

DECLARATION OF CONDOMINIUM
(Including Bylaws)

OF

VINTAGE BUSINESS OFFICE, PLAT B CONDOMINIUMS

ENT 154641:2006 PG 1 of 29
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
2006 Nov 17 1:14 pm FEE 73.00 BY ADS
RECORDED FOR PROVO CITY

Provo, Utah

THIS DECLARATION is made this ¹⁷ day of November, 2006 by Vintage III, LLC, a Utah limited liability company (hereinafter collectively referred to as "Declarant,") pursuant to the provisions of Section 57-8-1 *et seq.* of the *Utah Code* as amended, known as the Condominium Ownership Act (the "Act.")

RECITALS

A. Declarant is the record owner of three Tracts situated in the City of Provo, County of Utah, and more particularly described on Exhibit A, hereto.

B. Declarant has constructed, or is in the process of constructing, upon the Tract the Condominium Project, including Units and other improvements, in accordance with the plans and drawings contained in the Record of Survey Map file for record concurrently herewith.

C. Declarant desires, by filing this Declaration and the Record of Survey Map, to submit the Tract and all improvements now or hereafter constructed hereon to the provisions of the Act as a Condominium Project to be known as Vintage Project.

D. Declarant intends to sell to various purchasers the fee title to the individual Units contained in the Project, together with the undivided percentage ownership interest in the Common Areas and Facilities appurtenant to such Units, subject to the covenants, conditions, restrictions, limitations and easements herein set forth.

DECLARATION

NOW THEREFORE, for the foregoing purposes, Declarant hereby declares and certifies as follows:

DEFINITIONS

When used in this Declaration (including that portion hereof captioned "Recitals" and in the Bylaws hereinafter set forth) the terms used shall have the meaning stated in the Act and as follows unless the context otherwise requires.

1.1 Act shall mean and refer to the Condominium Ownership Act, Title 57, Chapter 8, *Utah Code* (1953), as the same may be amended from time to time.

1.2 Association of Unit Owners or the Association shall mean and refer to the Unit Owners acting as group in accordance with this Declaration and the Act.

1.3 Building shall mean and refer to a structure containing Units and comprising a part of the Project.

1.4 Bylaws shall mean and refer to the Bylaws of the Association as set forth and embodied in this Declaration, as authorized by the Act, in Articles X, XI, and XII.

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

1.5.1 The real property and interests in real property which is submitted by this Declaration to the provisions of the Act, including the entirety of the Tract and all landscaping, sidewalks, walkways, stairways and landings, private drives or roadways, outside parking, and exterior Building surfaces, including roofs but excluding Condominium Units as herein defined.

1.5.2 Those Common Areas and Facilities and Limited Common Areas and Facilities specifically set forth and designated as such on the Map.

1.5.3 All central services installations and apparatus for common use such as power, light and gas.

1.5.4 All other parts of the Project normally in common use or necessary or convenient to its use, existence, safety or management.

1.5.5 All Common Areas and Facilities and Limited Common Areas and Facilities as defined in the Act, whether or not expressly listed herein or on the Map.

1.6 Common Expenses shall mean all items, things and sums described in the Act which are lawfully assessed against the Unit Owners in accordance with the provisions of the Act, this Declaration, the By-laws, such rules, regulations, and other determinations and

agreements pertaining to the Condominium Projects as the Management Committee, the Unit Owners, or the Association may from time to time adopt.

1.7 Condominium Project or Project shall mean and refer to the Vintage Business Office Plat A Condominiums as the same may exist from time to time.

1.8 Condominium Unit or Units shall mean and refer to one of the office units in the Project intended for independent use as defined in the Act as shown in the Map together with the undivided interest in and to the Common Areas and Facilities appertaining to that Unit. Mechanical equipment and appurtenances located within any one Unit or located without said Unit but designated and designed to serve only that Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus, fixtures and the like, shall be considered part of the Unit, as shall all decorated interiors, all surfaces of interior structural walls, floors and ceilings, windows and window frames, doors, and door frames and trim, consisting of *inter alia* as appropriate, wallpaper, paint, flooring, carpeting and tile. All pipes, wires, conduits, or other public utility lines or installation constituting a part of the Unit or serving only the Unit, and any structural members of any other property of any kind, including fixtures and appliances within any Unit, which are removable without jeopardizing the soundness, safety or usefulness of the remainder of the building within which the Unit is situated shall be considered part of the Unit.

1.9 Declarant shall mean and refer to Vintage I, L.C., Vintage II, L.C. and Vintage III, its successors and assigns.

1.10 Declaration shall mean and refer to this Declaration as the same may hereafter be supplemented or amended in accordance with the Act and the provisions hereof. Any ambiguities, omissions, or conflicts shall be construed to comply with the provisions of the Act.

1.11 Limited Common Areas and Facilities or Limited Common Areas shall mean those Common Areas designated in the Declaration or the Act or shown on the Map as reserved for use of a certain Unit to the exclusion of other Units. Limited Common Areas include storage areas and parking spaces specifically assigned to a Unit Owner.

1.12 Management Committee or Committee shall mean and refer to the Committee as provided in the Declaration charged with and having the responsibility and authority to administer the Project and to make and to enforce all of the reasonable rules and regulations covering the operation and maintenance thereof.

1.13 Member shall mean and refer to an Owner as a member of the Association.

1.14 Mortgage shall mean a recorded first mortgage, deed of trust or other security instrument by which a Unit or any part thereof is encumbered.

1.15 Mortgagee shall mean any person named as a mortgagee or as a beneficiary, as the case may be, under a Mortgage as defined in Section 1.15 herein.

1.16 Property shall mean and refer to the real property described on Exhibits A, B and C, and all Buildings, Units and improvements and structures built or to be built thereon, all easements, rights and appurtenances belonging thereto and all articles of personal property intended for use in connection therewith.

1.17 Record of Survey Map, Survey Map or Map shall mean and refer to the Record of Survey Map filed concurrently herewith the Utah County Recorded entitled Vintage Business Office Condominiums, Plat A, Provo City, Utah County, Utah executed and acknowledged by Declarant, consisting of ~~two~~ ^{five} (5) sheets prepared by ALM & Associates, Inc., a duly registered Utah land surveyor, as said Map may hereafter be modified, supplemented, or amended in accordance with the law and the provisions hereof.

1.18 Tract or Entire Tract shall mean and refer to the real property described in Exhibit A, B and C together with all appurtenances thereto and any other property annexed into the Project as provided in this Declaration.

1.19 Unit Number shall mean and refer to the number, letter or combination thereof which designates a Unit on the Map.

1.20 Unit Owner or Owner shall mean and refer to the person or persons owning the fee simple interest in a Unit. The Declarant shall be deemed to be the Owner of all completed but unsold Units. In the event a Unit is the subject of an executory contract of sale, the buyer shall, unless the seller and the buyer have otherwise agreed and have informed the Committee in writing of such agreement, be considered the Unit Owner for all purposes.

ARTICLE II

PROPERTY DESCRIPTION AND SUBMISSION

2.1 **The Submission.** Declarant hereby submits the Property to the provisions of the Act to be held, transferred, sold, conveyed and occupied subject to the provisions of this Declaration.

