

Amended Declaration of Condominium and Bylaws for 838 Condominiums

The Declaration and Bylaws herein supersede the following:

- Declaration of Condominium and Bylaws for 838 East South Temple Condominiums as recorded 04/09/96 number 6325778 Nancy Workman, Recorder, Salt Lake County, Utah
- Amendment to the Declaration of Condominium and Bylaws for 838 East South Temple Condominiums as recorded 07/11/97 number 6689020 Nancy Workman, Recorder, Salt Lake County, Utah
- Addendum to the Declaration of Condominium and Bylaws for 838 East South Temple Condominiums as recorded 07/10/98 number 7022534 Nancy Workman, Recorder, Salt Lake County, Utah

In accordance with the Declaration of Condominium for 838 East South Temple Condominiums, Article 12.1, the Declaration herein was approved in writing by Unit Owners who own 75 percent in aggregate of the ownership interest in the Common Areas and Facilities, and

In accordance with Section 13 of the Bylaws of 838 East South Temple Condominiums Homeowner Association, the Bylaws herein were approved by two-thirds of the votes present at a meeting of the Association or in writing.

Attested by all members of the Association Management Committee, August 3, 2010:

Brian Wangsgard, Chairman

Brian Wangsgard

James Grace

James Grace

Sheila Kartchner

Sheila Kartchner

Kirk Nobis

Kirk Nobis

Catherine Stokes

Catherine Stokes

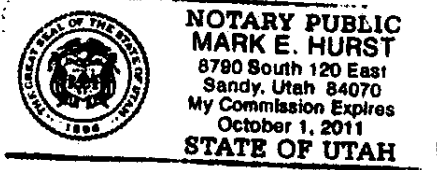
STATE OF UTAH, COUNTY OF SALT LAKE § SWORN TO BEFORE ME, Mark E. Hurst a Notary Public,

by said Brian Wangsgard, personally known to me, this 3rd day of August, 2010

Notary Public Mark E. Hurst

My commission expires Oct 1, 2011

James Grace
Sheila Kartchner
Kirk Nobis
Catherine Stokes



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GARY M. OTT
RECORDER, SALT LAKE COUNTY, UTAH
BRIAN WANGSGARD
838 E SOUTH TEMPLE #306
SAL UT 84102
BY: ZJM, DEPUTY - W1 40 P.

AMENDED
DECLARATION OF CONDOMINIUM

FOR

838 CONDOMINIUMS

THIS DECLARATION is made and executed as of the 16th day of April, 2010, by 838 Condominiums Homeowner Association, hereinafter "Association".

RECITALS:

A. The Declarant was the record owner of that certain real property (the "Land") located in Salt Lake City, Salt Lake County, Utah more particularly described in Article II hereof.

B. Various improvements have been made to the Land so as to enable its use and operation as a condominium project. The construction of all such improvements was supposed to have been performed in accordance with the information contained in the Record of Survey Map and in this Declaration.

C. The Association desires to have all improvements now or hereafter constructed thereon to the provisions of the Act as a condominium project to be known as the "838 Condominiums".

D. Ownership of the individual Units contained in the Project, together with the undivided ownership interests in the Common Areas and Facilities appurtenant to such Units, is subject to the covenants, restrictions, and limitations herein set forth.

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

I. DEFINITIONS

When used in this Declaration (including the Recitals and By-Laws and other exhibits attached hereto) the following terms shall have the meaning indicated. Any term used herein which is defined by the Act shall, to the extent permitted by the context hereof, have the meaning ascribed by the Act.

1.1. Act shall mean and refer to the Utah Condominium Ownership Act (Sections 57-8-1 through 57-8-36, Utah Code Annotated, 1953, as amended).

1.2. Association of Unit Owners or Association shall mean and refer to all of the Owners taken as or acting as a group in accordance with this Declaration as more fully set out in Section 5.1 of this Declaration.

1.3. Building shall mean the Building described in Section 3.1 of this Declaration.

1.4. Bylaws shall mean and refer to the Bylaws attached as Exhibit D to this Declaration as the same may hereafter be modified or amended.

1.5. Common Areas and Facilities or Common Areas shall mean, refer to, and include all Common Areas and Facilities designated as such in the Survey Map and all portions of the Project not specifically included within the individual Condominium Units as more fully described in Section 3.3 of this Declaration and all Common Areas as defined in the Act, whether or not enumerated herein.

1.6. Common Expenses shall mean and refer to all sums which are expended on behalf of all the Unit Owners and all sums which are required by the Management Committee to perform or exercise its functions, duties, or rights under the Act, this Declaration, the Bylaws, any management agreement for operation of the Project, and such rules and regulations as the Management Committee may from time to time make and adopt. By way of illustration but not limitation, Common Expenses shall include: (i) expenses of administration, maintenance, operation, repair and replacement of those elements of the Common Areas and Facilities that must be maintained and/or replaced on a periodic basis and reserves as may be from time to time established by the Committee; (ii) expenses agreed upon by the Association or the Management Committee and lawfully assessed against the Unit Owners in accordance with this Declaration or the Bylaws; (iii) expenses declared to be Common Expenses by the Act or by this Declaration or the Bylaws; and (iv) any valid charge against the Project as a whole.

1.7. Condominium Unit or Unit means and refers to a separate single Unit as described in Section 3.2 of this Declaration together with an undivided interest in the Common Areas and Facilities and the appurtenant right to the exclusive use of Limited Common Areas associated with such Unit.

1.8. Condominium Project or Project shall mean and refer to the 838 Condominiums and shall consist of the Property.

1.9. Declarant shall mean and refer to SOTEMPCO, L.L.C., a Utah limited liability corporation, or any successor or assign which, either by the operation of law, or through a voluntary conveyance, transfer, or assignment, comes to stand in the same relation to the Project as SOTEMPCO, L.L.C.

1.10. Declaration shall mean and refer to this instrument as the same may hereafter be modified or amended.

1.11. Land shall mean and refer to and consist of the real property described in Article II of this Declaration submitted to the terms of the Act by Article 11 hereof.

1.12. Limited Common Areas shall mean and refer to those Common Areas designated herein or on the Survey Map as reserved for the use of a certain Unit or Units to the exclusion of the other Units as further described in Section 3.4 of this Declaration.

1.13. Management Committee or Committee shall mean and refer to the Management Committee of the Association of Unit Owners.

1.14. Mortgage shall mean and include both a first mortgage and a first deed of trust by which a Unit or any part thereof is encumbered.

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

1.16. Par Value shall mean and refer to the number of points assigned to each Unit, as set out in Exhibit C to this Declaration.

1.17. Percentage Interest shall mean and refer to an undivided percentage interest of each Unit Owner in the Common Areas and Facilities as set out in Exhibit C to this Declaration.

1.18. Property shall mean and refer to the Land, the Building, and all improvements and structures thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

1.19. Record of Survey Map. Survey Map or Map shall mean and refer to the Record of Survey Map filed in connection herewith executed and acknowledged by Declarant, consisting of 3 pages, and prepared and certified to by McNeil Engineering, Inc., a duly registered Utah Land Surveyor, as the same may hereafter be modified or amended.

1.20. Unit Owner or Owner shall mean and refer to the owner of the fee in a Unit and the percentage of undivided interest in the Common Areas and Facilities which is appurtenant thereto. In the event a Unit is the subject of an executory contract of sale, the contract purchaser shall, upon notice to the Committee by the purchaser, unless the seller and the purchaser have otherwise agreed and have informed the Committee in writing of such agreement, be considered the Unit Owner for purposes of voting and Association membership.

II. SUBMISSION

2.1. Submission to Act. There is hereby submitted to the provisions of the Act, that certain parcel of real property situated in Salt Lake City, Salt Lake County, State of Utah more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference and all improvements now or hereafter constructed thereon.

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

SUBJECT TO all liens for current and future taxes, assessments and charges imposed or levied by governmental or quasi-governmental authorities; all patent reservations and exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described Land or any portion thereof, including, without limitation, any mortgage or

deed of trust; all visible easements and rights-of-way; all easements and rights-of-way of record; any easements, rights-of-way, encroachments, or discrepancies shown on or revealed by the Survey Map or otherwise existing; an easement for each and every pipe, line, cable, wire, utility line or similar facility which traverses or partially occupies the above-described Land at such time as construction of all Project improvements is complete; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cables, wires, utility lines, and similar facilities. The above specifically include, but are not limited to, the rights, limitations and obligations associated with the easements and rights relating to "West Hanover Place", as set out in that certain Easement Agreement between Declarant and Whiterock Management Co., L.C., dated 1/20/1995 and recorded 3/16/1995 as Entry No. 6041338 in Book 7117 at Page 798 of the Salt Lake County Recorder's Office, in that Certain Agreement for Maintenance of Common and Private Right-of-Way between Declarant and Whiterock Management Co., L.C., dated 1/20/1995 and recorded 3/16/1995 as Entry No. 6041338 in Book 7117 at Page 806 of the Salt Lake County Recorder's Office, and in that certain Easement Agreement between Declarant and Nicolette Elders dated 7/1/1995 and recorded 7/21/1995 as Entry No. 6125023 in Book 7190 at Page 2718 of the Salt Lake County Recorder's Office.

2.2. Covenants to Run With Land. This Declaration and all the provisions hereof shall constitute covenants running with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of the Association, all parties who hereafter acquire any interest in a Unit or in the Project, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. By acquiring any interest in a Unit or in the Project, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

III. DESCRIPTION OF BUILDING, CONDOMINIUM UNITS AND COMMON AREAS

3.1. Description of the Building. The Building has one level of covered parking and storage areas and an attached parking structure with one level of covered parking and one level of surface parking, four floors or levels of single family Condominium Units, a recreation room, a manager's office, two elevators and various lobbies, stairwells and other common areas. The Building is constructed of wood frame. The exterior is brick, stucco, and glass windows. The Building is supplied with electricity, water, sewage service, master TV antenna, natural gas, and air conditioning. The Building is fully depicted on the Survey Map.

3.2. Description of the Condominium Units. The boundary lines of each Condominium Unit are the undecorated and unfinished interior surfaces of its perimeter walls, bearing walls, lowermost floor, uppermost ceiling, interior surfaces of windows and doors, window frames and door frames and trim. Each Unit shall include both the portions of the Building that are not Common Areas and Facilities within such boundary lines and the space so encompassed. Without limitation, a Unit shall include any finishing material applied or affixed to the interior surfaces of the interior walls, floors, and systems, fixtures, or appliances found within the boundary lines of the Unit and servicing only that Unit. Exhibit C hereto contains a table setting forth the number designation of each Unit. The Units are more particularly described in the Survey Map.

