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Rec'd For: PERRY CITY

**DECLARATION FOR
HILLSIDE ORCHARD CONDOMINIUMS
AND
BYLAWS OF
HILLSIDE ORCHARD CONDOMINIUMS**

DECLARATION

FOR

HILLSIDE ORCHARD CONDOMINIUMS

ARTICLE I

SUBMITTAL; DEFINED TERMS

Section 1.1. Submittal of Property. J. Brad Barto, owner in fee simple of the land described as follows:

All of lot 2, Heritage Subdivision, Township 9 North, Range 2 West, Salt Lake Base & Meridian, Perry City, Box Elder County, Utah.

Land Serial Number 03-158-0094.

("Land"), hereby submits the Land, together with all improvements, easements, rights and appurtenances thereunto belonging ("Property") to the provisions of The Utah Condominium Ownership Act §§ 57-8-3 through 57-8-36, UTAH CODE ANN., 1953 (as amended) ("The Act") and hereby creates with respect to the property a condominium project to be known as HILLSIDE ORCHARD CONDOMINIUMS.

Section 1.2 Defined Terms.

(a) Terms not otherwise defined herein or in the Bylaws attached hereto as Exhibit A or in the Record of Survey Map ("Map") recorded contemporaneously herewith as the same may be amended from time to time, shall have the meaning specified in The Act.

(b) "Mortgagee" means an institutional lender holding a first deed of trust of first mortgage encumbering a unit.

(c) "Declarant Control Period" means the period ending the earliest of: (1) the second anniversary of the date the Declarant ceases to be the only unit owner, (2) the date when the Declarant ceases to own units to which a total of at least one-fourth of the interests in the common areas and facilities are allocated, or (3) the date the Declarant otherwise voluntarily relinquishes control.

ARTICLE 2BUILDINGS ON THE LAND; UNIT BOUNDARIES

Section 2.1 Location and Dimensions of the Buildings. The location and dimensions of each building on the Land are depicted on the Map.

Section 2.2. Units. The location of units within the building and their dimensions are shown on the Map. The "size" of each unit is the total number of square feet contained therein determined by reference to the dimensions shown on the Map.

Section 2.3. Unit Boundaries. The boundaries of each unit are as follows:

(a) Upper and Lower (horizontal) Boundaries: The upper and lower boundaries of the unit shall be the following boundaries extended to an intersection with the vertical (perimetric) boundaries:

(1) Upper Boundary: The horizontal plane of the undecorated bottom surface of the ceiling.

(2) Lower Boundary: The horizontal plane of the undecorated top surface of the floor.

(b) Vertical (perimetric) Boundaries: The vertical boundaries of the unit shall be the vertical plane which includes the back surface of the plasterboard of all walls bounding the unit extended to intersections with each other and with the upper and lower boundaries.

(c) Any portion of a utility system or other apparatus serving more than one unit (e.g., pipes, conduits, ducts) which is partially within and partially without the unit, is part of the common elements. Any portion of a utility system serving only one unit which is located outside the unit is a limited common element appurtenant to that unit.

Section 2.4. Maintenance Responsibilities. Notwithstanding the ownership of the various portions of the common elements and the units by virtue of the foregoing boundary description, the provisions of the Bylaws shall govern the division of maintenance and repair responsibilities between the unit owner and the Association.

Section 2.5. Relocation of Unit Boundaries and Subdivision of Units. Relocation of boundaries between units and subdivision of units is not permitted.

ARTICLE 3COMMON AREAS AND FACILITIES

Section 3.1. Limited Common Areas and Facilities. The location of the limited common areas and facilities to which each unit has direct access are shown on the Map. The limited common areas and facilities include balconies, patios, parking areas and porches which are appurtenant to the unit or units to which assigned.

Section 3.2. Common Areas. The common areas and facilities are as designated on the Map and include the stairways, driveways, landscaped areas and walkways.

Section 3.3. Percentage of Ownership in Common Areas. Subject to the provisions of Article 9, the percentage of ownership in the common areas for all purposes attributable to each unit is 12½%, and shall be appurtenant to each unit and shall pass with the title to each unit, and shall not be further fractionalized.

ARTICLE 4EASEMENTS

In addition to the easements created by the Act, the following easements are hereby granted:

Section 4.1. Easement to Facilitate Sales. All units shall be subject to an easement in favor of the Declarant pursuant to the Act. The Declarant reserves the right to use any units owned or leased by the Declarant as models, management offices, sales offices (for this and other projects) or customer service offices. The Declarant reserves the right to relocate the same from time to time within the Property; upon relocation, the furnishings thereof may be removed. The Declarant further reserves the right to maintain on the Property such advertising signs as may comply with applicable governmental regulations, which may be placed in any location on the Property and may be relocated or removed, all at the sole discretion of the Declarant. The Declarant shall have the right to restrict the use of certain common element parking spaces for sales purposes and to use such spaces for sales purposes. Further, the Declarant shall have the right to erect temporary offices on certain common elements for models, sales, management, customer service and similar purposes. The reservation of this easement to facilitate sales also applies to the additional land. This easement shall continue until the Declarant has conveyed all units in the condominium to unit owners other than the Declarant.

Section 4.2. Easement for Access and Support.

(a) Access. The Declarant reserves in favor of the Declarant and the Managing Agent and/or any other person authorized by the Management Committee the right of reasonable access to any unit and the common elements. In case of emergency, such entry shall be immediate whether or not the unit owner is present at the time. Further, until the expiration of the warranty period, such entry shall be permitted to perform warranty-related work (for the benefit of the unit being entered, other units or common areas and facilities) whether or not the unit owner consents or is present at the time.

(b) Support. Each unit and common element shall have an easement for lateral and subjacent support from every other unit and common element.

Section 4.3. Right to Grant Easements. The Declarant shall have the right, prior to the termination of the Declarant Control Period, and the Management Committee thereafter, to grant and reserve easements and rights-of-way through, under, over and across the Property for construction purposes, and for the installation, maintenance and inspection of the lines and appurtenances for public or private water, sewer, drainage, gas electricity, telephone and other utilities.

ARTICLE 5

AMENDMENT TO CONDOMINIUM
INSTRUMENTS; REQUIRED CONSENT

Except as provided at Article 9, no amendment of the Declaration may be made without the prior written approval of the required percentage of Mortgagees where such approval is provided for in Section 8.5 of the Bylaws or where such approval is required elsewhere in the condominium instruments or by The Act. No amendment shall be made to any condominium instrument during the Declarant Control Period without the prior written consent of the Declarant. No amendment to the condominium instruments shall diminish or impair the rights of the Declarant under the condominium instruments without the prior written consent of the Declarant. No amendment may modify this Article or the rights of any person hereunder. Except as specifically provided in the condominium instruments, no provision of the condominium instruments shall be construed to grant to any unit owner, or to any other person, any priority over any rights of Mortgagees.

ARTICLE 6

RIGHT TO LEASE OR SELL UNITS

The Declarant shall own in fee simple each condominium unit to which legal title is not conveyed or otherwise transferred to another person. The Declarant retains the right to enter into leases with any persons for the occupancy of any of the units owned by the Declarant.

ARTICLE 7

SPECIAL DECLARANT RIGHTS; TRANSFER

Section 7.1. Special Declarant Rights. Special declarant rights are those rights reserved for the benefit of the Declarant as provided for in The Act and the condominium instruments, and shall include without limitation the following rights: (a) to complete improvements indicated on the Map filed with the Declaration; (b) to maintain sales offices, management offices, customer service offices, signs, advertising the project and models; (c) to use easements through the common elements for the purpose of making improvements within the project; and (d) to appoint or remove any officer of the Association or director during the Declarant Control Period.

Section 7.2. Transfer of Special Declarant Rights.

(a) No special declarant rights created or reserved under The Act or as provided for in the condominium instruments may be transferred except by an instrument evidencing the transfer recorded in the land records where the condominium instruments are recorded. The instrument is not effective unless executed by the transferor and transferee.

(b) Upon transfer of any special declarant right, the liability of a transferor declarant is as follows:

(1) A transferor is not relieved of any obligation or liability arising before the transfer and remains liable for warranty obligations imposed upon him by The Act. Lack of privity (direct contractual relationship) does not deprive any unit owner of standing to bring an action to enforce any obligation of the transferor.

(2) If the successor to any special declarant right is an affiliate of a declarant, the transferor is jointly and severally liable with the successor for any obligation or liability of the successor which relates to the project.

(3) If a transferor retains any special declarant rights, but transfers other special declarant rights to a successor who is not an affiliate of the Declarant, the transferor is also liable for any obligations and liabilities relating to the retained special declarant rights, imposed on a declarant by The Act or by the condominium instruments arising after the transfer.

(4) A transferor has no liability for any act or omission, or any breach of contractual or warranty obligation arising from the exercise of a special declarant right by a successor declarant who is not an affiliate of the transferor.

(c) Unless otherwise provided in the Mortgage, in case of foreclosure of the Mortgage (or deed in lieu of foreclosure), tax sale, judicial sale, sale by a trustee under a deed of trust, or sale under Bankruptcy Code or receivership proceedings, of any units owned by a declarant in the condominium, additional land or convertible land, a person acquiring title to all the units, additional land or convertible land being foreclosed or sold, but only upon his request, succeeds to all special declarant rights related to such units or land, or only to any rights reserved in the condominium instruments to maintain models, sales offices, customer service offices and signs. The judgment or instrument conveying title shall provide for transfer of only the special declarant rights requested.

(d) Upon foreclosure (or deed in lieu of foreclosure), tax sale, judicial sale, sale by a trustee under a deed of trust, or sale under Bankruptcy Code or receivership proceedings, of all units and other land in a Condominium owned by a declarant: (1) the declarant ceases to have any special declarant rights, and (2) The Declarant Control Period as provided in The Act terminates unless the judgment or instrument conveying title provides for transfer of all special declarant rights held by that declarant to a successor declarant.

(e) The liabilities and obligations of persons who succeed to special declarant rights are as follows:

(1) A successor to any special declarant right who is an affiliate of a declarant is subject to all obligations and liabilities imposed on any declarant by The Act or by the condominium instruments.

(2) A successor to any special declarant right, other than a successor described in paragraphs (3) or (4) of this subsection, who is not an affiliate of the Declarant, is subject to all obligations and liabilities imposed by The Act or the condominium instruments: (A) on a declarant which relate to his exercise or non-exercise of special declarant rights; or (B) on the transferor, other than (i) misrepresentations by any previous declarant; (ii) warranty obligations on improvements made by any

previous declarant, or made before the project was created; (iii) breach of any fiduciary obligation by any previous declarant or appointees of the Management Committee; or (iv) any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions after the transfer.

(3) A successor to only a right reserved in the condominium instruments to maintain models, sales offices, customer service offices and signs, if he is not an affiliate of a declarant, may not exercise any other special declarant right, and is not subject to any liability or obligation as a declarant, except the obligation to provide a public offering statement and any liability arising as a result thereof.

(4) A successor to all special declarant rights held by the transferor who is not an affiliate of that declarant and who succeeded to those rights pursuant to a deed in lieu of foreclosure or a judgment or instrument conveying title to units under subsection (c), may declare the intention in a recorded instrument to hold those rights solely for transfer to another person. Thereafter, until transferring all special declarant rights to any person acquiring title to any unit owned by the successor, or until recording an instrument permitting exercise of all those rights, that successor may not exercise any of those rights other than any right held by the transferor to control the Management Committee in accordance with the provisions of The Act and the condominium instruments for the duration of any Declarant Control Period, and any attempted exercise of those rights is void. So long as a successor declarant may not exercise special declarant rights under this subsection, he is not subject to any liability or obligation as a declarant other than liability for the successor's acts and omissions under general law.

(f) Nothing in this Article subjects any successor to a special declarant right to any claims against or other obligations of a transferor declarant, other than claims and obligations arising under The Act or the condominium instruments.

ARTICLE 8

NO OBLIGATIONS

Nothing contained in the condominium instruments shall be deemed to impose upon the Declarant or its successors or assigns any obligation of any nature to build, renovate or provide any improvements except to the extent required by The Act.

