520	0.449	449
1007	A	520	0.449	449
1008	A	510	0.441	441
1009	A	530	0.458	458
1010	A	560	0.484	484
1011	A	510	0.441	441
1012	A	510	0.441	441
1013	A	460	0.397	397
1014	A	460	0.397	397
1101	A	610	0.527	527
1102	A	530	0.458	458
1103	A	530	0.458	458
1104	A	530	0.458	458
1105	A	520	0.449	449
1106	A	520	0.449	449
1107*	A	2370	2.048	2048
1108*	A	2210	1.910	1910
1201*	A	1440	1.244	1244
1301*	A	1380	1.192	1192
		115730	100.000%	100,000

* designates that the number identified thereby is a Convertible Space Number.

EXHIBIT "B"

TO

DECLARATION OF CONDOMINIUM

OF THE BEN LOMOND SUITES CONDOMINIUM PROJECT

[An Expandable Condominium Project Containing Convertible Spaces]

The "Tract" which is initially associated with the Ben Lomond Suites Condominium Project and which is referred to in and affected by said Declaration is situated in Ogden City, Weber County, State of Utah, and is described as follows:

PARCEL 1:

A part of Lots 5 and 6, Block 17, Plat "A" of Ogden City Survey: Beginning at the Northwest corner of said Lot 6, and running thence South 0°58' West 200.0 feet; thence South 89°02' East 159.5 feet; thence North 0°58' East 100.0 feet; thence South 89°02' East 4.5 feet; thence North 0°58' East 100.0 feet; thence North 89°02' West 164.0 feet to the place of beginning.

TOGETHER WITH an easement granted by Ogden City, a municipal corporation, in that certain "Grant of Easements" executed March 5, 1927, and recorded in Book 107 of Deeds, at Page 365, in the office of the Recorder of Weber County, Utah, to maintain and continue in existence (so long as the "building" referred to therein shall stand) those certain encroachments on, over, and under the sidewalks on 25th Street from the Northwest corner of said Lot 6 East 164 feet, and on Washington Avenue from said Northwest corner of said Lot 6 South 103.5 feet, the exact location of said easement being more particularly described in said Grant of Easements.

PARCEL 2:

An easement and related rights and obligations for parking purposes, (herein referred to as the "Parking Easement") granted in that certain "Parking Easement Deed" recorded concurrently herewith, which Parking Easement affects the following-described real property:

A Part of Lots 5 and 6, Block 17, Plat "A" of Ogden City Survey: Beginning at a point 88.0 feet South 0°58' West and 159.5 feet South 89°02' East from the Northwest corner of said Lot 5 and running thence North 0°58' East 100.0 feet; thence South 89°02' East 112.80 feet to the West line of Ogden Avenue; thence along said West line the following two courses: South 14°50' East 67.55 feet and South 0°58' West 64.0 feet to a point North 0°58' East 35.0 feet from the Southeast corner of said Lot 5; thence North 89°02' West 131.19 feet; thence North 0°58' East 29.0 feet to the point of beginning.

[Article II of said Declaration of Condominium contains certain reservations and sets forth certain title exceptions in addition to those listed on this Exhibit "B"]

NOTE TO WEBER COUNTY RECORDER: THIS DECLARATION OF CONDOMINIUM AND THE RECORD OF SURVEY MAP RECORDED CONCURRENTLY HERewith SHOULD BE ABSTRACTED WITH RESPECT TO ALL PARCELS DESCRIBED HEREON AND WITH RESPECT TO ALL PROPERTY SET FORTH IN THE "GRANT OF EASEMENTS" REFERRED TO IN THE ABOVE-DESCRIBED PARCEL 1)

EXHIBIT "C"

TO

DECLARATION OF CONDOMINIUM

OF THE BEN LOMOND SUITES CONDOMINIUM PROJECT

[An Expandable Condominium Project Containing Convertible Spaces]

The "Additional Land" which is referred to in said Declaration is situated in Weber County, State of Utah, and is described as follows:

All of Lots 4, 5, 6, 7, and 8, Block 17, Plat "A" of Ogden City Survey.