3.3. Description of Common Areas and Facilities. The Common Areas and Facilities shall mean and include: the Land, all portions of the Project and all Property not contained within any Unit, including, but not by way of limitation: the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, and entrances and exits of the Building; the grounds, gardens, parking areas, the manager's office, and the areas used for storage of janitorial supplies, maintenance equipment and materials; installation of all central services, including power, light, water, hallway heating and air conditioning, and garbage collection; the elevators, pumps, motors, fans, ducts, and in general all apparatus and installations existing for common use; all patios, courts, and driveways; any utility pipes, lines or systems servicing more than a single Unit, and all ducts, flues, chutes, wires, conduits and other accessories and utility installations to the outlets used therewith; all Limited Common Areas as herein described; all other parts of the Property necessary or convenient to the existence, maintenance and safety, or normally common in use, or which have been designated as Common Areas and Facilities in the map; and all repairs and replacements of any of the foregoing.

3.4 Description of Limited Common Areas. Limited Common Areas mean and include those portions of the Common Areas and Facilities reserved for the use of certain Units to the exclusion of other Units. The Limited Common Areas shall include the parking spaces and storage areas as set forth in the Survey Map as well as balconies or patios that are immediately adjacent to and contiguous with the Units and the Limited Common Areas specifically described in this Section 3.4. The use and occupancy of designated Limited Common Areas shall be reserved to their associated Unit, and each Unit Owner is hereby granted an irrevocable license to use and occupy said Limited Common Area.

3.4.1 That portion of the balcony or deck on the third floor adjacent to and contiguous with Unit 301 on the west side of the westernmost metal railing shall be Limited Common Area reserved for the use and occupancy of the Owner of Unit 301.

3.4.2 That portion of the balcony or deck on the third floor adjacent to and contiguous with Unit 302 on the east side of the easternmost metal railing shall be Limited Common Area reserved for the use and occupancy of the Owner of Unit 302.

3.4.3 The number of storage areas and indoor parking spaces assigned to each Unit Owner are as shown in the table in Exhibit B. Changes in the number of assigned parking spaces or storage areas may be made only by amendment to this Declaration.

3.4.4 The Management Committee shall assign specific parking spaces and storage areas for the use and occupancy of the respective Unit Owners as Limited Common Areas and shall maintain a record of the assignments. When requested by a Unit Owner or Owners, the Management Committee may change assignments by majority vote of the full Committee.

3.4.5 The Management Committee may designate certain parking spaces for the use of disabled Residents or Visitors as needed and may assign such spaces for the exclusive use and occupancy of specific individual Unit Owners for as long as deemed necessary.

3.5. Percentages of Undivided Interest in Common Areas and Facilities. The percentage of undivided interest in the Common Areas and Facilities appurtenant to each Unit and its Owner for all purposes, including voting, is set forth in Exhibit C.

IV. PURPOSE AND USE OF PROJECT AND UNITS

4.1. Purpose of Project and Units. The purpose of the Project and the respective Units thereof is to provide residential housing, parking, and recreational facilities for Unit Owners, their respective families, tenants, guests, and invitees.

4.2. Use of Units and Common Areas. The Units shall be occupied as single family residences and a Unit Owner shall not permit its Unit to be occupied or used other than as a private residence for a single family, without the express written approval of the Management Committee.

4.3. Restrictions on Use of Condominium Units and Common Areas. The use and occupancy of the Condominium Units and Common Areas by Unit Owners, their respective families, tenants, guests, and invitees shall be subject to the following restrictions and conditions:

4.3.1. A Unit Owner shall not permit any obnoxious, destructive, or offensive activity or nuisance to be carried on in his Unit, the Limited Common Areas appurtenant to his Unit, the Common Areas, or any part thereof, which may be or may become an annoyance or nuisance to any other Owner or to any person at any time lawfully residing in the Project.

4.3.2. Smoking is prohibited in the Project. A Unit Owner shall not permit smoking in his Unit, in the Limited Common Areas appurtenant to his Unit, or in the Common Areas.

4.3.3. Nothing shall be done or kept in any Unit or in the Limited Common Areas appurtenant to a Unit which would result in the cancellation of the insurance on the Project or any part thereof or increase of the rate of the insurance on the Project or any part thereof without the prior written consent of the Management Committee. Nothing shall be done or kept in any Unit or in the Limited Common Areas appurtenant to the Units or the Common Areas or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

4.3.4. No structural alterations to any Unit shall be made by any Owner without the prior written consent of the Management Committee.

4.3.5. A Unit Owner shall keep the patios or balconies that are Limited Common Areas appurtenant to his Unit clean and sightly at all times and shall not use said patios or balconies for storage except with the express written approval of the Management Committee.

4.3.6. A Unit Owner shall not permit any sign of any kind to be displayed to the public view from his Unit, from the Limited Common Areas appurtenant to his Unit, or from the Common Areas and Facilities other than on the provided bulletin boards without the prior written consent of the Management Committee.

4.3.7. A Unit Owner shall not permit an animal of any kind to be raised, bred, or kept in his Unit or in the Limited Common Areas appurtenant to his Unit. The Management Committee shall provide in its rules and regulations that a service animal may be kept in a Unit, provided that the Unit Owner provides to the Management Committee prescribed forms and documents that provide proof that the resident is disabled according to the definitions of state and federal law and that the specific animal is necessary for the resident as a result of the disability. The keeping of such animals is still subject to rules and regulations adopted by the Management Committee.

4.3.8. There shall be no obstructions of the Common Areas and Facilities by the Unit Owners, their tenants, guests or invitees without the prior written consent of the Management Committee. Nothing shall be altered on, constructed in or removed from the Common Areas except upon the prior written consent of the Management Committee.

4.3.9. A Unit Owner shall not place or store anything within the Common Areas without the prior written consent of the Management Committee, except in the Limited Common Areas appurtenant to its Unit specifically designated or approved for storage.

4.3.10. No damage to or waste of the Common Areas or any part thereof shall be committed by any Owner or his respective family, tenants, guests and invitees, and each Owner shall indemnify and hold the Management Committee and the other Unit Owners harmless against all loss resulting from any such damage or waste caused by such Owner or his respective family, tenants, guests and invitees.

4.3.11. A Unit Owner shall not permit his parking spaces(s) to be used for any other purposes except to park a vehicle.

4.3.12. The Management Committee may by Rules and Regulations prohibit or limit the use of the Common Areas as may be reasonably necessary for protecting the interests of all the Owners or protecting the Units or the Common Areas. No Owner shall violate the rules and regulations regarding use of the Units and of the Common Areas as adopted from time to time by the Management Committee.

V. ASSOCIATION OF UNIT OWNERS - MANAGEMENT COMMITTEE

5.1. Association of Unit Owners. The persons or entities who are, at the time of reference, the Unit Owners constitute an unincorporated Association and not a legal entity, the characteristics and nature of which are determined by the Act, this Declaration and the Bylaws. The name in which contracts shall be entered into, title to property shall be acquired, held, dealt in and disposed of, bank accounts shall be opened and suits shall be brought and defended by the

Management Committee or officers thereof on behalf of and as agents for the Unit Owners in the manner specified in the Act, this Declaration or the Bylaws is: "838 Condominiums Homeowner Association, an association of unit owners under the Utah Condominium Act".

5.2. Voting. At any meeting of the Association of Unit Owners, each Unit Owner, either in person or by proxy, shall be entitled to the number of votes which is equal to the percentage of undivided interest of the Common Areas and Facilities assigned to his Unit or Units in Appendix B to this Declaration. If there is more than one Owner with respect to a particular Unit, any or all of such Owners may attend any meeting of the Association, but it shall be necessary for all such Owners present to act unanimously in order to cast the vote pertaining to their Unit. In those cases in which the Act or this Declaration requires the vote of a stated percentage of the Project's undivided ownership interest for the authorization or approval of a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Unit Owners who collectively constitute at least the necessary percentage of the total number of Units in the Project. Such practice is not in violation of the published guidelines governing exercise of voting procedures. Unit Owners failing to vote in person or provide written authorization or approval of a transaction within 14 days after the second of two written notifications has been mailed shall be deemed to have approved the transaction.

5.3. Management Committee. The management and maintenance of the Project, the Property and the business and affairs of the Association of Unit Owners shall be managed by a Management Committee as provided in the Bylaws. The Management Committee shall be elected as provided in the Bylaws. All agreements and determinations with respect to the Project and the Property lawfully made or entered into by the Management Committee shall be binding upon all of the Unit Owners and their successors and assigns.

5.4. Powers and Duties of Management Committee. The Management Committee shall have all the powers, duties and responsibilities which are now or may hereafter be provided by the Act, this Declaration and the Bylaws, including but not limited to the following:

5.4.1. To make and enforce house rules and administrative rules and regulations covering the operation and maintenance of the Property.

5.4.2. To engage the services of a manager or managing company, accountants, attorneys or other employees or agents and to pay to said persons a reasonable compensation for their services; provided however, that any management agreement may be terminable by the Management Committee for cause upon thirty days' written notice and that the term of any said management agreement may not exceed one year, renewable by agreement for successive one year periods.

5.4.3. To operate, maintain, repair, improve, and replace the Common Areas and Facilities, including the entering into of agreements for the use and maintenance of the Common Areas and Facilities for the benefit of the Association.

5.4.4. To determine and pay the Common Expenses.

5.4.5. To assess and collect the proportionate share of Common Expenses from the Unit Owners.

5.4.6. To enter into contracts, deeds, leases, and/or written instruments or documents and to authorize the execution and delivery thereof by the appropriate officers.

5.4.7. To open bank accounts on behalf of the Association and to designate the signatures therefore.

5.4.8. To purchase, hold, sell, convey, mortgage, or lease any one or more Units in the name of the Association or its designee.

5.4.9. To bring, prosecute and settle litigation for itself, the Association and the Project, provided that it shall make no settlement which results in liability against the Management Committee, the Association or the Project in excess of \$15,000 without prior approval by a majority of the votes of Unit Owners.

5.4.10. To obtain insurance for the Association with respect to the Units and Common Areas and Facilities as well as workmen's compensation insurance and such other insurance required by the Act, this Declaration or the Bylaws or determined to be necessary or advisable by the Management Committee as provided by the Act, this Declaration or the Bylaws.

5.4.11. To repair or restore the Property following damage or destruction or a permanent taking by a power in the nature of eminent domain or by an action or deed in lieu of condemnation not resulting in the removal of the Property from the provisions of the Act.

