



"W2252602"

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Ogden, Utah 84403
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ERNEST D ROWLEY, WEBER COUNTY RECORDER
30-MAR-07 1040 AM FEE \$93.00 DEP SGC
REC FOR: AMCAN PROP LLC

CONDOMINIUM DECLARATION
FOR
AMCAN CONDOMINIUM
A UTAH CONDOMINIUM PROJECT

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**CONDOMINIUM DECLARATION
FOR
AMCAN CONDOMINIUMS
A UTAH CONDOMINIUM PROJECT**

THIS CONDOMINIUM DECLARATION FOR AMCAN CONDOMINIUMS, A UTAH CONDOMINIUM PROJECT (hereinafter referred to as "Declaration") is made and executed this March 29, 2007, by Amcan Properties, LLC, a Utah limited liability company (hereinafter referred to as "Declarant").

ARTICLE I - SUBMISSION

The Declarant represents all Owners in fee simple of the Tract particularly described in Exhibit "A" annexed hereto, located in Weber County, Utah, (hereinafter the "Tract"), and hereby submit the Tract, together with the buildings, all improvements, all easements, rights and appurtenances thereunto belonging to the provisions of the Act and this Declaration, to be known as AMCAN CONDOMINIUMS. The project is described as AMCAN CONDOMINIUMS on the Record of Survey Map recorded on March 30, 2007.

ARTICLE II - DEFINITIONS

When used in the Declaration and in the Bylaws, which are made a part of this Declaration and are attached hereto as Exhibit "C," 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. Act shall mean and refer to the Condominium Ownership Act (Sections 57-8-1 through 57-8-36, Utah Code Annotated, 1953), as the same may be amended from time to time.
2. Association shall mean the Amcan Condominium Owners Association and shall refer to all of the Unit Owners acting as a group in accordance with the Declaration .
3. Common Areas and Facilities and Common Areas shall mean and refer to, and include:
 - a. The real property and interests in real property which this Declaration submits to the terms of the Act.
 - b. All Common Areas and Facilities designated as such in the Survey Map.
 - c. All Limited Common Areas and Facilities designated as such in the Survey Map.
 - d. All foundations, columns, girders, beams, supports, perimeter walls, roofs, and any entrances and exits which are designated for the use of more than one Unit, parking

spaces, access roads, driveways, walkways, pedestrian sidewalks, landscapes and planting areas, fences, street lights, and other common facilities.

e. All apparatus, installations, and facilities included within the Project and existing for common use.

f. All portions of the Project not specifically included within individual Units.

g. All Common Areas as defined in the Act, whether or not enumerated herein.

4. 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, any Management Agreement for the operation of the Project, and such Rules and Regulations as the Management Committee may, from time to time, make and adopt. By the way of illustration but not limitation, Common Expense shall include:

a. Expense of administration, maintenance, operation, repair, or replacement of those elements of the Common Areas that must be replaced on a periodic basis, and to other reserves as may, from time to time, be established pursuant to the Declaration;

b. Expenses agreed upon by the Association and lawfully assessed against the Owners in accordance with the Declaration;

c. Expenses declared Common Expenses by the provisions of the Act, this Declaration or the By-Laws; and

d. Any valid charge against the Project as a whole.

5. Common Profits shall mean and refer to the balance of the income, rents, profits, and revenues from the Common Areas remaining after deducting the Common Expenses.

6. Condominium Project and Project shall mean and refer to the AMCAN CONDOMINIUM Project.

7. Condominium Unit and Unit shall mean and refer to, and include:

a. A separate physical part of the Property intended for independent use consisting of rooms or space located in a building. Units are shown in the Map by single cross-hatching, and generally include all interior and exterior structural elements.

b. Mechanical equipment and appurtenances located within any one Unit, or located without said Unit but designed to serve only one Unit, such as appliances, electrical

receptacles and outlets, air-conditioning compressors and other air-conditioning apparatus, fixtures and the like.

c. The upper and lower (horizontal) boundaries of a Unit shall be the following boundaries extended to an intersection with the vertical (parametric) boundaries:

i. Upper boundary: the horizontal plane of the outside membrane of the roof structure;

ii. Lower boundary: the horizontal plane of the outside surface of the slab or other structural flooring, including, footings and foundations located below the grade of the slab or flooring.

d. The vertical (parametric) boundary of a Unit shall be the vertical plane which includes the outside surface of all walls bounding the Unit extended to the outside intersection corners with each other and with the upper and lower boundaries, including the complete structural component of the foundation walls located below grade but above the slab or flooring.

8. Declaration shall mean and refer to this instrument, as the same may be amended from time to time.

9. Declarant shall mean and refer to Amcan Properties, LLC, a Utah limited liability company, its successors and assigns.

10. Limited Common Area and Facilities and Limited Common Areas shall mean and refer to those Common Areas designated herein and in the Map as reserved for the use of a certain Unit or Units, to the exclusion of other Units.

11. Majority of Owners shall mean and refer to the Owners of the Units to which more than fifty percent (50%) of the votes in the Association appertain.

12. Management Committee shall mean and refer to the Management Committee of AMCAN CONDOMINIUMS Project as it exists at any given time.

13. Mortgage shall mean any mortgage, deed of trust or other security instrument by which a Unit or any part thereof is encumbered. First mortgage shall refer to a mortgage which has a lien position prior to any other mortgage.

14. Mortgagee shall mean and refer to any person named as a Mortgagee or beneficiary under (or holder of) a deed of trust.

15. Percentage Interest means and refers to the percentage undivided interest of each Unit in the Common Areas as set forth in Article III, Paragraph 5.

16. Property shall mean and refer to the land in Exhibit "A," the buildings, all improvements and the structures thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

17. Record of Survey Map and Map shall mean and refer to the Record of Survey Map filed on March 30, 2007, consisting of one sheet, and prepared and certified by Steve Porter, a Professional Utah Land Surveyor having Certificate No. 376071, a copy of which is attached hereto as Exhibit "B."

18. Rules and Regulations means those rules and regulations adopted from time to time by the Management Committee that are deemed necessary for the enjoyment of the Project, provided they are not in conflict with the Act or Declaration.

19. Tract shall mean and refer to the real property hereby submitted to the Project. The Property which Exhibit "A" of this Declaration submits to the terms of the Act constitutes a Tract.

20. Unit Number shall mean and refer to the number which designates a Unit in the Map attached as Exhibit "B."

21. Unit Owner or Owner shall mean and refer to the owner of the fee in a Unit and Percentage Interest in the Common Areas 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 purchaser have otherwise agreed and have informed the Committee in writing of such agreement) be considered the Unit Owner for purposes of voting and Committee membership.

ARTICLE III - COVENANTS, CONDITIONS, AND RESTRICTIONS

The submission of the Tract to the provisions of the Act is made upon and under the following covenants, conditions, and restrictions.

1. Description of Improvements. The improvements included in the Project are now (or will be) located on the property described in Exhibit "A" annexed hereto, and all such improvements are described on the Map. The Map indicates the number of stories, the number of Units which are contained in the Buildings which comprise a part of such improvements, the dimensions of the Units, the recreational areas and facilities, if any, and all other Common Areas thereof. The Project does now (or will) consist of a total of two (2) Units. The improvements on the Project have been placed on the national historic register. Each Owner agrees that by acquiring a Unit, the Owner acknowledges the value of such historic registration to the Project. Accordingly, in the event any Owner makes any material change, modification, construction, reconstruction,

remodel or other alteration to such Owner's Unit, such change, modification, construction, reconstruction, remodel or other alteration shall (i) be approved in advance in writing by the Management Committee; and (ii) at all times be completed in such a way as to preserve the historical significance, status and registration of the improvements in the Project.

2. Description of Legal Status of Units. The Map shows the Unit and Building designation, its location, dimensions from which the area may be determined, those Limited Common Areas which are reserved for its use, and the Common Areas to which it has immediate access. All Units are residential Units. All Units shall be capable of being independently owned, encumbered, and conveyed.

3. Contents of Exhibit "B." Exhibit "B" to this Declaration is the Map and furnishes the following information with respect to each Unit:

a. The Building, Unit Designation, and square footage of each Unit.

b. The Percentage Interest of each Unit. With respect to Percentage Interest, to avoid a perpetual series of digits and to obtain a total of one hundred percent (100%), the Percentage Interest for each Unit has been carried to the hundredth place and last digit has been adjusted and rounded up or down to a value that is most nearly correct.

