

After Recording Mail to:
Sky Lodge
4780 Winchester Ct.
Park City, UT 84060

**FIRST AMENDMENT
TO
DECLARATION OF CONDOMINIUM
FOR
UNION SQUARE,
A UTAH CONDOMINIUM PROJECT**

THIS FIRST AMENDMENT TO DECLARATION OF CONDOMINIUM FOR UNION SQUARE, a Utah Condominium Project (the "Amendment") is made and executed as of November __, 2007, by Easy Street Partners, LLC, a Utah limited liability company ("Declarant"), pursuant to the provisions of the Utah Condominium Ownership Act contained in Title 57, Chapter 8 of the Utah Code, as it may be amended from time to time (the "Act").

A. Easy Street Partners, LLC is the "Declarant" under that certain Declaration of Condominium for Union Square, a Utah Condominium Project (the "Project"), recorded April 12, 2006 in Book 1784 at Pages 195-296 in the Official Records of the Office of the Summit County Recorder (the "Declaration").

B. Under Section 22.2 of the Declaration, Declarant has the right to amend the Declaration "prior to the closing of the sale of the first Commercial Unit or Shared Interest Unit."

C. Declarant is the sole record owner of the Property, and has not closed on the sale of any Commercial Unit or Shared Interest Unit.

D. Declarant desires to amend the Declaration, Bylaws and the Reservation Policies and Procedures on the terms set forth in this Amendment.

NOW, THEREFORE, Declarant hereby declares and provides as follows:

1. Declaration Incorporated by Reference. The Declaration in its entirety is hereby incorporated by reference and made a part of this Amendment as though fully set forth herein.

2. Definitions. Unless the context clearly requires otherwise, all the terms which are defined in the Declaration shall carry the same meaning when used in this Amendment.

3. Revisions to Sections 2.48 and 2.52. Sections 2.48 and 2.52 make reference to Section 1.6 of the Declaration when in fact the reference should be to Section 1.7. Therefore, the references in Sections 2.48 and 2.52 to Section 1.6 are hereby deleted and replaced with references to Section 1.7.

4. Revision to Section 3.1. The legal description for the Property was inadvertently omitted from the Declaration. Therefore, Section 3.1 of the Declaration is hereby revised to include the legal description for the Property attached hereto as Exhibit A.

5. Replacement of Exhibit C. The Bylaws of the Association, attached to the Declaration as Exhibit C, are hereby deleted in their entirety and replaced with the Bylaws attached hereto as Exhibit B.

6. Replacement of Exhibit E. The Sky Club Reservation Policies and Procedures, attached to the Declaration as Exhibit E, are hereby deleted in their entirety and replaced with The Sky Club Reservation Policies and Procedures attached hereto as Exhibit C.

7. Effective Date. This Amendment shall be effective upon recording in the Office of the Summit County Recorder. Except as herein expressly provided, the Declaration shall remain in all other respects unmodified and in full force and effect.

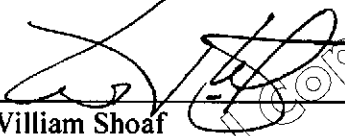
IN WITNESS WHEREOF, the Declarant has executed this Amendment as of the date first above written.

EASY STREET PARTNERS, LLC,
a Utah limited liability company

By: **EASY STREET MEZZANINE, LLC,**
a Delaware limited liability company
Its: **Sole Member**

By: **EASY STREET HOLDING, LLC,**
a Utah limited liability company
Its: **Sole Member**


By: **AVG-SL, LLC,**
a Utah limited liability company
Its: **Manager**

By: 

William Shoaf
Its: **Manager**

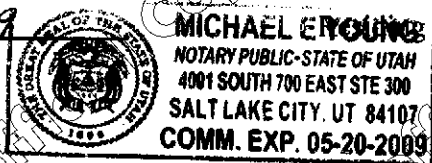
STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

On the _____ day of November, 2007, personally appeared before me William Shoaf, who being by me duly sworn did say that he is a Manager of AVG-SL, LLC, a Utah limited liability company, the Manager of Easy Street Holding, LLC, a Utah limited liability company, the Sole Member and Manager of Easy Street Mezzanine, LLC, a Delaware limited liability company, the Sole Member and Manager of Easy Street Partners, LLC, a Utah limited liability company, and that he executed the foregoing First Amendment to Dedication on behalf of said company, being duly authorized and empowered to do so.



NOTARY PUBLIC

My Commission Expires: 05.20.2009



DECLARATION OF CONDOMINIUM

UNION SQUARE

PARK CITY, UTAH

Table of Contents

	Page
1. RECITALS.....	1
2. DEFINITIONS.....	1
3. DESCRIPTION OF THE PROPERTY AND THE IMPROVEMENTS.....	6
4. SUBMISSION TO ACT.....	7
5. DESCRIPTION OF UNITS.....	7
6. DESCRIPTION AND OWNERSHIP OF COMMON AREAS AND FACILITIES.....	8
7. DESCRIPTION OF LIMITED COMMON AREAS AND FACILITIES.....	8
8. NATURE AND INCIDENTS OF COMMERCIAL UNIT OWNERSHIP.....	10
9. NATURE AND INCIDENTS OF CLUB INTEREST OWNERSHIP.....	12
10. TITLE TO UNITS AND CLUB INTERESTS.....	15
11. CERTAIN ADDITIONAL DEVELOPMENTAL RIGHTS.....	16
12. RESTRICTIONS ON USE, ALIENATION AND OCCUPANCY.....	17
13. ASSOCIATION AND MANAGEMENT COMMITTEE.....	20
14. COMMERCIAL UNIT COMMITTEE.....	23
15. SHARED INTEREST COMMITTEE.....	24
16. MAINTENANCE, ALTERATION AND IMPROVEMENT.....	26
17. INSURANCE.....	26
18. DESTRUCTION OR DAMAGE.....	29
19. TERMINATION.....	32
20. EMINENT DOMAIN.....	32
21. MORTGAGEE PROTECTION.....	33
22. AMENDMENT.....	35
23. ASSESSMENT OF UNITS BY THE ASSOCIATION.....	36
24. VOTING.....	41
25. EASEMENTS.....	41
26. NOTICES.....	42
27. NO WAIVER.....	42
28. ENFORCEMENT.....	42
29. DECLARANT.....	43
30. AGENT FOR SERVICE OF PROCESS.....	43
31. SEVERABILITY.....	43



32. CAPTIONS..... 44

33. CONFLICTS..... 44

34. LAW CONTROLLING..... 44

35. EFFECTIVE DATE..... 44

EXHIBIT A Schedule of Units, Square Footage, Votes and Undivided Interests in
Common Areas.....

EXHIBIT B Copy of Condominium Plat.....

EXHIBIT C Association Bylaws.....

EXHIBIT D The Sky Club Reservation Policies and Procedures.....

SCHEDULE ONE The Sky Club Member Reservation Priority Table.....

**DECLARATION OF CONDOMINIUM
UNION SQUARE
PARK CITY, UTAH**

THIS DECLARATION OF CONDOMINIUM FOR UNION SQUARE, a Utah Condominium Project (“Declaration”), is made and executed by EASY STREET PARTNERS, LLC, a Utah limited liability company (hereinafter referred to as “Declarant”), pursuant to the provisions of Title 57, Chapter 8, Utah Code Annotated, as amended.

1. RECITALS.

1.1. Declarant holds both legal and equitable title to the real property located in the County of Summit, State of Utah, hereinafter more particularly described, upon which Declarant desires to develop a fractional use condominium project.

1.2. The covenants, conditions and restrictions contained in this Declaration and in the Exhibits hereto shall be enforceable equitable servitudes and shall run with the land.

1.3. Recorded simultaneously herewith is a Condominium Plat of the Project as required by the Act.

1.4. The Project shall be known as “Union Square.”

1.5. The Project will contain Commercial Units and Hotel Residence Units.

1.6. The Hotel Residence Units will be subject to a fractional use plan to be referred to as the “Shared Interest Ownership Regime,” allowing undivided or fractional ownership of Hotel Residence Units together with short term, periodic use of such Hotel Residence Units. Such undivided interests are to be known as “Shared Interests” and shall constitute “timeshare estates” under Utah law. The Shared Interest Ownership Regime will allow Owners of Shared Interests the use of Shared Interest Units on a periodic basis.

2. DEFINITIONS.

2.1. Unless the context clearly indicates otherwise, certain terms as used in this Declaration and the foregoing Recitals shall have the meanings set forth in this Section 2. (Certain terms not defined herein are defined elsewhere in this Declaration, including the Reservation Policies and Procedures.)

2.2. Act shall mean the Utah Condominium Ownership Act (Title 57, Chapter 8, Utah Code).

2.3. Amendment shall mean any amendment to this Declaration made in accordance with this Declaration and the Act.

2.4. Articles shall mean the Articles of Incorporation of The Union Square Owners Association, Inc.

2.5. Association shall mean The Union Square Owners Association, Inc., a non-profit corporation, organized for the purposes set forth in this Declaration.

2.6. **Association Manager** shall mean the person, firm or company designated by the Association to manage, in whole or in part, the affairs of the Association and the Common Areas and Facilities.

2.7. **Buildings** shall mean the buildings comprising the Project, as described in Section 3.2.

2.8. **Bylaws** shall mean the Bylaws of the Association, a copy of which is attached hereto as Exhibit "C", as amended from time to time.

2.9. **Club Facilities** has the meaning set forth in Section 9.12 hereof.

2.10. **Club Facilities License Agreement** has the meaning set forth in Section 9.12 hereof.

2.11. **Club Manager** shall mean the operator of The Sky Lodge (including the Shared Interest Ownership Regime) and The Sky Club, which is CloudNine Resorts, LLC, a Utah limited liability company.

2.12. **Club Year** means the period from December 15th through December 14th each year. For example, Club Year 2007 begins December 15, 2006 and ends December 14, 2007.

2.13. **Commercial Owner** shall mean any person or entity or combination thereof, including Declarant, at any time owning a Commercial Unit. The term "Commercial Owner" shall not include any Mortgagee (unless such Mortgagee has acquired title for other than security purposes).

2.14. **Commercial Unit** shall mean a Unit within the Project, which as been designated in Exhibit "A" hereto and/or the Plat as a Commercial Unit.

2.15. **Commercial Unit Committee** has the meaning set forth in Section 14 hereof.

2.16. **Commercial Unit Limited Common Facilities** means those portions of the Common Areas and Facilities, which, pursuant to Section 7 below, are restricted in use to the Commercial Owners and are depicted on Exhibit "B."

2.17. **Common Areas and Facilities** shall mean all portions of the Project other than the Units, as described in Section 6.1 hereof, including the Limited Common Areas and Facilities. The undivided interest in the Common Areas and Facilities appurtenant to each Unit or Shared Interest described in Section 6.2 hereof is set forth in Exhibit "A" hereto.

2.18. **Common Assessments** shall mean those assessments described in Section 23 to fund the Common Expenses, and include Regular Common Assessments, Special Common Assessments and any other assessments levied by the Association.

2.19. **Common Expenses** shall mean all expenses of the administration, maintenance, repair, or replacement of the Common Areas and Facilities and all other expenses denominated as Common Expenses by this Declaration or by the Act.

2.20. **Common Expense Fund** shall mean one or more deposit or investment accounts of the Association into which are deposited the Common Assessments.

2.21. Common Furnishings shall mean all furniture, furnishings, appliances, fixtures and equipment, and all other personal property, from time to time, owned or leased by the Association or held for use at The Sky Lodge except those furnishings, furniture, appliances, fixtures, decorations, accessories, supplies and equipment designated by the Association as Hotel Residence Furnishings solely for use in the Shared Interest Units.

2.22. Cost of Living Index shall mean the Consumer Price Index for Urban Wage Earners and Clerical Workers: U.S. City Average, All Items 1982-1984 = 100 compiled by the Bureau of Labor Statistics, United States Department of Labor. The Index for August 2005 is the reference base index. Declarant may select any other comparable index which measures changes in the cost of living.

2.23. Declarant shall mean Easy Street Partners, LLC, a Utah limited liability company, or any successor in interest as defined by the Act.

2.24. Declarant's Shared Interest Use Period has the meaning set forth in Section 9.10 below.

2.25. Declaration shall mean this Declaration of Condominium, and all amendments, modifications and supplements hereto.

2.26. Developmental Rights shall mean the right under the Act to exercise any of the rights set forth in Section 11 hereof.

2.27. Eligible Mortgagee shall mean and refer to a First Mortgagee which has requested notice of certain matters from the Association in accordance with Section 21.1 of this Declaration.

2.28. FFE Reserves has the meaning set forth in Section 23.2 below.

2.29. Hotel Residence Furnishings shall mean the furnishings, furniture, equipment, appliances, vehicles, decorations, accessories, supplies and fixtures designated by the Shared Interest Committee of the Association for use by Shared Interest Owners. Hotel Residence Furnishings shall constitute Hotel Residence Unit Limited Common Facilities available for use solely by the Owners of Shared Interest Units.

2.30. Hotel Residence Owner shall mean any person or entity, including Declarant, at any time owning a Hotel Residence Unit. The term "Hotel Residence Owner" shall not include any Mortgagee, unless such Mortgagee has acquired title for other than security purposes.

2.31. Hotel Residence Unit shall mean a Unit in the Project, which has been designated in Exhibit "A" hereto and the Plat as a Hotel Residence Unit.

2.32. Hotel Residence Unit Limited Common Facilities means those portions of the Common Areas and Facilities, which, pursuant to Section 7 below, are restricted in use to the Hotel Residence Owners and the Hotel Residence Units (or the Shared Interest Owners and the Shared Interest Units), and are depicted on Exhibit "B."

2.33. Limited Common Areas and Facilities shall mean the Hotel Residence Unit Limited Common Facilities and the Commercial Unit Limited Common Facilities, as shown on the Plat.

2.34. Management Committee shall mean the Board of Directors, Board of Managers, Board of Trustees or Executive Board (regardless of the specific term used) of the Association, appointed or elected in accordance with this Declaration and the Bylaws.

2.35. Members shall mean the owners of a Shared Interest who have the right to exercise The Sky Club Membership privileges. The Members shall be required to comply with The Sky Club Rules.

2.36. Membership shall mean a membership in The Sky Club.

2.37. Mortgage shall mean any mortgage, deed of trust or other security instrument (including the seller's rights under a contract for deed) by which a Unit or any part thereof or interest therein is encumbered. A First Mortgage is a Mortgage having priority as to all other Mortgages encumbering a Unit or any part thereof or interest therein.

2.38. Mortgagee shall mean any person or entity named as the mortgagee, beneficiary or holder of the seller's interest (so long as a copy of the contract for deed is given to the Association) under any Mortgage by which the interest of any Owner is encumbered, or any successor to the interest of such person under such Mortgage. A First Mortgagee shall mean any person or entity holding a First Mortgage including any insurer or guarantor of a First Mortgage. Any and all Mortgagee protections contained in the Declaration shall also protect the Declarant as the holder of a First Mortgage of a Unit or any interest therein.

2.39. Occupant means any person or persons, other than an Owner, in lawful possession of one or more Units.

2.40. Owner shall mean any person or entity, including Declarant, at any time owning a Unit or a Shared Interest in a Shared Interest Unit within the Project (including, to the extent permitted by law, those purchasing an interest pursuant to a contract for deed who have given written notice of their purchase and a copy of their contract to the Association). The term "Owner" shall not refer to any Mortgagee, unless such Mortgagee has acquired title for other than security purposes.

2.41. Plat shall mean the "Condominium Plat of Union Square, a Utah Condominium Project" recorded in the office of the County Recorder for Summit County, State of Utah, a reduced copy of which is attached hereto as Exhibit "B", as it may be amended from time to time pursuant to this Declaration and the Act. The initial Plat may be amended at such time as the Buildings are constructed or remodeled in the event there are material changes in the Building boundaries or elevations as constructed. Such an amendment to the Plat is expressly authorized and may be undertaken by Declarant without the joinder or consent of any other Owners. To the extent required by applicable law, such amendment shall be subject to the review and approval of the City of Park City.

2.42. Priority Reservation Schedule shall mean the schedule established to insure that selection of Vacation Times and use of Shared Interest Units by Shared Interest Owners is equitable, which is attached to this Declaration as Schedule I. The years reflected on Schedule I are the Club Years ending December 14 of the year listed at the top of the columns. Based on the assumption that all 22 Units are in the Shared Interest Regime, the Priority Reservation Schedule may be revised as needed by the Shared Interest Committee if less than 22 Units are sold as Shared Interests.

2.43. Project shall mean the Property, the Units, the Common Areas and Facilities and all improvements submitted by this Declaration to the provisions of the Act.

2.44. Property shall mean that certain real property situated in the County of Summit, State of Utah, more particularly described in Section 3 hereinafter, on which the Units and other improvements are located.

2.45. Regular Common Assessments shall mean the annual assessments levied by the Association to pay the budgeted Common Expenses.

2.46. Reservation Policies and Procedures shall mean the rules, regulations, policies and procedures attached in their present form as Exhibit "D", as amended from time to time, which will be administered by the Shared Interest Committee by which Shared Interest Owners reserve and schedule use of Shared Interest Units. The Reservation Policies and Procedures shall not be modified by the Shared Interest Committee without amending this Declaration and without the vote of sixty-seven percent (67%) of the Shared Interest Owners.

2.47. Shared Interest has the meaning set forth in Recital 1.6 hereof and shall mean a one-eighth undivided fee ownership interest in a Shared Interest Unit at The Sky Lodge together with the exclusive right to the possession, use and occupancy of such Shared Interest Unit during Vacation Times reserved for use pursuant to the Reservation Policies and Procedures.

2.48. Shared Interest Committee has the meaning set forth in Section 14.1.3 hereof.

2.49. Shared Interest Common Expenses shall mean Common Expenses incurred solely for the benefit of, and assessed by the Association or the Shared Interest Committee against, the Shared Interests and the Owners thereof, including expenses for management of the Shared Interests, Hotel Residence Furnishings and The Sky Club.

2.50. Shared Interest Owner shall mean the Owner of a Shared Interest in a Shared Interest Unit, including the Declarant.

2.51. Shared Interest Ownership Regime has the meaning set forth in Recital 1.6 hereof.

2.52. Shared Interest Unit shall mean a Hotel Residence Unit at The Sky Lodge, which has been committed to the Shared Interest Ownership Regime, together with the exclusive right to the possession, use and occupancy of such Shared Interest Unit during Vacation Times reserved for use pursuant to the Reservation Policies and Procedures. All Hotel Residence Units in The Sky Lodge have been committed to the Shared Interest Ownership Regime.

2.53. Spa has the meaning set forth in Exhibit "D" attached hereto.

2.54. Special Common Assessments shall mean assessments which the Association may levy from time to time, in addition to the Regular Common Assessments, for unexpected Common Expenses or other purposes as provided herein.

2.55. Square Footage shall mean the number of square feet of ground or floor space within each Unit, as set forth in the Plat and Exhibit "A" hereto. The calculation of Square Footage as contained in this Declaration and as shown on the Plat is final and binding upon all Owners irrespective of any later measurement of such Square Footages.

2.56. The Sky Club shall mean the club operated by the Club Manager. Membership in The Sky Club enables the Shared Interest Owners and Occupants to utilize the Club Facilities and obtain certain benefits more particularly described in the Club License Agreement.

2.57. The Sky Club Lounge has the meaning set forth in Exhibit "D" attached hereto.

2.58. The Sky Club Rules shall mean the rules and regulations governing Members, which shall be established and enforced by the Club Manager, and may be modified from time to time at the sole discretion of the Club Manager.

2.59. The Sky Lodge shall mean the hotel-condominium located on the Property and more particularly described in Section 3.2.

2.60. Total Votes of the Association shall mean the total number of votes appertaining to all Units or Shared Interests, as described in Section 24 hereof.

2.61. Unit shall mean a physical portion of the Project designated for separate ownership and occupancy as described in Section 5 hereof, and shall include the Commercial Units and Hotel Residence Units.

2.62. Unit Number shall mean the number, letter or combination of name, numbers and letters that identifies only one Unit in the Project.

2.63. Vacation Times shall mean those periods of time during which the owners of Shared Interests utilize Shared Interest Units as more specifically set forth in the Reservation Policies and Procedures.

3. DESCRIPTION OF THE PROPERTY AND THE IMPROVEMENTS.

3.1. Description of the Property. The Property on which the Units and improvements are located is situated in Summit County, Utah and more particularly described as follows:

[Insert Legal Description]

3.2. Description of the Buildings and Other Improvements.

3.2.1. The Sky Lodge. The Sky Lodge will be constructed on the Property. The Sky Lodge will be a six-story building and will contain, among other things, twenty-two (22) Hotel Residence Units, and three (3) Commercial Units. The Commercial Units shall be comprised of The Sky Club Lounge; the Hotel; and the Spa. The Sky Lodge will contain an underground parking garage with thirty-nine (39) parking spaces. The aggregate Square Footage of the Hotel Residence Units is forty four thousand two hundred and sixty six (44,266) square feet. The aggregate Square Footage of the Commercial Units is nine thousand two hundred and twenty seven (9,227) square feet. The Sky Lodge will be a steel frame building. The exterior of the building will be comprised of concrete fiberboard and board-formed concrete. The roof will be metal. The Sky Lodge will be supplied with telephone, cable or satellite television, electricity, natural gas, water, and sewer service.

3.2.2. Easy Street Brasserie and Bar Boheme Building. There is an existing building located on the Property, which is a Commercial Unit. The Square Footage of the Easy Street Brasserie and Bar Boheme building is approximately five thousand four hundred

and twenty two (5,422) square feet. This building houses the Easy Street Brasserie restaurant and Bar Boheme. The Sky Lodge will be constructed such that the Easy Street Brasserie building will connect to The Sky Lodge. There will be a meeting room within The Sky Lodge, which can be serviced by the Easy Street Brasserie building and will be part of the Easy Street Brasserie building Commercial Unit.

3.2.3. Historic Depot Building. There is an existing building located on the Property, which is a Commercial Unit. This building has been used for a restaurant. The Square Footage of the depot building as of the date of this Declaration is four thousand seven hundred and forty six (4,746) square feet. Declarant has plans to increase the Square Footage of the depot building to four thousand eight hundred and sixty five (4,865) square feet. At such time as Declarant completes the renovation of the depot building and increases the Square Footage, Declarant shall amend this Declaration to reflect the change in Square Footage.

3.2.4. Other Improvements. The Property also will be improved with certain outdoor features, including, without limitation, firepits, a walkway running between The Sky Lodge and the Historic Depot Building, certain water features, a bandstand, and outdoor dining areas.

4. SUBMISSION TO ACT.

Declarant hereby submits the Property, the Buildings and all other improvements thereon to the provisions of the Act. All of the Project is and shall be held, conveyed, hypothecated, encumbered, leased, subleased, rented, used and improved as a whole unit and fractional condominium project. All of the Project is and shall be subject to the covenants, conditions, restrictions, uses, limitations and obligations set forth herein, each and all of which are declared and agreed to be for the benefit of the Project and in furtherance of a plan for improvement of the Project and division thereof into Units; further, each and all of the provisions hereof shall be deemed to run with the land and shall be a burden and a benefit to the Declarant, the successors and assigns of the Declarant, and any person acquiring, leasing, subleasing or owning an interest in the real property and improvements comprising the Project, their assigns, lessees, sublessees, heirs, executors, administrators, devisees and successors.

