

WHEN RECORDED RETURN TO:

Eric S. Budge
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Highland, Utah
84003



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JEFFERY SMITH
UTAH COUNTY RECORDER
2019 Nov 15 10:07 am FEE 40.00 BY MA
RECORDED FOR OREM CITY CORPORATION

**DECLARATION OF CONDOMINIUM
FOR
EVELYN OREM CREATIVE PARK
COMMERCIAL CONDOMINIUMS**

THIS DECLARATION is made and executed as of the 5th day of NOV., 2019, by Evelyn Park LLC, A Utah Limited Liability Corporation ("Declarant")

RECITALS:

A. Declarant is the record owner of certain real property the land located in Orem City, Utah County, Utah, more particularly described in Article II hereof.

B. Various improvements have been or will be made to the land so as to enable its use and operation as a condominium project. The construction of all such improvements has been, or will be, performed in accordance with the information contained in the Record of Survey Map and in this Declaration.

C. Declarant desires by filling this Declaration and Record of Survey Map, to submit the land and all improvements now or hereafter constructed thereon to the provisions of the Act as a condominium project to be known as Evelyn Orem Creative Park Commercial Condominiums.

D. Declarant intends to own and lease and/or sell and convey to various purchasers the fee title to the individual units contained in the project, together with the undivided ownership interests in the Common Area and Facilities appurtenant to such units, subject to the covenants, restrictions, and limitations herein set forth.

Now, therefore, for the foregoing purposes, declaration hereby makes the following Declaration:

I. Definitions

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

1.1 **Act** shall mean and refer to the Utah Condominium Ownership Act (Sections 57-8 -1 through 57 -8 - 40 *Utah Code Annotated*).

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

1.3 **Building or Buildings** shall mean and refer to the Building or Buildings described in Section 3.1 of this Declaration.

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

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

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

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

1.8 **Condominium Project or Project** shall mean and refer to Evelyn Orem Creative Park Commercial Condominiums and shall consist of the Property.

1.9 **Declarant** shall mean and refer to Evelyn Park LLC, A Utah Limited Liability Corporation, or any successor or assign which, either by the operation of law, or through a voluntary conveyance con transfer, or assignment, comes to stand in the same relation to the project as Evelyn Park LLC.

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

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

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

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

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

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

1.17 **Percentage Interest** shall mean and refer to an undivided percentage interest of each Unit owner in the Common Areas and Facilities as described in Section 3.5 of this Declaration and set out in Exhibit "B" to this Declaration.

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

1.18 **Record of Survey Map, Survey Map or Map** shall mean and refer to the Record of Survey Map filed in connection here with executed and acknowledged by Declaration consisting of two pages and prepared and certified by Barry Andreason, a duly registered land surveyor, holding License Number 116572, as same may be modified hereafter amended or supplemented.

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

SUBMISSION

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

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

SUBJECT TO all liens for current and future taxes, assessments and charges imposed or levied by governmental or quasigovernmental authorities; all patent reservations and exclusions; any material mineral reservations of record and rights incident thereto; all instruments of record which affect the above described land or any portion thereof, including without limitation, any mortgage or deed of trust; all visible easements, rights-of-way, encroachments, or discrepancies shown on or revealed by the Survey Map or otherwise existing; an easement for each and every pipe, line, cable, wire, utility line or similar facility which traverses or partially occupies the above described Land at such time as construction of all project improvements is complete; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cables, wires, utility lines, and similar facilities.

II DESCRIPTION OF BUILDING, CONDOMINIUM UNITS AND COMMON AREAS

2.1 Description of the Buildings. The buildings shall be, three, two-story buildings with eight two-story Condominium Units. The Buildings shall be construction of steel framing without a basement and shall have metal roofs. The exterior the Building is steel, stucco, stone and glass windows. The Buildings shall have front glass windows and office front doors in the front. The back of the Building shall have loading docks and doors. The Building is supplied plumbing sewer lateral stub in or air conditioning facilities for the individual Units. The Buildings are fully depicted on the Survey Map.

2.2 Description of the Condominium Units. The boundary lines of each Condominium Unit are the undecorated and unfinished interior surfaces of its perimeter walls, dividing walls lowermost floor, uppermost ceiling, exterior surfaces of windows doors, window frames and door frames and trim. Each Unit shall include both the portions of the Building that are not Common Areas and Facilities within such boundary lines and the space so encompassed. Each Unit shall become comprised only of the bare exterior and dividing walls and shall not include any improvements other than rough plumbing, stairwells to the second floor and utility service to the Unit. All interior dividing walls, interior wall and ceiling finishes, stairs, finish flooring, and interior electrical and plumbing facilities, heating and air conditioning facilities or other facilities and improvements (collectively Owner improvements) shall be installed by the Owner of the Unit and shall be considered property of the Unit Owner. None of the Owner improvements shall be considered Common Areas or Facilities. **Exhibit B** hereto contains a table setting forth the number designation of each Unit. The Units are more particularly described in the Survey Map

2.3 Description of Common Areas and Facilities. The Common Areas and Facilities shall mean and include: the Land, all portions of the Project and all property not contained within the Unit, including, but no way by of limitation: the foundations, columns, girders, beams, perimeter and dividing walls, and roof of the Building; the parking areas, sidewalks and landscape areas; any utility pipes, lines, wires, conduits or systems servicing more than a single Unit, all Limited Common Areas as herein described; all other parts of the Property necessary or convenient to the existence, maintenance and safety, or normal common use, or which have been designated as Common Areas and Facilities in the Survey Map; and all repairs and replacements of any of the foregoing.

2.4 Description of Limited Common Areas. Limited Common Areas mean and include: any portions of the Common Areas and Facilities reserved for the use of certain Units to the exclusion of other Units as more particularly identified in the Survey Map. The use and occupancy of designated Limited Common Areas shall be reserved to its associated Unit and each Unit Owner is hereby granted an irrevocable license to use and occupy said Limited Common Areas.

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

2.6 Approval of Owner Improvements. No Owner Improvements shall be constructed, installed or modified without the prior written approval of the Management Committee. Unit Owners shall prepare and provide to the Management Committee plans and specifications for all Owner Improvements or modifications to Owner Improvements to be made to a Unit and obtain the Management Committees approval prior to doing any work on the same. The Management Committee

may adopt rules and regulations governing the approval of Owner Improvements including setting procedures and fees for review and approval of the Owner Improvements including setting procedures and fees for review and approval of Owner Improvements.