4. Common and Limited Common Areas.

a. The Common Areas contained in the Project are described and identified in Article II of this Declaration. Neither the Percentage Interest nor the right of Exclusive use of Limited Common Area shall be separated from the Unit to which it appertains; and even though not specifically mentioned in the instrument of transfer, the Percentage Interest and such right of exclusive use shall automatically accompany transfer of the Unit to which they relate. Each Unit Owner shall, at its own cost, keep the Limited Common Areas designed for exclusive use in connection with his Unit in a clean, sanitary and attractive condition at all times.

b. The use of the Common Areas shall be limited to Owners in residence and to their tenants in residence, and to Owner's guests, invitees and licensee. The use of the Common Areas and Limited Common Areas shall be governed by the Declaration and the Rules and Regulations as initially established by the Declarant and as adopted and amended from time to time by the Management Committee.

5. Computation of Percentage Interests. Each Unit in the Project shall include an undivided interest in the Common Areas and Facilities. The proportionate share of the Unit Owners in the Common Areas of the Project is based on the square footage that each of the Units bear to the total square footage of all Units. The proportionate ownership in the Common Areas

shall be for all purposes, including, but not limited to, participation in Common Profits, and assessments for Common Expenses.

6. Unit Maintenance. Each Owner shall at the Owner's own cost and expense, maintain, repair, paint, repaint, tile, wallpaper or otherwise refinish and decorate the interior surface of the walls, ceilings, floors, windows and doors forming the boundaries of such Owner's Unit and all walls, ceilings, floors, windows and doors within such boundaries. In addition to decoration and keeping the interior of an Owner's Unit in good repair and in a clean and sanitary condition, the Owner shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heater, heating equipment, air conditioner, lighting fixtures, refrigerator, dishwasher, disposal equipment, range or other appliances or fixtures that may be in or connected with the Owner's Unit. Each Unit shall be maintained so as not to detract from the appearance of the Project and so as not to affect adversely the value of any other Unit.

7. Common Area Maintenance. The Management Committee, as part of the Common Expenses shall maintain and repair the Common Areas.

8. Party Walls

a. Each wall that is built as a part of the original construction of the Units upon the Property and placed on the dividing line between two Units shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Paragraph, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto; provided, however, that the structural elements of the party wall shall be equally divided between the Owners of the appurtenant to the party wall, with the ownership of each of the adjacent Unit Owners extending to the midsection of the party wall in common with such Units.

b. To the extent a Unit that shares a party wall, a common roof, a common exterior back wall, or a common exterior front wall, with an adjacent Unit, the Owners acknowledge that certain repairs or maintenance to the roof or exterior walls of the Units may become necessary, which repairs or maintenance cannot be performed on one Unit only, but may necessarily involve the other attached Unit. Therefore, all repairs to the roof and exterior walls of all Units will be made by the Association and charged equally to the affected Owners and/or the Owners' insurance, if applicable.

c. If a party wall or common improvement is damaged or destroyed by the fault or negligence of one of the Owners, such damage shall be repaired by the Association to a condition equal to or better than immediately prior to the damage and the negligent Owner or Owner at fault shall reimburse the Association for any and all costs incurred by the Association to cure the damage. Should a party wall, common roof or any part of the exterior wall(s) be damaged or destroyed by any cause other than by fault or by an act of negligence of an Owner of the adjacent Unit, the damage shall be rebuilt or

repaired by the Association to a condition equal to or better than immediately prior to the damage, equally at the expense of the affected Owners; provided that any amount received from insurance companies for such damage shall first be applied to the restoration of the affected Units.

9. Association Membership. Membership in the Association shall be mandatory, shall be appurtenant to the Unit in which the owner has the necessary interest and shall not be separated from the Unit to which it appertains. The property, business and affairs of the Association shall be governed by the Management Committee as agent of the Association.

10. Easement of 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 the maintenance for the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas, or upon an adjoining Unit or Units, an easement for such encroachments and for maintenance shall and does exist. Such encroachments shall not be considered to be encumbrances either to 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 the building(s) on the Tract, by error in the Map, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

11. 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 Management Committee, as its 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 Area or to another Unit or Units. The Management Committee shall also have such rights independent of the agency relationship. Damage to the interior of any part of a 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 Management Committee or of Unit Owners shall be the responsibility of the Association; provided, that if such damage is determined to be the result of negligence of the Owner of a Unit, then such Owner shall be financially responsible for all such damage, provided the Management Committee follows the procedures as outlined below.

a. Notice of Hearing. The Management Committee shall cause to be mailed, by certified mail, a Notice of Hearing, signed by a majority of the Management Committee and addressed to the Owner at the Owner's last post office address as it then appears on the records of the Management Committee. The Notice of Hearing shall include the following:

(i) Description of damage. A brief description of the damages allegedly caused by the Owner's negligence in sufficient details so as to give the Owner adequate notice of the charges against him;

(ii) Time, date and place of hearing. The Notice shall include the time, date and place of the hearing. The Hearing shall be held on a weekday, unless waived in writing by the Owner and Management Committee, and shall not be set any sooner than thirty (30) days from the date the Notice is mailed to the Owner. The matter shall be heard in the evening, between the hours of 5:00 p.m. and 8:00 p.m., or as agreed upon by the Management Committee and the Owner. The Hearing shall be held in any convenient location within Weber County; and

(iii) Objection to time or date. The Notice shall inform the Owner that Owner may object to the time and/or date of the Hearing upon a showing of a reasonable conflict. The objection shall be mailed, postage prepaid, to the Management Committee fifteen (15) days before the date of the Hearing. The objection shall also include at least three (3) dates (including times), subject to the limitations of subparagraph (ii) above, Owner can attend a Hearing.

b. Alternative Dates. The Management Committee may accept one of Owner's suggested dates, which it must then confirm in writing, by certified mail, or set a new date pursuant to the procedures of subparagraph (ii) above. If Owner has a reasonable conflict with the new date set by the Management Committee, Owner may again object to either the time or date as allowed in subparagraph (iii) above. The procedures of subparagraphs (ii) and (iii) shall be followed until a time, date and place are selected convenient to the Management Committee and Owner.

c. Representation by Counsel. Owner is entitled to representation by counsel at the Hearing with the Management Committee. If Owner chooses to be represented by counsel, Owner shall first notify the Management Committee, in writing, fifteen (15) days prior to the date of the Hearing in order to give the Management Committee the opportunity to select its own counsel to represent it at the Hearing.

d. Hearing. At the Hearing, Owner shall be given a reasonable opportunity to efficiently and succinctly present his evidence.

e. Decision. The Management Committee shall render its written decision within thirty (30) days following the date of the Hearing. The written decision shall be mailed to the Owner at the Owner's last known address and shall be deemed a final decision in all respects.

f. Appeal of Decision. The decision may only be appealed to the District Court in and for Weber County, State of Utah, within thirty (30) days following Owner's receipt of the Management Committee's written decision. The prevailing party on appeal shall be entitled to receive from the non-prevailing party, all reasonable attorney fees and costs incurred in the appeal.

g. Collection. Amounts owing by the Owner pursuant to the decision of the Management Committee shall be collected by way of assessment against the Owner's Unit.

12. Right of Ingress and Egress. Each Owner shall have the right to ingress and egress over, upon and across the Common Areas necessary for access to the Owner's Unit and to the Limited Common Areas designated for use in connection with such Owner's Unit, and such right shall be appurtenant to and pass with the title to each Unit.

13. Pipes, Ducts, Cables, Wires, Conduits, Public Utility Lines, and Other Common Facilities Located Inside the Units; Support. Each Unit Owner shall have an easement common with Owners of all other Units to use all the pipes, wires, ducts, cables, conduits, public utilities, lines and other Common Facilities located in any of the other Units and serving his Unit. Each Unit shall be subject to an easement in favor of the Owners of all other Units to use the pipes, ducts, cables, wires, conduits, public utility lines and other Common Facilities serving such other Units and located in such Unit. The Management Committee shall have a right of access to each Unit to inspect the same, to remove said violations therefrom and to maintain, repair or replace the common areas contained therein or elsewhere in the buildings. Every portion of a unit which contributes to the structural support of the building shall be burdened with an easement of structural support to the benefit of all other Units and the Common Areas.

14. 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 it is obligated or permitted to perform pursuant to this Declaration.

15. Easement for Utility Services. There is hereby created a blanket easement upon, across, over, and under the property described in Exhibit "A" for ingress, egress, installation, replacing, repairing, and maintaining all utilities, including, but not limited to, water, sewer, gas, telephones, electricity, and other utility services. This blanket easement extends to Ogden City for the purpose of reading culinary water meters and maintaining the water fire line located with the Project.