2.2 **Reservation.** Declarant reserves, however, such easements and rights of ingress and egress over, across, through and under the above described Tract and any improvements (other than Buildings) now or hereafter constructed thereon as may be reasonably necessary for Declarant: (i) to construct and complete each of the Buildings and all of the other improvements described in this Declaration or in the Survey Map recorded concurrently herewith, and to do all things reasonably necessary or proper in the connection therewith; and (ii) to improve portions of

the said property with such other additional improvements, facilities, or landscaping designed for the use and enjoyment of all other Owners as Declarant may reasonably determine to be appropriate. If, pursuant to the foregoing reservations, the Property or any improvement thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements, the reservations hereby effected shall, unless sooner terminated in accordance with their terms, expire twenty (20) years after the date on which this Declaration is filed for record in the office of the County Recorder of Utah County, Utah.

2.3 **Division into Condominium Units, Minimum and Maximum Ownership Interests.** The Project is hereby divided into seven (7) Condominium Units as set forth on the Map, each such Condominium Unit consisting of a Unit and an appurtenant undivided but equal interest in the Common Areas and Facilities. Such Units comprise the minimum number of Units in the Project and give each Owner a maximum undivided 14.2857% interest in the Common Areas and Facilities.

ARTICLE III

IMPROVEMENTS

3.1 **Description of Improvements.** The improvements included in the Project are now or will be located on the Tract and all of such improvements are described on the Map. The Map indicates the number of Units which are to be contained in the Buildings which comprise a part of such improvements, the dimensions of the Units, and other significant facts relating to such Buildings, Units and the Common Areas.

3.2 **Description of Buildings and Units.** The Project initially consists of three (3) Buildings containing two units in each of Buildings I and II and three Units in Building III. The Units contain office space. The Units are basically of the same size and configuration. The Buildings use brick construction with facades of brick and stucco, and asphalt roofs. Building I has 27 underground parking stalls, Building II has 27 underground parking stalls, and Building III has 25 underground parking stalls, all of which are Limited Common Area. Such parking stalls are designated on the Map as Limited Common Area to the Units.

3.3 **Description and Legal Status of Units.** The Map shows the Unit Number of each Unit, its location and dimensions from which its areas may be determined, the Limited Common Areas which are reserved for its use, and the Common Areas of the Project. The Units shall be legally designated and described by Unit number.

3.4 **Common and Limited Common Areas.** The Common Areas will consist of parking areas, sidewalks, and landscaped open areas throughout the Project. The Common areas contained in the Project are described and identified in Article I hereof and on the Map. Neither

the ownership of undivided interests in the Common Areas nor the right of exclusive use of a Limited Common Area shall be separated from the Unit to which it appertains; and even though not specifically mentioned in the instrument of conveyance, such percentage of undivided interest and such right of exclusive use shall automatically accompany the conveyance of the Unit to which they relate.

3.5 **Legal Description of a Unit.** Each conveyance or contract for the sale of a Unit and every other instrument affecting title to a Unit may describe that Unit by the letter and number shown on the Map with the appropriate reference to the Map and to this Declaration, as each shall appear on the Records of the County Recorder of Utah County, Utah and in substantially the following form:

Unit ____, VINTAGE BUSINESS OFFICE CONDOMINIUMS, PLAT A, as identified in the Record of Survey Map therefor recorded in Utah County, Utah as Entry No. ____ Map No. ____ (as said Record of Survey Map may have heretofore been amended or supplemented) and in the Declaration of Condominium of Vintage Business Office Condominiums, Plat A, recorded in Utah County, Utah as Entry No. ____ in Book ____, Page ____ (as said Declaration may have heretofore been amended or supplemented), TOGETHER WITH the undivided ownership interest in and to the Common Areas and Facilities as the same are established and identified in the Declaration (as said Declaration may have heretofore been amended or supplemented).

Such description will be construed to describe the Unit together with an undivided interest in and to the Common Areas as the same is established and identified in the Declaration and Map referred to herein above, and to incorporate all the rights incident to Ownership of a Unit and all the limitations of such Ownership as described in this Declaration.

ARTICLE IV

EASEMENTS

4.1 **Easement for Encroachment.** If any part of the Common Areas encroaches or shall hereafter encroach upon a Unit or Units, an easement for such encroachment and for its maintenance shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas or upon any adjoining Unit or Units, an easement for such encroachment and for maintenance shall and does exist. Such encroachments shall not be considered to be encumbrances either in the Common Areas or the Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of structures on the Tract, by error in the Map, by setting, raising or shifting of the

earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

4.2 **Access for Repair of Common Areas.** Some of the Common Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Owners of the other Units shall have the irrevocable right, to be exercised by the Committee as their agent, to have access to each Unit and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Areas located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Areas or another Unit or Units. The Committee shall also have the rights independent of the agency relationship. Damage to the interior of any part of the Unit or Units resulting from the maintenance, repair, emergency repair, or replacement of any of the Common Areas or as a result of emergency repairs within another Unit at the instance of the Committee or of Unit Owners, shall be an expense of all the Unit Owners and assessed proportionately; provided, that if such damage is the result of negligence of the Owner of the Unit, then such Owner shall be financially responsible for all such damage. Amounts owed by Owners pursuant to this provision shall be collected by the Committee by assessment pursuant to the Declaration.

4.3 **Right of Ingress, Egress and Lateral Support.** Each Owner shall have the right to ingress and egress over, upon and across the Common Areas necessary for access to his Unit, and to the Limited Common Areas designated for use in connection with his Unit, and each Owner shall have the right to the horizontal and lateral support of a Unit, and such rights shall be appurtenant to and pass with the title to each Unit.

4.4 **Easement to Management Committee.** The Management Committee shall have non-exclusive easements to make such use of the Common Areas as may be necessary or appropriate to perform the duties and functions which they are obligated or permitted to perform pursuant to this Declaration.

4.5 **Easement for Utility Services.** There is hereby created a blanket easement upon, across, over and under the Common Areas for ingress, egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewer, gas, telephone, electricity, and other utility services.

ARTICLE V

NATURE AND INCIDENTS OF OWNERSHIP

5.1 **Holding Title.** Title to a Unit shall be in fee simple and may be held or owned by any person or entity and in any manner in which title to any other real property may be held or owned in the State of Utah, including, but without limitation, joint tenancy or tenancy in

common. An Owner's right to sell or otherwise convey title to such Owner's Unit shall not be subject to any right of first refusal or similar restrictions in favor of Declarant or the Association.

5.2 No Separation. No part of a Unit or of the legal rights comprising ownership of a Unit may be separated from any other part thereof during the period of Condominium Ownership described herein, so that each Unit, the undivided interest in the Common Areas appurtenant to such Unit, and the exclusive right to use and occupy the Limited Common Areas appurtenant to each Unit, shall always be conveyed, devised, encumbered, and otherwise effected only together and may never be separated from one another. Every gift, devise, bequest, transfer, encumbrance or other disposition of a Unit or any part thereof, shall constitute a gift, devise, bequest, transfer, encumbrance, or conveyance, respectively, of the entire Unit, together with all appurtenant rights created by law or this Declaration.