IV. PURPOSE AND USE OF PROJECT AND UNITS

3.1 Purpose of Project and Units. The purpose of the Project and the respective Units thereof is to provide commercial office space and adjacent warehouses with parking and other facilities for office, warehouse and related purposes for the Unit Owners, their respective tenants, customers, employees, guests and invitees.

3.2 Use of Units. The Units shall be used only as used for office space and adjacent warehouses and other businesses as allowed by law this Declaration, and applicable zoning laws of the City of Orem.

3.3.1 A Owner shall not permit any obnoxious, destructive or offensive activity or nuisance shall be carried on in his Unit or the Limited Common Area appurtenant to his Unit or in the Common Areas, or any part thereof, which may be or may become an annoyance or nuisance to any other Owners or any tenants, customers, employees, guests or invitees of another Owner or to any person at any time lawfully at the Project

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

3.3.3 No structural alterations to any Building except for Owner Improvements within the Units shall be made by any Owner without the prior written consent of the Management Committee. Owner shall obtain the prior written consent of the Management Committee prior to locating any antennas, receivers or fixtures on the roof of the Building. No roof mounted air conditioning units or other mechanical devices shall be allowed on the roof of the Building. Only small AC condensing units will be allowed on the roofs.

3.3.4 A Unit Owner shall not place or permit to be placed any sign upon the exterior of the Building or Unit without the Management Committees prior written consent nor shall Unit Owner change the color or exterior appearance of a Building without the Management Committees prior written consent. The Management Committee shall adopt sign regulations & criteria which shall govern the Management Committees approval of signs to be located within the Project.

3.3.5 A Unit Owner shall not permit any animals of any kind to be raised, bred, or kept in his Unit or in the Limited Common Areas appurtenant to his Unit.

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

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

3.3.9 The Units may not be used for the following purposes:

- (i) The sale, distribution, rental or viewing of sexually explicit materials or sexually explicit performances, escort services or any other type of or form of sexually oriented businesses.
- (ii) The storage or sale of petroleum products or Hazardous Materials

3.3.10 The Management Committee may adopt Rules and Regulations that prohibit or limit the use of the Common Areas as may be reasonably necessary for protecting the interests of all of the Owners or protecting the Units or the Common Areas including parking regulations that may restrict the areas where Unit Owners or their employees may park. No Owner shall violate the rules and regulations regarding the use of the Units and of the Common Areas as adopted from time to time by the Management Committee.

IV. ASSOCIATION UNIT OWNERS – MANAGEMENT COMMITTEE

4.1 Association of Unit Owners. The persons or entities who are, at the time of reference, the Unit Owners constitute an unincorporated association and not a legal entity, the characteristics and nature of which are determined by the Act, this Declaration and the Bylaws. The name in which contracts shall be entered into, title to property shall be required, held, dealt in and disposed of, bank accounts shall be opened and suit shall be brought and defended by the Management Committee or officers thereof in behalf of and as agents for the Unit Owners in a manner specified in the Act, this Declaration or the Bylaws is: Evelyn Orem Creative Park Commercial Condominiums Association, an association of Unit Owners under the Utah Condominium Act.

4.2 Management Committee. The management and maintenance of the Project, the Property and the business and affairs of the Association of Unit Owners shall be managed by a Management Committee as provided in the Bylaws. The Management Committee shall be elected by the Unit Owners as provided in the Bylaws. Provided however, that until the earlier of (a) the date seven years from the recording of the Declaration or (b) one year after the units to which at 90% of the undivided interest in the Project appertain to have been conveyed by Declarant to individual purchasers, the Declarant, or some other person or persons selected or to be selected by the Declarant, shall have the option to appoint and remove all members of the Management Committee, appoint and remove all officers of the Association, or at the Declarant's option, to exercise the powers and responsibilities otherwise assigned by the Declaration, the Bylaws, and the Act to the Association or the Management Committee. Declarant shall have the responsibility for electing and removing members of the Management

Committee. All agreements and determinations with respect to the Project and the Property lawfully made or entered into by the Management Committee shall be binding upon all of the Unit Owners and their successors and assigns.

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

4.3.1. To make and enforce regulations covering the operation and maintenance of the Property.

4.3.2. To engage the services of a manager or managing company, accountants, attorneys, or other employees or agents and to pay said persons a reasonable compensation for their services, provided however, that any management agreement may be terminated by the Management Committee for cause upon 30 days written notice and the term of any said management agreement may not exceed one year, renewable by the agreement for successive one year periods.

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

4.3.4. To determine and pay the Common Expenses.

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

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

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

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

4.3.9. To bring, prosecute and settle litigation for itself, the Association and the Project, provided that it shall make no settlement which results in liability against the Management Committee, the Association or the Project in excess of \$25,000 without prior approval by a majority of the votes of the Unit Owners.

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

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

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

4.3.13. To keep adequate books and records.

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

4.4. Professional Management. The Management Committee shall initially employ professional or full-time management to manage the Project. However, the Management Committee may terminate professional or full-time management and assume self-management of the Project.

4.5. Powers and Duties of Professional Management. The Management Committee may delegate to a professional manager or managing company all of its powers, duties and responsibilities referred to in paragraph 4.2 above except: the final determination of Common Expenses, budgets and assessments based thereon; the promulgation of rules and regulations; the power to enter into any contract involving more than \$25,000 in any one fiscal year; the power to purchase, hold, sell, convey, mortgage, or lease any Units in the name of the Association; to bring, prosecute and settle litigation; or any other power, duty or responsibility nondelegable by law.

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

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

contained here in shall be paid by the Management Committee on the behalf of the Unit Owners and shall constitute a Common Expense and shall be assessed and collectible as such.

V. MAINTENANCE, ALTERATION AND IMPROVEMENT

5.1. Maintenance of Common Areas and Facilities. The maintenance, alteration, replacement and repair of the Common Areas and Facilities shall be the responsibility of the Management Committee and the cost thereof shall be a Common Expense. The Management Committee shall also maintain, alter, and repair the exterior side of the exterior walls of the building. The Management Committee shall also maintain, alter, replace and repair all parking areas, plumbing and wiring and other facilities for gas, light, power, water and sewer which serve more than one Unit or the Common Areas and Facilities that may be contained in portions of the Units, but which service part or parts of the Project other than the Unit in which they are contained. All incidental damages caused to a Unit by the maintenance, alteration, replacement and repair of the Common Area and Facility or utilities shall be repaired promptly by the Management Committee as a Common Expense.

