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GOVERNOR'S PLAZA CONDOMINIUM

FIRST AMENDED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

BOOK 5678 PAGE 823

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**FIRST AMENDED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

FOR

GOVERNOR'S PLAZA

A Condominium Project

THIS FIRST AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made and entered into as of the 2nd day of August, 1985, by the undersigned who collectively own more than 75 percent of voting power in the Governor's Plaza Condominium. This document supersedes and is hereby substituted for the original Declaration of Covenants, Conditions and Restrictions together with Exhibit A.

RECITALS:

A. Description of Land. The Declarant was the owner of the following described land (hereinafter referred to as the "Land") situated in the City and County of Salt Lake, State of Utah:

BEGINNING at a point North 89°58'27" East 55.00 feet and South 00°01'37" East 199.50 feet from the Northwest corner of Lot 6, Block 61, Plat "B," Salt Lake City Survey; running thence South 00°01'37" East 130.50 feet; thence North 89°58'27" East 275.00 feet; thence North 00°01'37" West 130.50 feet; thence South 89°58'27" West 275.00 feet to the point of beginning.

Subject to and together with all common areas, vehicular common areas, easement common areas and the Governor's Plaza Reciprocal Easement Agreement as recorded in Book 5257, Pages 252-294 and Book 5242, Pages 1580-1622 in the office of the Salt Lake County Recorder.

B. Buildings and Improvements. The Declarant has constructed on the Land a certain Building and other improvements, as shown on the Map referred to below.

C. Record of Survey Map. That certain instrument pertaining to the project and entitled Record of Survey Map for Governor's Plaza, Condominium Project recorded in the office of the Salt Lake County Recorder, State of Utah.

D. Intent and Purpose. This Declaration and the Map submit the Land, the Buildings, and all other improvements situated in or

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upon the Land to the provisions of the Condominium Act as a fee simple Condominium Project and impose upon said property mutually beneficial restrictions under a general plan of improvement for the benefit of all Condominiums in the Project and the Owners thereof.

NOW, THEREFORE, the undersigned hereby make the following Declaration:

ARTICLE I

DEFINITIONS

1.01. Defined Terms. Unless the context clearly indicates otherwise, certain terms used in this Declaration shall have the meanings set forth in this Article I.

1.02. Association shall mean Governor's Plaza Homeowners Association, a Utah nonprofit corporation, organized to be the Association referred to herein. Except as limited herein or in the Bylaws, the Board of Trustees shall have the authority to act for and in behalf of the Association.

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

1.04. Building shall mean the high-rise condominium building shown on the Map.

1.05. Common Areas shall mean all land and all portions of the property not contained within any Unit or within the Limited Common Areas, including, but not by any way of limitation roofs, foundations, pipes, ducts, flues, chutes, floors, ceilings, conduits, wires and other utility installations to the outlets; bearing walls, perimeter walls, columns and girders to the undecorated and/or unfinished interior surfaces thereof, regardless of location; walkways, parking spaces not specifically assigned to any unit, all recreational areas and facilities which may hereafter be contained within the Property or which may be contained outside the Property and leased by the Owners Association subject to the terms of any such lease; all installations of heat, power, lights, and hot and cold water existing for common use, and all other parts of the Property necessary or convenient to its existence, maintenance and safety or normally in common use and all areas and facilities designated as Common Areas in the Act, and Common Facilities as defined below.

1.06. Common Expense Fund shall mean the Common Expense Fund created or to be created and funded in accordance with the provisions of Article X of this Declaration.

1.07. Common Facilities shall mean all furniture, furnishings, equipment, facilities, and other property (real, personal, or mixed) and interests therein at any time leased, acquired, owned, or held by the Association for the use and benefit of all Owners and all other property hereafter purchased in accordance with this Declaration with monies from the Common Expense Fund. Common Facilities shall be deemed to be part of the Common Areas, except to the extent otherwise expressly provided in this Declaration.

1.08. Condominium shall mean a Unit, its assigned Limited Common Areas and the undivided interest (expressed as a percentage of the entire ownership interest) in the Common Areas appurtenant to such Unit, as set forth in Appendix A attached hereto and as shown on the map.

1.09. Condominium Act shall mean the Utah Condominium Ownership Act and amendments thereto. (Title 57, Chapter 8, Utah Code Annotated).

1.10. Declarant shall mean collectively Governor's Plaza Condominium, a Utah Partnership, and their respective successors and assigns.

1.11. Land shall mean the land in and upon which the Project is situated, as more particularly described in Paragraph A of the Recitals above.

1.12. Limited Common Areas shall mean those portions of the project reserved for the use of certain Units to the exclusion of other Units, including, but not by way of limitation, the storage areas shown on the Map, balconies and/or patios that are immediately adjacent to and contiguous with certain Units as more particularly identified in the Map and the parking stalls assigned to each unit as shown on the Map and in Appendix A. The use and occupancy of designated Limited Common Areas shall be reserved for its Unit and each Unit Owner is hereby granted an irrevocable license to use and occupy said Limited Common Areas.

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

1.14. Map shall mean the Record of Survey Map for Governor's Plaza, a Condominium Project, pertaining to the Project and recorded in the office of the County Recorder of Salt Lake County, State of Utah.

1.15. Mortgage shall mean any mortgage, deed of trust, or other security instrument by which a Condominium or any part thereof or interest therein is encumbered.

1.16 Mortgagee shall mean (i) any person named as the mortgagee or beneficiary under any Mortgage by which the interest of any Owner is encumbered, or (ii) any successor to the interest of such person under such Mortgage.

1.17 Owner shall mean the person or persons owning in fee simple a Condominium in the Project, as such ownership is shown by the records of the County Recorder of Salt Lake County, State of Utah. The term "Owner" shall not refer to any Mortgagee (unless such Mortgagee has acquired title for other than security purposes) or to any person or persons purchasing a Condominium under contract (until such contract is fully performed and legal title conveyed of record).

1.18. Project shall mean the Land, the Buildings, and all improvements submitted by this Declaration and the Map to the provisions of the Condominium Act.

1.19. R.E.A. shall mean the Governor's Plaza Reciprocal Easement Agreement recorded as Entry No. 3559936 in Book 5242 at Page 1580 of the Official Records of the office of the Salt Lake County Recorder, and recorded on June 8, 1981 as Entry No. 3572468, in Book 5257 at Page 252, together with all amendments thereto.

1.20. Total Votes of the Association shall mean the total number of votes appertaining to all Condominiums in the Project, as shown in Appendix A attached hereto.

1.21. Unit shall mean an individual air space unit, consisting of enclosed rooms occupying part of the Buildings and bounded by the interior surfaces of the walls, floors, ceilings, windows, and doors along the perimeter boundaries of the air space, as said boundaries are shown on the Map, together with all fixtures and improvements therein contained. Paint and other wall, ceiling, or floor coverings on interior surfaces shall be deemed to be a portion of the Unit. Notwithstanding the fact that they may be within the boundaries of such air space, the following are not part of a Unit insofar as they are necessary for the support or for the use and enjoyment of another Unit: Bearing walls, floors, ceilings, and roofs (except the interior surfaces thereof), foundations, ceiling equipment, tanks, pumps, pipes, vents, ducts, shafts, flues, chutes, conduits, wires, and other utility installations common to more than one unit, except the outlets thereof when located within the Unit. The heating, ventilation and air conditioning equipment for a particular Unit and used exclusively in that Unit shall be part of that Unit. The interior surfaces of a window or door shall mean the points at which such surfaces are located when the window or door is closed.

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ARTICLE II

SUBMISSION AND DIVISION OF PROJECT

2.01. Submission to Condominium. The Declarant has submitted the Land, the Buildings, and all other improvements now or hereafter made in or upon the Land to the provisions of the Condominium Act. All of said property is and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, and improved as a fee simple, integrated use Condominium Project to be known as Governor's Plaza Condominium. All of said property is and shall be subject to the covenants, conditions, restrictions, uses, limitations, and obligations set forth herein, each and all of which are declared and agreed to be for the benefit of said Project and in furtherance of a plan for improvement of said property and division thereof into Condominiums. Each and all of the provisions hereof shall be deemed to run with the land and is a burden and a benefit to the Declarant, its successors and assigns, and to any person acquiring, renting, leasing, or owning an interest in the real property and improvements comprising the Project, and to their respective heirs, personal representatives, successors, and assigns.

2.02. Division into Condominiums. The Project is divided into Condominiums, each such Condominium consisting of a Unit, Limited Common Areas, and an appurtenant undivided interest in the Common Areas, as set forth in Appendix A attached hereto.

ARTICLE III

DETAILED DESCRIPTION

3.01. Description of Land. The Land is located in Salt Lake County, State of Utah, and is more particularly described in Section A of the recitals hereto and incorporated herein by reference.

3.02. Description of Building.

- (a) The project consists of one (1) building.
- (b) The building has thirteen (13) stories plus two (2) underground parking levels.
- (c) The building has a total of seventy-five (75) units.
- (d) The principal construction materials used are as follows:

Post tension concrete slab with concrete columns, interior sheetrock on metal studs, exterior materials consist of sandblasted concrete fired in place. Each Unit is supplied with electricity, water and sewage service. The Units are individually heated.

(e) A description of all other significant improvements contained or to be contained in the project are as follows: Covered parking, landscaping, and a recreational facility.

3.03. Description of Units. The number of each Unit, its location and square footage, number of rooms, immediate common area to which it has access, together with the Parking Space or Spaces included as part of said Unit are as set forth in Appendix A attached hereto and made a part hereof. Access to the Common Areas and Facilities from each Unit is through a hallway, stairway or entryway and by walkways in the Common Areas and Facilities. The boundary line of each Unit is as reflected on the Map and shall include the undecorated and/or unfinished interior surfaces of its perimeter walls, bearing walls, lowermost floors, and uppermost ceilings, and the interior surfaces of doors, window frames, door frames and trim. Each Unit shall include both the portions of the Building that are not Common or Limited Common Areas and Facilities within such boundary lines and the space so encompassed. Specifically, the Unit shall include the Parking Space or Spaces designated in Appendix A as appurtenant to the Unit. Without limitation, a Unit shall include any finished material applied or affixed to the interior surfaces of the walls, floors and ceilings of the Unit.

3.04. Description of Common Areas and Facilities. The Common Areas and Facilities shall mean all Land and all portions of the Property not contained within any Unit or within the Limited Common Areas and Facilities; including, but not by way of limitation, roofs, foundations, pipes, ducts, flues, chutes, floors, ceilings, conduits, wires and other utility installations to the outlets; bearing walls, perimeter walls, columns and girders to the undecorated and/or unfinished interior surfaces thereof, regardless of location; walkways, parking spaces not specifically assigned to any Unit, all recreational areas and facilities to any Unit, all recreational areas and facilities which may hereafter be contained with the Property or which may be contained outside of the Property and leased by the Owners Association subject to the terms of any such lease; all installations of heat, power, lights, and hot and cold water existing for common use, and all other parts of the Property necessary or convenient to its existence, maintenance and safety or normally in common use and all areas and facilities designated as Common Areas and Facilities in the Act.

3.05. Description of Limited Common Areas and Facilities. Limited Common Areas and Facilities mean and include those portions of the Common Areas and Facilities reserved for the use of certain Units to the exclusion of other Units. The limited Common

Areas and Facilities shall be the Storage Areas as set forth in Appendix A as well as the balconies and/or patios that are immediately adjacent to and contiguous with certain Units as more particularly identified in the Map, and the parking stalls assigned to each unit as shown on the record of survey map recorded with respect to the Project. The numbers of the parking stalls coincide with the number of the unit to which they are assigned. The use and occupancy of designated limited Common Areas and Facilities shall be reserved to its associated Unit and each Unit Owner is hereby granted an irrevocable license to use and occupy said Limited Common Areas and Facilities.

3.06. Ownership Fraction and Voting Rights. The fraction of undivided interest in the Common Areas and Facilities appertaining to each Unit and its Unit Owner for all purposes, including voting, is set forth in Appendix A attached hereto and made a part hereof as if herein set forth in full.

ARTICLE IV

NATURE AND INCIDENTS OF CONDOMINIUM OWNERSHIP

4.01. Interior of Units. Each Owner shall have the exclusive right to paint, repaint, tile, wax, paper, carpet, or otherwise decorate the interior surfaces of the walls, ceilings, floors, and doors forming the boundaries of his Unit and the surfaces of all walls, ceilings, floors, and doors within such boundaries. Each Owner shall also have the right to construct partition walls, fixtures, and improvements within the boundaries of his Unit, provided, however, that such partition walls, fixtures, and improvements (i) shall comply with all applicable laws, ordinances, and building codes, (ii) shall not interfere with facilities necessary for the support, use, or enjoyment of any other part of the Project, (iii) shall not impair the structural soundness or integrity of the Buildings, and (iv) shall not encroach upon the Common Areas or any part thereof (unless the Association shall consent in writing to each such encroachment).

4.02. Maintenance of Units. Each Owner shall keep the interior of his Unit, including without limitation, heating, ventilation and air conditioning equipment, interior walls, interior surfaces of windows, ceilings, floors, and fixtures and appurtenances thereto, in a clean and sanitary condition and in good repair. In the event that any such Unit shall develop an unsanitary or unclean condition or state of disrepair, within fifteen (15) days after written notice thereof from the Association, the Association shall have the right, at the expense of the Owner and without liability to the Owner for trespass or otherwise, to enter said Unit and correct or eliminate said unsanitary or unclean condition or state of disrepair; provided, however, that the Associ-

ation shall in no event have any obligation to correct or eliminate any such condition or state of disrepair.

4.03. Right to Combine Units. With the written consent of the Association, which consent shall not be unreasonably withheld, two or more Units may be utilized by the Owner or Owners thereof as if they were one Unit. Any and all costs associated by such combination shall be borne by the combining Owner. To the extent permitted in the written consent of the Association, any walls, floors, ceilings, or other structural separations between any two such Units, or any space which would be occupied by such structural separations but for the utilization of the two Units as one Unit, may, for as long as the two Units are utilized as one Unit, be utilized by the Owner or Owners of the adjoining Units as Limited Common Areas, except to the extent that any such structural separations are necessary or appropriate, or contain facilities necessary or appropriate for the support, use, or enjoyment of other parts of the Project. At any time, upon the written request of the Owner of one of such adjoining Units, any opening between the two Units which, but for joint utilization of the two Units, would have been occupied by structural separation, shall be closed, at the equal expense of the Owner or Owners of each of the two Units and the structural separations between the two Units shall thereupon become Common Areas.

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

4.05. Ownership of Common Areas. The undivided interest in the Common Areas appurtenant to each Unit in the Project shall be as set forth in Appendix A attached hereto. The percentages appurtenant to each Unit as shown in said Appendix A shall have a permanent character and shall not be altered without the unanimous written consent of all Owners set forth in an amendment to this Declaration duly recorded. Except as otherwise provided in this Declaration, any Owner shall be entitled to nonexclusive use of the Common Areas (other than Limited Common Areas) in any manner that does not hinder or encroach upon the rights of other Owners and is not contrary to this Declaration or to any applicable rules or regulations promulgated by the Association. Except as otherwise provided in this Declaration, any Owner shall have the exclusive right to use and enjoy any Limited Common Areas that may be designated for exclusive use by such Owner.

4.06. Inseparability. Title to no part of a Condominium in the Project may be separated from any other part thereof, and each Unit, Limited Common Areas and the undivided interest in the Common Areas appurtenant to each Unit shall always be conveyed, devised, encumbered, and otherwise affected only as a complete

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Condominium. Every devise, encumbrance, conveyance, or other disposition of a Condominium, or any part thereof, shall be construed to be a devise, encumbrance, conveyance, or other disposition, respectively, of the entire Condominium, together with all appurtenant rights created by law or by this Declaration, including without limitation appurtenant membership in the Association.

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

4.08. Separate Mortgages by Owners. Each Owner shall have the right separately to Mortgage or otherwise encumber his Condominium. No Owner shall attempt to or shall have the right to Mortgage or otherwise encumber the Common Areas or any part thereof, except the undivided interest therein appurtenant to his Condominium. Any Mortgage or other encumbrance of any Condominium within the Project shall be subordinate to all of the provisions of this Declaration and, in the event of foreclosure of such Mortgage, the provisions of this Declaration shall be binding upon any Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.

4.09. Separate Taxation. Each Condominium within the Project shall be deemed to be a parcel and shall be assessed separately for all taxes, assessments, and other charges of the State of Utah or of any political subdivision or of any special improvement district or of any other taxing or assessing authority. For purposes of such assessment, the valuation of the Common Areas shall be apportioned among the Units in proportion to the undivided interests in the Common Areas appurtenant to such Units. All such taxes, assessments, and other charges on each respective Condominium shall be separately levied against the Owner thereof. No forfeiture or sale of any Condominium for delinquent taxes, assessments, or other governmental charges shall divest or in any way affect the title to any other Condominium.

4.10. Mechanics Liens. No labor performed or material furnished for use in connection with any Unit with the consent or at the request of an Owner or his agent or contractor shall create any right to file a statement of mechanic's lien against the Unit of any other Owner not expressly consenting to or requesting such labor or material or against any interest in the Common Areas, except the undivided interest in the Common Areas appurtenant to the Unit of the Owner for whom such labor or materials, respectively, shall have been performed or furnished.

4.11. Description of Condominium. Every contract for the sale of a Condominium and every other instrument affecting title to a Condominium in the Project may describe a Unit by its identifying number or symbol as indicated in this Declaration or as

shown on the Map. Such description will be construed to describe the Condominium, and to incorporate all of the rights incident to ownership of a Condominium in the Project and all of the limitations on such ownership.

ARTICLE V

USE OF CONDOMINIUMS

5.01. Use of Units. Each Unit in the Project shall be used exclusively as a private, single family residence and shall be restricted to such use. No Unit shall be used for any business, industrial, or commercial purpose; provided, however, that (i) Owners may use their Unit or Units for Unit sales models, Unit sales offices, or Unit property management offices as approved in writing by the Association, (ii) Owners may rent or lease their Units in accordance with the provisions of this Declaration, and (iii) Owners may use their Units to show prospective purchasers or tenants.

5.02. Leasing Restricted. No Owner shall lease his Unit for transient or hotel purposes, nor shall any Owner lease less than his entire Unit. If an Owner leases his Unit, then: (i) the Owner shall promptly notify the Association thereof in writing, (ii) the Owner shall provide to the Association the name of the tenant under such lease and the address of the Owner, (iii) the lease shall include or be deemed to include a covenant on the part of the tenant substantially as follows: "Tenant agrees with the Landlord and with and for the benefit of the Association that during the term of this lease, tenant and his family and guests from time to time will use and occupy the premises and all parts of the Project in strict compliance with the Condominium Act, the Declaration, the Bylaws of the Association, the R.E.A., and all rules and regulations from time to time adopted by the Association as fully as if tenant were an Owner," (iv) each owner shall be responsible for compliance by tenants with the Condominium Act, the Declaration, the Bylaws of the Association, the R.E.A. and all rules and regulations. Should an owner fail to obtain tenant compliance after notice of noncompliance, the Association shall have the right, in addition to all remedies at law, to evict the non-complying Tenant, and (v) all leases shall be in writing for a term not less than six months and subject to the prior approval of the Association, which shall not be unreasonably withheld. As used in this section, the term lease shall include a lease, rental arrangement, license, or other arrangement for third party use of a Unit.