5.3 Undivided Interest in Common Areas. Each Owner shall have, for each Unit owned, an equal undivided ownership interest in and to the Common Areas.

5.4 Membership in Association. Each owner shall be a Member of the Association of Unit Owners. Membership in the Association shall be mandatory, shall be appurtenant to, and shall not be separated from the Unit to which it is appurtenant.

5.5 No Partition. The Common Areas shall be owned in common by all the Owners of Units, and no Unit Owner may bring action for partition thereof.

5.6 Use of Common Areas and Limited Common Areas. Subject to the limitations contained in the Declaration, each Unit Owner shall have the non-exclusive right to use and enjoy the Common Areas and shall have the exclusive right to use and enjoy the Limited Common Areas which appertain to his Unit as designated herein or on the Map or inferred by the Act.

5.7 Unit Maintenance. Each Owner shall at his own cost and expense maintain, repair, paint, re-paint, tile, wax, paper or otherwise refinish and decorate the interior walls, trim and interior surfaces of the walls, ceilings, floors and windows and doors forming the boundaries of his Unit and all walls, ceilings, floors, windows and doors within such boundaries. In addition to decorating and keeping the interior of his Unit in good repair and in a clean and sanitary condition, he shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heater, heating equipment, air conditioner, lighting fixtures, or any other appliances or fixtures that may be in, or connected with his Unit.

5.8 Maintenance of Limited Common Areas. Each Owner shall keep the Limited Common Areas designated for use in connection with his Unit in a clean and sanitary condition at all times notwithstanding the duty and obligation of the Committee to repair and maintain Common and Limited Common Areas pursuant to Article IX.

5.9 **Duty of Owner to Pay Taxes on Unit Owned.** Each Owner shall pay and discharge any and all real estate taxes and assessments which may be assessed against such Owner relative to his Unit.

5.10 **Duty to Pay Association Assessments.** Each Unit Owner is obligated to pay and discharge all assessments and charges levied by the Association against such Owner or his Unit as set forth herein.

ARTICLE VI

RESTRICTIONS

6.1 **Office Use.** The Tract is zoned PO (Professional Office) pursuant to Provo City Ordinance Chapter 14.6. All Units and Unit Owners are subject to the uses and restrictions imposed thereby.

6.2 **Leasing.** A Unit Owner may lease his Unit for an initial term of not less than one (1) year evidenced by a writing executed by the Owner and the lessee/tenant and containing a specific statement that such is subject to the provisions of this Declaration. No Owner shall lease less than his entire Unit; provided however, that "housing contracts" for less than the whole Unit shall not be deemed to be in violation of this provision.

6.3 **Restrictions Concerning Common Areas.** There shall be no obstructions of the Common Areas by the Owners, their tenants, guests or invitees without prior written consent of the Management Committee. 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 Common Areas. Nothing shall be kept or stored on any part of the Common Areas without the prior written consent of the Management Committee, except as specifically provided herein. Nothing shall be altered on, constructed in, or removed from the Common Areas except upon consent of the Management Committee.

6.4 **Miscellaneous Restrictions.** Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would result in the cancellation of the insurance of the Project or any part thereof or increase the rate of the insurance on the Project or any part thereof over what the Management Committee, but for such activity, would pay, without prior written consent of the Management Committee. Nothing shall be done or kept in any Unit or in 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. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Management Committee and other Owners harmless against all loss resulting from any such damage or waste caused by his or her invitees; provided, however, that any invitee of the Declarant shall not under any

circumstances be deemed to be an invitee of any other Owner. No noxious, destructive or offensive activity shall be carried on in any Unit or in the Common Areas or any part thereof, nor shall anything be done therein which may become an annoyance or nuisance to any other Owner or to any other person at any time lawfully residing in the Project.

6.4 No Violation of Rules and Regulations. No Owner shall violate the rules and regulations for the use of the Units and the Common Areas as adopted from time to time by the Management Committee.

6.5 Restrictions on Alterations. No structural alterations to any Unit shall be made by any Owner without prior written consent on the Management Committee.

6.6 Declarant's Right to Sell Units. Notwithstanding anything contained herein to the contrary, until the Declarant has completed and sold all of the Units, neither the Unit Owners who have purchased Units from the Declarant, the Management Committee, nor the Association shall interfere with the completion of the Units and Common Areas and the sale of the remaining Units, including but not limited to, any such Units and Common areas to be developed upon the Additional Land. Declarant may make such use of unsold Units and the Common Areas as may facilitate such completion and sale, including the maintenance of a sales office, the showing of unsold Units and the display of signs.

6.7 Signs. Except as provided in the preceding Section, no signs or other advertising shall be displayed which are visible from the exterior of any Unit or on the Common Areas, including "For Sale" signs, except in conformity with the rules and regulations promulgated by the Management Committee.

ARTICLE VII

INSURANCE

7.1 Hazard Insurance. The Association shall procure and maintain from a company or companies holding a general policyholder's rating B or better or a financial rating of Class VI or better from Best's Insurance Reports, a policy or policies of hazard insurance in an amount or amounts equal to or exceeding the full replacement value (exclusive of the value of land, foundations, excavation and other items normally excluded from coverage) of the Units, Common Areas and Limited Common Areas, including any building service equipment, and any common personal property and supplies owned by the Association, with either a Replacement Cost Endorsement or a Guaranteed Replacement Cost Endorsement and an Agreed Amount Endorsement or its equivalent, in Inflation Guard Endorsement, if available, and such other endorsements as the Association shall deem necessary. Such policy or policies shall provide for deductibles which shall not be greater than the lesser of Ten Thousand Dollars (\$10,000.00) or

one percent (1%) of the face amount of the policy. Such insurance policy or policies shall name the Association as insured and shall afford protection against loss or damage by fire and other hazards that are normally covered by the standard extended coverage endorsements, and by vandalism, malicious mischief, and such other risks as are normally covered by the standard "all risk" or Cause of Loss-Broad Form policy of insurance. The Policy shall provide that it may not be canceled or substantially modified by the insurer unless it gives at least ten (10) days prior written notice thereof to each insured.

7.2 Liability Insurance. The Association shall procure and maintain from a company or companies holding a general policyholder's rating of B or better or a financial rating of Class VI or better from Best's Insurance Reports a policy or policies (herein called the "Policy") of public liability insurance to insure the Association, the Management Committee, the Manager and employees of the Association and the Owners against claims for bodily injury and property damage arising out of the operation, maintenance and use of the Common Areas, any activities thereon, and any conditions of the Common Areas under a Comprehensive General Liability form of policy. Such insurance shall be for such limits as the Association may decide, but not less than \$1,000,000 for personal injury and property damage arising out of a single occurrence which coverage shall include protection against water damage liability, liability for non-owned and hired automobiles, liability for the property similar in construction, location and use to the Common Areas. The Policy shall contain an endorsement which shall preclude the insurer from denying the claim of any Owner because of the negligence acts of the Association or other Owners and a cross-liability endorsement pursuant to which the rights of the named insureds, as between themselves, are not prejudiced. The policy shall provide that it may not be canceled or substantially modified by the insurer unless it gives at least ten (10) days' prior written notice thereof to each insured.