5.2 Maintenance of Units. Unit Owners shall, at their own cost and expense, install, construct, maintain and keep in good repair and in a clean and sanitary condition, the Owner Improvements. In addition, each Unit Owner shall be responsible for the maintenance, repair or replacement of all glass windows, storefront doors and plumbing fixtures, heating and air conditioning equipment, and antennas included as Owner Improvements and that are used for his Unit, even if they are not located within the boundaries of its Unit.

5.3. Right of Access for Maintenance and Repairs. The Management Committee or manager shall have the irrevocable right to have access to each Unit from time to time during reasonable hours as may be necessary for maintenance, repair or replacement of any of the Common Areas and Facilities or for making emergency repairs necessary to prevent damage to the Common Areas and Facilities or to another Unit or units.

VI. ASSESSMENTS

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

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

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

6.4. Establishment of Common Expense Reserve. Upon the first transfer of any Unit by the Declarant, the transferee of such Unit shall pay to the Association an amount equal to two times the then current amount of the monthly installments of the Annual Common Expense Assessment for such Unit. The obligations to pay such amount pursuant to this section 6.4 shall be in addition to the obligation to pay any other amounts pursuant to this Declaration, the Bylaws or by law, including but not limited to Annual and Special Common Expense Assessments, associated with such Unit.

6.5. Assessments for Capital Improvements. The Management Committee may include in the monthly assessments amounts representing contributions to the capital of the Association to be used for the replacement of or additions to capital items or improvements to the project. Except as otherwise provided herein, in assessing the Unit Owners for capital improvements to the Common Areas and Facilities for which there are not sufficient amounts in the reserve accounts, there shall be no assessment, whether part of the annual budget or otherwise, for any single improvement exceeding the cost of \$25,000 made by the Management Committee without such expenditure having first been voted on and approved by those holding two thirds of the votes present in person or by proxy at a meeting duly called for that purpose. The foregoing shall not apply in connection with damage or destruction referred to in Article VIII of this Declaration or to such structural alterations, capital additions to or capital improvements of the Common Areas and Facilities as necessary in the Management Committees reasonable judgment to preserve or maintain the integrity of the Common Areas and Facilities of the Project.

6.6. Default Assessments. Default Assessments may be assessed against a Unit for failure to perform or comply with any obligation under this Declaration or to comply with any Rules and Regulations governing the operation and maintenance of the Project in an amount to be set from time to time by the Management Committee. Default Assessments may also be assessed against a Unit because the Management Committee has incurred an expense on behalf of an Owner under this Declaration, because of failure to perform or comply with any obligation under this Declaration or Rules and Regulations covering the operation and maintenance of the Project.

6.7. Interest and Late Fees on Delinquent Assessments. Assessments and any installments thereof not paid on or before 10 days after the date when due shall bear interest at the rate of 18% per annum, or at such rate of interest as may be set by the Management Committee not to exceed any maximum rate allowed by applicable law, from the date when due until paid. In addition to interest, if any assessment payments are not made within 10 days of the due date, a late charge will be paid in the sum of 10% of the amount of such assessment payment or \$100 whichever is greater. All payments on the account shall first be applied to late fees and interest and then to the assessment payment first due.

6.8. Lien for Assessments. Any unpaid annual, special or default assessments and all late fees and interest thereon shall constitute a continuing lien on the interests of any Unit Owner, which shall also secure reasonable attorney's fees and all costs and expenses incurred by the Management Committee incident to the collection of such assessment or enforcement of such a lien. Such lien shall be superior to all other liens and encumbrances on such Unit, recorded or unrecorded, except for (i) valid tax and special assessment liens on the Unit in favor of any governmental assessing authority (ii) the lien of a mortgagee; and (iii) encumbrances on the interest of a Unit Owner recorded prior to the date a notice of lien under this Section is recorded which by law would be a lien prior to subsequently recorded encumbrances. To evidence a lien for sums assessed here under the Management Committee

may prepare a written notice of lien, setting forth the amount of the assessment, the date due the amount remaining unpaid, the name of the Owner of the Unit and a description of the Unit. Such a notice shall be signed by the Chairman of the Management Committee or the Professional Manager and may be recorded. No notice of lien shall be recorded until there is a delinquency and payment of the assessment. Such lien may be enforced by a judicial foreclosure by the committee in the same manner in which a mortgage on real property may be foreclosed in Utah. In any foreclosure of a lien for assessments, the Unit Owner subject to the lien shall be required to pay a reasonable rental for the Unit, and the Management Committee shall be entitled to the appointment of a receiver to collect the same. The Management committee shall have the right and power to bid an amount equal to its then existing lien at the foreclosure sale or other legal sale to acquire, hold, convey, lease, rent, encumber use and otherwise deal with the same as the Owner thereof. A release of notice of lien shall be executed by the Chairman of the Management Committee or the Professional Manager and recorded in the Office of the County Recorder of Utah County, Utah, upon payment of all sums secured by a lien which is been made subject of a recorded notice of lien. Any encumbrance or holding a lien on a Unit may pay, but shall not be required to pay, any amount secured by the lien created hereunder, and upon such payment such encumbrance or shall be subrogated to all rights of the Management Committee with respect to such lien, including priority. If a Unit Owner shall, at any time, let his Unit and shall default for a period of one month in the payment of assessments, the Management Committee may, at its option, so long as such default shall continue, demand and receive from any tenant of the Owner the rent due or becoming due, and payment of such rent to the Management Committee shall discharge such tenant from his obligation for rent to the Owner and the Owner from his obligation to the Association, to the extent of the amount so paid.

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

6.10. Statement of Account. Upon payment of a reasonable fee not to exceed fifty dollars (\$50), or such other amount as may in the future be allowed by the Act, and upon written request of any Owner or any Mortgagee, perspective Mortgagee or prospective purchaser of a Unit, the committee shall issue a written statement setting forth the amount of the unpaid assessments, if any, with respect to such a Unit, the amount of the current yearly assessment and the date that such a assessment becomes or became due; any credit for advance payments or prepaid items, including, but not limited to, and Owner's share of prepaid insurance premiums; and such statement shall be conclusive upon the Committee in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within 20 days, all unpaid assessments which become due prior to that date of making such a request shall be subordinate to the lien of a Mortgagee which acquired its interest subsequent to requesting such a statement. Where a prospective purchaser makes such a request, both the lien, for such unpaid assessments and the personal obligations of the purchaser shall be released automatically if the statement is not furnished within the 20 day period provided herein and thereafter an additional written request is made by such purchaser and is not complied with within 10 days, and the purchaser subsequently acquires the Unit.