5.4.12. To own, purchase or lease, hold and sell or otherwise dispose of on behalf of the Unit Owners, items of personal property necessary to or convenient in the management of the business and affairs of the Association and the Management Committee and in the operation of the Property.

5.4.13. To keep adequate books and records.

5.4.14. To do all other acts necessary for the operation and maintenance of the Property, including the maintenance and repair of any Unit if the same is necessary to protect or preserve the Project.

5.5. Powers and Duties of Professional Management. The Management Committee may delegate to a professional manager or managing company all of its powers, duties and responsibilities referred to in Paragraph 5.4 above except: the final determination of Common Expenses, budgets and assessments based thereon; the promulgation of house rules and administrative rules and regulations; the power to enter into any contract involving more than \$10,000 in any one fiscal year; the power to purchase, hold, sell, convey, mortgage, or lease any Units in the name of the

Association; to bring, prosecute and settle litigation; or any other power, duty or responsibility nondelegable by law.

5.6. Limitation of Liability of Management Committee and Officers. Members of the Management Committee and the officers of the Association: (i) shall not be liable to the Unit Owners as a result of their activities as such for any mistake of judgment, negligence or otherwise, except for their own willful misconduct or bad faith; (ii) shall have no personal liability in contract to a Unit Owner or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Association in their capacity as such; (iii) shall have no personal liability in tort to any Unit Owner or any person or entity direct or imputed by virtue of acts performed by them except for their own willful misconduct or bad faith or acts performed by them in their capacity as such; (iv) shall have no personal liability arising out of the use, misuse or condition of the Property which might in any way be assessed against or imputed to them as a result of or by virtue of their capacity as such.

5.7. Indemnification of Management Committee and Officers. The Unit Owners shall indemnify and hold harmless any person, his heirs and personal representatives from and against all personal liability and all expenses, including attorney's fees, incurred or imposed or arising out of or in settlement of any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, instituted by any one or more Unit Owners or any other persons or entities to which he shall be threatened to be made a party by reason of the fact that he was a member of the Management Committee or an officer of the Association, other than to the extent, if any, such liability or expense shall be attributable to his willful misconduct or bad faith, provided, further that in the case of any settlement that the Management Committee shall have approved, the indemnification shall apply only when the Management Committee approves the settlement as being in the best interests of the Association. Such right of indemnification shall not be deemed exclusive of any other rights to which such person may be entitled as a matter of law or agreement or vote of Unit Owners or of the Management Committee or otherwise. The indemnification by the Unit Owners as contained herein shall be paid by the Management Committee on behalf of the Unit Owners and shall constitute a Common Expense and shall be assessed and collectable as such.

5.8. Liability of Association and Management Committee for Use of Common Area. The Association and the Management Committee shall be and remain wholly free and clear of any and all liability to, or claims by, all Owners, and all persons and entities, of whatever kind or character, whether sounding in contract or tort, deriving from the occurrence of any injury or damage to any person or property on, or in respect of the use and operation of, the Common Area or any of its improvements, fixtures, and facilities; inasmuch as the control, operation, management, use and enjoyment, of the Common Area shall be within, under, and subject to the Association. In this respect, it shall be the affirmative duty and responsibility of each Owner and user of the Common Area facilities to continuously inspect the same for any defects or perils or other unsafe conditions or circumstances, prior to and during such use or enjoyment thereof; and all users of, and visitors to, the Common Area and its improvements and facilities shall use, enjoy, and visit, the same at their own risk and peril.

VI. MAINTENANCE, ALTERATION AND IMPROVEMENT

6.1. Maintenance of Common Areas and Facilities. The maintenance, alteration, replacement and repair of the Common Areas and Facilities shall be the responsibility of the Management Committee and the cost thereof shall be a Common Expense. The Management Committee shall also maintain, alter, replace and repair all parking areas, balconies and patios, and all conduits, ducts, plumbing, and wiring and other facilities for the furnishing of heat, gas, light, power, air conditioning, water, and sewer that may be contained in portions of the Units, but which service part or parts of the Project other than the Unit in which they are contained. All incidental damages caused to a Unit by the maintenance, alteration, replacement, and repair of the Common Areas and Facilities or utilities shall be repaired promptly by the Management Committee as a Common Expense.

6.2. Maintenance of Units. Unit Owners shall, at their own cost and expense, maintain, repair, paint, wax, tile, paper, or otherwise refinish and decorate the interior surfaces of the walls, ceilings, floors, and doors forming the boundaries of their Units, as well as all walls, ceilings, floors, windows, and doors within the boundaries thereof. In addition, each Unit Owner shall otherwise keep the interior of his Unit in good repair, in a clean and sanitary condition, and shall be responsible for the maintenance, repair, or replacement of any cabinetry, plumbing fixtures, water heaters, heating equipment, air conditioner, lighting fixtures, refrigerator, dishwasher, disposal equipment, range, or other appliances or fixtures that may be in or are used for his Unit, even though not within its boundaries. The Unit Owners shall keep clean and in a sanitary condition their storage areas and balconies or patios, if any. The Management Committee shall be responsible for cleaning and general maintenance of all parking areas.

6.3. Right of Access for Maintenance and Repairs. The Management Committee or manager shall have the irrevocable right to have access to each Unit from time to time during reasonable hours as may be necessary for maintenance, repair, or replacement of any of the Common Areas and Facilities or for making emergency repairs necessary to prevent damage to the Common Areas and Facilities or to another Unit or Units. Each Unit Owner or occupant shall deposit a key to the Unit with the Management Committee or manager to be used for emergency access to the Unit.

VII. INSURANCE

7.1. Insurance Requirements. The Management Committee shall obtain and maintain at all times insurance of the types and kinds as provided herein and including insurance for all other risks, of a similar or dissimilar nature, as or shall hereafter customarily be covered with respect to other properties similar to the Project in construction, design and use. The Management Committee shall make a reasonable effort to obtain insurance with the following provisions or endorsements:

7.1.1. Exclusive authority to adjust losses shall be vested in the Management Committee as insurance trustees or any successor trustee as designated by the Management Committee.

7.1.2. The insurance coverage shall not be brought into contribution with insurance purchased by individual Unit Owners or their respective Mortgagees.

7.1.3. Each Unit Owner may obtain additional insurance covering his real property, fixtures, or personal interest at his own expense, so long as such additional or other insurance does not have the effect of decreasing the amount which may be realized under any insurance maintained by the Management Committee.

7.1.4. The insurer waives its rights or subrogation as to any and all claims against the Association, each Unit Owner, and/or their respective agents, employees or tenants, and of all defenses based upon co-insurance or upon invalidity arising from the act of the insured.

7.1.5. The insurance coverage cannot be canceled, invalidated or suspended because of the conduct of any one or more individual Unit Owners or their respective lessees, employees, agents, contractors, and guests.

7.1.6. The insurance coverage cannot be canceled, invalidated or suspended because of the conduct of any officer or employee of the Association or Management Committee or their employees, agents, or contractors, without prior demand in writing that the Management Committee cure the defect and then only if the defect is not cured within 15 days.

7.1.7. Such policies shall provide that coverage shall not be prejudiced by any act or neglect of the Unit Owners when such act or neglect is not within the control of the Association or failure of the Association to comply with any warranty or condition with regard to any portion of the Project over which the Owners Association has no control.

7.1.8. The insurance coverage shall provide that coverage may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least 30 days' prior written notice to any and all insureds named thereon, including all Mortgagees.

7.1.9. All policies of property insurance shall provide that, notwithstanding any provisions thereof which give the insurer the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without the prior written approval of the Management Committee (or any insurance trustee) or when in conflict with the provisions of any insurance trust agreement to which the Association may be a party, or any requirement of Law.

7.2. Property Insurance. The Management Committee, for the benefit of the Project and the Unit Owners, shall maintain a "master" or "blanket" policy of property insurance in an amount equal to the full replacement value (i.e. 100% of the current replacement cost exclusive of land, foundations, excavations, and other items normally excluded from coverage) of the entire Condominium Project (including all Units, all Common Areas and Facilities, service equipment

and any fixtures or equipment, but not contents furnished or installed by Unit Owner within the Units) with an "Agreed Amount Endorsement" or its equivalent, and, if necessary, an "increased Cost of Construction Endorsement" or "Contingent Liability from Operation of Building Laws Endorsement" or the equivalent, payable to the insurance trustee to be disbursed in accordance with the terms of this Declaration. Such insurance will afford protection against at least the loss or damage by fire and other hazards covered by the standard extended coverage endorsement, debris removal, vandalism, malicious mischief, windstorm, and water damage. The limits and coverage of said insurance shall be reviewed at least annually by the Management Committee. Said policy or policies shall provide for a separate loss payable endorsement in favor of the Mortgagee of each Unit, if any, as their interests may appear.

7.3. Liability Insurance. The Management Committee shall obtain a comprehensive policy or policies of public liability insurance insuring the Association, the Management Committee, the Unit Owners and their respective lessors, agents or guests against any liability to the public or to the Unit Owners, members of the households of Unit Owners and their respective invitees or tenants, incident to the ownership and/or use of the Property, and including the personal liability to the Unit Owners, incident to the ownership and/or use of the Property. Limits of liability under such insurance shall not be less than \$1,000,000 for any one person injured in any one occurrence, and shall not be less than \$100,000 for property damage in each occurrence. The limits in coverage of said liability policy or policies shall be reviewed at least annually by the Management Committee and increased at its discretion. Said policy or policies shall be issued on a comprehensive liability basis and, if possible, shall provide cross-liability endorsements for possible claims of any one or more or group of insureds against any one or more or group of insureds, without prejudice to the right of a named insured under the policies to maintain an action against another named insured. Such coverage will include protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others, and such other risks as shall customarily be covered with respect to projects similar in construction, location and use.

7.4. Fidelity Coverage. The Management Committee shall maintain adequate fidelity coverage to protect against dishonest acts on the part of members of the Management Committee, officers, and employees of the Association, including professional managers and their employees. Such fidelity bonds meet the following requirements:

7.4.1 All such fidelity bonds shall name the Association as the insured.

7.4.2. Such fidelity bonds shall be written in an amount equal to at least 50% of the estimated annual operating expenses of the Association, including reserves.

7.4.3. Such fidelity bonds shall include as part of any definitions of "employee" or similar expression both persons who serve with and without compensation.

7.4.4. Such bonds shall provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least 30 days prior written notice to the Mortgagees of the Units.

