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DECLARATION OF CONDOMINIUM
OF THE
WAREHOUSE DISTRICT CONDOMINIUMS

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April 14, 1997

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- EXHIBIT A - Units, Undivided Ownership Interests and Votes
- EXHIBIT B - Articles of Incorporation of Warehouse District Condominium Owners' Association, Inc.
- EXHIBIT C - Bylaws of Warehouse District Condominium Owners' Association, Inc.

**DECLARATION OF CONDOMINIUM
OF THE
WAREHOUSE DISTRICT CONDOMINIUMS**

This Declaration of Condominium, hereinafter referred to as the "Declaration" is made and executed this 31st day of July, 1997, by KEB REAL ESTATE, L.P., a Utah limited partnership, hereinafter referred to as the "Declarant."

RECITALS

A. Description of Land. The Declarant is the owner of the following-described parcel of land, hereinafter referred to as the "Land," which is located in the County of Salt Lake, State of Utah:

Commencing at a point 41-1/4 feet East from the Northwest corner of Lot 6, Block 61, Plat "A", Salt Lake City Survey; and running thence East 123-3/4 feet; thence South 165 feet; thence West 123-3/4 feet; thence North 165 feet to beginning.

B. Building and Improvements. The Land is improved with a four-story building (the "Building"), parking areas and other improvements as shown on the Map referred to below.

C. Record of Survey Map. The Declarant intends to execute, acknowledge and record in the Office of the County Recorder of Salt Lake County, State of Utah, a certain instrument pertaining to the Project and entitled "Record of Survey Map Warehouse District Condominiums" (the "Map").

D. Intent and Purpose. The Declarant intends by recording this Declaration and the Map to submit the Land, the Building and all other improvements situated in or upon the Land to the provisions of the Utah Condominium Ownership Act, as amended, Utah Code Annotated, Section 57-8-1, et seq. (hereinafter referred to as the "Condominium Act") as a fee simple condominium project and to impose upon said property mutually beneficial restrictions under a general plan of improvement for the benefit of all Condominiums within said Project and the Owners thereof.

NOW, THEREFORE, the Declarant does hereby make the following Declaration:

ARTICLE I

DEFINITIONS

- 1.1. Defined Terms. Unless the context clearly indicates otherwise, certain terms as used in this Declaration shall have the meanings set forth in this Article 1.
- 1.2. "Association" shall mean Warehouse District Condominium Owners' Association, Inc., a Utah nonprofit corporation, organized to be the Association of owners referred to herein.
- 1.3. "Board of Trustees" or "Board" shall mean the governing board of the Association which constitutes the management committee under the Condominium Act and which shall be appointed or elected in accordance with the Declaration and in accordance with the Articles of Incorporation and Bylaws of the Association, attached hereto as Exhibit "B" and Exhibit "C" respectively, and incorporated herein by this reference.
- 1.4. "Building" shall mean the building on the Land, containing Residential and Commercial Units, as shown on the Map.
- 1.5. "Commercial Unit" shall mean a Unit within the Project which has been designated in Exhibit "A" hereto and on the Map as a Commercial Unit.
- 1.6. "Commercial Owner" shall mean any person or entity, including Declarant, at any time owning a Commercial Unit. The term "Commercial Owner" shall not include any Mortgagee (unless such Mortgagee has acquired title for other than security purposes).
- 1.7. "Common Areas" shall mean all physical portions of the Project except the Units.
- 1.8. "Common Expense Fund" shall mean the fund created or to be created pursuant to the provisions of Article X of this Declaration and into which all monies of the Association shall be deposited.
- 1.9. "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 the Owners and all other property (real, personal or mixed) 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.

- 1.10 "Condominium" shall mean a Unit and the undivided interest (expressed as a fraction of the entire ownership interest) in the Common Areas appurtenant to such Unit, as set forth in Exhibit "A" attached hereto and by this reference made a part hereof.
- 1.11 "Condominium Act" shall mean the Utah Condominium Ownership Act, Utah Code Annotated (1953), as amended, Section 57-8-1, et seq.
- 1.12 "Declarant" shall mean Warehouse District, L.C., a Utah limited liability company, and its successors and assigns.
- 1.13 "FHA" shall mean the Federal Housing Administration.
- 1.14 "FHLMC" shall mean the Federal Home Loan Mortgage Corporation.
- 1.15 "First Mortgagee" shall mean a Mortgagee which has a first mortgage lien on any Condominium in the Project. "Eligible First Mortgagee" shall mean any First Mortgagee who has requested notice of those certain matters referred to in Section 15.1.
- 1.16 "FNMA" shall mean the Federal National Mortgage Association.
- 1.17 "Land" shall mean the Land upon which the Project is situated, as more particularly described in Paragraph A of the Recitals above.
- 1.18 "Lease" shall mean any agreement for the leasing or rental of any portion of the Project.
- 1.19 "Limited Common Areas" shall mean any Common Areas designated as reserved for use of a certain Unit or Units to the exclusion of the other Units in the Project.
- 1.20 "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.
- 1.21 "Map" shall mean the Record of Survey Map Warehouse District Condominiums, recorded concurrently with this Declaration, and any Supplemental Maps pertaining to the Project and recorded or to be recorded in the office of the County Recorder of Salt Lake County, State of Utah.

- 1.22 "Mortgage" shall mean any mortgage or deed of trust by which a Condominium or any part thereof is encumbered. "First Mortgage" shall mean any first priority mortgage or deed of trust by which a Condominium or any part thereof is encumbered.
- 1.23 "Mortgagee" shall mean (i) any persons or entities named as the mortgagee or beneficiary under any Mortgage by which the interest of any Owner is encumbered, (ii) any successor to the interest of such person or entity under such Mortgage, or (iii) any insurer or guarantor of such person or entity under such Mortgage.
- 1.24 "Mortgage Insurer" shall mean FHA or VA.
- 1.25 "Mortgage Servicer" shall mean a Mortgagee who services any Mortgage on any individual Condominium in the Project on behalf of FHLMC and/or FNMA.
- 1.26 "Owner" shall mean the person or persons, including the Declarant, 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 obtained title in fee simple to a Condominium pursuant to a judicial or nonjudicial action, including, without limitation, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure) or to any person or persons purchasing a Condominium under contract (until such contract is fully performed and legal title conveyed of record).
- 1.27 "Project" shall mean the Land, the Building and all improvements submitted by this Declaration and the Map to the provisions of the Condominium Act.
- 1.28 "Residential Owner" shall mean any person or entity including Declarant, at any time owning a Residential Unit. The term "Residential Owner" shall not include any Mortgagee, unless such Mortgagee has acquired title for other than security purposes.
- 1.29 "Residential Unit" shall mean a Unit in the Project which has been designated in Exhibit "A" hereto and on the Map as a Residential Unit.
- 1.30 "Total Votes of the Association" shall mean the total number of votes appertaining to all Condominiums in the Project, as shown in Exhibit "A" attached hereto.
- 1.31 "Unit" shall mean an individual air space unit, consisting of enclosed rooms occupying part of the Building and bounded by the unfinished 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 the fixtures and

improvements therein contained. Paint and other wall, ceiling and floor coverings on interior surfaces shall be deemed to be part of the Unit. Notwithstanding the fact that there 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, beams, 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, except the outlets thereof when located within the Unit. The interior surfaces of a window or door mean the points at which such surfaces are located when the window or door is closed.

1.32 "VA" shall mean the Veteran's Administration.

ARTICLE II

SUBMISSION AND DIVISION OF PROJECT

2.1 Submission to Condominium Act. The Declarant hereby submits the Land, the Building 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 condominium project to be known as the Warehouse District Condominiums. 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 the improvement of said property and the division thereof into Condominiums. Each and all of the provisions hereof shall be deemed to run with the Land and shall be a burden and a benefit on the Land and shall be binding upon the Declarant, its successors and assigns, and to any person acquiring, leasing or owning an interest in the real property and improvements comprising the Project, or any portion thereof, and to their respective personal representatives, heirs, successors and assigns.

2.2 Division into Condominiums. The Project is hereby divided into Condominiums, each such Condominium consisting of a Unit and an appurtenant undivided interest in the Common Areas, as set forth in Exhibit "A" attached hereto and incorporated herein by reference.

ARTICLE III

BUILDING AND IMPROVEMENTS

3.1 Building and Improvements. The Building and other improvements constructed on the Land are shown on the Map. The Building is constructed with five levels, consisting of four stories and a basement. The number of Units in the Building is

depicted on the Map, as are the number and location of the parking spaces situated on the Land surrounding the Building. The parking area shall be designated as Common Area, as shown on the Map.

- 3.2 Description of Units. The Map contains the Unit number, location and dimensions of each Unit in the Project and all other information necessary to identify each such Unit.
- 3.3 Description of Common Areas. The Map designates and shows the location of the Common Areas of the Project.
- 3.4 Description of Limited Common Areas. The Map shows the location of the Limited Common Areas of the Project, if any.
- 3.5 Principal Construction Materials. The Building is of post and beam construction, on limestone footings, with exterior walls of non-reinforced masonry. All interior walls are wood framed and covered with sheetrock. The floors are covered with carpet, vinyl, tile, hardwood or similar floor coverings. The Building will be supplied with electricity, gas, water, sewer service and automatic fire sprinkling.

ARTICLE IV

NATURE AND INCIDENTS OF UNIT OWNERSHIP

- 4.1 Ownership. Each Unit is and shall hereafter be a parcel of real property which may be separately held, conveyed, devised, mortgaged, encumbered, leased, rented, used, occupied, improved and otherwise affected in accordance with the provisions of this Declaration.
- 4.2 Interior of Units. Each Owner shall have the exclusive right to paint, repaint, tile, 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, construct and remove non-bearing partition walls, fixtures and other improvements within the boundaries of his Unit; provided, however, that such improvements (i) shall not impair the structural soundness or integrity of the Building; (ii) shall not interfere with facilities necessary for the support, use or enjoyment of any other part of the Project; (iii) shall be built to construction standards comparable or better than the original construction of the Project; and (iv) shall not encroach upon the Common Areas or any part thereof, unless the Board of Trustees shall consent in writing to such encroachment.

4.3 Maintenance of Units. Each Owner shall keep the interior of his Unit, including, without limitation, interior walls, windows, ceilings, floors and permanent fixtures and appurtenances thereto, in a clean and sanitary condition and in a state of good repair. In the event that any such Unit shall develop an unsanitary, unclean or unsafe condition, or fall into a state of disrepair, and in the event that the Owner of such Unit shall fail to correct such condition or state of disrepair promptly following written notice from the Board of Trustees, the Board of Trustees on behalf of 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, unsafe or unclean condition or state of disrepair; provided, however, that the Association shall in no event have the obligation to correct or eliminate any such condition or state of disrepair.

4.4 Combination or Subdivision of Units. Units may be subdivided or combined, subject to the following requirements:

4.4.1 No Unit or Units shall be subdivided and/or combined either by agreement or legal proceedings, except as provided in this Section 4.4. An Owner or Owners may propose subdividing or combining Units by submitting the proposal in writing to the Board of Trustees, the Mortgagees of the Unit(s) to be subdivided or combined and, if required by local law, to Salt Lake City. The proposal must include complete plans and specifications for accomplishing the subdivision or combination and proposed amendments of this Declaration and the Map.

4.4.2 A proposal that contemplates subdivision of a Unit will be accepted only if approved in writing by the Board of Trustees, the Mortgagees of the Unit(s) to be subdivided and by Salt Lake City, to the extent required by applicable law. The Board may approve the proposal as to form and legal sufficiency. No proposal shall be approved unless the resulting Unit(s) provide adequate facilities and means of ingress and egress to comply with applicable building, fire, zoning and condominium statutes and regulations.

4.4.3 A proposal to subdivide Units shall provide for reallocation of the percentage ownership in the Common Areas and Facilities among the resulting Units on the basis of the area of the Units, as modified, consistent with the provisions of Section 9.2.2, so that the combined percentages of ownership of the resulting Unit(s), are identical with the percentage ownerships of the subdivided Unit(s) prior to subdivision.

4.4.4 The Owner(s) of the Unit(s) to be subdivided or combined shall be responsible for all costs associated with the proposal and its implementation including but not limited to costs of amendment and recording of the

Declaration and Map to effect the proposal; review of the proposal, including reasonable attorneys' fees incurred by the Board of Trustees, and the cost of any modifications to the Project to implement the proposal.