16. Use of Units and Common Areas.

a. Each of the Units in the Project is intended to be used for either commercial office or residential use, as such use is depicted or described on the Map, and is restricted to such identified use.

b. There shall be no obstructions of the Common Areas by the Owners, their tenants, guests or invitees without the 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 in 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 on the prior written consent of the Management Committee.

c. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which may result in the cancellation of the insurance on the Project or any part thereof or increase the rate of insurance on the Project or any part thereof over what the Management Committee, but for such activity, would pay without the 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 the Owners harmless against all loss resulting from any such damage or waste caused by him or his 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 be or may become any annoyance or nuisance to any other Owner or to any person at any time lawfully residing in the Project.

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

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

f. No recreational vehicle (boats, campers, trailers, motor homes, or similar items) shall be parked on any portion of the Common Areas except for temporary parking.

g. No signs whatsoever shall be erected or maintained in the Common Areas without the prior written consent of the Management Committee, except:

- (i) such signs as may be required by legal proceedings; and
- (ii) such signs as Declarant may erect or maintain incident to sale of Units.

h. Notwithstanding anything contained herein to the contrary, unless the Declarant has completed and sold all the Units, neither the Unit Owners who have purchased Units from the Declarant nor the Management Committee shall interfere with the

completion of improvements and sale of the remaining Units. The Declarant reserves the right to use any Units owned by the Declarant as models, management offices, or sales offices until such times as Declarant conveys title thereto to Unit Owners. Declarant reserves the right to relocate same from time to time within the Project; upon relocation or sale of a model, management office or sales office, the furnishings thereof may be removed. Declarant further reserves the right to maintain on the Project such advertising signs which may be placed in any location on the Project and may be relocated or removed all at the sole discretion of Declarant.

17. Status and General Authority of Management Committee. Notwithstanding anything herein contained to the contrary, AMCAN CONDOMINIUMS Project shall be managed, operated, and maintained by the Management Committee exclusively as agent of the Association and any act performed by the Management Committee pursuant to this Declaration, as the same may be amended from time to time, shall be deemed to be performed by the Management Committee for and on behalf of the Association as its agent. The Management Committee shall have, and is hereby granted, the following authority and powers:

- a. The authority, without the vote or consent of the Owners, to transfer or convey utility and similar easements over, under, across, and through the Common Areas and Facilities.
- b. The authority to execute and record, on the behalf of all the Unit Owners, any amendment to the Declaration or Map which has been approved by the consent necessary to authorize such amendment.
- c. The power and authority to enforce each and every covenant, condition and restriction contained in this Declaration.
- d. The power to sue and be sued.
- e. The authority to enter into contracts which in any way concern the Project, so long as any vote or consent of the Unit Owners necessitated by the subject matter of the agreement has been obtained.
- f. The power and authority to convey or transfer any interest in real property authorized by the Owners having an interest therein.
- g. The power and authority to purchase, otherwise acquire, and accept title to any interest in real property, so long as such action has been authorized by any vote or consent which is necessary under the circumstances.
- h. The authority to license persons not otherwise entitled to use any of the recreational areas and facilities, to use the same from time to time as the Management

Committee deems appropriate upon the payment of fees prescribed by it to help defray the cost maintenance thereof.

i. The power and authority to borrow money, provided no indebtedness for borrowed funds shall exceed at any given time the sum of Five Thousand Dollars (\$5,000.00) without the prior approval of the Majority of Owners.

j. The authority to promulgate and enforce such reasonable Rules and Regulations, and procedures as may be necessary or desirable to aid the Management Committee in carrying out any of its functions or to insure that the Project is maintained and used in a manner consistent with the interests of the Owners.

k. The power and authority to perform any other acts and to enter into any other transactions which may be reasonably necessary for the Management Committee to perform its functions as agent for the Association.

Any instrument executed by the Management Committee that recites facts which, if true, would establish the Management 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.

18. Manager. The Management Committee may carry out any of its functions which are capable of delegation through a Project Manager. Any Manager retained for such purpose must be an individual or entity experienced and qualified in the field of property management. The Manager so engaged shall be responsible for managing the Project for the benefit of the Unit Owners 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. Any Management Agreement must be terminable for cause upon thirty (30) days notice and run for a reasonable period from one (1) to three (3) years (unless negotiated by the Declarant in which case the Management Agreement shall not exceed two (2) years), and be renewable by consent of the Association and the Management Committee.

19. Composition of Management Committee and Initial Selection Thereof. Until the election of the Management Committee takes place at the first annual meeting of the Association, the Management Committee shall consist of such persons as shall have been designated by the Declarant. From and after the first annual meeting of the Association, the Management Committee shall be composed of the Board of Directors of the Association. The Declarant shall have the right in its sole discretion to replace such members of the Management Committee as may be so selected and designated by it, and to select and designate their successors. In all other cases of vacancy, the replacement shall be selected in accordance with the Bylaws of the Association. Declarant may, by a written instrument duly recorded, waive its right to select the members of the Management

Committee at any time prior to the termination of the right to select Management Committee members reserved hereunder.

20. Agreement to Pay Assessment. Each Owner of any Unit by the acceptance of a deed therefor, whether or not it be expressed in the deed, or by entering into a sale and/or purchase contract, shall be deemed to covenant and agree with each other and with the Management Committee to pay to the Management Committee annual assessments made by the Management Committee for the purposes provided in this Declaration, and special assessments for capital improvements and other matters as provided for in this Declaration. Such assessments shall be fixed, established, and collected from time to time in the manner hereinafter provided.

a. Amount of Total Annual 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 expenses growing out of or connected with the maintenance and operation of the Common Areas, which estimates may include, among other things, expenses of management, grounds maintenance, taxes and special assessments, (until the Units are separately assessed as provided herein), premiums for all insurance which the Management Committee is required or permitted to maintain pursuant hereto, common lighting and heating, water charges, trash collection, sewer charges, repairs and maintenance of the Common Areas and replacement of those elements of the Common Areas that must be replaced on a periodic basis, wages for Management Committee employees, legal and accounting fees, any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus and/or sinking fund; and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owner under or by reason of this Declaration.

b. Apportionment of Annual Assessments: Expenses attributed to the Common Areas and to the Project as a whole shall be apportioned among all the Owners in proportion to their respective Percentage Interests in the Common Areas.

c. Notice of Annual Assessments and Time for Payment Thereof: Annual assessments shall be made on a calendar year basis. The Management 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. Such assessments shall be due and payable in monthly installments on the first day of each and every month of each year, provided, however, that the first annual assessment shall be for the balance of the calendar year remaining after the date filed by the Management Committee as the date of commencement of the Project. Such assessment shall be due and payable within thirty (30) days after written notice of the amount thereof shall have been given to the respective Owner of a Unit. 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. Failure of the Management Committee to give timely notice of any assessment as provided herein shall not effect the

liability of the Owner of a Unit for such assessment, but the date when payment shall become due in such case shall be deferred to a date thirty (30) days after such notice shall be given.

d. Special Assessments for Capital Improvements: In addition to the annual assessments authorized above, the Management Committee may, in any assessment year, levy a special assessment, payable over such a 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 Project or any part thereof, or for any other expense incurred or to be incurred as provided in this Declaration. This Section shall not be construed as an independent source of authority for the Management Committee to incur expenses, but shall be authorized by other Sections hereof. Any amounts assessed pursuant hereto shall be assessed to the Owners in proportion to their respective Percentage Interests in the Common Areas. 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 have 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. Notwithstanding anything to the contrary herein contained, additions or capital improvements to the Project which cost no more than Five Thousand Dollars (\$5,000.00) may be authorized by the Management Committee alone. Additions or capital improvements, the cost of which will exceed such amount must, prior to being constructed, be authorized by the Majority of the Owners. Any addition or capital improvement which would materially alter the nature of the Project must, regardless of its cost and prior to being constructed, be authorized by vote of Unit Owners in person or by proxy of not less than sixty-seven percent (67%) of the Percentage Interest at a meeting of the Association, special or annual, at which a quorum is present.

e. Lien for Assessments. All sums assessed to any Unit pursuant to this Declaration, 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: (i) valid tax and special assessment liens on the Unit in favor of any governmental assessing authority; and (ii) a lien for all sums unpaid on the first Mortgage, or on any Mortgage to Declarant, duly recorded in the Official Records of Weber County, Utah, including all unpaid obligatory advances to be made pursuant to such Mortgage and all amounts advanced pursuant to such Mortgage and secured by a lien thereof in accordance with the terms of such instrument. All other lienors acquiring liens shall be deemed to consent that such liens shall be inferior to future liens for assessments as provided herein whether or not such consent be specifically set forth in the instruments creating such liens.