7.5. Other insurance. The foregoing provisions of this Article VII shall not be construed to limit the power or authority of the Management Committee to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Management Committee may deem proper from time to time.

7.6. Notice of Improvements to Units. Each Unit Owner shall be required to notify the Management Committee of, and shall be liable for any increased insurance premium for insurance maintained by the Management Committee, occasioned by improvements made by the Unit Owner to his unit, the aggregate value of which is in excess of \$10,000. Each Unit Owner shall bear the risk of loss for all improvements made to his Unit that were not the subject of notice to the Management Committee.

7.7. Insurance by Unit Owners. Any Unit Owner may obtain individual insurance coverage at his own expense so long as such insurance does not have the effect of decreasing the amount that the Management Committee, on behalf of all of the Unit Owners, may realize under any insurance policy that the Management Committee may have in force covering the Property or any part thereof at any time. Any Unit Owner who obtains individual insurance coverage, other than on personal property belonging to such Unit Owner, shall be required to file a copy of such individual policy or policies with the Management Committee within 30 days after obtaining such insurance coverage.

VIII. ASSESSMENTS

8.1. Agreement to Pay Assessment. Each Owner of any Unit by the acceptance of a deed therefore, whether or not it be so expressed in the deed, or by entering into a sale and purchase contract, shall be deemed to covenant and agree with each other and with the Association to pay to the Association annual assessments made by the Association for the Common Expenses and special assessments for capital improvements and other matters as provided in this Declaration. Such assessments shall be fixed, established and collected from time to time pursuant to the Bylaws and subject to the provisions in this Article VIII.

8.2. Apportionment of Expenses Each Unit Owner shall be liable for a proportionate share of the Common Expenses and shall share in the common profits, such shares being the same as the percentage of undivided interest in the Common Areas and Facilities appurtenant to the Unit owned by the Unit Owner as set forth in Exhibit C.

8.3. Commencement of Assessments. Assessments for Common Expenses on any Unit shall commence on that date which is the date of closing of a sale of the Unit, or the date of occupancy of the Unit, whichever occurs first, without regard to who is designated as the Owner thereof.

8.4. Assessments for Capital Improvements. The Management Committee may include in the monthly assessments amounts representing contributions to the capital of the Association to be used for the replacement of or additions to capital items or improvements to the Project. Except as otherwise provided herein, in assessing the Unit Owners for capital improvements to the Common Areas and Facilities, for which there are not sufficient amounts in the respective capital

accounts, there shall be no assessment, whether part of the annual budget or otherwise, for any single improvement exceeding the cost of \$15,000 made by the Management Committee without such expenditure having been first voted on and approved by those holding two-thirds of the votes present in person or by proxy at a meeting duly called for that purpose. The foregoing shall not apply in connection with damage or destruction referred to in Article IX of this Declaration or to such structural alterations, capital additions to or capital improvements of the Common Areas and Facilities as necessary in the Management Committee's reasonable judgment to preserve or maintain the integrity of the Common Areas and Facilities of the Project.

8.5. Interest on Delinquent Assessments. Assessments and any installments thereof not paid on or before 10 days after the date when due shall bear interest at the rate of 18% per annum, or at such rate of interest as may be set by the Management Committee, from the date when due until paid. All payments on account shall be first applied to interest and then to the assessment payment first due.

8.6. Lien for Assessments. Any unpaid annual or special assessments shall constitute a continuing lien on the interest of any Unit Owner, which shall also secure reasonable attorney's fees and all costs and expenses incurred by the Management Committee incident to the collection of such assessment or enforcement of such a lien. Such lien shall be superior to all other liens and encumbrances on such Unit, recorded or unrecorded, except only for (i) valid tax and special assessments liens on the Unit in favor of any governmental assessing authority; (ii) the lien of a Mortgage; and (iii) encumbrances on the interest of the Unit Owner recorded prior to the date a notice of lien under this Section is recorded, which by law would be a lien prior to subsequently recorded encumbrances. To evidence a lien for sums assessed hereunder, the Management Committee may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Unit, and a description of the Unit. Such a notice shall be signed by the Committee and may be recorded. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by judicial foreclosure by the Committee in the same manner in which mortgages on real property may be foreclosed in Utah. In any foreclosure of a lien for assessments, the Unit Owner subject to the lien shall be required to pay a reasonable rental for the Unit, and the Management Committee shall be entitled to the appointment of a receiver to collect the same. The Management Committee shall have the right and power to bid an amount equal to its then existing lien at the foreclosure sale or other legal sale and to acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the same as the Owner thereof. A release of notice of lien shall be executed by the Management Committee and recorded in the Office of the County Recorder of Salt Lake County, Utah, upon payment of all sums secured by a lien which has been made the subject of a recorded notice of lien. Any encumbrancer holding a lien on a Unit may pay, but shall not be required to pay, any amounts secured by the lien created hereunder, and upon such payment such encumbrancer shall be subrogated to all rights of the Management Committee with respect to such lien, including priority. If a Unit Owner shall, at any time, let his Unit and shall default for a period of one month in the payment of assessments, the Management Committee may, at its option, so long as such default shall continue, demand and receive from any tenant of the Owner the rent due or becoming due, and the payment of such rent to the

Management Committee shall discharge such tenant from his obligation for rent to the Owner and the Owner from his obligation to the Association, to the extent of the amount so paid.

8.7. Personal Obligation of Owner. The amount of any annual or special assessment against any Unit shall be the personal obligation of the Unit Owner to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Committee without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his Unit.

8.8. Statement of Account. Upon payment of a reasonable fee not to exceed ten dollars (\$10.00), or such other amount as may in the future be allowed by the Act, and upon written request of any Owner or any Mortgagee, prospective Mortgagee or prospective purchaser of a Unit, the Committee shall issue a written statement setting forth the amount of the unpaid assessments, if any, with respect to such Unit; the amount of the current yearly assessment and the date that such assessment becomes or became due; any credit for advanced payments or prepaid items, including, but not limited to, an Owner's share of prepaid insurance premiums; and such statement shall be conclusive upon the Committee in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within 20 days, all unpaid assessments which became due prior to the date of making such request shall be subordinate to the lien of a Mortgagee which acquired its interest subsequent to requesting such statement. Where a prospective purchaser makes such request, both the lien for such unpaid assessments and the personal obligations of the purchaser shall be released automatically if the statement is not furnished within the 20-day period provided herein and thereafter an additional written request is made by such purchaser and is not complied with within 10 days, and the purchaser subsequently acquires the Unit.

8.9. Personal Liability of Purchaser for Assessments. Subject to the provisions of Section 8.8, a purchaser of a Unit shall be jointly and severally liable with the seller for all unpaid assessments against the Unit up to the time of the grant or conveyance, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

IX. DESTRUCTION, CONDEMNATION AND TERMINATION

9.1. Destruction or Damage. In the case of fire or other damage or destruction to all or part of the Property, the Management Committee, with the help of an independent appraiser if necessary or advisable, shall determine the percentage of the Building that was destroyed or damaged and shall proceed as follows:

9.1.1. If Less than 75 percent of the Building is destroyed or substantially damaged, the Management Committee shall arrange for the prompt repair and restoration of the Building using the proceeds of insurance on the Building for that purpose, and the Unit Owners shall be liable for assessment for the deficiency, if any, in proportion to their respective percentages of undivided interests in the Common Areas and Facilities as set forth in Exhibit C. Reconstruction of the Building shall mean the restoring of the

Building to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas and Facilities having the same vertical and horizontal boundaries as before, unless the destruction or damage is by reason of eminent domain, in which event the provisions of Section 9.2 hereof shall apply.

9.1.2. If 75 percent or more of the building is destroyed or substantially damaged, the Management Committee shall, within 100 days after such destruction or damage, call a special meeting of the Unit Owners for the purpose of deciding whether or not the Building shall be repaired and restored. If the proceeds of insurance on the Building are sufficient to reconstruct the Building, then unless the Unit Owners representing 75 percent of the undivided interests in the Common Areas affirmatively vote not to restore the Building, the Management Committee shall promptly arrange for the reconstruction of the Building, using the proceeds of insurance on the Building for that purpose. If the proceeds of insurance on the Building are not sufficient to reconstruct the Building, then if the Unit Owners representing at least 75 percent of the undivided interests in the Common Areas, in person or by proxy, vote to repair or restore the Building, the Management Committee shall promptly arrange for the reconstruction of the Building, using the proceeds of insurance on the Building for that purpose, and the Unit Owners shall be liable for assessment for any deficiency, if any, in proportion to their respective percentage of undivided interest in the Common Areas and Facilities. If the destruction or damage is by reason of eminent domain, the provisions of Section 9.2 hereof shall apply.

9.1.3. If 75 percent or more of the Building is destroyed or substantially damaged and the reconstruction of the Building is not approved as provided in Section 9.1.2, the Management Committee shall record, with the County Recorder, a notice of setting forth such facts, and upon the recording of such notice: (i) the Property shall be deemed to be owned in common by the Unit Owners; (ii) the undivided interest in the Property owned in common which shall appertain to each Unit Owner shall be the percentage of undivided interest previously owned by such Owner in the Common Areas and Facilities as set forth in Exhibit C; (iii) any liens affecting any of the Units shall be deemed to be transferred in accordance with the existing priorities to the undivided interest of the Unit Owner according to their undivided interest in the Common Areas; and (iv) the Property shall be subject to an action for partition at the suit of any Unit Owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the Property shall be considered as one fund and shall be divided among all Unit Owners in a percentage equal to the percentage of undivided interest owned by each Unit Owner in the Common Areas and Facilities as set forth in Exhibit C, after first paying out of the respective shares of the Unit Owners, to the extent sufficient for such purposes, all sums necessary to satisfy the Mortgage on the Unit owned by each Unit Owner.

9.1.4. For purposes of this Section 9.1, the terms "disaster," "destruction" or "substantial damage" shall mean and include a temporary or permanent taking, injury, or destruction of all or part of the Common Areas and Facilities or one or more Units or portions thereof

by the exercise of the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation.

9.2. Eminent Domain. Whenever any proceeding is instituted that could result in the temporary or permanent taking, injury or destruction of all or part of the Common Areas and Facilities or one or more Units or portions thereof by the exercise of the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation (all of which shall be defined as "eminent domain"), the Management Committee, each Unit Owner, and every Mortgagee, shall be entitled to timely written notice thereof, and the Management Committee shall and the Unit Owners, at their respective expense, may participate in the proceedings incident thereto. The provisions governing the allocation of awards by reason of eminent domain shall be determined in accordance with Section 57-8-32.5 of the Act; provided, that the priority of any Mortgage shall remain undisturbed.