5.03. Limited Common Areas. Each Owner shall have the exclusive right to use the Limited Common Areas in accordance with rules and regulations from time to time adopted by the Association. The Association may adopt reasonable rules and regulations

governing all aspects of use of the Limited Common Areas. All such rules and regulations relating to the use of the Limited Common Areas or access thereto must be approved by a majority of the Trustees. The use and occupancy of all parking areas shall be for the parking of automobiles, motorcycles, trailers, and other wheeled conveyances. The Association may by rule or regulation allow other uses of the parking areas not inconsistent with this Declaration and the Bylaws appended hereto. The parking spaces, and the Units to which they are appurtenant, are contained on Appendix A and made a part hereof as if herein set forth in full.

5.04. Rules and Regulations. Each Owner shall comply strictly with all rules and regulations adopted by the Association for the governance of the Units, the Common Areas, the Limited Common Areas, the Project, and all parts thereof, as such rules and regulations may from time to time be modified, amended, and construed by the Association.

ARTICLE VI

GENERAL RESTRICTIONS

6.01. No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on, in or upon any part of the Project, nor shall anything be done or placed in or upon any part of the Project which is or may become a nuisance or which may cause unreasonable disturbance or annoyance to Owners generally. No activities shall be conducted, nor improvements constructed, in or upon any part of the Project which are or may become unsafe or hazardous to any person or property.

6.02. Restriction on Signs. No signs, flags, or advertising devices of any nature, including without limitation commercial, political, informational, or directional signs or devices, shall be erected or maintained on any part of the Project, without the prior inspection and written approval of the Association (except as may be necessary temporarily to caution or warn of danger). If the Association consents to the erection of any such signs or devices, the same shall be removed promptly at the request of the Association.

6.03. No Pets or Animals. No pets or animals of any kind or nature whatsoever shall be permitted in any Unit, in the Common Areas, or in any other part of the Project without prior approval of the Board of Trustees.

6.04. Restriction on Window Coverings. All window coverings visible from the outside of a Unit must be of a white or neutral color or must be approved in writing by the Association. No treatment of exterior windows (including tinting, mirror finish,

etc.) shall be permitted without the written approval of the Association.

6.05. No Alterations. No Owner shall, without the prior written consent of the Association in each specific instance, make or cause to be made any alteration, addition, or improvement in or to the Common Areas or Limited Common Areas or any part thereof, or do any act that would impair the structural soundness or integrity of the Buildings or jeopardize the safety of persons or property or impair any easement or hereditament appurtenant to the Project.

6.06. No Obstructions. No Owner shall obstruct the Common Areas or any part thereof unless the Association shall consent thereto in writing. No Owner shall store or cause to be stored in the Common Areas any property whatsoever, unless the Association shall consent thereto in writing.

6.07. No Overloading. No Owner shall bring anything into his Unit and Limited Common Area or permit anything to be done in his Unit and Limited Common Area that will cause damage to the Building. No Owner shall overload the floor of his Unit and Limited Common Area. No Owner shall permit the use or operation in his Unit and Limited Common Area of any equipment, machinery, or other apparatus that will in any manner injure, vibrate, or shake the Building or any portions thereof.

6.08. No Damage or Dangerous Activities. Except with the prior written consent of the Association, nothing shall be done or kept in any Unit, in Limited Common Areas, in the Common Areas, or in any other part of the Project that would result in cancellation, suspension or invalidation of the insurance on the Project or any part thereof, nor shall anything be done or kept in any Unit or Limited Common Area that would increase the rate of insurance on the Project or any part thereof over that which the Association, but for such specific activity, would pay. Nothing shall be done or kept in any Unit or Limited Common Areas or in the Common Areas or any part thereof which would be in violation of any statute, rule, ordinance, regulation, permit, or other validly imposed, applicable requirement of any governmental authority. No damage to or waste of the Common Areas and Limited Common Areas or any part thereof shall be committed by any Owner or guest of any Owner, and each Owner shall indemnify and hold harmless the Association and the other Owners from and against all losses resulting from any such damage or waste caused by such Owner or by the guests, tenants, licensees, or invitees of such Owner.

6.09. R.E.A. Agreement. Each Owner shall comply strictly with all lawful covenants, conditions, and restrictions contained in the R.E.A. Agreement and all amendments adopted pursuant thereto.

6.10. Construction Exemption. During the course of actual construction of any permitted structures or improvements within the Project, the provisions, covenants, conditions, and restrictions contained in this Declaration shall be deemed waived to the extent necessary or convenient to permit such construction; provided, however, that during the course of such construction, nothing shall be done which will result in a violation of any of said provisions, covenants, conditions, or restrictions upon completion of the construction.

6.11. Enforcement. Each Unit Owner and their assigns, successors, guests and invitees shall comply strictly with the provisions of this Declaration, the Bylaws and Rules and Regulations. Failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, together with costs and attorneys fees, maintainable by the Association or any aggrieved Owner.

ARTICLE VII

EASEMENTS

7.01. Easements for Encroachments. If any part of the Common Areas encroaches or shall hereafter encroach upon any Unit or Limited Common Areas, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit or Limited Common Areas encroaches or shall hereafter encroach upon the Common Areas, or upon an adjoining Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. Such encroachments shall not be considered to be encumbrances either on the Common Areas, Limited Common Areas or the Units, as the case may be. Encroachments referred to herein shall include without limitation encroachments caused by error in the original construction of the Building or any improvements constructed or to be constructed within the Project as shown on the Map, 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, in accordance with the provisions of this Declaration.

7.02. Easements for Maintenance, Cleaning, and Repair. Some of the Common Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Association shall have the irrevocable right to have access to each Unit and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, cleaning, repair, or replacement of any Common Areas or for making emergency repairs at any time therein necessary to prevent damage to the Common Areas or to any Unit. In addition, agents of the Association may enter any Unit or Limited Common Areas when necessary in connec-

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tion with any cleaning, maintenance, repair, replacement, landscaping, construction, or reconstruction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Association with funds from the Common Expense Fund.

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

7.04. Association's Right to Use Common Areas. The Association shall have an easement to make such use of the Common Areas as may be necessary or convenient to perform the duties and functions that it is obligated or permitted to perform pursuant to this Declaration, including without limitation the right to construct and maintain in the Common Areas (other than Limited Common Areas) facilities for use by Owners generally or by the Association and its agents exclusively and the right to lease or rent Common Areas.

7.05. Easement for Completion of Project. The Association or its designee shall have a transferable easement over and on the Common Areas for the purpose of completing construction of the Project and making improvements therein as shown on the Map, and for the purpose of doing all things reasonably necessary or appropriate in connection therewith.

7.06. Easements Deemed Created. All conveyances of Condominiums within the Project hereafter made shall be construed to grant and reserve such reciprocal easements as are provided herein, even though no specific reference to such easements appears in any such conveyance.

ARTICLE VIII

THE ASSOCIATION

8.01. Membership. Each Owner shall be entitled and required to be a member of the Association. Membership shall begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner. If title to a Condominium is held by more than one person, the membership appurtenant to such Condominium shall be shared by all such persons in the same proportionate interests and in the same type of tenancy as title to the Condominium is held. An Owner shall be entitled to one membership for each Condominium owned by

him. Each membership shall be appurtenant to the Condominium to which it relates and shall be transferred automatically by conveyance of that Condominium. Ownership of a Condominium in the Project may not be separated from the membership in the Association appurtenant thereto, and any devise, encumbrance, conveyance, or other disposition of a Condominium, shall be construed to be a devise, encumbrance, conveyance or other disposition, respectively, of the Owner's appurtenant membership in the Association. No person or entity other than an Owner may be a member of the Association, and membership in the Association may not be transferred except in connection with the transfer of a Condominium.

8.02. Board of Trustees. The Trustees shall be elected by the Owners pursuant to the Bylaws. No Trustee shall be liable to the Unit Owners for any mistake of judgment, for negligence, or on other grounds, except for such Trustee's own individual and willful misconduct or bad faith. The Unit Owners shall indemnify and hold harmless each Trustee from and against all liability to third parties arising out of any contract made by the Board of Trustees on behalf of the Owners, unless such contract was made in bad faith or contrary to the provisions of the Act of this Declaration. The liability of any Unit Owner arising out of the indemnification provision set forth in the foregoing portion of this Section shall be limited to the total liability concerned multiplied by such Owner's undivided ownership interest in the Common Areas.

8.03. Votes. The number of votes appurtenant to each respective Unit shall be as set forth in Appendix A attached hereto. The number of votes appurtenant to each Unit as set forth in said Appendix A shall have a permanent character and shall not be altered without the unanimous written consent of all Owners set forth in an amendment to this Declaration duly recorded.

8.04. Amplification. The provisions of this Article VIII may be amplified by the Articles of Incorporation and Bylaws of the Association; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth in this Declaration. The Bylaws of the Association shall be adopted by the Association.

ARTICLE IX

CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

9.01. Common Areas. The Association, subject to the rights and duties of the Owners as set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon (including without limitation Common Facilities), and shall keep the same in a good,

clean, attractive, safe, and sanitary condition, order, and repair provided, however, that each Owner shall keep the Limited Common Areas if any, designated for use in connection with his Unit, in a good, clean, safe, sanitary, and attractive condition. The Association shall be responsible for the maintenance and repair of the exterior of the Building and the grounds, including without limitation painting thereof, repair and replacement of exterior trim and roofs, exterior glass and maintenance of landscape, walkways, rooftop facilities, driveways, and parking areas. The Association shall also be responsible for maintenance, repair, and replacement of Common Areas and Limited Common Areas, including without limitation hallways, elevators, utility lines, swimming pools, recreation facilities, and all improvements and other items located within or used in connection with the Common Areas. The specification of the Association's duties with respect to particular Common Areas and Limited Common Areas shall not be construed to limit its duties with respect to other Common Areas and Limited Common Areas, as set forth in the first sentence of this section. All goods and services procured by the Association in performing its responsibilities under this section shall be paid for with funds from the Common Expense Fund.

9.02. Manager. The Association may by written contract delegate in whole or in part to a professional Manager such of the Association's duties, responsibilities, functions, and powers hereunder as are properly delegable. The services of any Manager retained by the Association shall be paid for with funds from the Common Expense Fund. Any agreement for professional management shall provide for a term not exceeding three (3) years and shall be terminable with or without cause and without payment of any termination fee upon ninety (90) days written notice.

9.03. Miscellaneous Goods and Services. The Association may obtain and pay for the services of such personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person with whom it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration. In addition to the foregoing, the Association may acquire and pay for out of the Common Expense Fund water, sewer, garbage collection, electrical, gas, and other necessary or desirable utility services for the Common Areas, insurance, bonds, and other goods and services common to the Units; provided, however, that any such item which is separately metered or billed and which relates exclusively to a Unit shall be paid for by the Unit Owner.

9.04. Real and Personal Property. The Association may acquire and hold real, personal, and mixed property of all types or interests therein for the use or benefit of all of the Owners and may dispose of such property by sale or otherwise. All such

property shall be paid for out of the Common Expense Fund and all proceeds from the disposition thereof shall be part of the Common Expense Fund.

9.05. Rules and Regulations. The Association may make reasonable rules and regulations governing the use of the Units, the Common Areas, the Limited Common Areas, and all parts of the Project; provided, however, that all such rules and regulations shall be consistent with the rights and duties established in this Declaration. The Association may take judicial action against any Owner to enforce compliance with such rules and regulations or other obligations of such Owner arising hereunder or to obtain damages for noncompliance therewith, as permitted by law. In the event of any such judicial action, the Association shall be entitled to recover its costs (including reasonable attorneys' fees) from the offending Owner.

9.06. Granting Easements. The Association may, without the vote or consent of the Owners or of any other person, grant or create, on such terms as it deems advisable, utility and similar easements and rights-of-way over, under, across, and through the Common Areas.

9.07. Statutory Duties and Powers. All duties, responsibilities, rights, and powers imposed upon or granted to the "management committee" or to the "manager" under the Condominium Act shall be duties, responsibilities, rights, and powers of the Association hereunder.

9.08. Implied Rights. The Association may exercise any right, power, or privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonably implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

9.09. Parcel Representative. The Association shall serve as the "Parcel Representative" for the Project, as defined in and pursuant to the provisions of the R.E.A. As such Parcel Representative for the Project, the Association shall exercise all rights granted to, and shall perform all obligations imposed upon, the Parcel Representative under the R.E.A.

ARTICLE X

ASSESSMENTS

10.01. Assessments. Within 30 days prior to the annual meeting, the Board of Trustees shall estimate the net charges

to be paid during the current fiscal year, including a reasonable provision for contingencies and replacements and less any expected income and any surplus from the prior fiscal year's operation, together with the estimated utility costs for Units and Limited Common Areas and Facilities which are not separately metered or charged. Said "Estimated Cash Requirement" shall be approved at the annual meeting and assessed monthly to the Unit Owners pursuant to the Declaration and Appendix A thereof. Declarant will be liable for the account of any assessment against Units owned by Declarant. If said estimated sum proves inadequate for any reason, including non-payment of any Unit Owner's assessment, the Board of Trustees may at any time levy a further assessment, which shall be assessed to the Unit Owners in like proportion unless otherwise provided herein. Each Unit Owner shall be obligated to pay assessments made pursuant to this paragraph to the Board of Trustees on or before the first day of each month, or in such other reasonable manner as the Board of Trustees shall designate.

10.02. The monthly payments made by Unit Owners shall be kept in separate accounts as the Board of Trustees may deem proper, including accounts for general working capital, for the general operating reserve, and for a reserve fund for replacements and major maintenance.

10.03. All funds collected hereunder shall be expended for the purposes designated in the Declaration or Bylaws.

10.04. The omission by the Board of Trustees before the expiration of any fiscal year to fix the Estimated Cash Requirement hereunder for that or the next year shall not be deemed a waiver or modification in any respect of the provisions of the Declaration or a release of the Unit Owner from the obligation to pay the assessments or any installment thereof for that or any subsequent year, but the Estimated Cash Requirement fixed for the preceding year shall continue until a new requirement is fixed. Amendments to this Article VI shall be effective only upon unanimous written consent of the Unit Owners and their Mortgages. No Unit Owner may exempt himself from liability for his contribution towards the Common Expenses by waiver of the use or enjoyment of any of the Common Areas and facilities or by abandonment of his Unit.

10.05. The Manager or Board of Trustees shall keep accurate records of the receipts and expenditures affecting the Common Areas and Facilities specifying and itemizing the maintenance and repair expenses of the Common Areas and Facilities and any other expenses incurred. Records and vouchers authorizing the payments involved shall be available for examination by any Unit Owner at convenient hours of week days.

10.06. Anything contained herein to the contrary notwithstanding, the Board of Trustees shall at all times treat all funds of the Association of Unit Owners so as to avoid adverse income tax consequences, including, but not limited to, applying surplus funds toward expenses so that no common profits accrue to the Association and maintaining any reserves of the Association in a manner that will not result in these sums being treated as taxable income to the Association.

10.07. Default in Payment of Assessments. Each assessment (including all monthly installments) and each special assessment shall be separate, distinct and personal debts and obligations of the Unit Owner against whom the same are assessed at the time the assessments are made and shall be collectible as such. The Board of Trustees shall have the right to impose a reasonable late charge for nonpayment of Common Expense payments within 15 days of the date such payments became due. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing or waiving the lien securing the same. The amount of any assessment, whether regular or special, assessed to the Unit Owner of any Condominium plus interest at the highest legal rate permitted by Utah law (not to exceed 16 percent per annum) and costs, including reasonable attorney's fees, shall become a lien upon such condominium upon recordation of a notice of assessment by the Board of Trustees. The said lien for nonpayment of Common Expenses shall have priority over all other liens and encumbrances, recorded or unrecorded, except only:

(a) tax and special assessment liens on the Condominium in favor of any taxing authority, and

(b) all amounts due or that shall become due on a Mortgage of record on the Condominium.

A certificate executed and acknowledged by a majority of the Board of Trustees stating the indebtedness secured by the lien provided for under this Section upon any Condominium shall be conclusive upon the Board of Trustees and the Unit Owners as to the amount of such indebtedness on the date of the certificate in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Unit Owner or any encumbrancer or prospective encumbrancer of a Condominium upon written request at a reasonable fee. Unless the written request or a certificate of indebtedness shall be complied with within thirty days, all unpaid Common Expenses which became due prior to the date of the making of such request shall be subordinate to the lien held by the person making the request, provided the person making the request specifically states in a written request his intention to have this provision apply. Any encumbrancer holding a lien on a Condominium may pay any unpaid Common Expense payable with respect to such Condominium and upon such payment such encumbrancer shall have a lien on such Condominium for the amounts paid of the same rank as the lien of his encumbrance.

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Upon payment or other satisfaction of a delinquent assessment concerning which such a certificate has been so recorded, the Board of Trustees shall cause to be recorded in the same manner as the certificate of indebtedness a further certificate stating the satisfaction and the release of the lien thereof. Such lien for nonpayment of assessment may be enforced by sale by the Board of Trustees or by a bank or trust company, attorney, or title insurance company authorized by the Board of Trustees, such sale to be conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any manner permitted by law. In any foreclosure or sale, the Unit Owner shall be required to pay the costs and expenses of such proceedings and reasonable attorney's fees.

In case of foreclosure, the Unit Owner shall be required to pay a reasonable rental for the Condominium and the plaintiff in the foreclosure action shall be entitled to the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The Board of Trustees or the Trustee acting on its behalf shall have the power to buy in the Condominium at foreclosure or other sale and to hold, lease, mortgage and convey the Condominium.

ARTICLE XI

INSURANCE

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

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

(b) Public Liability and Property Damage Insurance. The Association shall obtain a broad form of comprehensive liability insurance coverage, in such amounts (but in no event less than \$1.0 Million per occurrence) and in such forms as it deems advisable to provide adequate protection against liability for personal

injury, death, and property damage. Coverage shall include without limitation liability for operation of automobiles on behalf of the Association and all activities in connection with the ownership, operation, maintenance, and other use of the Project.

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

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

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

(a) Fire and Casualty Insurance. Fire and Casualty insurance shall be carried in a form or forms naming the Association as the insured, as trustee for the Owners, and such policy or policies shall specify the interest of each Owner (Owner's name, Unit number, and appurtenant undivided interest in the Common Areas). Each policy shall provide a standard, noncontributory mortgagee clause in favor of each Mortgagee which from time to time shall give notice to the Association of its Mortgage. Each policy also shall provide that it cannot be cancelled either by the insured or by the insurance company until after fifteen (15) days prior written notice is first given to each Owner and to each Mortgagee which has requested such notice in writing. The Association shall furnish to each Owner, and to each Mortgagee requesting the same, a certificate of coverage, including an identification of the Owner's interest.

(b) Public Liability and Property Damage Insurance. Public liability and property damage insurance shall name the Association as the insured, as trustee for each Owner and shall protect the Association and each Owner against liability for acts or omissions of the Association, the Owners, the Manager, and other persons relative to the ownership, operation, maintenance, and other use of the Project. Each such policy shall provide that it cannot be cancelled either by the insured or by the insurance company until after fifteen (15) days prior written notice thereof is given to the Association, to each Owner, and to each Mortgagee who has requested such notice in writing.

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

(i) The insurer shall waive all rights of subrogation as to any claims against the Association, the Trustees, the Manager, the Owners, and their respective servants, agents, and quests;

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

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

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

(v) Each hazard insurance policy shall be written by a hazard insurance carrier that has a current rating by Best's Insurance Reports of B/VI or better.

(vi) Each public liability policy shall include a "severability of interest" endorsement which shall preclude the insurer from denying the claim of any Owner because of the negligent acts or omissions of the Association or any other Owner or Owners.