6.11. Personal Liability of Purchaser for Assessments. Subject to the provisions of Section 6.9, a purchaser of a Unit shall be jointly and severally liable with the seller for all unpaid assessments against the Unit up to the time of a grant or conveyance, without prejudice to the purchasers right to recover from the seller the amount paid by the purchaser for such assessments.

VII INSURANCE

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

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

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

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

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

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

7.1.6. The insurance coverage cannot be canceled, invalidated or suspended because of the conduct of any officer or employee of the Association or Management Committee or their employees, agents, or contractors, without prior demand in writing that the Management Committee cure the defect and then only if the defect is not cured within 30 days.

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

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

7.1.9. All policies of property insurance shall provide that, notwithstanding any provisions thereof which give the insurer the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without prior written approval of the

Management Committee or any insurance trustee or when in conflict with the provisions of any insurance trust agreement to which the Association may be party, or any requirement of law.

7.2 Property insurance. The Management Committee, for the benefit of the Project and the Unit Owners, shall maintain a master or blanket policy of property insurance in an amount equal to the full replacement value (i.e. 100% of the current replacement cost exclusive of land, foundations, excavations, and other items normally excluded from coverage) of the entire Condominium Project (including all Units Common Areas and Facilities, service equipment and any fixtures or equipment, but no Owner Improvements or contents furnished or installed by Unit Owner within the Units) with an "Agreed Amount Endorsement" or its equivalent, and, if necessary, an "increased Cost of Construction Endorsement" or its equivalent, and if necessary, an "increased Cost of Construction Endorsement or Contingent Liability from Operation of Building Laws Endorsement" or the equivalent, payable to the insurance trustee to be disbursed in accordance with the terms of this Declaration. Such insurance will afford protection against at least the loss or damage by fire and other hazards covered by the standard extended coverage endorsement, debris removal, vandalism, malicious mischief, windstorm, and water damage. The limits and coverage of said insurance shall be reviewed at least annually by the Management Committee. Said policy or policies shall provide for a separate loss payable endorsement in favor of the Mortgagee of each Unit, if any, as their interest may appear.

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

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

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

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

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

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

7.5. **Other Insurance.** The foregoing provisions of this Article VII shall not be construed to limit the power of the authority of the Management Committee to obtain and maintain insurance coverage, in addition to any insurance coverage required here under, in such amounts and in such forms as the Management Committee may deem proper from time to time. Earthquake insurance shall not be required unless requested by the Owners of at least 67% of the individual interests in the Common Area.

7.6. **Insurance by Unit Owners.** All Unit Owners shall obtain individual insurance coverage at his own expense covering the Owner Improvements and personal property belonging to the Unit Owner located within their Units. Such insurance shall not have the effect of decreasing the amount that the Management Committee, on behalf of all the Unit Owners, may realize under any insurance policy that the Management Committee may have in force covering the Property or any part thereof at any time. Each Unit Owner shall be required to file a copy of such individual policy or policies with the Management Committee within 30 days after obtaining such insurance coverage.

VIII DESTRUCTION, CONDEMNATION AND TERMINATION

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

8.1.1. If less than 75% of the Project is destroyed or substantially damaged, the Management Committee shall arrange for the prompt repair and restoration of the Project using the proceeds of insurance on the Project for that purpose, and the Unit Owners shall be liable for assessment for the deficiency, if any, in proportion to their respective percentages of undivided interests in the Common Areas and Facilities. Reconstruction of the Project shall mean the restoring of the Project to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Area and Facilities having the same vertical and horizontal boundaries as before, unless the destruction or damage is by reason of eminent domain, in which event the provisions of Section 8.2 hereof shall apply

8.1.2. If 75% or more of the Project is destroyed or substantially damaged, the Management Committee shall, within 100 days after such destruction or damage, call a special meeting of the Unit Owners for the purpose of deciding whether or not the Project shall be repaired and restored. If the proceeds of the insurance on the Project are sufficient to reconstruct the project, then unless the Unit Owners representing 75% of the undivided Interests in the Common Areas affirmatively vote not to restore the Project, the Management Committee shall promptly arrange for the reconstruction of the Project, using the proceeds of insurance on the project for that purpose. If the proceeds of insurance on the Project are not sufficient to reconstruct the Project, then if the Unit Owners representing at least 75% of that undivided Management Committee shall promptly arrange for the reconstruction of the Project, using the proceeds of insurance on the Project for that purpose, and the Unit Owners shall be liable for assessment for any deficiency, if any, in proportion to their respective percentage of

undivided interest in the Common Areas and Facilities. If the destruction or damage is by reason of eminent domain the provisions of Section 8.2 hereof shall apply.

8.1.3. If 75% or more of the Project is destroyed or substantially damaged and the reconstruction of the Project is not approved as provided for in Section 8.1.2, the Management Committee shall record, with the County Recorder, a notice of setting forth such facts, and upon recording of such notice (i) the Property shall be deemed to be owned in common by the Unit Owners; (ii) the undivided interest in the Property owned in common which shall appertain to each Unit Owner shall be the percentage of undivided interest previously owned by such Owner in the Common Areas and Facilities; and (iii) any liens affecting any of the Units shall be deemed to be transferred in accordance with the existing priorities to the undivided interest of the Unit Owner according to their undivided interest in the Common Areas and for the Property shall be subject to an action for partition at the suit of any Unit Owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the Property shall be considered as one fund and shall be divided among all Unit Owners in a percentage equal to the percentage of undivided interest owned by each Unit Owner in the Common Areas and Facilities, after first paying out of the respective shares of the Unit Owners, to the extent sufficient for such purposes, all sums necessary to satisfy the Mortgage on the Unit owned by each Unit Owner.

8.1.4 For the purposes of this Section 8.1, the terms "disaster", "destruction" or "substantial damage" shall mean and include a temporary or permanent taking, injury or destruction of all or part of the Common Areas and Facilities or one or more Units or portions thereof by the exercise of the power in nature of eminent domain or by an action or deed in lieu of condemnation.