- 4.5 Exterior Modifications. The exterior surfaces of the Building shall not be altered or modified by any Owner without the prior written approval of the Board of Trustees.
- 4.6 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.
- 4.7 Ownership and Maintenance of Common and Limited Common Areas. The undivided interest in the Common Areas appurtenant to each Unit in the Project shall be as set forth in Exhibit "A" attached hereto. The undivided interest appurtenant to each Unit as shown in said Exhibit "A" shall have a permanent character and shall not be altered except with the unanimous written consent of all Owners expressed 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 any rules and 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. The Association shall have the right and obligation to maintain and repair all Common Areas and Limited Common Areas. Each Owner shall also be responsible for keeping any deck or balcony attached to his Unit clean and free of debris.
- 4.8 Inseparability. Title to no part of a Condominium within the Project may be separated from any other part thereof, and each Unit 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 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 appurtenant membership in the Association as hereinafter set forth. Any purported conveyance, encumbrance, judicial sale or other transfer (voluntary or involuntary) of an individual interest in the Common Areas shall be void unless the Unit to which such interest is allocated is also transferred.
- 4.9 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.

- 4.10 Separate Mortgage 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 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.
- 4.11 Separate Taxation. Each Condominium within the Project, including each Unit and appurtenant undivided interest in the Common Areas, 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 accordance with the Condominium Act. 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.
- 4.12 Mechanic's Lien. 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 subcontractor shall create any right to file a notice of mechanic's lien against the Unit of any other Owner not expressly consenting to or requesting the same or against any interest in the Common Areas, except the undivided interest therein appurtenant to the Unit of the Owner for whom such labor shall have been performed or such materials shall have been furnished.
- 4.13 Description of Condominium. Every contract for the sale of a Condominium and every other instrument affecting title to a Condominium within 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 Unit, together with its appurtenant undivided interest in the Common Areas, and to incorporate all of the rights incident to ownership of a Condominium within the Project and all of the limitations on such ownership.
- 4.14 Membership in Association. The persons or entities who are Owners at the time of reference shall be members of the Association, the characteristics and nature of which are determined by the Act, the Declaration, the Bylaws, the Articles and other applicable provisions of Utah law.

ARTICLE V

EASEMENTS

- 5.1 Easements for Encroachments. In the event the construction, reconstruction, repair, shifting, settlement or other movement of any portion of the improvements causes any part of the Common Areas to encroach upon any Unit or any part of a Unit built in substantial accord with the boundaries for such Unit as depicted on the Map encroaches or shall encroach upon the Common Areas, or upon an adjoining Unit for any such reasons, an easement for such encroachment and for the maintenance of the same shall and does exist.
- 5.2 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 (emergency or otherwise) 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 when necessary in connection 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.
- 5.3 Right to Ingress, Egress and Support. Each Owner shall have the unrestricted 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 such rights shall be perpetual and shall be appurtenant to and pass with title to each Condominium.
- 5.4 Reservation of Air Space. Declarant hereby reserves unto itself, its successors and assigns, the exclusive right to develop, build upon, lease, sell and otherwise use the air space above the roof of the Building (the "Air Space"). Declarant also reserves an easement with respect to the roof of the Building for the placement of any pillars, posts, walls, footings or other devices used to support any structures which may be constructed in the Air Space. Declarant and/or any transferee of the Air Space shall have the right to construct any improvements therein for commercial, retail, residential, recreational or any other use permitted by applicable state and local law. Neither the Association nor any owner of a Condominium shall impair or restrict

development of the Air Space, but shall cooperate fully with such development and execute any such further documents or agreements deemed necessary by Declarant for the development of such space. Declarant further reserves an easement for the egress and ingress over the Common Areas for the purpose of constructing and improving the Air Space, and for access to and from the improvements constructed in the Air Space. Such easement shall also be used for ingress and egress by any other owners, lessees, guests, employees, contractors, invitees or customers of Declarant or any subsequent owner(s) of the Air Space or any improvements constructed thereon.

5.5 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.

5.6 Easement for Completion of Project. The Declarant shall have a transferable easement over and on the Common Areas for the purpose of completing the renovation 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. To the extent that damage is inflicted on any part of the Project by any person utilizing said easement, the Declarant and the person causing the damage shall be liable to the Association for the prompt repair of such damage.

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

ARTICLE VI

RESTRICTIONS ON USE

6.1 Use of Residential Units. All Residential Units are intended to be used for residential housing purposes and are restricted to such use; provided, however, such use may include rental and leasing of Units, in accordance with the ordinances and regulations of Salt Lake City.

6.2 Use of Commercial Units. The Commercial Units may be used as restaurants, cafes, retail businesses, business offices, professional offices, and for such other uses as may be allowed under applicable law; provided, however, that if the particular use of any Commercial Unit increases the rate of insurance on the Project or any part thereof over what the Association, but for such activity, would pay, the Owner of such

Commercial Unit shall be assessed for and shall pay the amount of such increase. Unless consented to in writing by the Association, in its sole and absolute discretion, the Commercial Units shall not be used for:

- 6.2.1 Storage, sales or repair of motor vehicles;
 - 6.2.2 A bowling alley, miniature golf course, video arcade (however, video games located inside a restaurant shall not be subject to this limitation);
 - 6.2.3 Sales, distribution, rental or viewing of sexually explicit materials or sexually explicit performances;
 - 6.2.4 Sales of paraphernalia related to illegal drugs;
 - 6.2.5 The storage or sale of petroleum products or other hazardous materials;
 - 6.2.6 Any business establishment creating noxious or harmful odors.
- 6.3 Employee and Customer Access. All employees, customers, clients, patrons, and licensees of Owners of Commercial Units shall be permitted to enter the Building, and shall have a non-exclusive easement across the Common Areas and Facilities situated in the main floor and basement of the Building to the extent reasonably necessary for access and use of such Commercial Units.
- 6.4 No Noxious or Offensive Activity. No noxious, destructive or offensive activity shall be carried on or placed in or upon any Unit, or in the Common Areas, or Limited Common Areas, or any part thereof, which shall interfere with the legal rights of other Owners nor shall anything be done therein which is or may become a nuisance to any other Owner or to any person at any time lawfully residing in the Project. Notwithstanding the foregoing, all Owners and other occupants of the Project acknowledge that the ground floor and basement of the Building will contain Commercial Units. The Commercial Units may be used for restaurants, bars, clubs, retail sales, or other commercial purposes that will generate noise, odors, crowds, traffic from customers, employees and suppliers, music and other disturbances that may be more offensive or annoying than typical residential uses. Except for the uses prohibited in Section 6.2, above, all Owners and other occupants of Units agree that the normal and usual activities of a restaurant, coffee shop, bar, club, store, gallery, office or any other commercial activity in the Commercial Units, and the sidewalk area in front of the Building, shall not constitute a nuisance for which the Association, Owners and other occupants of the Building shall have any remedy. The Common Areas shall be used only in a manner which is consistent with their community nature and the use restrictions applicable to the Units. Without limiting the breadth of the foregoing sentence: (i) no

automobile or other vehicle shall be parked at any location within the Project which impairs or tends to impair vehicular or pedestrian access within the Project or to and from its various parts; (ii) no radio or television antenna, receiver or similar device, or any wiring for any purpose, may be installed on the exterior of the Building without the prior written approval of the Board of Trustees; (iii) no garments, rugs, or other household items, or washlines of any kind may be hung, erected, or maintained outside of an Owner's Unit; and (iv) no Owner shall discard or permit to fall any items from the windows of his Unit.

- 6.5 No Commercial Use of Residential Units. No Residential Unit shall be used for commercial purposes; provided, however, that nothing in this Subsection shall prevent (a) Declarant, or a duly authorized agent, from using any Residential Units owned by Declarant as a sales office, model unit or a property management office as provided in Section 16.9 hereof, or (b) any Owner or his duly authorized agent from renting or assigning use rights to his Unit from time to time; provided, that such rentals or assignments of rights, in the case of Owners other than Declarant, do not result in a pattern of rental activity or assignment of use rights that the Board of Directors determines, in its reasonable judgment, constitutes a commercial use.
- 6.6 Hazardous Activities. No activities shall be conducted, or improvements constructed, in or upon any part of the Project which are or may become unsafe or hazardous to any person or property.
- 6.7 Window Coverings. The draperies, shades and other interior window coverings in Residential Units shall present a uniform appearance from the outside of the Units. All draperies, shades or other interior window coverings shall be approved, in advance of installation, by the Board of Trustees. The Board shall have the right to establish rules requiring window coverings to present a uniform appearance from the exterior of the Building.
- 6.8 Restrictions 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 Board of Trustees, except as may be necessary temporarily to caution or warn of danger. Notwithstanding the foregoing, Declarant has approved exterior signs for a restaurant to be operated from one or more of the Commercial Units. Such sign(s), and any replacements thereof which do not materially modify the size or location of the signs originally approved by Declarant, shall not require the approval of the Board.
- 6.9 Pets and Animals. No animals of any kind may be raised, bred or kept in any Unit or anywhere else in the Project, except guide dogs and other animals necessary to

meet the needs of the disabled and up to two domesticated pets (dogs, cats or birds) per Unit.

- 6.10 **Parking.** The parking area for the Project contains approximately 26 parking spaces. The parking area is part of the Common Areas of the Project. Nevertheless, the Association may assign parking spaces for the use of specific Units. Other spaces may be unreserved and available for use on a space available basis.
- 6.11 **No Alterations.** No Owner shall, without the prior written consent of the Board of Trustees in each specific instance, make or cause to be made any alteration, addition, removal or improvement in or to the Common Areas, or any part thereof, or do any act that would impair the structural soundness or integrity of the Building or other improvements, jeopardize the safety of persons or property or impair any easement or hereditament appurtenant to the Project.
- 6.12 **No Obstructions.** No Owner shall obstruct the Common Areas or any part thereof. No Owner shall store or cause to be stored in the Common Areas any property whatsoever, unless the Board of Trustees shall consent thereto in writing.
- 6.13 **No Overloading.** No Owner shall bring anything into his Unit or permit anything to be done in his Unit that will cause damage to the Building. No Owner shall overload the floor of his Unit. No Owner shall permit the use or operation in his Unit of any equipment, machinery or other apparatus that will in any manner injure, vibrate or shake the Building or portions thereof.
- 6.14 **Prohibition of Certain Dangerous Activities.** Except with the prior written consent of the Board of Trustees, nothing shall be done or kept in any Unit, in the Common Areas or in any other part of the Project that would result in cancellation of the insurance on the Project or any part thereof nor shall anything be done or kept in any Unit or other portion of the Project that would increase the rate of insurance on the Project or any part thereof over that which the Association, but for such activity, would pay. Use of one or more of the Commercial Units as a restaurant shall not be considered a violation of the foregoing provisions. Nothing shall be done or kept in any Unit 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 requirement of any governmental authority. No damage to, or waste of, the 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 loss resulting from any such damage or waste caused by such Owner or by the guests, tenants, licensees or invitees of such Owner.

- 6.15 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 and the Project, as such rules and regulations may be modified, amended and construed by the Association in the sole discretion of its Board of Trustees.
- 6.16 Construction Period 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 said provisions, covenants, conditions or restrictions upon completion of the construction.
- 6.17 Leases. Any Lease between an Owner and a lessee respecting a Condominium shall be subject in all respects to the provisions of this Declaration, the Articles and Bylaws, and any failure by a lessee to comply with the terms of such documents shall be a default under the Lease. Each Lease shall be in writing. Other than the foregoing, there is no restriction on the right of any Owner to lease his Condominium. An Owner shall be responsible and liable for any damage to the Project caused by its tenant.
- 6.18 No Subdivision of Units. Except as otherwise provided in the Declaration, no Residential Unit, or portions thereof, may be further divided or subdivided or a fractional portion thereof sold or conveyed so as to be held in divided ownership (as opposed to community property, tenancy in common, or other form of joint undivided ownership).

ARTICLE VII

THE ASSOCIATION

- 7.1 Membership. Each Owner shall be entitled and required to be a member of the Association. Membership will 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 that Condominium shall be shared by all such persons in the same proportionate interest and by the same type of tenancy in which 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 within the Project cannot be separated from the Association membership appurtenant thereto, and any devise,

encumbrance, conveyance or other disposition of a Condominium shall constitute a devise, encumbrance, conveyance or other disposition, respectively, of such Owner's membership in the Association and the rights appurtenant thereto. 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.

7.2 Board of Trustees. Until such time as the responsibility for electing the Trustees of the Association is turned over to the Owners, the Declarant shall have the exclusive right to appoint and to remove all such Trustees. Unless earlier terminated or waived by Declarant, this exclusive right shall terminate after the first to occur of the following:

7.2.1 three (3) years from the date on which the first Condominium in the Project is conveyed; or

7.2.2 the date on which Condominiums to which seventy-five percent (75%) of the undivided interest in the Common Areas appertain have been conveyed by Declarant to the purchasers thereof.

7.3 Votes. At any meeting of the Association, each Owner, either in person or by proxy, shall be entitled to vote the number of votes appurtenant to each respective Condominium, as set forth in Exhibit "A." The number of votes appurtenant to each Condominium as set forth in said Exhibit "A" shall have a permanent character and shall not be altered without the unanimous written consent of all owners expressed in a duly recorded amendment to this Declaration. The Declarant shall have full voting rights with respect to each Condominium which it owns.