9.3. Termination. All of the Unit Owners may agree that the Units are obsolete or the Project should otherwise be abandoned or terminated and that the same should be sold. Such plan or agreement must have the written unanimous approval of every Mortgagee. In such instance, the Management Committee shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice, the entire Property shall be sold by the Association, as attorney-in-fact for all of the Owners, free and clear of the provisions contained in this Declaration, the Survey Map, and the Bylaws. The sales proceeds shall be apportioned among the Owners and disbursed in the same manner as provided in Section 9.1.3 of this Declaration.

X. MORTGAGE PROTECTION

10.1. Roster of Unit Owners and Mortgagees. The Management Committee shall maintain a roster of Unit Owners from the evidence of change of ownership furnished to the Management Committee, which roster shall include the mailing addresses of Unit Owners. If the Management Committee has been given notice and the necessary information, the Management Committee shall maintain another roster which shall contain the name and address of each Mortgagee of a Unit. Each notice shall consist of a certified copy of the recorded instrument evidencing the title of the Mortgagee. The Mortgagee shall be stricken from the roster upon receipt by the Management Committee of a request from the Mortgagee or of a certified copy of a recorded release or satisfaction of the Mortgage. Notice of such removal shall be given to the Mortgagee unless the removal is requested by the Mortgagee.

10.2. Notice of Default by Unit Owners. The Mortgagee under any Mortgage on a Unit is entitled to written notification from the Management Committee of any default by the mortgagor of such Unit in the performance of such Owners obligation under the Declaration which is not cured within 30 days.

10.3. Right to Examine Books, Etc. Any Mortgagee shall have the right to examine the books and records of the Association during normal business hours and, upon request shall be entitled to received copies of annual reports, financial statements and other financial data for the

preceding fiscal year, and shall be entitled to receive written notice of all meetings of the Association and may designate a representative to attend all such meetings.

10.4. Priority of Liens. A Mortgagee of any Unit who comes into possession of the Unit pursuant to the remedies provided in the Mortgage or by deed in lieu of foreclosure, shall take the property free of any claims or unpaid assessments or charges against the mortgaged Unit which accrued prior to the time such Mortgagee comes into the possession of the Unit (except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all Units, including the mortgaged Unit). The liens created under the Act or pursuant to this Declaration or the Bylaws upon any Unit shall be subject and subordinate to any Mortgage on that Unit, and shall not affect the rights of the Mortgagee pursuant to a Mortgage upon a Unit, recorded prior to the date such liens arose and which is made in good faith and for value, provided that after the foreclosure of any such Mortgage, any assessments created pursuant to this Declaration or the Bylaws after the date of such sale shall have the same effect and be enforced in the same manner against the Purchaser at such sale as would be the case for any other Unit Owner.

10.5. Amendment of Article X. No amendment to Article X of this Declaration shall affect the rights of the Mortgagee under any Mortgage recorded prior to the recordation of any such amendment who does not joint in the execution thereof.

XI. CONVEYANCE, EASEMENTS AND ENCROACHMENTS

11.1. Conveyancing. Every deed, lease, mortgage, instrument of conveyance or sale, or other instrument affecting title to a Unit shall describe the Unit by its designation set forth in Exhibit C and in the Survey Map with appropriate reference to the Survey Map and this Declaration, as each shall appear on the records of the County Recorder of Salt Lake County, State of Utah. Every such description shall be deemed good and sufficient for all purposes and shall be deemed to convey, transfer, encumber or otherwise affect the Unit Owner's corresponding percentage of undivided ownership in the Common Areas and Facilities, as a tenant-in-common, as set forth in Exhibit C, also incorporating all rights and limitations incident to ownership described in this Declaration and the Bylaws, even though the same are not exactly mentioned or described. A description shall be deemed sufficient if it appears in substantially the following form:

Unit _____, as shown in the Record of Survey Map for 838 East South Temple Condominiums appearing in the Records of the County Recorder of Salt Lake County, State of Utah, in Book No., Page No. _____, of Plats, and as defined and described in the Declaration for 838 South Temple Condominiums, recorded the _____ day of _____, 19____, as Entry No. _____, Book No _____, page No. _____. The Declaration of 838 Condominiums includes Exhibits A, B, and C attached thereto.

11.2. Easements. Every deed, lease, mortgage or other similar instrument shall be deemed to:

11.2.1. Except and reserve with respect to a Unit; (i) any portion of the Common Areas and Facilities lying within said Unit; (ii) easements through said Unit, appurtenant to the Common Areas and Facilities and all other Units, for support and repair of the Common Areas and Facilities and all other Units; and (iii) easements, appurtenant to the Common Areas and Facilities, for encroachment upon the air space of said Unit by those portions of the Common Areas and Facilities located within said Unit by those portions of the Common Areas and Facilities located within said Unit.

11.2.2. Include with respect to a Unit nonexclusive easements for ingress and support of said Unit through the Common Areas and Facilities, for the repair of said Unit through all other Units and through all Common Areas and for the use of the Limited Common Areas associated with the Unit as indicated in this Declaration and the Survey Map.

11.2.3. Except and reserve, with respect to the undivided percentage interest in the Common Areas and Facilities, nonexclusive easements appurtenant to all Units for ingress, egress, support and repair and exclusive easements appurtenant to each Unit for the use of the balcony, patio, and any storage area as set forth in the Survey Map and the record of assignments maintained by the Committee.

11.2.4. Include, with respect to the undivided percentage interest in the Common Areas and Facilities, nonexclusive easements through each Unit for support and repair of the Common Areas and Facilities and nonexclusive easements for encroachments upon the airspace of all of the Units by and for the portions of the Common Areas and Facilities lying within the Units.

11.3. Encroachments. None of the rights and obligations of any Unit Owner created by this Declaration, the Bylaws, or by any deed conveying a Unit shall be affected in any way by any encroachments (i) by any portion of the Common Areas and Facilities upon any Unit; (ii) by any Unit upon another Unit or upon the Common Areas due to settling or shifting of the Building or other structure, including the rebuilding of the Building or other structure after fire or other casualty or an eminent domain taking or delivery of a deed in lieu of condemnation, unless there occurs an encroachment that results from the willful or negligent act or omission of the Unit Owner of the encroaching Unit, or of the owners of the Units to which the use of the encroaching Limited Common Areas is appurtenant, or of the Management Committee in the event of an encroachment by any portion of the Common Areas and Facilities other than the Limited Common Areas. There are hereby created valid easements for the maintenance of any encroachments permitted by this Section so long as such encroachments exist.

XII. AMENDMENT

12.1. Amendment by Unit Owners. Except as otherwise provided in this Declaration and except as prohibited by the Act, the provisions of this Declaration may be amended by an instrument in writing signed and acknowledged by Unit Owners who own two thirds in the aggregate of the ownership interest in the Common Areas and Facilities as set forth in Exhibit C, which amendment shall be effective upon recording. Any material amendment to this Declaration,

including, but not limited, to any such amendment which would alter the percentage interests in the Common Areas and Facilities, other than those alterations allowed in Article XIV, must be approved in writing by all Mortgagees. Failure by a Mortgagee to submit a response to a written proposal for an amendment within 60 days after proof of receipt by certified or registered mail shall be deemed approval.

XIII. LEASING OF UNITS

13.1. Leases of Units. All leases of Units shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the terms of this Declaration and Bylaws and that failure of the lessee to comply with the terms of said documents shall be a default under the lease.

13.2. Limitations on Leasing of Individual Units. No Unit Owner shall lease less than the entire Unit.

13.3. Limitations on the Number of Units Leased. No more than seven (7) Units in the Building may be leased concurrently. Prior to entering into a lease, a Unit Owner must inform the Management Committee in writing of the intent to lease his Unit. The Management Committee may approve, in writing, the temporary leasing of any additional Unit for up to 24 months upon written application of the Unit Owner demonstrating evidence that failure to lease the Unit would constitute a hardship. The Management Committee will consider hardships based on the Unit Owner's change of employment status, change of family status, or prospective absence of a defined duration.

XIV. COMBINATION OF UNITS

14.1. Combination of Units. An Owner of two or more adjoining Units shall have the rights, upon the approval of the Management Committee and the Mortgagees of said Units, and in compliance with all applicable zoning or other ordinances, to combine one or more adjoining Units or portions thereof and to alter or amend the Declaration and Survey Map to reflect such combination.

14.2. Amendments of Declaration and Survey Map to Effect Combination. Such amendments may be accomplished by the Unit Owner recording an amendment or amendments to this Declaration, together with an amended Survey Map or Maps containing the same information with respect to the altered Units as required in the initial Declaration and Survey Map with respect to the initial Units. All costs and expenses required in such amendments shall be borne by the Unit Owner desiring such combination. All such amendments to the Declaration and Survey Map must be approved by attorneys employed by the Management Committee to insure the continuing legality of the Declaration and the Survey Map. The cost of such review by the attorneys shall be borne by the person wishing to combine the Units.

14.4. Changes to Undivided Interests in Common Areas. Any amendment of the Declaration or Survey Map pursuant to this Article XIV shall reflect the changes occasioned by the alteration.

Such changes shall include a change in the percentage of undivided interest in the Common Areas and Facilities which are appurtenant to the Units involved in the alterations. The remaining combined Unit, if two or more units are totally combined, will acquire the total of the percentage of undivided interest in the Common Areas and Facilities appurtenant to the Units that are combined as set forth in Exhibit C. If a portion of one Unit is combined with another, the resulting Units shall acquire a proportionate percentage of the total undivided interest in the Common Areas and Facilities of the Units involved in the combination on the basis of area remaining in the respective, combined Units. All such amendments must, in all instances, be consented to by the Management Committee and also all other persons holding interest in the Units affected. The consent of other Unit owners need not be obtained to make such amendments or alterations valid, providing the percentages of undivided interest in the Common Areas and Facilities of the other Unit Owners remain unchanged. -

XV. GENERAL PROVISIONS

15.1. Agent for Service of Process. The name and address of the person in Salt Lake County, State of Utah, appointed agent to receive service of process in cases authorized by the Act shall be the individual who is registered with the Utah Department of Commerce, for so long as the Association is registered as a Utah Nonprofit corporation. If the Association ceases to be registered, the Chairman of the Management Committee shall be the agent for service of process.