8.2. Eminent Domain. If at any time or times all or any part of the Project shall be taken or condemned by any public authority under the power of eminent domain, the provisions of this Section 8.2 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 a taking power of eminent domain. If any Unit or portion thereof or the Common Areas or portion thereof is made the subject matter of any condemnation or eminent domain proceeding or as otherwise sought to be acquired by a condemning authority, the Management Committee shall give prompt written notice of any such proceeding or proposed acquisition to each Owner and to any First Mortgagee who had requested in writing noticed there. The Management Committee 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 Management Committee as such Owners attorney-in-fact for the purposes of such representation.

8.2.1. Proceeds. All compensation, damages and other proceeds from any such taking by power of eminent domain hereinafter Condemnation Award shall be made payable to the Association and shall be distributed by the Management Committee, on behalf of the Association as herein provided.

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

8.2.3.1. Allocation of Award. As soon as possible, the Management Committee 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 Unit Owners as follows:

(i) The total amount apportioned to the taking of or injury to the Common Areas shall be allocated among and distributed to all Unit Owners including Owners whose entire Units have been taken.

(ii) The total amount apportioned to severance damages shall be allocated and distributed equally to the Unit Owners of those Units that have not been taken.

(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 damage and other taking of injuries shall be allocated and distributed as the Management Committee determination to be equitable under the circumstances;

(v) If apportionment of allocation is already established by negotiation, judicial decree, statute, or otherwise, the Management Committee shall employ such apportionment and allocated to the extent that it is relevant and applicable;

(vi) Distribution of allocated proceeds shall be made by check payable jointly to individual Unit Owners and their respective Mortgagee, as their interest may appear; and

(vii) No provision of this Section 8.2 or any other provision of this Declaration or the Bylaws shall entitle the Owner of a Unit or other party priority over any First Mortgagee holding such a Unit with respect to distribution to such Unit of the proceeds of any award, settlement or proceeding

8.2.3.2. **Continuation and Reorganization.** If less than the entire project is taken by power of eminent domain, ownership pursuant thereto 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 shall terminate;

(ii) If any partial taking results in the taking of a portion of a Unit the voting rights appurtenant to such Unit shall continue but in the proportionate interest shall be relocated based on the square footage in the reduced Unit divided by the total square footage of all the Units in the Project after the reduction for all Units or portions of Units taken by eminent domain.

(iii) If any partial taking results in taking a portion of a Unit and if there is a determination made by the Management Committee, after duly considering any recommendations, proposals or other input from the Unit Owners, that taking that such

taking makes it impractical to use the remaining portion of such Unit, then all voting rights terminate and the remaining portion of such Unit shall thenceforth be part of the Common Area.

(iv) The Management Committee, after duly considering any recommendation, 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 provisions of this Section 8.2.3.2 provided, however, that if any such determination shall have been made or such action taken by judicial decree the Management Committee shall deferred thereto and proceed to in accordance there with.

8.2.4. Repair and Reconstruction. Any repair and reconstruction necessitated by condemnation shall be governed by the provisions specified in Section 9.1 hereof for cases of Damages or Destruction, provided, however, that the provisions of said Section 9.1 dealing with sufficiency or insufficiency if insured precedes shall not applicable.

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

IX MORTGAGE PROTECTION

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

9.2 Notice of Default by Unit Owners. The Mortgagee under any mortgage on a Unit is entitled to vacation from Management Committee of any default by the mortgage or of such a Unit in the performance of such Owners obligation under the Ration which is not cured within 30 days.

9.3 Right to Examine Books Etc. Any Mortgagee shall have the right to examine the books and records of the Association during normal business hours and, upon request entitled to receive copies of annual reports, financial statements and other financial data for the preceding fiscal year, and shall be entitled to receive written notice of all meetings of the Association and may designate a representative to attend all such meetings.

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

9.5. **Amendment of Article IV.** No amendment to Article IV of this Declaration shall affect the rights of the Mortgagee under any Mortgage recorded prior to the recordation of any such amendment who does not join in the execution thereof.

V. CONVEYANCE, EASEMENT AND ENCROACHMENT

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

Unit _____, as shown on the Record of Survey Map for Evelyn Orem Creative Park Commercial Condominiums appearing on the Records of the County Recorder of Utah County, State of Utah, in Book No. _____, Page No. _____, of Plats, as defined and described in the Declaration for the Evelyn Orem Creative Park Commercial Condominiums recorded the _____ day of _____, _____, as Entry No _____, Book No. _____, Page No. _____, The Evelyn Orem Creative Park Commercial Condominiums includes Exhibits A, B and C attached thereto.

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

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

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

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

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

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

XI. AMENDMENT

11.1. **Amendment by Unit Owners.** Except as otherwise provided in this Declaration and except as prohibited by the Act, the provisions of this Declaration may be amended by an instrument in writing signed and acknowledged by Unit Owners who own 75% in the aggregate of the ownership interest in the Common Areas and Facilities, which amendment shall be effective upon recording, and upon approval of the Mortgagee's where necessary. Provided, however, that so long as Declarant shall be entitled to appoint the members of the Management Committee as provided in Section 2.11 of the Bylaws, this Declaration may not be amended without the written approval of Declarant. Any material amendment to this Declaration, including, but not limited to, any such amendment which would alter the percentage interests in the Common Area and Facilities, other than those alterations allowed in Article 13, must be approved in writing by all Mortgagee's.

11.2. **Amendment by Declarant.** Within six months from the recording date hereof, the Declarant reserves the right to amend the Declaration if required by the Federal National Mortgage Association or by some other governmental agency or lending institution, provided that such amendment does not materially affect the rights of the Unit Owners or Mortgagee's.

VII. LEASING OF UNITS

12.1. **Leases of Units.** All leases of Units shall be in writing and shall follow the standard lease form adopted from time to time by the Management Committee. The standard lease form shall provide

that the terms of the lease shall be subject in all respects to the terms of this Declaration, the Bylaws and all rules and regulations adopted by the Management Committee and the failure of the lessee to comply with the terms of said documents shall be a default under the lease. The standard lease form shall contain the following provisions;

12.1.1. The tenant shall agree to comply with all the terms and conditions of this Declaration, the Bylaws and rules and regulations adopted by the Management Committee.