7.4 Professional Management. The Association may carry out through a Manager those of its functions which are properly the subject of delegation. The Manager so engaged shall be an independent contractor and not an agent or employee of the Association, shall be responsible for managing the Project for the benefit of the Association and the Owners, and shall, to the extent permitted by law and by the terms of the agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Association itself. Any such management agreement executed on or before the termination of Declarant control of the appointment of the Board of Trustees as described in Section 7.2 hereof may be terminated by the Association without cause at any time after transfer of such control. The above term and termination provisions shall not apply to any other types of service contracts.

7.5 Amplification. The provisions of this Article 7 may be amplified by the Articles and the Bylaws; 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 initial Bylaws of the Association shall be in the form of Exhibit "C".

ARTICLE VIII

CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION AND BOARD OF TRUSTEES

- 8.1 The Common Areas. The Board of Trustees, acting on behalf of the Association and, 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 the Common Facilities) and shall keep the same in a good, clean, attractive, safe and sanitary condition, order and repair; provided, however, that unless otherwise stated herein, each Owner shall keep the Limited Common Areas (other than parking spaces) designated for use in connection with his Unit in a clean, sanitary and attractive condition. The Association shall be responsible for the maintenance and repair of the exterior of the Building, other improvements and grounds, including, without limitation, painting thereof, repair and replacement of exterior trim, roofs and fences, parking areas, landscaping, fire and landscaping sprinkling systems, walkways and driveways. The Board of Trustees shall also be responsible for maintenance, repair and replacement of Common Areas within the Building, including, without limitation, the landings, stairways, elevators, hallways, lobbies, utility lines, Common Facilities and all improvements and other items located within or used in connection with the Common Areas. The specification of duties of the Board of Trustees with respect to particular Common Areas shall not be construed to limit its duties with respect to other Common Areas. All goods and services procured by the Board of Trustees in performing its responsibilities under this section shall be paid for with funds from the Common Expense Fund.
- 8.2 Miscellaneous Goods and Services. The Board of Trustees may, in behalf of the Association, obtain and pay for the services of such personnel as the Board of Trustees 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 or entity with whom or which it contracts. The Board of Trustees may, in behalf of the Association, 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 Board of Trustees may, in behalf of the Association, 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 (and for the Units to the extent not separately metered or billed), insurance, bonds and other goods and services common to the Units.

- 8.3 Real and Personal Property. The Board of Trustees may acquire and hold on behalf of the Association real, personal and mixed property of all types for the use or benefit of all of the Owners and may dispose of such property by sale or otherwise, provided that any acquisition or disposition of any real, personal or mixed property by the Board of Trustees wherein the value of such property exceeds Five Thousand Dollars (\$5,000) must be approved by a vote of at least fifty-one percent (51%) of the Total Votes of the Association at a meeting duly called for that purpose. The acquisition of all such property, including Common Facilities, shall be paid for out of the Common Expense Fund and all proceeds from the disposition thereof shall be part of such fund. The Board of Trustees shall also have the right to lease portions of the Common Areas.
- 8.4 Rules and Regulations. The Board of Trustees 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, which rules and regulations shall be consistent with the rights and duties established by this Declaration. The Board of Trustees in behalf of 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 such judicial action, the Association shall be entitled to recover its costs, including reasonable attorneys' fees, from the offending Owner.
- 8.5 Granting Easements. The Board of Trustees may, without the vote or consent of the Owners or of any other person, grant or create, on such terms as it deems advisable, permits easements, licenses and rights-of-way over, under, across and through the Common Areas for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Project.
- 8.6 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 Board of Trustees hereunder.
- 8.7 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.
- 8.8 Power of Attorney and Amendments. Each Owner makes, constitutes and appoints the Association his true and lawful attorney, in his name, place and stead to make, execute, sign, acknowledge and file with respect to the Project such amendments to this Declaration and the Map as may be required by law or by vote taken pursuant to the provisions of this Declaration.

8.9 Option to Expand. Declarant hereby reserves, pursuant to Section 57-8-13.6 of the Act, the option to expand the Project (the "Option to Expand") upon the terms and provisions set forth in this Section without the prior consent of the Owners or the Association. The Option to Expand must be exercised within seven (7) years from the date of recording this Declaration. The terms and conditions of the option to expand shall be as follows:

8.9.1 The real property subject to the option to expand consists of the Air Space, situated on the roof of the Building, as described in Section 5.4, above. The Air Space is situated on the real property comprising the Project, in Salt Lake County, Utah, and more particularly described as follows:

Commencing at a point 41-1/4 feet East from the Northwest corner of Lot 6, Block 61, Plat "A", Salt Lake City Survey; and running thence East 123-3/4 feet; thence South 165 feet; thence West 123-3/4 feet; thence North 165 feet to beginning.

8.9.2 The option to expand may be exercised at different times as to portions of the Air Space, and in any order elected by the Declarant. No assurance is made with regard to which portions of the Air Space, if any, will be added to the Project or the order in which such portions may be developed. In the event the option to expand is exercised with respect to only a portion of the Air Space, the option to expand may subsequently be exercised with respect to any other portion of the Air Space.

8.9.3 Declarant shall not be restricted in the location of improvements on the Air Space. No more than six (6) Units that may be created in the Air Space

8.9.4 All Units added to the Project pursuant to the Option to Expand shall be Residential Units, subject to all of the use restrictions applicable to other Residential Units in the Project.

8.9.5 The Units to be built in the Air Space may, in the sole discretion of Declarant, be dissimilar to the Units. Structures other than Units may be erected in the Air Space, at the Declarant's sole discretion, including without limitation, additional Common and Limited Common Areas. No assurances are made with respect to the type or nature of any Common or Limited Common Areas which may be added in the Air Space.

8.9.6 The ownership interest in the Common Areas for all Units in the Project shall be changed at the time Declarant records an Amendment and Supplemental Map reflecting Declarant's exercise of the Option to Expand. The revised

undivided interest in the Common Areas appurtenant to each Unit shall be calculated by dividing the square footage of each Unit by the total square footage of all Units in the Project, including the Units constructed in the Air Space. Declarant shall have the right to adjust the resulting ownership interests of all Units in the Common Areas of the Project as may be necessary to assure that the total ownership interest equals 100% (or one) as required by the Act. Said changes in ownership interest shall be reflected in an amended Exhibit "A" to this Declaration to be filed with the Salt Lake County Recorder as part of the Amendment. It is contemplated that there may be multiple Amendments filed by Declarant and such Amendments are hereby expressly authorized.

8.9.7 Each Owner, by execution of a contract for deed or the acceptance of a deed to a Unit in the Project, shall be deemed to have consented to all provisions of this Section 8.9, including the procedure for adjustment of Unit ownership interests pursuant to paragraph 8.9.6 hereof. After the filing for record of any amended Exhibit "A" to this Declaration and the Supplemental Map reflecting Declarant's exercise of the Option to Expand, or any part thereof, legal and equitable title to each Unit thereby created within the Air Space including its appurtenant ownership interest in the Common Areas shall be vested in and held by Declarant and none of the other Owners shall have any claim or title to or interest in such Unit or its appurtenant ownership interest in the Common Areas.

8.9.8 Declarant shall not be required to obtain the consent of any Owners, or of any other person or entity having any right or interest in all or any portion of the Project, prior to the exercise of the Option to Expand. No provision of this Section 8.9 shall be amended without the consent of the Declarant. Declarant shall have the right to assign its right to exercise the Option to Expand to any person or entity acquiring the right to construct Units in the Air Space, and in such event all references to "Declarant" in this Section 8.9 shall mean and refer to such assignee, who shall have all the rights and powers of Declarant, as described in Section 8.9.

ARTICLE IX

ASSESSMENTS

9.1 Agreement to Pay Assessments. The Declarant, for each Condominium owned by it within the Project, and each Owner of any Condominium by the acceptance of instruments of conveyance and transfer therefor, whether or not it be so expressed in said instruments, shall be deemed to covenant and agree with each other and with the Association to pay to the Association all assessments made by the Association for the

purposes provided in this Declaration. Such assessments shall be fixed, established and collected from time to time as provided in this Article 9. All Condominiums shall be allocated the then applicable assessments upon conveyance of the first Condominium. Notwithstanding anything contained herein to the contrary, until January 1 of the year immediately following the conveyance of the first Residential Condominium to an Owner, the maximum annual assessment for a Residential Condominium shall not exceed _____ Dollars (\$) for a two-bedroom Residential Condominium, _____ Dollars (\$) for a one-bedroom Residential Condominium.

9.1.1 From and after January 1 of the year immediately following the conveyance of the first Condominium to an Owner, the maximum annual assessment may be increased each year by up to fifteen percent (15%) above the maximum assessment for the previous year without a vote of the Owners.

9.1.2 From and after January 1 of the year immediately following the conveyance of the first Condominium to an Owner, the maximum annual assessment may be increased above fifteen percent (15%) if approved by a vote of sixty-seven percent (67%) of the votes of Owners who are voting in person or by proxy, at a meeting duly called for this purpose.

9.1.3 The Board may fix the annual assessment at an amount not in excess of the maximum.

9.2 Annual Assessments. Annual assessments shall be computed and assessed against all Condominiums in the Project as follows:

9.2.1 Common Expense. Annual assessments shall be based upon advance estimates of the Association's cash requirements to provide for payment of all estimated expenses arising out of or connected with the maintenance and operation of the Common Areas and furnishing common utility services and other common items to the Condominiums. Such estimated expenses may include, without limitation, the following: expenses of management; real property taxes and special assessments (until the Condominiums are separately assessed); premiums for all insurance that the Association is required or permitted to maintain hereunder; repairs and maintenance; wages of Association employees, including fees for a Manager; utility charges, including charges for utility services to the Condominiums to the extent not separately metered or billed; legal and accounting fees; any deficit remaining from a previous period; creation of an adequate contingency reserve, major maintenance reserve and/or sinking fund; creation of an adequate reserve fund for maintenance repairs, and replacement of those Common Areas that must be replaced on a periodic basis; and any other expenses and liabilities which may be incurred by the Association

for the benefit of the Owners under or by reason of this Declaration. Such items shall constitute the Common Expenses of the Association, and all funds received from assessments under this Section 9.2.1 shall be part of the Common Expense Fund. Two separate and distinct funds shall be created and maintained hereunder, one for operating expenses and one for capital expenses, which together shall constitute the Common Expense Fund.

9.2.2 Apportionment. Common Expenses shall be apportioned among and assessed to all Condominiums and their Owners in proportion to the percentage of interest in the Common Areas appurtenant to each Condominium, as set forth in Exhibit "A". The percentage of interest in the Common Areas appurtenant to each Condominium shall be equal to the percentage which the square foot area of such Condominium bears to the square foot area of all Condominiums in the Project. The Declarant shall be liable for the amount of any assessments against Condominiums owned by it.

9.2.3 Annual Budget. Annual assessments shall be determined on the basis of a fiscal year beginning January 1 and ending December 31 next following, provided the first fiscal year shall begin on the date of this Declaration. On or before December 1 of each year thereafter, the Board of Trustees shall prepare and furnish to each Owner, or cause to be prepared and furnished to each Owner, an operating budget for the upcoming fiscal year. The budget shall itemize the estimated Common Expenses for such fiscal year, anticipated receipts (if any) and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the annual assessment for the upcoming fiscal year and as the major guideline under which the Project shall be operated during such annual period.

9.2.4 Notice and Payment. Except with respect to the first fiscal year, the Board of Trustees shall notify each Owner in writing as to the amount of the annual assessment against his or her Condominium on or before December 1 each year for the fiscal year beginning on January 1 next following. Except as otherwise provided by the Board, each annual assessment shall be payable in twelve equal monthly installments, one such installment due on the first day of each calendar month during the fiscal year to which the assessment relates; provided, however, the annual assessment for the first fiscal year shall be based upon such portion of the first fiscal year. The Association shall have the right to charge a late fee equal to five percent (5%) of any assessment not paid within fifteen (15) days of the due date thereof. In addition, all delinquent installments of any annual assessment shall bear interest at the rate established from time to time by the Board, not to exceed eighteen percent (18%) per annum, from fifteen (15) days after the date each such installment became due until paid. In the event that any installment of the annual assessment is not paid within fifteen

(15) days of the date such installment becomes due, the Association may, at its option, and upon fifteen (15) days prior written notice to the Owner, accelerate the due date for all remaining unpaid installments of the annual assessment for the remainder of the fiscal year and all accrued but unpaid interest thereon. Payment of the annual assessment installments so accelerated shall be due at the expiration of said fifteen (15) day notice period and interest shall accrue on the entire sum at the rate established by the Board, not to exceed eighteen percent (18%) per annum, from such date until paid in full. The failure of the Board of Trustees to give timely notice of any annual assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay such assessment or any other assessment; but the date when the payment shall become due in such case shall be deferred to a date fifteen (15) days after notice of such assessment shall have first been given to the Owner in the manner provided in this Declaration.