5. DESCRIPTION OF UNITS.

The boundary lines of each Unit are as set forth on the Plat and consist of the undecorated and/or unfinished interior surfaces of its perimeter walls, bearing walls, lowermost floor, uppermost ceiling, and the interior surfaces of windows and doors. The interior surfaces of the doors and windows mean the points at which such surfaces are located when such window or door is closed. Each Unit shall include both the portions of a Building that are not Common Areas and Facilities within such boundary lines and the space so encompassed, excepting Common Areas and Facilities. Without limitation, a Unit shall include any finishing material applied or affixed to the interior surfaces of the interior walls, floors and ceilings; non-supporting interior walls; and all utility outlets, fixtures or appliances found within the boundary lines of the Unit and servicing only that Unit. Notwithstanding the fact that they may be within the boundaries of the Unit, the following are not part of any Unit: bearing walls, floors, ceilings and roofs (except the interior finished surfaces thereof), foundations, ceiling equipment, tanks, pumps, pipes, vents, ducts, shafts, flues, chutes, conduits, wires and other utility installations, except the outlets thereof when located within the Unit. The Plat and/or Exhibit "A" hereto contain the Unit Number of each Unit in the Project.

6. DESCRIPTION AND OWNERSHIP OF COMMON AREAS AND FACILITIES.

6.1. Description. The Common Areas and Facilities shall mean and include the portion of the Property on which all Units are located and all portions of the Project not included as part of any Unit, including, but not by way of limitation, the foundations, columns, girders, beams, supports, exterior and bearing walls, roofs, halls, corridors, elevators, stairwells, fire escapes and entrances and exits of Buildings; the grounds and recreational facilities, if any, designated as part of the Common Areas and Facilities on the Plat; the areas used for storage of janitorial supplies and maintenance equipment; installations of all central services, including power, light, gas, hot and cold water, heating, ventilating and garbage collection; , telephone, Internet and cable television systems; tanks, pumps, motors, fans, ducts and, in general, all apparatuses and installations existing for common use; all utility pipes, lines or systems servicing the Units; all ducts, flues, chutes, wires, conduits and other accessories and utility installations to the outlets used therewith; all other parts of the Property necessary or convenient to its existence, maintenance and safety, or normally in common use, or which have been designated as Common Areas and Facilities on the Plat or any amendment to the Plat made in accordance with this Declaration and the Act; and all repairs and replacements of any of the foregoing.

6.2. Ownership and Use of Common Areas. The undivided interest in the Common Areas and Facilities appurtenant to each Unit shall have a permanent character and shall not be altered (the "Undivided Interest").

6.2.1. Commercial Units. The Undivided Interest in the Common Areas and Facilities and share of Common Expenses appurtenant to each Commercial Unit shall be calculated by dividing the Square Footage of a Commercial Unit by the total Square Footage of all Units in the Project.

6.2.2. Shared Interests. The Undivided Interest in the Common Areas and Facilities and share of Common Expenses appurtenant to each Shared Interest shall be calculated by (i) dividing the Square Footage of a Shared Interest Unit by the total Square Footage of all Units in the Project, and (ii) then dividing such number by 8.

7. DESCRIPTION OF LIMITED COMMON AREAS AND FACILITIES.

7.1. General Description. Limited Common Areas and Facilities shall mean a portion of the Common Areas and Facilities reserved for the use of certain Owners to the exclusion of other Owners, as indicated by this Declaration, the Plat or the Act to be for the exclusive use of one or more but fewer than all of the Units. Mechanical systems serving only the Commercial Units or only the Hotel Residence Units shall be Limited Common Areas and Facilities with respect to the Units they serve. Similarly, hallways and other common walkways serving only the Commercial Units or only the Hotel Residence Units shall be limited Common Areas and Facilities with respect to the Units they serve. The Limited Common Areas and Facilities shall be those areas designated as such on the Plat, in this Declaration or as provided for by the Act. The use and occupancy of designated Limited Common Areas and Facilities shall be reserved to the Units as shown on the Plat or as specified in this Declaration. Owners may not reallocate Limited Common Areas and Facilities between or among Units in which they have an interest.

7.2. Hotel Residence Unit Limited Common Facilities. The Hotel Residence Unit Limited Common Facilities include, without limitation, those portions of the Common Areas and Facilities

that are restricted in use to the Hotel Residence Unit Owners (or Shared Interest Owners) and or any Occupants and generally consist of:

7.2.1. All passages, corridors, mechanical and other rooms, areas and spaces (including their respective floors, ceilings and enclosing walls) located in the Buildings which exclusively serve or benefit the Shared Interest Units and are not part of any Shared Interest Unit;

7.2.2. Smoke detection alarm system and sprinkler system serving or benefiting only the Shared Interest Units;

7.2.3. All building storage rooms, telephone rooms and other service, mechanical and utility rooms serving or benefiting only the Shared Interest Owners;

7.2.4. All ski storage lockers and/or garage storage lockers, located in the garage storage room identified on the Plat, bearing the Unit Number of the Hotel Residence Units;

7.2.5. All security monitors and equipment and other security facilities serving or benefiting only the Shared Interest Owners; and

7.2.6. All other systems, installations and facilities of The Sky Lodge (including shafts, pipes, wires, ducts, vents, cables, conduits and lines) which exclusively serve or benefit or are necessary or convenient for the existence, maintenance, operation or safety of the Shared Interest Owners.

7.3. Commercial Unit Limited Common Facilities. The Commercial Unit Limited Common Facilities include, without limitation, those portions of the Common Areas and Facilities that are restricted in use to the Commercial Unit Owners and or any Occupants and generally consist of:

7.3.1. The areas on each floor of The Sky Lodge used for storage of janitorial supplies and maintenance equipment and materials;

7.3.2. The service elevator, including, without limitation, the shaft, elevator equipment, elevator pit and entrance and appurtenant facilities;

7.3.3. All passages, corridors, mechanical and other rooms, areas and spaces (including their respective floors, ceilings and enclosing walls) located in the Buildings which exclusively serve or benefit one or more Commercial Units and are not part of any Commercial Unit;

7.3.4. Smoke detection alarm system and sprinkler system serving or benefiting only the Commercial Units;

7.3.5. All building storage rooms, telephone rooms and other service, mechanical and utility rooms serving or benefiting only the Commercial Owners;

7.3.6. All security monitors and equipment and other security facilities serving or benefiting only the Commercial Owners;

7.3.7. All other systems, installations and facilities of The Sky Lodge or any other Building (including shafts, pipes, wires, ducts, vents, cables, conduits and lines) which exclusively serve or benefit or are necessary or convenient for the existence, maintenance, operation or safety of the Commercial Owners;

7.3.8. All outdoor patios or dining areas serving or benefiting only a Commercial Owner;

7.3.9. The portion of the outdoor plaza and walkway designated as the "Easy Street Plaza" on the Plat; and

7.3.10. All parking areas in the underground parking garage.

8. NATURE AND INCIDENTS OF COMMERCIAL UNIT OWNERSHIP.

8.1. Nature of Ownership. Each Commercial Unit is and shall hereafter be a parcel of real property which may be separately held, conveyed, devised, mortgaged, encumbered, leased, rented, used, occupied, improved and otherwise affected in accordance with the provisions of this Declaration.

8.2. Use of Commercial Units and Common Areas and Facilities. Subject to the limitations contained in this Declaration, each Commercial Owner, its agents, tenants, invitees and all Occupants shall have the non-exclusive right to use and enjoy the Common Areas and Facilities and the exclusive right to occupy and use its Unit and any Limited Common Areas and Facilities designated for exclusive use by such Commercial Owner or all Commercial Owners.

8.3. Commercial Unit Maintenance. Each Commercial Owner shall have the exclusive right to paint, repaint, tile, wax, paper, carpet or otherwise decorate the interior surfaces of the walls, ceilings, floors and doors forming the boundaries of their Unit and the surfaces of all walls, ceilings, floors and doors within such boundaries. Each Commercial Owner shall keep the interior of their Unit, including without limitation, interior walls, windows, ceilings, floors and permanent fixtures and appurtenances thereto, in a sanitary condition and in a good state of repair. In the event that any such Commercial Unit should develop an unsanitary condition or fall into a state of disrepair and in the event that the Owner of such Commercial Unit should fail to correct such condition or state of disrepair promptly following written notice from the Commercial Unit Committee, the Commercial Unit Committee shall have the right, at the expense of the Commercial Owner and without liability to the Commercial Owner for trespass or otherwise, to enter such Commercial Unit and correct or eliminate said unsanitary condition or state of disrepair.

8.4. Emergency Access. The Commercial Unit Committee shall have the right to enter into any Commercial Unit for the purpose of emergency repairs, and for the purpose of abating a nuisance, or a known or suspected dangerous or unlawful activity.

8.5. Combination of Two Commercial Units. With the written consent of the Commercial Unit Committee, two or more Commercial Units may be utilized by the Commercial Owners thereof as if they were one Commercial Unit. To the extent permitted in the written consent of the Commercial Unit Committee, any walls, floors or other structural separations between any two such Commercial Units may, for as long as the two Commercial Units are utilized as one Commercial Unit, be utilized by the Commercial Owners of the adjoining Commercial Units as Limited Common Areas and Facilities, except to the extent that any such structural separations are necessary or contain

facilities necessary for the support, use or enjoyment of other parts of the Project. At any time, upon the request of the Owner of one of such adjoining Commercial Units, any opening between the two Commercial Units that, but for joint utilization of the two Commercial Units, would have been occupied by the structural separation, shall be closed, at the equal expense of the Owners of each of the two Commercial Units and the structural separations between the two Commercial Units shall thereupon become Common Areas and Facilities.

8.6. Subdivision of Commercial Units. Commercial Units may be subdivided or combined as set forth in the following paragraphs:

8.6.1. Written Proposal Required. No Commercial Unit or Units shall be subdivided and/or combined either by agreement or legal proceedings, except as provided in this Section 8.6. An Owner or Owners may propose subdividing or combining Commercial Units by submitting the proposal in writing to the Commercial Unit Committee, the Mortgagees of the Commercial Units to be subdivided or combined and, if required by local law, to the city of Park City. The proposal must include complete plans and specifications for accomplishing the subdivision or combination and proposed amendments of this Declaration and the Plat.

8.6.2. Approval of Commercial Unit Committee. A proposal that contemplates subdivision of a Commercial Unit will be accepted only if approved in writing by the Commercial Unit Committee, the Mortgagees of the Units to be subdivided, and the city of Park City, to the extent required by applicable law. The Commercial Unit Committee may approve the proposal as to form and legal sufficiency only. The city of Park City, if required, may approve the proposal as to applicable planning and zoning requirements. No proposal shall be approved unless the resulting Commercial Units provide adequate facilities and means of ingress and egress to comply with applicable zoning and condominium statutes and regulations.

8.6.3. Reallocation of Ownership Percentages. A proposal to subdivide Commercial Units shall provide for reallocation of the percentage ownership in the Common Areas and Facilities among the resulting Commercial Units, consistent with the provisions of Section 6.2, so that the combined percentages of ownership of the resulting Units are identical with the percentage ownerships of the subdivided Commercial Units prior to subdivision.

8.6.4. Subdivision Costs. The Commercial Owners of the Units to be subdivided or combined shall be responsible for all costs associated with the proposal and its implementation including but not limited to costs of amendment and recording of this Declaration and Plat to effect the proposal; review of the proposal, including reasonable attorneys' fees incurred by the Commercial Unit Committee, the Mortgagees and the city of Park City; and the cost of any modifications to the Project to implement the proposal.

8.6.5. Completion of Subdivision. Upon approval of the proposal, the Commercial Owners making the proposal may proceed according to the proposed plans and specifications; provided that the Commercial Unit Committee may, in its discretion, require that the Commercial Unit Committee administer the work, or that provisions for the protection of other Commercial Units or Common Areas and Facilities and/or reasonable deadlines for completion of the work be inserted in the contracts for the work. The changes

in the Plat, if any, and the changes in this Declaration shall be placed of record, at the requesting Owner's expense, as amendments thereto.

8.7. Exterior Surfaces. The exterior surfaces of the Commercial Units shall not be altered or modified without the prior written approval of the Commercial Unit Committee, unless such changes or modifications are consistent with any written rules or regulations for the exterior surfaces established by the Commercial Unit Committee. In the absence of such written rules or regulations, no exterior alterations, improvements, or remodeling, whether structural or cosmetic, will be made without the prior written approval of the Commercial Unit Committee, which shall not be unreasonably withheld, conditioned or delayed.

8.8. Membership in Association. The persons or entities who are at the time of reference Commercial Owners shall be members of the Association, the characteristics and nature of which are determined by the Act, this Declaration, the Bylaws, the Articles and other applicable Utah law.

8.9. Taxes. Each Commercial Unit shall be deemed to be a parcel and shall be assessed separately for all taxes, assessments, and other charges of the State of Utah or of any political subdivision thereof or of any special improvement district of any other taxing or assessing authority. All such taxes, assessments, and other charges on each respective Commercial Unit shall be separately levied against the Owner thereof. No forfeiture or sale of any Commercial Unit for delinquent taxes, assessments, or other governmental charges shall divest or in any way affect the title to any other Unit.

8.10. Lease of Commercial Units. Nothing in this Declaration shall limit the rights of Declarant or any Commercial Owner to lease a Commercial Unit.

9. NATURE AND INCIDENTS OF CLUB INTEREST OWNERSHIP.

9.1. Nature of Ownership. Each Hotel Residence Unit and Shared Interest is and shall hereafter be a parcel of real property which may be separately held, conveyed, devised, mortgaged, encumbered, rented, used, occupied and otherwise affected in accordance with the provisions of this Declaration.

9.2. Use of Units and Common Areas and Facilities. Subject to the limitations contained in this Declaration including, but not limited to, the Reservation Policies and Procedures, each Owner or Occupant shall have the non-exclusive right to use and enjoy the Common Areas and Facilities and the exclusive right to occupy and use their Unit (or in the case of a Shared Interest Owner utilizing a Shared Interest Unit on a Space Available basis, a Shared Interest Unit comparable to Owner's Shared Interest Unit) and any Limited Common Areas and Facilities designated for exclusive use by such Owner or all Owners during Vacation Times.

9.3. Conveyance of Shared Interests. Shared Interests may be described by reference to a specific undivided fee ownership interest, expressed as a fraction or percentage, in a specific Hotel Residence Unit. Further, each Shared Interest shall be identified by permanent reference to a letter, number or symbol or combination thereof, to identify the specific Shared Interest. A legal description substantially in the following form shall be sufficient for all purposes in connection with a Shared Interest:

Shared Interest _____ consisting of an undivided _____ interest in Hotel Residence Unit _____, according to the Declaration of Condominium for Union Square, a Utah

Condominium Project, recorded in Book _____ at Page _____, on _____, 200__ in the official records of the Recorder of the County of Summit, State of Utah.

9.4. Establishment of Shared Interest Units. After the initial conveyance of a Shared Interest by the Declarant, a Shared Interest shall thereafter have a permanent character and shall not thereafter be further divided by the Owner thereof. All future references to the Shared Interest for legal description purposes shall refer to the letter, number or symbol used by the Declarant in the initial conveyance of the Shared Interest. For example, in the event the Declarant designates Shared Interests by utilizing letters of the alphabet, individual Shared Interests in individual Shared Interest Units would be designated by the use of letters A, B, C etc. Once a Shared Interest is identified by the use of a specific letter in connection with a specific Shared Interest Unit, the letter shall become and remain part of the permanent legal description for the Shared Interest. The conveyance of a Shared Interest in a Hotel Residence Unit shall subject such Hotel Residence Unit to the Shared Interest Ownership Regime and such Hotel Residence Unit shall be termed a Shared Interest Unit.

9.5. Creation of Shared Interests. It is the present intention of the Declarant to convey undivided 1/8 fee ownership interests in the Shared Interest Units, which will permit annual use of Shared Interest Units by Shared Interest Owners in accordance with the Reservation Policies and Procedures. Declarant hereby submits the Hotel Residence Units described in the attached Exhibit "A" to the Shared Interest Ownership Regime and The Sky Club. Once subjected to the Shared Interest Ownership Regime, a Hotel Residence Unit may not be withdrawn from the Shared Interest Ownership Regime or The Sky Club without the consent of ninety percent (90%) of all of the Owners of Shared Interests, the Management Committee, the Shared Interest Committee and each First Mortgagee holding a lien in a Shared Interest in the Shared Interest Unit seeking withdrawal from the Shared Ownership Regime and/or The Sky Club.

9.6. Use of Shared Interests. Use of Shared Interest Units shall be governed by this Declaration, the Articles, the Bylaws, the Reservation Policies and Procedures and any Association rules and regulations. All Owners of Shared Interests are entitled to the benefits of the Shared Interest Ownership Regime and are required to participate in the Shared Interest Unit use program as detailed in the Reservation Policies and Procedures. The Reservation Policies and Procedures adopted by the Association govern the procedures for reserving use of Vacation Times in Shared Interest Units by Shared Interest Owners and guests. Further, the rules and regulations adopted by the Association govern the conduct of Owners, guests and Occupants on the Property.

9.7. Use of Club Facilities and Common Areas and Facilities. All Shared Interest Owners are entitled to use the Common Areas and Facilities and the Hotel Residence Furnishings during their Vacation Times pursuant to the Reservation Policies and Procedures and in accordance with the rules and regulations adopted by the Shared Interest Committee or the Association, which rules and regulations may, among other things, regulate times, areas, frequency, fees and charges. The Club Facilities, The Common Areas and Facilities and certain of the Hotel Residence Furnishings shall be available for use to all Shared Interest Owners outside of Vacation Times scheduled and reserved for such Shared Interest Owners in accordance with and pursuant to the Reservation Policies and Procedures and in accordance with the rules and regulations adopted by the Shared Interest Committee or the Association. As a general rule, priority will be given to Members and approved guests utilizing the Club Facilities during Vacation Times over Members who are not in residence at The Sky Lodge at the time of use of Club Facilities.

9.8. **Nature of Ownership.** Each Shared Interest in a Shared Interest Unit is allocated an appurtenant undivided fractional or percentage ownership interest in a Shared Interest Unit as described in this Declaration.

9.8.1. **Assessment of Shared Interest Common Expenses.** The undivided interest of a Shared Interest in the Project shall determine for the Shared Interest Owner thereof the relative voting rights and the obligation to pay Shared Interest Common Expenses when applied to Common Expenses applicable to all Units. Shared Interest Common Expenses are allocated to Shared Interest Owners based on the undivided interest of a Shared Interest Owner in relation to the undivided interests held by all Shared Interest Owners in the Shared Interest Unit.

9.9. **Hotel Residence Furnishings.** Hotel Residence Furnishings, including, but not limited to decorations, accessories and supplies placed in Shared Interest Units by the Declarant initially and by the Management Committee and the Shared Interest Committee subsequently shall constitute Limited Common Facilities appurtenant to Shared Interest Units for the use of Shared Interest Owners, guests and Occupants while in lawful possession of a Shared Interest Unit. The Shared Interest Committee may remove, replace, relocate, repair and otherwise deal with the Hotel Residence Furnishings as directed by the Club Manager. The expenses related to Hotel Residence Furnishings shall constitute a Limited Common Expense to be levied against Shared Interest Owners.

9.10. **Declarant's Right to Use Shared Interest Units.** Although each Shared Interest is an undivided 1/8 fee ownership in a Shared Interest Unit, Declarant has agreed to submit the Hotel Residence Units to the Shared Interest Ownership Regime, and to permit the Shared Interest Owners to utilize the Club Facilities, provided that the Shared Interest Owners grant Declarant the right to use each Shared Interest Unit for eighty-five (85) nights per calendar year, subject to a Shared Interest Owner's right to utilize his Vacation Times ("Declarant's Shared Interest Unit Use Period"). In consideration of each Shared Interest Owner's grant to Declarant of the right to Declarant's Shared Interest Unit Use Period, Declarant to provide the following benefits to the Association and the Shared Interest Owners: (i) Declarant shall pay for all housekeeping, repairs and maintenance relating to the use of any Shared Interest Unit during Declarant's Shared Interest Unit Use Period; (ii) Declarant shall pay for all utilities, day-to-day repairs and maintenance of Shared Interest Units, landscape maintenance and repair, and reservation and front desk operating costs for all Shared Interest Units during a Club Year, and (iii) Declarant shall enter into the Club Facilities License Agreement. For the avoidance of doubt, Declarant (or its assigns) shall have the right to utilize each Shared Interest Unit for eighty-five (85) nights per Club Year, after the Shared Interest Owners have reserved their Vacation Times in their Shared Interest Unit.

9.11. **Parking.** The underground parking area is designated Commercial Unit Limited Common Facilities appurtenant to the Hotel Commercial Unit, as shown on the Plat. Therefore, Shared Interest Owners have no rights to parking spaces because of their ownership of their Shared Interests. However, the Owner of the Commercial Units with rights to the parking area shall enter into a long-term agreement with the Association (the "Parking Agreement"). Pursuant to the Parking Agreement, each occupied Shared Interest Unit shall be entitled to use one undedicated parking space during the period of occupancy. Under the terms of the Parking Agreement, Shared Interest Owners shall be entitled to park in the parking garage free of charge during their Vacation Times.

9.12. **The Sky Club Lounge and Other Amenities of The Sky Club.** The Sky Club Lounge; the Spa; and lobby and reception areas are Commercial Units (the "Club Facilities"). Therefore,

Shared Interest Owners have no right to utilize such Club Facilities because of their ownership of their Shared Interests. However, the Association shall enter into an agreement that provides for use of the Club Facilities (the "Club Facilities License Agreement") with the Owner of such Commercial Units comprising the Club Facilities. Pursuant to the Club Facilities License Agreement, the Shared Interest Owners and their guests shall be entitled to use the Club Facilities during their Vacation Times so long as the Club Facilities Agreement is in effect. A description of the classes of membership in The Sky Club, Club Facilities and Club benefits is set forth in Exhibit "D" attached hereto and incorporated herein by reference.

9.13. Holdover Occupant. In order to ensure that a Shared Interest Unit will be available for each Shared Interest Owner or Occupant at check in time, the Club Manager will strictly enforce the check out time. If a Shared Interest Owner or Occupant fails to vacate a Shared Interest Unit at or before the check out time, the Shared Interest Owner or Occupant will be locked out of a Shared Interest Unit.

9.14. Abandoned Personal Possessions. Any personal items left in a Shared Interest Unit, whether due to error on the part of a Shared Interest Owner or Occupant or due to failure to vacate the Shared Interest Unit by the check out time, shall be deemed abandoned and shall become the Property of the Association.

9.15. Exchange Program. Declarant is authorized to establish an exchange relationship for the Shared Interest Owners with any bona fide exchange company or network.

10. TITLE TO UNITS AND CLUB INTERESTS.

10.1. Title. Title to a Unit or Shared Interest within the Project may be held or owned by any person or entity and in any manner in which title to any other real property may be held or owned in the State of Utah.