ARTICLE 9EXPANSION

Section 9.1. Reservation of Right to Expand. Declarant hereby reserves the right to expand the condominium project, without the consent of unit owners, to include additional structures and units which shall be compatible with the structures and units of this present project in terms of quality of construction, the principal materials to be used and architectural style. The total number of new units which may be constructed pursuant to an expansion of the condominium project shall be determined by the Declarant without the consent of the unit owners.

Section 9.2. Supplemental Declarations and Supplemental Maps. Such expansion may be accomplished by the filing for record by Declarant in the office of the County Recorder of Box Elder County, Utah, no later than seven (7) years from the date this Declaration is recorded in said office, a supplement or supplements to this Declaration containing a legal description of the site or sites for new units, together with supplemental Map or Maps containing the same information with respect to the new units as was required on the original Map with respect to the initial units. The expansion may be accomplished in phases by successive supplements or in one supplemental expansion.

Section 9.3. Expansion of Provisions. In the event of such expansion, the provisions used in this Declaration automatically shall be expanded to encompass and refer to the project as so expanded, and reference to this Declaration shall mean this Declaration as so supplemented. All conveyances of units after such expansion shall be effective to transfer rights in the project, as expanded, by use of the forms of description set forth herein, with additional references to the supplemental declarations and the supplemental Maps. The recordation in the office of the Box Elder County Recorder, Brigham City, Utah, of a supplemental Map incident to any expansion shall operate automatically to grant, transfer and convey pro tanto to then owners of units in the project as a result of such expansion, and to reduce pro tanto their percentage or interest in the original condominium property as it then exists. Substantially identical units in all phases will be awarded substantially identical interest in the common area. Such recordation shall also operate to vest in any then mortgagee of any unit in the project as it exists such interest so acquired by the owner of the unit encumbering the new common areas added to the project as a result of such expansion, and to conform the percentage interests of unit owners and mortgagees to the interests set forth in the supplemental Declaration.

Section 9.4. Declaration Operative on New Units. The new units shall be subject to all the terms and conditions of this Declaration and of a supplemental Declaration, and the units therein shall be subject to condominium ownership with all the incidents pertaining thereto as specified herein, upon filing the supplemental Map and supplemental Declaration in the said office of the Box Elder County Recorder.

Section 9.5. Right of Declarant to Adjust Percentages of Common Areas. Each deed of a unit shall be deemed to irrevocably reserve to Declarant the power to appoint to unit owners, from time to time, the percentages in the common areas set forth in supplemental or amended Declarations. A power coupled with an interest is hereby granted to Declarant, as attorney in fact, to shift percentages of the common areas and facilities in accordance with supplemental or amended Declarations recorded pursuant hereto and each deed of a unit in the project shall be deemed a grant of such power of said attorney in fact. Various provisions of this Declaration and deeds and mortgages of the units may contain clauses designed to accomplish a shifting of the common areas. None of said provisions shall invalidate the other, but each shall be deemed supplementary to the other toward the end that a valid shifting of the common areas and facilities can be accomplished. The maximum interest in the common areas of unit owners in this project shall be as indicated in the Declaration. Furthermore, all unit owners in this project shall have a maximum interest in the common areas of 12 1/2% and a minimum interest in the common areas as represented by the sum of a calculation derived by using the total number of units in the condominium project, including expansions, as the numerator and one hundred as the denominator.

Section 9.6. Miscellaneous.

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

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

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

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IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed by its principal officer, this 21st day of December, 1999.

J. Brad Barto

J. BRAD BARTO

STATE OF UTAH }
 ss:
COUNTY OF WEBER }

SUBSCRIBED AND SWORN to before me J. BRAD BARTO, to me well known and known to me to be the person described in and who executed the foregoing instrument and acknowledged to and before me that he executed the said instrument for the purposes therein expressed.

 NOTARY PUBLIC
12031
S. 12031
Rm. 104302
Commission Expires
May 25th, 2001
UTAH

Susan Wyatt

Notary Public

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BYLAWS
OF
HILLSIDE ORCHARD CONDOMINIUMS

ARTICLE 1

General Provisions

Section 1.1. APPLICABILITY. These Bylaws provide for the governance of the Condominium pursuant to the requirements of 57-8-1, et. seq., [the "Condominium Act"]. The property, located in Perry, State of Utah and more particularly described in the Declaration, has been submitted to the provisions of the Condominium Act by recordation simultaneously herewith of the Declaration among the land records of Box Elder County, Utah.

Section 1.2. OFFICE. The office of the Project, the Unit Owners Association and the Management Committee shall be located at the property or at such other place as may be designated from time to time by the Management Committee.

Section 1.3. DEFINITIONS. Terms used herein without definition shall have the meanings specified for such terms in the Declaration to which these Bylaws are attached as Exhibit A, or if not defined therein, the meanings specified for such terms in The Condominium Ownership Act, §§ (57-8-3 through 57-8-36, UTAH CODE ANN., 1953 as amended) hereinafter referred to as "The Act". The following terms have the following meanings in the condominium instruments:

(a) "Management Committee" or "Committee" means the executive organ established pursuant to Article 3 of these Bylaws.

(b) "Common Element Interest" means the number assigned to each unit by the Declaration which establishes each Unit's undivided interest in the common elements, common expenses and common profits and votes in the Unit Owners Association.

(c) "Declarant Control Period" means the period prior to the earlier of (i) the date on which units to which seventy-five percent or more of the aggregate Common Element Interests appertain have been conveyed to unit owners other than the Declarant or (ii) five years after the date on which the first condominium unit has been conveyed to a unit owner other than the Declarant (the maximum period permitted by The Act). For the purposes of the preceding sentence, the calculation of Common Element Interests shall be based, at any given time, on the common Element Interests to be assigned to all units then recorded at the office of the Box Elder County Recorder.

(d) "Limited Common Expenses" means expenses separately assessed against more than one but less than all of the condominium units generally in accordance with the use of the services, as permitted by The Act.

(e) "Majority Vote" means a vote by those unit owners owning condominium units to which more than fifty percent of the aggregate Common Element Interest actually voted in person or by proxy at a duly convened meeting at which a quorum is present. Any specified percentage vote of the unit owners shall mean a vote by the unit owners owning condominium units to which such percentage of Common Element Interests appertain with respect to the total Common Element Interests voting at such a meeting. Any specified percentage vote of the Mortgagees shall mean a vote by the Mortgagees of condominium units to which such percentage of the total number of votes appertain.

(f) "Mortgagee" means an institutional lender holding a first mortgage or first deed of trust ("Mortgage") encumbering a condominium unit in the Project which has notified the Unit Owners Association of its status and has requested all rights under the condominium instruments. For purposes of Article 8 only, when any right is to be given to a Mortgagee, the Management Committee shall also give such right to the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Veterans Administration, the Federal Housing Administration, the Farmer's Home Administration, the Government National Mortgage Association and any other public or private secondary mortgage market entity participating in the purchasing or guarantying mortgages if the Committee has notice of such participation.

(g) "Officer" means any person holding office pursuant to Article 4 of these Bylaws, but contrary to The Act, shall not mean members of the Management Committee unless such committee members are also officers pursuant to Article 4.

(h) "Reserved Common Element" means a common element in which the Management Committee has granted a revocable license for exclusive use by less than all of the unit owners.

(i) "Unit Owners Association" or "Association" means the unincorporated, non-profit association of all of the unit owners owning condominium units in the Project.

ARTICLE 2

Unit Owners Association

Section 2.1. COMPOSITION. The Unit Owners Association shall consist of all of the unit owners. The name of the Unit Owners Association shall be the name of the Project followed by the words "Unit Owners Association". For all purposes, the Unit Owners Association shall act merely as an agent for the unit owners as a group. The Unit Owners Association shall have the responsibility of administering the Project establishing the means and methods of collecting assessments and charges, arranging for the management of the Condominium and performing all of the other acts that may be required or permitted to be performed by the Association by the Condominium Act and the Declaration. Except as to those matters which the Condominium Act specifically requires to be performed by the vote of the Association, the foregoing responsibilities shall be performed by the Management Committee or managing agent as more particularly set forth in Article 3 of these Bylaws.

Section 2.2. ANNUAL MEETINGS. The annual meetings of the Association shall be held at least seventy-five days before the beginning of each fiscal year, unless such date shall occur on a Saturday or Sunday or legal holiday, in which event, the meeting shall be held on the succeeding Monday. At such annual meetings the Management Committee shall be elected by ballot of the unit owners in accordance with the requirements of Section 3.4 of these Bylaws. During the Declarant Control Period, the Declarant shall be entitled to designate members of the Management Committee not elected pursuant to Section 2.4 of these Bylaws.

Section 2.3 PLACE OF MEETING. Meetings of the Unit Owners Association shall be held at the principal office of the Association or at such other suitable place convenient to the unit owners as may be designated by the Management Committee.

Section 2.4 SPECIAL MEETINGS. (a) The President shall call a special meeting of the Unit Owners Association if so directed by resolution of the Management Committee or; after the termination of the Declarant Control Period; upon a petition signed and presented to the Secretary by unit owners of not less than twenty-five percent of the aggregate Common Element Interests. The notice of any special meeting shall state the time, place and purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

(b) Not later than the termination of the Declarant Control Period, a special meeting of the Unit Owners Association shall be held at which a majority of the committee members shall be elected by the unit owners, including the Declarant if the Declarant owns one or more units. If such election is held prior to the time required by this Section, the committee members elected

at such election shall not take office until the earlier of the time such election is required to be held or resignation of a director appointed by the Declarant without appointment of a replacement within ten days. The elected committee members shall assume office in the order of the highest number of votes received. Any remaining committee members designated by the Declarant shall continue to serve until their terms expire.

Section 2.5 NOTICE OF MEETINGS. The Secretary shall mail to each unit owner a notice of each annual or regularly scheduled meeting of the unit owners at least twenty-one but not more than thirty days and of each special meeting of the unit owners at least seven but not more than thirty days, prior to such meeting, stating the time, place and purpose thereof. The mailing of a notice of meeting in the manner provided in this section and Section 11.1 of these Bylaws shall be considered service of notice.

Section 2.6 QUORUM AND ADJOURNMENT OF MEETINGS. Except as otherwise provided in these Bylaws, the presence in person or by proxy of twenty-five percent or more of the unit owners shall constitute a quorum at all meetings of the Unit Owners Association. If at any meeting of the Unit Owners Association a quorum is not present, unit owners of a majority of the Common Element Interests who are present at such meeting in person or by proxy may adjourn the meeting to a time not less than forty-eight hours after the time the original meeting was called.

Section 2.7 ORDER OF BUSINESS. The order of business at all meetings of the Unit Owners Association shall be as follows: (a) roll call (proof of quorum); (b) proof of notice of meeting; (c) reading of minutes of proceeding meeting; (d) reports of officers; (e) report of Management Committee; (f) reports of committees; (g) election or appointment of inspectors of election (when so required); (h) election of members of the Management Committee (when so required); (i) unfinished business; and (j) new business.

Section 2.8 CONDUCT OF MEETINGS. The President shall preside over all meetings of the Unit Owners Association and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring thereafter. The President may appoint a person to serve as parliamentarian at any meeting of the Unit Owners Association. The then current edition of Robert's Rules of Order shall govern the conduct of all meetings of the Unit Owners Association when not in conflict with the Condominium Act or the condominium instruments. All votes shall be tallied by tellers appointed by the President or other officer presiding over the meeting.