15.2. Notices. Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to be delivered 48 hours after a copy of the same has been deposited in the U.S. postal service, postage prepaid, return receipt requested. Notice to Unit Owners shall be addressed to each Unit Owner at the address given in writing by such Unit Owner to the Management Committee for the purpose of service of such notice or to the Unit of such Unit Owner if no such address has been given to the Management Committee. Such address may be changed from time to time by notice in writing addressed to the Management Committee.

15.3. Waiver. The failure of the Management committee or its contractors to insist, in one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration or the Bylaws, or to exercise any right or option herein contained, or to serve any notice or to institute any action shall not be construed as a waiver or relinquishment for the future of such term, covenant, condition or restriction, but such term, covenant, condition or restriction shall remain in full force and effect. The receipt and acceptance by the Management Committee or its contractor of the payment of any assessment from a Unit Owner, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by the Management Committee of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Management Committee.

15.4. Enforcement. Each Owner or occupant of a Unit shall strictly comply with, and all interests in all Units shall be subject to, the terms of the Act, the terms of this Declaration, the By-Laws, and the provisions of any rules, regulations, agreements, instruments, and determinations

contemplated by this Declaration. Failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Management Committee on behalf of Unit Owners, or, in a proper case by an aggrieved Unit Owner.

15.5. Accommodation of Handicapped Persons. Notwithstanding any other provision of this Declaration, the Bylaws or any rules or regulations adopted by the Management Committee, the Management Committee shall make reasonable accommodations under any restrictions therein contained as may be necessary to afford a handicapped person equal opportunity to use and enjoy the Property.

15.6. Gender. The use of the masculine gender in this Declaration shall be deemed to refer to the feminine gender and the use of the singular shall be deemed to refer to the plural, and vice versa, whenever the context so requires.

15.7. Severability. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

15.8. Law Controlling - Conflicts. This Declaration, the Survey Map and the Bylaws shall be construed and controlled by and under the laws of the State of Utah. This Declaration is set forth to comply with the requirements of the Act. In the event of any conflict between this Declaration and the provisions of the Act, the provisions of the Act shall control.

15.9. Captions. The captions in this Declaration are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration or the intent of any provision hereof.

15.10. Effective Date. This Declaration shall take effect upon recording in the office of the County Recorder of Salt Lake County, Utah.

EXECUTED on the day and year first above written.

STATE OF UTAH)

: ss.

COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this _____ day of _____,
_____, by _____.

Notary Public
Residing at Salt Lake County, Utah

My Commission Expires:

**EXHIBIT A
REAL PROPERTY DESCRIPTION**

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RXEN      ENTRY # 0006325777   KIND OF INSTR PLAT   BOOK 9604P   PAGE 00108
REC DATE 04091996 TIME 1159   FEE 134.00   REQ SOTEMPCO ASSOC
CONSID    INSTR DATE 02051996   NUMBER OF RECORDED PAGES
NAMES PLEWE, RAYMOND F           1ST WHOM MAY CONCERN           2ND
      PLEWE, BARBARA G           1ST SCOTT, S UNREADABLE       1ST
      SCOTT, CAROL PLEWE         1ST WASHINGTON FED SAV & LN   1ST
OTHER PARTYS? N                   RXEN FINISHED? Y DOCUMENT FINISHED? Y
16-05-126-054-0000 BLK 058 PLAT B           DATE FINISHED: 05/14/1996
      ~ DESCRIPTION AS FOLLOWS:           * PLAT 00000
      BEG N 89-58'48" E 214.12 FT FR THE NW   L 4-5 00005
      COR OF LOT 5 BLK 58 PLAT B; N 89-      L 7 00010
      58'48" E 116 FT TO THE NE COR OF SD LOT 5;   00015
      S 0-00'53" E 165.05 FT TO THE SE COR OF SD   00020
      LOT 5; N 89-58'45" E 165.06 FT; N 0-00'57" E   00025
      49.50 FT; S 89-58'45" W 165.06 FT; S 0-      00030
      00'53" E 62.75 FT; W 123.75 FT; N 00-00'53" W   00035
      112.25 FT; N 89-58'45' E 7.75 FT; N 0-00'      00040
      53" W 165.05 FT TO BE                       00045
      CONTS 0.946 ACRES                           00050
                                                    00055

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PF: 1=RXKP 3=RXPS 4=RXLP 5=PHONT SEARCH 6=NEXT 7=RXPT 8=RXPN 9=MENU
10=RXAB 11=RXAP 12=PREV 13=VTDI 14=BOOK/PAGE POS CURSOR 16=RXTD

EXHIBIT B
NUMBER OF STORAGE AREAS AND INDOOR PARKING SPACES PER UNIT

Unit	Storage Areas	Parking Spaces		Unit	Storage Areas	Parking Spaces
101	1	1		301	1	1
102	1	1		302	1	1
103	1	1		303	1	1
104	1	1		304	1	2
105	1	1		305	2	1
106	1	1		306	1	2
107	1	1		307	1	1
108	Office	Office		308	1	1
109	1	1		309	1	1
110	1	2		310	1	2
111	1	1		311	1	1
201	1	1		401	1	1
202	1	1		402	1	1
203	1	1		403	1	1
204	1	1		404	1	2
205	1	1		405	1	1
206	2	2		406	1	2
207	1	1		407	1	1
208	1	1		408	1	1
209	1	1		409	1	1
210	1	2		410	1	2
211	1	1		411	1	1
Association	1	1		Hcp.	-	1

Note: The Management Committee shall assign specific parking spaces and storage areas for the use and occupancy the respective Unit Owners as Limited Common Areas and shall maintain a record of the assignments. (Declaration of Condominium Section 3.4.4)

EXHIBIT C
UNIT NUMBER DESIGNATION AND
PERCENTAGE OF UNDIVIDED INTEREST
IN COMMON AREAS AND FACILITIES

Unit Designation	Size In Square Feet	Par Value In Points	Percentage of Undivided Interest in Common Areas and Facilities
101	1,175	229.25	2.2925
102	1,126	217.50	2.1750
103	1,092	217.50	2.1750
104	1,568	253.85	2.5385
105	1,221	229.25	2.2925
106	1,654	253.85	2.5385
107	1,057	217.50	2.1750
109	962	217.50	2.1750
110	1,586	253.85	2.5385
111	1,175	229.25	2.2925
201	1,175	229.25	2.2925
202	1,175	229.25	2.2925
203	1,092	217.50	2.1750
204	1,568	253.85	2.5385
205	1,221	229.25	2.2925
206	1,654	253.85	2.5385
207	1,057	217.50	2.1750
208	1,153	229.25	2.2925
209	962	217.50	2.1750
210	1,586	253.85	2.5385
211	1,175	229.25	2.2925

Unit Designation	Size In Square Feet	Par Value In Points	Percentage of Undivided Interest in Common Areas and Facilities
301	1,175	229.25	2.2925
302	1,175	229.25	2.2925
303	1,092	217.50	2.1750
304	1,568	253.85	2.5385
305	1,221	229.25	2.2925
306	1,654	253.85	2.5385
307	1,057	217.50	2.1750
308	1,153	229.25	2.2925
309	962	217.50	2.1750
310	1,586	253.85	2.5385
311	1,175	229.25	2.2925
401	1,175	229.25	2.2925
402	1,175	229.25	2.2925
403	1,092	217.50	2.1750
404	1,568	253.85	2.5385
405	1,221	229.25	2.2925
406	1,654	253.85	2.5385
407	1,057	217.50	2.1750
408	1,153	229.25	2.2925
409	962	217.50	2.1750
410	1,586	253.85	2.5385
411	1,175	229.25	2.2925
TOTALS	54,070	10,000.20	100.0020

EXHIBIT D
BYLAWS
OF
838 CONDOMINIUMS HOMEOWNER ASSOCIATION
An Association of Unit Owners Under
the Utah Condominium Ownership Act

The administration of the 838 Condominiums and the 838 Condominiums Homeowner Association shall be governed by these Bylaws, the Act, and the Declaration.

1. Application of Bylaws

All present and future Unit Owners, Mortgagees, and occupants of Units and their lessees, agents, guests, employees, and other persons who may use the facilities of the Project in any manner are subject to the Declaration, these Bylaws, and all rules made pursuant thereto and any amendment thereof. The acceptance of a deed of conveyance or the entering into of a lease or the act of occupancy of a Unit shall constitute an agreement that the provisions of the Declaration and these Bylaws (and any rules and regulation made pursuant thereto), as they may be amended from time to time, are accepted, ratified, and will be complied with.

2. Management Committee

2.1. The administration of the property on behalf of the Association shall be conducted by a Management Committee who shall be Unit Owners and residents of the State of Utah. The actual number of members of the Committee shall be five natural persons.

2.2. At each annual meeting of the Association, the Association shall elect members to fill vacancies on the Management Committee. Following receipt of the official notice of the meeting date and time, any Homeowner in good standing (Section 3.2), including a member of the Management Committee whose term is expiring, may declare himself a candidate for election by submitting his name in writing to the Management Committee or management company not less than four days prior to the meeting.

2.3. Members of the Management Committee shall serve for a term of two years, the term of three members and then two members expiring in alternating years. The members of the Management Committee shall serve until their respective successors are elected, or until their death, resignation, or removal. Any member of the Management Committee who fails to attend four consecutive Management Committee meetings or fails to attend at least six of the Management Committee meetings held during any calendar year shall forfeit his membership on the Management Committee.

2.4. Any member of the Management Committee may resign at any time by giving written notice to the chairman of the Committee, or the remaining Management Committee members. Any member of the Management Committee may be removed from membership on the Management Committee by a two-thirds majority vote of the Association. Whenever there shall occur a

vacancy on the Management Committee due to forfeiture, death, resignation, removal or any other cause, the remaining members of the Committee shall appoint a successor member to serve until the next annual meeting of the Association, at which time said vacancy shall be filled by vote of the Association for the unexpired term, if any.

2.5. The members of the Management Committee shall receive no compensation for their services, other than reimbursement of expenses, unless expressly approved by a majority of the Association, provided, however, that any member of the Management Committee may be employed by the Association in another capacity and receive compensation for such employment.

2.6. The Management Committee, for the benefit of the Project and the Association, shall manage the business, property, and affairs of the Project and the Association and enforce the provisions of the Declaration, these Bylaws, the house rules, and the administrative rules and regulations governing the Project. The Management Committee shall have the powers, duties, and responsibilities with respect to the Property as contained in the Act, the Declaration, and these Bylaws.