7.3 Fidelity Insurance. The Association shall procure and maintain from a company or companies holding a general policyholder's rating of B or better or a financial rating of Class VI or better from Best's Insurance Reports or a policy or policies of blanket fidelity insurance to protect against dishonest acts on the part of any trustee, officer, manager, agent, employee or other person who administers, handles, or is otherwise responsible for the funds of the Association. Such policy or policies shall name the Association as the obligee, shall provide coverage for the maximum sum of funds, including reserves, which will be in the possession or custody of the Association at any time the policy is in force, but in no event less than three (3) months assessment on all Units, plus reserves. The policy or policies shall provide that they may not be cancelled or substantially modified by the insurer unless it gives at least ten (10) days prior written notice thereof to each insured. The policy shall contain a waiver of any defense for persons who serve without compensation. In the event the Association shall engage the services of a management agent who shall administer, handle or be responsible for the funds of the Association, then the Association shall require such management agent to provide a policy or policies of fidelity insurance which shall provide the same insurance coverage as required of the Association by this Section.

7.4 Worker's Compensation. The Association shall carry worker's compensation and employer's liability insurance and other similar insurance with respect to all employees of the Association in the amounts and in the forms now or hereafter required by law.

7.5 Additional Insurance. The Association may also procure such additional insurance which shall insure the Common Areas, the Association or the Owners and others against such additional risks as may be customarily insured against in connection with condominium projects similar in construction, nature and use to the Project or as the Association shall otherwise deem advisable.

7.6 General Requirements. Each policy of insurance by the Association shall be written by insurers licensed in the State of Utah. If reasonably possible, each policy of insurance to be obtained by the Association shall provide:

7.6.1 a waiver of the insurer's right of subrogation against the Association, Owners, and their respective trustees, directors, officers, agents, employees, invitees and tenants;

7.6.2 that it cannot be cancelled, suspended or invalidated or otherwise prejudiced due to the conduct of any Owner or Owners, but only due to the conduct of the Association, and then only after the Association shall have failed to cure or correct the defect within a reasonable time after a written demand to so cure or correct; and

7.6.3 that any "no other insurance" clause shall not apply to any insurance maintained individually by any Owner.

7.7 Owner's Insurance. Each Owner shall obtain such insurance, at his or her own expense, providing coverage of Owner's personal property and Owner's personal liability and covering such risks as Owner may deem appropriate. Each such policy shall provide that it does not diminish the insurance carrier's coverage for liability arising under insurance policies of the Association, the other Owners, and the trustees, directors, officers, servants, employees, agents, invitees or tenants of any of them, if such insurance can be obtained in the customary practice without substantial additional premium charge for the waiver of rights of subrogation.

ARTICLE VIII

DAMAGE AND DESTRUCTION

8.1 Damage to Project. In the event the damage to or destruction of part or all of the improvements in the Project, the following procedures shall apply:

8.1.1 If proceeds of the insurance maintained by the Management Committee are alone sufficient to repair or reconstruct the damaged or destroyed improvement, such repair or reconstruction shall be carried out as soon as possible.

8.1.2 If less than seventy-five percent (75%) of the Project's improvements are destroyed or substantially damaged, and if the proceeds of the insurance maintained by the Committee are not alone sufficient to accomplish repair or reconstruction, then restoration shall be carried out as soon as reasonably possible, and upon approval of at least fifty percent (50%) of the affected Unit Owners, all affected Unit Owners shall be assessed for any deficiency on the basis of their respective percentages of undivided interest in the Common Areas and Facilities.

8.1.3 If seventy-five percent (75%) or more of the Project's improvements are destroyed or substantially damaged, and if the proceeds of the insurance maintained by the Committee are not alone sufficient to accomplish repair or reconstruction, and if, within one hundred (100) days after the destruction or damage, seventy-five percent (75%) of the Unit Owners elect to repair or reconstruct the affected improvements, then restoration shall be carried out as soon as reasonably possible, and all affected Unit Owners shall be assessed for any deficiency on the basis of their respective percentages of undivided interest in the Common Areas and Facilities.

8.1.4 If seventy-five percent (75%) or more of the Project's improvements are destroyed or substantially damaged, and if proceeds of the insurance maintained by the Committee are insufficient to accomplish restoration, and if, within one hundred (100) days after the destruction or damage, the Unit Owners do not and by a vote of at least 75 percent, elect to repair or reconstruct the affected improvements, the Management Committee shall promptly record with the Utah County Recorder a notice of setting forth such facts. Upon the recording of such notice, the provisions of Utah Code Annotated Section 57-8-31(1) through (4) shall apply and govern the rights of all parties having an interest in the project or any of the Units.

8.2 Any reconstruction or repair which is required to be carried out by this Article shall be accomplished at the instance and direction of the Management Committee. Any determination which is required to be made regarding the extent of the damage or to destruction of Project's improvements, shall be made by three (3) qualified appraisers selected by the Management Committee. The decision of any two (2) such appraisers shall be conclusive.

ARTICLE IX

MORTGAGEE PROTECTION

9.1 Notice of Mortgage. Each Mortgagee may request notice as provided herein by written request to the Management Committee which request shall set forth its name and address,

and the Unit Number for the Unit secured by its Mortgage. The Committee shall maintain records of such Mortgages and Mortgagee.

9.2 Books and Records. A Mortgagee shall have the right to examine the books and records of the Association and the Committee upon request and to require annual reports of the financial status of the Association.

9.3 Damage or Condemnation. A Mortgagee shall be entitled to notice of any condemnation of or damage to a material part of the Unit secured by its Mortgage or of or to the Project. No Unit Owner or other party shall be entitled to priority over such Mortgagee with respect to the distribution to such Unit of any insurance proceeds or condemnation award.

9.4 Notice of Default or Lapse. Each Mortgagee is entitled to written notification from the Management Committee of any default by the Owner of such Unit in the performance of any obligation under the Declaration which is not cured within sixty (60) days; and of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and any action which requires the consent of a specified percentage of eligible Mortgage holders.

9.5 General Mortgagee Protection. Notwithstanding anything to the contrary in this Declaration:

9.5.1 Adequate Reserves. The Association shall establish and maintain an adequate reserve fund for maintenance, repairs and replacement of the Common Areas which shall be funded by regular monthly payments rather than by special assessments.

9.5.2 Working Capital Fund. Declarant shall establish and maintain a working capital fund for the initial months of operation of the Project and shall contribute thereto an amount equal to two months estimated Common Area charge for each Unit. Declarant shall not be entitled to use the working capital fund to defray any of its expenses, reserve contributions or construction costs, nor to make up any budget deficits during such period as it shall control the Association; provided, however, that upon sale by Declarant of a Unit and the payment to the Association of initial fees as provided in Section 12.5, Declarant shall be entitled to reimbursement for the amount of the working capital fund previously contributed by Declarant with respect to such Unit.

9.5.3 Management Agreement. Any management agreement for the Project shall be terminable by the Management Committee for cause upon thirty (30) days written notice thereof, without payment of a termination fee, and the term of any such agreement shall not exceed one (1) year, renewable by agreement of the parties for successive one (1) year periods.