EXHIBIT "D"
TO
DECLARATION OF CONDOMINIUM
OF THE BEN LOMOND SUITES CONDOMINIUM PROJECT

MANAGEMENT AGREEMENT
(The Ben Lomond Suites Condominium Project)

THIS MANAGEMENT AGREEMENT is made and entered into this day of _____, 1984, by and between the BEN LOMOND SUITES OWNERS ASSOCIATION, a Utah nonprofit corporation (hereinafter, "Association"), and BEN LOMOND TOWER, INC., a Utah corporation (hereinafter the "Manager").

RECITALS:

A. The Ben Lomond Suites Condominium Project (hereinafter the "Project") was recently created by the recordation, in the official records Weber County, Utah, of a Record of Survey Map entitled "Record of Survey Map of the Ben Lomond Suites Condominium Project" and of an instrument entitled "Declaration of Condominium of the Ben Lomond Suites Condominium Project" (hereinafter the "Declaration").

B. Under the Declaration, the Association is responsible for the maintenance, control, operation, and management of the Common Areas in the Project. Under the Declaration, the Association is authorized to carry out through a Manager all of its functions which are properly the subject of delegation.

C. The Association deems it advisable to retain Manager for management of the Project upon the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the premises and the mutual promises set forth below, the parties agree as follows:

1. Term. The Association hereby retains Manager to be responsible and provide for the maintenance, control, operation, and management of the Common Areas and preservation of the values and amenities in the Project. The initial term of this Management Agreement shall be the twenty (20) year period which begins on the date of this Agreement. This Agreement may be terminated by Manager (with or without cause and without being subject to any penalty for termination) upon written notice of such termination to Association. The Association may not terminate this Agreement during its initial twenty (20) year term. At the end of its initial twenty (20) year term, or as of the end of any succeeding one-year term, either party (with or without cause and without payment of any termination fee) may terminate this Agreement by furnishing the other party with written notice of

termination at least ninety (90) days prior to the expiration of said term. Unless and until so terminated, this Agreement shall automatically be extended for additional consecutive one-year terms after its initial twenty (20) year term.

2. Compensation. The Association shall pay to Manager for its services under this Agreement the sum of five hundred dollars (\$500.00) per month. Said sum shall be payable on the last day of the monthly term for which payment is made. In the event Manager renders services hereunder or is entitled to receive compensation hereunder for only a portion of a monthly term, the above-stated sum shall be prorated and Manager shall receive only that portion of such monthly sum as is attributable to the number of days during which it rendered services or was entitled to compensation in the monthly term concerned. The monthly management fee set forth in the first sentence of this Paragraph 2 shall be automatically increased on each annual anniversary date of this Agreement by an amount equal to the immediately prior year's management fee multiplied by the percentage increase for such prior year in the "Consumer Price Index-Seasonally Adjusted U.S. City Average for All Items For All Urban Consumers" published by the U.S. Department of Labor (or any substantially similar replacement index); provided, however, that the Board of Trustees may for good cause shown approve additional increases in said management fee. In the event the Project is expanded to include additional Units, the monthly management fee shall be automatically increased by the percentage increase in the aggregate Size of All Units in the Project following such expansion.

3. Duties of Association. The Association shall, at the request of Manager, furnish the latter with copies of any and all documents connected with the Project which may aid Manager in carrying out its duties hereunder, including the Declaration, the Survey Map, any rules and regulations promulgated by the Association, and any written instruments executed by the Association. The Association shall timely provide Manager with any information not known to Manager which may be relevant to its performance under this Agreement. The Association shall establish and maintain a checking account in which Manager shall deposit all sums received in connection with operation and management of the Project hereunder and on which Manager shall be entitled to write checks in satisfaction of the obligations incurred by it under this Agreement. The Association shall fully cooperate with Manager in connection with the latter's performance hereunder.