9.2.5 Inadequate Funds. In the event that the Common Expense Fund proves inadequate at any time for whatever reason, including nonpayment of any Owner's assessment, the Board of Trustees may, on behalf of the Association, levy additional assessments in accordance with the procedure set forth in Section 9.3 below, except that the vote therein specified shall be unnecessary.

9.3 Special Assessments. In addition to the annual assessments authorized by this Article IX, the Board of Trustees may, on behalf of the Association, levy, at any time and from time to time, upon the affirmative vote of at least fifty-one percent (51%) of the voting power of the Condominiums and their Owners who are voting in person or by proxy at a meeting called for such purpose, special assessments, payable over such periods as the Board of Trustees may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration (including, without limitation, Common Expenses). This Section shall not be construed as an independent source of authority for the Association to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections or Articles hereof. Any amounts assessed pursuant hereto shall be assessed to Owners in accordance with their percentage interest in the Common Areas. Notice in writing of the amount of each such special assessment and the time for payment thereof shall be given promptly to the Owners; no payment shall be due less than fifteen (15) days after such notice shall have been given. All unpaid portions of any special assessment shall bear interest at the rate established by the Board not to exceed eighteen percent (18%) per annum from the date such portions become due until paid. All funds received from assessments under this Section shall be part of the Common Expense Fund. In connection with any such special assessment, Owners qualifying for paying only twenty-five percent (25%) of the

annual assessment, attributable to their ownership pursuant to Section 9.4 below shall also be required to pay only twenty-five percent (25%) of the special assessment otherwise attributable to each such ownership. The provisions of this Section are not intended to preclude or limit the assessment, collection or use of annual assessments for the aforesaid purposes.

9.4 Uniform Rate of Assessment. The amount of any annual or special assessment against each Condominium shall be fixed at a uniform rate, except that an Owner shall pay only twenty-five percent (25%) of the annual assessment attributable to his ownership until substantial completion of construction and occupancy of such Condominium. If the Owner of a Condominium ceases to qualify for the reduced twenty-five (25%) rate during the period to which an annual assessment is attributable, the assessment attributable to the ownership shall be prorated between the applicable rates on the basis of the number of days in the period that the Owner qualified for each rate. Annual assessments may be collected on a monthly basis and special assessments may be collected as specified by the Board unless otherwise determined by the resolution of the Owners of the Association approving the special assessment. So long as the Declarant qualifies for the reduced assessment rate with respect to the Condominiums which it owns, if the assessments for any fiscal year of the Association shall fail to equal or exceed the actual expenses incurred by the Association during any such fiscal year because of the Declarant's right to pay reduced assessments, then the Declarant shall pay to the Association a sufficient amount, up to the amount for that fiscal year of the full assessment for each Condominium owned by Declarant, to meet any such deficit, so long as a written notice of such deficit is given by the Association to the Declarant within sixty (60) days following the termination of the fiscal year for which the assessment is made.

9.5 Notice and Quorum for Association Action. Written notice of any meeting called for the purpose of taking any action authorized under Sections 9.1 or 9.3 shall be sent to all Owners no less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast sixty percent (60%) of all the votes (exclusive of suspended voting rights) shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

9.6 Lien for Assessments. All sums assessed to Owners of any Condominium within the Project pursuant to the provisions of this Article 9, together with penalties and interest thereon as provided herein, shall be secured by a lien on such Condominium in favor of the Association. To evidence a lien for sums assessed pursuant to this Article 9, the Board of Trustees may prepare a written notice of lien

setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Condominium and a description of the Condominium. Such a notice shall be signed and acknowledged by a duly authorized officer of the Association and may be recorded in the office of the County Recorder of Salt Lake County, State of Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by sale or foreclosure conducted in accordance with the provisions of law applicable to the exercise of powers of sale or judicial foreclosure of deeds of trust or mortgages or in any other manner permitted by law. In order to facilitate the foreclosure of any such lien in the manner provided at law for the foreclosure of deeds of trust, Declarant hereby designates First American Title Company of Utah, as trustee and grants and conveys the Project, IN TRUST, to First American Title Company of Utah, as trustee, with full power of sale, to foreclose any such liens as directed by the Board of Trustees. The Board of Trustees may, at any time, designate one or more successor trustees, in the place of First American Title Company of Utah, or any successor trustee, in accordance with provisions of Utah law for the substitution of trustees under deeds of trust. Such trustee, and any successors, shall not have any other right, title or interest in the Project beyond those rights and interests necessary and appropriate to foreclose any liens against Condominiums arising pursuant to this Section 9.6. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees), and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessments against the Condominium which shall become due during the period of foreclosure, and all such assessments shall be secured by the lien being foreclosed. The Board of Trustees shall have the right and power in behalf of the Association to bid in at any foreclosure sale and to hold, lease, mortgage or convey the subject Condominium in the name of the Association.

9.7 Personal Obligation of Owner. The amount of any annual or special assessment against any Condominium shall be the personal obligation of the Owner of such Condominium to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his Condominium or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment of unpaid assessments hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorneys' and trustee's fees.

9.8 Personal Liability of Purchaser. The personal obligation of an Owner to pay unpaid assessments against his Condominium as described in Section 9.7 shall not pass to successors in title unless assumed by them. Nevertheless, a lien to secure unpaid

assessments shall not be affected by the sale or transfer of the Condominium unless foreclosure by a First Mortgagee is involved, in which case the foreclosure will extinguish the lien for any assessments that were payable before the foreclosure sale, but shall not relieve any subsequent Owner from paying further assessments.

9.9 Reserves and Working Capital. The Association shall establish the following funds:

9.9.1 Reserve Fund. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Areas and Limited Common Areas the Association is obligated to maintain, repair or replace. The reserve fund shall be maintained out of regular assessments for Common Expenses.

9.9.2 Working Capital Fund. The Declarant shall establish and maintain for the Project, a working capital fund equal to at least two monthly installments of the annual assessment for each Condominium. Each Condominium's share of the working capital fund must be collected and transferred to the Association at the time of the closing of sale of that Condominium. Notwithstanding the foregoing, the contribution to the working capital fund for each unsold Condominium shall be paid by the Declarant to the Association within sixty (60) days after the date of the conveyance of the first Condominium in the Project, or any phase thereof. With respect to each Condominium for which the Declarant pays the contribution to the working capital fund, Declarant shall be reimbursed for such contribution either by the purchaser of such Condominium at the time of the closing of the sale to such purchaser or by the Association upon termination of the Declarant control of the Association as described in Section 7.2 hereof, whichever is earlier. The working capital fund must be maintained in a segregated account for the use and benefit of the Association. The purpose of the working capital fund is to ensure that the Association will have cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary or desirable by the Association. Amounts paid into the working capital fund are not to be considered advance payments of any regular assessment. The working capital fund shall be transferred to the Association for deposit to a segregated fund when control of the Association is transferred to the Owners. The Declarant shall not use the working capital fund to defray any of its expenses, reserve contributions, or construction costs or to make up any budget deficits while it is in control of the Association.

9.10 Evidence of Payment of Annual and Special Assessments. Upon receipt of a written request by an Owner or any other person, the Association within a reasonable period of time thereafter shall issue to such Owner or other person a written certificate

stating (a) that all annual and special assessments (including interest, costs and attorneys' fees, if any) have been paid with respect to any specified Condominium as of the date of such certificate, or (b) if all annual and special assessments have not been paid, the amount of such annual and special assessments (including interest, costs and attorneys' fees, if any) due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificates, which charges must be paid at the time the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matter therein stated as against any bona fide purchaser of, or Mortgagee on, the Condominium in question.

- 9.11 Amendment of Article. This Article 9 shall not be amended unless Owners entitled to vote at least seventy-five percent (75%) of the votes of all Condominiums consent and agree to such amendment and the Association reflects such consent and agreement in an instrument executed and recorded in accordance with the terms of this Declaration.

ARTICLE X

INSURANCE

The Association shall at all times maintain in force insurance meeting the following requirements:

- 10.1 Hazard Insurance. A "master" or "blanket" type policy of property insurance shall be maintained covering the entire Project, including: Common Areas, Limited Common Areas, the Building including all Units (other than the interior contents thereof), fixtures, building service equipment, personal property and supplies comprising a part of the Common Areas or owned by the Association and any such property that is within the Units which are encumbered by a Mortgage held by an Eligible Mortgagee, regardless of whether such property is part of the Common Facilities, and which are of a class typically encumbered by Mortgages held by FNMA or other similar institutional mortgage investors; but excluding land, foundations, excavations, and other items normally not covered by such policies. References herein to a "master" or "blanket" type policy of property insurance are intended to denote single entity condominium insurance coverage. As a minimum, such "master" or "blanket" policy shall afford protection against loss or damage by fire, by other perils normally covered by the standard extended coverage endorsement, and by all other perils which are customarily covered with respect to projects similar to the Project in construction, location, and use, including (without limitation) all perils normally covered by the standard "all risk" endorsement, where such endorsement is available. Such "master" or "blanket" policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all elements of the Project covered by

such policy, exclusive of land, foundations, excavation, and other items normally excluded from coverage. The insurance policy shall include either of the following endorsements to assure full insurable value replacement cost coverage: (1) a Guaranteed Replacement Cost Endorsement (under which the insurer agrees to replace the insurable property regardless of the cost) and, if the policy includes a co-insurance clause, an Agreed Amount Endorsement (which waives the requirement for co-insurance); or (2) a Replacement Cost Endorsement (under which the insurer agrees to pay up to one-hundred percent of the property's insurable replacement cost but no more) and, if the policy includes a co-insurance clause, an Agreed Amount Endorsement (which waives the requirement for co-insurance). The maximum deductible amount for such policy shall be the lesser of Ten Thousand Dollars (\$10,000) or one percent (1%) of the policy face amount. All premiums shall be paid as a Common Expense.

10.2 Flood Insurance. If any part of the Project is or comes to be situated in a Special Flood Hazard Area as designated on a Flood Insurance Rate Map, a "master" or "blanket" policy of flood insurance shall be maintained covering the Building, any machinery, equipment and other common property that are not part of the Building and all Common Areas within the Project (hereinafter "Insurable Property") in an amount deemed appropriate, but not less than the lesser of: (1) the maximum limit of coverage available under the National Flood Insurance Administration Program for all the Insurable Property within any portion of the Project located within a designated flood hazard area; or (2) one hundred percent (100%) of the insurable value of all such facilities. Provided, however, the building coverage shall equal one hundred percent (100%) of the insurable value of the Building, including machinery and equipment that are part of the Building. The contents coverage must include 100% of the insurable value of all contents, including any machinery and equipment that are not part of the Building, but which are owned in common by the Association members. The maximum deductible amount for any such policy shall be the lesser of Five Thousand Dollars (\$5,000.00) or one percent (1%) of the policy face amount.

10.2.1 The name of the insured under each policy required to be maintained by the foregoing Sections 10.1 and 10.2 shall be the Association for the use and benefit of the individual Owners. (Said Owners shall be designated by name, if required.) Notwithstanding the requirement of the two immediately foregoing sentences, each such policy may be issued in the name of an authorized representative of the Association, including any Insurance Trustee with whom the Association has entered into an Insurance Trust Agreement, or any successor to such Trustee, for the use and benefit of the individual Owners. Loss payable shall be in favor of the Association (or Insurance Trustee), as a trustee for each Owner and each such Owner's Mortgagee. Each Owner and each such Owner's Mortgagee, if any, shall be beneficiaries of such policy. Evidence of insurance shall be issued to each Owner and Mortgagee upon request.

10.2.2 Each policy required to be maintained by the foregoing Sections 10.1 and 10.2 shall contain the standard mortgage clause, or equivalent endorsement (without contribution), commonly accepted by private institutional mortgage investors in the area in which the Project is located. If FNMA is a holder of one or more Mortgages on Condominiums within the Project, such mortgage clause shall name FNMA or FNMA's servicer of such Mortgages as Mortgagee. If FNMA's servicer is named as mortgagee in such mortgage clause, such servicer's name shall be followed therein by the phrase "its successors and assigns". In addition, such mortgage clause or another appropriate provision of each such policy shall provide that the policy may not be canceled or substantially modified without at least ten (10) days' prior written notice to the Association and to each Mortgagee which is listed as a scheduled holder of a Mortgage in the policy.

10.2.3 Each policy required to be maintained by the foregoing Sections 10.1 and 10.2 shall provide, if available, for the following: recognition of any insurance trust agreement; a waiver of the right of subrogation against Owners individually; the insurance is not prejudiced by any act or neglect of individual Owners which is not in the control of such Owners collectively; and the policy is primary in the event the Owner has other insurance covering the same loss.