9.5.4 Consent of Mortgagee. Unless at fifty-one percent (51%) of the first Mortgagees (based on one vote for each Mortgage owned) of Units have given their prior written approval, neither the Management Committee nor the Association shall amend the Declaration or Project documents in such a way as to change any of the following:

- a. By act or omission, seek to abandon or terminate the Project, except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or in the case of taking by condemnation or eminent domain.
- b. Change the pro-rata interest or obligations of any Unit for (i) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the prorata share of ownership of each Unit in the appurtenant Common Areas.
- c. Make any material amendment to the Declaration or to the Bylaws, including but not limited, to any amendment which would change the percentage interest of the Unit Owners in the Common Areas except for a change resulting from the annexation of the Additional Land as provided in Article II or as provided by Section 13.2.1.
- d. By act or omission, seek to amend, partition, subdivide, encumber, sell or transfer, the Common Areas. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas of the Project shall not be deemed a transfer within the meaning of this subparagraph.
- e. Use hazard insurance proceeds for losses to any Project property (whether to Units or to the Common Areas) for other than the repair, replacement or reconstruction of such improvements, except as provided by statute in cases of substantial loss to the Units and /or the Common Areas of the Project.

ASSOCIATION BYLAWS

PURSUANT TO SECTION 57-8-15 OF THE ACT, THE ASSOCIATION'S BYLAWS ARE HEREBY EMBODIED IN THIS DECLARATION AS ARTICLES X, XI AND XII. THE MISCELLANEOUS PROVISIONS OF ARTICLE XIII OF THIS DECLARATION SHALL BE APPLICABLE TO BOTH THE DECLARATION AND BYLAWS PROVISIONS, AS THE CASE MAY BE.

ARTICLE X
(Bylaws)

THE MANAGEMENT COMMITTEE

10.1 Status and General Authority of Committee. Except as hereinafter provided, the Condominium Project shall be managed, operated and maintained by the Management Committee as agent for the Association of Unit Owners. The committee shall, in connection with its exercise of any of the powers hereinafter provided, constitute a legal entity capable of dealing in the Association's name. The Management Committee shall have, and is hereby granted, the following authority and powers:

10.1.1 The authority without the consent of the Unit Owners or of any other person, except Mortgagees if required by the terms of their Mortgage, to grant or create on such terms as it deems advisable, utility and similar easements over, under, across and through the Common Areas.

10.1.2 The Authority to execute and record, on behalf of all Unit Owners, any amendments to the Declaration or the Map which has been approved by the vote or consent necessary to authorize such amendment as hereinafter set forth.

10.1.3 The power to sue and be sued.

10.1.4 The authority to enter into contracts relating to the Common Areas and other matters over which it has jurisdiction, so long as any vote or consent of the Unit Owners, as set forth herein, which is necessitated by the subject matter of the agreement has been obtained.

10.1.5 The power and authority to convey or transfer any interest in real property, so long as the vote or consent, as set forth herein, which is necessary under the circumstances have been obtained.

10.1.6 The power and authority to purchase, or otherwise acquire, and accept title to, any interest in real property so long as such action has been authorized by any vote or consent as set forth herein, which is necessary under the circumstances.

10.1.7 The power and authority to add any interest in real property obtained pursuant to Section 10.1.6 to the Project, so long as such action has been authorized by the necessary vote or consent as set forth herein.

10.1.8 The authority to promulgate such reasonable rules, regulations, and procedures as may be necessary or desirable to aid the Committee in carrying out its function or to insure that the Project is maintained and used in a manner consistent with the interests of the Unit Owners.

10.1.9 The power and authority to perform any other acts and to enter into any other transactions, subject to the rights of the Association, which may be reasonably necessary for the Management Committee to perform its functions as agent for the Unit Owners. Any instrument executed by the Management Committee relating to the Common Areas of the Project recites facts which, if true, would establish the Committee's power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument.

10.2 Composition of Committee, Election, Vacancy.

10.2.1 **Declarant's Control.** Until the first to occur of (a) the expiration of four (4) months following the date that seventy-five percent (75%) of the Units have been conveyed to Unit Owners other than Declarant or (b) the date which is five (5) years after the first Unit is conveyed to a Unit Owner other than Declarant, the Management Committee shall be composed of three (3) members, none of whom need to be Owners, selected by Declarant. Declarant may waive the foregoing right at any time prior to the occurrence of either or both of the aforesaid events by (i) notifying Unit Owners in writing of such waiver of the right, and (ii) filing for record in the Office of the Utah County Recorder a written notice of waiver of the right whereupon Unit Owners shall promptly hold a meeting to elect a new Management Committee, it being established hereby that the control of the Unit Owners in the Management Committee shall automatically vest thirty (30) days following the date such waiver is recorded by Declarant. In the event a Committee seat which was filled by a Declarant becomes vacant, Declarant shall have the right to select a replacement member to sit on the Committee for the balance of the term associated with the vacant seat.

10.2.2 **Subsequent to Declarant's Control.** After the occurrence of either of the events described in Section 10.2.1, the Management Committee shall be composed of seven (7) members, with three (3) Committee members elected for one year terms, three (3) members for two year terms, and one (1) members for three (3) year terms. The terms for any successor members of the Management Committee shall be three (3) years. Members shall serve on the Committee until their successors are elected. Only Unit Owners or spouses of Unit Owners and officers, directors, agents, and employees of Owners other than individuals shall be eligible for Committee Membership. At the annual meeting each Unit Owner may vote the number of Units owned by such Owner in favor of as many candidates or Committee Memberships as there are seats on the Committee to be filled. In the event of a vacancy, the remaining Committee members shall elect a replacement to sit on the Committee until the expiration of the term for which the member being replaced was elected.

10.3 **Manner of Action.** The act of the majority of the members of the Committee shall be the act of the Committee, unless the vote of a greater number is required by the Declaration, the Act, or the Bylaws.

10.4 Rights and Duties. The Management Committee, subject to the rights and duties of the Unit Owners and the Association as set forth in the Declaration and the Bylaws, shall be responsible for the general management of the Project. It is understood that the Committee has the obligation to maintain the Common Areas of the Project, including, without limitation, the exterior of the Buildings and Units.

10.5 Right of Delegation to Manager. The Management Committee may carry out any of its functions which are capable of delegation through a manager. The Manager so engaged shall be responsible for managing the Common Areas and shall, to the extent permitted by law and the terms of the agreement with the Management Committee, be authorized to perform any of the functions or acts required or permitted to be performed by the Management Committee itself.

10.6 Payment of Services, etc. The Management Committee shall serve without compensation for its services as such. The Management Committee may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Management Committee shall determine to be necessary or desirable for the proper operation of its function in the Project, including the enforcement of the Declaration, snow removal, ground maintenance and other common services to the Project.

10.7 Personal Property Ownership and Use. The Management Committee may acquire and hold for the use and the benefit of all of the Owners tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners in the same proportion as their respective interests in the Common Areas. A transfer of a Unit shall transfer to the transferee ownership of the transferor's beneficial interest in such property without any reference thereto. Such interest shall not be transferable except with the transfer of a Unit, and such beneficial interest may in no event be reserved by the transferor of a Unit.