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

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

11.05. Owner's Own Insurance. Notwithstanding the provisions hereof, each Owner may obtain insurance at his own expense providing coverage for his Condominium, his personal property, his personal liability; and covering such other risks as he may deem appropriate; provided, however, that each such policy shall provide that it does not diminish the insurance carrier's coverage for liability arising under insurance policies obtained by the Association pursuant to this Declaration.

11.06. Review of Insurance. The Association shall review annually the coverage and policy limits of all of its insurance on the Project and adjust the same at its discretion, but in no event shall the coverage be less than required by Federal National Mortgage Association for projects of this type. Such annual review may include an appraisal of the improvements in the Project by a representative of the insurance carrier or carriers providing the policy or policies on the Project, or by such other qualified appraisers as the Association may select.

ARTICLE XII

DAMAGE OR DESTRUCTION

12.01. Association as Attorney in Fact. All of the Owners irrevocably constitute and appoint the Association as their true and lawful attorney in fact in their name, place, and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute an appointment by said grantee of the Association as his attorney in fact as herein provided. As attorney in fact, the Association shall have full and complete authorization, right, and power to make, execute, and deliver any contract, deed, or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted.

12.02. Definition of Repair and Reconstruction. Repair and reconstruction of the improvements as used herein shall mean restoring the Project to substantially the same condition in which it existed prior to the damage or destruction, with each Unit, Limited Common Area and the Common Areas having substantially the same vertical and horizontal boundaries as before.

12.03. Procedures. In the event any part of the Project is damaged or destroyed, the Association shall proceed as follows:

(a) Estimate of Costs. As soon as practicable after an event causing damage to or destruction of any part of the Project, the Association shall obtain complete and reliable estimates of the costs to repair and reconstruct that part of the Project damaged or destroyed.

(b) Sufficient Insurance. If the proceeds of the insurance maintained by the Association exceed the estimated costs to repair and reconstruct the damaged or destroyed part of the Project, then such repair and reconstruction shall be carried out unless the building is more than 75 percent destroyed and the Owners vote within 100 days after the damage or destruction by a vote of seventy-five percent (75%) or more of the total votes of the Association not to repair or reconstruct. If the Owners vote not

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to repair and reconstruct, the provisions of § 12.03(d) below shall apply.

(c) Insufficient Insurance--Less than 75% Destruction. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damage or destroyed part of the Project and if less than seventy-five percent (75%) of the Building is destroyed or substantially damaged, then such repair and reconstruction shall nevertheless be carried out. The Association shall levy a Special Assessment sufficient to provide funds to pay the actual costs of such repair and reconstruction to the extent that such insurance proceeds are insufficient to pay such costs. Such Special Assessment shall be allocated and collected as provided in Section 10.03 hereof, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected (together with the proceeds of insurance) are insufficient to pay all actual costs of such repair and reconstruction.

(d) Insufficient Insurance--75% or More Destruction. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project and if seventy-five percent (75%) or more of the Building is destroyed or substantially damaged, then such damage or destruction shall be repaired and reconstructed as provided in Section 12.03(c) hereof if, but only if, within one hundred (100) days following the damage or destruction, the Owners shall elect by a vote of at least seventy-five percent (75%) of the total votes of the Association to carry out such repair and reconstruction. If, however, the Owners shall not, within one hundred (100) days after such damage or destruction, elect by a vote of at least seventy-five percent (75%) of the total votes of the Association to carry out such repair and reconstruction, then the Association shall record in the office of the County Recorder of Salt Lake County, State of Utah, a notice setting forth such facts. Upon the recording of such notice, the following shall occur:

(i) The Project shall be deemed to be owned in common by the Owners.

(ii) The undivided interest in the Project owned in common which shall appertain to each Owner shall be the percentage of undivided interest in the Common Areas previously owned by such Owner.

(iii) Any liens affecting any of the Condominiums shall be deemed to be transferred, in accordance with existing priorities, to the undivided interest of the respective Owner in the Project.

(iv) The Project shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of any sale resulting from such suit for partition, together with any net proceeds of the insurance on the Project and any monies in the Common Expense Fund, shall be considered as one fund and shall be divided among all Owners in a percentage equal to the percentage of undivided interest in the Project owned by each respective Owner, after first paying out of the respective share of each Owner, to the extent sufficient for such purposes, all liens on the undivided interest in the Project owned by such Owner.

12.04. Repair or Reconstruction. If the damage or destruction is to be repaired and reconstructed as provided above, the Association shall, as soon as practicable after receiving the said estimate of costs, commence and diligently pursue to completion the repair and reconstruction of that part of the Project damaged or destroyed. The Association, as attorney in fact for the Owners, may take all necessary or appropriate action to effect repair and reconstruction, and no consent or other action by any Owner shall be necessary in connection therewith, except as otherwise expressly provided herein. The Project shall be restored or repaired to substantially the same condition in which it existed prior to the damage or destruction, with each Unit, Limited Common Areas and the Common Areas having substantially the same vertical and horizontal boundaries as before.

12.05. Disbursement of Funds for Repair and Reconstruction. If repair or reconstruction is to occur, the insurance proceeds held by the Association and any amounts received from assessments made pursuant to Sections 12.03(b) and (c) hereof shall constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for cost of repair and reconstruction shall be made from insurance proceeds; and if there is a balance after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners in the same proportions as provided in Section 10.02(b) hereof relative to assessments. If the insurance proceeds are not received in time to commence timely and necessary repairs or reconstruction, the Association may make a special assessment or borrow funds in a commercially reasonable manner to commence such repairs or reconstruction.

12.06. Amendment of Article. This Article XII shall not be amended unless the Owners of all Condominiums in the Project unanimously consent and agree to such amendment in a duly recorded instrument.

ARTICLE XIII

CONDEMNATION

13.01. Condemnation. If at any time or times all or any part of the Project shall be taken or condemned by any public authority under power of eminent domain, the provisions of this Article shall apply. A voluntary sale or conveyance of all or any part of the Project in lieu of condemnation, but under threat of condemnation, shall be deemed to be a taking by power of eminent domain.

13.02. Proceeds. All compensation, damages, and other proceeds from any such taking by power of eminent domain (hereinafter the "condemnation award") shall be made payable to the Association and shall be distributed by the Association as herein provided.

13.03. Complete Taking. In the event that the entire Project is taken by power of eminent domain, condominium ownership pursuant hereto shall terminate and the condemnation award, less the costs and expenses incurred by the Association in connection therewith, shall be allocated among and distributed to the Owners in proportion to their respective undivided interests in the Common Areas. Such distribution shall be made by checks payable jointly to the respective Owners and their respective Mortgagees, as appropriate.

13.04. Partial Taking. In the event that less than the entire Project is taken by power of eminent domain, the following shall occur:

(a) Allocation of Award. As soon as practicable, the Association shall, reasonably and in good faith, apportion the condemnation award, less the costs and expenses incurred by the Association in connection therewith, between compensation, severance damages, or other proceeds, and shall allocate such apportioned amounts and pay the same to the Owners as follows:

(i) The amount apportioned to taking of or injury to the Common Areas shall be allocated among and distributed to all Owners (including Owners whose entire Units have been taken) in proportion to their respective undivided interests in the Common Areas.

(ii) The amount apportioned to severance damages shall be allocated among and distributed to the Owners of those Condominiums that have not been taken, in proportion to their respective undivided interests in the Common Areas.

(iii) The respective amounts apportioned to the taking of or injury to a particular Unit shall be allocated and distributed to the Owner of such Unit.

(iv) The amount apportioned to consequential damages and any other takings or injuries shall be allocated and distributed as the Association determines to be equitable under the circumstances.

(v) Notwithstanding any provision hereof to the contrary, if apportionment or allocation is already established by negotiation, judicial decree, statute, or otherwise, the Association shall employ such apportionment and allocation to the extent it is relevant and applicable.

(vi) Distribution of allocated proceeds shall be made by checks payable jointly to the respective Owners and their respective Mortgagees, as appropriate.

(b) Continuation and Reorganization. If less than the entire Project is taken by power of eminent domain, condominium ownership pursuant hereto shall not terminate, but shall continue. In such event the Project shall be reorganized as follows:

(i) If any partial taking results in the taking of an entire Unit, then the Owner thereof shall cease to be a member of the Association and all voting rights and the undivided interest in the Common Areas appurtenant to such Unit shall be reallocated to, and shall appertain to, the remaining Units in proportion to their respective undivided interests in the Common Areas.

(ii) If any partial taking results in the taking of a portion of a Unit and if there is no determination that such taking makes it impractical to use the remaining portion of such Unit for any lawful purpose permitted by this Declaration, then the fair market value of such remaining portion of the Unit shall be determined and all voting rights and the undivided interest in the Common Areas appertaining to such Unit shall be reduced in proportion to the diminution in fair market value of such Unit resulting from the taking. The voting rights and undivided interest in the Common Areas so divested from such Unit shall be reallocated to, and shall appertain to, such Unit and the other Units in the Project in proportion to their respective undivided interests in the Common Areas; provided, however, that such Unit shall participate in such reallocation on the basis of the undivided interest reduced in accordance with the preceding sentence.

(iii) If any partial taking results in the taking of a portion of a Unit and if there is a determination that such taking makes it impractical to use the remaining portion of such Unit for any lawful purpose permitted by this Declaration, then all voting rights and the entire undivided interest in the Common Areas appurtenant to such Unit shall be reallocated to, and

shall appertain to, the remaining Units in proportion to their respective undivided interests in the Common Areas, and the remaining portion of such Unit shall thereafter be part of the Common Area.

(iv) The Association shall have the duty and authority to make all determinations and to take all actions necessary or appropriate to effectuate reorganization of the Project under the provisions of this section; provided, however, that if any such determination shall have been made or such action taken by judicial decree, the Association shall defer thereto and proceed in accordance therewith.

(c) Repair and Reconstruction. Any repair or reconstruction necessitated by condemnation shall be governed by the provisions specified in Article XII hereof for cases of Damage or Destruction; provided, however, that the provisions of said Article XII dealing with sufficiency or insufficiency of insurance proceeds shall not be applicable.

ARTICLE XIV

TERMINATION

14.01. Termination. All of the Unit Owners may remove the property from the provisions of the Act by an instrument duly recorded to that effect, provided that the holders of all liens affecting any of the Units consent or agree by instruments duly recorded, that their liens be transferred to the percentage of the undivided interest of the Unit Owners in the Property.

After removal of the property from the act, the Unit Owners shall own the Property and all assets of the Association as tenants in common and the respective mortgages and liens upon the respective undivided interests of the Unit Owners. Such undivided interests of the Unit Owners shall be the same as the percentage of the undivided interests in the Common Areas and Facilities appurtenant to the Owners' Units prior to removal from the act.

This paragraph 14.01 cannot be amended without consent of all Unit Owners and all record owners or mortgages on Units.

ARTICLE XV

COMPLIANCE WITH DECLARATION AND BYLAWS

15.01. Compliance. Each Owner shall comply strictly with the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association, rules and regulations promulgated by the Association as herein provided, and the decisions and resolutions of the Association adopted pursuant thereto, as the same

may lawfully be modified and amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or for injunctive relief or for both, maintainable by the Association or, in a proper case, by an aggrieved Owner.

15.02. Enforcement and Remedies. The obligations, provisions, covenants, restrictions, and conditions contained in this Declaration, or in any Supplemental or Amended Declaration, with respect to the Association or condominiums in the Project shall be enforceable by any Owner, subject to this Declaration, by a proceeding for a prohibitive or mandatory injunction. The obligations, provisions, covenants, restrictions, and conditions contained in this Declaration, or in any Supplemental or Amended Declaration, with respect to a person or entity or property of a person or entity other than the Association shall be enforceable by the Association or, in a proper case, by an aggrieved Owner by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages or to recover any amount due and unpaid.

ARTICLE XVI

MORTGAGEE PROTECTION

16.01. Mortgage Protection. Notwithstanding anything to the contrary contained in the Declaration or the Bylaws:

(a) Common Expenses shall include an adequate reserve fund for maintenance, repairs and replacement of those Common Areas and Facilities that must be replaced on a periodic basis, and shall be payable in regular installments rather than by special assessments.

(b) No provision of this Declaration or the Bylaws shall give a Unit Owner, or any other party, priority over any rights of the first Mortgagee of the Unit pursuant to its Mortgage or otherwise in the case of a distribution to such Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of Units and/or Common Areas and Facilities.

(c) Any "right of first refusal" that may hereafter be added to this Declaration or the Bylaws shall not impair the rights of the first Mortgagee to:

(1) Foreclose or take title to a Unit pursuant to the remedies provided in the Mortgage, or

(2) Accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor, or

(3) Interfere with a subsequent sale or lease of a Unit so acquired by the Mortgagee.

(d) Any agreement for professional management of the Project or any other contract providing for services of the Declarant, may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice.

(e) With the exception of a lender in possession of a Unit following a default in a first Mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no Unit Owner shall be permitted to lease his Unit for transient or hotel purposes. No Unit Owner may lease less than the entire Unit. Any lease agreement shall provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration and Bylaws and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be in writing.

(f) Any first Mortgagee who obtains title to a Unit pursuant to the remedies provided in the Mortgage or foreclosure or deed in lieu of foreclosure of the Mortgage will not be liable for such Unit's unpaid dues or charges which accrue prior to the acquisition of title to such Unit by the Mortgagee.

(g) A first Mortgagee will be entitled to written notification from the Association of Unit Owners of any default in the performance by the Mortgagor-Unit Owner of any obligation under this Declaration or by the Bylaws which is not cured within thirty (30) days.

(h) Unless all holders of the first mortgage liens on individual Units have given their prior written approval, the Association of Unit Owners shall not be entitled to:

(1) By act or omission, seek to abandon the Property or terminate the Condominium Regime except as provided by the Act in case of substantial loss to the Units, Common Areas, and Limited Common Areas;

(2) Change the pro rata interest or obligations of any Unit for the purpose of: (i) levying assessments and charges and (ii) determining the pro rata share of ownership of each Unit in the Common Areas and Facilities and proceeds;

(3) Partition or subdivide any Unit, the Common Area, or Limited Common Area;

(4) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas and

Facilities. (The granting of easement for public utilities or for other public purposes consistent with the intended use of the Common Areas and Facilities shall not be deemed a transfer within the meaning of this clause);

(5) Use hazard insurance proceeds for losses to the Property (whether to Units or to Common Areas and Facilities) for other than the repair, replacement or reconstruction of such Property, except as provided by the Act in case of substantial loss to the Units and/or Common Areas and Facilities.

(i) Common Areas and Facilities, and all amenities (such as parking, recreation and service areas) shall be part of the Project and shall be fully installed, completed, and in operation for use by the Unit Owners prior to the sale and conveyance of the last Unit in the Condominium Regime.

(j) A Mortgagee who has acquired title to a Unit in the Project pursuant to any remedy under the Mortgage or any proceeding or procedure in lieu thereof, shall thereby become a member of the Association of Unit Owners.

(k) No Unit Owner, or any other party shall have priority over any rights of a first Mortgagee of a Unit pursuant to its Mortgage or otherwise in the case of a distribution to such Unit Owner of insurance proceeds or condemnation awards for losses to or taking of Units and/or Common Areas and Facilities. All first Mortgagees shall be entitled to receive such insurance proceeds and awards for losses to or a taking of Units and/or Common Areas and Facilities on a first priority basis, as provided in the Mortgage instruments.

(l) No provision of this Section shall be amended without the consent of all first mortgagees.

(m) The holders of first Mortgages shall have the right to examine the books and records of the Property.

(n) Whenever there is a change in ownership of a Unit, the Association shall require that the new Unit Owner furnish the Association with the name of the holder of any first Mortgage affecting such Unit. The Association shall maintain a current roster of Unit Owners and of the holders of first Mortgages affecting Units in the Property.

ARTICLE XVII

GENERAL PROVISIONS

17.01. Intent and Purpose. The provisions of this Declaration, and any Supplemental or Amended Declaration, shall be

liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of a Condominium Project. Failure to enforce any provision, restriction, covenant, or condition contained in this Declaration, or in any Supplemental or Amended Declaration, shall not operate as a waiver of any such provision, restriction, covenant, or condition or of any other provisions, restrictions, covenants, or conditions.

17.02. Construction. This Declaration shall be governed by and construed in accordance with the laws of the State of Utah, other than its choice of law rules. The provisions hereof shall be in addition and supplemental to the provisions of the Condominium Act and all other provisions of applicable law. Whenever used herein, unless the context shall otherwise require, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, any gender shall include both other genders, and the term "person" shall include any individual, partnership, corporation, trust, or other association or entity or combination thereof. The article and section headings set forth herein are for convenience and reference only and are not intended to expand, limit, or otherwise affect the meaning or interpretation of this Declaration or any provision hereof. The provisions hereof shall be deemed to be independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof. Appendix A attached hereto is by this reference incorporated herein and made a part hereof.

17.03. Notices and Registration of Mailing Address. Each Owner shall register from time to time with the Association his current mailing address. All notices, demands, and other communications to any Owner as provided for in this Declaration shall be in writing and shall be sufficient for all purposes if personally delivered or sent by first class U.S. mail, postage prepaid, addressed to the Owner at his registered mailing address or, if no address has been registered, to the Unit of such Owner. All notices, demands, and other communications to the Association as provided for in this Declaration shall be in writing and shall be sufficient for all purposes if personally delivered or if sent by first class U.S. mail, postage prepaid, addressed to the Association at its offices at 560 East South Temple, Salt Lake City, Utah 84102, or to such other address as the Association may hereafter designate by notice to the Owners as herein provided. Any notice, demand, or communication referred to in this Declaration shall be deemed to have been given and received when personally delivered or when deposited in the U.S. mail, postage prepaid, and in the form provided for in this section, whichever first occurs.

17.04. Audit. Any Owner may at any reasonable time, upon appointment and at his own expense, cause an audit or inspection to be made of the books and records maintained by the Association.

The Association, at the expense of the Common Expense Fund, shall obtain an audit, by certified public accountants, of all books and records pertaining to the Project at no greater than annual intervals, and copies thereof shall be furnished to the Owners.

17.05. Amendment. Except as otherwise provided herein and except as prohibited by the Condominium Act, the provisions of this Declaration and the Bylaws may be amended by an instrument in writing, signed and acknowledged, by Owners owning 75 percent of the voting power which amendment shall be affective upon recordation with the County Recorder. Provided, however, the written consent of each Institutional Holder of a first Mortgage on a Unit shall be required to amend the following:

(a) Any provision altering the fractions of undivided interest in the Common Areas and Facilities or voting rights.

(b) Any provision amending Article V, Section 5.03 and Article 16 of the Declaration;

(c) Any other provision or section of this Declaration of the Bylaws which would prejudice the interest of the Institutional Holders of first Mortgages on the Units.

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

17.07. Agent for Service. The name and address of the person to receive service of process in all cases provided by the Condominium Act shall be the registered agent and address of the Association as shown on the official corporate records maintained in the office of the Lt. Governor/Secretary of State of the State of Utah. On the date of this Declaration, the registered agent of the Association is David Svihart, and the registered address is 560 East South Temple, Salt Lake City, Utah 84102.

17.08. Limitation on Association's Liability. The Association shall not be liable for any failure of water service or other utility service (if any) to be obtained and paid for by the Association hereunder, or for the injury, loss or damage to any person or property caused by the elements or by the Owner or person in or upon the Project, or resulting from electricity, water, rain, snow, or ice which may leak or flow from outside or from any parts of the Buildings or their drains, pipes, conduits, appliances, or equipment, or from any other place. No diminution or abatement of any assessments under this Declaration shall be claimed or allowed for inconvenience or discomfort arising from the making of any repairs or improvements to or maintaining the Project or any part thereof, or from any action taken to comply with the provisions of this Declaration or with the laws, ordi-

nances, regulations, rules, or orders of any governmental authority.