10.2.4 Each policy required to be maintained by the foregoing Section 10.1 shall also contain or provide the following: (1) "Inflation Guard Endorsement", if available; (2) "Building Ordinance or Law Endorsement", if the enforcement of any building, zoning, or land use law will result in loss or damage, increased cost of repairs or reconstruction, or additional demolition and removal costs (such endorsement must provide for contingent liability from the operation of building laws, demolition costs, and increased costs of reconstruction); and (3) "Steam Boiler and Machinery Coverage Endorsement", if the Project has central heating or cooling, which shall provide that the insurer's minimum liability per accident at least equals the lesser of Two Million Dollars (\$2,000,000.00) or the insurable value of the Building containing the boiler or machinery. In lieu of obtaining this as an endorsement to the commercial package property, the Association may purchase separate stand-alone boiler and machinery coverage.

10.3 Fidelity Bonds. So long as the Project contains more than twenty (20) Units, the Association shall at all times maintain in force and pay the premiums for "blanket" fidelity bonds for all officers, members and employees of the Association, and for all other persons handling or responsible for funds of or administered by the Association, whether or not that individual receives compensation for services. Furthermore, where the Association has delegated some or all of the responsibility for the handling of funds to a Manager, the Manager shall provide "blanket" fidelity bonds, with coverage

identical to such bonds required of the Association, for the Manager's officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. The total amount of fidelity bond coverage required shall be based upon the Association's best business judgment and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association, or the Manager, as the case may be, at any given time during the term of each bond. A lesser amount of fidelity insurance coverage is acceptable for the Project so long as the Association and the Manager adhere to the following financial controls: (1) the Association or the Manager maintains separate bank accounts for the working account and the reserve account, each with appropriate access controls, and the bank in which funds are deposited sends copies of the monthly bank statements directly to the Association; (2) the Manager maintains separate records and bank accounts for each Association that uses its services and the Manager does not have authority to draw checks on or to transfer funds from the Association's reserve account; or (3) two members of the Board must sign any checks written on the reserve account. Nevertheless, in no event may the amount of such bonds be less than the sum equal to three months' aggregate assessments on all Condominiums. The bonds required shall meet the following additional requirements: (1) the fidelity bonds shall name the Association as obligee; (2) the bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions; (3) the premiums on all bonds required herein for the Association (except for premiums on fidelity bonds maintained by the Manager for its officers, employees and agents) shall be paid by the Association as part of the Common Expenses; and (4) the bonds shall provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days' prior written notice to the Association, to any Insurance Trustee, and to each servicer of loans on behalf of FNMA.

- 10.4 Liability Insurance. The Association shall maintain in force, and pay the premium for a policy providing comprehensive general liability insurance coverage covering all of the Common Areas, public ways in the Project, if any, all other areas of the Project that are under the Association's supervision, and commercial spaces owned by the Association, if any, whether or not such spaces are leased to some third party. The coverage limits under such policy shall be in amounts generally required by private institutional Mortgage investors for projects similar to the Project in construction, location, and use. Nevertheless, such coverage shall be for at least One Million Dollars (\$1,000,000) for bodily injury, including deaths of persons, and property damage arising out of a single occurrence. Coverage under such policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance, or use of the Common Areas and legal liability arising out of lawsuits related to employment contracts of the Association. Additional coverages under such policy shall include protection against such other risks as are customarily covered with respect to projects

similar to the Project in construction, location, and use, including but not limited to (where economically feasible and if available), host liquor liability, contractual and all-written contract insurance, employers liability insurance, and comprehensive automobile liability insurance. If such policy does not include "severability of interest" in its terms, the policy shall include a special endorsement to preclude an insurer's denial of any Owner's claim because of negligent acts of the Association or any other Owner. Such policy shall provide that it may not be canceled or substantially modified, by any party, without at least ten (10) days' prior written notice to the Association and to each First Mortgagee on an individual Unit in the Project.

10.5

Insurance Trustees and General Requirements Concerning Insurance.

Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement or any successor to such trustee (each of whom shall be referred to herein as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance. Each Owner hereby appoints the Association, or any Insurance Trustee or substitute Insurance Trustee designated by the Association, as his or her attorney-in-fact for the purpose of purchasing and maintaining such insurance, including, without limitation: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Association, or any Insurance Trustee, shall receive, hold, or otherwise properly dispose of any proceeds of insurance in trust for the use and benefit of the Owners and their Mortgagees, as their interests may appear.

Each insurance policy maintained pursuant to the foregoing Sections 10.1-10.4 shall be written by an insurance carrier which is licensed to transact business in the State of Utah and which has a B general policyholder's rating or a financial performance index of 6 or better in the Best's Key Rating Guide or an A or better rating from Demotech, Inc., or which is written by Lloyd's of London. No such policy shall be maintained where: (1) under the terms of the carrier's charter, bylaws, or policy, contributions may be required from, or assessments may be made against, an Owner, a Mortgagee, the Board, the Association, FNMA, or the designee of FNMA; (2) by the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members; or (3) the policy includes any limiting clauses (other than insurance conditions) which could prevent the party entitled (including, without limitation, the Board, the Association, an Owner, or FNMA) from collecting insurance proceeds. The provisions of this Section 10.5 and of the foregoing Sections 10.1-10.4 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 hereunder, in such amounts and in such forms as the Association may deem appropriate from time to time.

10.6

Annual Review of Policies. All insurance policies shall be reviewed at least annually by the Board in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the Project which may have been damaged or destroyed. In addition, such policies shall be reviewed to determine their compliance with the provisions of this Declaration.

10.7

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. Notwithstanding any other provisions contained herein to the contrary, the Association shall maintain in effect such casualty, flood and liability insurance and fidelity bonds meeting the insurance and fidelity bond requirements for condominium development projects insured by FHA, VA, FNMA and FHLMC, so long as any of them is a Mortgagee, Mortgage Insurer, Mortgage Servicer or Owner of a Condominium within the Project, except to the extent such coverage is not available or has been waived in writing by FHA, VA, FNMA or FHLMC.

10.8

Owner's Own Insurance. Each Owner, at his own expense, may procure and maintain at all times fire and extended coverage insurance covering personal property of such Owner and additional fixtures and improvements added by such Owner against loss by fire and other casualties, including, without limitation, vandalism and malicious mischief. All policies providing such casualty insurance shall provide that they do not diminish the insurance carrier's coverage for liability arising under insurance policies obtained by the Association pursuant to this article. Notwithstanding the provisions hereof, such Owner may obtain insurance at his own expense providing such other coverage upon his Condominium, his personal property, for his personal liability and covering such other risks as he may deem appropriate, provided 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 article. If obtainable under industry practice without an unreasonable additional charge for such waiver, all such insurance shall contain a waiver of the insurance company's right of subrogation against the Association, the Declarant, the Manager, other Owners and their respective servants, agents and guests.

ARTICLE XI

DAMAGE OR DESTRUCTION

11.1 Association as Attorney-in-Fact. All of the Owners irrevocably constitute and appoint the Association 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. All insurance proceeds shall be payable to the Association except as otherwise provided in this Declaration.

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

11.3 Procedures. In the event all or any part of the Project is damaged or destroyed, and subject to the provisions of Article 13, below, the Association shall proceed as follows:

11.3.1 Notice to First Mortgagees. The Association shall give timely written notice to any holder of any First Mortgage on a Unit in the event of substantial damage to or destruction of any Unit or any part of the Common Areas.

11.3.2 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 the part of the Project damaged or destroyed.

11.3.3 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, such repair and reconstruction shall be carried out.

11.3.4 Insufficient Insurance--Less than Seventy-Five Percent (75%) 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 less than seventy-five percent (75%) of the Project is

damaged or destroyed, 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 9.3 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.

11.3.5 Insufficient Insurance--Seventy-Five Percent (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 Project is damaged or destroyed, such damage or destruction shall be repaired and reconstructed, 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 do 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, but rather elect to terminate the Project and if Eligible Mortgagees who represent at least fifty-one percent (51%) of the votes on Condominiums subject to Mortgages held by Eligible Mortgagees approve such termination, 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 the undivided interest previously owned by such Owner in the Common Areas;
- (iii) Any liens affecting any of the Condominiums shall be deemed to be transferred, in accordance with the existing priorities, to the undivided interest of the respective Owner in the Project; and
- (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 the net proceeds of the insurance of the Project, if any, shall be considered as one fund and shall be divided among all Owners in a

percentage equal to the percentage of undivided interest owned by each respective Owner in the Common Areas, as set forth in Exhibit "A" hereto, after first paying out of the respective share of each Owner, to the extent sufficient for the purposes, all liens on the undivided interest in the Project owned by such Owner.

11.3.6 In no event shall an Owner of a Unit or any other party have priority over the holder of any First Mortgage on such Unit with respect to the distribution to such Unit of any insurance proceeds.

11.4 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 may take all necessary or appropriate action to effect repair and reconstruction, as attorney in fact for the Owners, 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 and the Common Areas having the same vertical and horizontal boundaries as before. Any restoration or repair of the Project, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the Declaration and the original architectural plans and specifications.

11.5 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 Section 11.3.4 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 costs of repair and reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners in proportion to their respective percentages of ownership of the Common Areas.

11.6 Amendment of Article. This Article 11 shall not be amended unless the Owners of Units to which seventy-five percent (75%) of the undivided interest in the Common Areas appertain consent and agree to such amendment in an instrument duly executed and recorded in accordance with the provisions of this Declaration.

ARTICLE XII

CONDEMNATION

12.1 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. If any Unit or portion thereof or the Common Areas or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the Board of Trustees shall give prompt written notice of any such proceeding or proposed acquisition to each Owner in the Project and to any First Mortgagee. The Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Common Areas, or any part thereof, and each Owner hereby appoints the Association as such Owner's attorney-in-fact for the purposes of such representation.

12.2 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 Board of Trustees, on behalf of the Association as herein provided.

12.3 Complete Taking. In the event the entire Project is taken by power of eminent domain, condominium ownership pursuant thereto shall terminate and the condemnation award shall be allocated among and distributed to the Owners in proportion to their respective undivided interests in the Common Areas. Provided, however, in the event that the Board of Trustees determines that there are differences in the fair market values of the Condominiums immediately prior to the condemnation which are not reasonably reflected in the percentage of undivided interest in the Common Areas appurtenant to each Condominium, the Owners shall divide the condemnation award based upon the relative values of the Condominiums immediately prior to the condemnation, as determined by an M.A.I. appraisal of the Project accepted for such purpose by the Board. Such distribution shall be made by check payable jointly to the respective owners and their respective Mortgagees, as appropriate.

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

12.4.1 Allocation of Award. As soon as practicable, the Board of Trustees shall, on behalf of the Association, reasonably and in good faith, apportion the

condemnation award between compensation, severance damages or other proceeds and shall allocate such apportioned amounts and pay the same to the Owners as follows:

(i) The total 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 total 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 total 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) 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 check payable jointly to individual Owners and their respective Mortgagees, as their interests may appear; and

(vii) No provision of this Article XII or any other provisions in this Declaration, the Articles or the Bylaws shall entitle the Owner of a Unit or other party to priority over any First Mortgagee holding such Unit with respect to the distribution to such Unit of the proceeds of any award, settlement or proceeds from any eminent domain or condemnation proceeding.

12.4.2 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 appertaining to such

Unit shall be reallocated to, and shall appertain to, the remaining Units in proportion to their respective undivided interest in the Common Areas;

(ii) If any partial taking results in the taking of a portion of a Unit and if no determination is made by the Board of Trustees, after duly considering any recommendations, proposals or other input from the Owners, that such taking does not make it impractical to use the remaining portion of such Unit for any lawful purpose permitted by this Declaration, then, unless the interests of the Units in the Common Areas are equal, all voting rights and the undivided interest in the Common Areas appertaining to such Unit shall be reduced in proportion to the reduction in square footage of floor area 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 made by the Board of Trustees, after duly considering any recommendations, proposals, or other input from the Owners, 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 appertaining 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 thenceforth be part of the Common Areas;

(iv) The Board of Trustees, after duly considering any recommendations, proposals or other input from the Owners, 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 12.4.2; provided, however, that if any such determination shall have been or such action taken by judicial decree, the Board of Trustees shall defer thereto and proceed in accordance therewith.