10.8 Rules and Regulations. The Management Committee may make reasonable rules and regulations governing the operation and use of the Common Areas and other matters over which it has jurisdiction, which rules and regulations shall be consistent with the rights and duties established in this Declaration and Bylaws. The Management Committee may suspend any Owner's voting rights at the meeting of Unit Owners during any period or periods during which such Owner fails to pay his assessments as required herein. Such Owner's voting rights may also be suspended for non-compliance of other rules and regulations or obligations of such Owner under the Declaration, provided such Owner has first had the opportunity of a hearing on the matter to assure that such Owner has been afforded due process. The Management Committee may also take judicial action against any Owner to enforce compliance with such rules and regulations or other obligation or to obtain damages for noncompliance, all to the extent provided by law.

10.9 **Capital Improvements.** The Committee shall make no structural alterations, Capital additions to, Capital improvements of the Common Areas without the prior approval of Unit Owners holding a majority of the voting power of the Association.

10.10 **Additional Management Committee Rights.** The Management Committee may exercise any other right or privilege given to it expressly by the Declaration or by Law and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

10.11 **Architectural Control.** The Management Committee shall act in all matters pertaining to architectural control and shall establish rules and procedures for submitting plans for approval of any proposed construction, alteration, remodeling, etc., involving any Unit.

10.12 **Indemnification of Management Committee.** Each member of the Management Committee shall be indemnified and held harmless by the Unit Owners against all costs, expenses, and liabilities whatsoever (excluding fraudulent and/or criminal actions) including, without limitation, attorney's fees reasonably incurred by him in connection with any preceding to which he may become involved by reason of his being or having been a member of said Committee.

**ARTICLE XI
(Bylaws)**

ASSOCIATION

11.1 **Voting Rights.** Each Unit Owner shall be entitled to one (1) vote for each Unit owned by such Unit Owner. Initially there shall be seven (7) votes.

11.2 **Multiple Owners of a Unit.** In the event there is more than one Owner of a Unit. The vote relating to such Unit shall be exercised as such Owners may determine between or among themselves, but in no event shall more than the one (1) vote appurtenant to each Unit be cast with respect to any issue. A vote cast at any Association meeting or by written consent by any such Owners, whether in person or by proxy, shall be conclusively presumed to be the entire vote attributable to the Unit concerned unless an objection is made at the meeting or in writing by another Owner of the same Unit, in which event no vote will be counted with respect to such Unit except to determine the presence or absence of a quorum.

11.3 **Annual Meeting.** The first annual meeting of the Association shall be held on the earlier of (a) the first Tuesday of the fourth month following the date that seventy-five percent (75%) of the Units have been conveyed to a Unit Owner other than Declarant, or (b) the date which is five (5) years after the first of the Units is conveyed to a Unit Owner other than Declarant. If the day fixed for the annual meeting shall be a legal holiday, the meeting shall be held on the next succeeding business day. At such annual meetings there shall be elected members of the

Management Committee, as needed, pursuant to the provisions of this Declaration, and financial reports and budgets shall be presented, as well as other business of the Association properly placed before the Association.

11.4 Special Meetings. Special meetings of the Association may be called by the President, or by not less than thirty-five percent (35%) of the Members.

11.5 Place of Meeting. Meetings of the Association shall be held at such suitable place convenient to the Owners as may be designated by the Management Committee in its notice.

11.6 Notice of Meeting. Written or printed notice stating the place, day and hour of the meeting, and in the case of a special meeting, the purposes for which the meeting is called, shall be delivered not less than ten (10) days before the date of the meeting, or in the case of a meeting called to increase the maximum annual assessment or to make certain special assessments in accordance with the Declaration, such notice shall be delivered not less than thirty (30) days before the date of the meeting, either personally or by mail, to each member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the Member at his or her address as it appears on the records of the Association, with postage thereon prepaid.

11.7 Quorum. The presence, in person or by proxy, of Members who are entitled to cast a majority of the votes of the Association shall constitute a quorum; provided, however, if any meeting of the Association cannot be organized because a quorum is not present, the Members who are present either in person or by proxy may adjourn the meeting to a time not less than forty-eight (48) hours from the time the preceding meeting was called at which time the requirements for a quorum shall be reduced by one-half ($\frac{1}{2}$) that required by the preceding meeting.

11.8 Voting. If a quorum is present, the affirmative vote of a majority of the votes present at the meeting or represented by proxy shall be the act of the Association, unless the vote of a greater number is required by the Act, the Declaration or these Bylaws in which case it shall require the affirmative vote of such greater number.

11.9 Proxies. At all meetings of Members, a Member may vote by proxy executed in writing by the Member or by his duly authorized attorney-in-fact. Such proxy shall be filed with the Secretary of the Association prior to the meeting. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise permitted in the Act and so provided in the proxy.

11.10 Consent Equivalent to Vote. In those cases in which the Act or this Declaration require 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 hold at least the necessary percentage of undivided ownership interest.

11.11 **Officers.** The officers of the Association shall be a President, a Vice President, a Treasurer, and a Secretary, and such other officers as may be elected or appointed by the Management Committee. Any two or more offices may be held by the same person except the offices of President and Secretary.

11.11.1 **Election and Term of Office.** The officers of the Association shall be elected annually by the Management Committee at a meeting of the Management Committee held after each annual meeting of the Association. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Vacancies may be filled or new offices filled by the Management Committee. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall resign or shall have been removed in the manner herein provided.

11.11.2 **Removal.** Any officer or agent elected or appointed by the Management Committee may be removed by the Management Committee whenever in its judgment the best interests of the Association would be served thereby.

11.11.3 **President.** The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Management Committee. He shall have such duties and powers generally vested in similar Associations and such other powers and duties as may be prescribed by the Management Committee.

11.11.4 **Vice President.** In the absence of the President or in the event of his inability or refusal to act, the Vice President shall perform the duties of the President, and when so acting, shall have all the powers of, and be subject to all the restrictions upon the President. The Vice President shall perform such other duties as from time to time may be assigned to him by the President or by the Management Committee.

11.11.5 **Treasurer.** The Treasurer shall have charge and custody of and be responsible for all funds and securities of the Association; receive and give receipts for moneys due and payable to the Association from any source whatsoever, and deposit all such moneys in the name of the Association in such banks, trust companies or other depositories as shall be selected by the Management Committee and in general perform all the duties incident to the office of treasurer and such other duties as from time to time may be assigned to him by the President or by the Management Committee.

11.11.6 **Secretary.** The Secretary shall keep the minutes of the meetings of the Management Committee and the Association; see that all notices are duly given in accordance with the provisions of the Declaration, the Bylaws or as required by the Act; be custodian of the books and records of the Association; keep a register of the post office address of each Member which shall be furnished to the Secretary by such Member; and in general perform all duties incident to

the office of Secretary and such other duties as from time to time may be assigned to him by the President or the Management Committee.

11.12 **Committee Meetings, Quorum, Committee Action.** The Management Committee shall establish its rules for meetings, whether regular or special. A majority of current Committee members shall constitute a quorum. The action of a majority of those Committee members attending a meeting at which a quorum is present shall be sufficient to constitute the action of the Committee. Action by consent shall require the unanimous consent of all current Committee members.