To evidence a lien for sums assessed hereunder, the Management Committee may prepare a written notice of the 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 notice shall be signed by the Management Committee and may be recorded in the Office of the County Recorder of Weber 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 judicial foreclosure by the Management Committee in the same manner in which trust deeds on real property may be foreclosed in Utah. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding, the costs and expenses of the filing of 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 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.

In event of foreclosure, after the institution of the action, the Unit Owner shall pay a reasonable rental for his use of the Unit and the Management Committee shall, without regard to the value of the Unit, be entitled to the appointment of a receiver to collect any rentals due from the Owner or any other person. 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 hereof.

A release of notice of lien shall be executed by the Management Committee and recorded in the Office of the County Recorder of Weber 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.

The Committee shall report to any encumbrancer of a Unit any unpaid assessments remaining unpaid for thirty (30) days after the same shall become due; provided, however that such encumbrancer first shall have furnished the Management Committee written notice of such encumbrance.

f. Personal Obligation of Owner: 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 without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any personal obligation by waiving the use and enjoyment of any Common Areas or by abandoning or selling his Unit.

g. Statement of Account: Upon payment of a reasonable fee or such other amount as may in the future be allowed by the Act, 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 date that such assessment becomes or has become due; 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 Management Committee in favor of person who rely thereon in good faith. Unless such request for a statement of account shall be complied with within twenty (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 a 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 twenty (20) day period provided herein and thereafter an additional written request is made by such purchaser and is not complied with within ten (10) days, and the purchaser subsequently acquires the Unit.

h. Personal Liability of Purchaser for Assessment: Subject to the provisions of subparagraph (g) 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.

21. Transition of Management. Notwithstanding anything to the contrary contained in paragraph 17 above:

a. Declarant may, at any time, relinquish its reserved right to select members of the Management Committee and to transfer the management of the Project to the Management Committee elected by Unit Owners. If and when the Declarant elects to do so, Declarant shall notify Owners in writing of the effective date of such transfer (Transfer Date) at least forty-five (45) days prior thereto. Thereupon, Unit Owners shall call a meeting to elect the members of Management Committee to take office as of the Transfer Date. Declarant covenants to cooperate with Unit Owners in effecting orderly transition of management. Moreover, Declarant shall cause all obligation for Common Expense of the Management Committee prior to the Transfer Date to be paid in full on or before such date. Accordingly, it is intended that the cash position of the Management Committee as of the Transfer Date be zero (0).

b. Declarant shall relinquish all special rights, expressed or implied, through which the Declarant may directly or indirectly control, direct, modify or veto any action of the Association, its Management Committee, or a majority of Unit Owners, and control of the Association shall pass to the Owners of Units within the Project not later than the earlier of the following:

(i) 120 days after the date by which 75% of the Units have been conveyed to unit purchasers; or

(ii) At the end of seven (7) years following the first conveyance of a Unit to a purchaser.

c. The requirements of paragraph 19.b. shall not affect Declarant's rights, as a Unit Owner, to exercise the votes allocated to Units which Declarant owns.

22. Insurance. The Management Committee shall secure in the name of and with the proceeds payable to the Association, and at all times maintain, the following insurance coverage:

a. A multi-peril policy or policies of fire and casualty insurance, with extended coverage and all other coverage in the kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use on a replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based upon replacement costs) for all buildings, improvements and fixtures of the Common Areas and Limited Common Areas and all portions of all structural portions of Units from the outside into and including, but not limited to, unfinished walls (but not sheetrock or other wall coverings) and uncovered sub-flooring, including all concrete foundations. Each such policy shall contain the standard mortgage clause which must be endorsed to provide that any proceeds shall be paid to the Association for the use and benefit of Mortgagees as their interests may appear. The insured shall be the Association.

b. A comprehensive policy of public liability insurance insuring the Association, the Management Committee, the Manager, and the Unit Owners against any liability incident to ownership, use or operation of the Common Areas and public ways of the Project or of any Unit which may arise among themselves, to the public or to any invitees or tenants of the Project or of the Unit Owners. Limits of liability under such insurance shall be not less than One Million Dollars (\$1,000,000.00) per occurrence, for personal property injury and/or property damage. Such insurance policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of negligent act of the Association or other Unit Owners. The scope of the coverage must include all other coverage in the kinds and amounts required by private institutional mortgage investors for similar projects in location, construction and use.

c. The Association shall maintain fidelity coverage to protect against dishonest acts on the part of Management Committee Members, Manager, employees or volunteers responsible for handling funds belonging to or administered by the Association. The fidelity bond or insurance must name the Association as the named insured and shall be written in an amount sufficient to provide protection which in no event shall be less than one and one-half times the insured's estimated annual operating expenses and revenues. In

connection with such coverage, an appropriate endorsement to the policy to cover any person who serves without compensation shall be added if the policy would not otherwise cover volunteers.

The following additional provisions shall apply with respect to insurance:

(i) In addition to the insurance and bond coverage described above, the Management Committee shall secure and at all times maintain insurance against such risks as are, or hereafter may be, customarily insured against in connection with all condominium projects similar to the Project in construction, nature or use.

(ii) Each hazard insurance policy shall be written by a company holding a financial rating of Class VI or better from Best's Insurance Reports. Each insurer must be specifically licensed to transact business within the State of Utah. Policies are unacceptable where: (i) under the terms of the carrier's charter, by-laws or policy, contributions or assessments may be made against the Borrower or Amcan Properties, LLC, a Utah limited liability company or its designee; or (ii) by the terms of the carrier's charter, by-laws or policy loss payments are contingent upon action by the carrier's board of directors, policyholders, or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent Amcan Properties, LLC, a Utah limited liability company or the borrower from collecting the insurance proceeds.

(iii) The Management Committee shall have the authority to adjust losses.

(iv) Insurance secured and maintained by the Management Committee shall not be brought into contribution with insurance held by individual Unit Owners or their Mortgagee.

(v) Each policy of insurance obtained by the Management Committee shall provide:

(1) a standard mortgagee clause commonly accepted by private institutional mortgage investors in the Area in which the Project is located;

(2) a waiver (if available) of the insurer's subrogation rights with respect to the Management Committee, the Manager, the Unit Owners, and their respective servants, agents and guests;

(3) that it cannot be cancelled, suspended, or invalidated due to the conduct of any particular Unit Owner or Owners;

(4) that it cannot be cancelled, suspended, or invalidated due to the conduct of any member, office or employee of the Management Committee or the Manager without a prior written demand that the defect be cured;

(5) that any "no other insurance clause" therein shall not apply with respect to insurance held individually by the Unit Owners;

(6) and that a mortgage clause endorsement which must provide that the insurance carrier shall notify the first Mortgagee (or trustee) named at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.

f. Each Owner shall insure all floor coverings, wall coverings and finishes, window coverings and glass, attics and fixtures (including, but not limited to cabinets), and is encouraged to insure the contents and personal property to be located in such Owner's Unit or otherwise owned by Owner, against loss or damage by fire or by any other casualty, under the standard form of extended endorsement and broad form now in use in the State of Utah or under such other insurance as may be required by any Mortgagee of the Unit. All insurance for floor coverings, wall coverings or finishes, window coverings and glass, attics and fixtures (including, but not limited to cabinets), shall be for the full replacement value of the property being insured. Each Owner shall, within thirty (30) days after the recordation of the conveyance of the Unit to said Owner, and thereafter at least ten (10) days prior to the expiration, termination, cancellation or modification of any existing policy, furnish to the Association duplicate copies of policies or certificates thereof, showing that the insurance required in this part is currently in force certified by the insurance company or by its duly authorized agent. All such policies shall contain a provision that the same shall not be cancelled or terminated except upon at least thirty (30) days written notice to the Association. In the event of any insurance claim for the repair or replacement of any property in which the claim pertains to only one (1) Unit, the Owner of that Unit shall be responsible for and shall pay any and all deductibles on such claims, notwithstanding, and even in the event that the claim is made against insurance obtained and provided by the Association pursuant to Section 21.a. above. Furthermore, the Owner shall name the Association as an additional insured on the insurance policy(ies) required hereunder.