4. Duties of Manager. Manager shall diligently and conscientiously maintain, control, operate, and manage the Common Areas and preserve the values and amenities in the Project, all in accordance with the terms of the Declaration, this Agreement, and all agreements lawfully entered into by the Association. Manager shall perform all of its duties hereunder as an independent contractor and in the best interests of the Association and of the Association of Unit Owners. Manager's obligations and duties under this Agreement shall be as follows:

(a) Maintenance. Manager shall maintain all parts of the Project which the Association is required to maintain. Maintenance shall be such as is reasonably necessary to keep said parts clean, functional, attractive, and generally in good condition and repair.

(b) Utility, Equipment, and Service Contracts. Manager shall enter into such contracts and shall place such orders as may be necessary to provide the Project with the utility and other services required by it and as may be necessary to obtain the equipment, tools, appliances, materials, and supplies which are required for proper maintenance.

(c) Insurance. Manager shall cause to be secured and maintained all insurance required by the Declaration, by law, and by the Association. Said insurance shall be placed with such companies, shall be in such amounts, shall be in such forms, and shall contain such provisions, as comply with the requirements of the Declaration and as are reasonably acceptable to the Association and to Mortgagees of the individual Units. Manager shall promptly investigate, and shall make a full written report to the Association concerning, any damage to the Common Areas and all accidents or claims for damage relating to management, operation, or maintenance respecting the Project. Manager shall cooperate with and make all reports required by the insurer concerned.

(d) Governmental Orders. Manager shall promptly take such action as may be necessary to comply with all lawful orders or requirements respecting the Common Areas of any federal, state, county, municipal, or other authority. Manager shall not, however, take any such action so long as the Association is contesting or affirming its intention to contest any such order or requirement. Upon its learning of any such order or requirement Manager shall promptly notify the Association thereof in writing.

(e) Tax Reports. Manager shall prepare and file all forms, reports, and returns required by law to be filed in connection with any unemployment insurance, workmen's compensation insurance, disability benefits, social security, and other similar taxes and benefits applicable to personnel involved in management, maintenance, or operation respecting the Project.

(f) Necessary Personnel. Manager shall hire, supervise, and fire such supervisory, legal, accounting, custodial, and maintenance personnel as may be required for Manager to perform its obligations under this Agreement.

(g) Annual Budget. On or before each December 15 of each year, Manager shall prepare: (i) a budget which sets forth an itemization of the Common Expenses and receipts of the Project

which are anticipated for the 12-month period commencing with the following January 1; and (ii) a written plan of operation for such fiscal year which justifies in every important particular the estimates contained in the budget. The Association may modify said budget and plan of operation or approve them in the form submitted. During the year to which it relates, the budget as approved shall serve as a supporting document for assessments levied against the Units contained in the Project. The budget shall also constitute the major guideline under which the Project shall be operated during the period covered and liabilities incurred by Manager shall not vary substantially therefrom unless the consent of the Association has first been secured; provided, however, that the Manager may incur liabilities or make commitments substantially over those provided for in the budget if such liabilities or commitments are immediately necessary due to emergency conditions. Manager shall promptly notify the Association of any such emergency commitments.

(h) Maintenance of Records. Manager shall, in accordance with Section 7.15 of the Declaration, maintain up-to-date records of the kinds described therein:

(i) Collection of Assessments. Manager shall notify each Unit Owner of the monthly and special assessments which are due from him, shall collect all assessments due from the Owners, and shall take such action, whether through legal process or otherwise, as may be necessary to collect delinquent assessments.

(j) Financial Records. Manager shall establish and maintain a comprehensive system of records showing all receipts and disbursements connected with the operation and management of the Project. All such records may be examined by the Association or its authorized agents at any reasonable time.