ARTICLE XII (Bylaws)

ASSESSMENTS

12.1 **Agreement to Pay Assessments.** Each Owner of a Unit by the acceptance of a deed or contract therefore, whether or not it be so expressed in the deed or contract, shall be deemed to covenant and agree with the Association, all other Unit Owners and with the Management Committee to pay annual assessments for the purposes provided in the Declaration and Bylaws and special assessments for capital improvements and other matters as provided in the Declaration and Bylaws. Such assessments shall be fixed, established and collected from time to time in the manner provided hereunder.

12.2 **Basis of Assessments.** The total annual assessments against all Units shall be based upon advance estimates of cash requirements by the Management Committee to provide for the payment of all estimated Common Expenses growing out of or connected with the maintenance and operation of the Common Areas within the Project, which estimates may include among other things, expenses of management, taxes and special assessments, if any, levied by governmental authorities; premiums for all insurance which the Management Committee is required or permitted to maintain pursuant hereto; common lighting, water, sewer, garbage and waste disposal; repair and maintenance of the Common Areas, wages for employees of the Committee, legal and accounting fees, any deficit remaining from a previous period, creation of a reasonably adequate contingency reserve, surplus and/or sinking fund; and any other expenses and liabilities which may be incurred by the Committee for the benefit of the Owners or by reason of the Declaration or Bylaws.

12.3 **Apportionment of Expenses.** Expenses attributable to the Common Areas and to the Project as a whole shall be apportioned among all Units in proportion to their respective undivided ownership interest in the Common Areas; provided, however, that for this purpose Declarant shall be deemed to own only the undivided interest in the Common Areas based upon Units which have been completed but not yet conveyed by not yet conveyed by Declarant.

12.4 **Method, Payment of Assessments, Etc.** Annual assessments shall be made on a calendar year basis. The Committee shall give written notice to each Owner as to the amount of the

annual assessment with respect to his Unit not less than thirty (30) days nor more than sixty (60) days prior to the beginning of the next calendar year; provided, however, that the first annual assessment shall be for the balance of the calendar year remaining after the day fixed by the Committee as the date of commencement of the assessment. Each annual assessment shall be due and payable in monthly installments. Each monthly assessment shall bear interest at the rate of twelve percent (12%) per annum from the date it becomes due and payable if not paid within thirty (30) days after such date. The monthly assessment becomes payable upon the date the Unit Owner purchases his Unit, whether by conveyance of title or entering into a contract of sale and purchase, and thereafter each monthly payment shall be due and payable on the first day of each and every month in advance.

12.5 **Initial Fees.** In addition, each Owner (other than Declarant) shall be required to prepay at the time of purchase of a Unit, whether as a first time or subsequent Owner, a sum equal to two times the then monthly installment of the annual assessment, which sum shall be in addition to any proration which may be due for the month in which such purchases take place. Such fees shall become a part of the Association's general fund to be utilized as necessary; provided, however, that in the event of any first sale of a Unit by Declarant, the Association shall reimburse Declarant for any funds it paid to the Association for such Unit's share of the working capital fund.

12.6 **Special Assessments.** In addition to the annual assessments authorized hereunder, the Management Committee may levy in any assessment year special assessments, subject to the provisions of Section 10.9, above, payable over such period as the Management Committee may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Common Areas of the Project or any other part thereof, or for any other expenses incurred or to be incurred as provided in the Declaration. This paragraph shall not be construed as an independent source of authority for the Management Committee to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections hereof. Any amount assessed pursuant hereto shall be assessed to Owners in proportion to their respective undivided ownership interest in the Common Areas. Declarant's interest in the Common Areas shall be determined on the same basis set forth in Section 12.3 above. Notice in writing of the amount of such special assessments and the time for payment thereof shall be given promptly to the Owners, and no payment shall be due less than thirty (30) days after such notice shall been given. A special assessment shall bear interest at the rate of twelve percent (12%) per annum from the date it becomes due and payable if not paid within thirty (30) days after such date.

12.7 **Liens for Unpaid Assessments.** All sums assessed to any Unit pursuant to this section, together with interest thereon as provided herein, shall be secured by a lien on such Unit in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Unit, except only for:

- (a) tax and special assessment liens on the Unit in favor of any assessing agency or special improvement district;

(b) liens of Mortgages; and

(c) encumbrances on the interest of the Unit Owner recorded prior to the date the notice of lien provided herein is recorded which by law would be a lien prior to subsequently recorded encumbrances.

To evidence a lien for sums assessed pursuant to this Article, the Management Committee may prepare a written notice of lien setting forth the amount of the assessment, the due date, the amount remaining unpaid, the name of the Owner of the Unit, and a description of the Unit. Such notice shall be signed by the Management Committee and may be recorded in the Office of the County Recorder, Utah County, Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by foreclosure by the Management Committee in the same manner in which a trust deed on real property may be foreclosed in Utah. In any such foreclosure, the Owner shall also be required to pay the cost and expenses of such proceedings, the cost and expenses of filing the notice of lien, and all reasonable attorney's fees. All such costs, expenses and fees shall be secured by the lien being foreclosed. The lien shall also secure, and the Owner shall also be required to pay to the Management Committee any assessments against the Unit which shall become due during the period of foreclosure. The Management Committee shall have the right and the power to bid an amount equal to its then existing lien at the foreclosure sale or other legal sale and, if it is the purchaser, to acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the Condominium Units as the Owner thereof.

12.8 **Release of Lien.** A release of notice of lien shall be executed by the Management Committee and recorded at the Owner's expense in the Office of County Recorder of Utah County, Utah, upon payment of all sums owed and secured by a lien which has been made the subject of a recorded notice of lien.

12.9 **Payment by Encumbrances.** Any Mortgagee or other encumbrancer holding a lien on a Unit may, but shall not be required to, pay any amounts secured by the lien created by this Article, and upon such payment the Mortgagee or other encumbrancer shall be subrogated to all rights of the Management Committee with respect to such lien, including priority. The Management Committee shall report to any Mortgagee or encumbrancer of a Unit any assessments remaining unpaid for longer than sixty (60) days after the same shall have become due; provided, however, that such Mortgagee or other encumbrancer first shall have furnished to the Management Committee written notice of such Mortgage or other encumbrance.

12.10 **Personal Obligation Assessments.** The amount of any annual or special assessment against any Unit shall be the personal obligation of the Owner thereof to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Management Committee, as agent for the Association, 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.

12.11 **Effect of Foreclosure on Lien.** Each Mortgagee of a Unit who comes into possession of a Unit by virtue of foreclosure of the Mortgage, or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Unit free of any unpaid claims or assessments and charges against the Unit which accrue prior to the time such holder comes into possession of the Unit. However, such foreclosure shall not relieve the Mortgagee or a subsequent Unit Owner of liability for assessments which shall accrue after such foreclosure.

12.12 **Information Concerning Unpaid Assessments.** Upon payment of a reasonable fee and upon written request of any Owner or Mortgagee, prospective mortgagee or prospective purchaser of a Unit, the Management 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 portion thereof which has theretofore been paid; credit for advance payments of prepaid items including but not limited to, an Owner's share of prepaid insurance premiums, and such statement shall be conclusive upon the Management Committee in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied within ten (10) days, all unpaid assessments shall be subordinate to the lien of a Mortgagee which acquired its interest subsequent to the request for such statement.