10.2. No Severance of Ownership. Except as otherwise provided herein, title to no part of a Unit or Shared Interest within the Project may be separated from any other part thereof during the period of ownership, and each Unit or Shared Interest, and the undivided interest in the Common Areas and Facilities appurtenant to each shall always be conveyed, devised, encumbered and otherwise affected only as a complete Unit or Shared Interest. Every gift, devise, bequest, transfer, encumbrance, conveyance or other disposition of a Unit or Shared Interest, or any part thereof, shall be construed to be a gift, devise, bequest, transfer, encumbrance or conveyance, respectively, of the entire Unit or Shared Interest, together with all appurtenant rights created by law and by this Declaration, including appurtenant membership in the Association as herein set forth.

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

10.4. Encumbrance of Units. Each Owner shall have the right to encumber his interest in a Unit or Shared Interest with a Mortgage. However, no Owner shall attempt to or shall have the right to encumber the Common Areas and Facilities or any part thereof except the undivided interest therein appurtenant to his interest in a Unit or Shared Interest. Any Mortgage of any Unit or Shared Interest within the Project shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure the provisions of this Declaration shall be binding upon any Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.

10.5. **No Unauthorized Liens.** No labor performed or services or materials furnished with the consent of or at the request of an Owner may be the basis for the filing of a lien against the Unit or Shared Interest of any other Owner, or against any part thereof, or against any other property of any other Owner, unless the other Owner has expressly consented to or requested the performance of such labor or furnishing of such services. Express consent shall be deemed to have been given by the Owner in the case of emergency repairs thereto. Labor performed or services or materials furnished for the Project, if authorized by the Association and provided for in the Declaration, shall be deemed to be performed or furnished with the express consent of each Owner. The Owner may remove his Unit or Shared Interest from a lien against two or more Units or Shared Interests or any part thereof by payment to the holder of the lien of the fraction of the total sums secured by such lien which is attributable to his Unit or Shared Interest.

10.6. **Description of Unit.** Every contract for the sale of a Unit or Shared Interest and every other instrument affecting title to a Unit or Shared Interest within the Project may describe a Unit or Shared Interest by the name of the Project, the recording date for this Declaration, the county wherein the Project is located and its Unit Number, (and in the case of a Shared Interest created under Section 9 of this Declaration, the letter, number or symbol assigned to a Shared Interest as described in Section 9.4 hereof) as indicated in this Declaration or as shown on the Plat. Such description will be construed to describe the Unit or Shared Interest, together with the appurtenant undivided interest in the Common Areas and Facilities, and to incorporate all the rights incident to ownership of a Unit within the Project and all of the limitations on such ownership as described in this Declaration.

11. **CERTAIN ADDITIONAL DEVELOPMENTAL RIGHTS.**

The following additional Developmental Rights are hereby granted or reserved by Declarant:

11.1. **Reservation of Rights.** Declarant hereby reserves, for itself, its agents, employees, contractors, subcontractors, workmen, material men and invitees an easement throughout the Project for a period ten (10) years from the recording of this Declaration for the purpose of completing all improvements contemplated by the Declaration and the Plat.

11.2. **Sales Office.** Declarant hereby reserves the right to maintain sales offices, management offices, signs advertising the Project and models in any of the Units which it owns or leases or on the Common Areas and Facilities of the Project for three (3) years from the recording of this Declaration. Declarant shall be entitled to utilize, at any one time, up to five (5) Units which it owns or leases and some or all of the Common Areas and Facilities as sales offices, management offices, and models anywhere in the Project. Declarant may relocate sales offices, management offices and models to other Units or Common Areas and Facilities at any time.

11.3. **Declarant Control.** There is hereby established a period of Declarant control of the Association, during which period Declarant or persons designated by it shall have the authority to appoint and remove the Association officers and members of the Management Committee. The period of Declarant control shall terminate no later than the earlier of:

- 11.3.1. three (3) years after the first Unit or Shared Interest is conveyed to an Owner; or

11.3.2. after Units and Shared Interests to which three-fourths (3/4) of the undivided interest in the Common Areas and Facilities appertain have been conveyed to Owners.

12. RESTRICTIONS ON USE, ALIENATION AND OCCUPANCY.

12.1. The Units and Use. Subject to the Developmental Rights, the Units and Common Areas and Facilities, including but not limited to the Limited Common Areas and Facilities, except as otherwise permitted in writing by the Management Committee, shall be used in accordance with the following restrictions:

12.1.1. Use of Shared Interest Units. No Shared Interest Unit shall be used for commercial purposes other than nightly rental through a bona fide and bonded commercial property management company that specializes in deluxe vacation home rentals; provided, however, that nothing in this Subsection shall prevent (a) Declarant or an affiliated corporation or a duly authorized agent from using any Unit owned by Declarant as sales offices and model Units as provided in Section 11.2 hereof, (b) any Shared Interest Owner or his duly authorized agent from renting or assigning use rights to his Shared Interest Unit from time to time in accordance with this Declaration, the Reservation Policies and Procedures, the Articles or Bylaws, or (c) Declarant from renting Shared Interest Units in connection with Declarant's Shared Interest Unit Use Period in accordance with the Reservation Policies and Procedures.

12.1.2. Use of Commercial Units. The Commercial Units within the Project may be used only as restaurants, private clubs, retail businesses, convention and meeting facilities, health and fitness facilities, and for such other uses as may be allowed under applicable law; provided, however, that if the particular use of any Unit increases the rate of insurance on the Project or any part thereof over what the Association, but for such activity, would pay, the Owner of such Commercial Unit shall be assessed for and shall pay the amount of such increase.

12.1.3. Access Easement. All Shared Interest Owners in residence, Occupants, the Club Manager, customers, clients, patrons, and licensees of Owners of Units shall be permitted to enter upon the Project and shall have a non-exclusive easement across the Common Areas and Facilities to the extent reasonably necessary for access to such Units.

12.1.4. Use of Shared Interest Units and Facilities. Subject to the payment of all Common Assessments and other charges approved by the Association and levied against the Owners, and subject to compliance with the provisions of this Declaration, with the Reservation Policies and Procedures and with rules and regulations promulgated from time to time by the Association, each Owner shall have the right with all other Owners to occupy and use his Shared Interest Units and Common Areas and Facilities at The Sky Lodge during Owner's Vacation Times.

12.1.5. No Alteration of Common Areas. No Shared Interest Owner shall erect or construct, in the Common Areas and Facilities, any structure of any type whatsoever. No Owner shall place, store, keep or permit to be placed, stored or kept, upon the Common Areas and Facilities any personal property, including, but not limited to, vehicles of any type except pursuant to the rules and regulations of the Association without the prior written approval of the Management Committee.

12.1.6. **No Alteration of Shared Interest Units.** No Owner of a Shared Interest or Shared Interest Unit shall have the right to redecorate or make alterations or repairs to any Shared Interest Units, improvements, Hotel Residence Furnishings, Common Areas and Facilities or Common Furnishings, nor shall any Owner have the right to subject The Sky Lodge or any portion thereof to any liens for the making of improvements or repairs to The Sky Lodge or any portion thereof. The provisions of this Article are intended to benefit and protect First Mortgagees as well as Owners and may be enforced by any First Mortgagee, the Management Committee or by an Owner.

12.1.7. **Nuisances.** No noxious, offensive or illegal activity shall be carried on in or upon any part of the Project nor shall anything be done on or placed in or upon any part of the Project which is or may become a nuisance or may cause unreasonable embarrassment, disturbance or annoyance to Owners or Occupants.

12.1.8. **Unsafe Activities or Conditions.** No activities shall be conducted, or improvements constructed, in or upon any part of the Project which are or may become unsafe or hazardous to any person or property.

12.1.9. **Signage.** No signs, flags or advertising devices of any nature, including, without limitation, political, informational or directional signs or devices, shall be erected or maintained on any part of the Project, except as may be necessary temporarily to caution or warn of danger, except as may be used by Declarant as part of its sales program or in connection with the operation of the Units as a hotel-condominium, or as approved by the Management Committee and the city of Park City (if required by law) with respect to the Commercial Units.

12.1.10. **Pets.** Except for trained assistance animals for the disabled or for similar purposes, no animals, birds, fish or pets of any kind shall be kept on any portion of the Project.

12.1.11. **Window Coverings.** The draperies, shades and other interior window coverings in Units shall present a uniform appearance from the outside of the Units. All draperies, shades or other interior window coverings shall be installed or employed in each Unit by the Management Committee or with the prior inspection and written approval of the Management Committee. The Management Committee shall have the right to establish rules requiring window coverings to present a uniform appearance from the exterior of Buildings.

12.1.12. **Alterations.** No Shared Interest Owner shall make or permit to be made any alteration, improvement or addition in or to any Shared Interest Unit. No Owner shall do any act that would impair the structural soundness or integrity of the Buildings or the safety of property, impair any easement or hereditament appurtenant to the Project, or make or permit to be made any alteration, improvement or addition to the Common Areas and Facilities.

12.1.13. **Harmful Activities.** Nothing shall be done or kept in any Unit or in the Common Areas and Facilities or any part thereof which would result in cancellation of the insurance on the Project or any part thereof, nor shall anything be done or kept in any Unit which would increase the rate of insurance on the Project or any part thereof over what the Association but for such activity, would pay, without the prior written consent of the Management Committee. Nothing shall be done or kept in any Unit or in the Common

Areas and Facilities or any part thereof which would be in violation of any statute or rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

12.1.14. **Shared Interest Owners' Indemnification.** A Shared Interest Owner shall indemnify, defend and hold the Association and the other Owners harmless from any and all losses resulting from any damage to a Shared Interest Unit or the Common Areas and Facilities or any part thereof committed by any Shared Interest Owner, or guest, lessee, licensee or invitee of any Shared Interest Owner. Damages may include, but are not limited to, all costs associated with professionally cleaning a Shared Interest Unit, as well as any lost rental income or damages arising from the inability to use the Shared Interest Unit for any period of time.

12.1.15. **Commercial Owners' Indemnification.** A Commercial Unit Owner shall indemnify, defend and hold the Association and the other Owners harmless from any and all losses resulting from any damage to the Common Areas and Facilities or any part thereof committed by any Commercial Unit Owner, or guest, lessee, licensee or invitee of any Shared Interest Owner.

12.1.16. **Declarant's Indemnification.** Declarant shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any damage or waste caused by any Occupants of a Shared Interest Unit provided access to a Shared Interest Unit by Declarant while utilizing Declarant's Shared Interest Use Period.

12.1.17. **No Violation of Rules.** No Owner shall violate the rules and regulations for the use of Units and Common Areas and Facilities as adopted from time to time by the Association.

12.1.18. **No Smoking.** Smoking is prohibited within a Shared Interest Unit. If a Shared Interest Owner, his guests, licensees or invitees smokes in a Shared Interest Unit, the Club Manager shall assess the Shared Interest Owner for all costs associated with professionally cleaning such Shared Interest Unit, as well as any lost rental income or damages arising from the inability to use the Shared Interest Unit for any period of time.

12.1.19. **Balconies.** No clothes, blankets, laundry of any kind or other articles shall be hung out or exposed on any balcony appurtenant to any Shared Interest Unit. No bicycles or sporting equipment may be repaired or stored on any balcony. No barbeques or fire pits may be used on any balcony unless they are original equipment installed by the Declarant prior to the sale of the Hotel Residence Unit.

12.2. **Partition Prohibited.** By accepting title to Shared Interest, each Owner, for himself and for his heirs, successors-in-title and assigns, does absolutely and forever waive any right to seek or obtain physical partition of The Sky Lodge, or any portion thereof, and does further waive the right to seek or obtain partition of The Sky Lodge by means of the sale of The Sky Lodge or any portion thereof unless the institution of such suit or action for partition has been approved by the affirmative vote of the same number of Owners that would be required to sell all or any portion of The Sky Lodge pursuant to and in compliance with this Declaration and the Declarant, if Declarant still then retains the right to control the Association. Notwithstanding the foregoing, there shall be no limitation on judicial sale in lieu of partition in the case of co-owners of individual Shared Interests.

12.3. Shared Interests Superior. It is intended that this Declaration alone shall govern all rights with respect to the use, possession, enjoyment, management and disposition of Shared Interests. Accordingly, all rights with respect to the use, possession, enjoyment, management and disposition of any Shared Interests in The Sky Lodge which an Owner might otherwise have as a tenant-in-common (including, but not limited to, any common law or statutory right jointly to use, possess or manage commonly owned property), are hereby unconditionally and irrevocably subordinated to this Declaration for so long as this Declaration and the Shared Interest Ownership Regime created hereby shall remain in effect.

13. **ASSOCIATION AND MANAGEMENT COMMITTEE.**

13.1. Association Governance. The Association shall be governed by the following provisions:

13.1.1. Composition of Management Committee. The management and maintenance of the Project and the administration of the affairs of the Association shall be conducted by a Management Committee consisting of seven (7) natural persons as provided in the Bylaws. Of the seven (7) members of the Management Committee, four (4) shall be from among the Shared Interest Owners and three (3) shall be from among the Commercial Owners. The Management Committee shall be elected as provided in this Declaration and in the Bylaws.

13.1.2. Appointment of Committees

13.1.2.1. The Management Committee shall appoint the Commercial Unit Committee as provided in Section 14 hereof to manage the Commercial Units. Notwithstanding anything to the contrary, to the extent of any conflict between Section 13 and Section 14 hereof, Section 14 shall control.

13.1.2.2. The Management Committee shall appoint the Shared Interest Committee as provided in Section 15 hereof to manage the Shared Interest Ownership Regime. Notwithstanding anything to the contrary, to the extent of any conflict between Section 13 and Section 15 hereof, Section 15 shall control.

13.1.3. Powers. Except as otherwise provided in Sections 14 and 15 with respect to the Commercial Unit Committee and the Shared Interest Committee or elsewhere herein, the Management Committee shall have all the powers, duties and responsibilities as are now or may hereafter be provided by the Act, this Declaration and the Bylaws, including but not limited to the following:

13.1.3.1. To make and enforce all rules and regulations covering the operation and maintenance of the Project and the Units.

13.1.3.2. To engage the services of the Association Manager, accountants, attorneys or other employees or agents and to pay to said persons a reasonable compensation therefor.

13.1.3.3. To operate, maintain, repair, improve and replace the Common Areas and Facilities.

- 13.1.3.4. To determine and pay the Common Expenses.
- 13.1.3.5. To assess and collect the proportionate share of Common Expenses from the Owners, as provided in Section 23 hereinafter.
- 13.1.3.6. To enter into contracts, deeds, leases and/or other written instruments or documents and to authorize the execution and delivery thereof by the appropriate officers.
- 13.1.3.7. To open bank accounts on behalf of the Association and to designate the signatories therefor.
- 13.1.3.8. To purchase, hold, sell, convey or mortgage any one or more Units in the name of the Association or its designee.
- 13.1.3.9. To bring, prosecute and settle litigation for itself, the Association and the Project, provided that it shall make no settlement which results in a liability against the Management Committee, the Association or the Project in excess of \$100,000 (as measured in year [2000] dollars and thereafter adjusted by the Cost of Living Index) without the prior approval of a majority of the Total Votes of the Association at a meeting or by written ballot distributed to Owners by mail; provided, any settlement which would be paid from proceeds of insurance which may be settled by the Association's insurance carrier and which in either case results in no actual liability of funds of the Association in excess of \$100,000 shall not require Association approval.
- 13.1.3.10. To obtain insurance for the Association with respect to the Units and the Common Areas and Facilities, as well as worker's compensation insurance.
- 13.1.3.11. To repair or restore the Project following damage or destruction or a permanent taking by the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation not resulting in the removal of the Project from the provisions of the Act.
- 13.1.3.12. To own, purchase or lease, hold and sell or otherwise dispose of, on behalf of the Owners, items of personal property necessary to or convenient to the management of the business and affairs of the Association and the Management Committee and to the operation of the Project, including without limitation furniture, furnishings, fixtures, maintenance equipment, appliances and office supplies.
- 13.1.3.13. To keep adequate books and records and implement the policies and procedures for the inspection of the books and records of the Project by Owners in accordance with the terms of the Bylaws. The Association or the Management Committee shall make available to the Owners, Mortgagees and the holders, insurers and guarantors of the First Mortgage on any Unit current copies of the Declaration, Articles, Bylaws and other rules governing the Project and other books, records and financial statements of the Association. "Available" shall mean available for inspection, upon request, during normal business hours or under other reasonable circumstances.

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

13.1.3.15. To prepare, adopt, amend and disseminate budgets and other information from time to time in accordance with the terms of the Bylaws.

13.1.3.16. To grant conveyances, easements and rights-of-way over the Common Areas and Facilities and to approve signage for the Project.

13.1.3.17. Subject to the limitations of Section 13.1.5, the Act and any other applicable law, the Management Committee may delegate to an Association Manager by written agreement all of the foregoing powers, duties and responsibilities referred to in this Section 13.1.3.

13.1.3.18. Members of the Management Committee, the officers and any assistant officers, agents and employees of the Association (i) shall not be liable to the 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 an 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 to any 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, nor for acts performed for and/or by them in their capacity as such; and (iv) shall have no personal liability arising out of the use, misuse or condition of the Project, which might in any way be assessed against or imputed to them as a result or by virtue of their capacity as such.

13.1.3.19. When a member of the Management Committee is sued for liability for actions undertaken in his or her role as a member of the Management Committee, the Association shall indemnify him or her for losses or claims, and undertake all costs of defense, until and unless it is proven that he or she acted with willful or wanton misfeasance or with gross negligence. After such proof the Association is no longer liable for the cost of defense, and may recover costs already expended from the member of the Management Committee who so acted. Members of the Management Committee are not personally liable to the victims of crimes occurring at the Project. Punitive damages may not be recovered against the Association, but may be recovered from persons whose gross negligence gave rise to the damages.

13.1.4. Neither the Management Committee nor the Association Manager shall sell any property of the Association except as permitted by the Act and this Declaration.

13.1.5. The Association acting through the Management Committee shall enter into a contract with the Club Manager for the management of the Project which complies with the requirements of Section 13.1.3 hereof as applicable to the Project. The Club Manager so engaged shall be responsible for managing the Project for the benefit of the Association and the Owners, and shall, to the extent permitted by law and by the terms of the agreement with the Association, be authorized to perform any of the functions or acts required to be performed by the Association itself. Any such management agreement

executed on or before the termination of Declarant control of the appointment of the Management Committee as described in Section 11.3 may be terminated by the Association without cause at any time after termination of such control. The above term and termination provisions shall not apply to any other types of service contracts.

14. COMMERCIAL UNIT COMMITTEE

14.1. The Management Committee shall appoint a committee of not less than three (3) nor more than five (5) Owners of Commercial Units (the "Commercial Unit Committee"). The number of committee members on the Commercial Unit Committee may be increased or decreased in accordance with the Bylaws of the Association. The Commercial Unit Committee shall manage the Commercial Units and the affairs of the Commercial Owners which are separable from the affairs of the Shared Interest Owners and the Shared Interest Units. The Commercial Unit Committee shall have the right, power and authority to affect only the Commercial Owners as to the following acts:

14.1.1. to levy and collect fees, charges, and Assessments from the Commercial Owners by certifying such amounts to the Association for levy and collection;

14.1.2. to establish and maintain one or more reserve funds to provide monies to the Association to pay any expenses incurred by the Commercial Unit Committee in the exercise of its powers or the performance of its duties, including but not limited to reserves;

14.1.3. to obtain and maintain in force all policies of insurance deemed necessary or appropriate by the Commercial Unit Committee;

14.1.4. to expend monies received by the Association for the Commercial Unit Committee;

14.1.5. to receive all notices, claims and demands relating to taxes and Common Assessments affecting the Commercial Owners;

14.1.6. to contract with others for the management, maintenance, operation, construction or restoration of the Commercial Units or any portion thereof;

14.1.7. to do and perform any and all other acts which may be either necessary for, or proper or incidental to, the exercise of any of the foregoing powers;

14.1.8. to be a member of or participate in and pay assessments to any entity for common services including, but not limited to electricity, heat, security, insect control, common road maintenance, water and sewer services, fire protection, recreation and common area charges of any other nature, all for the exclusive benefit of the Commercial Owners;

14.1.9. to contract with any public or private utility provider for any type of utility services deemed appropriate or necessary by the Management Committee for the exclusive use of the Commercial Units;

14.1.10. to pay, on behalf of Commercial Owners, charges for all utilities and personal and real property taxes for the Commercial Units and to assess each Commercial Owner his pro rata share of such utility costs and taxes; and

14.1.11. to perform such other functions and duties as may be required by a majority vote of the Commercial Owners.

14.2. **Voting Rights.** Each Commercial Unit Owner shall have and be entitled to cast the same number of votes as specified in Exhibit "A" for any issues that concern the Commercial Unit Committee. The Commercial Unit Owners, by a majority vote, may authorize the Commercial Unit Committee to take any action or do any act not prohibited by the Act, the Declaration or which does not conflict with the rights, power and authority granted to the Management Committee by this Declaration.

15. SHARED INTEREST COMMITTEE

15.1. The Management Committee shall appoint a committee of not less than three (3) nor more than five (5) Owners of Shared Interests (the "Shared Interest Committee"). The number of committee members on the Shared Interest Committee may be increased or decreased in accordance with the Bylaws of the Association. The Shared Interest Committee shall manage the Shared Interest Ownership Regime and the affairs of the Shared Interest Owners which are separable from the affairs of the Commercial Unit Owners and the Commercial Units. The Shared Interest Committee shall have the right, power and authority to affect only the Shared Interest Owners as to the following acts:

15.1.1. to engage the Club Manager to maintain, clean, repair, replace, repaint or restore all of the interiors of the Club Interest Units;

15.1.2. to engage the Club Manager to manage the Club Ownership Regime and in connection therewith to implement and operate reservation, housekeeping, front desk, check out and departure services and systems for the benefit of Owners and guests;

15.1.3. to levy and collect fees, charges, and Assessments from the Shared Interest Owners by certifying such amounts to the Association for levy and collection;

15.1.4. to establish and maintain one or more reserve funds to provide monies to the Association to pay any expenses incurred by the Shared Interest Committee in the exercise of its powers or the performance of its duties, including but not limited to reserves for the replacement of Hotel Residence Furnishings;

15.1.5. to pay taxes and assessments levied by governmental authority on any Hotel Residence Furnishings or other personal property owned by the Association for the exclusive benefit of the Shared Interest Owners;

15.1.6. to enforce decisions of the Association which pertain to the Shared Interest Ownership Regime and to pay all expenses incidental to such enforcement, including reasonable attorneys' fees, including, without limiting the foregoing, the right to reimburse Declarant for all costs and expenses incurred or paid by it in connection with the enforcement of any of the conditions, covenants, restrictions, charges, assessments or terms contained herein;

15.1.7. to have prepared and distributed to Shared Interest Owners on an annual basis (or more frequently if deemed appropriate) the financial statements pertaining exclusively to the Shared Interest Owners;

15.1.8. to obtain and maintain in force all policies of insurance deemed necessary or appropriate by the Shared Interest Committee;

15.1.9. to revise and amend the Reservation Policies and Procedures governing the use of Shared Interest Units;

15.1.10. to expend monies received by the Association for the Shared Interest Committee;

15.1.11. to receive all notices, claims and demands relating to taxes and Common Assessments affecting the Shared Interest Owners. By accepting title to a Shared Interest in The Sky Lodge, the purchaser thereof thereby waives his right to receive such notices and designates the Association and the Shared Interest Committee as his exclusive agent and attorney in fact for receipt of such notices, claims or demands and appeals related thereto;

15.1.12. to engage the Club Manager to contract with others for the management, maintenance, operation, construction or restoration of the Shared Interest Units or any portion thereof;

15.1.13. to engage the Club Manager to conduct reservation, reception, housekeeping, concierge, check-out, departure and other services for benefit of Shared Interest Owners, their invitees or guests or Occupants as deemed necessary or appropriate by the Shared Interest Committee and to cause the Management Committee to assess the cost thereof as Shared Interest Common Expenses to the Shared Interest Owners as determined by the Shared Interest Committee in the exercise of its reasonable discretion;

15.1.14. to do and perform any and all other acts which may be either necessary for, or proper or incidental to, the exercise of any of the foregoing powers;

15.1.15. to be a member of or participate in and pay assessments to any entity for common services including, but not limited to electricity, heat, security, insect control, common road maintenance, water and sewer services, fire protection, recreation and common area charges of any other nature, all for the exclusive benefit of the Shared Interest Owners;

15.1.16. to engage the Club Manager and authorize the Club Manager to enter any Shared Interest Unit at any reasonable time upon giving reasonable notice, if the Unit is occupied, for the purpose of cleaning, maid service and, if unoccupied, for the purpose of painting, maintenance, and repair, or for any other purpose reasonably related to the performance by the Shared Interest Committee of its responsibilities under the terms of this Declaration. Such right of entry shall be exercised in such a manner as to avoid any unreasonable or unnecessary interference with the possession, use and/or enjoyment by the occupant of such Shared Interest Unit and shall be preceded by reasonable notice to the occupant thereof whenever the circumstances reasonably permit;

15.1.17. to contract with any public or private utility provider for any type of utility services deemed appropriate or necessary by the Management Committee for the exclusive use of the Shared Interest Units;

15.1.18. to pay, on behalf of Shared Interest Owners, charges for all utilities and personal and real property taxes for the Shared Interest Units and to assess each Shared Interest Owner his pro rata share of such utility costs and taxes; and

15.1.19. to perform such other functions and duties as may be required by a majority vote of the Shared Interest Owners.