17.09. Owner's Obligations. All obligations of an Owner under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that he may be leasing, renting, or selling under contract his Condominium. The Owner of a Condominium within the Project shall have no obligation for expenses or other obligations accruing after he conveys such Condominium of record.

17.10. Counterpart. This document may be signed in counterparts, which, when taken together shall constitute the entire document.

IN WITNESS WHEREOF, this Amended Declaration was executed as of the day and year first above written.

BERCY INVESTORS, INC.
A New York Corporation

By *L. S. Carter*

AMERICAN SAVINGS & LOAN ASSOCIATION

By *Roger J. Sanders*

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

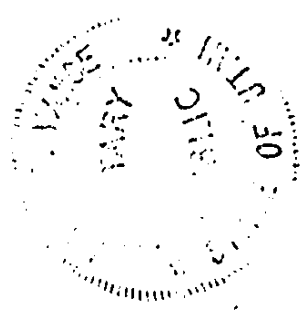
On the 2nd day of August, 1985, personally appeared before me Donald B. Castleman, who being by me duly sworn did say that he is the Representative of Bercy Investors, Inc., a New York corporation, and that the within and foregoing First Amended Declaration of Covenants, Conditions and Restrictions and Bylaws For Governor's Plaza, A Condominium Project, was signed in behalf of said corporation by authority of its bylaws or a resolution of its board of directors; said person duly acknowledged to me that said corporation executed the same.

Man T. Vance
NOTARY PUBLIC

My Commission Expires:

8-3-87

Residing at: Salt Lake County



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

On the 2nd day of August, 1985, personally appeared before me Roger J. Sanders, who being by me duly sworn did say that he is the Representative of American Savings & Loan Association, a Utah corporation, and that the within and foregoing First Amended Declaration of Covenants, Conditions and Restrictions and Bylaws For Governor's Plaza, A Condominium Project, was signed in behalf of said corporation by authority of its bylaws or a resolution of its board of directors; said person duly acknowledged to me that said corporation executed the same.

Man T. Vance
NOTARY PUBLIC

My Commission Expires:

8-3-87

Residing at: Salt Lake County



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APPENDIX A

Legal Description:

Salt Lake County, Utah:

BEGINNING at a point North 89°58'27" East 55.00 feet and South 00°01'37" East 199.50 feet from the Northwest corner of Lot 6, Block 61, Plat "B", Salt Lake City Survey; running thence South 00°01'37" East 130.50 feet; thence North 89°58'27" East 275.00 feet; thence North 00°01'37" West 130.50 feet; thence South 89°58'27" West 275.00 feet to the point of beginning.

Subject to and together with all common areas, vehicular common areas and easement common areas as recorded in Book 5257, Pages 252-294 and Book 5242, Pages 1580-1622 in the office of the Salt Lake County Recorder.

APPENDIX A
(Continued)

<u>Unit No.</u>	<u>Square Footage</u>	<u>Percentage Undivided Interest in Common Areas</u>	<u>Parking Spaces</u>
C101	1,985.95	1.55868	2
C102	1,532.84	1.2030	2
C103	1,532.84	1.2030	2
C104	1,985.95	1.5586	2
P101	2,018	1.5837	2
P102	1,496	1.1740	2
P103	1,496	1.1740	2
P104	2,018	1.5837	2
201	2,038	1.5994	2
202	1,562	1.2258	2
203	1,562	1.2258	2
204	2,038	1.5994	2
301	2,074	1.6277	2
302	1,528	1.1992	2
303	1,528	1.1992	2
304	2,074	1.6277	2
401	2,086	1.6371	2
402	1,584	1.2431	2
403	1,548	1.2148	2
404	2,086	1.6371	2
501	1,593	1.2502	2
502	1,319	1.0351	2
503	1,318	1.0344	2
504	1,593	1.2502	2
505	1,584	1.2431	2
506	1,508	1.1835	2
507	1,235	.9692	2
508	1,584	1.2431	2
601	1,593	1.2502	2
602	1,411	1.1073	2
603	1,411	1.1073	2
604	1,593	1.2502	2
605	1,584	1.2431	2
606	1,508	1.1835	2
607	1,235	.9692	2
608	1,584	1.2431	2

APPENDIX A
(continued)

<u>Unit No.</u>	<u>Square Footage</u>	<u>Percentage Undivided Interest in Common Areas</u>	<u>Parking Spaces</u>
701	1,593	1.2502%	2
702	1,411	1.1073	2
703	1,411	1.1073	2
704	3,244	2.5459	2
706	1,508	1.1835	2
707	1,235	.9692	2
708	1,584	1.2431	2
801	1,593	1.2502	2
802	1,411	1.1073	2
803	1,411	1.1073	2
804	1,593	1.2502	2
805	1,584	1.2431	2
806	1,508	1.1835	2
807	1,235	.9692	2
808	1,584	1.2431	2
901	1,593	1.2502	2
902	1,411	1.1073	2
903	1,411	1.1073	2
904	1,593	1.2502	2
905	1,584	1.2431	2
906	1,508	1.1835	2
907	1,235	.9692	2
908	1,584	1.2431	2
1001	1,593	1.2502	2
1002	1,411	1.1073	2
1003	1,411	1.1073	2
1004	1,593	1.2502	2
1005	1,584	1.2431	2
1006	1,508	1.1835	2
1007	1,235	.9692	2
1008	1,584	1.2431	2
1101	2,705	2.1228	2
1102	2,351	1.8450	2
1103	2,372	1.8615	2
1104	2,689	2.1103	2
1105	2,698	2.1174	2
1106	2,628	2.0624	2
1107	2,087	1.6378	2
1108	2,723	2.1370	2
		<u>100.0000%</u>	

ATD #2 B26-28

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AMENDED BYLAWS
OF
GOVERNOR'S PLAZA HOMEOWNERS ASSOCIATION

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AMENDED
BYLAWS OF
GOVERNOR'S PLAZA CONDOMINIUM
HOMEOWNERS' ASSOCIATION

I. Application of Bylaws.

All present and future Owners, Mortgagees, and occupants of Units and their lessees, renters, agents, servants, and guests, and any other persons who may use the facilities of the project in any manner are subject to the Declaration of Covenants, Conditions and Restrictions (the "Declaration"), these Bylaws and Rules and Regulations made pursuant hereto.

The acceptance of a deed or conveyance, the entering into of a contract for purchase or a lease, or the act of occupancy of a Unit shall constitute an agreement that these Bylaws and any Rules and Regulations made pursuant hereto and the Declaration, as they may be amended from time to time, are accepted, ratified, and will be complied with.

II. Board of Trustees.

The affairs of the Association shall be conducted by a Board of Trustees composed of five (5) members.

A. Election

At each annual meeting, the Owners shall elect members of the Board of Trustees for the forthcoming year. Nominations for the Board of Trustees shall be made by the Owners from the floor in accordance with the Parliamentary Rules set forth hereinafter. All members of the Board of Trustees shall be required to be Owners.

B. Term

Members of the Board of Trustees shall serve for a term of two years; provided, however, that initially two of the five members of the first Board of Trustees elected shall serve for a one-year term. The other three members shall serve for a two-year term. Thereafter, all members elected each year shall serve for a two-year term. The members of the Board of Trustees shall serve until their respective successors are elected, or until their death, resignation or removal.

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C. Resignation and Removal

Any member of the Board of Trustees may resign at any time by giving written notice to the President and Board of Trustees, and any member may be removed from membership on the Board of Trustees by a majority vote of Owners. Whenever there shall occur a vacancy on the Board of Trustees due to death, resignation, removal or any other cause, the remaining members shall elect a successor to serve until the next annual meeting of the Association, at which time said vacancy shall be filled for the unexpired term.

D. Compensation

The Board of Trustees shall receive no compensation for their services unless expressly provided for and approved in writing by Owners holding a majority interest in the Common Areas.

E. Powers and Authority of the Board of Trustees

The Board of Trustees, for the benefit of the Association, shall enforce the provisions of the Declaration, Bylaws and Rules and Regulations governing the Property and, subject to the provisions of Article V hereof, shall acquire or arrange for and pay for out of the Common Expense Fund the following:

1. Water, sewer, garbage collection and other necessary utility service for the Common Areas.
2. Water, sewer and other necessary utility costs for Units, Common Areas and Limited Common Areas which are not separately metered or charged;
3. A policy or policies of fire and casualty insurance, with extended coverage endorsements, for the full insurable replacement value of the Units and Common Areas and as provided in the Declaration. Insurance proceeds shall be payable and applicable as provided in the Declaration;
4. A policy or policies of public liability insurance insuring the Board of Trustees, the Association and the individual Owners against any liability to any person or persons incident to the ownership and/or use of the Property. Such policy or policies shall be consistent with the provisions of the Declaration.

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12. Maintenance and repair of any Unit, if such maintenance or repair is reasonably necessary in the discretion of the Board of Trustees to protect the Common Area, other units or preserve the appearance and/or value of the Property, and the Owner of said Unit has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity therefore delivered by the Board of Trustees to said Owner, provided that the Board of Trustees shall levy an assessment against the Condominium of such Owner for the costs of said maintenance or repair;

13. The Board of Trustees shall have the exclusive right to contract for all goods, services and insurance, payment for which is to be made from the Common Expense Fund. The provision shall not be construed to prohibit the Board of Trustees from delegating such authority to the Manager as it deems proper.

F. Additional Powers of the Board of Trustees

The Board of Trustees, in addition to all powers granted in the Declaration and permitted by law, shall have the right to acquire, operate, lease, manage and otherwise trade and deal with property, real or personal, including Condominiums, as may be necessary or convenient in the operation and management of the Property, and in accomplishing its purposes set forth in the Declaration, and the right to borrow funds, open bank accounts, authorize signatories and to deal with all matters relating to the R.E.A.

G. Regular Meetings of the Board of Trustees

Three members of the Board of Trustees shall constitute a quorum and, if a quorum is present, the decision of a majority of those present shall be the act of the Board of Trustees. The officers shall be elected at a meeting of the Board of Trustees to be called immediately following the annual meeting of the Association.

H. Special Meetings of the Board of Trustees

Special meetings of the Board of Trustees may be called by or at the request of the President or by any majority of the Board of Trustees. Notice of special meetings of the Board of Trustees shall be given to each member of the Board of Trustees orally or in writing at least twenty-four hours before the time fixed for the meeting.

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I. Notice of Meetings

Meetings of the Board of Trustees shall be held at such intervals and at such place and time as the Board of Trustees may from time to time by resolution provide.

J. Waiver of Notice

Except as provided in paragraph H above, notice need not be given of meetings of the Board of Trustees. Whenever all members of the Board of Trustees meet, such meetings shall be valid for all purposes. No call or notice of any meeting of the Board of Trustees shall be necessary if waiver of call and notice be signed by all members of the Board of Trustees.

K. Fiscal Year

The fiscal year shall begin July 1 and end the June 30 next following.

L. Notice of Election

After the first election of the Board of Trustees, Declarant shall execute, acknowledge and record an affidavit stating the names of all of the members of the Board of Trustees. Thereafter, the majority of persons who are designated of record as being members of the most recent Board of Trustees (regardless of whether or not they shall still be members) may execute, acknowledge and record an affidavit stating the names of all of the members of the then current Board of Trustees; provided that, in the event of the disability or other incapacity of two such persons, Manager shall be empowered to execute the aforesaid affidavit. The most recently recorded of such affidavits shall be prima facie evidence that the persons named therein are all of the incumbent members of the Board of Trustees and shall be conclusive evidence thereof in favor of all persons who rely thereon in good faith.

III. Meeting of the Association of Unit Owners.

The presence in person or by proxy at any meeting of the Association herein, representing a majority of votes, in response to notice to all Owners of record properly given in accordance with the terms of the Declaration, shall constitute a quorum. Upon request, any institutional Holder of a first Mortgage on a Unit shall be entitled to written notice of all meetings of the Association and to designate a representative to attend all such meetings. In the event that the total number of Owners present does not represent a majority of votes, the meeting shall be adjourned until a time agreed upon by the majority of those present within seven days, at which time it shall reconvene and the presence of Owners representing a majority of votes shall constitute a quorum. Unless otherwise expressly provided in the Declaration, any action may be taken at any meeting of the Association upon the affirmative vote of a majority of the voting power

of the Owners present and voting provided that a quorum is present as provided for above. A simple majority shall constitute a quorum.

A. Annual Meeting

There shall be a meeting of the Association on the second Thursday of June on the Property or at such other reasonable place or time (not more than 60 days before or after such date) as may be designated by written notice of the Board of Trustees if personally delivered or sent by first class United States Mail to the Owners not less than 15 days prior to the date fixed for said meeting. At or prior to such meeting, the Board of Trustees shall furnish to the Owners a proposed budget for the next fiscal year that shall itemize the estimated Common Expenses of the fiscal year with the estimated allocation thereof to each Owner, and a statement of the Common Expenses, itemizing receipts and disbursements, for the current fiscal year, together with the allocation thereof to each Owner.

B. Special Meetings

Special meetings of the Association may be called at any time for the purpose of considering matters which, by the terms of the Declaration, require the approval of all or some of the Owners, or for any other reasonable purpose. Said meetings shall be called by written notice, signed by a majority of the Board of Trustees or by any ten Owners and personally delivered or sent by first class United States mail 15 days prior to the date fixed for said meeting. Said notices shall specify the date, time and place of the meeting, and the matters to be considered thereat.

C. Parliamentary Rules

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

IV. Officers of the Association.

The officers of the Association shall be a President, Vice President and Secretary/Treasurer. Any officer must be an Owner. The Officers must be members of the Board of Trustees. No officer shall receive compensation for serving as such. Officers shall be annually elected by, and may be removed and replaced by Board of Trustees.

A. President

The President shall be the chief executive of the Association and the Board of Trustees and shall exercise general

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supervision over the property and affairs of the project. He shall sign on behalf of the Association all contracts and shall do and perform all acts and things which the Association may require of him. The President shall have the authority to delegate said powers to other officers or committees.

B. Vice President

In the event of the President's absence or inability to act, the Vice President shall have the powers of the President.

C. Secretary/Treasurer

The Secretary/Treasurer shall keep minutes of all proceedings of the Board of Trustees and of the meetings of the Association and shall keep such books and records as may be necessary and appropriate for the records of the Association and its Board of Trustees and shall be responsible for the fiscal affairs of the Association, but may delegate the daily handling of income and expense payments to the authorized manager employed by the Association. In the event of the President's and Vice President's absence or inability to act, the Secretary/Treasurer shall have the powers of the President and Vice President.

V. Maintenance, Repair and Replacement of Common Areas.

It shall be the responsibility of the Board of Trustees to determine questions relating to the maintenance, repair and replacement of all Common Areas. There shall be no structural alterations, capital additions to, or capital improvements of the Common Areas requiring an expenditure in excess of \$3,000.00 for any single expenditure or a total of \$5,000.00 in any fiscal year without 30 days prior notice to all Owners. Unless within the aforementioned 30 day period Owners holding the majority of the total voting power of the Association shall give notice of disapproval of such structural alterations, capital additions to, or capital improvements of the Common Areas, the Owners shall be deemed to have approved the same. Notwithstanding the foregoing, the Board of Trustees shall have authority to cause to be performed such repairs of the Common Areas as it may deem necessary to preserve the same against loss or destruction.

VI. Common Expense

A. Assessments

Assessments shall be assessed and administered as provided in Article X of the Declaration.

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B. Annual Budget

The Annual Budget shall be prepared by the Board of Trustees or their designee and presented as provided in Article X of the Declaration. In the event the Board fails to prepare the Annual budget, the most recent budget of the Association shall control and assessments shall be made based on the previous budget.

VII. Abatement and Enjoinment of Violations by Unit Owners.

The violation of any Rules or Regulations adopted by the Board of Trustees or the breach of any Bylaw contained herein, or the breach of any provision of the Declaration, shall give the Board of Trustees the right, in addition to any other rights set forth in these Bylaws or in the Declaration:

A. to enter the Unit in which or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board of Trustees shall not thereby be deemed guilty in any manner of trespass; or

B. to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

VIII. Rental, Lease or Sale of Units by Owners.

Any Owner who rents or leases or permits guests in his unit shall comply with Article V of the Declaration. The provisions of said Declaration, Bylaws, and the Rules and Regulations shall apply with equal force to renters or lessees of Units.

Any Owner who rents or leases his Unit shall be responsible for the conduct of his tenants, and upon written notice from the Board of Trustees or the Manager said Owner shall be responsible for correcting violations of the Declaration, Bylaws, or Rules and Regulations of Governors Plaza committed by such tenants.

If an Owner fails to correct violations by tenants within 72 hours of such notice, the Board of Trustees or Manager shall be deemed to be the agent of the Owner and empowered to take any enforcement action the Owner would be entitled to take, the costs of such action including attorney's fees to be payable by the

Owner within 30 days. Such costs shall be collected and enforced in the same manner as common area assessments or special assessments as determined by the Board of Trustees.

The power of the Board of Trustees or Manager hereunder shall include but not be limited to any and all legal remedies available under the laws of the State of Utah. Any Owner, by the act of renting or leasing his Unit, shall be deemed to have consented to these procedures and shall indemnify and save harmless the Board of Trustees and the Manager from and against any and all liability therefor. It is expressly understood that the remedies available to the Board of Trustees or Manager shall include but not be limited to the right to seek eviction of the tenant without any liability to the Owner. No owner shall sell less than his entire Unit.

IX. Special Committees.

The Board of Trustees by resolution may designate one or more special committees, each committee to consist of two or more Owners, which, to the extent provided in said resolution, shall have and may exercise the powers set forth in said resolution. Such Special Committee or Committees shall have such name or names as may be determined from time to time by the Board of Trustees. Such Special Committees shall keep regular minutes of their proceedings and report the same to the Board of Trustees when required. The members of such Special Committee or Committees designated shall be appointed by the Board of Trustees or its President.

X. Rules and Regulations.

The Board of Trustees shall have the right to adopt and amend such Rules and Regulations as may be authorized by the Condominium Act and Declaration for the purpose of governing the details of the operation and use of the units and Common Areas and Limited Common Areas. Copies of the Rules and Regulations shall be furnished to each Owner prior to the time the same shall become effective.

XI. Audit.

Any Owner may at any reasonable time at his own expense cause an audit or inspection to be made of the books of account of the Manager or Board of Trustees pertaining to the Property. The Board of Trustees, as a common expense, may obtain an annual audit by an independent public accountant of the books of account pertaining to the Property.

XII. Terms.

The terms used herein shall have the same meanings as provided in the Declaration and the Condominium Act.

XIII. Books and Records.

All Owners and all Institutional Holders of a first Mortgage on a Unit shall be entitled to inspect the books and records of the Association during normal business hours.

XIV. Interpretation.

The provisions of these Bylaws shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of a condominium property. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

XV. Severability.

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

XVI. Captions.

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

XVII. Form of Organization.

The Association shall be a non-profit corporation under the laws of the State of Utah.

XVIII. Amendment.

These Bylaws may be amended upon the written approval of present Owners of Units in the Project holding at least sixty percent (60%) of the total votes of the Association. Upon approval, the Amended Bylaws shall be acknowledged by the Board of Trustees and shall be effective upon recordation. Copies of the Amended Bylaws shall be immediately furnished to Unit Owners.