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

ARTICLE XIII

TERMINATION AND SALE

- 13.1 **Required Vote.** Except as otherwise provided in Article 11 and Article 12, the Project may be terminated only by agreement of Owners entitled to vote at least seventy-five percent (75%) of the votes of all Condominiums at a meeting of Owners duly called for such purpose.
- 13.2 **Termination Agreement.** An agreement to terminate shall be evidenced by the execution or ratification of a termination agreement, in the same manner as a deed, by the requisite number of Owners. Such an agreement to terminate shall also be approved by Eligible Mortgagees who represent at least sixty-seven percent (67%) of the votes of Condominiums subject to First Mortgages held by Eligible Mortgagees. Such approval (and any other approval related to an amendment to this Declaration) shall be deemed given when an Eligible Mortgagee fails to submit a response within thirty days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested. The termination agreement shall specify a date after which the agreement will be void unless it is recorded before that date. A termination agreement, including all ratifications of such termination agreement, shall be recorded in Salt Lake County, Utah and is effective only on recordation.
- 13.3 **Sale of Project.** A termination agreement may provide that all the Project shall be sold following termination. If, pursuant to the agreement, any real estate in the Project is to be sold following termination, the termination agreement shall set forth the minimum terms of the sale.
- 13.4 **Association Duties.** The Association, on behalf of the Owners, may contract for the sale of real estate in the Project, but the contract is not binding on the Owners until approved pursuant to Sections 13.1 and 13.2. If any real estate in the Project is to be sold following termination, title to that real estate on termination vests in the Association as trustee for all Owners. Thereafter, the Association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds of the sale distributed, the Association continues in existence with all powers it had before termination. Proceeds of the sale shall be distributed to Owners and Mortgagees as their interests may appear, based on the relative value of each Condominium. Unless otherwise specified in the termination agreement, as long as the Association holds title to the real estate, each Owner and their successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted their Condominium in accordance with the terms of this Declaration. During the period of that occupancy right, each Owner and their successors in interest

remain liable for all assessments and other obligations imposed on Owners by this Declaration.

- 13.5 Proceeds of Sale. Following termination of the Project, the proceeds of any sale of real estate, together with the assets of the Association, shall be held by the Association as trustee for Owners and divided among all Owners in a percentage equal to the percentage of undivided interest owned by each respective Owner in the Common Areas, as set forth in Exhibit "A" hereto, subject to the rights of Mortgagees with respect to such proceeds. Following termination, Mortgagees holding Mortgages on the Condominiums which were recorded before termination may enforce those liens in the same manner as any lienholder.

ARTICLE XIV

MORTGAGEE PROTECTION

- 14.1 Notice of Action. Upon written request made to the Association by a First Mortgagee, or an insurer or governmental guarantor of a First Mortgage, which written request shall identify the name and address of such First Mortgagee, insurer or governmental guarantor and the number and address of the Condominium, any such First Mortgagee, insurer or governmental guarantor shall be entitled to timely written notice of:
- 14.1.1 Any condemnation loss or any casualty loss which affects a material portion of the Project or any Condominium on which there is a First Mortgage held, insured or guaranteed by such First Mortgagee, insurer or governmental guarantor;
 - 14.1.2 Any delinquency in the payment of assessments or charges owed by an Owner, whose Condominium is subject to a First Mortgage held, insured or guaranteed by such First Mortgagee, insurer or governmental guarantor, which default remains uncured for a period of sixty (60) days;
 - 14.1.3 Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and
 - 14.1.4 Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in Section 14.2 below or elsewhere herein.
- 14.2 Matters Requiring Prior Eligible Mortgagee Approval. Except as provided elsewhere in this Declaration, the prior written consent of Owners entitled to vote at least sixty-seven percent (67%) of the votes of the Condominiums in the Association

(unless pursuant to a specific provision of this Declaration the consent of Owners entitled to vote a greater percentage of the votes in the Association is required, in which case such specific provisions shall control), and Eligible Mortgagees holding First Mortgages on Condominiums having at least fifty-one percent (51%) of the votes of the Condominiums subject to First Mortgages held by Eligible Mortgagees shall be required to:

14.2.1 Abandon or terminate the legal status of the Project after substantial destruction or condemnation occurs.

14.2.2 Add or amend any material provision of the Declaration, Articles, Bylaws or Map, which establishes, provides for, governs or regulates any of the following (an addition or amendment to such documents shall not be considered material if it is for the purpose of correcting technical errors or for clarification only):

- a. voting rights;
- b. increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or the priority of assessment liens;
- c. reductions in reserves for maintenance, repair, and replacement of Common Areas;
- d. responsibility for maintenance and repairs;
- e. reallocation of interests in the Common Areas, or rights to their use;
- f. redefinition of any Condominium boundaries;
- g. convertibility of Units into Common Areas or vice versa;
- h. expansion or contraction of the Project, or the addition, annexation, or withdrawal of property to or from the Project;
- i. hazard or fidelity insurance requirements;
- j. imposition of any restrictions on the leasing Condominiums;
- k. imposition of any restrictions on Owner's right to sell or transfer his or her Condominium;

- l. a decision by the Association of the Project that consists of 50 or more units to establish self-management if professional management had been required previously by the Declaration or by an Eligible Mortgagee.
- m. restoration or repair of the Project (after damage or partial condemnation) in a manner other than that specified in the Declaration; or
- n. any provisions that expressly benefit Mortgagees, insurers, or guarantors.

Any Mortgagee, insurer or governmental guarantor who receives a written request from the Association to approve additions or amendments to the project documents and who fails to deliver or post to the Association a negative response within thirty (30) days shall be deemed to have approved such request, provided the written request was delivered by certified or registered mail, with a "return receipt" requested.

14.3 Availability of Project Documents and Financial Statements. The Association shall maintain and have current copies of the Declaration, Articles, Bylaws, and other rules concerning the Project as well as its own books, records, and financial statements available for inspection by Owners or by holders, insurers, and guarantors of First Mortgages that are secured by Condominiums in the Project. Generally, these documents shall be available during normal business hours. In the event the Project comes to contain 50 or more Condominiums, the Association shall make an audited financial statement for the preceding fiscal year (if the Project has been established for a full fiscal year) available to the holder, insurer, or guarantor of any First Mortgage on submission of a written request for it. The audited financial statement shall be made available within 120 days of the Association's fiscal year-end. If the Project consists of fewer than 50 units and there is no audited statement available, any First Mortgagee shall have the right to have an audited financial statement prepared at its own expense.

14.4 Subordination of Lien. To the extent permitted by the Condominium Act, the lien or claim against a Condominium for unpaid assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to the First Mortgage affecting such Condominium if the First Mortgage was recorded before the delinquent assessment was due; and the First Mortgagee thereunder which comes into possession of or which obtains title to the Condominium shall take the same free of such lien or claim for unpaid assessments or charges, but only to the extent of assessments or charges which accrue prior to foreclosure of the First Mortgage, exercise of a power of sale available thereunder, or taking of a deed or assignment in lieu of foreclosure. No assessment, charge, lien, or claim which is described in the preceding sentence as being subordinate to a First Mortgage, or as not to burden a First Mortgagee which comes

into possession or which obtains title, shall be collected or enforced by the Association from or against a First Mortgagee, a successor in title to a First Mortgagee, or the Condominium affected or previously affected by the First Mortgage concerned.

- 14.5 Payment of Taxes and Insurance. In the event any taxes or other charges which may or have become a lien on the Common Areas are not timely paid, or in the event the required hazard insurance described in Section 10.1 lapses, is not maintained, or the premiums therefore are not paid when due, any Mortgagee or any combination of Mortgagees may jointly or singly, pay such taxes or premiums or secure such insurance. Any Mortgagee which expends funds for any of such purposes shall be entitled to immediate reimbursement therefor from the Association.
- 14.6 Priority. No provision of this Declaration or the Articles gives or may give an Owner or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for loss to or taking of all or any part of the Condominiums or the Common Areas.
- 14.7 Association Meetings. In addition to the rights granted in Section 14.3, any holder, insurer or guarantor shall, upon request, be entitled to written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings.
- 14.8 Priority of First Mortgagee in Event of Damage. In the event of substantial damage to or destruction of any Unit or any part of the Common Areas, no provision of the Declaration, Articles or Bylaws or any amendment thereto shall entitle the owner of a Unit or other party to priority over any First Mortgagee with respect to the distribution to such Owner of any insurance proceeds.
- 14.9 Priority of First Mortgagee in Event of Condemnation. If any Unit or portion thereof or the Common Areas or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, no provision of the Declaration, Articles or Bylaws or any amendment thereto shall entitle the Owner of a Unit, or any other party, to priority over any First Mortgagee with respect to the distribution to such Unit of the proceeds of any award or settlement.
- 14.10 No Right of First Refusal. No "right of first refusal" shall be included or added by amendment to the Declaration, Articles or Bylaws.

ARTICLE XV

COMPLIANCE WITH DECLARATION AND BYLAWS

- 15.1 Compliance. Each Owner shall comply strictly with the provisions of this Declaration, the Articles and Bylaws of the Association, rules and regulations promulgated by the Association 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.
- 15.2 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 within the Project shall be enforceable by the Declarant or by any Owner of a Condominium within the Project, subject to this Declaration, by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages or to recover any amount due or unpaid. 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 Declarant or 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 or unpaid. No summary abatement or similar procedure may be utilized through nonjudicial means to alter or demolish items of construction.

ARTICLE XVI

GENERAL PROVISIONS

- 16.1 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.
- 16.2 Construction. The provisions of this Declaration shall be in addition and supplemental to the provisions of the Condominium Act and all other provisions of 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 and any gender shall include both genders. 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 independent and several, 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 provisions hereof.

16.3 Lists of Owners and Eligible Mortgagees. The Board shall maintain up-to-date records showing: (i) the name of each person who is an Owner, the address of such person, and the Condominium which is owned by him or her; (ii) the name of each person or entity who is an Eligible Mortgagee, the address of such person or entity and the Condominium which is encumbered by the Mortgage held by such person or entity; and (iii) the name of each person or entity who is an insurer or governmental guarantor, the address of such person or entity, and the Condominium which is encumbered by the Mortgage insured or guaranteed by such person or entity. In the event of any transfer of a fee or undivided fee interest in a Condominium, either the transferor or transferee shall furnish the Board with evidence establishing that the transfer has occurred and that the Deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Salt Lake County, Utah. The Board may for all purposes act and rely on the information concerning Owners and Condominium ownership which is thus acquired by it or, at its option, the Board may act and rely on current ownership information respecting any Condominium or Condominiums which is obtained from the office of the County Recorder of Salt Lake County, Utah. The address of an Owner shall be deemed to be the address of the Condominium owned by such person unless the Board is otherwise advised.

16.4 Amendment. Except as provided elsewhere in this Declaration, any amendment to this Declaration shall require the affirmative vote of at least sixty-seven percent (67%) of the Total Votes of the Association present in person or represented by proxy entitled to be cast at a meeting duly called for such purpose or otherwise approved in writing by such Owners. Any amendment authorized pursuant to this Section shall be accomplished through the recordation in the office of the Salt Lake County Recorder of an instrument executed by the Association. In such instrument an officer or Trustee of the Association shall certify that the vote required by this Section for amendment has occurred. Anything in this Article or Declaration to the contrary notwithstanding, Declarant reserves the unilateral right to amend all or any part of this Declaration to such extent and with such language as may be requested by FHA, VA, the FHLMC or FNMA and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of the Declaration, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Condominium(s) or any portions thereof. Any such amendment shall be effected by

the recordation by Declarant of an amendment duly signed by or on behalf of the authorized officers of Declarant with their signatures acknowledged, specifying the federal, state or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such an amendment shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such amendment, when recorded, shall be binding upon all of the Project and all persons having an interest therein. It is the desire of Declarant to retain control of the Association and its activities during the anticipated period of planning and development. If any amendment requested pursuant to the provisions of this Section deletes, diminishes or alters such control, Declarant alone shall have the right to amend this Declaration to restore such control. Within ten (10) years from the date of recording this Declaration and so long as the Declarant is the owner of any Condominium in the Project this Declaration may be amended or terminated only with the written approval of the Declarant. The Declarant alone may amend or terminate this Declaration prior to the closing of a sale of any Condominium.

16.5 Effective Date. This Declaration shall take effect upon recording.

16.6 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 Division of Corporations and Commercial Code of the State of Utah. On the date of this Declaration, the registered agent of the Association is Scott Collins, whose address is 350 E. Center St., Suite 200, Provo, Utah 84601.

16.7 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 injury or damage to any 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 Building or their drains, pipes, conduits, appliances or equipment, or from any other place, unless caused by the grossly negligent or willful misconduct of the Association. 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, ordinances, regulations, rules or order of any governmental authority.

16.8 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.

16.9

Model Units, Sales Offices and Advertising Signs. Declarant and Declarant's duly authorized agents, representatives and employees shall have the right to establish and maintain model units and sales offices of any size within the Project and the right to use such model units and sales offices during the period that any Condominiums in the Project remain unsold. No more than two model units and one sales office will be established and maintained by Declarant in the Project. Declarant reserves the right to relocate the same from time to time within the Project. Declarant further reserves the right to maintain advertising signs on the Project and to place the same in any location and to relocate, replace and remove the same at the sole discretion of Declarant during the period that Units in the Project remain unsold.