15.2. **Voting Rights.** Each Owner of the Shared Interest shall have and be entitled to cast the same number of votes as specified in Exhibit "A" for any issues that concern the Shared Interest Committee. The Shared Interest Owners, by a majority vote, may authorize the Shared Interest Committee to take any action or do any act not prohibited by the Act, the Declaration or which does not conflict with the rights, power and authority granted to the Management Committee by this Declaration.

16. MAINTENANCE, ALTERATION AND IMPROVEMENT.

16.1. **Maintenance of Common Areas and Facilities.** The maintenance, replacement and repair of the Common Areas and Facilities shall be the responsibility of the Association, and the cost thereof shall be a Common Expense. The Association also shall maintain, replace and repair all decks and all conduits, ducts, plumbing and wiring and other central facilities for the furnishing of heat, air conditioning, gas, light, power, water and sewer service. All incidental damages caused to a Unit by the maintenance, replacement and repairs of the Common Areas and Facilities or utility services shall be repaired promptly and the cost thereof charged as a Common Expense.

16.2. **Association Access to Units.** Some of the Common Areas and Facilities are or may be located within the Units or may be conveniently accessible only through the Units. The Association shall have the irrevocable right to have access to each Unit and to all Common Areas and Facilities from time to time during such reasonable hours as may be necessary for the cleaning, repair or replacement of any Common Areas and Facilities or for making any emergency repairs at any time and when necessary to prevent damage to the Common Areas and Facilities or to any Unit. The Association shall also have the irrevocable right to have access to any Unit when necessary in connection with any cleaning, maintenance, repair, replacement, painting, landscaping, construction or reconstruction for which the Association is responsible or for the purpose of abating a nuisance or a known or suspected dangerous or unlawful condition. Such entry shall be made with as little inconvenience to the Owners as is practicable under the circumstances and any damage caused thereby shall be repaired by the Association.

17. INSURANCE.

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

17.1.1. **Property Insurance.** A "master" or "blanket" type policy of property insurance shall be maintained covering the entire Project, including: Common Areas and Facilities; all Buildings including all Units; fixtures, building service equipment, personal property and supplies comprising a part of the Common Areas or Facilities or owned by the Association, but excluding land, foundations, excavations, and other items normally not covered by such policies. References herein to a "master" or "blanket" type policy of property insurance are intended to denote single entity insurance coverage. As a minimum, such "master" or "blanket" policy shall afford protection against loss or damage by fire, by

other perils normally covered by the standard extended coverage endorsement, and by all other perils which are customarily covered with respect to projects similar to the Project in construction, location, and use, including (without limitation) all perils normally covered by the standard "all risk" endorsement, where such endorsement is available. Such "master" or "blanket" policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all elements of the Project covered by such policy, exclusive of land, foundations, excavation, and other items normally excluded from coverage. If the Management Committee deems such advisable, the insurance policy shall include either of the following endorsements to assure full insurable value replacement cost coverage: (1) a Guaranteed Replacement Cost Endorsement (under which the insurer agrees to replace the insurable property regardless of the cost) and, if the policy includes a co-insurance clause, an Agreed Amount Endorsement (which waives the requirement for co-insurance); or (2) a Replacement Cost Endorsement (under which the insurer agrees to pay up to one-hundred percent of the property's insurable replacement cost but no more) and, if the policy includes a co-insurance clause, an Agreed Amount Endorsement (which waives the requirement for co-insurance). Unless the Management Committee otherwise determines, the maximum deductible amount for such a policy covering the Common Areas and Facilities shall be Ten Thousand Dollars (\$10,000) and for losses related to individual Units that are covered by such a policy, the deductible related to each individual Unit shall be Ten Thousand Dollars (\$10,000.00). Funds to cover these deductible amounts shall be included in the Association's operating reserve account.

17.1.2. Named Insureds. The name of the insured under each policy required to be maintained by the foregoing Section 17.1.1 shall be the Association for the use and benefit of the individual Owners. Said Owners shall be designated by name, if required. Notwithstanding the requirement of the two immediately foregoing sentences, each such policy may be issued in the name of an authorized representative of the Association, including any Insurance Trustee with whom the Association has entered into an Insurance Trust Agreement, or any successor to such Trustee, for the use and benefit of the individual Owners. Loss payable shall be in favor of the Association (or Insurance Trustee), as a trustee for each Owner and each such Owner's Mortgagee. Each Owner and each such Owner's Mortgagee, if any, shall be beneficiaries of such policy. Evidence of insurance shall be issued to each Owner and Mortgagee upon request.

17.1.3. Mortgage Endorsement. Each policy required to be maintained by the foregoing Section 17.1.1 shall contain the standard mortgage clause, or equivalent endorsement (without contribution), commonly accepted by private institutional mortgage investors in the area in which the Project is located. In addition, such mortgage clause or another appropriate provision of each such policy shall provide that the policy may not be canceled or substantially modified without at least ten (10) days' prior written notice to the Association and to each Mortgagee which is listed as a scheduled holder of a Mortgage in the policy.

17.1.4. Subrogation Waiver. Each policy required to be maintained by the foregoing Section 17.1.1 shall provide, if available, for the following: recognition of any insurance trust agreement; a waiver of the right of subrogation against Owners individually; the insurance is not prejudiced by any act or neglect of individual Owners which is not in the control of such Owners collectively or the Association; and the policy is primary in the event the Owner has other insurance covering the same loss.

17.1.5. **Endorsements.** In contracting for the policies of insurance required to be maintained by the foregoing Section 17.1.1, the Management Committee shall make reasonable efforts to secure, if the Management Committee deems such advisable, coverage which provides the following endorsements: (1) "Inflation Guard Endorsement"; (2) "Building Ordinance or Law Endorsement", if the enforcement of any building, zoning, or land use law will result in loss or damage, increased cost of repairs or reconstruction, or additional demolition and removal costs. (The endorsement must provide for contingent liability from the operation of building laws, demolition costs, and increased costs of reconstruction); and (3) "Steam Boiler and Machinery Coverage Endorsement", which shall provide that the insurer's minimum liability per accident at least equals the lesser of Two Million Dollars (\$2,000,000.00) or the insurable value of the Building containing the boiler or machinery. In lieu of obtaining this as an endorsement to the commercial package property, the Association may purchase separate stand-alone boiler and machinery coverage.

17.1.6. **Errors and Omissions Insurance.** The Association shall at all times maintain in force and pay the premiums for "blanket" fidelity bonds for all officers, members, and employees of the Association and for all other persons handling or responsible for funds of or administered by the Association whether or not that individual receives compensation for services. Furthermore, where the Association has delegated some or all of the responsibility for the handling of funds to the Association Manager, the Association Manager shall provide "blanket" fidelity bonds, with coverage identical to such bonds required of the Association, for the Association Manager's officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. The total amount of fidelity bond coverage required shall be based upon the Association's best business judgment and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association, or the Association Manager, as the case may be, at any given time during the term of each bond.

17.1.7. **General Liability.** The Association shall maintain in force and pay the premium for a policy providing commercial general liability insurance coverage covering all of the Common Areas and Facilities, Building exteriors, public ways in the Project, all other areas of the Project that are under the Association's supervision, and any commercial spaces owned by the Association, if any, whether or not such spaces are leased to some third party. The coverage limits under such policy shall be in amounts generally required by private institutional mortgage investors for projects similar to the Project in construction, location, and use. Nevertheless, such coverage shall be for at least One Million Dollars (\$1,000,000) for bodily injury, including deaths of persons, and property damage arising out of a single occurrence. Coverage under such policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance, or use of the Common Areas and Facilities, Building exteriors, and legal liability arising out of lawsuits related to employment contracts of the Association. Additional coverages under such policy shall include protection against such other risks as are customarily covered with respect to projects similar to the Project in construction, location, and use, including but not limited to (where economically feasible and if available), host liquor liability, contractual and all-written contract insurance, employers liability insurance, and comprehensive automobile liability insurance. If such policy does not include "severability of interest" in its terms, the policy shall include a special endorsement to preclude an insurer's denial of any Owner's claim because of negligent acts of the Association or any other Owner. Such policy shall provide that it may not be canceled or

substantially modified, by any party, without at least ten (10) days' prior written notice to the Association and to each First Mortgagee which is listed as a scheduled holder of a Mortgage in such policy.

17.1.8. **Insurance Trustee.** Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement or any successor to such trustee (each of whom shall be referred to herein as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance. Each Owner hereby appoints the Association, or any Insurance Trustee or substitute Insurance Trustee designated by the Association, as his or her attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Association, or any Insurance Trustee, shall receive, hold, or otherwise properly dispose of any proceeds of insurance in trust for the use and benefit of the Owners and their Mortgagees, as their interests may appear.

17.1.9. **General Terms.** Each insurance policy maintained pursuant to the foregoing Sections shall be written by an insurance carrier which is licensed to transact business in the State of Utah and which has a B general policyholder's rating or a financial performance index of 6 or better in the Best's Key Rating Guide or an A or better rating from Demotech, Inc., or which is written by Lloyd's of London. No such policy shall be maintained where: (1) under the terms of the carrier's charter, bylaws, or policy, contributions may be required from, or assessments may be made against, an Owner, a Mortgagee, the Management Committee, or the Association; (2) by the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members; or (3) the policy includes any limiting clauses (other than insurance conditions) which could prevent the party entitled (including, without limitation, the Management Committee, the Association, or Owner) from collecting insurance proceeds. The provisions of this Section and of the foregoing Sections shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage, or require the Owners to obtain additional insurance, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Association may deem appropriate from time to time.

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

18. DESTRUCTION OR DAMAGE.

18.1. **Attorney-In-Fact.** All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney-in-fact in their name, place and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute an appointment by said grantee of the Association as his or her attorney-in-fact as herein provided. As attorney-in-fact, the

Association shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted. All insurance proceeds shall be payable to the Association except as otherwise provided in this Declaration.

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

18.3. Evaluation of Damage and Election to Make Repairs. In the event all or any part of the Project is damaged or destroyed, the Association shall proceed as follows:

18.3.1. The Association shall give timely written notice to any holder of any First Mortgage on a Unit who requests such notice in writing in the event of substantial damage to or destruction of any part of the Common Areas or Facilities or a Unit subject to such First Mortgage.

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

18.3.3. If the proceeds of the insurance maintained by the Association equal or exceed the estimated costs to repair and reconstruct the damaged or destroyed part of the Project, such repair and reconstruction shall be carried out.

18.3.4. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project and if less than seventy-five percent (75%) of the Project is damaged or destroyed, such repair and reconstruction shall nevertheless be carried out. The Association shall levy a Special Common Assessment sufficient to provide funds to pay the actual costs of such repair and reconstruction to the extent that such insurance proceeds are insufficient to pay such costs. Such Special Common Assessment shall be allocated and collected as provided in Section 23.1.3 hereof, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected (together with the proceeds of insurance) are insufficient to pay all actual costs of such repair and reconstruction.

18.3.5. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project and if seventy-five percent (75%) or more of the Project is damaged or destroyed, such damage or destruction shall be repaired and reconstructed, but only if within one hundred (100) days following the damage or destruction, Owners entitled to vote at least seventy-five percent (75%) of the votes of the Total Votes of the Association vote to carry out such repair and reconstruction. If, however, the Owners do not, within one hundred (100) days after such damage or destruction, elect by a vote of at least seventy-five percent (75%) of the votes of the Total Votes of the Association to carry out such repair and reconstruction and if, to the extent permitted by the Act, Eligible Mortgagees who represent at least fifty-one percent (51%) of the votes of Units subject to Mortgages held by Eligible Mortgagees do not approve such repair and reconstruction, the Association shall record in

the office of the County Recorder of Summit County, State of Utah, a notice setting forth such facts. Upon the recording of such notice, the following shall occur:

18.3.5.1. The Project shall be deemed to be owned in common by the Owners;

18.3.5.2. Each Owner shall own an undivided interest in the Project equal to his ownership interest in the Common Areas and Facilities;

18.3.5.3. 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 respective Owner in the Project; and

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

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

18.4. Completion of Repairs. If the damage or destruction is to be repaired or reconstructed as provided above, the Association shall, as soon as practicable after receiving the estimate of costs, commence and diligently pursue to completion the repair and reconstruction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair and reconstruction, as attorney-in-fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith, except as otherwise expressly provided herein. The Project shall be restored or repaired to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas and Facilities having the same vertical and horizontal boundaries as before. Any restoration or repair of the Project, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the Declaration and the original architectural plans and specifications.

18.5. Disbursement of Insurance Proceeds. If repair or reconstruction is to occur, the insurance proceeds held by the Association and any amounts received from Common Assessments made pursuant to Section 23.1.3 hereof shall constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for costs of repair and reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners equally.

18.6. Amendment of Section This Section 18 shall not be amended unless Owners entitled to vote at least seventy-five percent (75%) of the Total Votes of the Association consent and agree to

such amendment and such consent and agreement is reflected in an instrument duly executed by the Association and recorded in accordance with the provisions of this Declaration.

19. TERMINATION.

19.1. Termination with Owner Approval. Except as otherwise provided in this Declaration, including but not limited to Section 18 hereof, the Project may be terminated only by agreement of Owners entitled to vote all of the votes of all Units.

19.2. Termination of Condominium Regime. All of the Owners may remove the Project from the provisions of the Act by an instrument duly recorded to that effect, provided that the holders of all liens affecting any of the Units consent or agree by instruments duly recorded that their liens are transferred to the fractional ownership interest of the Owners in the Project. Provided further, as long as Declarant has ownership rights in the Project, its consent shall also be required to remove the Project from the provisions of the Act.

19.3. Operation Post Termination. After removal of the Project from the Act, the Owners shall own the Project and all assets of the Association as tenants in common and the respective Mortgagees and lienors shall have mortgages and liens upon the respective undivided interests of the Owners. Such undivided interests of the Owners shall be the same as the ownership interest in the Common Areas and Facilities appurtenant to the Units prior to removal from the Act.

20. EMINENT DOMAIN.

20.1. Notice. Whenever any proceeding is instituted that could result in the 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 of or power in the nature of eminent domain or by an action or deed in lieu of condemnation, the Management Committee and each Owner shall be entitled to notice thereof and the Management Committee shall, and the Owners at their respective expense may, participate in the proceedings incident thereto.

20.2. Calculation of Damages. With respect to the Common or Limited Common Areas and Facilities, any damages or awards shall be determined for such taking, injury or destruction as a whole and not for each Owner's interest therein. After such determination, each Owner shall be entitled to a share in the damages in the same proportion as his ownership interest in the Common Areas and Facilities. This provision does not prohibit a majority of the Owners from authorizing the Management Committee to use such damages or awards for replacing or restoring the Common Areas and Facilities so taken on the remaining land or on other acquired land, provided that this Declaration and the Plat are duly amended.

20.3. Deposit of Proceeds. With respect to one or more Units or portions thereof, the damages or awards for such taking shall be deemed to be proceeds from insurance on account of damage or destruction pursuant to Section 18 above and shall be deposited with the Management Committee as trustee. Even though the damages or awards may be payable to one or more Owners, the Owners shall deposit the damages or awards with the Management Committee as trustee. In the event an Owner refuses to so deposit his award with the Management Committee, then at the option of the Management Committee, either a Special Common Assessment shall be made against the defaulting Owner and his Unit in the amount of this award or the amount of such award shall be set off against the sum hereafter made payable to such Owner.

20.4. Distribution Upon Removal from Act. In the event the Project is removed from the provisions of the Act pursuant to Section 19 above, the proceeds of the damages or awards shall be distributed or used in accordance with the Owners' respective undivided interest in the Common Areas and Facilities.

20.5. Partial Condemnation. If one or more Units are taken, in whole or in part, and the Project is not removed from the provisions of the Act, the taking shall have the following effects:

20.5.1. If the taking reduces the size of a Unit and the remaining portion of the Unit may be made tenable, the Unit shall be made tenable. If the cost of such work exceeds the amount of the award, the additional funds required shall be assessed against the Owners of the Unit. The balance of the award, if any, shall be distributed to the Mortgagee to the extent of the unpaid balance of its Mortgage and the excess, if any, shall be distributed to the Owner.

20.5.2. If the taking destroys or so reduces the size of a Unit that it cannot be made tenable, the award shall be distributed to the Mortgagee of the Unit to the extent of the unpaid balance of its Mortgage and the excess, if any, shall be distributed to the Owners thereof. The remaining portion of such Unit, if any, shall become a part of the Common Areas and Facilities and shall be placed in condition for use by all Owners in the manner approved by the Management Committee. The ownership interest in the Common Areas and Facilities appurtenant to the Units that continue as part of the Project shall be equitably adjusted to distribute the ownership of the Common Areas and Facilities among the reduced number of Owners.

20.6. Amendment to Declaration and Plat. Changes in Units, in the Common Areas and Facilities and in the ownership of the Common Areas and Facilities that are affected by the taking referred to in this Section 20 shall be evidenced by an amendment to this Declaration and the Plat, which need not be approved by the Owners.

21. MORTGAGEE PROTECTION.

21.1. Events Requiring Notice. Upon written request made to the Association by a First Mortgagee, or an insurer or governmental guarantor of a First Mortgage, which written request shall identify the name and address of such First Mortgagee, insurer or governmental guarantor and Unit Number, any such First Mortgagee, insurer or governmental guarantor shall be entitled to timely written notice of:

21.1.1. Any condemnation loss or any casualty loss which affects a material portion of the Project or any Unit or Shared Interest on which there is a First Mortgage held, insured or guaranteed by such First Mortgagee, insurer or governmental guarantor;

21.1.2. Any delinquency in the payment of Common Assessments or charges owed by an Owner, whose Unit or Shared Interest is subject to a First Mortgage held, insured or guaranteed by such First Mortgagee, insurer or governmental guarantor, which default remains uncured for a period of sixty (60) days; and

21.1.3. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

21.2. **Mortgagee Approval.** Except as provided elsewhere in this Declaration, the vote or prior written consent of Owners entitled to vote at least seventy-five percent (75%) of the Total Votes of the Association (unless pursuant to a specific provision of this Declaration the consent of Owners entitled to vote a greater percentage of the votes in the Association is required, in which case such specific provisions shall control), and Eligible Mortgagees holding First Mortgages on Units having at least fifty-one percent (51%) of the votes of the Units subject to First Mortgages held by Eligible Mortgagees shall be required prior to:

21.2.1. sale, conveyance or encumbrance of the Common Areas and Facilities (provided, however, that the granting of easements for purposes provided for in this Declaration will not be deemed a transfer within the meaning of this clause);

21.2.2. restoration or repair of the Project (after hazard damage or partial condemnation) in a manner other than that specified in this Declaration;

21.2.3. termination of this Declaration for reasons other than substantial destruction or condemnation, subject to the approval percentages required for such termination;

21.2.4. merger of the Project with any other common interest community; or

21.2.5. any action not to repair or to replace the Common Areas and Facilities except as permitted in this Declaration.

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

21.3. **Records.** The Association shall maintain and have current copies of the Declaration, Articles, Bylaws, and other rules concerning the Project as well as its own books, records, and financial statements available for inspection by Owners or by holders, insurers, and guarantors of First Mortgages that are secured by Units in the Project. Generally, these documents shall be available during normal business hours.

21.4. **Subordination of Liens.** The lien or claim against a Unit for unpaid assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to the First Mortgage affecting such Unit if the First Mortgage was recorded before the delinquent assessment was due, and the First Mortgagee thereunder which comes into possession of or which obtains title to the Unit shall take the same free of such lien or claim for unpaid assessment or charges, but only to the extent of assessments or charges which accrue prior to foreclosure of the First Mortgage, exercise of a power of sale available thereunder, or taking of a deed or assignment in lieu of foreclosure. No assessment, charge, lien, or claim which is described in the preceding sentence as being subordinate to a First Mortgage or as not to burden a First Mortgagee which comes into possession or which obtains title shall be collected or enforced by the Association from or against a First Mortgagee, a successor in title to a First Mortgagee, or the Unit affected or previously affected by the First Mortgage concerned.

21.5. Taxes. In the event any taxes or other charges which may or have become a lien on the Common Areas and Facilities are not timely paid, or in the event the required hazard insurance described in 17.1.1 lapses, is not maintained, or the premiums therefor are not paid when due, any Mortgagee or any combination of Mortgagees may jointly or singly, pay such taxes or premiums or secure such insurance. Any Mortgagee which expends funds for any of such purposes shall be entitled to immediate reimbursement therefor from the Association.

21.6. Insurance Proceeds Priority. No provision of this Declaration or the Articles gives or may give an Owner or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for loss to or taking of all or any part of the Units or the Common Areas and Facilities.

21.7. Restrictions on First Mortgagee. No requirement for approval or consent by a First Mortgagee provided in this Section 21 shall operate to:

21.7.1. deny or delegate control over the general administrative affairs of the Association by the Owners or the Management Committee.