2.7. Regular meetings of the Management Committee shall be held at such places within the State of Utah as the Management Committee shall determine. At least six such meetings shall be held during each fiscal year. At all meetings of the Management Committee, a majority of the Committee members shall constitute a quorum for the transaction of business, and the acts of the majority of the members present at a meeting at which a quorum is present shall be the acts of the Committee. The Management Committee shall annually elect all of the officers of the Association. The meeting for the election of officers shall be held at the first meeting of the Management Committee immediately following the annual meeting of the Association.

2.8. Regular meetings of the Management Committee may be held without call or notice. The person or persons calling a special meeting of the Management Committee shall, at least ten days before the meeting, give notice thereof by any usual means of communication. Such notice need not specify the purpose for which the meeting is called, and if an agenda is prepared for such a meeting, the meeting need not be restricted to discussions of the matters listed on the agenda.

2.9. Special meetings of the Management Committee may be called by the chairman or by any two Management Committee members.

2.10. Any member of the Management Committee may, at any time, waive notice of any meeting of the Management Committee in writing, and such waiver shall be deemed equivalent to the giving of notice to the member. Attendance by a member of the Management Committee at a meeting shall constitute a waiver of notice of such meeting except when a Management Committee member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the members of the Management Committee are present at any meeting of the Management Committee, no notice shall be required and any business may be transacted at such meeting.

2.11. The Management Committee, for the benefit of the Project and the Association, shall enforce the provisions of the Declaration, these Bylaws, and the rules and regulations governing the Property; and, subject to restrictions of Section 5.2 of these Bylaws, shall acquire, arrange and pay for out of the Common Expense fund at least the following:

2.11.1. Water, sewer, garbage collection, electrical, telephone, gas and other necessary utility services for the Common Areas and Facilities.

2.11.2. Water, sewer, electrical, gas or other necessary utility costs for Units and limited Common Areas and Facilities which are not separately metered or charged, the cost thereof, so far as practicable, to be specifically assessed to the Owners of the Units affected thereby.

2.11.3. A policy or policies of fire insurance, with extended coverage endorsements, for the full insurable replacement value of the Units and Common Areas and Facilities as provided in Section 7.2 of the Declaration, or such other fire and casualty insurance as the Management Committee shall determine gives substantially equal or greater protection to the Unit Owners and their Mortgagees. The limits and coverage of such policies shall be reviewed at least annually by the Management Committee as per the Declaration and increased in its discretion. Insurance proceeds shall be payable and applicable as provided in Article VII of the Declaration.

2.11.4. A policy or policies of public liability insurance insuring the Management Committee, the Association and the individual Unit Owners against any liability to any persons or persons incident to the Ownership and/or use of the Property. Such policy or policies shall be consistent with the provisions of Section 7.3 of the Declaration. Limits of liability under such insurance shall be as provided in said Section.

2.11.5. Workmen's Compensation Insurance to the extent necessary to comply with any applicable laws.

2.11.6. The services of a manager to manage its affairs as provided in the Declaration, as well as such other personnel as the Management Committee shall determine shall be necessary or proper for the operation of the Common Areas and Facilities, whether such personnel are employed directly by the Management Committee or are furnished by the manager.

2.11.7. Legal and accounting services necessary or proper in the operation of the Project and the Common Areas and Facilities or the enforcement of the Declaration.

2.11.8. A fidelity bond as provided in the Declaration.

2.11.9. Painting, maintenance, repair and all landscaping of the Common Areas and Facilities, and such furnishings and equipment for the Common Areas and Facilities as the Management Committee shall determine are necessary and proper, and the Management Committee shall have the exclusive right and duty to acquire the same for

the Common Areas and Facilities, provided, however, that the interior surfaces of each Unit shall be painted, maintained and repaired by the Unit Owner thereof, all such maintenance to be at the sole cost and expense of that particular Unit Owner.

2.11.10. Any other material, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the Management Committee is required to secure or pay for pursuant to the terms of the Declaration or Bylaws or which in its opinion shall be necessary or proper for the operation of the Common Areas and Facilities or for the enforcement of the Declaration; provided that if any such materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments are provided for particular Units, the cost thereof shall be specifically assessed to the Owners of such Units.

2.11.11. Maintenance and repair of any Unit, if such maintenance or repair is reasonably necessary in the discretion of the Management Committee to protect the Common Areas and Facilities or preserve the appearance and/or value of the Property, and the Unit Owner of said Unit has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity therefore delivered by the Management Committee to said Unit Owner; provided that the Management Committee shall levy a special assessment against the Condominium Unit of such Unit Owner for the cost of said maintenance or repair.

2.11.12. The Management Committee shall have the exclusive right to contract all goods, services and insurance; payment to be made from the Common Expense fund. This provision shall not be construed to prohibit the Management Committee from delegating such authority to the manager as it deems proper.

2.12. Any two persons who are designated of record as being members of the most recent Management Committee (regardless of whether or not they shall still be members) may execute, acknowledge and record an affidavit stating the names of all of the members of the then current Management Committee. The most recently recorded of such affidavits shall be prima facie evidence that the persons named herein are all of the incumbent members of the Management Committee and shall be conclusive evidence thereof in favor of all persons who rely thereon in good faith.

2.13. The fiscal year shall be determined by the Management Committee.

3. Meetings of the Association

3.1. The presence in person or by proxy at any meeting of the Association of at least 50 percent of the Unit Owners in response to notice to all Unit Owners of record properly given shall constitute a quorum. In the event that 50 percent of the Unit Owners are not present in person or by proxy, the meeting shall be adjourned for 24 hours, at which time it shall reconvene and any number of Unit Owners present at such subsequent meeting shall constitute a quorum. Unless otherwise expressly provided in the Declaration, any action may be taken at any meeting of the

Unit Owners upon a majority vote of the Unit Owners who are present in person or by proxy and who are voting.

3.2. A Unit Owner shall be deemed to be "in good standing" and "entitled to vote" at any annual meeting or at any special meeting of the Association if, and only if, he shall have fully paid all due installments of assessments made or levied against him and his Unit by the Management Committee as hereinafter provided, together with all interest, costs, attorney's fees, penalties and other expenses, if any, properly chargeable to him and against his Unit, prior to the date fixed for such annual or special meeting.

3.3. At all meetings of the Association, Unit Owners may vote in person or by proxy executed in writing by the Unit Owner or his duly authorized attorney in fact. Proxies shall be filed with the secretary of the Management Committee before or at the time of the meeting. Unless otherwise specified therein, each proxy shall be valid for 11 months from the date of its execution.

3.4. There shall be an annual meeting of the Association at such date and time as set by the Management Committee, either at the Project or at such other reasonable place as may be designated. The Management Committee shall give written notice of the time and place of the annual meeting, said notice to be delivered to the Unit Owners not less than 15 days prior to the date fixed for said meeting.

3.5. Special meetings of the Association may be held at any time at the Project or at some other reasonable place to consider matters which, by the terms of the Declaration, the Act, or these Bylaws, require the approval of all or some of the Unit Owners, or for any other reasonable purpose. Special meetings shall be called by written notice, signed by a majority of the Management Committee, or by Unit Owners representing at least one-third in interest of the undivided Ownership of the Common Areas and Facilities and delivered to all Unit Owners not less than 15 days prior to the date fixed for said meeting. The notices shall specify the date, time, and place of this meeting, and the matters to be considered.

3.6. Robert's Rules of Order (latest edition) shall govern the conduct of the Association's meetings when not in conflict with the Declaration or these Bylaws.

4. Committee Officers

4.1. The Management Committee shall perform its functions and responsibilities through those members of the Committee who are elected as officers annually by the Committee, and through such agents or employees as the Committee may appoint. The primary officers shall consist of a chairman, vice chairman, secretary, and treasurer. The offices of secretary and treasurer may be combined as one office. The Management Committee may appoint such assistant officers as the Management Committee may deem necessary. No officer shall receive compensation for serving as such unless a majority of Unit Owners vote otherwise.

4.2. The chairman shall be the chief executive of the Management Committee and shall preside at all meetings of the Association and of the Management Committee and may exercise the powers ordinarily allocable to the presiding officer of an Association, including the appointment

of committees. The chairman shall exercise general supervision over the Property and its affairs. He shall sign on behalf of the Association all conveyances, mortgages, and contracts of material importance to its business. He shall do and perform all acts which the Management Committee may require.

4.3. The vice chairman shall perform the functions of the chairman in the absence or inability of the chairman.

4.4. The secretary shall keep minutes of all proceedings of the Management Committee and of the meetings of the Association and shall keep such books and records as may be necessary and appropriate for the records of the Association and the Management Committee. In the absence or inability of the chairman or vice chairman, the secretary shall perform the functions of the chairman.

4.5. The treasurer shall be responsible for the fiscal affairs of the Association, but may delegate the daily handling of funds and the keeping of records to a manager or managing company.

4.6. If the Management Committee appoints other officers, such officers shall perform such duties as may be prescribed or delegated from time to time by the Management Committee.

4.7. Any officer or agent shall be subject to removal, with or without cause, at anytime by the affirmative vote of a majority of the members of the Management Committee then serving.

4.8. All agreements, contracts, deeds, leases, checks, and other instruments of the Project for expenditures or obligations shall be executed by any two officers of the Management Committee or by such other person or persons as may be designated by the Management Committee.

5. Common Expenses; Assessments

5.1. All assessments shall be made in accordance with the general provisions of Article VIII of the Declaration.

5.2. It shall be the responsibility of the Management Committee to determine questions relating to the maintenance, repair and replacement of all Common Areas and Facilities. However, except as provided otherwise in the Declaration, there shall by no single structural alteration, capital addition to, or capital improvement of the Common Areas and Facilities requiring an expenditure in excess of \$15,000, unless those holding two thirds of the votes present in person or by proxy at a duly called meeting shall approve the expenditure for such structural alterations, capital addition to, or capital improvement of the Common Areas and Facilities.

5.3. Prior to the end of each fiscal year of the Association, the Management Committee shall estimate the Common Expenses and capital contributions necessary for the following year and prepare a budget based thereon. The estimated expenses and contributions may include such amounts as the Management Committee may deem proper for general working capital, for the general operating reserve, for a reserve fund for replacements and major maintenance, plus estimated utility to other costs for Units and limited Common Areas and Facilities which are not

separately metered or charged. It shall so take into account any expected income, surplus or deficit in the Common Expenses for any prior year. The estimated Common Expenses and capital contributions shall be assessed on a monthly basis to the Unit Owners in proportion to their percentage of undivided interest in the Common Areas and Facilities as set forth in Exhibit C. If the estimated Common Expenses prove inadequate for any reason, including nonpayment of any Unit Owner's assessments, the Management Committee may, by resolution duly adopted, make additional assessments, which shall be assessed to the Unit Owners in the same manner as the estimated Common Expenses. Each Unit Owner shall be obligated to pay to the Management Committee assessments made pursuant to this Section on or before the first day of each month, or in such other reasonable manner as the Management Committee shall designate. The funds received by the Management Committee from assessments shall be kept in either capital accounts or in the common expense fund and shall be expended by the Management Committee only in accordance with the provisions of the Act, the Declaration, and these Bylaws.