Section 2.9 VOTING. (a) Voting at all meetings of the Unit Owners Association shall be on a percentage basis and the percentages of the vote to which each unit owner is entitled shall be the Common Element Interest assigned to his unit in the Declaration. Otherwise, where the ownership of a unit is in more than one person, the person who shall be entitled to cast the vote of such unit shall be the person named in a certificate executed by all of the owners of such unit and filed with the Secretary or, in the absence of such named person from the meeting, the person who shall be entitled to cast the vote of such unit shall be the person owning such unit who is present. If more than one person owning such unit is present, then such vote shall be cast only in accordance with their unanimous agreement pursuant to The Act. Such certificate shall be valid until revoked by a subsequent certificate similarly executed. Subject to the requirements of The Act, wherever the approval or disapproval of a unit owner is required by the Condominium Act or the condominium instruments, such approval or disapproval shall be made only by the person who would be entitled to cast the vote of such unit at any meeting of the Unit Owners Association.

(b) Except where a greater number is required by the Condominium Act or the condominium instruments, a Majority Vote is required to adopt decisions at any meeting of the Unit Owners Association. If the Declarant owns or holds title to one or more units, the Declarant shall have the right at any meeting of the Unit Owners Association to cast the votes to which such unit or units are entitled.

(c) No unit owner may vote at any meeting of the Unit Owners Association or be elected to or serve on the Management Committee if payment of the assessment on his unit is delinquent more than thirty days and the amount necessary to bring his account current has not been paid at the time of such meetings or election. There shall be no cumulative voting.

Section 2.10 PROXIES. A vote may be cast in person or by proxy. Such proxy may be granted by any unit owner in favor of only another unit owner, the Declarant or his Mortgagee, or in the case of a non-resident unit owner, the lessee of such unit owner's unit, his attorney or management agent; provided, however, that no person other than the Declarant, the managing agent or an officer of the Project shall cast votes as a proxy for more than one unit not owned by such person. Proxies shall be duly executed in writing, shall be witnessed, shall be valid only for the particular meeting designated therein and must be filed with the Secretary before the appointed time of the meeting. Such proxy shall be deemed revoked only upon actual receipt by the person presiding over the meeting of notice of revocation from any of the persons owning such unit. Except with respect to proxies in favor of a Mortgagee, no proxy shall in any event be valid for a period in excess of one hundred and eighty days after the execution thereof.

ARTICLE 3Management Committee

Section 3.1 POWERS AND DUTIES. The Management Committee shall have all of the powers and duties necessary for the administration of the affairs of the Unit Owners Association and may do all such acts and things as are not by the Condominium Act or the condominium instruments required to be exercised and done by the Association. The Management Committee shall have the power from time to time to adopt any rules and regulations deemed necessary for the benefit and enjoyment of the Project; provided, however, that such rules and regulations shall not be in conflict with the Condominium Act or the condominium instruments. The Management Committee shall delegate to one of its members or to a person employed for such purposes the authority to act on behalf of the Committee on such matters relating to the duties of the managing agent (as defined in Section 3.2 hereof), if any, which may arise between meetings of the Committee as the Committee deems appropriate. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Committee shall on behalf of the Association:

- (a) Prepare and adopt an annual budget, in which there shall be expressed the assessments of each unit owner for the common expenses.
- (b) Make assessments against unit owners to defray the costs and expenses of the Project, establish the means and methods of collecting such assessments from the unit owners and establish the period of the installment payment of the annual assessment for common expenses.
- (c) Provide for the operation, care, upkeep and maintenance of all of the Property and services of the Project.
- (d) Designate, hire and dismiss the personnel necessary for the maintenance, operation, repair and replacement of the common elements and provide services for the Property and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties, which supplies and equipment shall be deemed part of the Property.
- (e) Collect the assessments against the unit owners, deposit the proceeds thereof in bank depositories designated by the Management Committee and use the proceeds to carry out the administration of the Property.
- (f) Make and amend the rules and regulations.

(g) Open bank accounts on behalf of the Unit Owners Association and designate the signatories thereon.

(h) Make or contract for the making of, repairs, additions and improvements to or alterations of the Property, and repairs to and restoration of the Property, in accordance with these Bylaws, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.

(i) Enforce by legal means the provisions of the Declaration, these Bylaws and the rules and regulations, acting out of any eminent domain proceeding, and notify the unit owners of any litigation against the Unit Owners Association.

(j) Obtain and carry insurance against casualties and liabilities, as provided in Article 6 of these Bylaws, pay the premiums thereof and adjust and settle any claims thereunder.

(k) Pay the cost of all authorized services rendered to the Unit Owners Association and not billed to unit owners of individual units or otherwise provided for in Section 5.1 and 5.2 of these Bylaws.

(l) Keep books with detailed accounts in chronological order of the receipts and expenditures affecting the Property, and the administration of the Project, specifying the expenses of maintenance and repair of the common elements and any other expenses incurred. Such books and vouchers accrediting the entries therein shall be available for examination by the unit owners, their attorneys, accountants, Mortgagees and authorized agents during general business hours on business days at the times and in the manner set and announced by the Management Committee for the general knowledge of the unit owners. All books and records shall be kept in accordance with generally accepted accounting principles and the same shall be audited at least once each year by an independent auditor retained by the Management Committee who shall not be a resident of the Project or a unit owner. The cost of such audit shall be a common expense.

(m) Notify a Mortgagee of any default hereunder by the unit owner of the unit subject to such Mortgage, in the event such default continues for a period exceeding sixty days.

(n) Borrow money on behalf of the Project when required in connection with any one instance relating to the operation, care, upkeep and maintenance of the common elements; provided, however, that the consent of at least two-thirds in number and in Common Element Interest of all unit owners, obtained either in writing or at a meeting duly called and held for such purpose in accordance with the provisions of these Bylaws, shall be required to borrow any sum in excess of ten thousand dollars. If any sum

borrowed by the Management Committee on behalf of the Project pursuant to the authority contained in this subsection (n) is not repaid by the Unit Owners Association, a unit owner who pays to the creditor a percentage of the total amount due equal to his Common Element Interest in the Project shall be entitled to obtain from the creditor a release of any judgment or other lien which such creditor shall have filed or shall have the right to file against such unit owner's condominium unit, and the Association shall not be entitled to assess his unit for payment of the remaining amount due such creditors.

(o) Acquire, hold and dispose of condominium units and mortgage the same if such expenditures and hypothecations are included in the budget adopted by the Unit Owners Association.

(p) In its sole discretion, from time to time, to designate certain common elements as Reserved Common Elements and impose such restrictions and conditions on the use thereof as the Management Committee deems appropriate.

(q) Do such other things and acts not inconsistent with the Condominium Act or the condominium instruments which the Management Committee may be authorized to do by a resolution of the Unit Owners Association.

Section 3.2 MANAGING AGENT. The Management Committee may employ for the Project a "managing agent" at a compensation to be established by the Committee.

(a) REQUIREMENTS. The managing agent shall be a bona fide business enterprise, unaffiliated with the Declarant, which manages common interest residential communities. Such firm or its principals shall have a minimum of two years experience in real estate community management and shall employ persons possessing a high level of competence in the technical skills necessary to proper management of the Project. The managing agent must be able to advise the Management Committee regarding the administrative operation of the Project and shall employ personnel knowledgeable in the areas of condominium insurance, accounting, contract negotiation, labor relations and condominium regulation.

(b) DUTIES. The managing agent shall perform such duties and services as the Management Committee shall direct. Such duties and services may include, without limitation, the duties listed in subsection 3.1 (a), (c), (d), (e), (h), (i), (j), (k), (l), (m) and (q). The Management Committee may delegate to the managing agent all of the powers granted to the Management Committee by these Bylaws other than the powers set forth in subsection 3.1 (b), (f), (g), (n), (o) and (p). The managing agent shall perform the obligations, duties and services relating to the management of the property, the rights of Mortgagees and the maintenance of reserve funds in compliance with these Bylaws.

(c) STANDARDS. The Management Committee shall impose appropriate standards of performance upon the managing agent. Unless the managing agent is instructed otherwise by the Management Committee:

(1) the accrual method of accounting shall be employed and expensed required by these Bylaws to be charged to more than one but less than all unit owners shall be accounted for separately;

(2) two or more persons shall be responsible for handling cash and as account signatories to maintain adequate financial control procedures;

(3) cash accounts of the Unit Owners Association shall not be commingled with any other accounts;

(4) no remuneration shall be accepted by the managing agent from vendors, independent contractors or others providing goods or services to the Unit Owners Association whether in the form of commissions, finders fees, service fees or otherwise; any discounts received shall benefit the Association;

(5) any financial or other interest which the managing agent may have in any firm providing goods or services to the Unit Owners Association shall be disclosed promptly to the Management Committee; and

(6) a monthly financial report shall be prepared for the Unit Owners Association containing:

(A) an "income statement" reflecting all income and expense activity for the preceding month on an accrual basis;

(B) an "account activity statement" reflecting all receipt and disbursement activity for the preceding month on a cash basis;

(C) an "account status report" reflecting the status of all accounts in an "actual" versus "projected" (budget) format;

(D) a "balance sheet" reflecting the financial condition of the Unit Owners Association on an unaudited basis;

(E) a "budget report" reflecting any actual or pending obligations which are in excess of budgeted amounts by an amount exceeding the operating reserves or ten percent of a major budget category (as distinct from a specific line item in an expanded chart of accounts); and

(F) a "delinquency report" listing all unit owners who are delinquent in paying condominium assessments and describing the status of any actions to collect such assessments.

(d) LIMITATIONS. During the Declarant Control Period, the Management Committee shall employ a managing agent for a term not to exceed one year. The Unit Owner Association and the Management Committee shall not undertake "self-management" or fail to employ a managing agent without the consent of at least sixty seven percent of the unit owners and at least fifty one percent of the Mortgagees. Any contract with the managing agent must provide that it may be terminated, without payment of a termination fee, without cause on no more than ninety days written notice and with cause on no more than thirty days written notice.

Section 3.3 NUMBER AND TERM OF OFFICE.

(a) DESIGNATED MEMBERS. The initial Management Committee shall consist of no less than three nor more than seven persons, all of whom shall be designated by the Declarant. The term of office of at least two directors shall expire at the third annual meeting; the term of office of up to three additional directors shall expire at the second annual meeting; and the term of office of any other committee members shall expire at the first annual meeting. The term of each designee shall be fixed by the Declarant. At the special meeting required by subsection 2.4(b), a number of the committee members designated by the Declarant shall resign if necessary so that a majority of the committee members shall have been elected in accordance with subsection 2.4(b). The persons elected shall serve for the remainder of the terms of office of the resigning directors who such persons replace, or if no resignation was required, for the terms of office necessary so that the term of office of three committee members shall expire at each of the first three annual meetings after their election. The directors receiving the greatest vote shall be elected for the longest available terms. At the expiration of the term of office of all directors designated by the Declarant or elected at the special meeting held pursuant to the subsection 2.4(b), all successor committee members shall be elected to serve for a term of three years.

(b) ELECTED MEMBERS. No later than the first annual meeting of the Unit Owners Association, the Management Committee shall be composed of seven persons, all of whom shall be unit owners, Mortgagees (or designees of Mortgagees) or designees of the Declarant. Except for resignation or removal, the directors shall hold office until their respective successors shall have been elected by the Unit Owners Association.

Section 3.4 ELECTION OF COMMITTEE MEMBERS.

(a) ELECTIONS COMMITTEE. At least ninety days prior to the special meeting required by subsection 2.4(b) of these Bylaws and each annual meeting of the Unit Owners Association, the Management Committee shall appoint an Elections Committee consisting of a member of the Committee whose term is not then expiring and at least three other unit owners. The Elections Committee shall develop election procedures and administer such procedures as are approved by the Committee.

(b) NOMINATIONS. Persons qualified to be directors may be nominated for election only by a nominating petition submitted to the chairman of the Elections Committee at least thirty five days before the meeting at which the election is to be held, signed by unit owners representing at least twenty units and either signed by the nominee or accompanied by a document signed by the nominee indicating the willingness to serve as a member; provided, however, that additional nominations may be made from the floor at the meeting at which the election is held for each vacancy on the Management Committee for which no more than one person has been nominated by petition. The nominee must either be present and consent to the nomination or have indicated in writing the willingness to serve. This subsection (b) does not apply to persons appointed to the Committee by the Declarant.