21.7.2. prevent the Association or Management Committee from commencing, intervening and/or settling any legal proceeding; or

21.7.3. prevent any Insurance Trustee or the Association from receiving and distributing any insurance proceeds in accordance with the requirements of Section 18 entitled "Destruction or Damage".

22. AMENDMENT.

22.1. Owner Amendment. Except as provided elsewhere in this Declaration, any amendment to this Declaration or the Plat shall require the affirmative vote of at least seventy-five percent (75%) of the Total Votes of the Association cast in person or by proxy at a meeting duly called for such purpose or otherwise approved in writing by such Owners. Any amendment authorized pursuant to this Section shall be accomplished through the recordation in the office of the Summit County Recorder of an instrument executed by the Association. In such instrument an officer or Trustee of the Association shall certify that the vote required by this Section for amendment has occurred.

22.2. Declarant Amendment. The Declarant alone may amend or terminate this Declaration prior to the closing of a sale of the first Commercial Unit or Shared Interest. Notwithstanding anything contained in this Declaration to the contrary, this Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith or to make technical corrections to fix mistakes or remove/clarify ambiguities; or (b) if such amendment is reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Project.

22.3. Lender Required Amendment. Anything in this Section 22 or the Declaration to the contrary notwithstanding, Declarant reserves the unilateral right to amend all or any part of this Declaration to such extent and with such language as may be requested by a State Department of Real Estate (or similar agency), FHA, VA, the FHLMC or FNMA and to further amend to the extent

requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Declaration or approval of the sale of Units or Shared Interests, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Unit(s) or any portions thereof. Any such amendment shall be effected by the recordation by Declarant of an Amendment duly signed by the Declarant, specifying the federal, state or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such an Amendment shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Amendment, when recorded, shall be binding upon all Units and Shared Interests and all persons having an interest therein. It is the desire of Declarant to retain control of the Association and its activities during the anticipated period of planning and development. If any amendment requested pursuant to the provisions of this Section 22 deletes, diminishes or alters such control, Declarant alone shall have the right to amend this Declaration to restore such control.

23. ASSESSMENT OF UNITS BY THE ASSOCIATION.

23.1. Common Assessments. The making and collection of Common Assessments by the Association from Owners of Units and Shared Interests for their share of Common Expenses shall be pursuant to the Bylaws and subject to the following provisions:

23.1.1. Each Owner, including Declarant, for each Unit or Shared Interest which it owns, shall be liable for a proportionate share of the Common Expenses, such share being the same as the ownership interest in the Common Areas and Facilities appurtenant to the Unit or Shared Interest owned by him. The Association shall levy Assessments against Owners of Shared Interests when requested by the Shared Interest Committee to cover expenses of the Shared Interest Ownership Regime not associated with the Commercial Units in the Project and as otherwise provided by Section 15.1.3. Two separate and distinct funds shall be created and maintained hereunder, one for operating expenses and one for capital reserve expenses. Such combined expenses shall constitute the Common Expenses, and the funds received from Common Assessments under this Section 23 shall be the Common Expense Fund. Common Assessments shall include both Regular Common Assessments and Special Common Assessments. Until the Association makes an assessment for Common Expenses, the Declarant shall pay all Common Expenses. After an assessment has been made by the Association, Regular Common Assessments must be made at least annually, based on a budget adopted at least annually by the Association in accordance with the provisions of this Declaration and the Bylaws. Regular Common Assessments shall be levied against each separate Unit or Shared Interest, and shall commence as to all Units or Shared Interests in the Project on the first day of the month following the closing of the first sale of a Unit or Shared Interest.

23.1.2. The Association may not impose a Regular Common Assessment per Unit or Shared Interest which is more than 25% greater than the previous year's Regular Common Assessment, without first obtaining the affirmative vote of Owners holding a majority of the Total Votes of the Association, at a meeting of the Association at which a quorum is present in person or by proxy. Such percentage increase shall be calculated without regard to any increase attributable to an increase in real estate taxes against the Units. The Association shall provide notice, by first class mail to all Owners, of any increase in the Regular

Common Assessments not less than thirty (30) nor more than sixty (60) days prior to the date the increased Regular Common Assessment is due.

23.1.3. In addition to the Regular Common Assessments, the Association may levy in any calendar year, Special Common Assessments applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon any Common Areas and Facilities, including the necessary fixtures and personal property related thereto, and other costs, expenses of operation or shortfalls in the collection of Common Assessments from the Owners. However, in any fiscal year, except as otherwise provided in this Declaration, the Management Committee shall not, without the affirmative vote of Owners holding a majority of the Total Votes of the Association, at a meeting at which a quorum is present in person or by proxy, levy Special Common Assessments which in the aggregate exceed 20% of the budgeted gross expenses of the Association for that fiscal year. The portion of any Special Common Assessment levied against a particular Unit or Shared Interest shall be equal to the percentage of undivided interest in the Common Areas and Facilities appurtenant to such Unit or Shared Interest. These provisions with respect to the imposition or allocation of Special Common Assessments shall not apply when the special assessment is to pay an increase in real property taxes. The Management Committee shall provide notice by first class mail to all Owners of any Special Common Assessments not less than thirty (30) nor more than sixty (60) days prior to the date such Assessment is due.

23.1.4. The Association shall also levy such Special Common Assessments against Shared Interest Owners as may be certified to it by the Shared Interest Committee.

23.1.5. All Common Assessments shall be due as determined pursuant to the Bylaws. Common Assessments and any installments thereof not paid on or before ten (10) days after the date when due shall bear interest at the rate of eighteen percent (18%) per annum, or at such lower rate of interest as may be set by the Management Committee, from the date when due until paid. Furthermore, Owners who do not pay their Common Assessments when due shall be subject to a late fee of up to fifty dollars (\$50.00), adjustable from year to year at the discretion of the Management Committee pursuant to the Cost of Living Index. All payments of Common Assessments shall be first applied to accrued interest and late fees, and then to the Common Assessment payment first due. All Common Assessments to pay a judgment against the Association may be made only against the Units or Shared Interests in the Project at the time the judgment was entered, in proportion to their liabilities for Common Expenses. If any Common Expense is caused by the misconduct of any Owner, the Association may assess that expense exclusively against such Owner's Unit(s) or Shared Interest(s). If the Owners' percentage interests in the Common Areas and Facilities are reallocated, assessments for Common Expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated percentage interests of the Owners.

23.1.6. There shall be a lien upon the applicable Unit or Shared Interest for all unpaid Common Assessments, together with late fees, interest and costs (including attorneys' fees) charged pursuant to the Declaration and the Act. The lien for unpaid Common Assessments and related charges shall be effective upon recordation in the Office of the Summit County Recorder of a written notice of lien by the Management Committee or the Association Manager. The written notice of lien shall set forth the amount of the

Common Assessment, the date(s) due, the amount remaining unpaid, the name of the Owner of the Unit or Shared Interest and a description of the Unit or Shared Interest. No notice of lien shall be recorded until there is a delinquency in payment of the Common Assessment. Such lien may be enforced by sale or foreclosure conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any other manner permitted by law including specifically, but without limitation, the method recognized under the laws of the state of Utah for the enforcement of a mechanics lien which has been established in accordance with the provisions of Chapter 1, Title 38, Utah Code, as amended from time to time. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees), and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any Common Assessments against the Unit or Shared Interest which shall become due during the period of foreclosure, and all such Common Assessments shall be secured by the lien being foreclosed. The Management Committee shall have the right and power in behalf of the Association to bid in at any foreclosure sale and to hold, lease, mortgage or convey the subject Unit or Shared Interest in the name of the Association. In furtherance of such foreclosure rights, the Association may bring an action at law against the Owner personally obligated to pay the same or the Association may foreclose the lien in accordance with the provisions of the Utah Condominium Ownership Act (Title 57, Chapter 8, Utah Code). The Association and each Owner hereby appoint Equity Title Insurance Company, its successors and/or assigns, as trustee for the purpose of exercising the power of sale in connection with non-judicial foreclosures as provided in Title 57, Chapter 1, Utah Code and made applicable hereto by Title 57, Chapter 8, Utah Code. Provided, however, the Association reserves the right to substitute and appoint a successor trustee as provided for in Title 57, Chapter 1, Utah Code. Each Owner hereby conveys all of its right, title and interest in its Unit or Shared Interest to such trustee, in trust, with a power of sale, to secure each Owner's obligations under the Declaration, including but not limited to the obligation to pay all Common Assessments. The Association may, through its duly authorized agents, bid on the Unit or Shared Interest at any foreclosure sale and acquire, hold, lease, mortgage and convey the same. The lien of the Association shall be superior (prior) to all other liens and encumbrances except liens and encumbrances recorded before recordation of this Declaration, a First Mortgage on a Unit or Shared Interest as provided for in Section 21.4 hereof and assessments, liens and charges in favor of the state or any political subdivision thereof, for taxes and other governmental assessments or charges past due and unpaid on the Unit or Shared Interest. The lien procedures described herein do not prohibit actions to recover sums for which the Act creates a lien or prohibit the Association from taking a deed in lieu of foreclosure. The Management Committee, upon written request, shall furnish to an Owner a statement setting forth the amount of unpaid assessments against the Unit or Shared Interest. This statement must be furnished within ten (10) business days after receipt of the request and is binding on the Association, the Management Committee, the Association Manager and every Owner, in favor of all who rely on such statement in good faith.

23.1.7. The amount of any Common Assessment against any Unit or Shared Interest shall be the personal obligation of the Owner of such Unit or Shared Interest to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Areas and Facilities or by abandonment of his Unit or

Shared Interest or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment of unpaid assessments hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorneys' fees.

23.1.8. The personal obligation of an Owner to pay unpaid assessments against his Unit or Shared Interest shall not pass to successors in title unless assumed by them. Provided, however, a lien to secure unpaid assessments shall not be affected by the sale or transfer of the Unit or Shared Interest unless foreclosure by a First Mortgagee is involved in which case the foreclosure will extinguish the lien for any assessments that were payable before the foreclosure sale, but shall not relieve any subsequent Owner from paying further assessments.

23.2. Reserves. The Association through the Management Committee shall include in the Common Assessments amounts representing sums to be used for the replacement of or additions to capital items or improvements in the Project (the "FFE Reserves"). Such FFE Reserves shall be dedicated for the uses provided in this Section and shall be set up as capital reserve accounts for each Unit or Shared Interest. In the event of transfer of a Unit or Shared Interest, the capital reserve account for such Unit or Shared Interest shall be deemed transferred to the transferee of the Unit or Shared Interest.

23.3. Expenditure of Reserves.

23.3.1. Use of Reserves. The Management Committee shall not expend funds designated as reserves for any purpose other than the repair, restoration, replacement or maintenance of major components of the Common Areas and Facilities for which the Association is responsible and for which the reserve fund was established or for litigation involving such matters. Nevertheless, the Management Committee may authorize the temporary transfer of money from the reserve account to the Association's operating account from time to time to meet short term cash flow requirements and pay other expenses. Any such funds so transferred shall constitute a debt of the Association, and shall be restored and returned to the reserve account within three (3) years of the date of the initial transfer; provided, however, the Management Committee may, upon making a documented finding that a delay in the restoration of such funds to the reserve account would be in the best interests of the Project and Association, delay such restoration until the time it reasonably determines to be necessary. The Management Committee shall exercise prudent fiscal management in the timing of restoring any transferred funds to the reserve account and shall, if necessary, levy a Special Common Assessment to recover the full amount of the expended funds within the time limit specified above. Any such Special Common Assessment shall not be subject to the limitations set forth in Section 23.1.3 hereof.

23.4. Calculation of Reserves. During the initial five (5) year period of operation of The Sky Lodge, the FFE Reserves shall be in the amounts set forth in Exhibit "E" attached hereto (the "Initial FFE Reserve Amounts"). The Initial FFE Reserve Amounts cannot be amended without approval of seventy-five percent of the Total Votes of the Association. For the FFE Reserves from and after the initial five-year period, the Management Committee shall cause a study (the "FFE Reserve Account Study" or "Study") to be conducted of the FFE Reserves and its adequacy to satisfy anticipated future expenditure requirements, and the Management Committee shall further cause a FFE Reserve Account Study to be conducted not less frequently than once every three (3) years thereafter. The Management Committee shall, thereafter review annually the FFE Reserve

Account Study and shall consider and implement necessary adjustments to reserve account requirements and funding as a result of that Study. Any FFE Reserve Account Study shall include, at a minimum:

23.4.1. Identification of the major components which the Association is obligated to repair, replace, restore or maintain which, as of the date of the Study, have a useful life of less than 30 years.

23.4.2. Identification of the probable remaining useful life of the components identified in subparagraph 23.4.1 above, as of the date of the Study.

23.4.3. An estimate of the cost of repair, replacement, restoration or maintenance of each major component identified in subparagraph 23.4.1 above, during and at the end of its useful life.

23.4.4. An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore or maintain each major component during and at the end of its useful life, after subtracting total FFE Reserve funds as of the date of the Study.

For the purposes of this Section, the term "reserve account requirements" means the estimated funds which the Management Committee has determined are required to be available at a specified point in time to repair, replace or restore those major components which the Association is obligated to maintain.

23.5. Use of Rental Income. If an Owner shall at any time rent his Unit and shall default in the payment of Common 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 the payment of such rent to the Management Committee shall be sufficient payment and discharge of such tenant and the Owner for such assessments to the extent of the amount so paid.

23.6. Shared Interest Owner Delinquency. If a Shared Interest Owner is delinquent in the payment of Common Assessments, or other charges duly levied by the Association, then in addition to any other remedies afforded by this Declaration, the Bylaws or the Act, the Shared Interest Committee may suspend such Shared Interest Owner's right to occupy a Shared Interest Unit and the Club Manager may suspend such Shared Interest Owner's right to utilize the Club Facilities and related rights and privileges as a Shared Interest Owner during the period of time such Shared Interest Owner is delinquent in such payment, and the Shared Interest Committee may authorize the Club Manager to rent the Shared Interest Owner's Holiday Use Week or Reserved Use Days, and the Shared Interest Committee may retain the proceeds to apply toward such delinquency, provided the Shared Interest Committee shall give such Shared Interest Owner written notice of a hearing in accordance with the Bylaws and this Section, to determine the appropriateness of a suspension of such rights and privileges prior to making the decision to suspend. Following such a hearing, if the Shared Interest Committee suspends such Shared Interest Owner's rights and privileges it shall give such Shared Interest Owner written notice after the decision to suspend has been made.

23.6.1. Before terminating a Shared Interest Owner's right to use a Shared Interest Unit or the Club Facilities, the Shared Interest Committee shall give written notice to the Shared Interest Owner in the manner set forth in this Declaration or in the Bylaws. The notice shall state: (i) right of access and use of a Shared Interest Unit and Club Facilities will

be terminated if payment of the unpaid Common Assessment is not received within three (3) business days; (ii) the amount of the Common Assessment due, including any interest or late payment fee; and (iii) that defaulting Shared Interest Owner has the right to request a hearing.

23.6.2. The Shared Interest Owner may request an informal hearing to dispute the assessment by submitting a written request to the Shared Interest Committee within fourteen (14) days from the date the notice is received. The hearing shall be conducted by the Shared Interest Committee, or at its election, the Club Manager. If a hearing is requested, right of access and use of the Shared Interest Unit and Club Facilities may not be terminated until after the hearing has been conducted and a final decision has been entered.

23.6.3. Upon payment of the Common Assessment due, including any interest or late payment fee, the Club Manager or the Shared Interest Committee shall immediately reinstate the Shared Interest Owner's privileges.

24. VOTING.

24.1. Voting Rights. At any meeting of the Association, each Owner of a Unit or Shared Interest, including Declarant, either in person or by proxy, shall be entitled to vote based on his percentage of ownership of the Common Areas and Facilities as set forth in Exhibit "A". The voting rights appurtenant to each Unit or Shared Interest shall vest upon execution and recording of this Declaration.

24.2. Number of Votes. The number of votes appurtenant to each respective Unit or Shared Interest shall be based on the Undivided Interest of the Unit or Shared Interest in the Common Areas and Facilities as set forth in Exhibit "A". The votes appurtenant to each Unit or Shared Interest shall have a permanent character, and, except as otherwise permitted and provided for in this Declaration, shall not be altered without the unanimous consent of all Owners expressed in a duly recorded Amendment.

25. EASEMENTS.

25.1. Encroachments. If any part of the Common Areas and Facilities encroaches or shall hereafter encroach upon a Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas and Facilities, or upon an adjoining Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. Such easements shall extend for whatever period the encroachment exists. Such encroachments shall not be considered to be encumbrances either on the Common Areas and Facilities or the Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of any improvement constructed or to be constructed within the Project, by error in the Plat, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

25.2. Owner Common Areas and Facilities Easement. Each Owner shall have the right to ingress and egress over, upon and across the Common Areas and Facilities as necessary for access to the Unit he is lawfully occupying and to any Limited Common Areas and Facilities appurtenant to his Unit, and shall have the right to the horizontal, vertical and lateral support of his Unit.

25.3. Association Common Areas and Facilities Easement. The Association and the Association shall have an easement to make such use of the Common Areas and Facilities as may be necessary or convenient to perform the duties and functions that each is obligated or permitted to perform pursuant to this Declaration.

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

26. NOTICES.

Any notice permitted or required to be delivered as provided herein may be delivered either personally, by first class mail, by express mail or overnight courier service providing proof of delivery, or by telecopy or facsimile transmission. Notice to Owners shall be addressed to each Owner at the address given by such Owners to the Management Committee for the purpose of service of such notice or to the Unit of such Owner if no such address has been given to the Management Committee. Notice shall be deemed given when actually received if personally delivered or sent by overnight courier; if faxed, when the fax is received, except that if the fax is received at a time other than the normal business hours of the office at which it is received, on the next regular business day; and if by mail, the earlier of the day actually received or the third business day after the notice is deposited in the United States Mail, properly addressed and postage prepaid. Such address may be changed from time to time by notice in writing to the Management Committee addressed to:

Management Committee
Union Square Owners Association, Inc
4780 Winchester Ct
Park City, Utah 84098

27. NO WAIVER.

The failure of the Management Committee or its agents or designees to insist, in one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, the Bylaws, rules and regulations of the Association, and 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 a 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 agents or designees of the payment of any assessment from an 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 shall be deemed to have been made unless expressed in writing and signed by the Management Committee.

28. ENFORCEMENT.

28.1. Owner Remedies. All Owners, guests of an Owner, persons under Owner's control, or an Occupant, shall strictly comply with the provisions of the Declaration, the Bylaws, and the rules and regulations and decisions issued pursuant thereto. The Association and any aggrieved Owner shall have a right of action against Owners who fail to comply with provisions of the

Declaration or the decisions of the Association. Owners shall have a similar right of action against the Association. Failure to so comply shall be grounds for: (i) an action to recover sums due for damages or injunctive relief or both, maintainable by the Management Committee, or its agent or designee on behalf of the Owners, or in an appropriate case, by an aggrieved Owner; and/or (ii) the Management Committee to impose monetary penalties, temporary suspensions of an Owner's right to the use of a Unit or the Common Areas and Facilities, or other appropriate discipline so long as any such Owner has been given notice and has had an opportunity to present a written or oral defense to the charges in a hearing. The Management Committee shall determine whether the Owner's defense shall be oral or written. After the hearing, but before any disciplinary action is taken, the Owner shall be notified of the decision of the Management Committee. The Management Committee may delegate to the Association Manager, the power and authority to carry out disciplinary actions duly imposed.

28.2. **Association Remedies.** The Association shall not be empowered to cause the absolute forfeiture of an Owner's right, title or interest in the Project on account of the Owner's failure to comply with the provisions of the Declaration or the rules and regulations for the Project except pursuant to:

28.2.1. The judgment of a court; or

28.2.2. A foreclosure for the failure of an Owner to pay assessments duly levied by the Association.

29. **DECLARANT.**

The term "Declarant" as used herein shall mean and include Declarant and any person or persons who might acquire title from it to all or some of the unsold Units or Shared Interests through purchase, assignment or other transfer including foreclosure or deed in lieu of foreclosure; or, in the situation where, any person purchases all, or some of the remaining Units in a sale in the nature of a bulk sale. The person acquiring any of such property from the Declarant shall be considered a Declarant with respect to that portion of the property so acquired and shall have the right to develop the property and/or sell such property in accordance with the terms and provisions of this Declaration and the Act. Any right or any interest reserved or contained in this Declaration for the benefit of Declarant may be transferred or assigned by Declarant, either separately or with one or more other such rights or interests, to any person, corporation, partnership, association, or other entity, only by written instrument executed by both Declarant and the transferee or assignee and recorded in the Office of the Summit County Recorder. Upon such recording, Declarant's rights and obligations under this Declaration shall cease and terminate to the extent provided in such instrument.

30. **AGENT FOR SERVICE OF PROCESS.**

The agent for service of process under the Act shall be Blake Parrish whose address is 1816 Prospector Avenue, Suite 100, Park City, Utah 84060.

31. **SEVERABILITY.**

The provisions 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.

32. 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 hereof.

33. CONFLICTS.

In the case of any conflict between this Declaration and the Articles or the Bylaws of the Association, this Declaration shall control. In case of any conflict between the Articles and Bylaws, the Articles shall control.

34. LAW CONTROLLING.

This Declaration and the Plat shall be construed and controlled by and under the laws of the State of Utah.

35. EFFECTIVE DATE.

This Declaration shall take effect when recorded.

IN WITNESS WHEREOF, the undersigned have executed this instrument this 28TH day of NOVEMBER, 2007.

EASY STREET PARTNERS, LLC,
a Utah limited liability company

By: AVG-SL, LLC
Its: Manager

By: [Signature]
William Shoaf
Its: Manager

STATE OF UTAH)

COUNTY OF Summit)
ss.

On the 27 day of November, 2007, personally appeared before me David Wickline, who, being by me duly sworn, did say that he is the Manager of AVG-SL, LLC, the Manager of Easy Street Partners, LLC, a Utah limited liability company.

[Signature]
NOTARY PUBLIC



EXHIBIT "A"

UNITS 106, 202/102, 204/104, 206, 207/307, 209, 301/201, 303/203, 305/205, 306, 309, 401/501, 402/302, 403/503, 404/304, 405/505, 406, 502/602, 504/604, 506/606, 507, COMMERCIAL UNIT HOTEL, COMMERCIAL UNIT SPA, COMMERCIAL UNIT SKY CLUB LOUNGE, COMMERCIAL UNIT EASY STREET, COMMERCIAL UNIT DEPOT CONTAINED WITHIN UNION SQUARE CONDOMINIUM, AS THE SAME IS IDENTIFIED IN THE RECORD OF SURVEY MAP RECORDED IN SUMMIT COUNTY, UTAH, AS ENTRY NO. 774532 (AS SAID MAP MAY HAVE HERETOFORE BEEN AMENDED OR SUPPLEMENTED) AND IN THE DECLARATION OF CONDOMINIUM, FOR UNION SQUARE RECORDED IN SUMMIT COUNTY, UTAH AS ENTRY NO. 774533, IN BOOK 1784, AT PAGE 195 (AS SAID DECLARATION MAY HAVE HERETOFORE BEEN AMENDED OR SUPPLEMENTED), OF THE OFFICIAL RECORDS.