12.1.2. The tenant shall agree not to allow or commit any nuisance, waste or unlawful or illegal act upon the Project.

12.1.3. The Owner and the tenant shall acknowledge that the Association is intended to be a third-party beneficiary of the lease agreement and that the Association shall have the right to enforce compliance with the Declaration and Bylaws and to abate any nuisance, waste or unlawful or illegal activity upon the Project; and that the Association shall be entitled to exercise all of the Owners rights remedies under the lease to do so. They shall also acknowledge that the Association shall have all rights and remedies available under state or local law.

12.2 Limitations on Leasing. The Management Committee may adopt rules and regulations providing that all leasing of Condominium Units must be done by and through the Association or a management company appointed by the Association. The Management Committee may otherwise regulate the leasing of Condominium Units.

12.3. Management Committee to Approve Lease. Prior to attendant being allowed to occupy a Condominium Unit, the Owner shall provide the management Committee or management company with a copy of the written lease and the proposed tenant's name address and phone number. The Management Committee or management company must approve the lease agreement, and the Management Committee or management company may screen the tenant and must approve the tenant prior to the lease becoming effective and the tenant being allowed to occupy the Condominium Unit. Such approval shall not be unreasonably withheld.

XIII. COMBINATION OF UNITS

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

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

13.3. Changes to Undivided Interests in Common Areas. Any amendment of the Declaration or Survey Map pursuant to this Article XIII shall reflect the changes occasioned by the alteration. Such changes shall include a change in the percentage of the undivided interest in the Common Areas and Facilities which are appurtenant to the Units involved in the alterations. The remaining combined Unit, if two or more units are totally combined, will acquire the total of the percentage of undivided interest in the Common Areas and Facilities appurtenant to the Units that are combined as set forth in Exhibit B. If a portion of one Unit is combined with another, the resulting Units shall acquire a proportionate percentage of the total undivided interest in the Common Area and Facilities of the Units involved in the combination on a basis of area consented to by the Management Committee and also all other persons holding interest in the Units affected. The consent of other Unit owners need not be obtained to make such amendments or alterations valid, providing the percentage of undivided interest in the Common Areas and Facilities of the other Unit Owners remain unchanged.

XIV. GENERAL PROVISIONS.

14.1 Agent for Service of Process. The name and address of the person in Utah County, State of Utah, appointed agent to receive service of process in cases authorized by the act is; Eric S. Budge, 6625 West 9720 North, Highland, Utah 84003. The agent for service of process, and or his address may be changed by the Management Committee by recording the appropriate affidavit.

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

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

14.4 Enforcement. Each Owner or occupant of a Unit shall strictly comply with, and all interests in the Units shall be subject to, the terms of the Act, the terms of this Declaration, the Bylaws, and the provision of any rules, regulations, agreements, instruments, and determinations by come contemplated by this Declaration, and failure to comply shall be grounds for an action to recover sums due for

damages or injunctive relief or both, maintainable by the management Committee on behalf of the Unit Owners, or, in a proper case, by an aggrieved Unit Owner.

14.5 Declarant's Use. Declarant and persons it may select from time to time shall have the right of ingress and egress over, upon and across Common Areas and Facilities and Limited Common Areas and Facilities and the right to store materials there in and to make such other use thereof as may be reasonably necessary incident to the refurbishing, development and sale of all the Units.

14.6. Development not Exclusive. The principles of the Declaration are in the business of developing commercial and other types of property. In order to avoid claims of rights of exclusivity, Declarant specifically reserves for itself and its principles, the right to use any elements used in the Project including documentation, building designs, standards and themes in any other development by the Declarant or any of its principles wherever that development may be located.

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

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

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

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

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

14.12. Effective Date this Declaration shall take effect upon recording in the office of the County Recorder of Utah County, Utah.

EXECUTED on the day and the year first above written.

Evelyn Park LLC

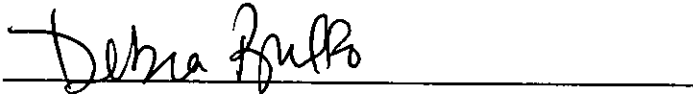


Eric S. Budge

STATE OF UTAH

COUNTY OF UTAH

The foregoing instrument was acknowledged before me this 5th day of November, 2019 by Eric S. Budge, as manager.



NOTARY PUBLIC

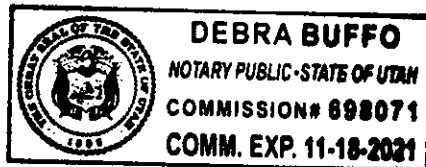


EXHIBIT A

BEGINNING AT A POINT WHICH IS SOUTH 00°47'56" EAST ALONG THE SECTION LINE 612.36 FEET AND EAST 1340.58 FEET FROM THE WEST QUARTER CORNER OF SECTION 9, TOWNSHIP 6 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN; THENCE NORTH 00°42'12" WEST 321.47 FEET TO A POINT OF CURVATURE; THENCE ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE RIGHT 23.84 FEET THROUGH A CENTRAL ANGLE OF 91°04'05", THE CHORD OF WHICH BEARS NORTH 44°50'26" EAST 21.41 FEET; THENCE SOUTH 89°36'56" EAST 284.14 FEET TO A POINT OF CURVATURE; THENCE ALONG THE ARC OF A 25.00 FOOT RADIUS CURVE TO THE RIGHT 38.80 FEET THROUGH A CENTRAL ANGLE OF 88°55'06", THE CHORD OF WHICH BEARS SOUTH 45°09'53" EAST 35.02 FEET; THENCE SOUTH 00°42'12" EAST 297.86 FEET; THENCE SOUTH 87°50'38" WEST 324.00 FEET TO THE POINT OF BEGINNING.

AREA = 2.447 ACRES (106,569.81 SQ. FT.)

EXHIBIT B

Unit Number	Size	Interest in Common	Votes
1	7,750	18.9%	7,750
2	8,930	21.8%	8,930
3	2,787	6.8%	2,787
4	2,787	6.8%	2,787
5	2,787	6.8%	2,787
6	3,800	9.3%	3,800
7	6,000	14.8%	6,000
8	6,000	14.8%	6,000
Totals	40,841	100%	40,841

EXHIBIT C
BYLAWS
OF
EVELYN OREM CREATIVE PARK
COMMERCIAL CONDOMINIUMS
And Association of Unit Owners Under
The Utah Condominium Ownership Act

The administration of the Evelyn Orem Creative Park Commercial Condominiums and the Evelyn Orem Creative Park Commercial Condominium Association shall be governed by these Bylaws, the Act and the Declaration.