(c) QUALIFICATIONS. No person shall be eligible for election as a member of the Management Committee unless such person is (alone or together with one or more other persons) a unit owner. No person shall be elected as a committee member or continue to serve as a committee member if he is more than thirty days delinquent in financial obligations to the Unit Owners Association.

Section 3.5 REMOVAL OR RESIGNATION OF COMMITTEE MEMBERS. Except with respect to committee members designated by the Declarant, at any regular or special meeting duly called, any one or more of the directors may be removed with or without cause by a Majority Vote and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the unit owners shall be given at least seven days notice of the time, place and purpose of the meeting and shall be given an opportunity to be heard at the meeting. A committee member may resign at any time and except for a committee member designated by the Declarant, shall be deemed to have resigned upon disposition of such committee member's unit as provided for officers in The Act, or if not in attendance at three consecutive regular meetings of the Committee, unless the minutes reflect consent to such absence.

Section 3.6 VACANCIES. Vacancies in the Management Committee caused by any reason other than the removal of a committee member by a vote of the Unit Owners Association shall be filled by a vote of a majority of the remaining committee members at a special meeting of the Committee held for such purpose promptly after the occurrence of any such vacancy, even though the committee members present at such meeting may constitute less than a quorum. Each person so elected shall be a committee member until a successor shall be elected at the next annual meeting of the Association. During the Declarant Control Period, the Declarant shall designate the successor to any committee member previously designated by the Declarant who resigns or is removed.

Section 3.7 ORGANIZATION MEETING. The first meeting of the Management Committee following the annual meeting of the Unit Owners Association shall be held within thirty days thereafter at such time and place as shall be fixed by the Association at the meeting at which such Management Committee shall have been elected, and no notice shall be necessary to the newly-elected committee members in order to legally constitute such meeting, providing a majority of the whole Management Committee is present at the meeting.

Section 3.8 REGULAR MEETINGS. Regular meetings of the Management Committee may be held at such time and place as shall be determined, from time to time, by a majority of the committee members, but such meetings shall be held at least once every four months during each fiscal year. Notice of regular meetings of the Management Committee shall be given to each committee member, personally or by mail, telephone or facsimile, at least three business days prior to the day named for such meeting.

Section 3.9 SPECIAL MEETINGS. Special meetings of the Management Committee may be called by the President on three business days notice to each committee member, given personally or by mail, telephone or facsimile, which notice shall state the time, place and purpose of the meeting. Special meetings of the Management Committee shall be called by the President or Secretary in like manner and on like notice on the written request of at least three committee members.

Section 3.10 WAIVER OF NOTICE. Any committee member may at any time, in writing, waive notice of any meeting of the Management Committee and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a committee member, in person or by telephone communication, at any meeting of the Management Committee shall constitute a waiver of notice by him of the time, place and purpose of such meeting. If all directors are present at any meeting of the Management Committee, no notice shall be required and any business may be transacted at such meeting.

Section 3.11 QUORUM OF MANAGEMENT COMMITTEE. At all meetings of the Management Committee a majority of the committee members shall constitute a quorum for the transaction of business and the votes of a majority of the committee members present at a meeting at which a quorum is present shall constitute the decision of the Management Committee. If, at any meeting of the Management Committee there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. Any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice. A committee member who participates in a meeting by means of telephone communication shall be deemed present at the meeting for all purposes.

Section 3.12 COMPENSATION. No committee member shall receive any compensation from the Project for acting as such.

Section 3.13 CONDUCT OF MEETINGS. The President shall preside over all meetings of the Management Committee and the Secretary shall keep a minute book of the Committee recording therein all resolutions adopted by the Committee and a record of all transactions and proceedings occurring at such meetings. The then current edition of Robert's Rules of Order shall govern the conduct of the meetings of the Management Committee when not in conflict with the Condominium Act or the Condominium Instruments.

Section 3.14 ACTION WITHOUT MEETING. Any action by the Management Committee required or permitted to be taken at any meeting may be taken without a meeting if all of the committee members shall individually or collectively consent, in writing, to such action. Any such written consent shall be filed with the minutes of the proceedings of the Management Committee.

Section 3.15 MANAGEMENT COMMITTEE AS ATTORNEY-IN-FACT. The Management Committee is hereby irrevocably appointed as agent and attorney-in-fact for the unit owners of all of the units and for each of them, to manage, control and deal with the interests of such unit owners in the common elements of the Project to permit the Management Committee to fulfill all of its powers, rights, functions and duties. The Management Committee is hereby irrevocably appointed as agent and attorney-in-fact for each unit owner, each mortgagee, other named insureds and their beneficiaries and any other holder of a lien or other interest in the Project or the Property to: (i) adjust and settle all claims arising under insurance policies purchased by the Management Committee, (ii) execute and deliver releases upon the payment of claims and (iii) act on their behalf in any condemnation proceeding or action of eminent domain pursuant to The Act; provided, however, that the consent of a Mortgagee shall be required if such Mortgagee notifies the Management Committee pursuant to Section 11.1 of the Bylaws within thirty days after receipt of notice of the damage pursuant to subsection 6.2(c) of the Bylaws or notice of the taking in

condemnation or by eminent domain pursuant to subsection 8.2 of the Bylaws. The powers hereby granted shall be in addition to any rights granted by The Act. The Management Committee may grant and accept easements and licenses pursuant to The Act.

Section 3.16 LIABILITY OF THE MANAGEMENT COMMITTEE, OFFICERS, UNIT OWNERS AND UNITS OWNERS ASSOCIATION. (a) The officers, committee members and members of the Covenants Committee shall not be liable to the Unit Owners Association or any unit owner for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The Unit Owners Association shall indemnify and hold harmless each of the Officers and committee members from and against all contractual liability to others arising out of contracts made by the officers or the Management Committee on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Condominium Act or the condominium instruments, except to the extent that such liability is satisfied by committee members and officers liability insurance. Officers and committee members shall have no personal liability with respect to any contract made by them on behalf of the Unit Owners Association. The liability of any unit owner arising out of any contract made by the Officers or Management Committee, or out of the indemnification of the Officers or committee members, or for damages as a result of injuries arising in connection with the common elements solely by virtue of his ownership of a Common Element Interest therein or for liabilities incurred by the Unit Owners Association, shall be limited to the total liability multiplied by his Common Element Interest. Every agreement made by the Officers, the Management Committee or the managing agent on behalf of the Unit Owners Association shall, if obtainable, provide that the officers, the committee members or the managing agent, as the case may be, are acting only as agents for the Association and shall have no personal liability thereunder (except as unit owners), and that each unit owner's liability thereunder shall be limited to the total liability thereunder multiplied by his Common Element Interest. The Unit Owners Association shall indemnify and hold harmless each of the members of the Covenants Committee from and against all liability to others arising out of the due exercise of their responsibilities unless their action shall have been taken in bad faith or contrary to the provisions of the Condominium Act or the condominium instruments. The Unit Owners 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 by reason of the fact that he is or was an officer or committee member of the Association or a member of the Covenants Committee against expenses (including attorney's fees), judgments, fines and amounts paid in settlement incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Project.

(b) The Unit Owners Association shall not be liable for any failure of water supply or other services to be obtained by the Association or paid for as a common expense, or for injury or damage to person or property caused by the elements or by the unit owners of any condominium unit, or any other person, or resulting from electricity, water, snow or ice which may leak or flow from or over any portion of the common elements or from any pipe, drain, conduit, appliance or equipment. The Unit Owners Association shall not be liable to any unit owner for loss or damage, by theft or otherwise, of articles which may be stored upon any of the common elements. No diminution or abatement of any assessments, as herein or elsewhere provided, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the common elements or from any action taken by the Unit Owners Association to comply with any law, ordinance or with the order or directive of any governmental authority.

Section 3.17 COMMON OR INTERESTED COMMITTEE MEMBERS. Each committee member shall exercise his powers and duties in good faith and with a view of the interests of the Project. No contract or other transaction between the Unit Owners Association and any of its committee members, or between the Association and any corporation, firm or association (including the Declaration) in which any of the committee members of the Association are committee members or officers or are pecuniarily or otherwise interested, is either void or voidable because any such director is present at the meeting of the Management Committee or any committee thereof which authorizes or approves the contract or transaction, or because his vote is counted for such purpose, if any of the conditions specified in any of the following subsections exist:

(a) The fact of the common directorate or interest is disclosed or known to the Management Committee or a majority thereof or noted in the minutes and the Committee authorizes, approves or ratifies such contract or transaction in good faith by a vote sufficient for the purpose; or

(b) The fact of the common directorate or interest is disclosed or known to at least a majority of the unit owners, and the unit owners approve or ratify the contract or transaction in good faith by a vote sufficient for the purpose; or

(c) The contract or transaction is commercially reasonable to the Unit Owners Association at the time it is authorized, ratified, approved or executed.

Any common or interest committee members may be counted in determining the presence of a quorum of any meeting of the Management Committee or committee thereof which authorizes, approves or ratifies any contract or transaction, and may vote at the meeting to authorize any contract or transaction with like force and effect as if such committee member of the Unit Owners Association were not an officer or committee member of such other corporation, firm or association not as interested.

Section 3.18 COVENANTS COMMITTEE.

(a) PURPOSE. The Management Committee shall establish a Covenants Committee, consisting of three members appointed by the Committee, each to serve for a term of two years, in order to assure that the Project shall always be maintained in a manner: (1) providing for visual harmony and soundness of repair; (2) avoiding activities deleterious to the aesthetic or property values of the Project; (3) furthering the comfort of the unit owners, their guests and tenants; and (4) promoting the general welfare and safety of the Project community.

(b) POWERS. The Covenants Committee shall regulate the external design, appearance, use and maintenance of the common elements. The Covenants Committee shall have the power to impose reasonable application fees as well as the costs of reports, analyses or consultations required in connection with improvements or charges proposed by a unit owner. The Covenants Committee shall have the power to impose reasonable fines (pursuant to subsection 9.1 (g) hereof) upon, and issue a cease and desist request to, a unit owner, his guests, invitees or lessees whose actions are inconsistent with the provisions of the Condominium Act, the condominium instruments, the Rules and Regulations or resolutions of the Management Committee (upon petition of any unit owner or upon its own motion). The Covenants Committee shall, from time to time, as required, provide interpretations of the condominium instruments, provisions, and qualifications thereof when requested to do so by a unit owner or the Management Committee. Any action, ruling or decision of the Covenants Committee may be appealed to the Management Committee by any party deemed by the Committee to have standing as an aggrieved party and the Committee may modify or reserve any such action, ruling or decision.

(c) AUTHORITY. The Covenants Committee shall have such additional powers, duties and authority as the Management Committee may, from time to time, provide by resolution. The Management Committee may relieve the Covenants Committee of any of its duties, powers and authority either generally or on a case-by-case basis. The Covenants Committee shall carry out its duties and exercise its powers and authority either generally or on a case-by-case basis. The Covenants Committee shall carry out its duties and exercise its powers and authority in the manner provided for in the Rules and Regulations or by resolution of the Management Committee.

ARTICLE 4Officers

Section 4.1 DESIGNATION. The principal officers of the Unit Owners Association shall be the President, the Vice-President, the Secretary and the Treasurer, all of whom shall be elected by the Management Committee. The Management Committee may appoint an assistant treasurer, an assistant secretary and such other officers as in its judgment may be necessary. The President and Vice President shall be residents of the Project (except those appointed by the Declarant) and members of the Management Committee. Any other officers may, but need not, be unit owners or members of the Management Committee.

Section 4.2 ELECTION OF OFFICERS. The officer of the Unit Owners Association shall be elected annually by the Management Committee at the organization meeting of each new Committee and shall hold office at the pleasure of the Committee.

Section 4.3 REMOVAL OF OFFICERS. Upon the affirmative vote of a majority of all members of the Management Committee, any officer may be removed, either with or without cause, and a successor may be elected at any regular meeting of the Committee or at any special meeting of the Committee called for such purpose.