TOGETHER WITH: (A) THE UNDIVIDED INTEREST IN SAID CONDOMINIUM PROJECT'S COMMON AREAS AND FACILITIES WHICH IS APPURTENANT TO SAID UNIT; (B) THE EXCLUSIVE RIGHT TO USE AND ENJOY EACH OF THE LIMITED COMMON AREAS WHICH IS APPURTENANT TO SAID UNIT AND (C) THE NON-EXCLUSIVE RIGHT TO USE AND ENJOY THE COMMON AREAS AND FACILITIES INCLUDED IN SAID CONDOMINIUM PROJECT (AS SAID PROJECT MAY HEREAFTER BE EXPANDED) IN ACCORDANCE WITH THE AFORESAID DECLARATION AND SURVEY MAP (AS SAID DECLARATION AND MAP MAY HEREAFTER BE AMENDED OR SUPPLEMENTED) AND THE UTAH CONDOMINIUM ACT.

TAX PARCEL NO'S.

USC-106, USC-202/102, USC-204/104, USC-206, USC-207/307, USC-209, USC-301/201, USC-303/203, USC-305/205, USC-306, USC-309, USC-401/501, USC-402/302, USC-403/503, USC-404/304, USC-405/505, USC-406, USC-502/602, USC-504/604, USC-506/606, USC-507, USC-HOTEL, USC-SPA, USC-SCL, USC-ES, USC-DEPOT

EXHIBIT B

Bylaws of the Association

BYLAWS
OF
THE UNION SQUARE OWNERS ASSOCIATION, INC.
A Utah Nonprofit Corporation
Organized Under the Utah Revised Nonprofit Corporation Act

**BYLAWS
OF
THE UNION SQUARE OWNERS ASSOCIATION, INC.
A UTAH NONPROFIT CORPORATION**

The administration of The Union Square Owners Association, Inc. (the "Association") shall be governed by the Utah Condominium Ownership Act (Title 57, Chapter 8, Utah Code Annotated) ("Act"), the Declaration of Condominium for Union Square, recorded on April 12, 2006, in Book 1784, beginning at Page No. 195 of the official records of Summit County, Utah (the "Declaration"); the Articles of Incorporation for The Union Square Owners Association, Inc. (the "Articles"); and these Bylaws (as the Declaration, Articles and these Bylaws may from time to time be amended).

ARTICLE I

NAME, PRINCIPAL OFFICE, DEFINITIONS AND APPLICATION

Section 1.1 Name. The name of the Association is the "Union Square Owners Association, Inc."

Section 1.2 Principal Office. The principal office of the Association shall be located at 4780 Winchester Court, Park City, Utah 84098, or at any other place as may be designated in the most recent document on file with the Utah Department of Commerce, Division of Corporations and Commercial Code (the "Division") providing information regarding the principal office of the Association. The Association shall maintain at its principal office a copy of such corporate records as may be required by Section 16-6a-1601 of the Utah Revised Nonprofit Corporation Act (the "Act").

Section 1.3 Registered Office. The registered office of the Association required to be maintained by Section 16-6a-501 of the Act shall be the registered office as originally so designated in the Association's Articles of Incorporation or subsequently designated as the Association's registered office in the most recent document on file with the Division providing such information. The Association shall maintain a registered agent at the registered office, as required by Section 16-6a-501 of the Act. The registered office and registered agent may be changed from time to time as provided in Sections 16-6a-501 and 502 of the Act.

Section 1.4 Definitions. These Bylaws shall operate under the Act, as amended. The words used in these Bylaws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in Section 2 of the Declaration, unless the context indicates otherwise.

Section 1.5 Bylaws' Application. All present and future Owners, Mortgagees, Occupants of Units, and their employees, representatives, agents and guests, and any other persons who may use the facilities of the Project in any manner are subject to the Declaration, these Bylaws and all rules and regulations made pursuant hereto and any amendments hereof. The acceptance of a deed or conveyance of a Commercial Unit or Shared Interest Unit, or the occupancy or use of any Unit, shall constitute an agreement that the provisions of the Declaration

and these Bylaws and any rules and regulations made pursuant hereto, as they may be amended from time to time, are accepted, ratified and will be complied with.

ARTICLE II MEMBERSHIP, VOTING AND MEETINGS

Section 2.1 Association Membership, Voting. Every Owner of a Commercial Unit or a Shared Interest Unit, including Declarant, shall be a member of the Association ("Member"), and the Declarant shall be a member of the Association so long as it owns any Commercial Units or Shared Interest Units in the Project (unless and until the Declarant expressly relinquishes in writing its status as a Member). The number of votes appurtenant to each Commercial Unit or Shared Interest Unit shall be based on the undivided interest of the Commercial Unit or Shared Interest Unit in the Common Areas and Facilities as set forth in Section 24 and Exhibit A to the Declaration. The votes appurtenant to each Commercial Unit or Shared Interest shall have a permanent character, and, except as otherwise permitted and provided for in the Declaration, shall not be altered without the unanimous consent of all Owners expressed in a duly recorded amendment to the Declaration. Each Owner's voting rights shall be subject to the authority of the Management Committee to suspend the voting rights of the Owner for violations of the Declaration in accordance with its provisions thereof. Except as otherwise expressly provided in the Declaration, any issue put to a vote by ballot without a meeting or at a duly called meeting of Members at which a quorum is present shall be decided by a simple majority of all votes represented in person or by valid proxy at such meeting. The foregoing is not intended to include a person or entity who holds an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's Association Membership.

Section 2.2 Voting Procedures. A change in the ownership of a Commercial Unit or Shared Interest shall be effective for voting purposes from the time the deed or other instrument effecting such change is recorded, or, in connection with Owners who are vendees, upon the execution of the installment purchase contract. Thereafter, the new Owner shall give the Management Committee written notice of such change of ownership and provide satisfactory evidence thereof. If any Association Member casts a vote representing a certain Commercial Unit or Shared Interest, it will thereafter be conclusively presumed for all purposes that he, she or it was acting with the authority and consent of all other Owners of the same Commercial Unit or Shared Interest unless objection thereto is made at the time the vote is cast. In the event more than one Owner attempts to cast the vote for a particular Commercial Unit or Shared Interest, the vote for that Commercial Unit or Shared Interest shall be deemed void and shall not be counted.

Section 2.3 Association Membership Rights. Each Member shall have the rights, duties and obligations set forth in the Declaration as the same may be amended from time to time.

Section 2.4 Transfer of Association Membership. The rights and obligations of the Owner of membership in the Association ("Membership") shall not be assigned, transferred, pledged, designated, conveyed or alienated in any way except upon transfer of ownership to an Owner's Commercial Unit or Shared Interest and then only to the transferee of ownership to the Commercial Unit or Shared Interest. A transfer of ownership to a Commercial Unit or Shared

Interest may be effected by deed, intestate succession, testamentary disposition, foreclosure or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Utah. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Commercial Unit or Shared Interest shall operate to transfer the Association Membership appurtenant to such Commercial Unit or Shared Interest to the new Owner(s) thereof.

Section 2.5 Annual Meeting. The annual meeting of Members shall be held each year on a date and at a time designated by the Members. At the meeting, Directors (as defined below) shall be elected and any other proper business may be transacted. If the election of Directors shall not be held on the day designated herein for any annual meeting of the Association Members, or at any adjournment thereof, the Management Committee shall cause the election to be held at a meeting of the Members as soon thereafter as may be convenient. Failure to hold an annual meeting as required by these Bylaws shall not affect the validity of any corporate action or work a forfeiture or dissolution of the Association.

Section 2.6 Special Meetings. Special meetings of the Association may be called by the Declarant, the President, the Management Committee, or Members representing at least twenty-five percent (25%) or more of the votes of the Association.

Section 2.7 Place of Meetings. Each annual or special meeting of the Members shall be held at such place within the Project as may be designated by the Management Committee. In the absence of any such designation, meetings shall be held at the principal office of the Association.

Section 2.8 Notice of Meetings.

2.8.1 Required Notice. The Association shall give notice to Members of the date, time, and place of each annual and special meeting of Members no fewer than ten (10) nor more than sixty (60) days before the meeting date, in accordance with the requirements of Sections 103 and 704 of the Act. Unless otherwise required by law or the Articles, the Association is required to give the notice only to Members entitled to vote at the meeting.

2.8.2 Contents of Notice. The notice of each special meeting must include a description of the purpose or purposes for which the meeting is called. Except as provided in this Section 2.8.2, or as otherwise required by the Act, other applicable law, or the Articles, notice of an annual meeting need not include a description of the purpose or purposes for which the meeting is called.

2.8.3 Adjourned Meeting. If any annual or special meeting of Members is adjourned to a different date, time or place, then subject to the requirements of the following sentence notice need not be given of the new date, time and place if the new date, time and place are announced at the meeting before adjournment. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date for the adjourned meeting is or must be fixed under Section 706 of the Act and Section 2.9 of these Bylaws, notice of the adjourned meeting must be given pursuant to

the requirements of Section 2.8.1 of these Bylaws to Members of record entitled to vote at the meeting, as provided in Section 704(4)(b) of the Act.

2.8.4 Waiver of Notice. A Member may waive notice of any meeting (or any other notice required by the Act, the Articles or these Bylaws) by a writing signed by the Member entitled to the notice, which is delivered to the Association (either before or after the date and time stated in the notice as the date and time when any action will occur), for inclusion in the minutes or filing with the Association records. A Member's attendance at a meeting: (a) waives objection to lack of notice or defective notice of the meeting, unless the Association Member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting because of lack of notice or defective notice; and (b) waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the Member objects to considering the matter when it is presented.

Section 2.9 Fixing of Record Date. For the purpose of determining the Members entitled to: (i) notice of or to vote at any meeting of Members or any adjournment thereof; (ii) take action without a meeting; (iii) demand a special meeting; or (iv) take any other action, the Management Committee may fix in advance a date as the record date. As provided in Section 706(4) of the Act, a record date fixed pursuant to such section may not be more than seventy (70) days prior to the date on which the particular meeting or action requiring such determination of Members is to be taken. If no record date is otherwise fixed by the Management Committee as provided herein, then the record date for the purposes set forth below shall be the close of business on the dates indicated:

2.9.1 Annual or Special Meeting. With respect to a determination of Members entitled to notice of and to vote at an annual or special meeting of Members, the day before the first notice is delivered to Members.

2.9.2 Demand for Special Meeting. With respect to a determination of Members entitled to demand a special meeting of Members pursuant to Section 702(1)(b) of the Act, the later of (i) the earliest date of any of the demands pursuant to which the meeting is called, and (ii) the date that is sixty (60) days prior to the date the first of the written demands pursuant to which the meeting is called is received by the Association.

2.9.3 Action Without Meeting. With respect to a determination of Members entitled to take action without a meeting (pursuant to Section 2.16 of these Bylaws and Section 707 of the Act) or entitled to be given notice of an action so taken, the date the first Member delivers to the Association a writing upon which the action is taken.

A determination of Members entitled to notice of or to vote at any meeting of Members is effective for any adjournment of the meeting unless the Management Committee fixes a new record date, which it must do if the meeting is adjourned to a date more than one hundred twenty (120) days after the date fixed for the original meeting.

Section 2.10 Member List for Meetings. The officer or agent having charge of the membership transfer books for Memberships of the Association shall prepare a list of the names

of all Members entitled to be given notice of, and to vote at, each meeting of Members, in compliance with the requirements of Section 710 of the Act. The list must be in alphabetical order and must show the address of, and the number of votes held by, each Member. The Member list must be available for inspection by any Member beginning on the earlier of (i) ten (10) days before the meeting for which the list was prepared, or (ii) two (2) business days after notice of the meeting is given, and continuing through the meeting and any adjournments thereof. The list must be available at the Association's principal office or at a place identified in the meeting notice in the city where the meeting is to be held. A Member or a Member's agent or attorney is entitled on written demand to the Association, and subject to the provisions of Sections 710, 1602 and 1603 of the Act, to inspect and copy, at such Member's sole and exclusive expense, the list during regular business hours, during the period it is available for inspection. The list is to be available at the meeting for which it was prepared, and any Member or any Member's agent or attorney is entitled to inspect the list at any time during the meeting for any purpose germane to the meeting. The Member list is to be maintained in written form or in another form capable of conversion into written form within a reasonable time.

Section 2.11 Quorum and Adjournment. The presence in person of Members representing a majority of the Total Votes in the Association at any meeting of the Association held in response to notice to all Members of record properly given shall constitute a quorum. In the absence of a quorum at an Association meeting, a majority of those present in person may adjourn the meeting to another time, but may not transact any other business. An adjournment for lack of a quorum by those in attendance shall be to a date not less than five (5) nor more than thirty (30) days from the original meeting date. The quorum for an adjourned meeting shall be ten percent (10%) of the votes of the Association. If the time and place for an adjourned meeting is not fixed by those in attendance at the original meeting, or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for regular meetings of the Association. Notwithstanding any provision in these Bylaws to the contrary, Commercial Unit Owners holding a majority of percentage of interests in the Common Areas and Facilities for all Commercial Units shall constitute a quorum of Commercial Owners and shall have the right (by the vote of a majority of such quorum) to vote to remove a member of the Commercial Unit Committee and to name his successor or to fill a vacancy on the Commercial Unit Committee as provided herein.

Section 2.12 Business. The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough to leave less than a quorum.

Section 2.13 Proxies. Members may vote by proxy. No proxy shall be valid unless signed by the Owner or his or her duly authorized attorney-in-fact, dated, and filed with the Secretary of the Association prior to any meeting for which it is to be effective. A proxy is valid for eleven (11) months from its date of execution, unless a longer period is expressly provided in the proxy.

Section 2.14 Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the

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

Section 2.15 Minutes. Minutes of the annual and special meetings of the Association shall be distributed to each Member within sixty (60) days after the meeting.

Section 2.16 Action Without Meeting. Unless otherwise provided in the Articles, and subject to the provisions of Section 707 of the Act, any action required or permitted to be taken at a meeting of the Members may be taken without a meeting and without prior notice, if one or more consents in writing, setting forth the action so taken, shall be signed by Members having no less than the minimum number of votes that would be necessary to authorize or take the action at a meeting at which a quorum was present and voted. Unless the written consents of all Members entitled to vote have been obtained, notice of any Member approval without a meeting shall be given at least ten (10) days before the consummation of the action authorized by the approval. Such notice shall meet the requirements of, and be delivered to all Members identified in, Section 707(2) of the Act. An action taken by written consent of the Members as provided herein has the same effect as action taken at a meeting of such members, and may be so described in any document.

2.16.1 Revocation of Written Consent. Any Member giving a written consent, or the Member's proxyholder, personal representative or transferee may revoke a consent by a signed writing describing the action and stating that the Member's prior consent is revoked, if the writing is received by the Association prior to the effectiveness of the action, as provided in Section 707(3) of the Act.

2.16.2 Termination of Written Consent. An action taken by written consent of the Members as provided herein is not effective unless all written consents on which the Association relies for the taking of the action are received by the Association within a sixty-day period. An action so taken is effective as of the date the last written consent necessary to effect the action is received by the Association, unless all of the written consents necessary to effect the action specify a later date as the effective date of the action, in which case the later date shall be the effective date of the action.

2.16.3 Method of Transmission of Consents. Unless otherwise provided in these Bylaws, the written consents may be received by the Association by electronically transmitted facsimile or other form of communication providing the Association with a complete copy thereof, including a copy of the signature thereto.

2.16.4 Election of Directors by Written Consent. Notwithstanding the other provisions of these Bylaws, Directors may not be elected by written consent except by unanimous written consent of all Memberships entitled to vote for the election of Directors.

2.16.5 Record Date. As set forth in Section 2.9.2, if not otherwise determined as permitted by the Act and these Bylaws, the record date for determining Members entitled to take action without a meeting or entitled to be given notice of any action so taken is the

date the first Member delivers to the Association a writing upon which the action is taken.

Section 2.17 Meetings by Telecommunication. As permitted by Section 708 of the Act, unless otherwise provided in these Bylaws, any or all of the Members may participate in an annual or special meeting of Members by, or the meeting may be conducted through the use of, any means of communication by which all persons participating in the meeting can hear each other during the meeting. A Member participating in a meeting by this means is considered to be present in person at the meeting.

Section 2.18 Maintenance of Records and Member Inspection Rights.

2.18.1 Corporate Records. As required by Section 1601 of the Act, the Association shall keep as permanent records minutes of all meetings of its Members and Management Committee, a record of all actions taken by the Members or Management Committee without a meeting, a record of all actions taken on behalf of the Association by a committee of the Management Committee in place of the Management Committee, and a record of all waivers of notices of meetings of Members, meetings of the Management Committee, or any meetings of committees of the Management Committee. The Association shall also maintain appropriate accounting and Member records as required by the statute. The Association shall keep at its principal office those corporate records and documents identified in Section 1601(5) of the Act and listed in the following paragraph.

2.18.2 Inspection Rights of Records Required at Principal Office. Pursuant to Section 1602(l) of the Act, a Member or Director of the Association (or such personal agent or attorney) who gives the Association written notice of the demand at least five (5) business days before the proposed inspection date, has the right to inspect and copy, at such Member's or Director's sole and exclusive expense, during regular business hours, any of the following records, all of which the Association is required to keep at its principal office:

- 2.18.2.1 its Articles of Incorporation as then in effect;
- 2.18.2.2 its Bylaws as then in effect;
- 2.18.2.3 the minutes of all Members, meetings, and records of all actions taken by Members without a meeting, for the past three (3) years;
- 2.18.2.4 all written communications within the past three (3) years to Members as a group;
- 2.18.2.5 a list of the names and addresses of its current officers and Directors;
- 2.18.2.6 its most recent annual report delivered to the Division; and

2.18.2.7 all financial statements prepared for periods ending during the last three (3) years that a Member could request under Section 1606 of the Act.

2.18.3 Conditional Inspection Rights. In addition to the inspection rights set forth in paragraph 2.18.2 above, as provided in Section 1602(2) of the Act, a Member or Director of the Association (or such person's agent or attorney) who gives the Association a written demand in good faith and for a proper purpose at least five (5) business days before the requested inspection date, and describes in the demand with reasonable particularity the records proposed to be inspected and the purpose of the inspection, is entitled to inspect and copy, during regular business hours at a reasonable location specified by the Association, any of the following records of the Association:

2.18.3.1 excerpts from minutes of meetings of, and from actions taken by, the Members, the Management Committee, or any committees of the Management Committee, to the extent not subject to inspection under paragraph 2.18.2 of this Section 2.18;

2.18.3.2 accounting records of the Association; and

2.18.3.3 the record of Members (compiled no earlier than the date of the demand for inspection).

For the purposes of paragraph 2.18.3, a proper purpose means a purpose reasonably related to the demanding party's interest as a Member or Director. A party may not use any information obtained through the inspection or copying of records permitted by this paragraph 2.18.3 for any purposes other than those set forth in a proper demand as described above, and the officers of the Association are authorized to take appropriate steps to ensure compliance with this limitation.

Section 2.19 Financial Statements. Within fifteen (15) days of receipt of a written request of any Member, the Association shall mail to the requesting Member its most recent annual or quarterly financial statements.

Section 2.20 Voting for Directors. Unless otherwise provided in the Articles or the Act, Directors are elected by a plurality of the votes cast by the Members entitled to vote in the election at a meeting at which a quorum is present, in accordance with the requirements and procedures set forth in Section 804 of the Act. There shall be no cumulative voting. The candidate(s) receiving the most votes shall be elected as Directors.

ARTICLE III MANAGEMENT COMMITTEE

Section 3.1 Number and Powers. The affairs of the Association shall be conducted by a Management Committee. The Management Committee shall consist of seven (7) Directors, and such officers as the Management Committee may elect or appoint in accordance with the Articles and these Bylaws as the same may be amended from time to time. The Management Committee shall be comprised of four (4) Owners elected by the Shared Interest Owners voting

as a group, and three (3) Owners elected by the Commercial Unit Owners voting as a group. The initial Management Committee shall be comprised of three (3) Directors, and shall be appointed by the Declarant and shall serve until the Declarant turns over control of the Project, as outlined in the Declaration. The Management Committee may also appoint various committees and appoint a manager who shall, subject to the direction of the Management Committee, be responsible for the day-to-day operation of the Association (the "Association Manager"). The Management Committee shall determine the compensation to be paid to the Association Manager. The Management Committee's responsibilities shall include, but shall not be limited to, the following:

- 3.1.1 administration;
- 3.1.2 preparing and administering an operational budget;
- 3.1.3 establishing and administering an adequate reserve fund;
- 3.1.4 scheduling and conducting the annual meeting and other meetings of the Members;
- 3.1.5 collecting and enforcing the Common Assessments;
- 3.1.6 accounting functions and maintaining records;
- 3.1.7 promulgation and enforcement of the rules and guidelines for the use and enjoyment of the Project and the Common Areas and Facilities;
- 3.1.8 pledging future Common Assessments as collateral to secure Association financing;
- 3.1.9 maintenance of the Common Areas and Facilities; and
- 3.1.10 all the other duties imposed upon the Management Committee pursuant to the Declaration, including enforcement thereof.

Section 3.2 Declarant Control.

3.2.1 The Declaration establishes a period of Declarant control of the Association, during which period the Declarant or persons designated by it have authority to appoint and remove the Directors and officers of the Management Committee. The period of Declarant control shall terminate no later than the earlier of: (i) three (3) years after the first Unit is conveyed to an Owner; or (ii) after Units to which three-fourths $\frac{3}{4}$ of the undivided interest in the Common Areas and Facilities appertain have been conveyed to Owners.

3.2.2 Not later than the termination of the period of Declarant control, the Members shall elect a Management Committee of seven (7) Directors. The Directors and officers of the Management Committee shall take office upon election.

Section 3.3 Composition. Each Director shall have one (1) equal vote. Except with respect to Directors appointed by the Declarant, the Directors shall be (1) Owners of a Commercial Unit or Shared Interest, (2) spouses of Owners of a Commercial Unit or Shared Interest, (3) Mortgagees of Units, (4) partners or employees of a partnership Owner or Mortgagee, (5) officers, directors, shareholders, employees or agents of a corporate Unit Owner or Mortgagee, or (6) members or managers of a limited liability company Unit Owner or Mortgagee. In no event shall any Unit Owner be eligible for election to the Management Committee if such Unit Owner is then in default, beyond any applicable grace period, in the payment of Common Assessments or any other amounts required by the Management Committee to be paid. In addition, no Director of the Management Committee elected by the Unit Owners may continue to participate as a Director thereof after the Management Committee has perfected a lien against his or her Unit or Shared Interest, for so long as such lien remains unsatisfied.