16.10 Rights of Action. The Association and any aggrieved Owner shall have a right of action against Owners who fail to comply with the provisions of the Declaration or the decisions of the Association. Owners shall have a similar right of action against the Association.


16.11 General Obligations. Each Owner shall enjoy and be subject to all rights and duties assigned to Owners pursuant to this Declaration. With respect to unsold Condominiums, the Declarant shall enjoy the same rights and assumes the same duties with respect to each unsold Condominium.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration the day and year first above written.

DECLARANT:

K.E.B. Real Estate, L.P. a Utah limited partnership

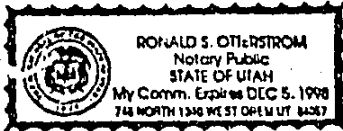
By:



Kenneth E. Brailsford, General Partner

STATE OF UTAH)
 : SS.
COUNTY OF UTAH)

The foregoing instrument was acknowledged before me this 31st day of July, 1997 by Kenneth E. Brailsford, the General Partner of K.E.B. Real Estate, L.P.



A large, stylized handwritten signature in black ink, which appears to be "R. Otterstrom".

NOTARY PUBLIC
Residing at: 748 N. 1340 W. Orem UT

My Commission Expires:
12/5/98

EXHIBIT "A"

UNITS, UNDIVIDED OWNERSHIP INTERESTS AND VOTES

<u>UNIT</u>	<u>SQUARE FOOTAGE</u>	<u>UNDIVIDED OWNERSHIP INTERESTS (PERCENTAGE)</u>	<u>VOTES</u>
001	10,000 (COMMERCIAL)	8%	8
101	1,000	03.23%	3.23
102	850	02.73%	2.73
103	5,700 (COMMERCIAL)	10.34%	10.34
104	300 (COMMERCIAL)	00.97%	0.97
201	1,150	03.70%	3.70
202	600	01.93%	1.93
203	825	02.65%	2.65
204	1,260	04.05%	4.05
205	760	02.44%	2.44
206	1,000	03.22%	3.22
207	1,050	03.38%	3.38
208	1,100	03.54%	3.54
301	1,750	05.63%	5.63
303	825	02.65%	2.65
304	1260	04.05%	4.05
305	760	02.44%	2.44
306	1,000	03.22%	3.22
307	1,050	03.38%	3.38
308	1,100	03.54%	3.54
401	1,150	03.70%	3.70
402	600	01.93%	1.93
403	825	02.65%	2.65
404	1260	04.05%	4.05
405	760	02.44%	2.44
406	1,000	03.22%	3.22
407	1,050	03.38%	3.38
408	1,100	03.54%	3.54
<u>TOTAL</u>	<u>31,085</u>	<u>100%</u>	<u>100</u>

BK 7724 PG 0848

ARTICLES OF INCORPORATION
OF
WAREHOUSE DISTRICT
CONDOMINIUM OWNERS ASSOCIATION, INC.
(A Nonprofit Corporation)

Scott Collins, the undersigned natural person over the age of twenty-one years, acting as incorporator of a nonprofit corporation pursuant to the Utah Nonprofit Corporation and Cooperative Association Act (Utah Code Sections 16-6-18 et seq.), hereby adopts the following Articles of Incorporation for such nonprofit corporation.

ARTICLE I

NAME

The name of the nonprofit corporation is WAREHOUSE DISTRICT CONDOMINIUM OWNERS ASSOCIATION, INC., hereinafter referred to as the "Association".

ARTICLE II

DURATION

The Association shall exist perpetually or until dissolved pursuant to law.

ARTICLE III

PURPOSES AND POWERS

The Association is organized as a nonprofit corporation and shall be operated exclusively for the purpose of maintaining, operating and governing the Warehouse District Condominiums (the "Project"), a residential and commercial condominium project located in the County of Salt Lake, State of Utah. The Project has been created on or about the date of filing of these Articles of Incorporation by recording an instrument entitled "Declaration of Condominium of the Warehouse District Condominiums" (the "Declaration") in the office of the Recorder of Salt Lake County, State of Utah. The Declaration is hereby incorporated by reference and made a part of these Articles of Incorporation. The Association shall be operated to perform the functions and provide the services contemplated by the Declaration. Except as otherwise provided herein or as may be required by the context hereof, all terms defined in the Declaration shall have such defined

meanings when used herein. Among other things, the Association shall have the authority and power to:

1. Fix, levy, collect and enforce payment by any lawful means, of all charges or assessments pursuant to the terms of the Declaration; manage and operate the Common Areas of the Project pursuant to the terms of the Declaration; pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;
2. Acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;
3. Borrow money and, subject to the limitations of the Declaration, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;
4. Dedicate, sell or transfer, subject to the limitations of the Declaration, all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members;
5. Have and exercise any and all powers, rights and privileges which a corporation organized not-for-profit under the corporation law of the State of Utah by law may now or hereafter have or exercise.

No dividend shall be paid to, and no part of the net income, if any, of the Association shall be distributed to, any of the Members, Board of Trustees, or officers of the Association, except as otherwise provided herein, in the Declaration, or under Utah law.

ARTICLE IV

ADDITIONAL POWERS

In addition to the purposes and powers declared in Article III above and subject to any limitations herein expressed, the Association shall have and may exercise the power to do any and all things that the Association is authorized or required to do under the Declaration, as the same may from time to time be amended.

ARTICLE V

MEMBERSHIP AND STOCK

Each Owner of a Condominium in the Project shall be a Member of the Association. The rights and duties appertaining to membership in the Association shall be governed by the Declaration. Neither the issuance nor the holding of shares of stock shall be necessary to evidence membership in the Association. Membership in the Association shall be mandatory, and not optional, and shall be appurtenant to and may not be separated from the ownership of any Condominium in the Project. No persons or entity other than an Owner of a Condominium may be a Member of the Association. Membership in the Association shall begin immediately and automatically upon becoming an Owner of a Condominium and shall cease immediately and automatically upon ceasing to be an Owner of such a Condominium.

ARTICLE VI

ASSESSMENTS

Members of the Association shall be subject to assessments by the Association from time to time in accordance with the provisions of the Declaration, and shall be liable to the Association for payment of such assessments.

ARTICLE VII

BOARD OF TRUSTEES

The affairs of this Association shall be managed by a Board of at least three (3), but not more than seven (7) trustees, who need not be members of the Association. The names and addresses of the persons who are to act in the capacity of Trustees until the selection of their successors are:

Scott Collins
350 E. Center Street
Suite 200
Provo, Utah 84601

Kenneth E. Brailsford
748 North 1340 West
Orem, Utah 84057

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At the first annual meeting of the Association one (1) Trustee shall be elected for a term of one (1) year, one Trustee for a term of two (2) years, and one Trustee for a term of three (3) years; thereafter, each Trustee shall be elected for a term of three (3) years.

Until such time as the responsibility for electing the Trustees of the Association is turned over to the Owners, the Declarant shall have the exclusive right to appoint and to remove all Trustees. Unless earlier terminated or waived by Declarant, this exclusive right shall terminate after the first to occur of the following:

(i) three (3) years from the date on which the first Condominium in the Project is conveyed; or

(ii) the date on which Condominiums to which seventy-five percent (75%) of the undivided interest in the Common Areas appertain have been conveyed by Declarant to the purchasers thereof.

ARTICLE VIII

PRINCIPAL OFFICE

The address of the initial principal office of the Association is 350 E. Center Street, Suite 200, Provo, Utah 84601.

ARTICLE IX

REGISTERED OFFICE AND AGENT

The initial registered office of the Association is 350 E. Center Street, Suite 200, Provo, Utah 84601, and the name of the initial registered agent at such address is Scott Collins.

ARTICLE X

INCORPORATOR

The name and address of the incorporator of the Association is as follows:

Scott Collins
350 East Center Street
Suite 200
Provo, Utah 84601

ARTICLE XI

BYLAWS

The Board of Trustees shall adopt Bylaws which are not inconsistent with law, the Declaration or these Articles for the regulation and management of the affairs of the Association.

ARTICLE XII

AMENDMENTS

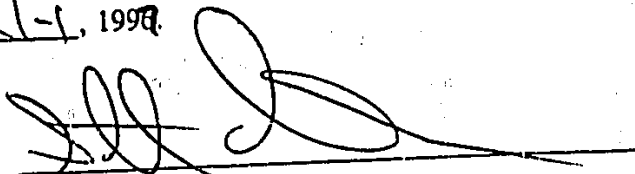
These Articles may be amended by the affirmative vote of sixty-seven percent (67%) of the votes of Members of the Association cast at a duly called meeting of the Members. Anything in these Articles to the contrary notwithstanding, the Declarant shall have the unilateral right to amend all or any part of the Articles to such an extent and with such language as may be requested by the Federal Housing Administration, the Veterans Administration, the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Corporation and to further amend the Articles to the extent required or requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of the Articles or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Condominium(s) or any portions thereof. In the event of such an amendment, articles of amendment shall be executed by the Declarant, and filed as provided under Utah law.

ARTICLE XIV

CONFLICT WITH DECLARATION

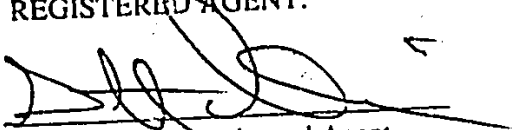
In the event of any conflict or inconsistency between the provisions of these Articles and the provisions of the Declaration and Bylaws, as the same may be amended from time to time, the provisions of the Declaration and Bylaws shall control.

DATED this 31 day of July, 1997.



Scott Collins, Incorporator

THE UNDERSIGNED ACKNOWLEDGES AND ACCEPTS HIS APPOINTMENT AS REGISTERED AGENT:



Scott Collins, Registered Agent


VERIFICATION

STATE OF Utah)
COUNTY OF Salt Lake : ss.

The foregoing instrument was acknowledged before me this 31st day of July, 1997 by Scott Collins.

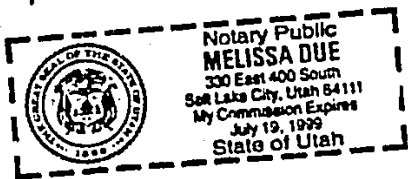
My Commission Expires:

7/19/99



NOTARY PUBLIC

Residing at Salt Lake



**BYLAWS OF
WAREHOUSE DISTRICT
CONDOMINIUM OWNERS ASSOCIATION, INC.**

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**BYLAWS OF
WAREHOUSE DISTRICT
CONDOMINIUM OWNERS ASSOCIATION, INC.**

ARTICLE ONE

Name and Location

The name of the corporation is Warehouse District Condominium Owners Association, Inc., hereinafter referred to as the "Association." The principal office of the Association shall be located at 350 E. Center Street, Suite 200, Provo, Utah 84601, but the meetings of Members and Trustees may be held at such places in the State of Utah, as may be designated by the Board of Trustees.

ARTICLE TWO

Application of Bylaws

All present and future Owners, Mortgagees, lessees and occupants of any Condominium and any other persons who may use the facilities of the Project in any manner are subject to the Declaration, these Bylaws and all rules made pursuant hereto and any amendments hereof. The acceptance of a deed or conveyance or the entering into of a lease or the act of occupancy of a Condominium shall constitute an agreement that the provisions of the Declaration and these Bylaws and any rules and regulations made pursuant hereto, as they may be amended from time to time, are accepted, ratified and will be complied with. Certain capitalized terms in these Bylaws shall be defined in accordance with the definition for such terms set forth in the Declaration.

ARTICLE THREE

Meetings of Members

Section 1. Annual Meetings. The first annual meeting of the Members shall be held within one (1) year from the date of incorporation of the Association, and each subsequent regular meeting of the Members shall be held on the second Tuesday of each January, at the hour of 7:00 o'clock P.M. at the Project or some reasonable location in Salt Lake County, Utah or on such other annual date and time fixed by the Board of Trustees. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Members may be called at any time by the President or by the Board of Trustees, or upon written request of the Members who are entitled to vote twenty-five percent (25%) of all of the votes of the membership.

Section 3. Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary of the Association or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, fifty percent (50%) or more of the votes of the membership shall constitute a quorum for any action except as otherwise provided in the Articles, the Declaration, or these Bylaws. If, however, such a quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Voting. At all meetings of Members, each Member may vote in person or by proxy. The number of votes appurtenant to each membership is set forth in the Declaration.

Section 6. Action Taken Without a Meeting. Any action that may be taken at any regular or special meeting of the Association may be taken without a meeting if the following requirements are met:

6.1 A written ballot is distributed to every Member entitled to vote, setting forth the proposed action, providing an opportunity to signify approval or disapproval of the proposal and providing a reasonable time for the Member to return the ballot to the Association.