XIX. Effective Date.

These Amended Bylaws shall take effect August 2
_____, 1985.

D. B. Carter
Trustee

Paul Willett
Trustee

Wm. S. Jones
Trustee

David Swartz
Trustee

Trustee

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FIRST AMENDED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

GOVERNOR'S PLAZA

A Condominium Project

THIS FIRST AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made and entered into as of the 7th day of August, 1985, by the undersigned who collectively own more than 75 percent of voting power in the Governor's Plaza Condominium. This document supersedes and is hereby substituted for the original Declaration of Covenants, Conditions and Restrictions together with Exhibit A.

RECITALS:

A. Description of Land. The Declarant was the owner of the following described land (hereinafter referred to as the "Land") situated in the City and County of Salt Lake, State of Utah:

BEGINNING at a point North 89°58'27" East 55.00 feet and South 00°01'37" East 199.50 feet from the Northwest corner of Lot 6, Block 61, Plat "B," Salt Lake City Survey; running thence South 00°01'37" East 130.50 feet; thence North 89°58'27" East 275.00 feet; thence North 00°01'37" West 130.50 feet; thence South 89°58'27" West 275.00 feet to the point of beginning.

Subject to and together with all common areas, vehicular common areas, easement common areas and the Governor's Plaza Reciprocal Easement Agreement as recorded in Book 5257, Pages 252-294 and Book 5242, Pages 1580-1622 in the office of the Salt Lake County Recorder.

B. Buildings and Improvements. The Declarant has constructed on the Land a certain Building and other improvements, as shown on the Map referred to below.

C. Record of Survey Map. That certain instrument pertaining to the project and entitled Record of Survey Map for Governor's Plaza, Condominium Project recorded in the office of the Salt Lake County Recorder, State of Utah.

D. Intent and Purpose. This Declaration and the Map submit the Land, the Buildings, and all other improvements situated in or

upon the Land to the provisions of the Condominium Act as a fee simple Condominium Project and impose upon said property mutually beneficial restrictions under a general plan of improvement for the benefit of all Condominiums in the Project and the Owners thereof.

NOW, THEREFORE, the undersigned hereby make the following Declaration:

ARTICLE I

DEFINITIONS

1.01. Defined Terms. Unless the context clearly indicates otherwise, certain terms used in this Declaration shall have the meanings set forth in this Article I.

1.02. Association shall mean Governor's Plaza Homeowners Association, a Utah nonprofit corporation, organized to be the Association referred to herein. Except as limited herein or in the Bylaws, the Board of Trustees shall have the authority to act for and in behalf of the Association.

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

1.04. Building shall mean the high-rise condominium building shown on the Map.

1.05. Common Areas shall mean all land and all portions of the property not contained within any Unit or within the Limited Common Areas, including, but not by any way of limitation roofs, foundations, pipes, ducts, flues, chutes, floors, ceilings, conduits, wires and other utility installations to the outlets; bearing walls, perimeter walls, columns and girders to the undecorated and/or unfinished interior surfaces thereof, regardless of location; walkways, parking spaces not specifically assigned to any unit, all recreational areas and facilities which may hereafter be contained within the Property or which may be contained outside the Property and leased by the Owners Association subject to the terms of any such lease; all installations of heat, power, lights, and hot and cold water existing for common use, and all other parts of the Property necessary or convenient to its existence, maintenance and safety or normally in common use and all areas and facilities designated as Common Areas in the Act, and Common Facilities as defined below.

1.06. Common Expense Fund shall mean the Common Expense Fund created or to be created and funded in accordance with the provisions of Article X of this Declaration.

1.07. Common Facilities shall mean all furniture, furnishings, equipment, facilities, and other property (real, personal, or mixed) and interests therein at any time leased, acquired, owned, or held by the Association for the use and benefit of all Owners and all other property hereafter purchased in accordance with this Declaration with monies from the Common Expense Fund. Common Facilities shall be deemed to be part of the Common Areas, except to the extent otherwise expressly provided in this Declaration.

1.08. Condominium shall mean a Unit, its assigned Limited Common Areas and the undivided interest (expressed as a percentage of the entire ownership interest) in the Common Areas appurtenant to such Unit, as set forth in Appendix A attached hereto and as shown on the map.

1.09. Condominium Act shall mean the Utah Condominium Ownership Act and amendments thereto. (Title 57, Chapter 8, Utah Code Annotated).

1.10. Declarant shall mean collectively Governor's Plaza Condominium, a Utah Partnership, and their respective successors and assigns.

1.11. Land shall mean the land in and upon which the Project is situated, as more particularly described in Paragraph A of the Recitals above.

1.12. Limited Common Areas shall mean those portions of the project reserved for the use of certain Units to the exclusion of other Units, including, but not by way of limitation, the storage areas shown on the Map, balconies and/or patios that are immediately adjacent to and contiguous with certain Units as more particularly identified in the Map and the parking stalls assigned to each unit as shown on the Map and in Appendix A. The use and occupancy of designated Limited Common Areas shall be reserved for its Unit and each Unit Owner is hereby granted an irrevocable license to use and occupy said Limited Common Areas.

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

1.14. Map shall mean the Record of Survey Map for Governor's Plaza, a Condominium Project, pertaining to the Project and recorded in the office of the County Recorder of Salt Lake County, State of Utah.

1.15. Mortgage shall mean any mortgage, deed of trust, or other security instrument by which a Condominium or any part thereof or interest therein is encumbered.

1.16 Mortgagee shall mean (i) any person named as the mortgagee or beneficiary under any Mortgage by which the interest of any Owner is encumbered, or (ii) any successor to the interest of such person under such Mortgage.

1.17 Owner shall mean the person or persons owning in fee simple a Condominium in the Project, as such ownership is shown by the records of the County Recorder of Salt Lake County, State of Utah. The term "Owner" shall not refer to any Mortgagee (unless such Mortgagee has acquired title for other than security purposes) or to any person or persons purchasing a Condominium under contract (until such contract is fully performed and legal title conveyed of record).

1.18. Project shall mean the Land, the Buildings, and all improvements submitted by this Declaration and the Map to the provisions of the Condominium Act.

1.19. R.E.A. shall mean the Governor's Plaza Reciprocal Easement Agreement recorded as Entry No. 3559936 in Book 5242 at Page 1580 of the Official Records of the office of the Salt Lake County Recorder, and recorded on June 8, 1981 as Entry No. 3572468, in Book 5257 at Page 252, together with all amendments thereto.

1.20. Total Votes of the Association shall mean the total number of votes appertaining to all Condominiums in the Project, as shown in Appendix A attached hereto.

1.21. Unit shall mean an individual air space unit, consisting of enclosed rooms occupying part of the Buildings and bounded by the interior surfaces of the walls, floors, ceilings, windows, and doors along the perimeter boundaries of the air space, as said boundaries are shown on the Map, together with all fixtures and improvements therein contained. Paint and other wall, ceiling, or floor coverings on interior surfaces shall be deemed to be a portion of the Unit. Notwithstanding the fact that they may be within the boundaries of such air space, the following are not part of a Unit insofar as they are necessary for the support or for the use and enjoyment of another Unit: Bearing walls, floors, ceilings, and roofs (except the interior surfaces thereof), foundations, ceiling equipment, tanks, pumps, pipes, vents, ducts, shafts, flues, chutes, conduits, wires, and other utility installations common to more than one unit, except the outlets thereof when located within the Unit. The heating, ventilation and air conditioning equipment for a particular Unit and used exclusively in that Unit shall be part of that Unit. The interior surfaces of a window or door shall mean the points at which such surfaces are located when the window or door is closed.

ARTICLE II

SUBMISSION AND DIVISION OF PROJECT

2.01. Submission to Condominium. The Declarant has submitted the Land, the Buildings, and all other improvements now or hereafter made in or upon the Land to the provisions of the Condominium Act. All of said property is and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, and improved as a fee simple, integrated use Condominium Project to be known as Governor's Plaza Condominium. All of said property is and shall be subject to the covenants, conditions, restrictions, uses, limitations, and obligations set forth herein, each and all of which are declared and agreed to be for the benefit of said Project and in furtherance of a plan for improvement of said property and division thereof into Condominiums. Each and all of the provisions hereof shall be deemed to run with the land and is a burden and a benefit to the Declarant, its successors and assigns, and to any person acquiring, renting, leasing, or owning an interest in the real property and improvements comprising the Project, and to their respective heirs, personal representatives, successors, and assigns.

2.02. Division into Condominiums. The Project is divided into Condominiums, each such Condominium consisting of a Unit, Limited Common Areas, and an appurtenant undivided interest in the Common Areas, as set forth in Appendix A attached hereto.

ARTICLE III

DETAILED DESCRIPTION

3.01. Description of Land. The Land is located in Salt Lake County, State of Utah, and is more particularly described in Section A of the recitals hereto and incorporated herein by reference.

3.02. Description of Building.

- (a) The project consists of one (1) building.
- (b) The building has thirteen (13) stories plus two (2) underground parking levels.
- (c) The building has a total of seventy-five (75) units.
- (d) The principal construction materials used are as follows:

Post tension concrete slab with concrete columns, interior sheetrock on metal studs, exterior materials consist of sandblasted concrete fired in place. Each Unit is supplied with electricity, water and sewage service. The Units are individually heated.

(e) A description of all other significant improvements contained or to be contained in the project are as follows: Covered parking, landscaping, and a recreational facility.

3.03. Description of Units. The number of each Unit, its location and square footage, number of rooms, immediate common area to which it has access, together with the Parking Space or Spaces included as part of said Unit are as set forth in Appendix A attached hereto and made a part hereof. Access to the Common Areas and Facilities from each Unit is through a hallway, stairway or entryway and by walkways in the Common Areas and Facilities. The boundary line of each Unit is as reflected on the Map and shall include the undecorated and/or unfinished interior surfaces of its perimeter walls, bearing walls, lowermost floors, and uppermost ceilings, and the interior surfaces of doors, window frames, door frames and trim. Each Unit shall include both the portions of the Building that are not Common or Limited Common Areas and Facilities within such boundary lines and the space so encompassed. Specifically, the Unit shall include the Parking Space or Spaces designated in Appendix A as appurtenant to the Unit. Without limitation, a Unit shall include any finished material applied or affixed to the interior surfaces of the walls, floors and ceilings of the Unit.

3.04. Description of Common Areas and Facilities. The Common Areas and Facilities shall mean all Land and all portions of the Property not contained within any Unit or within the Limited Common Areas and Facilities; including, but not by way of limitation, roofs, foundations, pipes, ducts, flues, chutes, floors, ceilings, conduits, wires and other utility installations to the outlets; bearing walls, perimeter walls, columns and girders to the undecorated and/or unfinished interior surfaces thereof, regardless of location; walkways, parking spaces not specifically assigned to any Unit, all recreational areas and facilities to any Unit, all recreational areas and facilities which may hereafter be contained with the Property or which may be contained outside of the Property and leased by the Owners Association subject to the terms of any such lease; all installations of heat, power, lights, and hot and cold water existing for common use, and all other parts of the Property necessary or convenient to its existence, maintenance and safety or normally in common use and all areas and facilities designated as Common Areas and Facilities in the Act.

3.05. Description of Limited Common Areas and Facilities. Limited Common Areas and Facilities mean and include those portions of the Common Areas and Facilities reserved for the use of certain Units to the exclusion of other Units. The limited Common

Areas and Facilities shall be the Storage Areas as set forth in Appendix A as well as the balconies and/or patios that are immediately adjacent to and contiguous with certain Units as more particularly identified in the Map, and the parking stalls assigned to each unit as shown on the record of survey map recorded with respect to the Project. The numbers of the parking stalls coincide with the number of the unit to which they are assigned. The use and occupancy of designated limited Common Areas and Facilities shall be reserved to its associated Unit and each Unit Owner is hereby granted an irrevocable license to use and occupy said Limited Common Areas and Facilities.

3.06. Ownership Fraction and Voting Rights. The fraction of undivided interest in the Common Areas and Facilities appertaining to each Unit and its Unit Owner for all purposes, including voting, is set forth in Appendix A attached hereto and made a part hereof as if herein set forth in full.

ARTICLE IV

NATURE AND INCIDENTS OF CONDOMINIUM OWNERSHIP

4.01. Interior of Units. Each Owner shall have the exclusive right to paint, repaint, tile, wax, paper, carpet, or otherwise decorate the interior surfaces of the walls, ceilings, floors, and doors forming the boundaries of his Unit and the surfaces of all walls, ceilings, floors, and doors within such boundaries. Each Owner shall also have the right to construct partition walls, fixtures, and improvements within the boundaries of his Unit, provided, however, that such partition walls, fixtures, and improvements (i) shall comply with all applicable laws, ordinances, and building codes, (ii) shall not interfere with facilities necessary for the support, use, or enjoyment of any other part of the Project, (iii) shall not impair the structural soundness or integrity of the Buildings, and (iv) shall not encroach upon the Common Areas or any part thereof (unless the Association shall consent in writing to each such encroachment).

4.02. Maintenance of Units. Each Owner shall keep the interior of his Unit, including without limitation, heating, ventilation and air conditioning equipment, interior walls, interior surfaces of windows, ceilings, floors, and fixtures and appurtenances thereto, in a clean and sanitary condition and in good repair. In the event that any such Unit shall develop an unsanitary or unclean condition or state of disrepair, within fifteen (15) days after written notice thereof from the Association, the Association shall have the right, at the expense of the Owner and without liability to the Owner for trespass or otherwise, to enter said Unit and correct or eliminate said unsanitary or unclean condition or state of disrepair; provided, however, that the Associ-

ation shall in no event have any obligation to correct or eliminate any such condition or state of disrepair.

4.03. Right to Combine Units. With the written consent of the Association, which consent shall not be unreasonably withheld, two or more Units may be utilized by the Owner or Owners thereof as if they were one Unit. Any and all costs associated by such combination shall be borne by the combining Owner. To the extent permitted in the written consent of the Association, any walls, floors, ceilings, or other structural separations between any two such Units, or any space which would be occupied by such structural separations but for the utilization of the two Units as one Unit, may, for as long as the two Units are utilized as one Unit, be utilized by the Owner or Owners of the adjoining Units as Limited Common Areas, except to the extent that any such structural separations are necessary or appropriate, or contain facilities necessary or appropriate for the support, use, or enjoyment of other parts of the Project. At any time, upon the written request of the Owner of one of such adjoining Units, any opening between the two Units which, but for joint utilization of the two Units, would have been occupied by structural separation, shall be closed, at the equal expense of the Owner or Owners of each of the two Units and the structural separations between the two Units shall thereupon become Common Areas.

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

4.05. Ownership of Common Areas. The undivided interest in the Common Areas appurtenant to each Unit in the Project shall be as set forth in Appendix A attached hereto. The percentages appurtenant to each Unit as shown in said Appendix A shall have a permanent character and shall not be altered without the unanimous written consent of all Owners set forth in an amendment to this Declaration duly recorded. Except as otherwise provided in this Declaration, any Owner shall be entitled to nonexclusive use of the Common Areas (other than Limited Common Areas) in any manner that does not hinder or encroach upon the rights of other Owners and is not contrary to this Declaration or to any applicable rules or regulations promulgated by the Association. Except as otherwise provided in this Declaration, any Owner shall have the exclusive right to use and enjoy any Limited Common Areas that may be designated for exclusive use by such Owner.

4.06. Inseparability. Title to no part of a Condominium in the Project may be separated from any other part thereof, and each Unit, Limited Common Areas and the undivided interest in the Common Areas appurtenant to each Unit shall always be conveyed, devised, encumbered, and otherwise affected only as a complete

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Condominium. Every devise, encumbrance, conveyance, or other disposition of a Condominium, or any part thereof, shall be construed to be a devise, encumbrance, conveyance, or other disposition, respectively, of the entire Condominium, together with all appurtenant rights created by law or by this Declaration, including without limitation appurtenant membership in the Association.

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

4.08. Separate Mortgages by Owners. Each Owner shall have the right separately to Mortgage or otherwise encumber his Condominium. No Owner shall attempt to or shall have the right to Mortgage or otherwise encumber the Common Areas or any part thereof, except the undivided interest therein appurtenant to his Condominium. Any Mortgage or other encumbrance of any Condominium within the Project shall be subordinate to all of the provisions of this Declaration and, in the event of foreclosure of such Mortgage, the provisions of this Declaration shall be binding upon any Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.

4.09. Separate Taxation. Each Condominium within the Project shall be deemed to be a parcel and shall be assessed separately for all taxes, assessments, and other charges of the State of Utah or of any political subdivision or of any special improvement district or of any other taxing or assessing authority. For purposes of such assessment, the valuation of the Common Areas shall be apportioned among the Units in proportion to the undivided interests in the Common Areas appurtenant to such Units. All such taxes, assessments, and other charges on each respective Condominium shall be separately levied against the Owner thereof. No forfeiture or sale of any Condominium for delinquent taxes, assessments, or other governmental charges shall divest or in any way affect the title to any other Condominium.

4.10. Mechanics Liens. No labor performed or material furnished for use in connection with any Unit with the consent or at the request of an Owner or his agent or contractor shall create any right to file a statement of mechanic's lien against the Unit of any other Owner not expressly consenting to or requesting such labor or material or against any interest in the Common Areas, except the undivided interest in the Common Areas appurtenant to the Unit of the Owner for whom such labor or materials, respectively, shall have been performed or furnished.

4.11. Description of Condominium. Every contract for the sale of a Condominium and every other instrument affecting title to a Condominium in the Project may describe a Unit by its identifying number or symbol as indicated in this Declaration or as

shown on the Map. Such description will be construed to describe the Condominium, and to incorporate all of the rights incident to ownership of a Condominium in the Project and all of the limitations on such ownership.

ARTICLE V

USE OF CONDOMINIUMS

5.01. Use of Units. Each Unit in the Project shall be used exclusively as a private, single family residence and shall be restricted to such use. No Unit shall be used for any business, industrial, or commercial purpose; provided, however, that (i) Owners may use their Unit or Units for Unit sales models, Unit sales offices, or Unit property management offices as approved in writing by the Association, (ii) Owners may rent or lease their Units in accordance with the provisions of this Declaration, and (iii) Owners may use their Units to show prospective purchasers or tenants.

5.02. Leasing Restricted. No Owner shall lease his Unit for transient or hotel purposes, nor shall any Owner lease less than his entire Unit. If an Owner leases his Unit, then: (i) the Owner shall promptly notify the Association thereof in writing, (ii) the Owner shall provide to the Association the name of the tenant under such lease and the address of the Owner, (iii) the lease shall include or be deemed to include a covenant on the part of the tenant substantially as follows: "Tenant agrees with the Landlord and with and for the benefit of the Association that during the term of this lease, tenant and his family and guests from time to time will use and occupy the premises and all parts of the Project in strict compliance with the Condominium Act, the Declaration, the Bylaws of the Association, the R.E.A., and all rules and regulations from time to time adopted by the Association as fully as if tenant were an Owner," (iv) each owner shall be responsible for compliance by tenants with the Condominium Act, the Declaration, the Bylaws of the Association, the R.E.A. and all rules and regulations. Should an owner fail to obtain tenant compliance after notice of noncompliance, the Association shall have the right, in addition to all remedies at law, to evict the non-complying Tenant, and (v) all leases shall be in writing for a term not less than six months and subject to the prior approval of the Association, which shall not be unreasonably withheld. As used in this section, the term lease shall include a lease, rental arrangement, license, or other arrangement for third party use of a Unit.