Section 3.4 Nomination of Directors. Nominations for election to the Management Committee shall be made by a Nominating Committee. The Nominating Committee shall consist of a chairperson, who shall be a Director, and three (3) or more Members. The Nominating Committee shall be appointed by the Management Committee not less than thirty (30) days prior to each annual meeting of the Members to serve a term of one (1) year or until their successors are appointed, and such appointment shall be announced at each such annual meeting. The Nominating Committee shall make as many nominations for election to the Management Committee as it shall in its discretion determine. Such nominations shall include Commercial Unit Owners and Shared Interest Owners for vacancies in positions on the Management Committee to be filled from each group. Nominations shall also be permitted from the floor. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

Section 3.5 Election and Term of Office. Directors shall be elected by the Members, or appointed by the other Directors, as set forth in these Bylaws. The term of office of each of the seven (7) Directors comprising the Management Committee elected at the first annual meeting of the Unit Owners following the termination of the period of Declarant control shall be fixed at such meeting as follows: (a) two (2) of such Directors elected by the Shared Interest Owners shall serve for a term of approximately two (2) years; (b) two (2) of such Directors elected by the Shared Interest Owners shall serve for a term of approximately one (1) year; (c) two (2) of such Directors elected by the Commercial Unit Owners shall serve for a term of approximately two (2) years; and (d) one (1) of such Directors elected by the Commercial Unit Owners shall serve for a term of approximately one (1) year, and all such Directors' terms shall end on the first regularly scheduled annual meeting or anniversary thereof, rather than on the anniversary of the first annual meeting. Those Directors representing the Commercial Unit Owners or Shared Interest Owners receiving the highest number of votes shall serve for the longer terms of office. At each annual meeting of the Owners subsequent to the first such meeting, the Owners shall elect Directors to replace the Directors whose terms of office are then expiring, each to serve a term of office fixed at two (2) years. Notwithstanding anything contained herein to the contrary, each Director shall serve until his or her successor shall be elected and qualified. There shall be no limit on the number of terms of office, successive or otherwise, that a Director may serve.

Section 3.6 Removal of Directors and Vacancies. Any Director may be removed, with or without cause, by the vote of Members holding a majority of votes entitled to be cast for the election of such Director. For the avoidance of doubt, a Director representing the Commercial Unit Owners may only be removed by the Commercial Unit Owners and a Director representing the Shared Interest Owners may only be removed by the Shared Interest Owners. Any Director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a Director, a successor shall be elected by the Members entitled to elect the Director so removed to fill the vacancy for the remainder of the term of such Director.

3.6.1 Removal by Directors. Any Director who has three (3) consecutive unexcused absences from Management Committee meetings, or who is more than thirty (30) days delinquent in the payment of any Common Assessment or other charge due the Association, may be removed by a majority of the Directors present at a regular or special meeting at which a quorum is present, and a successor may be appointed by the Management Committee to fill the vacancy for the remainder of the term.

3.6.2 Appointment by Directors. In the event of the death, disability, or resignation of a Director, the Management Committee may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Members may elect a successor for the remainder of the term. The Commercial Unit Owners or the Shared Interest Owners on the Management Committee shall appoint a successor, depending on whether the vacancy created was a Commercial Unit Owner or Shared Interest Owner.

Section 3.7 Compensation. No Director shall receive any compensation from the Association for acting as such unless approved by Members representing a majority of the Total Votes in the Association at a regular or special meeting. Any Director may be reimbursed by the Association for reasonable expenses of the Directors for attendance at the Management Committee meetings, or any other expenses incurred on behalf of the Association upon approval of a majority of the other Directors. Directors may be employed by the Association in another capacity and receive compensation for such employment; provided, further, that such employment shall be approved by vote or in writing by all Directors not including the Director to be employed.

Section 3.8 Regular Meetings. The Management Committee meetings shall be held at least quarterly at such times and places as the Management Committee shall determine. No notice shall be necessary to the newly elected Management Committee in order to legally constitute such meeting, provided a majority of the Directors are present. The Management Committee may set a schedule of additional regular meetings by resolution, and no further notice is necessary to constitute regular meetings.

Section 3.9 Special Meetings. Special meetings of the Management Committee may be called by written notice signed by any two (2) Directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The person or persons authorized to call special meetings of the Management Committee may fix the time and place of the meeting so called. Written notice of any special meeting shall be sent to all Directors not less than seventy-two (72) hours prior to the scheduled time of the meeting;

provided, however, that notice of such meeting need not be given to any Director signing a waiver of notice or a written consent to the holding of such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the U.S. mail, with first-class postage thereon prepaid. If an agenda is prepared for a special meeting, the meeting need not be restricted to discussions of those items listed on the agenda.

Section 3.10 Notice. Unless the Articles, Bylaws, or the Act provide otherwise, regular meetings of the Management Committee may be held without notice of the date, time, place, or purposes of the meeting. Unless the Articles or Bylaws provide for a longer or shorter period, special meetings of the Management Committee must be preceded by two (2) days' notice of the date, time, and place of the meeting. The notice need not describe the purpose of the special meeting unless required by the Articles, Bylaws, or the Act. The giving of notice of any meeting shall be governed by the rules set forth in Section 103 of the Act.

Section 3.11 Waiver of Notice. The transactions of any Management Committee meeting, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting each of the Directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any Director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 3.12 Inspection of Books and Records. Any Director shall have the right at any reasonable time to inspect the books and records of the Association; provided, however, that the Management Committee may restrict such inspection rights to the extent that the exercise thereof by any Director is determined to unduly interfere with the Association's day-to-day business activities.

Section 3.13 Quorum, Voting and Adjournment. A majority of the Management Committee shall constitute a quorum, and if a quorum is present, the decision of a majority of those present shall be the act of the Management Committee. If less than a quorum is present at the meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice other than an announcement at the meeting, until a quorum shall be present. No Director may vote or act by proxy at any Management Committee meeting.

Section 3.14 Open Meetings. The Directors shall act only as a Management Committee, and individual Directors shall have no powers as such. Regular and special meetings of the Management Committee shall be open to all Members of the Association; provided, however, that the Members who are not on the Management Committee may not participate in any deliberation or discussion unless permission to speak is requested on his or her behalf by a Director. In such case, the President may limit the time any Member may speak. Notwithstanding the above, the Management Committee may, with the approval of a majority of a quorum of its Directors, adjourn the meeting and reconvene in executive session, excluding Members, to discuss and vote upon matters of a sensitive nature, such as personnel matters, litigation in which the Association is or may become involved, and similar orders of business.

Section 3.15 Action Without Meeting. Any action that is required or permitted to be taken at a Management Committee meeting may be taken without a meeting if all of the Management Committee or all Members of a committee established for such purposes, as the case may be, severally or collectively consent in writing to any action taken or to be taken by the Association, and the number of the Directors constitutes a quorum. Action taken pursuant to this Section 3.15 shall be a valid corporate action as though it had been authorized at a meeting of the Management Committee or the committee, as the case may be. The Secretary shall file these consents with the minutes of the Management Committee meetings.

Section 3.16 Telephonic Conference. Directors or any committee thereof may participate in a meeting of the Management Committee or committee by means of telephonic conference or similar communications equipment by which all persons participating in the meeting can hear each other at the same time. Such participation shall constitute presence in person at the meeting.

Section 3.17 Fiscal Year. The fiscal year of the Association shall be set by resolution of the Management Committee. In the absence of a Management Committee resolution, the fiscal year shall be the calendar year.

Section 3.18 Management Committee Committees. The Management Committee may designate by resolution of the Directors and appoint such committees and subcommittees as the Management Committee deems appropriate, from time to time. Each committee shall exercise those powers granted to it by an enabling resolution of the Management Committee, provided, however, that no committee shall exercise any power which is excluded from the delegation of power of the Management Committee by the laws of the State of Utah, the Articles, or these Bylaws. Notwithstanding the foregoing, the Management Committee shall not appoint or authorize any committee to usurp or curtail the power and authority granted to the Commercial Unit Committee or the Shared Interest Committee.

Section 3.19 Commercial Unit Committee. The Management Committee shall appoint a committee of not less than three (3) nor more than five (5) Owners of Commercial Units, or designees of Owners of Commercial Units (the "Commercial Unit Committee"). The number of committee members on the Commercial Unit Committee may be increased or decreased by a two-thirds (2/3) vote of the Commercial Unit Owners. The Commercial Unit Committee shall manage the Commercial Units and the affairs of the Commercial Owners which are separable from the affairs of the Shared Interest Owners and the Shared Interest Units. The Commercial Unit Committee shall have the right, power and authority to affect only the Commercial Owners as to the following acts:

3.19.1 to levy and collect fees, charges, and Assessments from the Commercial Owners by certifying such amounts to the Association for levy and collection;

3.19.2 to establish and maintain one or more reserve funds to provide monies to the Association to pay any expenses incurred by the Commercial Unit Committee in the exercise of its powers or the performance of its duties, including but not limited to reserves;

3.19.3 to obtain and maintain in force all policies of insurance deemed necessary or appropriate by the Commercial Unit Committee;

3.19.4 to expend monies received by the Association for the Commercial Unit Committee;

3.19.5 to receive all notices, claims and demands relating to taxes and Common Assessments affecting the Commercial Owners;

3.19.6 to contract with others for the management, maintenance, operation, construction or restoration of the Commercial Units or any portion thereof;

3.19.7 to do and perform any and all other acts which may be either necessary for, or proper or incidental to, the exercise of any of the foregoing powers;

3.19.8 to be a member of or participate in and pay assessments to any entity for common services including, but not limited to electricity, heat, security, insect control, common road maintenance, water and sewer services, fire protection, recreation and common area charges of any other nature, all for the exclusive benefit of the Commercial Owners;

3.19.9 to contract with any public or private utility provider for any type of utility services deemed appropriate or necessary by the Management Committee for the exclusive use of the Commercial Units;

3.19.10 to pay, on behalf of Commercial Owners, charges for all utilities and personal and real property taxes for the Commercial Units and to assess each Commercial Owner his pro rata share of such utility costs and taxes; and

3.19.11 to perform such other functions and duties as may be required by a majority vote of the Commercial Owners.

Each Commercial Unit Owner shall have and be entitled to cast the same number of votes as specified in Exhibit A to the Declaration for any issues that concern the Commercial Unit Committee. The Commercial Unit Owners, by a majority vote, may authorize the Commercial Unit Committee to take any action or do any act not prohibited by the Act, the Declaration or which does not conflict with the rights, power and authority granted to the Management Committee by this Declaration.

Section 3.20 Shared Interest Committee. The Management Committee shall appoint a committee of not less than three (3) nor more than five (5) Owners of Shared Interests, or designees of Owners of Shared Interests (the "Shared Interest Committee"). The number of committee members on the Shared Interest Committee may be increased or decreased by a two-thirds (2/3) vote of the Shared Interest Owners. The Shared Interest Committee shall manage the Shared Interest Ownership Regime and the affairs of the Shared Interest Owners which are separable from the affairs of the Commercial Unit Owners and the Commercial Units. The Shared Interest Committee shall have the right, power and authority to affect only the Shared Interest Owners as to the following acts:

3.20.1 to engage the Club Manager to maintain, clean, repair, replace, repaint or restore all of the interiors of the Club Interest Units;

3.20.2 to engage the Club Manager to manage the Club Ownership Regime and in connection therewith to implement and operate reservation, housekeeping, front desk, check out and departure services and systems for the benefit of Owners, Occupants and guests;

3.20.3 to levy and collect fees, charges, and Assessments from the Shared Interest Owners by certifying such amounts to the Association for levy and collection;

3.20.4 to establish and maintain one or more reserve funds to provide monies to the Association to pay any expenses incurred by the Shared Interest Committee in the exercise of its powers or the performance of its duties, including but not limited to reserves for the replacement of Hotel Residence Furnishings;

3.20.5 to pay taxes and assessments levied by governmental authority on any Hotel Residence Furnishings or other personal property owned by the Association for the exclusive benefit of the Shared Interest Owners;

3.20.6 to enforce decisions of the Association which pertain to the Shared Interest Ownership Regime and to pay all expenses incidental to such enforcement, including reasonable attorneys' fees, including, without limiting the foregoing, the right to reimburse Declarant for all costs and expenses incurred or paid by it in connection with the enforcement of any of the conditions, covenants, restrictions, charges, assessments or terms contained herein;

3.20.7 to have prepared and distributed to Shared Interest Owners on an annual basis (or more frequently if deemed appropriate) the financial statements pertaining exclusively to the Shared Interest Owners;

3.20.8 to obtain and maintain in force all policies of insurance deemed necessary or appropriate by the Shared Interest Committee;

3.20.9 to revise and amend the Reservation Policies and Procedures governing the use of Shared Interest Units;

3.20.10 to expend monies received by the Association for the Shared Interest Committee;

3.20.11 to receive all notices, claims and demands relating to taxes and Common Assessments affecting the Shared Interest Owners. By accepting title to a Shared Interest in The Sky Lodge, the purchaser thereof thereby waives his right to receive such notices and designates the Association and the Shared Interest Committee as his exclusive agent and attorney in fact for receipt of such notices, claims or demands and appeals related thereto;

3.20.12 to engage the Club Manager to contract with others for the management, maintenance, operation, construction or restoration of the Shared Interest Units or any portion thereof;

3.20.13 to engage the Club Manager to conduct reservation, reception, housekeeping, concierge, check-out, departure and other services for benefit of Shared Interest Owners, their invitees or guests or Occupants as deemed necessary or appropriate by the Shared Interest Committee and to cause the Management Committee to assess the cost thereof as Shared Interest Common Expenses to the Shared Interest Owners as determined by the Shared Interest Committee in the exercise of its reasonable discretion;

3.20.14 to do and perform any and all other acts which may be either necessary for, or proper or incidental to, the exercise of any of the foregoing powers;

3.20.15 to be a member of or participate in and pay assessments to any entity for common services including, but not limited to electricity, heat, security, insect control, common road maintenance, water and sewer services, fire protection, recreation and common area charges of any other nature, all for the exclusive benefit of the Shared Interest Owners;

3.20.16 to engage the Club Manager and authorize the Club Manager to enter any Shared Interest Unit at any reasonable time upon giving reasonable notice, if the Unit is occupied, for the purpose of cleaning, maid service and, if unoccupied, for the purpose of painting, maintenance, and repair, or for any other purpose reasonably related to the performance by the Shared Interest Committee of its responsibilities under the terms of this Declaration. Such right of entry shall be exercised in such a manner as to avoid any unreasonable or unnecessary interference with the possession, use and/or enjoyment by the occupant of such Shared Interest Unit and shall be preceded by reasonable notice to the occupant thereof whenever the circumstances reasonably permit.

3.20.17 to contract with any public or private utility provider for any type of utility services deemed appropriate or necessary by the Management Committee for the exclusive use of the Shared Interest Units;

3.20.18 to pay, on behalf of Shared Interest Owners, charges for all utilities and personal and real property taxes for the Shared Interest Units and to assess each Shared Interest Owner his pro rata share of such utility costs and taxes; and

3.20.19 to perform such other functions and duties as may be required by a majority vote of the Shared Interest Owners.

Each Owner of the Shared Interest shall have and be entitled to cast the same number of votes as specified in Exhibit A to the Declaration for any issues that concern the Shared Interest Committee. The Shared Interest Owners, by a majority vote, may authorize the Shared Interest Committee to take any action or do any act not prohibited by the Act, the Declaration or which does not conflict with the rights, power and authority granted to the Management Committee by this Declaration.

Section 3.21 Appointment and Term of Members of Commercial Unit Committee or Shared Interest Committee. After the expiration of the period of the Declarant control, the term of office of each member of the Commercial Unit Committee or the Shared Interest Committee, as the case may be, shall be as follows: (a) two (2) of such Committee members shall serve for a term of approximately three (3) years; (b) two (2) of such Committee members shall serve for a term of approximately two (2) years; (c) and one (1) of such Committee members shall serve for a term of approximately one (1) year. (If the Management Committee elects to appoint only three (3) members to either the Commercial Unit Committee or the Shared Interest Committee, as the case may be, then (a) two (2) of such Committee members shall serve for a term of approximately two (2) years, (b) and one (1) of such Committee members shall serve for a term of approximately one (1) year.) Each Committee member shall serve until his or her successor shall be elected and qualified. There shall be no limit on the number of terms of office, successive or otherwise, that a Committee member may serve.

ARTICLE IV OFFICERS

Section 4.1 Designation. The principal officers of the Association shall be a President, Vice President, Secretary and Treasurer, all of whom shall be elected by the Management Committee. The Management Committee may appoint other officers as it finds necessary and such officers shall have the authority to perform the duties prescribed by the Management Committee. Any two offices may be held by the same person, except the offices of President and Secretary. All officers must be Members of the Management Committee.

Section 4.2 Election and Term. The officers of the Association shall be elected annually by the Management Committee at the organizational meeting of each new Management Committee. They shall hold office at the pleasure of the Management Committee.

Section 4.3 Removal and Vacancies. Upon the affirmative vote of a majority of the Management Committee, any officer may be removed, either with or without cause. A vacancy in any office arising because of death, resignation, removal or otherwise may be filled at any regular meeting of the Management Committee or at any special meeting of the Management Committee called for that purpose for the unexpired portion of the term.

Section 4.4 President. The President shall be the chief executive officer of the Association. The President shall preside at all meetings of the Members and of the Management Committee. The President shall have all of the general powers and duties which are incident to the office of president of a nonprofit Association organized under the laws of the State of Utah, including but not limited to the power to appoint committees from among the Members from time to time as the President may decide is appropriate to assist in the conduct of the affairs of the Association. The President may fulfill the role of treasurer in the absence of the treasurer. The President may cause to be prepared and may execute amendments, attested by the Secretary, to the Declaration and these Bylaws on behalf of the Association, following authorization or approval of the particular amendment as applicable.

Section 4.5 Vice President. The Vice President shall perform the functions of the President in his or her absence or inability to serve.

Section 4.6 Secretary. The Secretary shall keep the minutes of all meetings of the Members and the Management Committee. The Secretary shall have charge of the Association's books and papers as the Management Committee may direct and shall perform all the duties incident to the office of secretary of a nonprofit Association organized under the laws of the State of Utah. The Secretary may cause to be prepared and may attest to execution by the President of amendments to the Declaration and these Bylaws on behalf of the Association, following authorization or approval of the particular amendment as applicable.

Section 4.7 Treasurer. The Treasurer shall be responsible for Association's funds and securities, for keeping full and accurate financial records and books of account showing all receipts and disbursements and for the preparation of all required financial data. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in depositories designated by the Management Committee and shall perform all the duties incident to the office of treasurer of a nonprofit Association organized under the laws of the State of Utah. The Treasurer may endorse on behalf of the Association, for collection only, checks, notes and other obligations and shall deposit the same and all monies in the name of and to the credit of the Association in banks designated by the Management Committee. Except for reserve funds described below, the Treasurer may have custody of and shall have the power to endorse for transfer, on behalf of the Association, stock, securities or other investment instruments owned or controlled by the Association or as fiduciary for others. Reserve funds of the Association shall be deposited in segregated accounts or in prudent investments, as the Management Committee decides. Funds may be withdrawn from these reserves for the purposes for which they were deposited, by check or order, authorized by the Treasurer, and executed by two (2) Directors, one of whom may be the Treasurer if the Treasurer is also a Director.

Section 4.8 Resignation. Any officer may resign at any time by giving written notice to the Management Committee, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4.9 Execution of Instruments. Except as otherwise provided in these Bylaws, all agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by any officer of the Association or by any other person or persons designated by the Management Committee.

Section 4.10 Statements of Unpaid Common Assessments. The Treasurer, manager or, in their absence, any officer having access to the books and records of the Association may prepare, certify, and execute statements of unpaid Common Assessments. The Association may charge a reasonable fee for preparing statements of unpaid Common Assessments. The amount of this fee and the time of payment shall be established by resolution of the Management Committee.

Section 4.11 Compensation. No officer shall receive any compensation from the Association for acting as such. However, any officer may be reimbursed for his or her actual reasonable expenses incurred in the performance of his or her duties as an officer; provided, however, if the officer expects or reasonably should expect to incur such an expense in excess of

fifty dollars (\$50.00), he or she shall not be entitled to reimbursement unless he or she shall have obtained the approval of the Management Committee prior to incurring such an expense. An officer who serves the Association in any other capacity, however, may receive compensation therefor if otherwise entitled thereto by resolution of the Board.

ARTICLE V ENFORCEMENT

Section 5.1 Association's General Rights of Enforcement of Provisions of This and Other Instruments. The Association, as the agent and representative of the Owners and Members, shall have the right to enforce, by any proceeding at law or in equity, the covenants set forth in the Declaration, these Bylaws, and/or any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens or easements provided for in any contract, deed, declaration or other instrument which (a) shall have been executed pursuant to, or subject to, the provisions of the Declaration, or (b) otherwise shall indicate that the provisions of such instrument were intended to be enforced by the Association or by Declarant.

Section 5.2 Abatement and Enjoinment of Violations by Owners. In addition to the provisions set forth in Section 5.1 above, the violation of any of the rules that may be promulgated by the Association from time to time shall also give the Management Committee the right, after notice and hearing, except in case of an emergency, in addition to any other rights set forth in these Bylaws:

5.2.1 To enter the Unit, Common Areas or Facilities in which, or as to which, the violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing of condition (except for additions or alterations of a permanent nature that may exist in that Unit) that is existing and creating a danger to the Common Area or Facilities contrary to the intent and meaning of the provisions of the Declaration. The Management Committee shall not be deemed liable for any manner of trespass by this action; or

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

Section 5.3 Fine for Violation. The Management Committee may adopt resolutions providing for fines or other monetary penalties for the infraction of the Declaration. Fines will be levied after notice thereof and an opportunity to be heard. The Management Committee may levy fines in amounts that it, in its sole discretion, shall determine to be reasonable for each violation of the Declaration, including those violations which persist after notice and an opportunity for a hearing is given.

Section 5.4 Specific Enforcement. In addition to such other rights as are specifically granted under the Declaration, the Management Committee shall have the power to impose fines, which shall constitute a lien upon the Commercial Unit or Shared Interest of the violator or to suspend an Owner's right to (i) use the Common Areas and Facilities, (ii) the Unit, or (iii) the Club Facilities, if the Owner is a Member of The Sky Club. In the event that any resident, guest or invitee of a Unit violates the Declaration and a fine is imposed, the fine shall first be assessed

against the Owner. The failure of the Management Committee to enforce any provision of the Declaration shall not be deemed a waiver of the right of the Management Committee to do so thereafter.

Section 5.5 Notice. Prior to imposition of any sanction hereunder or under the Declaration, the Management Committee or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than fourteen (14) days within which the alleged violator may present a written request for a hearing to the Management Committee; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within fourteen (14) days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed; provided the Management Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the fourteen (14) day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and Association Rules by any Person.

Section 5.6 Hearing. If a hearing is requested within the allotted fourteen (14) day period, the hearing shall be held before the Management Committee in executive session, or by the Club Manager, as determined by the Management Committee in its sole discretion. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, a proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, Director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

Section 5.7 Additional Enforcement Rights. Notwithstanding anything to the contrary in this Article V, the Management Committee may elect to enforce any provision of the Declaration by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorneys' fees actually incurred.

ARTICLE VI INDEMNIFICATION

Section 6.1 Actions By Or In The Right of The Association. The Association shall indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that he or she is or was a Director or officer of the Association, who is or was serving at the request of the Association in such capacity, against expenses (including expert witness fees, attorneys' fees and costs) judgments, fines, amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding, if he or she acted in good faith and in a manner which such individual reasonably believed to be in the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. Determination of any action, suit or proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not of itself create a presumption that the person did not act in good faith and in a manner he or she reasonably believed to be in the best interests of the Association and, with respect to any criminal action or proceeding, had reasonable cause to believe his or her conduct was unlawful. No indemnification shall be made in respect of any claim, issue or matter as to which such person has been adjudged to be liable for negligence or misconduct in the performance of his or her duty in the Association unless, and to the extent that the court in which such action or suit was brought determines upon application that, despite the adjudication of liability, but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses if such court deems proper.