6.2 The number of votes cast by ballot within the specified time under Subparagraph 6.1 equals or exceeds the quorum required to be present at a meeting authorizing the action.

6.3 The number of approvals of the action equals or exceeds the number of votes required to approve the action at a meeting at which the total number of votes cast was the same as the number of votes cast by written ballot.

6.4 The written ballot distributed to Members affords an opportunity for the Member to specify a choice between approval and disapproval of each order of business

proposed to be acted upon by the Association and further provides that the vote of the Members shall be cast in accordance with the choice specified.

Section 7. Proxies. At each meeting of the Members, each Member entitled to vote shall be entitled to vote in person or by proxy; provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the Member himself or by his attorney thereunto duly authorized in writing. If a Condominium is jointly held, the instrument authorizing a proxy to act must have been executed by all Owners of such Condominium or their attorneys thereunto duly authorized in writing. Such instrument authorizing a proxy to act shall be delivered at the beginning of the meeting to the Secretary of the Association or to such other officer or person who may be acting as secretary of the meeting. The secretary of the meeting shall enter a record of all such proxies in the minutes of the meeting.

ARTICLE FOUR

Board of Trustees, Selection, Term of Office

Section 1. Number. The affairs of this Association shall be managed by a Board of at least three (3) but more than seven (7) trustees, who need not be Members of the Association.

Section 2. Term of Office. At the first annual meeting of the Association one (1) trustee shall be elected for a term of one (1) year, one trustee for a term of two (2) years, and one trustee for a term of three (3) years. Thereafter, each trustee shall be elected for a term of three (3) years.

Section 3. Removal. Any trustee, except trustees selected by the Declarant during the period of Declarant control described in Article 5, Section 3, may be removed from the Board of Trustees, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a trustee, his successor shall be selected by the remaining Members of the Board of Trustees and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No trustee shall receive compensation for any service he may render to the Association. However, any trustee may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The trustees shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the trustees. Any action so approved shall have the same effect as though taken at a meeting of the trustees.

ARTICLE FIVE

Nomination and Election of Trustees

Section 1. Nomination. Nomination for election to the Board of Trustees shall be made by a nominating committee. Nominations may also be made from the floor at the annual meeting. The nominating committee shall consist of a Chairman, who shall be a member of the Board of Trustees, and two (2) or more Members of the Association. The nominating committee shall be appointed by the Board of Trustees prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The nominating committee shall make as many nominations for election to the Board of Trustees as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or non-Members.

Section 2. Election. Election to the Board of Trustees shall be by secret written ballot. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 3. Declarant Control. Notwithstanding any provision to the contrary contained herein, until such time as the responsibility for electing the Trustees is turned over to the Owners, the Declarant shall have the exclusive right to appoint and to remove all Trustees. Unless earlier terminated or waived by Declarant, this exclusive right shall terminate after the first to occur of the following:

- (1) three (3) years from the date on which the first Condominium in the Project is conveyed; or
- (2) the date on which Condominiums to which seventy-five percent (75%) of the undivided interest in the Common Areas appertain have been conveyed by Declarant to the purchasers thereof.

ARTICLE SIX

Meetings of Trustees

Section 1. Regular Meetings. The Board of Trustees shall hold a regular meeting at least quarterly, with or without notice, at such place and hour as may be fixed from time to time by resolution of the Board of Trustees. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

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

Section 3. Quorum. A majority of the number of trustees shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the trustees present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Trustees.

ARTICLE SEVEN

Powers and Duties of the Board of Trustees

Section 1. Powers. The Board of Trustees shall have power to:

1.1 Adopt and publish rules and regulations governing the use of the Common Areas, and the personal conduct of the Members and their guests thereon, and to establish penalties of the infraction thereof;

1.2 Suspend the voting rights of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;

1.3 Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles, or the Declaration;

1.4 Declare the office of a member of the Board of Trustees to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Trustees; and

1.5 Employ a Manager, an independent contractor, and such other employees as they deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Trustees to:

2.1 Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote;

2.2 Supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

2.3 As more fully provided in the Declaration, to:

2.3.1 Fix the amount of the annual assessment against each Condominium at least thirty (30) days in advance of each annual assessment period;

2.3.2 Send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

2.3.3 Foreclose at its discretion the lien against any Condominium for which assessments are not timely paid and/or to bring an action at law against the Owner personally obligated to pay the same.

2.4 Issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board of Trustees for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

2.5 Procure and maintain adequate liability and hazard insurance on property owned by the Association, and adequate officers and trustees indemnity insurance, and all other insurance required by the Declaration;

2.6 Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

2.7 Cause the Common Areas to be maintained;

2.8 Permit First Mortgagees of Condominiums in the Project to pay taxes or other charges which are in default and which may or have become a charge against the Common Areas of the Association, and such First Mortgagees may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for such property, and such First Mortgagees, upon making such payments, shall be owed immediate reimbursement therefor from the Association;

2.9 Assess and collect all assessments referred to or authorized in the Declaration.

ARTICLE EIGHT

Officers and Their Duties

Section 1. Enumeration of Officers. The officers of this Association shall be a President and Vice President, who shall at all times be members of the Board of Trustees, a Secretary, and a Treasurer, and such other officers as the Board of Trustees may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Trustees following each annual meeting of the Members.

Section 3. Term. The officers of the Association shall be elected annually by the Board of Trustees and each shall hold office for one (1) year or until his or her successor is elected and has qualified, unless he or she shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board of Trustees may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board of Trustees may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board of Trustees. Any officer may resign at any time by giving written notice to the Board of Trustees, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board of Trustees. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

President:

The President shall preside at all meetings of the Board of Trustees; shall see that orders and resolutions of the Board of Trustees are carried out; shall

sign all leases, mortgages, contracts, promissory notes, checks, deeds and other written instruments.

Vice President:

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

Secretary:

The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses; and shall perform such other duties as required by the Board.

Treasurer:

The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by the Board of Trustees; shall, together with the President, sign all checks and promissory notes of the Association; keep proper books of account; and shall prepare an annual budget and a statement of income and expenditures, and deliver a copy of each to the Members.

ARTICLE NINE

Indemnification of Officers and Trustees

The Association shall provide any indemnification required or permitted by the laws of Utah and shall indemnify trustees, officers, agents and employees as follows.

Section 1. Third Party Litigation. The Association shall indemnify any trustee or officer of the Association who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit or proceedings, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association) by reason of the fact that he is or was such trustee or officer or an employee or agent of the Association, or is or was serving at the request of the Association as a trustee, officer, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement

actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith, and in a manner which he reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

Section 2. Association Litigation. The Association shall indemnify any trustee or officer of the Association who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was such a trustee or officer or an employee or agent of the Association, or is or was serving at the request of the Association as trustee, officer, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney's fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Association unless and only to the extent that the court in which such action or suit was brought, or any other court having jurisdiction in the premises, shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

Section 3. Expenses. In addition to the rights of indemnification set forth in Sections 1 and 2 of this Article Nine, to the extent that a trustee or officer of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1 or 2 of this Article Nine, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith, without the necessity for the determination as to the standard of conduct as provided in Section 4 of this Article Nine.

Section 4. Determination of Right to Indemnity. Any indemnification under Section 1 or 2 of this Article Nine (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the trustee or officer is proper in the circumstances because he has met the applicable standard of conduct set forth in Section 1 or 2 of this Article Nine. Such determination shall be made: (i) by the Board of Trustees of the Association by a majority vote of a quorum consisting of trustees who were not parties to such action, suit or proceeding; or (ii) if such a quorum is not obtainable, or if obtainable and such a quorum of disinterested trustees so directs, by independent legal

counsel (who may be regular counsel for the Association) in a written opinion; and any determination so made shall be conclusive.

Section 5. Advance of Expenses. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding, as authorized by the Board of Trustees or vote of the Members in the particular case, upon receipt of an undertaking by or on behalf of the trustee or officer to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article Nine.

Section 6. Other Indemnification Rights. Agents and employees of the Association who are not trustees or officers of the Association may be indemnified under the same standards and procedures set forth above, in the discretion of the Board of Trustees of the Association.

Section 7. Benefitted Parties. Any indemnification pursuant to this Article Nine shall not be deemed exclusive of any other rights to which those indemnified may be entitled, and shall continue as to a person who has ceased to be a trustee or officer and shall inure to the benefit of the heirs, executors, and administrators of such a person.

ARTICLE TEN

Committees

The Association shall appoint a nominating committee, as provided in these Bylaws. In addition, the Board of Trustees shall appoint other committees as deemed appropriate in carrying out its purposes.

ARTICLE ELEVEN

Books and Records

Section 1. Accounting.

1.1 The books and accounts of the Association shall be kept in accordance with generally accepted accounting procedures under the direction of the Treasurer.

1.2 If determined advisable by the Board, or if directed by a vote of the Members, following the close of any fiscal year, the books and records of the Association may be reviewed by an independent public accountant approved by the Association, and the Association financial statements may be audited by said accountant. Whether audited or unaudited, annual financial statements for the Association shall be prepared and distributed to all Owners each year.

Section 2. Inspection of Records. The membership register, books of account and minutes of meetings of the Association, of the Board of Trustees and of committees of the Board of Trustees and all other records of the Project maintained by the Association or Manager shall be made available for inspection and copying by any member of the Association or his duly appointed representative at any reasonable time and for a non-commercial purpose reasonably related to his interest as a Member, at the office where the records are maintained. Upon receipt of an authenticated written request from a Member along with the fee prescribed by the Board of Trustees to defray the costs of reproduction, the Manager or other custodian of records of the Association shall prepare and transmit to the Member a copy of any and all records requested. The Board of Trustees shall establish reasonable rules with respect to:

- 2.1 Notice to be given to the custodian of the records by the Member desiring to make the inspection;
- 2.2 Hours and days of the week when such an inspection may be made; and
- 2.3 Payment of the cost of reproducing copies of documents requested by a Member.

Every member of the Board of Trustees, subject to the conditions set forth above, shall have the absolute right at any reasonable time to inspect and make copies of all books, records and documents of the Association and to inspect all real and personal properties owned or controlled by the Association.

ARTICLE TWELVE

Assessments

All assessments shall be made in accordance with the provisions of the Declaration. The Treasurer shall keep detailed records of all receipts and expenditures, including expenditures affecting the Project, specifying and itemizing the maintenance, repair and replacement expenses of the Project and any other expenses incurred. Such records shall be available for examination by the Owners during regular business hours. In accordance with the actions of the Board of Trustees in assessing Common Expenses against the Condominiums and Owners, the Treasurer shall keep an accurate record of such assessments and of the payments thereof by each Owner.

ARTICLE THIRTEEN

Corporate Seal

The Association may, but shall not be obligated to, have a seal in circular form having within its circumference the words: "Warehouse District Condominium Owners Association, Inc.", or in lieu thereof the word "SEAL" may be placed adjacent to the signature of an authorized officer of the Association.

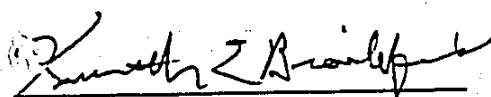
ARTICLE FOURTEEN

Amendments

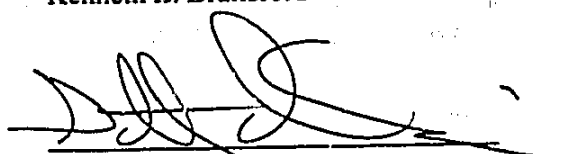
Section 1. Amendment Procedure. These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of the Members present in person or by proxy. Anything in these Bylaws to the contrary notwithstanding, the Declarant shall have the unilateral right to amend all or any part of the Bylaws to such an extent and with such language as may be requested by the Federal Housing Administration, the Veterans Administration, the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Corporation, and to further amend the Bylaws to the extent required or requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of the Bylaws, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Condominium(s) in the Project. In the event of such an amendment, the appropriate written amendment of the Bylaws shall be executed by the Declarant. All other amendments shall be executed by the President and Secretary of the Association.

Section 2. Conflict and Definitions. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Bylaws shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control. All capitalized terms not otherwise defined herein shall have the same meaning ascribed to them in the Declaration.

IN WITNESS WHEREOF, we, being all of the trustees of Warehouse District
Condominium Owners Association, Inc., have hereunto set our hands this 31st day of July,
1997



Kenneth E. Brailsford



Scott Collins

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Warehouse District Condominium Owners Association, Inc., a Utah corporation; and

That the foregoing Bylaws constitute a true and correct copy of the original Bylaws of said Association, as duly adopted at a meeting of the Board of Trustees thereof, held on the 24 day of July, 1997.

IN WITNESS WHEREOF, I have hereunto subscribed my name of the Association this 24 day of July, 1997.

WAREHOUSE DISTRICT CONDOMINIUM
OWNERS ASSOCIATION, INC.

By: 

Secretary