5.03. Limited Common Areas. Each Owner shall have the exclusive right to use the Limited Common Areas in accordance with rules and regulations from time to time adopted by the Association. The Association may adopt reasonable rules and regulations

governing all aspects of use of the Limited Common Areas. All such rules and regulations relating to the use of the Limited Common Areas or access thereto must be approved by a majority of the Trustees. The use and occupancy of all parking areas shall be for the parking of automobiles, motorcycles, trailers, and other wheeled conveyances. The Association may by rule or regulation allow other uses of the parking areas not inconsistent with this Declaration and the Bylaws appended hereto. The parking spaces, and the Units to which they are appurtenant, are contained on Appendix A and made a part hereof as if herein set forth in full.

5.04. Rules and Regulations. Each Owner shall comply strictly with all rules and regulations adopted by the Association for the governance of the Units, the Common Areas, the Limited Common Areas, the Project, and all parts thereof, as such rules and regulations may from time to time be modified, amended, and construed by the Association.

ARTICLE VI

GENERAL RESTRICTIONS

6.01. No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on, in or upon any part of the Project, nor shall anything be done or placed in or upon any part of the Project which is or may become a nuisance or which may cause unreasonable disturbance or annoyance to Owners generally. No activities shall be conducted, nor improvements constructed, in or upon any part of the Project which are or may become unsafe or hazardous to any person or property.

6.02. Restriction on Signs. No signs, flags, or advertising devices of any nature, including without limitation commercial, political, informational, or directional signs or devices, shall be erected or maintained on any part of the Project, without the prior inspection and written approval of the Association (except as may be necessary temporarily to caution or warn of danger). If the Association consents to the erection of any such signs or devices, the same shall be removed promptly at the request of the Association.

6.03. No Pets or Animals. No pets or animals of any kind or nature whatsoever shall be permitted in any Unit, in the Common Areas, or in any other part of the Project without prior approval of the Board of Trustees.

6.04. Restriction on Window Coverings. All window coverings visible from the outside of a Unit must be of a white or neutral color or must be approved in writing by the Association. No treatment of exterior windows (including tinting, mirror finish,

etc.) shall be permitted without the written approval of the Association.

6.05. No Alterations. No Owner shall, without the prior written consent of the Association in each specific instance, make or cause to be made any alteration, addition, or improvement in or to the Common Areas or Limited Common Areas or any part thereof, or do any act that would impair the structural soundness or integrity of the Buildings or jeopardize the safety of persons or property or impair any easement or hereditament appurtenant to the Project.

6.06. No Obstructions. No Owner shall obstruct the Common Areas or any part thereof unless the Association shall consent thereto in writing. No Owner shall store or cause to be stored in the Common Areas any property whatsoever, unless the Association shall consent thereto in writing.

6.07. No Overloading. No Owner shall bring anything into his Unit and Limited Common Area or permit anything to be done in his Unit and Limited Common Area that will cause damage to the Building. No Owner shall overload the floor of his Unit and Limited Common Area. No Owner shall permit the use or operation in his Unit and Limited Common Area of any equipment, machinery, or other apparatus that will in any manner injure, vibrate, or shake the Building or any portions thereof.

6.08. No Damage or Dangerous Activities. Except with the prior written consent of the Association, nothing shall be done or kept in any Unit, in Limited Common Areas, in the Common Areas, or in any other part of the Project that would result in cancellation, suspension or invalidation of the insurance on the Project or any part thereof, nor shall anything be done or kept in any Unit or Limited Common Area that would increase the rate of insurance on the Project or any part thereof over that which the Association, but for such specific activity, would pay. Nothing shall be done or kept in any Unit or Limited Common Areas or in the Common Areas or any part thereof which would be in violation of any statute, rule, ordinance, regulation, permit, or other validly imposed, applicable requirement of any governmental authority. No damage to or waste of the Common Areas and Limited Common Areas or any part thereof shall be committed by any Owner or guest of any Owner, and each Owner shall indemnify and hold harmless the Association and the other Owners from and against all losses resulting from any such damage or waste caused by such Owner or by the guests, tenants, licensees, or invitees of such Owner.

6.09. R.E.A. Agreement. Each Owner shall comply strictly with all lawful covenants, conditions, and restrictions contained in the R.E.A. Agreement and all amendments adopted pursuant thereto.

6.10. Construction Exemption. During the course of actual construction of any permitted structures or improvements within the Project, the provisions, covenants, conditions, and restrictions contained in this Declaration shall be deemed waived to the extent necessary or convenient to permit such construction; provided, however, that during the course of such construction, nothing shall be done which will result in a violation of any of said provisions, covenants, conditions, or restrictions upon completion of the construction.

6.11. Enforcement. Each Unit Owner and their assigns, successors, guests and invitees shall comply strictly with the provisions of this Declaration, the Bylaws and Rules and Regulations. Failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, together with costs and attorneys fees, maintainable by the Association or any aggrieved Owner.

ARTICLE VII

EASEMENTS

7.01. Easements for Encroachments. If any part of the Common Areas encroaches or shall hereafter encroach upon any Unit or Limited Common Areas, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit or Limited Common Areas encroaches or shall hereafter encroach upon the Common Areas, or upon an adjoining Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. Such encroachments shall not be considered to be encumbrances either on the Common Areas, Limited Common Areas or the Units, as the case may be. Encroachments referred to herein shall include without limitation encroachments caused by error in the original construction of the Building or any improvements constructed or to be constructed within the Project as shown on the Map, 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, in accordance with the provisions of this Declaration.

7.02. Easements for Maintenance, Cleaning, and Repair. Some of the Common Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Association shall have the irrevocable right to have access to each Unit and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, cleaning, repair, or replacement of any Common Areas or for making emergency repairs at any time therein necessary to prevent damage to the Common Areas or to any Unit. In addition, agents of the Association may enter any Unit or Limited Common Areas when necessary in connec-

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tion with any cleaning, maintenance, repair, replacement, landscaping, construction, or reconstruction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Association with funds from the Common Expense Fund.

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

7.04. Association's Right to Use Common Areas. The Association shall have an easement to make such use of the Common Areas as may be necessary or convenient to perform the duties and functions that it is obligated or permitted to perform pursuant to this Declaration, including without limitation the right to construct and maintain in the Common Areas (other than Limited Common Areas) facilities for use by Owners generally or by the Association and its agents exclusively and the right to lease or rent Common Areas.

7.05. Easement for Completion of Project. The Association or its designee shall have a transferable easement over and on the Common Areas for the purpose of completing construction of the Project and making improvements therein as shown on the Map, and for the purpose of doing all things reasonably necessary or appropriate in connection therewith.

7.06. Easements Deemed Created. All conveyances of Condominiums within the Project hereafter made shall be construed to grant and reserve such reciprocal easements as are provided herein, even though no specific reference to such easements appears in any such conveyance.

ARTICLE VIII

THE ASSOCIATION

8.01. Membership. Each Owner shall be entitled and required to be a member of the Association. Membership shall begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner. If title to a Condominium is held by more than one person, the membership appurtenant to such Condominium shall be shared by all such persons in the same proportionate interests and in the same type of tenancy as title to the Condominium is held. An Owner shall be entitled to one membership for each Condominium owned by

him. Each membership shall be appurtenant to the Condominium to which it relates and shall be transferred automatically by conveyance of that Condominium. Ownership of a Condominium in the Project may not be separated from the membership in the Association appurtenant thereto, and any devise, encumbrance, conveyance, or other disposition of a Condominium, shall be construed to be a devise, encumbrance, conveyance or other disposition, respectively, of the Owner's appurtenant membership in the Association. No person or entity other than an Owner may be a member of the Association, and membership in the Association may not be transferred except in connection with the transfer of a Condominium.

8.02. Board of Trustees. The Trustees shall be elected by the Owners pursuant to the Bylaws. No Trustee shall be liable to the Unit Owners for any mistake of judgment, for negligence, or on other grounds, except for such Trustee's own individual and willful misconduct or bad faith. The Unit Owners shall indemnify and hold harmless each Trustee from and against all liability to third parties arising out of any contract made by the Board of Trustees on behalf of the Owners, unless such contract was made in bad faith or contrary to the provisions of the Act of this Declaration. The liability of any Unit Owner arising out of the indemnification provision set forth in the foregoing portion of this Section shall be limited to the total liability concerned multiplied by such Owner's undivided ownership interest in the Common Areas.

8.03. Votes. The number of votes appurtenant to each respective Unit shall be as set forth in Appendix A attached hereto. The number of votes appurtenant to each Unit as set forth in said Appendix A shall have a permanent character and shall not be altered without the unanimous written consent of all Owners set forth in an amendment to this Declaration duly recorded.

8.04. Amplification. The provisions of this Article VIII may be amplified by the Articles of Incorporation and Bylaws of the Association; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth in this Declaration. The Bylaws of the Association shall be adopted by the Association.

ARTICLE IX

CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

9.01. Common Areas. The Association, subject to the rights and duties of the Owners as set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon (including without limitation Common Facilities), and shall keep the same in a good,

clean, attractive, safe, and sanitary condition, order, and repair provided, however, that each Owner shall keep the Limited Common Areas if any, designated for use in connection with his Unit, in a good, clean, safe, sanitary, and attractive condition. The Association shall be responsible for the maintenance and repair of the exterior of the Building and the grounds, including without limitation painting thereof, repair and replacement of exterior trim and roofs, exterior glass and maintenance of landscape, walkways, rooftop facilities, driveways, and parking areas. The Association shall also be responsible for maintenance, repair, and replacement of Common Areas and Limited Common Areas, including without limitation hallways, elevators, utility lines, swimming pools, recreation facilities, and all improvements and other items located within or used in connection with the Common Areas. The specification of the Association's duties with respect to particular Common Areas and Limited Common Areas shall not be construed to limit its duties with respect to other Common Areas and Limited Common Areas, as set forth in the first sentence of this section. All goods and services procured by the Association in performing its responsibilities under this section shall be paid for with funds from the Common Expense Fund.

9.02. Manager. The Association may by written contract delegate in whole or in part to a professional Manager such of the Association's duties, responsibilities, functions, and powers hereunder as are properly delegable. The services of any Manager retained by the Association shall be paid for with funds from the Common Expense Fund. Any agreement for professional management shall provide for a term not exceeding three (3) years and shall be terminable with or without cause and without payment of any termination fee upon ninety (90) days written notice.

9.03. Miscellaneous Goods and Services. The Association may obtain and pay for the services of such personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person with whom it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration. In addition to the foregoing, the Association may acquire and pay for out of the Common Expense Fund water, sewer, garbage collection, electrical, gas, and other necessary or desirable utility services for the Common Areas, insurance, bonds, and other goods and services common to the Units; provided, however, that any such item which is separately metered or billed and which relates exclusively to a Unit shall be paid for by the Unit Owner.

9.04. Real and Personal Property. The Association may acquire and hold real, personal, and mixed property of all types or interests therein for the use or benefit of all of the Owners and may dispose of such property by sale or otherwise. All such

property shall be paid for out of the Common Expense Fund and all proceeds from the disposition thereof shall be part of the Common Expense Fund.

9.05. Rules and Regulations. The Association may make reasonable rules and regulations governing the use of the Units, the Common Areas, the Limited Common Areas, and all parts of the Project; provided, however, that all such rules and regulations shall be consistent with the rights and duties established in this Declaration. The Association may take judicial action against any Owner to enforce compliance with such rules and regulations or other obligations of such Owner arising hereunder or to obtain damages for noncompliance therewith, as permitted by law. In the event of any such judicial action, the Association shall be entitled to recover its costs (including reasonable attorneys' fees) from the offending Owner.

9.06. Granting Easements. The Association may, without the vote or consent of the Owners or of any other person, grant or create, on such terms as it deems advisable, utility and similar easements and rights-of-way over, under, across, and through the Common Areas.

9.07. Statutory Duties and Powers. All duties, responsibilities, rights, and powers imposed upon or granted to the "management committee" or to the "manager" under the Condominium Act shall be duties, responsibilities, rights, and powers of the Association hereunder.

9.08. Implied Rights. The Association may exercise any right, power, or privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonably implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

9.09. Parcel Representative. The Association shall serve as the "Parcel Representative" for the Project, as defined in and pursuant to the provisions of the R.E.A. As such Parcel Representative for the Project, the Association shall exercise all rights granted to, and shall perform all obligations imposed upon, the Parcel Representative under the R.E.A.

ARTICLE X

ASSESSMENTS

10.01. Assessments. Within 30 days prior to the annual meeting, the Board of Trustees shall estimate the net charges

to be paid during the current fiscal year, including a reasonable provision for contingencies and replacements and less any expected income and any surplus from the prior fiscal year's operation, together with the estimated utility costs for Units and Limited Common Areas and Facilities which are not separately metered or charged. Said "Estimated Cash Requirement" shall be approved at the annual meeting and assessed monthly to the Unit Owners pursuant to the Declaration and Appendix A thereof. Declarant will be liable for the account of any assessment against Units owned by Declarant. If said estimated sum proves inadequate for any reason, including non-payment of any Unit Owner's assessment, the Board of Trustees may at any time levy a further assessment, which shall be assessed to the Unit Owners in like proportion unless otherwise provided herein. Each Unit Owner shall be obligated to pay assessments made pursuant to this paragraph to the Board of Trustees on or before the first day of each month, or in such other reasonable manner as the Board of Trustees shall designate.

10.02. The monthly payments made by Unit Owners shall be kept in separate accounts as the Board of Trustees may deem proper, including accounts for general working capital, for the general operating reserve, and for a reserve fund for replacements and major maintenance.

10.03. All funds collected hereunder shall be expended for the purposes designated in the Declaration or Bylaws.

10.04. The omission by the Board of Trustees before the expiration of any fiscal year to fix the Estimated Cash Requirement hereunder for that or the next year shall not be deemed a waiver or modification in any respect of the provisions of the Declaration or a release of the Unit Owner from the obligation to pay the assessments or any installment thereof for that or any subsequent year, but the Estimated Cash Requirement fixed for the preceding year shall continue until a new requirement is fixed. Amendments to this Article VI shall be effective only upon unanimous written consent of the Unit Owners and their Mortgages. No Unit Owner may exempt himself from liability for his contribution towards the Common Expenses by waiver of the use or enjoyment of any of the Common Areas and facilities or by abandonment of his Unit.

10.05. The Manager or Board of Trustees shall keep accurate records of the receipts and expenditures affecting the Common Areas and Facilities specifying and itemizing the maintenance and repair expenses of the Common Areas and Facilities and any other expenses incurred. Records and vouchers authorizing the payments involved shall be available for examination by any Unit Owner at convenient hours of week days.

10.06. Anything contained herein to the contrary notwithstanding, the Board of Trustees shall at all times treat all funds of the Association of Unit Owners so as to avoid adverse income tax consequences, including, but not limited to, applying surplus funds toward expenses so that no common profits accrue to the Association and maintaining any reserves of the Association in a manner that will not result in these sums being treated as taxable income to the Association.

10.07. Default in Payment of Assessments. Each assessment (including all monthly installments) and each special assessment shall be separate, distinct and personal debts and obligations of the Unit Owner against whom the same are assessed at the time the assessments are made and shall be collectible as such. The Board of Trustees shall have the right to impose a reasonable late charge for nonpayment of Common Expense payments within 15 days of the date such payments became due. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing or waiving the lien securing the same. The amount of any assessment, whether regular or special, assessed to the Unit Owner of any Condominium plus interest at the highest legal rate permitted by Utah law (not to exceed 16 percent per annum) and costs, including reasonable attorney's fees, shall become a lien upon such condominium upon recordation of a notice of assessment by the Board of Trustees. The said lien for nonpayment of Common Expenses shall have priority over all other liens and encumbrances, recorded or unrecorded, except only:

(a) tax and special assessment liens on the Condominium in favor of any taxing authority, and

(b) all amounts due or that shall become due on a Mortgage of record on the Condominium.

A certificate executed and acknowledged by a majority of the Board of Trustees stating the indebtedness secured by the lien provided for under this Section upon any Condominium shall be conclusive upon the Board of Trustees and the Unit Owners as to the amount of such indebtedness on the date of the certificate in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Unit Owner or any encumbrancer or prospective encumbrancer of a Condominium upon written request at a reasonable fee. Unless the written request or a certificate of indebtedness shall be complied with within thirty days, all unpaid Common Expenses which became due prior to the date of the making of such request shall be subordinate to the lien held by the person making the request, provided the person making the request specifically states in a written request his intention to have this provision apply. Any encumbrancer holding a lien on a Condominium may pay any unpaid Common Expense payable with respect to such Condominium and upon such payment such encumbrancer shall have a lien on such Condominium for the amounts paid of the same rank as the lien of his encumbrance.

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Upon payment or other satisfaction of a delinquent assessment concerning which such a certificate has been so recorded, the Board of Trustees shall cause to be recorded in the same manner as the certificate of indebtedness a further certificate stating the satisfaction and the release of the lien thereof. Such lien for nonpayment of assessment may be enforced by sale by the Board of Trustees or by a bank or trust company, attorney, or title insurance company authorized by the Board of Trustees, such sale to be conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any manner permitted by law. In any foreclosure or sale, the Unit Owner shall be required to pay the costs and expenses of such proceedings and reasonable attorney's fees.

In case of foreclosure, the Unit Owner shall be required to pay a reasonable rental for the Condominium and the plaintiff in the foreclosure action shall be entitled to the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The Board of Trustees or the Trustee acting on its behalf shall have the power to buy in the Condominium at foreclosure or other sale and to hold, lease, mortgage and convey the Condominium.

ARTICLE XI

INSURANCE

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

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

(b) Public Liability and Property Damage Insurance. The Association shall obtain a broad form of comprehensive liability insurance coverage, in such amounts (but in no event less than \$1.0 Million per occurrence) and in such forms as it deems advisable to provide adequate protection against liability for personal

injury, death, and property damage. Coverage shall include without limitation liability for operation of automobiles on behalf of the Association and all activities in connection with the ownership, operation, maintenance, and other use of the Project.

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

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

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

(a) Fire and Casualty Insurance. Fire and Casualty insurance shall be carried in a form or forms naming the Association as the insured, as trustee for the Owners, and such policy or policies shall specify the interest of each Owner (Owner's name, Unit number, and appurtenant undivided interest in the Common Areas). Each policy shall provide a standard, noncontributory mortgagee clause in favor of each Mortgagee which from time to time shall give notice to the Association of its Mortgage. Each policy also shall provide that it cannot be cancelled either by the insured or by the insurance company until after fifteen (15) days prior written notice is first given to each Owner and to each Mortgagee which has requested such notice in writing. The Association shall furnish to each Owner, and to each Mortgagee requesting the same, a certificate of coverage, including an identification of the Owner's interest.

(b) Public Liability and Property Damage Insurance. Public liability and property damage insurance shall name the Association as the insured, as trustee for each Owner and shall protect the Association and each Owner against liability for acts or omissions of the Association, the Owners, the Manager, and other persons relative to the ownership, operation, maintenance, and other use of the Project. Each such policy shall provide that it cannot be cancelled either by the insured or by the insurance company until after fifteen (15) days prior written notice thereof is given to the Association, to each Owner, and to each Mortgagee who has requested such notice in writing.

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

(i) The insurer shall waive all rights of subrogation as to any claims against the Association, the Trustees, the Manager, the Owners, and their respective servants, agents, and guests;

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

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

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

(v) Each hazard insurance policy shall be written by a hazard insurance carrier that has a current rating by Best's Insurance Reports of B/VI or better.

(vi) Each public liability policy shall include a "severability of interest" endorsement which shall preclude the insurer from denying the claim of any Owner because of the negligent acts or omissions of the Association or any other Owner or Owners.