12.13 **Purchaser's Obligation.** A purchaser of a Unit shall be jointly and severally liable with the seller thereof 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.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

13.1 **Party Walls.** Each wall built or to be built as a part of the original construction of the Units and placed substantially on a dividing line between the Units shall constitute a party wall and to the extent not inconsistent with the provisions of this Declaration, the general rules of law regarding party walls and liability for damage due to negligence or willful acts or omissions shall apply thereto.

13.2 **Amendments.** Except as provided below, the vote of at least sixty percent (60%) of the undivided ownership interest in and to the Common Areas and Facilities shall be required to amend this Declaration (including the Association Bylaws set forth herein) or the Record of Survey Map. Any amendment so authorized shall be accomplished through the recordation with the Utah County Recorder of an instrument executed by the Management Committee. In such instrument the Committee shall certify that the vote required by this Section for amendment has occurred. Notwithstanding the above, until Units representing seventy-five percent (75%) of the undivided ownership interest in the Project have been sold, or the expiration of five (5) years after the first conveyance of a Unit to a person other than Declarant, whichever first occurs. Declarant alone shall

have and is hereby vested with the right to effect such amendments; provided, however, that during any period of time in which Declarant controls the Association and selects the Management Committee, any such amendments must also be approved by the Secretary of Veterans Affairs. Such right in Declarant to amend shall obtain without regard to the subject matter of amendment, so long as the amendment involved is consistent with the Act.

13.3 **Service of Process.** Gary R. Brinton whose address is 3601 North University, Provo, Utah 84604 shall act as registered agent for the service of process in cases authorized by the Act. The Management Committee shall, however, have right to appoint a successor or substitute process agent. Such successor or substitute agent and his address shall be specified by an appropriate instrument filed in the Office of the County Recorder of Utah County, State of Utah.

13.4 **Enforcement.** Each Unit Owner shall comply strictly with the provisions of this Declaration, the Bylaws, the administrative rules and regulations pursuant thereto as the same may be lawfully adopted or amended from time to time and with the decisions adopted pursuant to this Declaration, Bylaws and the administrative rules and regulations. The 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 or Manager on behalf of the Unit Owners, or in a proper case, by an aggrieved Unit Owner. The defaulting Owner shall also be liable for all costs and expenses of such action, including a reasonable attorney's fee.

13.5 **Covenants to Run with Land: Compliance.** This Declaration and all the provisions hereof shall constitute covenants to run with land, and/or equitable servitude, as the case may be, and shall be binding upon and inure to the benefit of Declarant, all parties who hereafter acquire any interest in a Unit or in the Project, and their respective grantees, transferees, heirs, devisees, personal representatives, successors and assigns. Each Owner or occupant of a Unit shall comply with, and all interests in all Units shall be subject to, the provisions of the Act, of this Declaration, of the Bylaws and of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration, and failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief for both, maintainable by the Committee on behalf of Unit Owners, or, in a proper case, by an aggrieved Unit Owner. By acquiring any interest in a Unit or in the Project, the party acquiring such interest consents to, and agrees to, be bound by each and every provision of this Declaration.

13.6 **Waiver.** No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

13.7 **Number and Gender.** Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural; the plural, the singular; and the use of any gender shall include all genders.

13.8 **Severability.** If any provisions of this Declaration or any section, sentence, clause, phrase, or word of the application thereof in any circumstances be invalidated, such invalidity shall not affect the validity of the remainder of the Declaration, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

13.9 **Topical Headings.** The headings appearing at the beginning of the sections or articles of this Declaration are only for convenience of reference and are not intended to describe, interpret, define or otherwise affect the content, meaning or intent of this Declaration or any section or provision hereof.

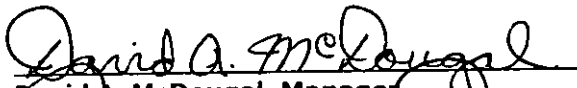
13.10 **Effective Date.** This Declaration shall take effect upon recording in the Office of the County Recorder of Utah County, Utah.

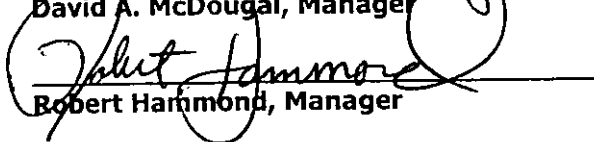
IN WITNESS WHEREOF, the undersigned Declarant has caused this instrument to be executed the day and year first set forth above.

DECLARANT

VINTAGE ON THE RIVER I, L.C.

Vintage III, LLC, a Utah limited liability company


David A. McDougal, Manager


Robert Hammond, Manager

STATE OF Utah)
)ss.
County of Utah)

On 11/16/06, before me, the undersigned Notary Public, personally appeared **David A. McDougal**, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

My Commission Expires: 01-31-2010



Notary Public

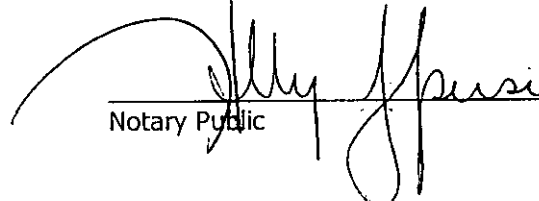


STATE OF Utah)
)ss.
County of Utah)

On 11/16/06, before me, the undersigned Notary Public, personally appeared **Robert Hammond**, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

My Commission Expires: 01-31-2010



Notary Public



EXHIBIT "A"

ENT 154641:2006 PG 29 of 29

The land described in the foregoing Declaration is located in Utah County, Utah and is described more particularly as follows:

BOUNDARY DESCRIPTION

COMMENCING AT A POINT LOCATED SOUTH 00-44-19 EAST ALONG THE SECTION LINE 33.98 FEET AND WEST 1488.13 FEET, FROM THE EAST QUARTER CORNER OF SECTION 13 TOWNSHIP 6 SOUTH, RANGE 2 EAST, SALT LAKE BASE & MERIDIAN; THENCE AS FOLLOWS

BEARING	DISTANCE	REMARKS
N 89-25-19 E	266.69'	
S 04-44-00 E	176.34'	
S 10-47-00 E	174.00'	
S 03-33-00 E	127.00'	
S 05-41-00 W	105.00'	
S 11-54-00 W	108.00'	
S 29-36-24 W	60.10'	
N 50-51-43 W	49.93'	
S 40-00-00 W	211.09'	
N 50-36-00 W	233.44'	
N 39-24-00 E	47.60'	
ALONG AN ARC	327.83'	To The Left (Chord Bears N 16-44-00 E 319.35') Radius: 414.34'
N 05-56-00 W	192.31'	
ALONG AN ARC	29.52'	To The Right (Chord Bears N 02-31-23 E 29.41') Radius: 100.00'
N 10-58-46 E	11.51'	
ALONG AN ARC	29.52'	To The Left (Chord Bears N 02-31-23 E 29.41') Radius: 100.00'
N 05-55-57 W	111.78'	TO THE POINT OF BEGINNING
		AREA = 5.52 ACRES

BASIS OF BEARING = STATE PLANE COORDINATE SYSTEM