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

a. If proceeds of the insurance maintained by the Management Committee are alone sufficient to repair or reconstruct the damage or destroyed improvements, such repair or reconstruction shall be carried out.

b. If less than seventy-five percent (75%) of the Project's improvements are destroyed or substantially damaged, and if proceeds of the insurance maintained by the Management Committee are not alone sufficient to accomplish repair or reconstruction, restoration shall be carried out and all Unit Owners shall be assessed for any deficiency on the basis of their respective Percentage Interest.

c. If seventy-five percent (75%) or more of the Project's improvements are destroyed or substantially damaged, if proceeds of the insurance maintained by the Management Committee are not alone sufficient to accomplish restoration, and if the Unit Owners do not, within one hundred (100) days after the destruction or damage and by a vote of at least seventy-five percent (75%), elect to repair or reconstruct the affected improvements, the Management Committee shall promptly record with the Weber County Recorder a notice setting forth such facts. Upon the recording of such notice the provisions of subsections one (1) through four (4) of Section 57-8-31, Utah Code Annotated (1953), shall apply and shall govern the rights of all parties having an interest in the Project or any of the Units.

Any reconstruction or repair which is required to be carried out by this Paragraph 22 regarding the extent of damage to or destruction of Project improvements shall be made by three MAI appraisers selected by the Management Committee. The decision by any two such appraisers shall be conclusive.

24. Certain Provisions Applicable to Declarant. Notwithstanding any other provision herein contained, for so long as Declarant continues to own any of the Units, the following provisions shall be deemed to be in full force and effect, none of which shall be construed so as to relieve the Declarant from any obligations as Unit Owner to pay assessments, except as herein otherwise provided, as to each Unit owned by Declarant in accordance with the Declaration.

a. Declarant specifically disclaims any intent to have made any warranty or representation in connection with the Project or the Declaration, except as specifically set forth herein or in any agreement for sale of a Unit, and no person shall rely upon any warranty or representation not so specifically made therein.

b. No amendment may be made to the Declaration without the written consent of Declarant so long as Declarant retains the ownership of two (2) or more Units; provided, however, that the obligation to acquire written consent of Declarant shall cease on a date two (2) years from the date of the final phase of the Declaration.

25. Amendment. The vote of at least sixty-seven percent (67%) of the Percentage Interest of the Unit Owners in person or represented by proxy at a meeting of the Association at which a quorum is present shall be required to amend the Declaration, Map, or other enabling documentation. Any such amendments so authorized by the Unit Owners shall be accomplished through the recordation of an instrument executed by the Management Committee. In such

instrument, the Management Committee shall certify that the vote of the Unit Owners as required by this Paragraph for amendment have been obtained. The foregoing right of amendment shall be subject to the following: Notwithstanding anything to the contrary contained in the Declaration, neither the insurance provisions of Paragraph 21 nor the maximum/minimum Percentage interest in the Common Areas provision shall be amended without the written approval of all institutional first Mortgagees. Furthermore, notwithstanding anything contained in the Declaration to the contrary, no decision to terminate the use of the Property as a condominium project shall be effective without the affirmative vote of one hundred percent (100%) of the Unit Owners in person or represented by proxy at a meeting of the Association.

26. Consent Equivalent to Vote. 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 requirements may be fully satisfied by obtaining with or without a meeting, consents in writing to such transaction from Unit Owners who collectively hold at least the necessary percentage of undivided ownership interest.

27. Eminent Domain. Whenever all or part of the Common Areas shall be taken, injured, or destroyed as a result of the exercise of eminent domain, each Unit Owner shall be entitled to notice thereof and to participate in the proceedings incident thereto, but in any proceeding for the determination of damages, such damages shall be determined for such taking, injury, or destruction as a whole and not for each Unit Owner's interest therein. After such determination each Unit Owner shall be entitled to a share in the damages in the same portion as his Percentage Interest in the Common Areas.

28. Service of Process. Blain H. Johnson, whose address is 4723 Harrison Boulevard, Suite 200, Ogden, Utah 84403, is the person to receive service of process in cases authorized by the Act. The Management Committee shall, however, have the right to appoint a successor substitute process agent. Such successors or substitute agent and his address shall be specified by an appropriate instrument filed in the office of the County Recorder of Weber County, State of Utah.

29. Duty of Owner to Pay Taxes on Unit. It is understood that under the Act, each Unit (and its Percentage Interest in the Common Areas) in the Project is subject to a separate assessment and taxation of each taxing authority and the special district(s) for all types of taxes and assessments authorized by law, and that as a result thereof, no taxes will be assessed or levied against the Project as such, except for certain personal properties thereof. Accordingly, each Unit Owner will pay and discharge any and all taxes and assessments which may be assessed against him or his Unit.

30. Covenant to Run With Land; Compliance. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of the Declarant and all parties who hereafter acquire any interest in a Unit, 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 terms of the Act, terms of this Declaration and the provisions of any rules, regulations, agreements, instrument, 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 or both, maintainable by the Management 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.

31. Information Regarding Transferee of Unit. Any Unit Owner who sells, leases, or otherwise disposes of his Unit shall submit to the Management committee pertinent information regarding the transferee or new occupant within one week of any transfer of title or possession on a form furnished by the Management Committee.

32. 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 fees reasonably incurred by him in connection with any proceeding to which he may become involved by reason of his being or having been a member of said Management Committee. This Indemnification shall not extend to nor cover actions on the part of any member of the Management Committee who intentionally or knowingly violates local, state or federal laws or who clearly acts in bad faith.

33. Expansion of the Project.

a. Reservation of Right to Expand. The Property is all of the land upon which the Units (including Limited Common Areas) and the Common Areas shall be developed. However, Declarant contemplates that it will develop and construct additional Units in the Project on any portion or on all of the land of the Property ("Expansion Units"). Accordingly, Declarant hereby reserves the right to expand the Property to include the Expansion Units (up to a maximum of 100 additional Units), which may affect the current Common Areas and include additional or revised Common Areas to be constructed. Upon completion of each portion of expansion of the Property, each Unit Owner's percentage of ownership of the Common Areas will be changed by the Declarant, based on the Computation of Percentage Interest of Article III, Paragraph 5, and as contained in Exhibit "B" attached hereto. The initial interest of an Owner in the Common Areas shall be the percentage for the Units in prior to expansion. The expanded Property will be managed, treated and governed as a condominium project without regard to phases.

b. Right of Declarant to Adjust Percentages of Common Areas. Each deed of a Unit shall be deemed to irrevocably reserve to the Declarant the power to appoint to Unit Owners, from time to time, the percentage in the Common Areas set forth in the Amendment to the Declaration. A power coupled with an interest is hereby reserved to Declarant, its successors and assigns, as attorney-in-fact to shift percentages of the Common Areas in accordance with said notices and each deed of a Unit in the Property shall be

deemed a grant of such power to said attorney-in-fact. Various provisions of this Declaration and deeds and mortgages of the Units may contain clauses designed to accomplish a shifting of the Common Areas. None of said provisions shall invalidate the other, but each shall be deemed supplementary to the other toward the end that a valid shifting of the percentages of ownership of the Common Areas can be accomplished. In periodically adjusting and recomputing the undivided ownership interest appurtenant to the Units then in the Property, Declarant shall recompute the Common Area percentages among the Units by calculating the square footage that each of the Units bears to the total square footage of all Units in the Property.

c. No Obligation to Expand. Except to the extent specifically indicated herein, this Declaration is not intended, and shall not be construed so as, to impose upon Declarant any obligation respecting, or to restrict Declarant in any way with regard to, either the submission of any portion of the Expansion Units to Condominium Ownership or the creation, construction or addition to the Property, of any future phase or phases. Unless and until there is recorded with respect to a portion of the Expansion Units an Amendment to this Declaration in which Declarant specifically expresses its intention that said portion constitutes a phase of the Property, such portion shall in no way be burdened or affected by any of the provisions of this instrument, and Declarant may deal with such portion in any lawful manner.

d. No Owners Consent Required. Declarant may expand the Property according to the terms of this Declaration without the consent of any Unit Owners.

e. Future Phases. If future phases are added to the Property, such phases may be added at different times, without limitation, (i) as to which Expansion Units are added to the Property, (ii) as to the boundaries of the land to be added, if any, (iii) as to the locations of any improvements that may be made on any portions of the Expansion Units, and (iv) as to the order in which future phases are added to the Property.

f. Improvements Upon Project. Any and all improvements constituting Expansion Units shall be consistent with the improvements in terms of quality of construction as that in the existing Property. Other than the foregoing assurance, Declarant gives no other assurances with respect to the type of improvements, units, common areas and facilities, and limited common areas to be built, if any, as Expansion Units.