(k) Depository for Funds. All sums received by Manager in connection with operation and management of the Project hereunder which belong to the Association shall be deposited by Manager in the checking account established by the Association pursuant to Paragraph 3 of this Agreement. Manager shall write checks on said account covering payment for: (i) All salaries, other compensation, or expenses due and payable to the officers, agents, and employees of the Association; (ii) All compensation due and payable to all personnel employed by Manager in carrying out its obligations under this Agreement; (iii) All sums payable for equipment or materials used by Manager in carrying out its obligations under this Agreement; (iv) All premiums for insurance which is maintained in accordance with the requirements of Paragraph 4(a) of this Agreement; (v) The amounts which this Agreement requires to be paid to Manager for its services; (vi) All

other sums due and payable as liabilities authorized to be incurred by this Agreement; and (vii) All liabilities incurred by the Association on behalf of the Unit Owners.

(l) Relations with Owners. Manager shall make available (upon request) to all Unit Owners and occupants copies of any rules, regulations, and agreements which currently affect the Project. Manager shall take such action, whether by legal process or otherwise, as may be necessary to insure that all Units and the Common Areas are used and occupied in a manner consistent with law, with the terms of the Declaration, and with any rules and regulations promulgated by the Association. Manager shall maintain businesslike relations with all Unit Owners and occupants and shall receive, consider, and if proper, act upon, all requests or complaints of the Owners and occupants. Requests or complaints of a serious nature shall, after thorough investigation, be reported in writing to the Association with appropriate recommendations.

(m) Aid to Association. An appropriate officer or agent of Manager shall be in attendance at all meetings of the Board of Trustees or the Members of the Association. Manager shall freely confer with the Association in connection with performance under this Agreement and at all times shall furnish the Association with any assistance or suggestions which might aid in the proper management and operation of the Project.

(n) General. In addition to those duties which are specifically mentioned herein, Manager shall at all times do all things necessary to operate and manage the Project according to the Declaration and the policies of the Association and the interests of the Unit Owners.

5. Party Obligated for Expenses. All obligations or expenses incurred by Manager under Paragraph 4 above which are attributable to maintenance, control, operation, or management of the Project shall be for the account and at the expense of the Association. Manager shall not be required to incur any such obligation or expense without assurance that funds for the discharge thereof will be timely provided by the Association. Without limiting the breadth of the foregoing portion of this Paragraph 5, it is the intent of the Association and the Unit Owners that a significant portion of the Project be maintained, managed, controlled, and operated as a first class commercial hotel, and all expenses incurred by Manager in any way related to or connected with operating any part of the Common Areas in a manner consistent with this intent shall be Common Expenses and for the account and at the expense of the Association.

6. Interpretation. This Agreement shall be read in conjunction with the Declaration. Any term used herein which is defined in the Declaration shall, to the extent permitted by the context hereof, have the

meaning ascribed therein. The captions which precede the Paragraphs and subparagraphs of this Agreement are for convenience only and shall in no way affect the manner in which any provision hereof is construed. The invalidity or unenforceability of any provision contained in this Agreement shall not affect the validity or enforceability of the remainder hereof.

7. Assignability. Manager may assign either its rights and/or its obligations under this Agreement.

8. Notices. Any notice required or permitted to be given hereunder shall either be personally delivered or mailed postage prepaid by certified mail, return receipt requested, addressed as follows:

To the Association:

To Manager:

Either party may, by notice to the other given as prescribed in this Paragraph 8, change the above address for any future notices which are mailed under this Agreement. Any notice which is given hereunder by mail shall be considered to have been received by the addressee on the day following the date on which such notice was properly deposited in the United States mail. Any other notice shall be deemed to have been received by the party to whom directed on the day such notice is personally delivered to said party.

9. Miscellaneous. Time is the essence of this Agreement. This Agreement may not be modified or supplemented except through a writing signed by both parties.

EXECUTED the day and year first above written.

"Association ":

THE BEN LOMOND OWNERS
ASSOCIATION, a Utah nonprofit
corporation

By _____
Its _____

"Manager ":

BEN LOMOND TOWER, INC.,
a Utah corporation

By _____
Its _____