Section 4.4 PRESIDENT. The President shall be the chief executive officer of the Unit Owners Association; preside at all meetings of the Association and of the Management Committee; have general and active management of the business of the Association, subject to the control of the Committee; see that all orders and resolutions of the Committee are carried into effect; and appoint committees from among the unit owners from time to time as the President may, in his discretion, decide is appropriate to assist in the conduct of the affairs of the Association.

Section 4.5 VICE-PRESIDENT. The Vice-President shall take the place of the President and perform the duties of the President whenever the President shall be absent or unable to act. If neither the President nor the Vice-President is able to act, the Management Committee shall appoint some other committee member to act in the place of the President, on an interim basis. The Vice-President shall also perform such other duties as shall, from time to time, be imposed by the Management Committee or by the President.

Section 4.6 SECRETARY. The Secretary shall keep the minutes of all meetings of the Unit Owners Association and of the Management Committee; have charge of such books and papers as the Committee may direct; give or cause to be given all notices required to be given by the Association; maintain a register setting forth the place to which all notices to unit owners and Mortgagees hereunder shall be delivered; and, in general, perform all the duties incident to the office of secretary.

Section 4.7 TREASURER. The Treasurer shall (together with the managing agent) be responsible for Unit Owners Association funds and securities; keep full and accurate financial records and books of account showing all receipts and disbursements; prepare all required financial debt; deposit all monies and other valuable effects in the name of the Management Committee, the Association or the managing agent, in such depositories as may, from time to time, be designated by the Committee; and, in general, perform all the duties incident to the office of treasurer.

Section 4.8 EXECUTION OF DOCUMENTS. All agreements, contracts, deeds, leases, checks and other instruments of the Unit Owners Association for expenditures or obligations in excess of two thousand dollars, and all checks drawn upon reserve accounts, shall be executed by any two persons designated by the Management Committee. All such instruments for expenditures or obligations of two thousand dollars or less, except from reserve accounts, may be executed by any one person designated by the Management Committee.

ARTICLE 5

Operation of the Property

Section 5.1 DETERMINATION OF COMMON EXPENSES AND ASSESSMENTS AGAINST UNIT OWNERS.

(A) FISCAL YEAR. The fiscal year of the Unit Owners Association shall be October 1 through September 30 unless otherwise determined by the Management Committee.

(b) PREPARATION AND APPROVAL OF BUDGET.

(1) At least one hundred and five days before the beginning of each fiscal year, the Management Committee shall adopt a budget for the Unit Owners Association containing an estimate of the total amount considered necessary to pay the costs of maintenance, management, operation, repair and replacement of the common elements and those parts of the units as to which it is the responsibility of the Association to maintain, repair and replace, and the costs of wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be common expenses by the Condominium Act, the condominium instruments or a resolution of the Association and which will be required during the

ensuing fiscal year for the administration, operation, maintenance and repair of the Property and the rendering to the unit owners of all related services. The budget shall reflect the separate assessment of Limited Common Expenses.

(2) Such budget shall also include such reasonable amounts as the Management Committee considers necessary to provide working capital, a general operating reserve and reserves for contingencies and replacements. At least sixty days before the beginning of each fiscal year, the Management Committee shall send to each unit owner a copy of the budget in a reasonably itemized form which sets forth the amount to the common expenses and any special assessment payable by each unit owner. Such budget shall constitute the basis for determining each unit owner's assessment for the common expenses of the Project.

(c) ASSESSMENT AND PAYMENT OF COMMON EXPENSES. Subject to the provisions of subsection 9.1(a) hereof, the total amount of the estimated funds required for assessments for the operation of the Property set forth in the budget adopted by the Management Committee shall be assessed against each unit owner in proportion to his respective Common Element Interest, except for Limited Common Expenses which shall be assessed against each unit owner benefitted in proportion to the relative Common Element Interest of such units inter se, and shall be a lien against each unit owner's unit as provided in Section 9.2 of these Bylaws. On or before the first day of each fiscal year, and the first day of each of the succeeding eleven months in such fiscal year, each unit owner shall be obligated to pay to the Management Committee or the managing agent (as determined by the Committee), one-twelfth of such assessment. Within ninety days after the end of each fiscal year, the Management Committee shall supply to all unit owners, and to each Mortgagee requesting the same, an itemized accounting of the common expenses for such fiscal year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the budget adopted by the Management Committee for such fiscal year, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall, at the discretion of the Management Committee, be placed in reserve accounts, or be placed in a special account to be expended solely for the general welfare of the unit owners, or be credited according to each unit owner's Common Element Interest to the next monthly installments due from unit owners under the current fiscal year's budget until exhausted. Any net shortage shall be assessed promptly against the unit owners in accordance with their Common Element Interests and shall be payable either: (1) in full with payment of the next monthly assessment due; or (2) in not more than six equal monthly installments, as the Management Committee may determine.

(d) RESERVES. The Management Committee shall build up and maintain reasonable reserves for working capital, operations, contingencies and replacements. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged first against such reserves. If the reserves are inadequate for any reason, including non-payment of any unit owner's assessment, the Management Committee may, at any time, levy a further assessment, which shall be assessed against the unit owners according to their respective Common Element Interests, and which may be payable in a lump sum or in installments as the Committee may determine. The Management Committee shall serve notice of any such further assessment on unit owner's by a statement in writing giving the amount and reasons therefor, and such further assessment shall, unless otherwise specified in the notice, become effective with the next monthly payment which is due more than ten days after the delivery of such notice of further assessment. All unit owners so notified shall be obligated to pay the adjusted monthly amount or, if such further assessment is not payable in installments, the full amount of such assessment. Such assessment shall be a lien as of the effective date as set forth in subsection (c).

(e) INITIAL CAPITAL PAYMENT. (i) Upon taking office, the first Management Committee elected or designated pursuant to these Bylaws shall determine the budget, as defined in this section, for the period commencing thirty days after such election and ending on the last day of the fiscal year in which such election occurs. Assessments shall be levied and become a lien against the unit owners during such period as provided in subsection (c).

(ii) The Declarant, as the agent of the Management Committee, will collect from each initial purchaser at the time of settlement, an "initial capital payment" equivalent to twice the estimated monthly assessment for common expenses for such purchaser's unit. The Declarant will deliver the funds so collected to the Management Committee to provide the necessary working capital prepaid items, initial equipment, supplies, organizational costs and other start-up costs, and for such other purposes as the Management Committee may determine.

(f) EFFECT OF FAILURE TO PREPARE OR ADOPT BUDGET T h e failure or delay of the Management Committee to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a unit owner's obligation to pay his allocable share of the common expenses as herein provided whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each unit owner shall continue to pay each monthly installment at the monthly rate established for the previous fiscal year until notice of the monthly payment which is due more than ten days after such new annual or adjusted budget shall have been delivered.

(g) ACCOUNTS. All sums collected by the Management Committee with respect to assessments against the unit owners or from any other source may be commingled into a single fund or held for each unit owner in accordance with his Common Element Interest.

Section 5.2 PAYMENT OF COMMON EXPENSES. Each unit owner shall pay the common expenses, including Limited Common Expenses, assessed by the Management Committee pursuant to the provisions of Section 5.1 hereof. No unit owner may be exempted from liability for the assessment of common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of his unit. No unit owner shall be liable for the payment of any part of the common expenses assessed against his unit subsequent to the date of recordation of a conveyance by him in fee of such unit. Prior to or at the time of any such conveyance, all liens, unpaid charges and assessments shall be paid in full and discharged. The purchaser of a unit shall be jointly and severally liable with the selling unit owner for all unpaid assessments against the latter for his proportionate share of the common expenses up to the time of such recordation, without prejudice to the purchaser's right to recover from the selling unit owner within five business days following a written request therefore to the Management Committee or managing agent and such purchaser shall not be liable for, nor shall the unit conveyed be subject to a lien for, any unpaid assessments in excess of the amount therein set forth; and provided, further, that each Mortgagee who comes into possession of a condominium unit by virtue of foreclosure or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the condominium unit free of any claims for unpaid assessments or charges against such unit which accrue prior to the time such Mortgagee comes into possession thereof, except for claims for a pro rata share of assessments or charges resulting from a pro rata reallocation of such assessments or charges to all condominium units including the mortgaged condominium unit.

Section 5.3 COLLECTION OF ASSESSMENTS. The Management Committee or the managing agent, at the request of the Committee, shall take prompt action to collect any assessments for common expenses due from the due date for payment thereof. Any assessment or installment thereof, not paid within ten days after due shall accrue a late charge in the amount of ten dollars, or such other amount as may be established, from time to time, by the Management Committee.

Section 5.4 STATEMENT OF COMMON EXPENSES. The Management Committee shall promptly provide any unit owner, contract purchaser or Mortgagee so requesting the same in writing with a written statement of all unpaid assessments for common expenses due from such unit owner. The Management Committee may impose a reasonable charge for the preparation of such statement to cover the cost of preparation.

Section 5.5 MAINTENANCE, REPAIR, REPLACEMENT AND OTHER COMMON EXPENSES.

(A) BY THE UNIT OWNERS ASSOCIATION. The Unit Owners Association shall be responsible for the maintenance, repair and replacement (unless, if in the opinion of not less than eighty percent of the Management Committee such expense was necessitated by the negligence, misuse or neglect of a unit owner) of all of the common elements (including the Limited Common Elements) as defined herein or in the Declaration, whether located inside or outside of the units, the cost of which shall be charged to all unit owners as a common expense; provided, however, that each unit owner shall perform normal maintenance on the limited common elements appurtenant to his unit and any portion of the remaining common elements which the Management Committee, pursuant to the Rules and Regulations has given hi permission to utilize, including without limitation, the items enumerated in subsection (b).

(b) BY THE UNIT OWNER.

(1) Each unit owner shall keep his unit and its equipment, appliances and appurtenances in good order, condition and repair and in a clean and sanitary condition, and shall do all redecorating, painting and varnishing which may, at any time, be necessary to maintain the good appearance and condition of his unit. In addition, each unit owner shall be responsible for all damage to any other units or to the common elements resulting from his failure or negligence to make any of the repairs required by this section. Each unit owner shall perform or interfere with the other unit owners. Each unit owner shall promptly report to the Management Committee or the managing agent any defect or need for repairs for which the Unit Owners Association is responsible.

(2) The unit owner of any unit to which a limited common element balcony or terrace is appurtenant shall perform the normal maintenance for such limited common element, including keeping it in a clean and sanitary condition, free and clear of snow, ice and any accumulation of water and shall also make all repairs thereto caused or permitted by his negligence, misuse or neglect. All structural repair or replacement shall be make by the Unit Owners Association as a common expense, as provided in subsection (a).

(3) Any unit owner permitted by the Management Committee to use a specific portion of the common elements for storage is responsible for the maintenance and care of such portion and shall use such portion in a safe and sanitary manner.

(c) MANNER OF REPAIR AND REPLACEMENT. All repairs and replacements shall be substantially similar to the original construction and installation and shall be of first-class quality, but may be done with contemporary building materials and equipment. The method of approving payment vouchers for all repairs and replacements shall be determined by the Management Committee.

Section 5.6 ADDITIONS, ALTERATIONS OR IMPROVEMENTS BY THE MANAGEMENT COMMITTEE. Except during the Declarant Control Period, whenever in the judgment of the Management Committee, the common elements shall require additions, alteration or improvements costing in excess of ten thousand dollars during any period of twelve consecutive months, the making of such additions, alterations or improvements shall be approved by a majority vote and the Management Committee shall proceed with such additions, alterations or improvements and shall assess all unit owners benefitted for the cost thereof as a common expense (or Limited Common Expense). Any additions, alterations or improvements consecutive months may be made by the Management Committee without approval of the unit owners and the cost thereof shall constitute a common expense or limited common expense, depending on the nature of the additions, alterations or improvements. The ten thousand dollar limitation shall be increased annually by the percentage equal to the percentage increase in the annual budget of the Project. Notwithstanding the foregoing, if, in the opinion of not less than eighty percent of the members of the Management Committee, such additions, alterations or improvements are exclusively or substantially exclusively for the benefit of the unit owners requesting the same, such requesting unit owners shall be assessed therefore in such proportion as they jointly approve or, if they are unable to agree thereon, in such proportion as may be determined by the Management Committee.