1. Application of Bylaws.

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

2. Management Committee.

2.1. The administration of the property in behalf of the Association shall be conducted by a Management Committee. Only individuals who are Unit Owners or who are in officers, agents, or representatives of the Owners other than individuals and who are residents of the State of Utah shall be eligible to be members of the Management Committee. Provided, however, that during such time as the Declarant appoints the members of the Management Committee as provided in Section 2.11 of these Bylaws, the person so appointed shall not be required to be either Unit Owner or resident of the State of Utah the number of members of the Committee shall be three persons.

2.2. At each annual meeting of the Association, subject to the provisions of Section 2.11 of these Bylaws, the Association shall elect members to fill vacancies on the Management Committee. At each annual meeting the undivided interest in the Common Areas and Facilities appurtenant to a Unit may be voted in favor as many candidates for Committee membership as there are seats on the Committee to be filled. Where possible, at least 30 days prior to any annual meeting of the Association, the Management Committee shall select from the Unit Owners a nominating Committee of not less than three members none of whom shall be members of the then Management Committee who shall recommend to the annual meeting one nominee for each position on the Management Committee to be filled at that particular annual meeting. Nominations for positions on the Management Committee may also be made by petition filed with the secretary of the Association prior to the annual meeting of the Association and nominations for positions on the Management Committee may be made at the annual meeting.

2.3. Members of the Management Committee shall serve for a term of two years; provided, however, that two members of the Management Committee selected by the Unit Owners shall serve for initial turn of one year while the other members shall serve an initial terms of two years. Thereafter, Management Committee members elected or appointed shall serve for a two-year term or the unexpired term of the person whose place they were appointed. The terms of no more than two members will end each year. The members of the Management Committee shall serve until their respective successors are elected, or until their death, resignation or removal. Any member of the Management Committee who fails to attend four consecutive Management Committee meetings or fails to attend at least six of the Management Committee meetings held during any calendar year shall forfeit his membership on the Management Committee.

2.4. Any member of the Management Committee may resign at any time by given written notice to the chairman of the Committee, or the remaining Management Committee members. Any member of the Management Committee may be removed from membership on the Management Committee by a vote of at least two thirds on the undivided interest in the Project that votes on the question. Whenever there shall occur a vacancy on the Management Committee due to forfeiture, death, resignation, removal or any other cause, the remaining members of the Committee shall appoint a successor member to serve until the next annual meeting of the Association, at which time the said vacancy shall be filled by the Association for the unexpired term, if any.

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

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

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

2.8. Regular meetings of the Management Committee may be held without call or notice. The person or persons calling a special meeting of the Management Committee shall, at least 10 days before the meeting, give notice thereof by any usual means of communication. Such notice need not specify the purpose for which the meeting is called, and if an agenda is prepared for such meeting, the meeting need not be restricted to discussions of matters listed on the agenda.

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

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

2.11. Until the earlier of (i) the date seven years in the recording of this declaration, or (ii) one year after the Units to which 80% of the undivided interest in the Common Area and Facilities in the Project appertain have been conveyed by the declarant to individual purchasers, the declarant, or some other person or persons selected to be selected by Declarant, shall have the option to appoint and remove all members of the Management Committee, appoint and remove all officers of the Association, or at Declarant's option, to exercise powers and responsibilities otherwise assigned by the Declaration, these Bylaws, and the Act to the Association or the Management Committee. Declarant shall have the option at any time after the recording of the Declaration to turn over to the Association the total responsibility for electing and removing members of the Management Committee

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

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

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

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

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

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

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

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

2.12.8. A fidelity bond as provided for in the Declaration.

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

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

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

2.12.12. The Management committee shall have the exclusive right to contract for all goods, services and insurance when payment is to be made from the Common Expense Fund. This provision shall not be construed to prohibit the Management Committee from delegating such authority to the manager as it seems proper.

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

3. Meetings of the Association.

3.1. The presence in person or by proxy at any meeting of the Association of Unit Owners owning at least 50% of the undivided interests in the Common Areas and Facilities in response to a notice to all Unit Owners of record property given shall constitute a quorum. In the event that Unit Owners owning such 50% of the un-divided interests are not present in person or by proxy, the meeting shall be adjourned for 24 hours, at which time it shall reconvene and any number of Unit Owners present at such subsequent meeting shall constitute a quorum. Unless otherwise provided in the Declaration or the Act, any action may be taking at any meeting of the Unit Owners upon a majority of the undivided interests held by the Owners who are present in person or by proxy and who are voting. Notwithstanding the foregoing provisions of this Section, however, in any case in which the Act, or the Declaration requires the affirmative vote of at least a specified percentage of the Projects total undivided interests for authorization or approval of a matter, the presence of the Owners entitled to cast such percentage shall be necessary to constitute a quorum at any meeting, whether original or rescheduled, at which action on such matter is taken.

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

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

3.4. There shall be an annual meeting of the Association on _____ of _____ each year at _____ or such other time as set by the Management Committee, either at the Project or at such other reasonable place as may be designated. The Management

Committee shall give the written notice of the time and place of the annual meeting, said notice to be delivered to the Unit Owners not less than 10 days prior to the date of the fixed time for said meeting.

3.5. Special meetings of the Association may be held at any time at the Project or at some other reasonable place to consider matters which, by the terms of the Declaration, the Act, or these Bylaws require the approval of all or some of the unit owners, or for any other reasonable purpose. Special meetings shall be called by written notice, signed by a majority of the Management Committee, or by Unit Owners representing at least 10% of the undivided ownership of the Common Areas and Facilities and delivered to Unit Owners not less than 15 days prior to the date fixed for said meeting. The notices shall specify the date, time and place of this meeting, and the matters to be considered.

3.6. Roberts Rules of Order shall govern the conduct of the Associations meetings when not in conflict with the Declaration or these Bylaws.

4. Officers.

4.1. The Management Committee shall perform its functions and responsibilities through those members of the committee elected as officers annually by the Committee, and through such agents or employees as the committee may appoint. Such officers shall also be officers of the Association, with each holding for the Association the same office as he holds on the Management Committee. The primary officers shall consist of a chairman, vice-chairman, secretary, and Treasurer. The offices of secretary and treasurer, may be combined as one office. The Management Committee may appoint such assistant officers as the Management Committee may deem necessary. No officer shall receive compensation for serving as such unless a majority of the Unit Owners vote otherwise.