34. Invalidity. the invalidity of any provisions of this Declaration, or any portion thereof, shall not be deemed to impair or affect in manner the validity, enforceability, or effect of the remainder of this Declaration and, in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

EXHIBIT "A" - LEGAL DESCRIPTION

(Tax ID No. ~~03-040-0003~~) ALL OF LOT 3, AMERICAN CAN SUBDIVISION, OGDEN CITY,
WEBER COUNTY, UTAH

03-042-0001-0003

EXHIBIT "B" - RECORD OF SURVEY OR MAP

AMCAN CONE

A Utah Condominium

ALL OF LOT 3, AMERICAN CAN SUBDIVISION

SCALE: 1" = 40'

OGDEN CITY APPROVAL

THIS PLAN AND THE CONDITIONS OFFERED HEREIN ARE APPROVED AND ACCEPTED BY THE MAYOR OF OGDEN CITY THIS _____ DAY OF _____ 20__

WITNESSED MY SECRETARY, WHEN _____

AFTER _____ CITY RECORDS

OGDEN CITY ENGINEER

I HEREBY CERTIFY THAT I CAREFULLY INVESTIGATED THE LINES OF SURVEY OF THE FOREGOING PLAN AND LEGAL DESCRIPTION OF THE LANDS DESCRIBED HEREIN AND FIND THEM TO BE CORRECT AND TO ACCORD WITH THE RULES AND REGULATIONS ON RECORD IN THIS OFFICE.

SIGNED THIS _____ DAY OF _____ 20__

OGDEN CITY ENGINEER

OGDEN CITY COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

I HEREBY CERTIFY THAT THIS PLAN CONFORMS WITH THE GENERAL REQUIREMENTS OF THE SUBDIVISION ORDINANCE OF OGDEN CITY, AND CONFORMS WITH THE APPROVED PRELIMINARY PLAN, AS REVIEWED AND APPROVED BY THE OGDEN CITY PLANNING DEPARTMENT AND THE MAYOR OF OGDEN CITY, PURSUANT TO FINAL PLAN APPROVAL BY THE MAYOR OF OGDEN CITY.

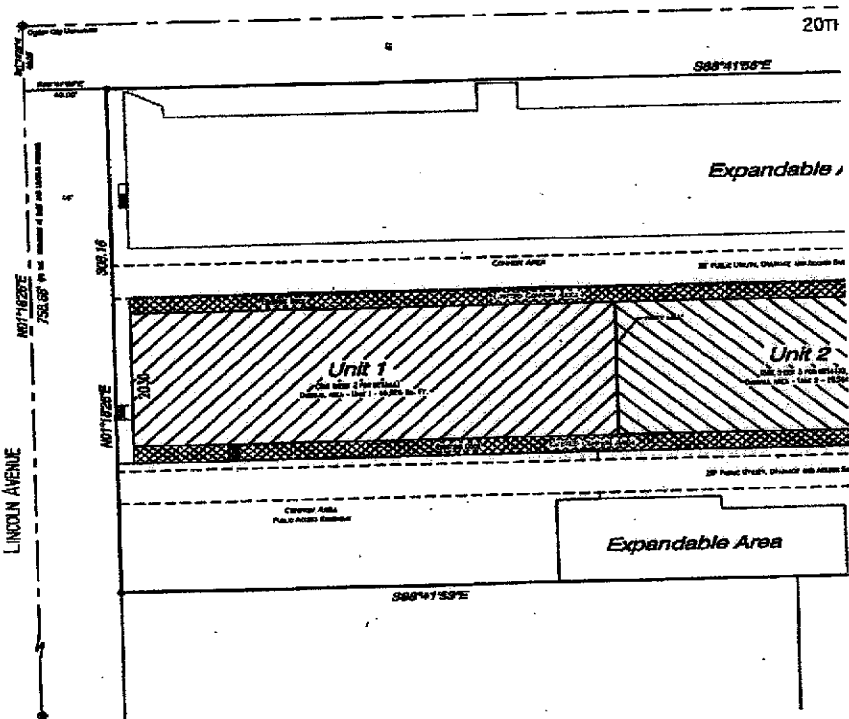
SIGNED THIS _____ DAY OF _____ 20__

OGDEN CITY ENGINEER

OGDEN CITY ATTORNEY'S OFFICE

APPROVED BY THE CITY ATTORNEY'S OFFICE THIS _____ DAY OF _____ 20__

CITY ATTORNEY

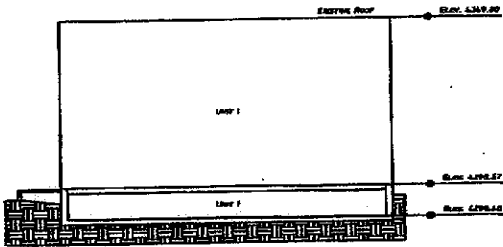
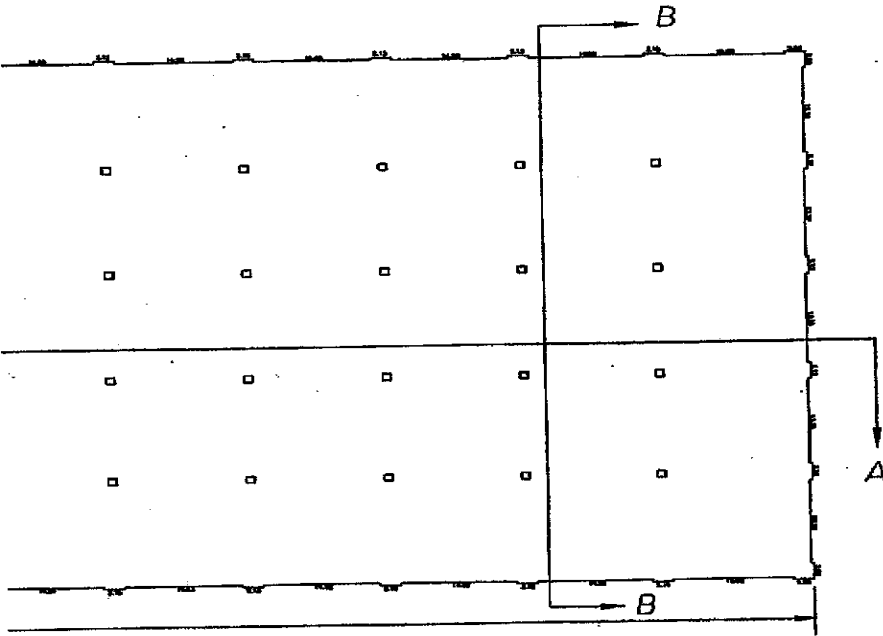


CONCRETE	
Unit 1	20.0
Basement	2.0
1st Floor	18.0
2nd Floor	18.0
3rd Floor	18.0
Total	66.0
Unit 2	
Basement	14.0
1st Floor	28.0
2nd	28.0
Total	70.0

MS

BER COUNTY, UTAH

EN 2252602 PG 32 OF 2



UNIT 1
SECTION B-B

SCALE: 1" = 20'

NOTES:

1. ALL MEASUREMENTS ARE EXTERIOR DIMENSIONS.
2. ALL OTHER AREA CONTAINED WITHIN THE PROJECT, BUT NOT SHOWN ON THIS PLAN, ARE COMMON AREAS AND CONSIDERED COMMON AREA.
3. THE DIVISIONS OF THE BUILDING ARE MADE UP OF BRICK & GLASS.

LIMITED COMMON AREA AND FACILITIES - [Cross-hatched pattern]

COMMON AREA AND FACILITIES - [White box]

PRIVATE OWNERSHIP - [Diagonal hatched pattern]