Section 5.7 ADDITIONS, ALTERATIONS OR IMPROVEMENTS BY THE UNIT OWNERS. No unit owner shall make any structural addition, alteration or improvement in or to his unit without the prior written consent of the Management Committee or the Covenants Committee as appropriate. No unit owner shall paint or alter the exterior of his unit, including the doors and windows nor shall any unit owner paint or alter the exterior of any building, without the prior written consent of the Management Committee or the Covenants Committee as appropriate. The Management Committee shall be obligated to answer any written request by a unit owner for approval of a proposed structural addition, alteration, or improvement in such unit owner's unit within forty-five days after such request and failure to do so within the stipulated time shall constitute a consent by the Management Committee or the Covenants Committee to the proposed structural addition, alteration or improvement. If any application to any governmental authority for a permit to make any such structural addition, alteration or improvement in or to any unit requires execution by the Unit Owners Association and provided consent has been given by the Management

Committee, then the application shall be executed on behalf of the Association by an authorized officer only, without, however, incurring any liability on the part of the Management Committee, the Association or any of them to any contractor, subcontractor or materialman on account of such addition, alteration or improvement, or to any person having claim for injury to person or damage to property arising therefrom. Subject to the approval of any Mortgagee of such affected units, the Management Committee and any unit owner affected, any unit may be subdivided or may be altered so as to relocate the boundaries between such unit and any adjoining units. The Secretary shall record any necessary amendment to the Declaration to effect such action as provided in The Act. The provisions of this section shall not apply to units shall have been recorded; provided, however, that the Declarant's construction or alterations shall be architecturally compatible with existing units. The Declarant shall have the right to make such alterations or subdivisions without the consent of the Management Committee and an authorized officer shall execute any such application required.

Section 5.8 RESTRICTIONS ON USE OF UNITS AND COMMON ELEMENTS; RULES AND REGULATIONS.

(a) RESTRICTIONS. Each unit and the common elements shall be occupied and used as follows:

(1) Except for the areas of the Project designated for commercial and recreational use and except as provided in the Declaration, no unit shall be used for other than housing and the related common purposes for which the property was designated. The Management Committee may permit reasonable, temporary non-residential uses, from time to time. Nothing in these Bylaws shall be construed to prohibit the Declarant from using any unit owned by the Declarant for promotional, marketing or display purposes or from using any appropriate portion of the common elements for settlement of sales of condominium units and for customer service purposes.

(2) Nothing shall be done or kept in any unit or in the common elements which will increase the rate of insurance for the Property or any part thereof applicable for residential use without the prior written consent of the Management Committee. No waterbed shall be permitted in any unit. No unit owner shall permit anything which will result in the cancellation of insurance on the Property or any part thereof or which would be in violation of any law, regulation or administrative ruling. No waste will be committed on the common elements.

(3) No immoral, improper, offensive or unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental agencies having jurisdiction thereof shall be observed. All laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof relating to any portion of the Property shall be complied with, by and at the sole expense of the unit owner or the Management Committee, whichever shall have the obligation to maintain or repair such portion of the Property,, and if the latter, then the cost of such compliance shall be a common expense.

(4) No unit owner shall obstruct any of the common elements nor shall any unit owner place or cause or permit anything to be placed on or in any of the common elements (except those areas designated for such storage by the condominium instruments or the Management Committee) without the approval of the Committee. nothing shall be altered or construed in or removed from the common elements except with the prior written consent of the Management Committee or the Covenants, Committee, as appropriate.

(5) The common elements shall be used only for the furnishing of services and facilities for which the same are reasonably suited and which are incident to the use and occupancy of the units. The stairwells and building entrances shall be used for no purpose other than for normal transit.

(6) No unit shall be rented for transient or hotel purposes or in any event, for an initial period of less than six months. No portion of any unit (other than the entire unit) shall be leased for any period. No unit owner shall lease a unit other than on a written form of lease: (i) requiring the lessee to comply with the condominium instruments and Rules and Regulations; (ii) providing that failure to comply constitutes a default under the lease, and (iii) providing that the Management Committee has the power to terminate the lease or to bring summary proceedings to evict the tenant in the name of the lessor thereunder after forty-five written prior notice to the unit owner, in the event of a default by the lessee in the performance of the lease. The Management Committee may suggest or require a standard form lease for use by unit owners. Each unit owner of a condominium unit shall, promptly following the execution of any lease of a condominium unit, forward a conformed copy thereof to the Management Committee. The foregoing provisions of this paragraph, except the restriction against use for hotel or transient purposes, shall not apply to the Declarant or to a Mortgagee in possession of a unit as a result of foreclosure, judicial sale or a proceeding in lieu of foreclosure.

(7) Trailers, campers, recreational vehicles, boats and other large vehicles may be parked on the Property only if expressly permitted by the Rules and Regulations and only in such parking areas, if any, as may be designated for such purpose by the Management Committee. No junk or derelict vehicle or other vehicle on which current registration plates are not displayed shall be kept upon any of the common elements. Vehicle repairs other than ordinary light maintenance are not permitted on the Property.

(8) The maintenance, keeping, boarding and/or raising of animals, livestock, poultry or reptiles of any kind, regardless of number, shall be and is prohibited within any unit or upon the common elements, except that the keeping of small, orderly domestic pets (e.g., dogs, cats or caged birds) not to exceed one per unit without the approval of the Management Committee is permitted, subject to the Rules and Regulations adopted by the Management Committee; provided, however, that such pets are not kept or maintained for commercial purposes or for breeding; and provided, however, that any such pet causing or creating a nuisance or unreasonable disturbance or noise can and may be permanently removed from the Property upon ten days written notice from the Management Committee. Such pets shall not be permitted upon the common elements unless accompanied by an adult and unless carried or leased. Any unit owner who keeps or maintains any pet upon any portion of the Property shall be deemed to have indemnified and agreed to hold the Unit Owners Association, each unit owner and the Declarant free and harmless from any loss, claim or liability of any kind or character whatever arising, by reason of keeping or maintaining such pet within the Project. All pets shall be registered with the Management Committee and shall otherwise be registered and inoculated as required by law. The Management Committee may establish reasonable fees for registration of pets not to exceed the additional costs incurred by the Unit Owners Association resulting from the presence of such pets.

(9) Except for such signs as may be posted by the Declarant for promotional or marketing purposes, no signs of any character shall be erected, posted or displayed upon, in, from or about any unit or common element without the prior written consent of the Management Committee. The foregoing provisions of a unit as a result of foreclosure, judicial sale or a proceeding in lieu of foreclosure.

(10) Sufficient carpeting or rugs shall be maintained on a minimum of eighty percent of the floor surfaces (except kitchens, closets and bathrooms) in units located over other units, to adequately reduce transmission of sound between units. Additional washers, dryers and other major appliances may not be installed in a unit.

(11) No unit shall be subjected to or used for any timesharing, cooperative, licensing or other arrangement that would entail weekly, monthly or any other type of revolving or periodic occupancy by multiple unit owners, cooperators, licensees, or timesharing participants.

(b) CHANGES TO RULES AND REGULATIONS. Each unit and the common elements shall be occupied and used in compliance with the Rules and Regulations which may be promulgated and changed by the Management Committee. Copies of the Rules and Regulations shall be furnished by the Management Committee to each unit owner. Changes to the Rules and Regulations shall be conspicuously posted prior to the time when the same shall become effective and copies thereof shall be furnished to each unit owner upon request.

Section 5.9 RIGHT OF ACCESS. By acceptance of his deed of conveyance, each unit owner thereby grants a right of access to his unit, as provided by the Act and subsection 4.2 (b) of the Declaration, to the Management Committee or the managing agent or any group of the foregoing, for the purpose of enabling the exercise and discharge of their respective powers and responsibilities, including without limitation, making inspections, correcting any condition originating in his unit or in a common element to which access is obtained through his unit and threatening another unit or the common elements, performing installations, alterations or repairs to the mechanical or electrical systems or the common elements in his unit or elsewhere in the Property or to correct any condition which violates any mortgage; provided, however, that request for entry are made in advance and that any such entry is at a time reasonably convenient to the unit owner. In case of an emergency, such right of entry shall be immediate, whether or not the unit owner is present.

Section 5.10 UTILITY CHARGES. The cost of utilities serving the Project not individually metered to a unit shall be common expenses allocated pursuant to Section 5.1 hereof.

Section 5.11 PARKING SPACES. All parking spaces shall be used by the unit owners for self-service parking purposes on a "first come, first served" basis, except as the Management Committee may otherwise determine; provided, however, that no unit owner shall park on the common element parking spaces more than one vehicle (owned or leased by such unit owner, a member of his family, an employee or a tenant leasing his unit) without the prior written consent of the Management Committee. The cost of maintenance and repair of all parking areas shall be a common expense. During the time that units are being sold by the Declarant, no more than forty five parking spaces may be restricted to the Declarant's use for sales purposes.

Section 5.12 STORAGE; DISCLAIMER OF BAILEE LIABILITY The storage cubicles are common elements and may be assigned to units as Reserved Common Elements by appropriate resolution of the Management Committee (unless such cubicles have been assigned as limited common elements). The Management Committee, the Unit Owners Association, any unit owner and the Declarant shall not be considered a bailee, however, of any personal property stored on the common elements (including property located in storage cubicles and vehicles parked on the common elements), whether or not exclusive possession of the particular area is given to a unit owner for storage or parking purposes, and shall not be responsible for the security of such personal property or for the loss or damage thereto, whether or not due to negligence, except to the extent covered by insurance in excess of any applicable deductible.

ARTICLE 6

Insurance

Section 6.1 AUTHORITY TO PURCHASE; NOTICE.

(a) Except as otherwise provided in Section 6.5 hereof, all insurance policies relating to the Property shall be purchased by the Management Committee. The Management Committee, the managing agent and the Declarant shall not be liable for failure to obtain any coverages required by this Article 6 or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverages from reputable insurance companies, or if such coverages are so available only at demonstrably unreasonable cost. The Management Committee shall promptly furnish to each unit owner written notice of the procurement of, subsequent changes in, or termination of, insurance coverages obtained on behalf of the Unit Owners Association, in compliance with The Act.

(b) Each such policy shall provide that:

(1) The insurer waives any right to claim by way of subrogation against the Unit Owner Association, the Management Committee, the managing agent or the unit owners, and their respective agents, employees, guests and in the case of the unit owners, the members of their households;

(2) Such policy shall not be canceled, invalidated or suspended due to the conduct of any unit owner (including his invitees, agents and employees) or of any member, officer or employee of the Management Committee or the managing agent without a prior demand in writing that the Committee or any managing agent cure the defect and neither shall have so cured such defect within sixty days after such demand;

(3) Such policy may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least sixty days prior written notice to the Management Committee, the managing agent and all Mortgagees.

(c) The Declarant, so long as Declarant shall own any unit, shall be protected by all such policies as a unit owner. The coverage provided to the Declarant under the insurance policies obtained in compliance with this Article 6 shall not be deemed to protect or to be for the benefit of any general contractor engaged by the Declarant no shall such coverage be deemed to protect the Declarant against liability for (or waive any rights with respect to) warranty claims.

(d) All policies of insurance shall be written by reputable companies licensed to do business in the State of Utah. Physical damage policies shall be in form and substance and with carriers acceptable to a majority of the Mortgagees.

(e) The deductible, if any, on any insurance policy purchased by the Management Committee shall be a common expense; provided, however, that the Association, may, pursuant to subsection 5.5(a) of these Bylaws, assess any deductible amount necessitated by the negligence, misuse or neglect of a unit owner against such unit owner.

Section 6.2 PHYSICAL DAMAGE INSURANCE.