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

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

11.05. Owner's Own Insurance. Notwithstanding the provisions hereof, each Owner may obtain insurance at his own expense providing coverage for his Condominium, his personal property, his personal liability; and covering such other risks as he may deem appropriate; provided, however, that each such policy shall provide that it does not diminish the insurance carrier's coverage for liability arising under insurance policies obtained by the Association pursuant to this Declaration.

11.06. Review of Insurance. The Association shall review annually the coverage and policy limits of all of its insurance on the Project and adjust the same at its discretion, but in no event shall the coverage be less than required by Federal National Mortgage Association for projects of this type. Such annual review may include an appraisal of the improvements in the Project by a representative of the insurance carrier or carriers providing the policy or policies on the Project, or by such other qualified appraisers as the Association may select.

ARTICLE XII

DAMAGE OR DESTRUCTION

12.01. Association as Attorney in Fact. All of the Owners irrevocably constitute and appoint the Association as their true and lawful attorney in fact in their name, place, and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute an appointment by said grantee of the Association as his attorney in fact as herein provided. As attorney in fact, the Association shall have full and complete authorization, right, and power to make, execute, and deliver any contract, deed, or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted.

12.02. Definition of Repair and Reconstruction. Repair and reconstruction of the improvements as used herein shall mean restoring the Project to substantially the same condition in which it existed prior to the damage or destruction, with each Unit, Limited Common Area and the Common Areas having substantially the same vertical and horizontal boundaries as before.

12.03. Procedures. In the event any part of the Project is damaged or destroyed, the Association shall proceed as follows:

(a) Estimate of Costs. As soon as practicable after an event causing damage to or destruction of any part of the Project, the Association shall obtain complete and reliable estimates of the costs to repair and reconstruct that part of the Project damaged or destroyed.

(b) Sufficient Insurance. If the proceeds of the insurance maintained by the Association exceed the estimated costs to repair and reconstruct the damaged or destroyed part of the Project, then such repair and reconstruction shall be carried out unless the building is more than 75 percent destroyed and the Owners vote within 100 days after the damage or destruction by a vote of seventy-five percent (75%) or more of the total votes of the Association not to repair or reconstruct. If the Owners vote not

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to repair and reconstruct, the provisions of § 12.03(d) below shall apply.

(c) Insufficient Insurance--Less than 75% Destruction. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damage or destroyed part of the Project and if less than seventy-five percent (75%) of the Building is destroyed or substantially damaged, then such repair and reconstruction shall nevertheless be carried out. The Association shall levy a Special Assessment sufficient to provide funds to pay the actual costs of such repair and reconstruction to the extent that such insurance proceeds are insufficient to pay such costs. Such Special Assessment shall be allocated and collected as provided in Section 10.03 hereof, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected (together with the proceeds of insurance) are insufficient to pay all actual costs of such repair and reconstruction.

(d) Insufficient Insurance--75% or More Destruction. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project and if seventy-five percent (75%) or more of the Building is destroyed or substantially damaged, then such damage or destruction shall be repaired and reconstructed as provided in Section 12.03(c) hereof if, but only if, within one hundred (100) days following the damage or destruction, the Owners shall elect by a vote of at least seventy-five percent (75%) of the total votes of the Association to carry out such repair and reconstruction. If, however, the Owners shall not, within one hundred (100) days after such damage or destruction, elect by a vote of at least seventy-five percent (75%) of the total votes of the Association to carry out such repair and reconstruction, then the Association shall record in the office of the County Recorder of Salt Lake County, State of Utah, a notice setting forth such facts. Upon the recording of such notice, the following shall occur:

(i) The Project shall be deemed to be owned in common by the Owners.

(ii) The undivided interest in the Project owned in common which shall appertain to each Owner shall be the percentage of undivided interest in the Common Areas previously owned by such Owner.

(iii) Any liens affecting any of the Condominiums shall be deemed to be transferred, in accordance with existing priorities, to the undivided interest of the respective Owner in the Project.

(iv) The Project shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of any sale resulting from such suit for partition, together with any net proceeds of the insurance on the Project and any monies in the Common Expense Fund, shall be considered as one fund and shall be divided among all Owners in a percentage equal to the percentage of undivided interest in the Project owned by each respective Owner, after first paying out of the respective share of each Owner, to the extent sufficient for such purposes, all liens on the undivided interest in the Project owned by such Owner.

12.04. Repair or Reconstruction. If the damage or destruction is to be repaired and reconstructed as provided above, the Association shall, as soon as practicable after receiving the said estimate of costs, commence and diligently pursue to completion the repair and reconstruction of that part of the Project damaged or destroyed. The Association, as attorney in fact for the Owners, may take all necessary or appropriate action to effect repair and reconstruction, and no consent or other action by any Owner shall be necessary in connection therewith, except as otherwise expressly provided herein. The Project shall be restored or repaired to substantially the same condition in which it existed prior to the damage or destruction, with each Unit, Limited Common Areas and the Common Areas having substantially the same vertical and horizontal boundaries as before.

12.05. Disbursement of Funds for Repair and Reconstruction. If repair or reconstruction is to occur, the insurance proceeds held by the Association and any amounts received from assessments made pursuant to Sections 12.03(b) and (c) hereof shall constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for cost of repair and reconstruction shall be made from insurance proceeds; and if there is a balance after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners in the same proportions as provided in Section 10.02(b) hereof relative to assessments. If the insurance proceeds are not received in time to commence timely and necessary repairs or reconstruction, the Association may make a special assessment or borrow funds in a commercially reasonable manner to commence such repairs or reconstruction.

12.06. Amendment of Article. This Article XII shall not be amended unless the Owners of all Condominiums in the Project unanimously consent and agree to such amendment in a duly recorded instrument.

ARTICLE XIII

CONDEMNATION

13.01. Condemnation. If at any time or times all or any part of the Project shall be taken or condemned by any public authority under power of eminent domain, the provisions of this Article shall apply. A voluntary sale or conveyance of all or any part of the Project in lieu of condemnation, but under threat of condemnation, shall be deemed to be a taking by power of eminent domain.

13.02. Proceeds. All compensation, damages, and other proceeds from any such taking by power of eminent domain (hereinafter the "condemnation award") shall be made payable to the Association and shall be distributed by the Association as herein provided.

13.03. Complete Taking. In the event that the entire Project is taken by power of eminent domain, condominium ownership pursuant hereto shall terminate and the condemnation award, less the costs and expenses incurred by the Association in connection therewith, shall be allocated among and distributed to the Owners in proportion to their respective undivided interests in the Common Areas. Such distribution shall be made by checks payable jointly to the respective Owners and their respective Mortgagees, as appropriate.

13.04. Partial Taking. In the event that less than the entire Project is taken by power of eminent domain, the following shall occur:

(a) Allocation of Award. As soon as practicable, the Association shall, reasonably and in good faith, apportion the condemnation award, less the costs and expenses incurred by the Association in connection therewith, between compensation, severance damages, or other proceeds, and shall allocate such apportioned amounts and pay the same to the Owners as follows:

(i) The amount apportioned to taking of or injury to the Common Areas shall be allocated among and distributed to all Owners (including Owners whose entire Units have been taken) in proportion to their respective undivided interests in the Common Areas.

(ii) The amount apportioned to severance damages shall be allocated among and distributed to the Owners of those Condominiums that have not been taken, in proportion to their respective undivided interests in the Common Areas.

(iii) The respective amounts apportioned to the taking of or injury to a particular Unit shall be allocated and distributed to the Owner of such Unit.

(iv) The amount apportioned to consequential damages and any other takings or injuries shall be allocated and distributed as the Association determines to be equitable under the circumstances.

(v) Notwithstanding any provision hereof to the contrary, if apportionment or allocation is already established by negotiation, judicial decree, statute, or otherwise, the Association shall employ such apportionment and allocation to the extent it is relevant and applicable.

(vi) Distribution of allocated proceeds shall be made by checks payable jointly to the respective Owners and their respective Mortgagees, as appropriate.

(b) Continuation and Reorganization. If less than the entire Project is taken by power of eminent domain, condominium ownership pursuant hereto shall not terminate, but shall continue. In such event the Project shall be reorganized as follows:

(i) If any partial taking results in the taking of an entire Unit, then the Owner thereof shall cease to be a member of the Association and all voting rights and the undivided interest in the Common Areas appurtenant to such Unit shall be reallocated to, and shall appertain to, the remaining Units in proportion to their respective undivided interests in the Common Areas.

(ii) If any partial taking results in the taking of a portion of a Unit and if there is no determination that such taking makes it impractical to use the remaining portion of such Unit for any lawful purpose permitted by this Declaration, then the fair market value of such remaining portion of the Unit shall be determined and all voting rights and the undivided interest in the Common Areas appertaining to such Unit shall be reduced in proportion to the diminution in fair market value of such Unit resulting from the taking. The voting rights and undivided interest in the Common Areas so divested from such Unit shall be reallocated to, and shall appertain to, such Unit and the other Units in the Project in proportion to their respective undivided interests in the Common Areas; provided, however, that such Unit shall participate in such reallocation on the basis of the undivided interest reduced in accordance with the preceding sentence.

(iii) If any partial taking results in the taking of a portion of a Unit and if there is a determination that such taking makes it impractical to use the remaining portion of such Unit for any lawful purpose permitted by this Declaration, then all voting rights and the entire undivided interest in the Common Areas appurtenant to such Unit shall be reallocated to, and

shall appertain to, the remaining Units in proportion to their respective undivided interests in the Common Areas, and the remaining portion of such Unit shall thereafter be part of the Common Area.

(iv) The Association shall have the duty and authority to make all determinations and to take all actions necessary or appropriate to effectuate reorganization of the Project under the provisions of this section; provided, however, that if any such determination shall have been made or such action taken by judicial decree, the Association shall defer thereto and proceed in accordance therewith.

(c) Repair and Reconstruction. Any repair or reconstruction necessitated by condemnation shall be governed by the provisions specified in Article XII hereof for cases of Damage or Destruction; provided, however, that the provisions of said Article XII dealing with sufficiency or insufficiency of insurance proceeds shall not be applicable.

ARTICLE XIV

TERMINATION

14.01. Termination. All of the Unit Owners may remove the property from the provisions of the Act by an instrument duly recorded to that effect, provided that the holders of all liens affecting any of the Units consent or agree by instruments duly recorded, that their liens be transferred to the percentage of the undivided interest of the Unit Owners in the Property.

After removal of the property from the act, the Unit Owners shall own the Property and all assets of the Association as tenants in common and the respective mortgages and liens upon the respective undivided interests of the Unit Owners. Such undivided interests of the Unit Owners shall be the same as the percentage of the undivided interests in the Common Areas and Facilities appurtenant to the Owners' Units prior to removal from the act.

This paragraph 14.01 cannot be amended without consent of all Unit Owners and all record owners or mortgages on Units.

ARTICLE XV

COMPLIANCE WITH DECLARATION AND BYLAWS

15.01. Compliance. Each Owner shall comply strictly with the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association, rules and regulations promulgated by the Association as herein provided, and the decisions and resolutions of the Association adopted pursuant thereto, as the same

may lawfully be modified and amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or for injunctive relief or for both, maintainable by the Association or, in a proper case, by an aggrieved Owner.

15.02. Enforcement and Remedies. The obligations, provisions, covenants, restrictions, and conditions contained in this Declaration, or in any Supplemental or Amended Declaration, with respect to the Association or condominiums in the Project shall be enforceable by any Owner, subject to this Declaration, by a proceeding for a prohibitive or mandatory injunction. The obligations, provisions, covenants, restrictions, and conditions contained in this Declaration, or in any Supplemental or Amended Declaration, with respect to a person or entity or property of a person or entity other than the Association shall be enforceable by the Association or, in a proper case, by an aggrieved Owner by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages or to recover any amount due and unpaid.

ARTICLE XVI

MORTGAGEE PROTECTION

16.01. Mortgage Protection. Notwithstanding anything to the contrary contained in the Declaration or the Bylaws:

(a) Common Expenses shall include an adequate reserve fund for maintenance, repairs and replacement of those Common Areas and Facilities that must be replaced on a periodic basis, and shall be payable in regular installments rather than by special assessments.

(b) No provision of this Declaration or the Bylaws shall give a Unit Owner, or any other party, priority over any rights of the first Mortgagee of the Unit pursuant to its Mortgage or otherwise in the case of a distribution to such Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of Units and/or Common Areas and Facilities.

(c) Any "right of first refusal" that may hereafter be added to this Declaration or the Bylaws shall not impair the rights of the first Mortgagee to:

(1) Foreclose or take title to a Unit pursuant to the remedies provided in the Mortgage, or

(2) Accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor, or

(3) Interfere with a subsequent sale or lease of a Unit so acquired by the Mortgagee.

(d) Any agreement for professional management of the Project or any other contract providing for services of the Declarant, may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice.

(e) With the exception of a lender in possession of a Unit following a default in a first Mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no Unit Owner shall be permitted to lease his Unit for transient or hotel purposes. No Unit Owner may lease less than the entire Unit. Any lease agreement shall provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration and Bylaws and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be in writing.

(f) Any first Mortgagee who obtains title to a Unit pursuant to the remedies provided in the Mortgage or foreclosure or deed in lieu of foreclosure of the Mortgage will not be liable for such Unit's unpaid dues or charges which accrue prior to the acquisition of title to such Unit by the Mortgagee.

(g) A first Mortgagee will be entitled to written notification from the Association of Unit Owners of any default in the performance by the Mortgagor-Unit Owner of any obligation under this Declaration or by the Bylaws which is not cured within thirty (30) days.

(h) Unless all holders of the first mortgage liens on individual Units have given their prior written approval, the Association of Unit Owners shall not be entitled to:

(1) By act or omission, seek to abandon the Property or terminate the Condominium Regime except as provided by the Act in case of substantial loss to the Units, Common Areas, and Limited Common Areas;

(2) Change the pro rata interest or obligations of any Unit for the purpose of: (i) levying assessments and charges and (ii) determining the pro rata share of ownership of each Unit in the Common Areas and Facilities and proceeds;

(3) Partition or subdivide any Unit, the Common Area, or Limited Common Area;

(4) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas and

Facilities. (The granting of easement for public utilities or for other public purposes consistent with the intended use of the Common Areas and Facilities shall not be deemed a transfer within the meaning of this clause);

(5) Use hazard insurance proceeds for losses to the Property (whether to Units or to Common Areas and Facilities) for other than the repair, replacement or reconstruction of such Property, except as provided by the Act in case of substantial loss to the Units and/or Common Areas and Facilities.

(i) Common Areas and Facilities, and all amenities (such as parking, recreation and service areas) shall be part of the Project and shall be fully installed, completed, and in operation for use by the Unit Owners prior to the sale and conveyance of the last Unit in the Condominium Regime.

(j) A Mortgagee who has acquired title to a Unit in the Project pursuant to any remedy under the Mortgage or any proceeding or procedure in lieu thereof, shall thereby become a member of the Association of Unit Owners.

(k) No Unit Owner, or any other party shall have priority over any rights of a first Mortgagee of a Unit pursuant to its Mortgage or otherwise in the case of a distribution to such Unit Owner of insurance proceeds or condemnation awards for losses to or taking of Units and/or Common Areas and Facilities. All first Mortgagees shall be entitled to receive such insurance proceeds and awards for losses to or a taking of Units and/or Common Areas and Facilities on a first priority basis, as provided in the Mortgage instruments.

(l) No provision of this Section shall be amended without the consent of all first mortgagees.

(m) The holders of first Mortgages shall have the right to examine the books and records of the Property.

(n) Whenever there is a change in ownership of a Unit, the Association shall require that the new Unit Owner furnish the Association with the name of the holder of any first Mortgage affecting such Unit. The Association shall maintain a current roster of Unit Owners and of the holders of first Mortgages affecting Units in the Property.

ARTICLE XVII

GENERAL PROVISIONS

17.01. Intent and Purpose. The provisions of this Declaration, and any Supplemental or Amended Declaration, shall be

liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of a Condominium Project. Failure to enforce any provision, restriction, covenant, or condition contained in this Declaration, or in any Supplemental or Amended Declaration, shall not operate as a waiver of any such provision, restriction, covenant, or condition or of any other provisions, restrictions, covenants, or conditions.

17.02. Construction. This Declaration shall be governed by and construed in accordance with the laws of the State of Utah, other than its choice of law rules. The provisions hereof shall be in addition and supplemental to the provisions of the Condominium Act and all other provisions of applicable law. Whenever used herein, unless the context shall otherwise require, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, any gender shall include both other genders, and the term "person" shall include any individual, partnership, corporation, trust, or other association or entity or combination thereof. The article and section headings set forth herein are for convenience and reference only and are not intended to expand, limit, or otherwise affect the meaning or interpretation of this Declaration or any provision hereof. The provisions hereof shall be deemed to be independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof. Appendix A attached hereto is by this reference incorporated herein and made a part hereof.

17.03. Notices and Registration of Mailing Address. Each Owner shall register from time to time with the Association his current mailing address. All notices, demands, and other communications to any Owner as provided for in this Declaration shall be in writing and shall be sufficient for all purposes if personally delivered or sent by first class U.S. mail, postage prepaid, addressed to the Owner at his registered mailing address or, if no address has been registered, to the Unit of such Owner. All notices, demands, and other communications to the Association as provided for in this Declaration shall be in writing and shall be sufficient for all purposes if personally delivered or if sent by first class U.S. mail, postage prepaid, addressed to the Association at its offices at 560 East South Temple, Salt Lake City, Utah 84102, or to such other address as the Association may hereafter designate by notice to the Owners as herein provided. Any notice, demand, or communication referred to in this Declaration shall be deemed to have been given and received when personally delivered or when deposited in the U.S. mail, postage prepaid, and in the form provided for in this section, whichever first occurs.

17.04. Audit. Any Owner may at any reasonable time, upon appointment and at his own expense, cause an audit or inspection to be made of the books and records maintained by the Association.

The Association, at the expense of the Common Expense Fund, shall obtain an audit, by certified public accountants, of all books and records pertaining to the Project at no greater than annual intervals, and copies thereof shall be furnished to the Owners.

17.05. Amendment. Except as otherwise provided herein and except as prohibited by the Condominium Act, the provisions of this Declaration and the Bylaws may be amended by an instrument in writing, signed and acknowledged, by Owners owning 75 percent of the voting power which amendment shall be affective upon recordation with the County Recorder. Provided, however, the written consent of each Institutional Holder of a first Mortgage on a Unit shall be required to amend the following:

(a) Any provision altering the fractions of undivided interest in the Common Areas and Facilities or voting rights.

(b) Any provision amending Article V, Section 5.03 and Article 16 of the Declaration;

(c) Any other provision or section of this Declaration of the Bylaws which would prejudice the interest of the Institutional Holders of first Mortgages on the Units.

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

17.07. Agent for Service. The name and address of the person to receive service of process in all cases provided by the Condominium Act shall be the registered agent and address of the Association as shown on the official corporate records maintained in the office of the Lt. Governor/Secretary of State of the State of Utah. On the date of this Declaration, the registered agent of the Association is David Svikhart, and the registered address is 560 East South Temple, Salt Lake City, Utah 84102.