SHEET 2 OF 3



OGDEN CITY ENGINEERING
 2519 WASHINGTON BLVD., SUITE 500
 OGDEN, UT 84406

COUNTY RECORDER

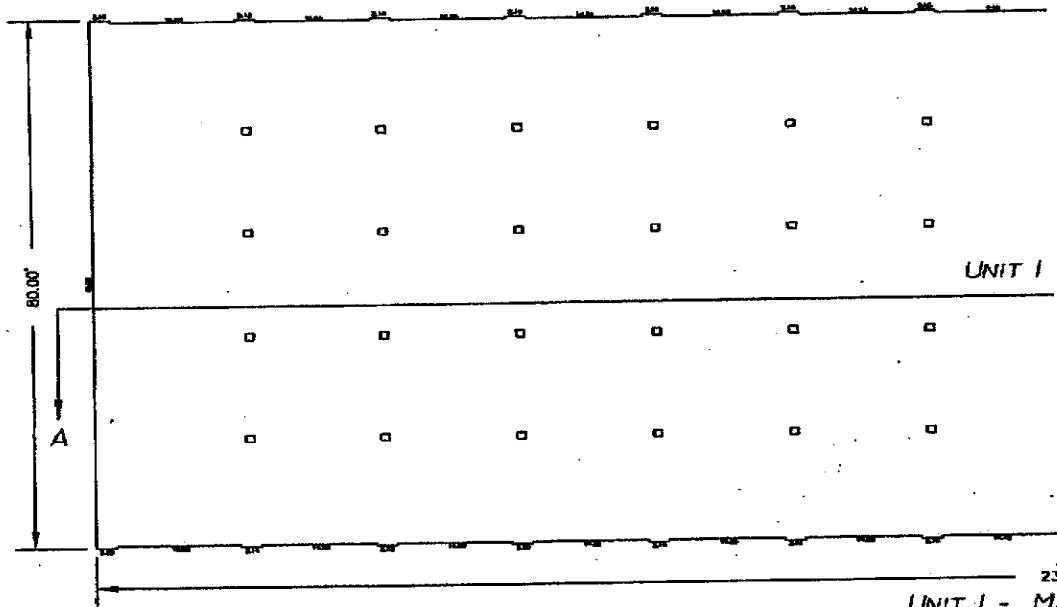
ENTRY NO. _____ FEE PAID _____
 AND RECORDED _____ FILED FOR RECORD _____
 AT _____ IN BOOK _____
 OF OFFICIAL RECORDS, PAGE _____
 FOR _____

COUNTY RECORDER
 BY: _____ DEPUTY

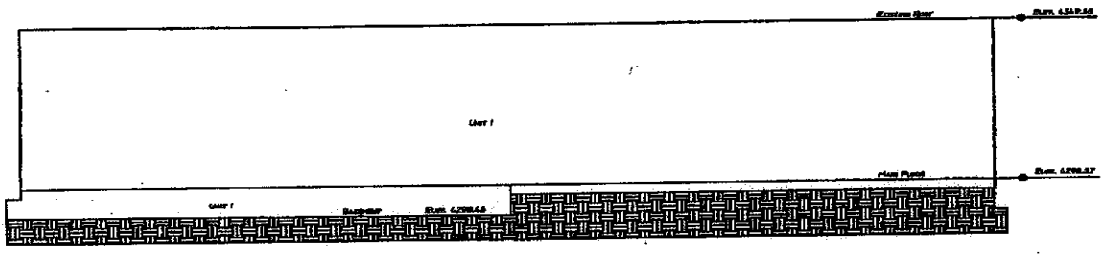
AMCAN COND

A Utah Condominium P

ALL OF LOT 3, AMERICAN CAN SUBDIVISION, C



23
UNIT 1 - M
SCALE: 1" =



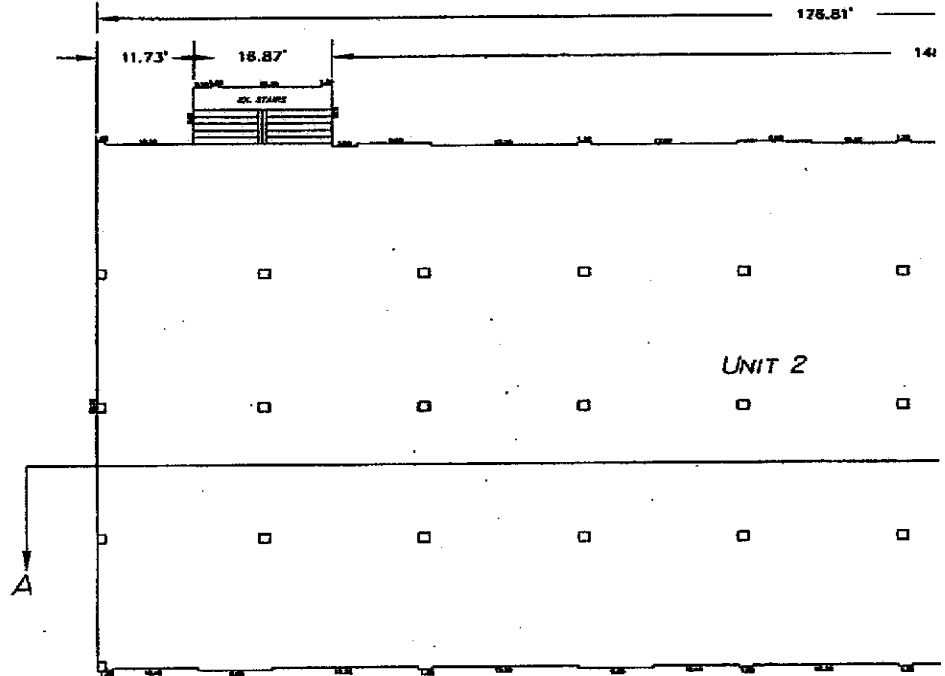
UNIT 1
SECTION A-A

SCALE: 1" = 20'

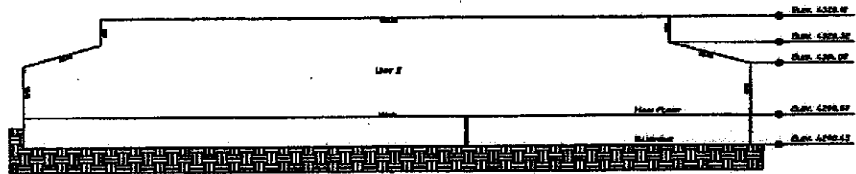
AMCAN CONL

A Utah Condominium

ALL OF LOT 3, AMERICAN CAN SUBDIVISION



UNIT 2 - MAIN FLOOR
SCALE: 1" = 10'



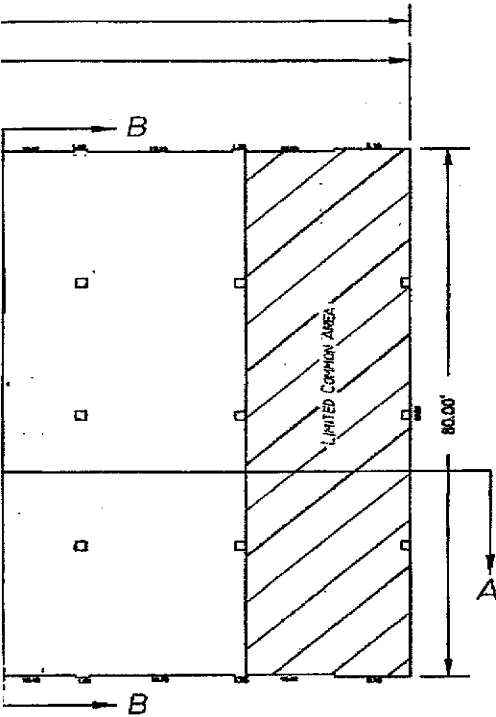
UNIT 2
SECTION A-A

SCALE: 1" = 20'

EX 2252602 PG 34 OF 42

IMS

EBER COUNTY, UTAH



EN 2252602 PG 35 OF 42

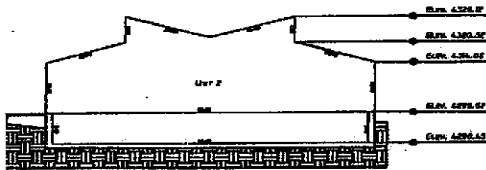
NOTES:

1. ALL MEASUREMENTS AND EXTERIOR DIMENSIONS.
2. ALL OTHER AREA CONTAINED WITHIN THE PROJECT, BUT NOT SHOWN ON DIAGONAL STRIPS OR CROSS HATCHED LINES ARE CONSIDERED COMMON AREA.
3. THE EXTERIOR OF THE BUILDINGS ARE MADE OF OF BRICK & GLASS.

LIMITED COMMON AREA AND FACILITIES - [Cross-hatched pattern]

COMMON AREA AND FACILITIES - [White box]

PRIVATE OWNERSHIP - [Diagonal hatched pattern]



UNIT 2
SECTION B-B

SCALE: 1" = 20'

SHEET 3 OF 3

<p>OGDEN CITY ENGINEERING 2543 WASHINGTON BLVD, SUITE 610 OGDEN, UT 84401</p>	<p>COUNTY RECORDER</p> <p>ENTRY NO. _____ FEE PAID _____ 2020 RECORDED _____ FILED FOR RECORD _____ AT _____ IN BOOK _____ OF OFFICIAL RECORDS, PAGE _____ FOR _____</p> <p>COUNTY RECORDER</p> <p>BY: _____ DEPUTY _____</p>
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EXHIBIT "C" - BYLAWS OF THE ASSOCIATION

(See attached)

**BYLAWS
OF
AMCAN CONDOMINIUM OWNERS ASSOCIATION, INC.**

The following are the Bylaws for Amcan Condominium Owners Association, Inc., a Utah Non-Profit Corporation (the "Association"):

**ARTICLE I
LOCATION**

The initial principal office of the Association shall be located at 4723 Harrison Boulevard, Suite 200, Ogden, Utah 84403, but meetings of Members and Directors may be held at such places within or without of the State of Utah as may be designated by the Board (as defined below).