4.2. The chairman shall be the chief executive of the Management Committee and shall preside at all meetings of the Association and of the Management Committee and may exercise the powers ordinarily allocable to the presiding officer of an Association, including the appointment of committees. The chairman shall exercise general supervision over the Project and its affairs. He shall sign on behalf of the Association all conveyances, mortgages and contracts of material importance to its business. He shall do and perform all acts which the Management Committee may require.

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

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

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

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

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

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

5. Common Expenses: Assessments

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

5.2. It shall be the responsibility of the Management Committee to determine questions related to the maintenance, repair and replacement of all Common Areas and Facilities. However, except as provided otherwise in the Declaration, there shall be no single structural alteration, capital addition to, or capital improvement of the Common Areas and Facilities requiring an expenditure in excess of \$25,000, unless those holding two thirds of the votes present, or by proxy, at a duly called meeting shall approve the expenditure for such structural alterations, capital edition two, or capital improvement of the Common Areas and Facilities.

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

5.4. The rights, duties and functions of the Management Committee set forth in this Section 5 may be exercised by Declaration as provided in Section 2.11 of these Bylaws for the period ending 30 days after the election of the first Management Committee hereunder by the Owners.

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

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

5.7. The treasurer shall keep detailed records of all receipts and expenditures, including expenditures affecting the Common Area and Facilities, specifying, using and itemizing the maintenance, repair and replacement expenses of the Common Areas and Facilities and other expenses incurred. Such record shall be available for examination by the Unit Owners during regular business hours. The treasurer shall keep an accurate record of such assessments and the payments thereof by each Unit Owner.

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

5.9. Any person who shall have entered into a written agreement to purchase a Unit shall, upon payment of \$50 fee, required by the Declaration, shall be entitled to obtain a written statement from

the treasurer setting forth the amount of unpaid assessments charged against the Unit and its Owners, and if such statement does not reveal the full amount of unpaid assessments of the date it is rendered, neither to the purchaser or the Unit shall be liable for the payment of an amount in excess of the unpaid assessments shown thereon, provided that the former Unit Owner grantor shall remain so liable. Any such excess which cannot be promptly collected from the former Unit Owner grantor shall be reassessed by the Management Committee as a Common Expense to be collected from all Unit Owners, including without limitation, the purchaser of the units, is successor and assigns. The new Unit Owner shall and the former unit Owner shall not be liable for any assessments made after the data transfer of title to a Unit, even though part or all of the assessment relates to expenses incurred or advances made by the Management Committee during a period prior to that date.

5.10. In the event that title to a Unit is transferred and a sheriff's sale pursuant to execution upon any lien against the Unit, the Management Committee shall give notice in writing to the sheriff of any unpaid assessments for Common Expenses which are a lien against the Unit, and for any expenses or advances by the Management Committee which have not heretofore been related reduced to a lien, which shall be paid out of the proceeds of the sale prior to the distribution of any balance to the former Unit Owner shall be a reassessed by the Management Committee as a Common Expense to be collected from all of the Unit Owners, including the purchaser who acquired title at shares sale, his successors and assigns. To protect its rights to collect unpaid assessments for Common Expenses which are a lien against a Unit, and for any expenses and advances by the Management Committee, the Management Committee may on behalf of all the Units Owners, purchase the Unit at the sheriff's sale, provided such action is authorized by the affirmative vote of a majority of the members of the Management Committee

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

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

6. Litigation.

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

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

7. Abatement and Enjoyment of Violations by Unit Owners.

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

7.1. To enter the Unit in which, or as to which such violation or breach exists and to abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition they may exist therein contrary to the intent of the provisions hereof, and the Management Committee shall not thereby be deemed guilty in any manner of trespass; or

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

8. Lease of Units by Owners.

8.1. Any Unit Owner who leases his Unit shall be subject to the requirements and restrictions of Article XII of the Declaration. Such Owner shall give written notice to and provide the information to the Management Committee or manager required by the Declaration. The provisions of the Declaration, these Bylaws and the rules and regulations shall apply with equal force to tenants or lessees of a Unit.

8.2. Any Unit Owner who rents or leases its' Unit shall be responsible for the conduct of its' tenants and shall be responsible for ensuring that his tenants do not violate the Declaration, Bylaws or rules and regulations of the Association.

8.3. If a Unit Owner fails to correct violations by his tenants within 72 hours after notice by the Management Committee to such Owner of such violation, the Management Committee or manager shall be deemed to be the agent of the Unit Owner and in empowered to take any enforcement action the Unit Owner would be entitled to take, the cost of such action to be assessed to the Unit Owner and payable within 30 days of assessment. Such costs shall be collected and enforced in the same manner as common assessments under the Declaration and these Bylaws.

8.4. The power of the Management Committee or manager hereunder shall include, but not be limited to, any and all legal remedies available under the laws of the State of Utah. Any Unit Owner by the act of renting or leasing his Unit shall be deemed to have consented to these procedures and shall indemnify and save harmless the Management Committee and the manager from and against any and all liability thereof. It is expressly understood that the remedies available to the Management

Committee or manager shall include, but not be limited to, the right to seek eviction of the tenant without any liability to the Unit Owner.

9. Office

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

10. Accounting.

10.1. The books and the accounts of the Association shall be in accordance with generally accepted procedures and under the direction of the treasurer.

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

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

11. Special Committees.

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

12. Management Rules and Regulations.

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

13. Amendment of Bylaws.

These Bylaws may be amended by the approval of Unit Owners who own 75% in the aggregate of the undivided interests in the Common Areas and Facilities in the Project. Provided, however, that so long as Declarant shall be entitled to appoint the members of the Management Committee as provided

in Section 2.11 hereof, these Bylaws may not be amended without the written approval of Declarant. Upon such approval, the Management Committee, and if necessary, the Declarant, shall acknowledge and amend Bylaws, setting forth the fact of the required approval of the Unit Owners (and the Declarant) and the amendment shall be effective upon recording. Any material amendment to these Bylaws, however, including, but not limited to, any amendments which might affect or change the percentage interest of the Unit Owners in the Common Areas must also be approved in writing by 75% of all Mortgagee's of the individual Units (based on one vote for each Mortgage).

14. Severability.

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

15. Captions.

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

16. Effective Date.

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