17.08. Limitation on Association's Liability. The Association shall not be liable for any failure of water service or other utility service (if any) to be obtained and paid for by the Association hereunder, or for the injury, loss or damage to any person or property caused by the elements or by the Owner or person in or upon the Project, or resulting from electricity, water, rain, snow, or ice which may leak or flow from outside or from any parts of the Buildings or their drains, pipes, conduits, appliances, or equipment, or from any other place. No diminution or abatement of any assessments under this Declaration shall be claimed or allowed for inconvenience or discomfort arising from the making of any repairs or improvements to or maintaining the Project or any part thereof, or from any action taken to comply with the provisions of this Declaration or with the laws, ordi-

nances, regulations, rules, or orders of any governmental authority.

17.09. Owner's Obligations. All obligations of an Owner under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that he may be leasing, renting, or selling under contract his Condominium. The Owner of a Condominium within the Project shall have no obligation for expenses or other obligations accruing after he conveys such Condominium of record.

17.10. Counterpart. This document may be signed in counterparts, which, when taken together shall constitute the entire document.

IN WITNESS WHEREOF, this Amended Declaration was executed as of the day and year first above written.

BERCY INVESTORS, INC.
A New York Corporation

By *L. S. Carter*

AMERICAN SAVINGS & LOAN ASSOCIATION

By *Roger J. Sanders*

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

On the 2nd day of August, 1985, personally appeared before me Donald B. Castleman, who being by authority of Representative of Bercy Investors, Inc., a New York corporation, and that the within and foregoing First Amended Declaration of Covenants, Conditions and Restrictions and Bylaws For Governor's Plaza, A Condominium Project, was signed in behalf of said corporation by authority of its bylaws or a resolution of its board of directors; said person duly acknowledged to me that said corporation executed the same.

Man T. Vance
NOTARY PUBLIC

My Commission Expires:
8-3-87

Residing at: Salt Lake County



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

On the 2nd day of August, 1985, personally appeared before me Roger J. Sanders, who being by authority of Representative of American Savings & Loan Association, a Utah corporation, and that the within and foregoing First Amended Declaration of Covenants, Conditions and Restrictions and Bylaws For Governor's Plaza, A Condominium Project, was signed in behalf of said corporation by authority of its bylaws or a resolution of its board of directors; said person duly acknowledged to me that said corporation executed the same.

Man T. Vance
NOTARY PUBLIC

My Commission Expires:
8-3-87

Residing at: Salt Lake County



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APPENDIX A

Legal Description:

Salt Lake County, Utah:

BEGINNING at a point North 89°58'27" East 35.00 feet and South 00°01'37" East 199.50 feet from the Northwest corner of Lot 6, Block 61, Plat "B", Salt Lake City Survey; running thence South 00°01'37" East 130.50 feet; thence North 89°58'27" East 275.00 feet; thence North 00°01'37" West 130.50 feet; thence South 89°58'27" West 275.00 feet to the point of beginning.

Subject to and together with all common areas, vehicular common areas and easement common areas as recorded in Book 5257, Pages 252-294 and Book 5242, Pages 1580-1622 in the office of the Salt Lake County Recorder.

APPENDIX A
(Continued)

<u>Unit No.</u>	<u>Square Footage</u>	<u>Percentage Undivided Interest in Common Areas</u>	<u>Parking Spaces</u>
C101	1,985.95	1.5586	2
C102	1,532.84	1.2030	2
C103	1,532.84	1.2030	2
C104	1,985.95	1.5586	2
P101	2,018	1.5837	2
P102	1,496	1.1740	2
P103	1,496	1.1740	2
P104	2,018	1.5837	2
201	2,038	1.5994	2
202	1,562	1.2258	2
203	1,562	1.2258	2
204	2,038	1.5994	2
301	2,074	1.6277	2
302	1,528	1.1992	2
303	1,528	1.1992	2
304	2,074	1.6277	2
401	2,086	1.6371	2
402	1,584	1.2431	2
403	1,548	1.2140	2
404	2,086	1.6371	2
501	1,593	1.2502	2
502	1,319	1.0351	2
503	1,318	1.0344	2
504	1,593	1.2502	2
505	1,584	1.2431	2
506	1,508	1.1835	2
507	1,235	.9692	2
508	1,584	1.2431	2
601	1,593	1.2502	2
602	1,411	1.1073	2
603	1,411	1.1073	2
604	1,593	1.2502	2
605	1,584	1.2431	2
606	1,508	1.1835	2
607	1,235	.9692	2
608	1,584	1.2431	2

APPENDIX A
(continued)

<u>Unit No.</u>	<u>Square Footage</u>	<u>Percentage Undivided Interest in Common Areas</u>	<u>Parking Spaces</u>
701	1,593	1.25028	2
702	1,411	1.1073	2
703	1,411	1.1073	2
704	3,244	2.5459	2
706	1,508	1.1835	2
707	1,235	.9692	2
708	1,584	1.2431	2
801	1,593	1.2502	2
802	1,411	1.1073	2
803	1,411	1.1073	2
804	1,593	1.2502	2
805	1,584	1.2431	2
806	1,508	1.1835	2
807	1,235	.9692	2
808	1,584	1.2431	2
901	1,593	1.2502	2
902	1,411	1.1073	2
903	1,411	1.1073	2
904	1,593	1.2502	2
905	1,584	1.2431	2
906	1,508	1.1835	2
907	1,235	.9692	2
908	1,584	1.2431	2
1001	1,593	1.2502	2
1002	1,411	1.1073	2
1003	1,411	1.1073	2
1004	1,593	1.2502	2
1005	1,584	1.2431	2
1006	1,508	1.1835	2
1007	1,235	.9692	2
1008	1,584	1.2431	2
1101	2,705	2.1228	2
1102	2,351	1.8450	2
1103	2,372	1.8615	2
1104	2,689	2.1103	2
1105	2,698	2.1174	2
1106	2,628	2.0624	2
1107	2,087	1.6378	2
1108	2,723	2.1370	2
		<u>100.0000%</u>	

ATD #2 B26-28

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**AMENDED BYLAWS
OF
GOVERNOR'S PLAZA HOMEOWNERS ASSOCIATION**

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AMENDED
BYLAWS OF
GOVERNOR'S PLAZA CONDOMINIUM
HOMEOWNERS' ASSOCIATION

I. Application of Bylaws.

All present and future Owners, Mortgagees, and occupants of Units and their lessees, renters, agents, servants, and guests, and any other persons who may use the facilities of the project in any manner are subject to the Declaration of Covenants, Conditions and Restrictions (the "Declaration"), these Bylaws and Rules and Regulations made pursuant hereto.

The acceptance of a deed or conveyance, the entering into of a contract for purchase or a lease, or the act of occupancy of a Unit shall constitute an agreement that these Bylaws and any Rules and Regulations made pursuant hereto and the Declaration, as they may be amended from time to time, are accepted, ratified, and will be complied with.

II. Board of Trustees.

The affairs of the Association shall be conducted by a Board of Trustees composed of five (5) members.

A. Election

At each annual meeting, the Owners shall elect members of the Board of Trustees for the forthcoming year. Nominations for the Board of Trustees shall be made by the Owners from the floor in accordance with the Parliamentary Rules set forth hereinafter. All members of the Board of Trustees shall be required to be Owners.

B. Term

Members of the Board of Trustees shall serve for a term of two years; provided, however, that initially two of the five members of the first Board of Trustees elected shall serve for a one-year term. The other three members shall serve for a two-year term. Thereafter, all members elected each year shall serve for a two-year term. The members of the Board of Trustees shall serve until their respective successors are elected, or until their death, resignation or removal.

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C. Resignation and Removal

Any member of the Board of Trustees may resign at any time by giving written notice to the President and Board of Trustees, and any member may be removed from membership on the Board of Trustees by a majority vote of Owners. Whenever there shall occur a vacancy on the Board of Trustees due to death, resignation, removal or any other cause, the remaining members shall elect a successor to serve until the next annual meeting of the Association, at which time said vacancy shall be filled for the unexpired term.

D. Compensation

The Board of Trustees shall receive no compensation for their services unless expressly provided for and approved in writing by Owners holding a majority interest in the Common Areas.

E. Powers and Authority of the Board of Trustees

The Board of Trustees, for the benefit of the Association, shall enforce the provisions of the Declaration, Bylaws and Rules and Regulations governing the Property and, subject to the provisions of Article V hereof, shall acquire or arrange for and pay for out of the Common Expense Fund the following:

1. Water, sewer, garbage collection and other necessary utility service for the Common Areas.

2. Water, sewer and other necessary utility costs for Units, Common Areas and Limited Common Areas which are not separately metered or charged;

3. A policy or policies of fire and casualty insurance, with extended coverage endorsements, for the full insurable replacement value of the Units and Common Areas and as provided in the Declaration. Insurance proceeds shall be payable and applicable as provided in the Declaration;

4. A policy or policies of public liability insurance insuring the Board of Trustees, the Association and the individual Owners against any liability to any person or persons incident to the ownership and/or use of the Property. Such policy or policies shall be consistent with the provisions of the Declaration.

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12. Maintenance and repair of any Unit, if such maintenance or repair is reasonably necessary in the discretion of the Board of Trustees to protect the Common Area, other units or preserve the appearance and/or value of the Property, and the Owner of said Unit has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity therefore delivered by the Board of Trustees to said Owner, provided that the Board of Trustees shall levy an assessment against the Condominium of such Owner for the costs of said maintenance or repair;

13. The Board of Trustees shall have the exclusive right to contract for all goods, services and insurance, payment for which is to be made from the Common Expense Fund. The provision shall not be construed to prohibit the Board of Trustees from delegating such authority to the Manager as it deems proper.

F. Additional Powers of the Board of Trustees

The Board of Trustees, in addition to all powers granted in the Declaration and permitted by law, shall have the right to acquire, operate, lease, manage and otherwise trade and deal with property, real or personal, including Condominiums, as may be necessary or convenient in the operation and management of the Property, and in accomplishing its purposes set forth in the Declaration, and the right to borrow funds, open bank accounts, authorize signatories and to deal with all matters relating to the R.E.A.

G. Regular Meetings of the Board of Trustees

Three members of the Board of Trustees shall constitute a quorum and, if a quorum is present, the decision of a majority of those present shall be the act of the Board of Trustees. The officers shall be elected at a meeting of the Board of Trustees to be called immediately following the annual meeting of the Association.

H. Special Meetings of the Board of Trustees

Special meetings of the Board of Trustees may be called by or at the request of the President or by any majority of the Board of Trustees. Notice of special meetings of the Board of Trustees shall be given to each member of the Board of Trustees orally or in writing at least twenty-four hours before the time fixed for the meeting.

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I. Notice of Meetings

Meetings of the Board of Trustees shall be held at such intervals and at such place and time as the Board of Trustees may from time to time by resolution provide.

J. Waiver of Notice

Except as provided in paragraph H above, notice need not be given of meetings of the Board of Trustees. Whenever all members of the Board of Trustees meet, such meetings shall be valid for all purposes. No call or notice of any meeting of the Board of Trustees shall be necessary if waiver of call and notice be signed by all members of the Board of Trustees.

K. Fiscal Year

The fiscal year shall begin July 1 and end the June 30 next following.

L. Notice of Election

After the first election of the Board of Trustees, Declarant shall execute, acknowledge and record an affidavit stating the names of all of the members of the Board of Trustees. Thereafter, the majority of persons who are designated of record as being members of the most recent Board of Trustees (regardless of whether or not they shall still be members) may execute, acknowledge and record an affidavit stating the names of all of the members of the then current Board of Trustees; provided that, in the event of the disability or other incapacity of two such persons, Manager shall be empowered to execute the aforesaid affidavit. The most recently recorded of such affidavits shall be prima facie evidence that the persons named therein are all of the incumbent members of the Board of Trustees and shall be conclusive evidence thereof in favor of all persons who rely thereon in good faith.

III. Meeting of the Association of Unit Owners.

The presence in person or by proxy at any meeting of the Association herein, representing a majority of votes, in response to notice to all Owners of record properly given in accordance with the terms of the Declaration, shall constitute a quorum. Upon request, any institutional Holder of a first Mortgage on a Unit shall be entitled to written notice of all meetings of the Association and to designate a representative to attend all such meetings. In the event that the total number of Owners present does not represent a majority of votes, the meeting shall be adjourned until a time agreed upon by the majority of those present within seven days, at which time it shall reconvene and the presence of Owners representing a majority of votes shall constitute a quorum. Unless otherwise expressly provided in the Declaration, any action may be taken at any meeting of the Association upon the affirmative vote of a majority of the voting power

of the Owners present and voting provided that a quorum is present as provided for above. A simple majority shall constitute a quorum.

A. Annual Meeting

There shall be a meeting of the Association on the second Thursday of June on the Property or at such other reasonable place or time (not more than 60 days before or after such date) as may be designated by written notice of the Board of Trustees if personally delivered or sent by first class United States Mail to the Owners not less than 15 days prior to the date fixed for said meeting. At or prior to such meeting, the Board of Trustees shall furnish to the Owners a proposed budget for the next fiscal year that shall itemize the estimated Common Expenses of the fiscal year with the estimated allocation thereof to each Owner, and a statement of the Common Expenses, itemizing receipts and disbursements, for the current fiscal year, together with the allocation thereof to each Owner.

B. Special Meetings

Special meetings of the Association may be called at any time for the purpose of considering matters which, by the terms of the Declaration, require the approval of all or some of the Owners, or for any other reasonable purpose. Said meetings shall be called by written notice, signed by a majority of the Board of Trustees or by any ten Owners and personally delivered or sent by first class United States mail 15 days prior to the date fixed for said meeting. Said notices shall specify the date, time and place of the meeting, and the matters to be considered thereat.

C. Parliamentary Rules

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

IV. Officers of the Association.

The officers of the Association shall be a President, Vice President and Secretary/Treasurer. Any officer must be an Owner. The Officers must be members of the Board of Trustees. No officer shall receive compensation for serving as such. Officers shall be annually elected by, and may be removed and replaced by Board of Trustees.

A. President

The President shall be the chief executive of the Association and the Board of Trustees and shall exercise general

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supervision over the property and affairs of the project. He shall sign on behalf of the Association all contracts and shall do and perform all acts and things which the Association may require of him. The President shall have the authority to delegate said powers to other officers or committees.

B. Vice President

In the event of the President's absence or inability to act, the Vice President shall have the powers of the President.

C. Secretary/Treasurer

The Secretary/Treasurer shall keep minutes of all proceedings of the Board of Trustees and of the meetings of the Association and shall keep such books and records as may be necessary and appropriate for the records of the Association and its Board of Trustees and shall be responsible for the fiscal affairs of the Association, but may delegate the daily handling of income and expense payments to the authorized manager employed by the Association. In the event of the President's and Vice President's absence or inability to act, the Secretary/Treasurer shall have the powers of the President and Vice President.

V. Maintenance, Repair and Replacement of Common Areas.

It shall be the responsibility of the Board of Trustees to determine questions relating to the maintenance, repair and replacement of all Common Areas. There shall be no structural alterations, capital additions to, or capital improvements of the Common Areas requiring an expenditure in excess of \$3,000.00 for any single expenditure or a total of \$5,000.00 in any fiscal year without 30 days prior notice to all Owners. Unless within the aforementioned 30 day period Owners holding the majority of the total voting power of the Association shall give notice of disapproval of such structural alterations, capital additions to, or capital improvements of the Common Areas, the Owners shall be deemed to have approved the same. Notwithstanding the foregoing, the Board of Trustees shall have authority to cause to be performed such repairs of the Common Areas as it may deem necessary to preserve the same against loss or destruction.

VI. Common Expense

A. Assessments

Assessments shall be assessed and administered as provided in Article X of the Declaration.

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B. Annual Budget

The Annual Budget shall be prepared by the Board of Trustees or their designee and presented as provided in Article X of the Declaration. In the event the Board fails to prepare the Annual budget, the most recent budget of the Association shall control and assessments shall be made based on the previous budget.

VII. Abatement and Enjoinment of Violations by Unit Owners.

The violation of any Rules or Regulations adopted by the Board of Trustees or the breach of any Bylaw contained herein, or the breach of any provision of the Declaration, shall give the Board of Trustees the right, in addition to any other rights set forth in these Bylaws or in the Declaration:

A. to enter the Unit in which or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board of Trustees shall not thereby be deemed guilty in any manner of trespass; or

B. to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

VIII. Rental, Lease or Sale of Units by Owners.

Any Owner who rents or leases or permits guests in his unit shall comply with Article V of the Declaration. The provisions of said Declaration, Bylaws, and the Rules and Regulations shall apply with equal force to renters or lessees of Units.

Any Owner who rents or leases his Unit shall be responsible for the conduct of his tenants, and upon written notice from the Board of Trustees or the Manager said Owner shall be responsible for correcting violations of the Declaration, Bylaws, or Rules and Regulations of Governors Plaza committed by such tenants.

If an Owner fails to correct violations by tenants within 72 hours of such notice, the Board of Trustees or Manager shall be deemed to be the agent of the Owner and empowered to take any enforcement action the Owner would be entitled to take, the costs of such action including attorney's fees to be payable by the

Owner within 30 days. Such costs shall be collected and enforced in the same manner as common area assessments or special assessments as determined by the Board of Trustees.

The power of the Board of Trustees or Manager hereunder shall include but not be limited to any and all legal remedies available under the laws of the State of Utah. Any Owner, by the act of renting or leasing his Unit, shall be deemed to have consented to these procedures and shall indemnify and save harmless the Board of Trustees and the Manager from and against any and all liability therefor. It is expressly understood that the remedies available to the Board of Trustees or Manager shall include but not be limited to the right to seek eviction of the tenant without any liability to the Owner. No owner shall sell less than his entire Unit.

IX. Special Committees.

The Board of Trustees by resolution may designate one or more special committees, each committee to consist of two or more Owners, which, to the extent provided in said resolution, shall have and may exercise the powers set forth in said resolution. Such Special Committee or Committees shall have such name or names as may be determined from time to time by the Board of Trustees. Such Special Committees shall keep regular minutes of their proceedings and report the same to the Board of Trustees when required. The members of such Special Committee or Committees designated shall be appointed by the Board of Trustees or its President.

X. Rules and Regulations.

The Board of Trustees shall have the right to adopt and amend such Rules and Regulations as may be authorized by the Condominium Act and Declaration for the purpose of governing the details of the operation and use of the units and Common Areas and Limited Common Areas. Copies of the Rules and Regulations shall be furnished to each Owner prior to the time the same shall become effective.

XI. Audit.

Any Owner may at any reasonable time at his own expense cause an audit or inspection to be made of the books of account of the Manager or Board of Trustees pertaining to the Property. The Board of Trustees, as a common expense, may obtain an annual audit by an independent public accountant of the books of account pertaining to the Property.

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XII. Terms.

The terms used herein shall have the same meanings as provided in the Declaration and the Condominium Act.

XIII. Books and Records.

All Owners and all Institutional Holders of a first Mortgage on a Unit shall be entitled to inspect the books and records of the Association during normal business hours.

XIV. Interpretation.

The provisions of these Bylaws shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of a condominium property. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

XV. Severability.

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

XVI. Captions.

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

XVII. Form of Organization.

The Association shall be a non-profit corporation under the laws of the State of Utah.

XVIII. Amendment.

These Bylaws may be amended upon the written approval of present Owners of Units in the Project holding at least sixty percent (60%) of the total votes of the Association. Upon approval, the Amended Bylaws shall be acknowledged by the Board of Trustees and shall be effective upon recordation. Copies of the Amended Bylaws shall be immediately furnished to Unit Owners.

XIX. Effective Date.

These Amended Bylaws shall take effect August 2
 , 1985.

D. B. Carter
 Trustee

Paul A. Sletten
 Trustee

Wm. S. Johnson
 Trustee

David S. Kurtz
 Trustee

 Trustee

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