(a) The Management Committee shall obtain and maintain a blanket, "all-risk" form policy of fire insurance with extended coverage, vandalism, malicious mischief, sprinkler leakage (if applicable), debris removal and water damage endorsements, insuring the entire Property (including all of the units and the bathroom and kitchen fixtures initially installed therein by the Declarant and the replacements thereof installed by the Declarant but not including furniture, wall coverings, furnishings or other personal property supplied or installed by unit owners) together with all air-conditioning and heating equipment and other service machinery contained therein and covering the interest of the Unit Owners Association, the Management Committee and all unit owners and their Mortgagees, as their interests may appear, (subject, however, to the loss payment and adjustment provisions in favor of the insurance trustee contained in Sections 6.6 and 6.7 hereof), in an amount equal to one hundred percent of the then current replacement cost of the Property (exclusive of the lane, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation (such amount to be redetermined annually by the Committee with the assistance of the insurance company affording such coverage). The Management Committee shall also obtain and maintain such coverage on all real and personal property owned by the Unit Owners Association.

(b) Such policy shall also provide:

(1) A waiver of any right of the insurer to repair, rebuild or replace any damage to destruction, if a decision is made pursuant to these Bylaws not to do so;

(2) The following endorsements (or equivalent): (i) "no control" (to the effect that coverage shall not be prejudiced by any act or neglect of any occupant or unit owner or their agents when such act or neglect of any occupant or within the control of the insured, or the unit owners collectively; nor by any failure of the insured, or the unit owners collectively, to comply with any warranty or condition with regard to any portion of the Project over which the insured, or the unit owners collectively, have no control; (ii) "cost of demolition"; (iii) "Contingent liability from operation of building laws or codes"; (iv) "increased cost of construction"; (v) "project replacement cost" and (vi) "agreed amount" or elimination of co-insurance clause; and

(3) That any "no other insurance" clause expressly excluded individual unit owners' policies from its operation so that physical damage policy purchased by the individual unit owners' policies shall be deemed excess coverage and in no event shall the insurance coverage obtained and maintained by the Management Committee hereunder provide for or be brought into contribution with insurance purchased by individual unit owners or their Mortgagees, unless otherwise required by law.

(c) A duplicate original of the policy of physical damage insurance, all renewals thereof and any sub-policies or certificate and endorsements issued thereunder, together with proof of payment of premiums, shall be delivered by the insurer to any Mortgagee requesting the same, at least thirty days prior to expiration of the then current policy. Prior to obtaining any policy of physical damage insurance or any renewal thereof, the Management Committee shall obtain an appraisal from an insurance company, or such other source as the Committee may determine, of the then current replacement cost of the Property (exclusive of the land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation, for the purpose of determining the amount of physical damage insurance to be secured pursuant to this section. All Mortgagees shall be notified promptly of any event giving rise to a claim under such policy arising from damage to the common elements in excess of one percent of the then current replacement cost of the Property. The Mortgagee of a unit shall be notified promptly of any event giving rise to a claim under such policy arising from damage to such unit.

Section 6.3 LIABILITY INSURANCE. The Management Committee shall obtain and maintain comprehensive general liability (including libel, slander, false arrest and invasion of privacy coverage) and property damage liability insurance in such limits as the Committee may, from time to time, determine, insurance each Committee member, the managing agent and each unit owner against any liability to the public or to the unit owners (and their invitees, agents and employees) arising out of, or incident to the ownership or use of the common elements. Such insurance shall be issued on a comprehensive liability basis and shall contain: (i) a cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to an action against another named insured; (ii) hired and non-owned vehicle coverage; (iii) host liquor liability coverage with respect to events sponsored by the Unit Owners Association; (iv) deletion of the normal products exclusion with respect to events sponsored by the Unit Owners Association; and (v) a "severability of interest" endorsements which shall preclude the insurer from denying liability coverage to a unit owner because of negligent acts of the Unit Owners Association or of another unit owner. The Management Committee shall review such limits once each year but in no event shall such insurance be less than one million dollars covering all claims for bodily injury or property damage arising out of the once occurrence. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits shall also be obtained in an amount not less than three million dollars.

Section 6.4 OTHER INSURANCE. The Management Committee shall obtain and maintain:

(a) adequate fidelity coverage to protect against dishonest acts on the part of Officers, directors, trustees and employees of the Unit Owners Association, including the managing agent. Such fidelity bonds shall: (i) name the Unit Owners Association as an obligee; (ii) be written in an amount not less than one-half of the total annual condominium assessments for the year or the amount required by the Mortgagees, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, whichever is greatest; and (iii) contain waivers without compensation from any definition of "employee" or similar expression;

(b) if required by any governmental or quasigovernmental agency, including with limitation the Federal national Mortgage Association or the Federal Home Loan Mortgage Corporation, flood insurance in accordance with the then applicable regulations of such agency;

(c) workman's compensation insurance if and to the extent necessary to meet the requirements of law (including a voluntary employees endorsement and an "all states" endorsement);

(d) broad from machinery and pressure vessel explosion insurance (if applicable) in an amount not less than five hundred thousand dollars per accident per location;

(e) directors and officers liability insurance in an amount not less than one million dollars; and

(f) such other insurance as the Management Committee may determine or as may be requested from time to time by a Majority Vote.

Section 6.5 SEPARATE INSURANCE. Each unit owner shall have the right, at his own expense, to obtain insurance for such unit owner's benefit, at such unit owner's expense, covering the unit and such unit owner's personal property and personal liability as well as any improvements made to the unit by such unit owner (under coverage normally called "improvements and betterments coverage"); provided, however, that no unit owner shall be entitled to exercise this right to acquire or maintain such insurance coverage so as to decrease the amount which the Management Committee, on behalf of all unit owners, may realize under any insurance policy maintained by the Committee or to cause any insurance coverage maintained by the Committee to be brought into contribution with insurance coverage obtained by a unit owner. No unit owner shall obtain separate insurance policies on the Project except as provided in this section.

Section 6.6 INSURANCE TRUSTEE.

(a) All physical damage insurance policies purchased by the Management Committee shall be for the Benefit of the Unit Owners Association, the unit owners, their Mortgagees and the Declarant, as their interests may appear, and shall provide that all proceeds of such policies shall be paid in trust to the Committee as "insurance trustee" to be applied pursuant to the terms of Article 7.

(b) The sole duty of the insurance trustee shall be to receive such proceeds as are paid to it and to hold the same in trust for the purposes elsewhere stated in these Bylaws, for the benefit of the insureds and their beneficiaries thereunder.

ARTICLE 7

Repair and Reconstruction After Fire or Other Casualty

Section 7.1 WHEN REPAIR AND RECONSTRUCTION ARE REQUIRED. Except as otherwise provided in Section 7.4, in the event of damage to or destruction of all or any part of the buildings as a result of fire or other casualty, the Management Committee shall arrange for and supervise the prompt repair and restoration thereof (including any damaged units, and the floor coverings, kitchen or

bathroom fixtures and appliances initially installed therein by the Declarant, and replacements thereof installed by the Declarant, but not including any furniture, furnishings, fixtures, equipment or other personal property supplied or installed by the unit owners in the units). Notwithstanding the foregoing, each unit owner shall have the right to supervise the redecorating of the unit.

Section 7.2 PROCEDURE FOR RECONSTRUCTION AND REPAIR.

(a) COST ESTIMATES. Immediately after a fire or other casualty causing damage to any portion of the building, the Management Committee shall obtain reliable and detailed estimates of the cost of repairing and restoring such portion (including any damaged units and any floor coverings and kitchen and bathroom fixtures and appliances initially installed by Declarant, but not including any other furniture, furnishings, fixtures or equipment installed by the unit owner in the unit) to a condition as good as that existing before such casualty. Such bonds may also include professional fees and premiums for such bonds as the insurance trustee determines to be necessary.

(b) ASSESSMENTS. If the proceeds of insurance are not sufficient to defray such estimated costs of reconstruction and repair, or if upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, the amount necessary to complete such reconstruction and repair may be obtained from the appropriate reserve for replacement funds and/or shall be deemed a common expense and a special assessment therefor shall be levied.

(c) PLANS AND SPECIFICATIONS. Any such reconstruction or repair shall be substantially in accordance with the original construction of the Property, subject to any modifications required by changes in applicable governmental regulations, and using contemporary building materials and technology to the extent feasible; provided, however, that other actions may be taken if approved by at least fifty-one percent of the Mortgagees.

Section 7.3 DISBURSEMENTS OF CONSTRUCTION FUNDS.

(a) CONSTRUCTION FUND AND DISBURSEMENT. The proceeds of insurance collected on account of casualty and the sums received by the insurance trustee from collections of assessments against unit owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

(1) If the estimated costs of reconstruction and repair is less than fifty thousand dollars, then the construction fund shall be disbursed in payment of such costs upon order of the Management Committee; provided, however, that upon request of twenty percent of the Mortgagees, such fund shall be disbursed pursuant to paragraph (2).

(2) If the estimated cost of reconstruction and repair is fifty thousand dollars or more, then the construction fund shall be disbursed in payment of such costs upon approval of an architect qualified to practice in Utah and employed by the insurance trustee to supervise such work, payment to be made from time to time as the work progresses. The architect shall be required to furnish a certificate giving a brief description of the services and materials furnished by various contractors, subcontractors, materialmen, the architect and other persons who have rendered services or furnished materials in connection with the work stating that: (i) the sums requested by them in payment are justly due and owing and that such sums do not exceed the value of the services and materials furnished; (ii) there is no other outstanding indebtedness known to such architect for the services and materials described; and (iii) the cost as estimated by such architect for the work remaining to be done subsequent to the date of such certificate does not exceed the amount of the construction fund remaining after payment of the sum so requested.

(b) SURPLUS. The first monies disbursed in payment of the cost of reconstruction and repair shall be from insurance proceeds and, if there is a balance in the construction fund after the payment of all of the costs of the reconstruction and repair for which the fund is established, such balance shall be divided among all unit owners in proportion to their Common Element Interests and shall be distributed in accordance with the priority of interests at law or in equity in each unit.

(c) COMMON ELEMENTS. When the damage is to both common elements and units, the insurance proceeds shall be applied first to the cost of repairing those portions of the common elements which enclose and service the units, then to the cost of repairing the other common elements and thereafter, to the cost of repairing the units.

(d) CERTIFICATE. The insurance trustee shall be entitled to rely upon a certificate executed by the President or Vice President, and the Secretary, certifying: (i) whether the damaged Property is required to be reconstructed and repaired; (ii) the name of the payee and the amount to be paid with respect to disbursement from any construction fund whether surplus funds to be distributed are less than the assessments paid by the unit owners; and (iii) all other matters concerning the holding and disbursing of any construction fund. Any such certificate shall be delivered to the insurance trustee promptly after request.

Section 7.4 WHEN RECONSTRUCTION IS NOT REQUIRED. If the Management Committee elects not to repair insubstantial damage to the common elements, the Management Committee shall remove all remains of the damaged improvements and restore the site thereof to an acceptable condition compatible with the remainder of the Project and the balance of any insurance proceeds received on account of such damage shall be distributed among all unit owners in proportion to their respective Common Element Interests. If the Project shall be terminated pursuant to The Act, the net assets of the Project, together with the net proceeds of insurance policies, if any, shall be divided by the insurance trustee among all unit owners in proportion to their respective Common Element Interest, after first paying out of the share of each unit owner, to the extent sufficient therefore, the amount of any unpaid liens on the unit in the order of priority of such liens.

ARTICLE 8

Mortgages

Section 8.1 NOTICE TO MANAGEMENT COMMITTEE. A unit owner who mortgages his unit shall notify the Management Committee of the name and address of his mortgagee and shall file a conformed copy of the Note and Deed of Trust with the Committee.

Section 8.2 NOTICE OF DEFAULT, CASUALTY OR CONDEMNATION. The Management Committee, when giving notice to any unit owner of a default in paying an assessment for common expenses (which remains uncured for sixty days) or any other default, shall simultaneously send a copy of such notice to the Mortgagee of such unit. Each mortgagee shall also be promptly notified of any casualty when required by Section 6.2(c) hereof, of all actions taken under Article 7 and of any taking in condemnation or by eminent domain pursuant to The Act and actions of the Unit Owners Association with respect thereto.