**ARTICLE II
DEFINITIONS**

All terms used but not defined herein shall have the meanings given them under that certain Condominium Declaration for Amcan Condominiums dated _____, 2007, and recorded _____, 2007, as Entry No. _____ of the Official Records of the Weber County Recorder, wherein the undersigned is designated as "Declarant" (hereinafter referred to as the "Declaration"), applicable to the Property, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth herein at length. The term "Member" shall mean and refer to those persons entitled to Membership as provided in the Declaration.

**ARTICLE III
MEETINGS OF MEMBERS**

Section 3.1 Annual Meetings. Unless otherwise determined by the Association and subject to notice thereof as provided in Section 3.3 below, annual meetings of the Members shall be held on the First Wednesday of June of each year commencing in the year 2007, and each subsequent regular annual meeting of the Members shall be held on the same day of the same month of each year thereafter, at the hour of 7:00 p.m. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 3.2 Special Meetings. Special meetings of the Members may be called by, or at the request of, the President of the Association or by the Board, or upon written request of the Members holding at least fifty percent (50%) of the Percentage Interests as outlined in Exhibit "B" to the Declaration.

Section 3.3 Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the

meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each Member entitled to vote thereafter addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 3.4 Quorum. The quorum required for any action by the Members hereunder, unless otherwise specifically set forth in the Declaration, shall be as follows: At each scheduled meeting called the presence of Members or of proxies entitled to cast at least fifty percent (50%) of all outstanding votes shall constitute a quorum. If a quorum is not present at a scheduled meeting, such meeting may be adjourned pending notice of subsequently scheduled meeting at which a quorum shall be one-half (1/2) of the quorum which was required at the immediately preceding meeting. No such subsequently scheduled meeting shall be held more than forty-five (45) days following the immediately preceding meeting.

Section 3.5 Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically terminate upon conveyance by the Member of his Unit.

Section 3.6 Voting. The number of votes appurtenant to each respective Unit shall be equal to such Unit's Percentage Interest as outlined in Exhibit "B" to the Declaration and multiplied by 100. Since a Unit Owner may be more than one person, if only one of such person is present at the meeting of the Association that person shall be entitled to cast all votes appertaining to that Unit. But if more than one of such person is present, the votes appertaining to that Unit shall be cast only in accordance with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to cast the votes appertaining to that Unit without protest being made forthwith by any of the others to the person presiding over the meeting. The votes appurtenant to any one Unit may not be divided between Owners of such Unit or with respect to matters before the Association, and all such votes appurtenant to any one Unit shall be voted in one block. If the vote of a majority of the owners of a Unit cannot be determined, no vote shall be cast in relation to such Unit.

ARTICLE IV MANAGEMENT COMMITTEE, SELECTION AND TERM OF OFFICE

Section 4.1 Number. Subject to the provision of the Declaration, the affairs of the Association shall be managed by a Board of Directors (the "Board") comprised of five (5) individuals. In addition to individual Unit Owners, spouses of Unit Owners, Mortgagees (or designees of Mortgagees), partners of partnerships, directors or officers of corporations and managers of limited liability companies owning a Unit, shall be eligible for membership on the Board.

Section 4.2 Term of Office. Declarant is hereby authorized to exercise all of the powers that would otherwise be exercised by the Board of Directors until the first annual meeting. At the first annual meeting, the Members shall elect one (1) Director for a term of one (1) year and one (1) Director for a term of two (2) years to act in conjunction with Declarant, who shall remain authorized to exercise all of the powers that would otherwise be exercised by a three Directors until such time as the Percentage Interest held by other Members of the Association is greater than that held by the Declarant. At such time as the Percentage Interest held by other Members of the Association is greater than that held by the Declarant, the Members, at a special meeting the date, time and place of which shall be announced to each of the Members and be conducted as outlined in the Bylaws, shall elect three (3) Directors, two (2) of whom shall be elected for terms to run concurrent with each of the other two (2) previously elected Directors and one (1) for a term to expire one (1) year following the latest of the other two (2) groups of directors to replace Declarant, and at each annual meeting following the first annual meeting the Members shall elect the number of Directors whose terms are then to expire for a term of three (3) years.

Section 4.3 Removal. Any Director, except Declarant during his initial term as outlined herein, may be removed from the Board, with or without cause, by a sixty percent (60%) vote of the Members of the Association. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining Directors and shall serve for the unexpired term of his predecessor.

Section 4.4 Compensation. No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 4.5 Action Taken Without a Meeting. The Directors may take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all Directors. Any action so approved shall have the same effect as though taken at a meeting of the Board.

ARTICLE V NOMINATION AND ELECTION OF DIRECTORS

Section 5.1 Nomination. Nomination for election to the Board shall be made by the Board. Nominations may also be made from the floor at the annual meeting. The Board shall make as many nominations as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made among Members or Non-Members.

Section 5.2 Election. Election to the Board shall be by secret written ballot. At such election the Members or their proxies may cast in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting shall not be permitted.

**ARTICLE VI
MEETINGS OF THE COMMITTEE**

Section 6.1 Regular Meetings. Regular meetings of the Board shall be held at least semi-annually, on or about November 1 and May 1 of each year, as determined by the Board. Assessments for the upcoming year shall be fixed at the semi-annual meeting held on or about November 1 each year.

Section 6.2 Special Meetings. Special meetings of the Board shall be held when called by the President of the Association, or by any two (2) Directors after not less than three (3) days notice to each Director.

Section 6.3 Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

**ARTICLE VII
POWERS AND DUTIES OF THE COMMITTEE**

Section 7.1 Powers and Duties. The Board shall have all powers and duties of the Management Agent as set forth in paragraph 2.13 of the Declaration.

**ARTICLE VIII
OFFICERS AND THEIR DUTIES**

Section 8.1 Enumeration of Officers. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board, a secretary, and a treasurer, and such other officers as the Board may from time to time, by resolution, create.

Section 8.2 Election of Officers. The election of officers shall take place at each annual meeting of the Members. However, Declarant shall be the initial President of the Association until such time as the Percentage Interest held by other Members of the Association is greater than that held by the Declarant. At such time as the Percentage Interest held by other Members of the Association is greater than that held by the Declarant, the Members, at a special meeting the date, time and place of which shall be announced to each of the Members and be conducted as outlined herein, shall elect another to act as President for the remainder of the current term until the following annual meeting of the Members.

Section 8.3 Term and Vacancies. The officers of this Association shall be elected annually by the Members and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be

filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 8.4 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 8.5 Resignation and Removal. Any officer, except Declarant during its initial term as President, may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 8.6 Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 8.4 of this Article.

Section 8.7 Duties. The duties of the officers are as follows:

President: The president shall preside at all meetings of the Board and shall see that orders and resolutions of the Board and/or the Members are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Vice-President: The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary: The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses and social security numbers, and shall perform such other duties as required by the Board.

Treasurer: The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board; shall co-sign all checks and promissory notes of the association; keep proper books of account; if the Board deems appropriate, cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the Membership at its regular annual meeting, and deliver a copy of each to the Members.

**ARTICLE IX
COMMITTEES**

The Board may, if it elects, appoint such committees as deemed appropriate in carrying out its purposes.

**ARTICLE X
AMENDMENTS, ORDER OF PRECEDENCE**

These Bylaws may be amended, at a regular or special meeting of the Members, by Members holding at least sixty-seven percent (67%) of the Percentage Interests as outlined in Exhibit "B" to the Declaration, in person or by proxy. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

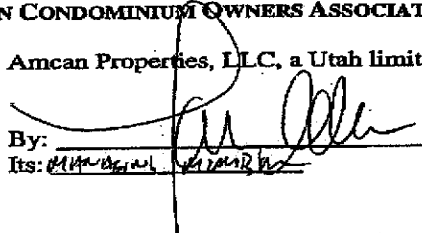
**ARTICLE XI
FISCAL YEAR**

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

The foregoing Bylaws are adopted by the Undersigned and made effective upon this ___ day of March, 2007.

AMCAN CONDOMINIUM OWNERS ASSOCIATION, INC.

By: Amcan Properties, LLC, a Utah limited liability company

By: 
Its: MANAGER SECRETARY