5.4. Every determination by the Management Committee with respect to the Common Expenses and common expenditures necessary to maintain the Property that is made within the bounds of the Act, the Declaration, and these Bylaws shall be final and conclusive as to the Unit Owners and shall be deemed necessary and properly made for such purposes.

5.5. The failure by the Management Committee before the expiration of any year, to estimate the Common Expenses as required herein, shall not be deemed a waiver or modification in any respect of the provisions of the Declaration or these Bylaws or a release of the Unit Owner from the obligation to pay any past or future assessments, and the estimated Common Expenses fixed for the previous and current year shall continue until a new estimate is fixed.

5.6. Amendments to this Section 5 shall be effective only upon written consent of a majority of the Unit Owners and their Mortgagees.

5.7. No Unit Owner may exempt himself from liability for Common Expenses by waiver of the use or enjoyment of any of the Common Areas and Facilities or by abandonment of his Unit.

5.8. The treasurer, designated manager, or management company shall keep detailed records of all receipts and expenditures, including expenditures affecting the Common Areas and Facilities, specifying and itemizing the maintenance, repair and replacement expenses of the Common Areas and Facilities and any other expenses incurred. Such record shall be available for examination by the Unit Owners during regular business hours. In accordance with the Unit Owners, the treasurer, manager, or management company shall keep an accurate record of such assessments and of the payments thereof by each Unit Owner.

5.9. All common expense assessments shall be a separate, distinct and personal liability of the owner of the Unit at the time each assessment is made. The Management Committee shall have the rights and remedies contained in the Act and in the Declaration to enforce the collection of assessments for Common Expenses.

5.10. Any person who shall have entered into a written agreement to purchase a Unit shall be entitled to obtain a written statement from the treasurer, manager, or management company setting forth the amount of unpaid assessments charged against the Unit and its Owner, and if such statement does not reveal the full amount of the unpaid assessments of the date it is rendered, neither the purchaser nor the Unit Owner shall be liable for the payment of an amount in excess of the unpaid assessments shown thereon, provided that the former Unit Owner-grantor shall remain so liable. Any such excess which cannot be promptly collected from the former Unit Owner-grantor shall be reassessed by the Management Committee as a common expense to be collected from all Unit Owners, including without limitation, the purchaser of the Unit, his successors and assigns. The new Unit Owner shall and the former Unit Owner shall not be liable for any assessments made after the date of transfer of title to a Unit, even though part or all of the assessment relates to expenses incurred or advances made by the Management Committee during a period prior to that date.

5.11. In the event that title to a Unit is transferred at sheriff's sale pursuant to execution upon any lien against the Unit, the Management Committee shall give notice in writing to the sheriff of any unpaid assessments for Common Expenses which are a lien against the Unit, and for any expenses of or advances by the Management Committee which have not theretofore been reduced to a lien, which shall be paid out of the proceeds of the sale prior to the distribution of any balance to the former Unit Owner against whom the execution was issued. The purchaser at such sheriff's sale and the Unit involved shall not be liable for unpaid assessments for Common Expenses nor for any expenses of or advances by the Management Committee which became due prior to the sheriff's sale of the Unit. Any such unpaid assessments which cannot be promptly collected from the former Unit Owner shall be reassessed by the Management Committee as a Common Expense to be collected from all of the Unit Owners, including the purchaser who acquired title at the sheriff's sale, his successors and assigns. To protect its rights to collect unpaid assessments for Common Expenses which are a lien against a Unit, and for any expenses of and advances by the Management Committee, the Management Committee may on behalf of all the Unit Owners, purchase the Unit at a sheriff's sale, provided such action is authorized by the affirmative vote of a majority of the members of the Management Committee.

5.12. In addition to the statements issuable to purchasers of Units, the Management Committee shall provide a current statement of unpaid assessments for Common Expenses and for any expenses of and advances by the Management Committee in respect of the Unit, to the Unit Owner, to any person who shall have entered into a binding agreement to purchase the Unit and to any Mortgagee on request at reasonable intervals.

5.13. In each case where all or part of any assessments for Common Expenses and for any expenses of and advances by the Management Committee cannot be promptly collected from the persons or entities liable therefore under the Act, Declaration of Bylaws, the Management Committee shall reassess the same as a common expense, without prejudice to its rights of collection against such persons or entities.

6. Litigation

6.1. If any action is brought by one or more but less than all Unit Owners on behalf of the Association, and recovery is had, the plaintiff's expenses, including reasonable counsel's fees, shall be a Common Expense provided, however, that if such action brought against the Unit Owners or against the Management Committee, the officers, employees, or agents thereof, in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all the Unit Owners, the plaintiff's expenses, including counsel fees, shall not be charged or borne by the other Unit Owners, as a Common Expense or otherwise.

6.2. Complaints brought against the Association, the Management Committee or the officers, employees or agents thereof, in their respective capacities as such, or the Project as a whole, shall be directed to the Management Committee, which shall promptly give written notice thereof to the Unit Owners and any Mortgagees and shall be defended by the Management Committee, and the Unit Owners and Mortgagees shall have no right to participate other than through the Management Committee in such defense. Complaints against one or more, but less than all Unit Owners shall be directed to such Unit Owners, who shall promptly give written notice thereof to the Management Committee and to the Mortgagees affecting such Units, and shall be defended by such Unit Owners.

7. Abatement and Enjoyment of Violations by Unit Owners

The violation of any house rules or administrative rules or regulations adopted by the Management Committee or the breach of any provisions contained herein, or the breach of any provision of the Declaration, shall give the Management Committee the right, in addition to any other rights set forth in these Bylaws:

7.1. To enter the Unit in which or as to which such violation or breach exists and to similarly 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 manner of trespass; or

7.2. To bring suit for damages suffered and to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach. In the event the Management Committee is required to commence legal action to enforce its rights hereunder, the Unit Owner or other person in violation or breach shall also pay all costs and reasonable attorney's fees incurred by the Management Committee.

8. Lease of Units by Owners

8.1. Any Unit Owner who leases his Unit shall comply with the provisions and limitations of Article XIII of the Declaration of Condominium for 838 Condominiums.

8.2. The provisions of the Declaration, these Bylaws and the rules and regulations shall apply with equal force to renters or lessees of Units. Any Unit Owner who rents or leases his Unit shall be responsible for the conduct of his tenants, and upon written notice from the Management Committee, manager, or management company, said Unit Owner shall be responsible for

correcting violations of the Declaration, Bylaws, or rules and regulations of the Association committed by such tenants. Said Unit Owner shall be financially responsible for any damage by the Owner's tenants.

8.3. If a Unit Owner fails to correct violations by tenants within 48 hours of such notice, the Management Committee, manager, or management company shall be deemed to be the agent of the Unit Owner and empowered to take any enforcement action the Unit Owner would be entitled to take, the cost of such action to be assessed to the Unit Owner and payable within 30 days of assessment. Such costs shall be collected and enforced in the same manner as common assessments under the Declaration and these Bylaws.

8.4. The power of the Management Committee, manager, or management company hereunder shall include, but not be limited to, any and all legal remedies available under the laws of the State of Utah. Any Unit Owner by the act of renting or leasing his Unit shall be deemed to have consented to these procedures and shall indemnify and save harmless the Management Committee and the manager from and against any and all liability therefore. It is expressly understood that the remedies available to the Management Committee or manager shall include but not be limited to the right to seek eviction of the tenant without any liability to the Unit Owner.

9. Office

The office of the Project and of the Management Committee shall be located at the Project or at such other place as may be designated from time to time by the Management Committee.

10. Accounting

10.1. The books and accounts of the Association shall be kept in accordance with generally accepted accounting procedures by the treasurer, manager, or management company under the direction of the Management Committee.

10.2. At the close of each fiscal year, the books and records of the Management Committee shall be reviewed by an independent public accountant approved by the Management Committee. A report of the review shall be prepared and submitted to Unit Owners at or before the next annual meeting of the Association. In the event that at the Owners of least two-thirds of the undivided interests in the Common Areas and Facilities vote to do so for any year, a certified audit by a Certified Public Accountant shall be obtained by the Management Committee.

10.3. The books and accounts of the Association shall be available for inspection at the office of the Association or office of the management company by any Unit Owner or his Mortgagee or their authorized representative during regular business hours at the expense of said Unit Owner.

11. Special Committees

The Management Committee by resolution may designate one or more special committees, each committee to consist of two or more Unit Owners, which to the extent provided in said

resolution, shall have and may exercise the powers set forth in said resolution. Such special committee or committees shall have such name or names as may be determined from time to time by the Management Committee. Such special committees shall keep regular minutes of their proceedings and report the same to the Management Committee when required. The members of such special committee or committees designated shall be appointed by the Management Committee. The Management Committee may appoint Unit Owners to fill vacancies on each of said special committees occasioned by death, resignation, removal, or inability to act for any extended period of time.

12. Management Rules and Regulations

The Management Committee shall have the right to adopt and amend such rules and regulations as may be authorized by the Act and the Declaration for the purpose of governing the details of the operation and use of the Common Areas and Facilities and setting forth restrictions on, and requirements respecting the use and maintenance of Units and limited Common Areas and Facilities. Copies of the rules and regulations shall be provided for each Unit Owner prior to the time the same shall become effective.

13. Amendment of Bylaws

These Bylaws may be amended by approval of those holding a majority of the votes present in person or by proxy at a meeting of the Association duly called for such purpose. Upon such an affirmative vote, the Management Committee shall acknowledge the amended Bylaws, setting forth the fact of the required affirmative vote of the Unit Owners and the amendment shall be effective upon recording. Any amendment to these Bylaws which might affect or change the percentage interest of Unit Owners in the Common areas must also be approved in writing by the Mortgagees. Failure by a Mortgagee to submit a response to a written proposal for an amendment within 60 days after proof of receipt by certified or registered mail shall be deemed approval.

14. Severability

The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

15. Captions

The captions herein are inserted only as a matter of convenience and for references and in no way to define, limit or describe the scope of these Bylaws nor the intent of any provision hereof.

16. Effective Date.

These Bylaws shall take effect upon recording of the Declaration of which they are a part.