Section 8.3 NOTICE OF AMENDMENT OF CONDOMINIUM INSTRUMENTS. The Management Committee shall give notice to all mortgagees at least seven days prior to the date on which the unit owners, in accordance with the provisions of these Bylaws, materially amend the condominium instruments.

Section 8.4 NOTICE OF CHANGE IN MANAGING AGENT. The Management Committee shall give notice to all mortgagees requesting such notice at least thirty days prior to changing the managing agent.

Section 8.5 MORTGAGEES' APPROVALS.

(a) TWO-THIRD VOTE. Unless at least sixty-seven percent of the Mortgagees and at least sixty-seven percent of the unit owners have given their prior written approval, the Unit Owners Association shall not: (i) (except following destruction or condemnation) change any unit's Common Element Interest except as provided in The Act; (ii) (except following destruction or condemnation) partition, subdivide, abandon, encumber, sell or transfer the common elements of the Project (except for the grating of utility easements, etc., pursuant to The Act); (iii) (except following destruction or condemnation) by act or omission withdraw the submission of the Property to the Condominium Act; (iv) modify the method of determining and collecting assessments or allocating distributions of casualty insurance proceeds or condemnation awards; or (v) use hazard insurance proceeds for losses to the Project for any purpose other than repair, replacement or restoration except as provided in Section 7.4 hereof.

(b) MAJORITY VOTE. Unless at least fifty-one percent of the Mortgagees and at least sixty-seven percent of the unit owners have given their prior written approval, the Unit Owners Association shall not: (i) following destruction or condemnation, change any unit's Common Element Interest except as provided in The Act; (ii) following destruction or condemnation, by act or omission, withdraw the submission of the Property to the Condominium Act, except as provided by The Act; and (iii) add or amend any material provisions of the condominium instruments which establish, provide for, govern or regulate any of the following: (1) voting; (2) assessments, assessment liens or subordination of such liens; (3) reserves for maintenance, repair and replacement of the common element (or units if applicable); (4) insurance or fidelity bonds; (5) rights to use of the common elements; (6) maintenance responsibility; (7) expansion or contraction of the Project or conversion of Convertible Land; (8) boundaries of any unit; (9) the interests in the common elements or limited common elements; (10) convertability of units into common elements or of common elements into units; (11) leasing or units; (12) imposition of any right of first refusal or similar restriction on the right of a unit owner to sell, transfer or otherwise convey the unit; or (13) any provisions which are for the express benefit of mortgagees.

(c) NONE-MATERIAL AMENDMENTS; PRESUMPTIVE APPROVAL. Any addition or amendment to the condominium instruments shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. A mortgagee who is notified of additions or amendments and who does not deliver or post to the requesting party a negative response within thirty days shall be deemed to have approved such request.

Section 8.6 OTHER RIGHTS OF MORTGAGEES. All Mortgagees or their representatives shall have the right to attend and to speak at meetings of the Unit Owners Association. All such mortgagees shall have the right to examine the condominium instruments, Rules and Regulations and books and records of the Project, to receive the annual report filed by the Declarant pursuant to The Act and to require the submission of annual financial reports and other budgetary information.

ARTICLE 9

Compliance and Default

Section 9.1 RELIEF. Each unit owner shall be governed by and shall comply with, all of the terms of the condominium instruments and the Condominium Act as any of the same may be amended from time to time. In addition to the remedies provided in The Act, a default by a unit owner shall entitle the Unit Owners Association, acting through its Committee Members or through the managing agent, to the following relief:

(a) ADDITIONAL LIABILITY. Each unit owner shall be liable for the expense of all maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or the act, neglect or carelessness of any member of his family or his employees, agent or licensees, but only to the extent that such expense is not covered by the proceeds of insurance carried by the Management Committee. Such liability shall include any increase in casualty insurance rates occasioned by use, misuse, occupancy or abandonment of any unit or its appurtenances. Nothing contained herein, however, shall be construed as modifying any waiver by any insurance company of its rights of subrogation.

(b) COSTS AND ATTORNEY'S FEES. In any proceeding arising out of any alleged default by a unit owner, the prevailing party shall be entitled to recover the costs of such proceeding and such reasonable attorney's fees as may be determined by the court.

(c) NO WAIVER OF RIGHTS. The failure of the Unit Owners Association, the Management Committee or of a unit owner to enforce any right, provision, covenant or condition which may be granted by the condominium instruments or Condominium Act shall not constitute a waiver of the right of the Association, the Committee or the unit owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Unit Owners Association, the Management Committee or any unit owner pursuant to any term, provision, covenant or condition of the condominium instruments or the Condominium Act shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of

remedies, nor shall it preclude the party exercising the same from exercising such other privileges as may be granted to such party by the condominium instruments or the Condominium Act or at law or in equity.

(d) INTEREST. In the event of a default by any unit owner in paying any sum assessed against his condominium unit other than for common expenses which continues for a period in excess of fifteen days, interest at a rate not to exceed eighteen percent per annum may be imposed in the discretion of the Management Committee on the principal amount unpaid from the date due until paid.

(e) ABATING AND ENJOINING VIOLATION BY UNIT OWNERS. The Violation of any of the Rules and Regulations adopted by the Management Committee, the breach of any provision of the condominium instruments or the Condominium Act shall give the Management Committee the right, in addition to any other rights set forth in these Bylaws: (i) to enter the unit in which or as to which, such violation or breach exists and summarily to abate and remove, at the expense of the defaulting unit owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Management Committee shall not thereby be deemed guilty in any the manner of trespass; or (ii) to enjoin, abate or remedy the appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

(f) LEGAL PROCEEDINGS. Failure to comply with any of the terms of the condominium instruments and the Rules and Regulations shall be grounds for relief, including with limitation, an action to recovery any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all assessments, any other relief provided for these Bylaws or any combination thereof and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Unit Owners Association, the Management Committee, the managing agent or, if appropriate, by any aggrieved unit owner and shall not constitute an election of remedies.

(g) FINES. The Management Committee and the Covenants Committee may levy reasonable assessment(s) against unit owners for violation of the Rules and Regulations, the condominium instruments or the Condominium Act. No assessment(s) may be levied for more than one percent of such unit owner's annual assessment for any one violation; but each day a violation continues, after notice is given to the unit owner, is a separate violation. If a unit owner requests in writing a hearing before the assessment(s) is imposed, the imposition of the assessment(s) shall be suspended until the hearing is held. Assessment(s) are special assessments and shall be collectible as such.

Section 9.2 LIEN FOR ASSESSMENTS.

(a) LIEN. The total annual assessment of each unit owner for common expenses or any special assessment, or any other sum duly levied (including with limitation, interest, late charges, etc.), made pursuant to these Bylaws, is hereby declared to be a lien levied against the condominium unit of such unit owner as provided in The Act, which lien shall, with respect to annual assessments, be effective on the first day of each fiscal year of the Project and, as to special assessments and other sums duly levied, on the first day of the next month which begins more than seven days after delivery to the unit owner of notice of such special assessment or levy. The Management Committee or the managing agent may file or record such other or further notice of any such lien, or such other or further document, as may be required to confirm the establishment and priority of such lien.

(b) ACCELERATION. In any case where an assessment against a unit owner is payable in installments, upon a default by such unit owner in the timely payment of any two consecutive installments, the maturity of the remaining total of the unpaid installments of such assessments may be accelerated at the option of the Management Committee, and the entire balance of the annual assessment may be declared due and payable in full by the service of notice to such effect upon the defaulting unit owner and such unit owner's mortgagee by the Management Committee or the managing agent.

(c) ENFORCEMENT. The lien for assessments may be enforced and foreclosed in the manner provided by the laws of the State of Utah by power of sale or action in the name of the Management Committee, or the managing agent, acting on behalf of the Unit Owners Association. During the pendency of such suit the unit owner shall be required to pay a reasonable rental for the unit for any period prior to sale pursuant to any judgment or order of any court having jurisdiction over such sale. The plaintiff in such proceeding shall have the right to appointment of a receiver, if available under the laws of the State of Utah.

(d) REMEDIES CUMULATIVE. A suit to recover a money judgment for unpaid assessments may be maintained without foreclosing or waiving the lien securing the same, and a foreclosure may be maintained notwithstanding the pendency of any suit or recover a money judgment.

Section 9.3 SUPPLEMENTAL ENFORCEMENT OF THE LIEN. In addition to the proceedings at law or in equity for the enforcement of the lien established by the condominium instruments or the Condominium Act, all of the unit owners may be required by the Declarant or the Management Committee to execute bonds conditioned upon the faithful performance and payment of the installments of the lien established hereby and may likewise be required to secure the

payment of such obligations by recording a declaration of trust in the land records where the condominium instruments are recorded grating unto one or more trustees appropriate powers to the end that, upon default in the performance of such bond such declaration of trust may be foreclosed by such trustees acting at the direction of the Management Committee. If ant such bonds have been executed and such declaration of trust is recorded, then any subsequent purchaser of a unit shall take title subject thereto and shall assume the obligations provided for therein.

Section 9.4 SUBORDINATION AND MORTGAGE PROTECTION.
Notwithstanding any other provisions hereof to the contrary, the lien of any assessment levied pursuant to these Bylaws upon any unit (and any penalties, interest on assessments, late charges or the like) shall be subordinate to and shall in no way affect the rights of the holder of a mortgage made in good faith for value received; provided, however, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such unit pursuant to a decree of foreclosure, or any proceeding in lieu of foreclosure. Such sale or transfer shall not relieve the purchaser of the unit at such sale from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment, which lien shall have the same effect and be enforced in the same manner as provided herein.

ARTICLE 10

Amendments to Bylaws

Section 10.1 AMENDMENTS. These bylaws may bot be modified or amended except as provided in The Act; provided, however, that until the expiration of the Declarant Control Period, Section 2.2, Section 2.9, Section 3.3 and Section 10.1 may not be amended without the prior written consent of the Declarant. All amendments to the Bylaws shall be prepared and recorded by the Secretary.

Section 10.2 APPROVAL OF MORTGAGEES. These Bylaws contain provisions concerning various rights, priorities, remedies and interests of Mortgagees. Such provisions in these Bylaws are to be construed as covenants for the protection of such mortgagees on which they may rely in providing financing secured by Trust Deeds. Accordingly, no amendment or modification of these Bylaws impairing or affecting such rights, priorities, remedies or interests of a mortgagee shall be adopted without the prior written consent of such mortgagee.

ARTICLE 11Miscellaneous

Section 11.1 NOTICES. All notices, demands, bills, statements or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or sent by United States Mail, postage prepaid (pursuant to The Act), or if notification is of a default or lien, sent by registered or certified United States Mail, return receipt requested, postage prepaid, (i) if to a unit owner, at the address which the unit owner shall designate in writing and file with the Secretary or, if no such address is designated, at the address of the unit of such unit owner, or (ii) if to the Unit Owners association, the Management Committee or to the managing agent, at the principal office of the managing agent or at such other address as shall be designated by notice in writing to the unit owners pursuant to this section. If a unit is owned by more than one person, each such person who so designates an address in writing to the Secretary shall be entitled to receive all notices hereunder.

Section 11.2 CAPTIONS. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws or the intent of any provision thereof.

Section 11.3 GENDER. The use of the masculine gender in these Bylaws shall be deemed to include the feminine neuter genders and the use of the singular shall be deemed to include the plural and vice versa, whenever the context so requires.

Section 11.4 CONSTRUCTION. These condominium instruments are intended to comply with all of the applicable provisions of the Condominium Act and shall be so interpreted and applied.

IN WITNESS WHEREOF, the Declarant has caused these Bylaws to be executed by its principal officer on behalf of the Unit Owners Association, this 28th day of December, 1999.

MANAGEMENT COMMITTEE

HILLSIDE ORCHARD CONDOMINIUMS:

By:


J. BRAD BARTO