Section 6.2 Successful on the Merits. To the extent that a Director, manager, officer, employee, fiduciary or agent of the Association has been wholly successful on the merits in defense of any action, suit or proceeding referred to in Section 6.1 above, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including expert witness fees, attorneys' fees and costs) actually and reasonably incurred by him or her in connection therewith.

Section 6.3 Determination Required. Any indemnification under Section 6.1 (unless ordered by a court) and as distinguished from Section 6.2, shall be made by the Association only as authorized by the specific case upon a determination that indemnification of the Director or officer is proper in the circumstances because such individual has met the applicable standard of conduct set forth in Section 6.1 above. Such determination shall be made by the Management Committee by majority vote of a quorum consisting of those Directors who were not parties to such action, suit or proceeding or, if a majority of disinterested Directors so commands, by independent legal counsel and a written opinion or by Members entitled to vote thereon.

Section 6.4 Payment in Advance of Final Disposition. The Association shall pay for or reimburse the reasonable expenses incurred by a former or current Director or officer who is a party to a proceeding in advance of final disposition of the proceeding if the Director or officer furnishes to the Association a written affirmation of the Director's good faith belief that he or she has met the standard of conduct described in Section 6.1, the Director or officer furnishes to the Association a written understanding, executed personally or on the Director's or officer's behalf

to repay the advance if it is ultimately determined that the Director or officer did not meet the standard of conduct and a determination is made that the facts then known to those making the determination would not preclude indemnification under this Article VI. The undertaking required in this Section 6.4 shall be an unlimited general obligation of the Director or officer but need not be selected and may be accepted without reference to financial ability to make repayment.

Section 6.5 No Limitation of Rights. The indemnification provided by this Article VI shall not be deemed exclusive of nor a limitation upon any other rights to which those indemnified may be entitled under any bylaw, agreement, vote of the Members or disinterested Directors, or otherwise, nor by any rights which are granted pursuant to the Act.

Section 6.6 Directors and Officers Insurance. The Association shall purchase and maintain insurance on behalf of any person who is or was a Director or an officer of the Association against any liability asserted against him or her and incurred by such individual in any such capacity or arising out of his or her status as such, whether or not the Association would have the power to indemnify such individual against such liability under provisions of this Article VI. The Directors and officers of the Association shall have the liabilities, and be entitled to indemnification, as provided in the Act.

ARTICLE VII RECORDS

Section 7.1 Records and Audits. The Association shall maintain financial records, and such other records as required by the Declaration or the Act. The cost of any audit shall be a Common Expense unless otherwise provided in the Declaration.

Section 7.2 Examination. The Management Committee shall establish reasonable rules with respect to:

7.2.1 Notice to be given to the custodian of the records by the Member or Director desiring to make the inspection;

7.2.2 Hours and days of the week when such an inspection may be made; and

7.2.3 Payment of the cost of reproducing copies of documents requested by a Member or Director.

Section 7.3 Records. The books and accounts for the Association shall be kept in accordance with generally accepted accounting principles under the direction of the Treasurer. At the close of each fiscal year, the books and records of the Association shall be prepared by an independent public accountant approved by the Association, and financial statements shall be prepared by said accountant and distributed to all Members.

**ARTICLE VIII
COMMON ASSESSMENTS**

All Common Expenses shall be assessed in accordance with the Declaration. No Member shall be exempt from liability for Common Expenses by waiver of the use or enjoyment of any of the Project or by abandonment of his or her Unit. The Treasurer shall keep detailed records of all receipts and expenditures, including expenditures affecting the Project, specifying and itemizing the maintenance, repair and replacement expenses of the Project and any other expenses incurred. Such records shall be available for examination by the Members during regular business hours. In accordance with the actions of the Management Committee in assessing Common Expenses against the Units, the Treasurer shall keep an accurate record of such Common Assessments and of the payments thereof by each Member. All Common Assessments shall be a separate, distinct and personal liability of the Members at the time each Common 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 Common Assessments. Any person who shall have entered into a written agreement to purchase a Unit, by written request directed to the Management Committee, shall be entitled to obtain a written statement from the Treasurer setting forth the amount of the monthly, quarterly, annual or other periodic Common Assessments and the amount of unpaid Common Assessments charged against such Unit and its Owner(s), and if such statement does not reveal the full amount of the unpaid Common Assessments as of the date it is rendered, neither the purchaser nor the Unit shall be liable for the payment of an amount in excess of the unpaid Common Assessments shown thereon, provided that the former Owner shall remain so liable. The new Owner shall, and the former Owner shall not, be liable for any Common Assessments made after the date of transfer of title, even though the expenses incurred or the advances made by the Management Committee for which the Common Assessment is made relate in whole or in part to any period prior to that date. The Management Committee is authorized to require a reasonable fee for furnishing such statements. In addition to the statements issuable to purchasers, the Management Committee shall, upon ten (10) days' prior written request therefor, provide to any Member, to any person who shall have entered into a binding agreement to purchase a Unit and to any Mortgagee, on request at reasonable intervals a current statement of unpaid Common Assessments for Common Expenses with respect to a Unit. The Management Committee is authorized to require a reasonable fee for furnishing such statements.

**ARTICLE IX
AMENDMENT TO BYLAWS**

Section 9.1 By Declarant. Prior to the conveyance of the first Unit by Declarant, Declarant may unilaterally amend these Bylaws. After such conveyance, and notwithstanding anything contained in these Bylaws to the contrary, these Bylaws may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation, or judicial determination which shall be in conflict therewith to make technical correction to fix mistakes or remove/clarify ambiguities; or (b) if such amendment is reasonably necessary to enable any title insurance company to issue title insurance coverage with respect to the Units subject to the Declaration; provided, however, any such amendment shall not adversely affect the title to any Owner's property unless any such Owner shall consent thereto in writing. Further, so

long as Declarant owns any Units, Declarant may unilaterally amend these Bylaws for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Owner hereunder, nor shall it adversely affect title to any property without the consent of the affected Owner.

Section 9.2 By Members Generally. Except as provided above, these Bylaws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing a majority of the interests of the Commercial Unit Owners and Shared Interest Owners voting as separate classes, and the consent of the Declarant, if such exists. In addition, the approval requirements set forth in the Declaration shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

ARTICLE X MISCELLANEOUS

Section 10.1 Notices. Unless otherwise provided in these Bylaws, all notices demands, bills, statements, or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by (i) United States mail, first class postage prepaid, (ii) e-mail with confirmation of delivery, or (iii) facsimile transmission with confirmation of delivery:

10.1.1 If to a Member, at the mailing address, e-mail address or facsimile number which the Member has designated in writing and filed with the Secretary or, if no such mailing address, e-mail address or facsimile number has been designated, at the address of the Unit of such Member; or

10.1.2 If to the Association, the Management Committee, or the manager, at the principal office of the Association or the manager, if any, or at such other mailing address, e-mail address or facsimile number as shall be designated by notice in writing to the Members pursuant to this Section 10.1.2.

Section 10.2 Conflicts. If there are conflicts between the provisions of Utah law, the Declaration, the Articles and these Bylaws, the provisions of Utah law, the Declaration, the Articles and these Bylaws (in that order) shall prevail.

Section 10.3 Waiver. No restriction, condition, obligation or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason or any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 10.4 Severability. The provisions hereof shall be deemed independent and severable, and the invalid or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

Section 10.5 Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way to define, limit or describe the scope of these Bylaws nor the intent of any provision hereof.

Section 10.6 Effective Date. These Bylaws shall take effect upon recording of the Declaration in the Office of the Summit County Recorder

Section 10.7 Seal. The Management Committee may by resolution provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the Association, the state of incorporation and the words "Corporate Seal."

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of The Union Square Owners Association, Inc., a Utah nonprofit corporation;

That the foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted at a meeting of the Management Committee of Directors thereof held on the ____ day of _____, 2007.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 27th day of October, 2007.

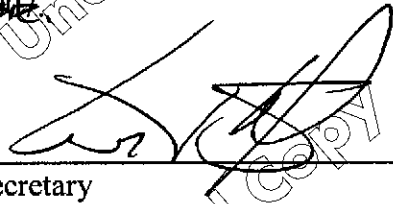

Secretary

Table of Contents

Page

ARTICLE I

NAME, PRINCIPAL OFFICE, DEFINITIONS AND APPLICATION

Section 1.1	Name.....	1
Section 1.2	Principal Office.....	1
Section 1.3	Registered Office.....	1
Section 1.4	Definitions.....	2
Section 1.5	Bylaws Application.....	2

ARTICLE II

MEMBERSHIP, VOTING AND MEETINGS

Section 2.1	Association Membership; Voting.....	5
Section 2.2	Voting Procedures.....	6
Section 2.3	Association Membership Rights.....	6
Section 2.4	Transfer of Association Membership.....	6
Section 2.5	Annual Meeting.....	7
Section 2.6	Special Meetings.....	7
Section 2.7	Place of Meetings.....	8
Section 2.8	Notice of Meetings.....	8
Section 2.9	Fixing of Record Date.....	10
Section 2.10	Member List for Meetings.....	11
Section 2.11	Quorum and Adjournment.....	12
Section 2.12	Business.....	13
Section 2.13	Proxies.....	13
Section 2.14	Conduct of Meetings.....	13
Section 2.15	Minutes.....	14
Section 2.16	Action Without Meeting.....	14
Section 2.17	Meetings by Telecommunication.....	16
Section 2.18	Maintenance of Records and Member Inspection Rights.....	17
Section 2.19	Financial Statements.....	20
Section 2.20	Voting for Directors.....	20

ARTICLE III

MANAGEMENT COMMITTEE

Section 3.1	Number and Powers.....	20
Section 3.2	Declarant Control.....	22
Section 3.3	Composition.....	23
Section 3.4	Nomination of Directors.....	24
Section 3.5	Election and Term of Office.....	24
Section 3.6	Removal of Directors and Vacancies.....	25
Section 3.7	Compensation.....	26

Section 3.8	Regular Meetings.....	27
Section 3.9	Special Meetings.....	27
Section 3.10	Notice.....	28
Section 3.11	Waiver of Notice.....	28
Section 3.12	Inspection of Books and Records.....	29
Section 3.13	Quorum, Voting and Adjournment.....	29
Section 3.14	Open Meetings.....	29
Section 3.15	Action Without Meeting.....	30
Section 3.16	Telephonic Conference.....	30
Section 3.17	Fiscal Year.....	31
Section 3.18	Management Committee Committees.....	31
Section 3.19	Commercial Unit Committee.....	31
Section 3.20	Shared Interest Committee.....	34
Section 3.21	Appointment and Term of Members of Commercial Unit Committee or Shared Interest Committee.....	39

**ARTICLE IV
OFFICERS**

Section 4.1	Designation.....	40
Section 4.2	Election and Term.....	40
Section 4.3	Removal and Vacancies.....	41
Section 4.4	President.....	41
Section 4.5	Vice President.....	42
Section 4.6	Secretary.....	42
Section 4.7	Treasurer.....	42
Section 4.8	Resignation.....	43
Section 4.9	Execution of Instruments.....	43
Section 4.10	Statements of Unpaid Common Assessments.....	43
Section 4.11	Compensation.....	44

**ARTICLE V
ENFORCEMENT**

Section 5.1	Association's General Rights of Enforcement of Provisions of This and Other Instruments.....	44
Section 5.2	Abatement and Enjoinment of Violations by Owners.....	45
Section 5.3	Fine for Violation.....	46
Section 5.4	Specific Enforcement.....	46
Section 5.5	Notice.....	47
Section 5.6	Hearing.....	47
Section 5.7	Additional Enforcement Rights.....	48

**ARTICLE VI
INDEMNIFICATION**

Section 6.1	Actions By Or In The Right of The Association.....	50
-------------	--	----

Section 6.2	Successful on the Merits	51
Section 6.3	Determination Required.....	51
Section 6.4	Payment in Advance of Final Disposition	52
Section 6.5	No Limitation of Rights	52
Section 6.6	Directors and Officers Insurance	52

**ARTICLE VII
RECORDS**

Section 7.1	Records and Audits	53
Section 7.2	Examination	53
Section 7.3	Records	54

**ARTICLE VIII
COMMON ASSESSMENTS**

**ARTICLE IX
AMENDMENT TO BYLAWS**

Section 9.1	By Declarant	56
Section 9.2	By Members Generally	56

**ARTICLE X
MISCELLANEOUS**

Section 10.1	Notices	57
Section 10.2	Conflicts	58
Section 10.3	Waiver	58
Section 10.4	Severability	58
Section 10.5	Captions	58
Section 10.6	Effective Date	59
Section 10.7	Seal	59

EXHIBIT C

The Sky Club Reservation Policies and Procedures

The Sky Lodge Reservation Policies and Procedures have been designed in order that all Shared Interest Owners have appropriate access to their Shared Interest Units. The Shared Interest Owner can use his Shared Interest Unit during scheduled vacation periods and a comparable Shared Interest Unit on a "space available" basis. These usage options are described below.

The Reservation Policies and Procedures have been carefully formulated in an attempt to be fair and equitable to all Shared Interest Owners. As permitted in the Club's Declaration/Bylaws, the Shared Interest Committee reserves the right to alter these Reservation Policies and Procedures from time to time as conditions warrant, but no alteration that materially affects the Shared Interest Members' use rights may be affected without the prior consent of 2/3rds of the Shared Interest Members. In the event there is a conflict between the Club's Declaration/Bylaws and the Reservation Policies and Procedures, the Club's Declaration/Bylaws will control.

GENERAL POLICIES AND PROCEDURES

Guaranteed Annual Vacation Days

Each Shared Interest Unit has eight (8) fractional interests that are allocated thirty-five (35) days of guaranteed use per Club Year for each Shared Interest. Each Shared Interest Owner grants the Declarant the right to use their portion of the remaining eighty-five (85) unallocated days in their Shared Interest Unit, in consideration for Declarant's agreement to provide the Members use of the Club Facilities and pay certain fees and costs to reduce the Common Expenses and operating costs for the Shared Interest Units, all as set forth in the Declaration. Within the 35-day allocation, the use of a Shared Interest Unit is further divided into two types of vacation use days: the allocation of a consecutive seven day period known as a "Holiday Use Week" and the remaining twenty-eight days known as "Reserved Use Days."

Holiday Use Week – Holiday Use Weeks are established based upon national holidays. Holiday Use Weeks' specific dates of use are adjusted annually to reflect the calendar period that includes the holiday period in question (i.e., Easter week). The Holiday Use Weeks for the Shared Interest Ownership Regime at The Sky Lodge are:

- Christmas Week – shall commence on the December 26th of each year and end on January 2nd of the next year.
- Martin Luther King Week – shall commence the Wednesday preceding the Martin Luther King long weekend and end on the Tuesday following that weekend.
- Presidents' Week - shall commence the Wednesday preceding the President's Day long weekend and end on the Tuesday following that weekend.
- Easter Week – shall commence the Sunday preceding Easter Sunday and end on Easter Sunday.

- Memorial Day Week – shall commence the Wednesday preceding the Memorial Day Weekend and end on the Tuesday following that weekend.
- Fourth of July Week – shall include the Fourth of July and be adjusted to include the official long weekend as prescribed by the Federal Government.
- Labor Day Week - shall commence the Wednesday preceding the Labor Day Weekend and end on the Tuesday following that weekend.
- Thanksgiving Week - shall commence the Wednesday preceding Thanksgiving Day and end on the Tuesday following the Thanksgiving weekend.

For these vacation periods Members must use their "Holiday Use Week" time allocation.

Reserved Use Days – In addition to the Holiday Use Week, each Shared Interest is guaranteed twenty-eight (28) days of Reserved Use. The days available for Reserved Use are all days not designated within a given year as a Holiday Use Week. Members can reserve periods of use from a minimum of three (3) consecutive days to a maximum of fourteen (14) consecutive days. During high demand periods (i.e., prime periods in the Ski Season and Summer), the Shared Interest Committee will limit the maximum reservation period to seven (7) days.

Reservation Process – Guaranteed Days

The confirmation system used to fulfill Member requests for the Holiday Use Week and Reserved Use Days is:

Reservation Request Period - In the first week of May of each year each Member is provided a Reservation Request Form by the Club Reservation Department. The Member fills out the Reservation Request, which delineates the Shared Interest Owner's preferred reserved vacation time(s) for the following year.

For Holiday Use Weeks, the Member indicates his first, second, third and fourth holiday choices. For Reserved Use Days the Member provides the desired vacation periods (noting desired day and date of arrival and departure) in order of preference.

The completed Reservation Request Form must be returned to the Club Reservation Department by May 31st to ensure proper allocation of confirmed reservations to each Member in The Sky Lodge.

Any Member failing to submit a Reservation Request Form by May 31st will forfeit his place in the initial assignments of both Holiday Use Weeks and Reserved Use Days and will make his vacation use selections the first week of June from the remaining unreserved days.

Member Reservation Priority Designation - The assignment of reservation requests is based upon the individual Member's priority letter for that year within the eight Shared Interests of a Shared Interest Unit. The priority letter for each year is based upon an annual rotation with each Member moving "up" one slot each year in the Holiday Use Weeks. Specifically, if in

Year One a particular Member is #1 in priority, then the following year that Member will be in #8 priority. In the case of Member priority #8 for Year One, the next year that Member will be priority #7.

The initial assignment of Member Reservation Priority Letters will be done on the first April 15th preceding the anticipated opening of The Sky Lodge. At that time, the names of the Members under contract at that time for a specific Shared Interest Unit shall be drawn at random and assigned their Member Reservation Priority Letter as their name is selected (i.e. if Smith is drawn first, then Smith is assigned "A"). Should less than eight Shared Interests be under contract at that time, the unsold Shared Interests shall be assigned the remaining Member Reservation Priority Letters and sold accordingly.

Should a Shared Interest be sold or transferred once the initial Member Reservation Priority Letter is established, then the new Member shall inherit the Member Reservation Priority Letter for the Shared Interest as it exists at time of sale or transfer.

Confirmation of Reservations - In June of each year, the Club Reservations Department shall assemble all of the Reservation Request Forms for each Shared Interest Unit. The reservation assignments shall be done as follows:

Holiday Use Weeks - Using the Member Reservation Priority Letters, each Member will be assigned the highest preference Holiday Use Week in the Reservation Request Form still available (i.e. if a Member is #3 in the priority and their first preferred Holiday Use Week was already assigned, but their second preferred Holiday Use Week is available, then they would be assigned that Holiday Use Week). Should all the preferred weeks chosen by a Member be reserved prior to their turn, then the Club Reservations Department shall contact the Member in question and allow them to select from the Holiday Use Weeks remaining. This process shall continue until all eight Holiday Use Weeks are assigned.

Reserved Use Days - Once the Holiday Weeks are assigned, the Club Reservations Department shall assign the preferred Reserved Use Days as follows:

- A. The priority numbering list used for the Holiday Use Weeks shall be reversed in Reserved Use Days.
- B. Using the new Member Reservation Priority Letters, each Member will be assigned their highest ranked Reserved Use Period still available. Should a Member list a three-day period above a longer stay period on their Reservation Request Form, the Club Reservations Department shall assign that shorter stay first, if the time span is available.
- C. The Club Reservations Department shall assign one of the Reserved Use periods to each Member in order of their priority. Once the Club Reservations Department has gone through the priority list the first time, it will repeat the process and assign each Member the next highest Reserved Use period available at the time of selection (i.e., a Member is #3 in the priority list and received their first request in the first round. In the second round, the second requested period is taken but the third is available - the Member will be assigned the third requested period).

D. Should all the preferred Reserved Use periods chosen by a Member be reserved prior to their turn, then the Club Reservations Department shall contact the Member in question and allow them to select from the days remaining.

E. This process shall continue until all Members have been assigned all of their Reserved Use Days.

Members shall receive their written confirmed Vacation Times from the Club Reservations Department by June 30th.

Should a Member fail to submit a completed Reservation Request Form prior to May 31st, their allocation of their Holiday Use Week and Reserved Use Days shall be done once the reservations to the other Members in The Sky Lodge are assigned at which time the Shared Interest Owner can make selections from the days still available.

****Please refer to Schedule 1 for Reservation Priority Table.**

Reservation Process – Space Available Days

Members can make unlimited lodging reservations for their Shared Interest Unit, or a similar type of Shared Interest Unit, within a sixty-day time period prior to date of arrival subject to availability. Space Available Use will not be available under the following conditions:

- The Member requesting Space Available Use has Reserved Use Days available in their Shared Interest Unit during the time requested. Specifically, a Member cannot have their Reserved Use Days being used for other individuals at the same times as they are requesting Space Available use in another Shared Interest Unit.
- Projected occupancy for a Shared Interest Unit type (i.e. two bedroom residences) during the time frame requested is above 75%.
- Space Available Use is prohibited during Holiday Use Weeks.
- Space Available Use is for the personal use of Owners and their direct family members only.

A Member cannot utilize the Space Available Program unless the Member “opts in” to the Space Available Program by indicating on the annual Reservation Request Form that he is electing to participate for the Club Year in question. Once a participant in the program, a Member may qualify to use an unlimited number of days from the Declarant’s pool of unused member days. For a Member to use “Space Available Days” from other Members’ Reserved Use Days inventories, the Member requesting the Space Available Days must have made available an equal, or greater, number of his Reserved Use Days for use by Members in the Space Available Pool. Specifically, assume that a Member has opted in to the Space Available Pool and has further notified the Club Reservations Department of five specific Reserved Use Days that are available for other Members in the Space Available Pool. The Member in question can now reserve up to five days of the other Members’ Reserved Use Days that have been contributed to the Space Available Pool.

Personal Use of Holiday Use Weeks and Reserved Use Days

Use of the Shared Interest Unit during these periods is available to Members and the extended families of the Members and their spouse, including grandchildren, children, siblings and parents. Members may also extend use of their Shared Interest Unit to unaccompanied guests. In all cases the Member is responsible for the conduct of their guests and liable for any damages and unpaid charges incurred while their guests are in residence at The Sky Lodge.

Internal Vacation Exchange

Once The Sky Club has assigned and notified the Members of their confirmed Vacation Times for the next Club Year, a Member has the option of trading period(s) of their reserved Vacation Times with other Members. The management of these internal exchanges must be done, and confirmed in writing, by the Club Reservations Department to ensure proper coordination.

Daily Housekeeping Fees

During their stay at The Sky Lodge, Members, and their guests, pay a Residence Daily Fee. The Residence Daily Fee covers the costs of housekeeping and expenses associated with the use of the Shared Interest Unit. The Residence Daily Fee for each year, by type of Shared Interest Unit, shall be provided to the Management Committee by the Club Manager in June of the preceding year.

External Vacation Exchange

Members will be able to place up to two of their Reserved Use weeks in the CloudNine Resorts external exchange program. To ensure that Members' vacation experience at other resorts is equal to their time at their own resort, CloudNine Resorts will only provide exchanges with other CloudNine ResortClub properties or affiliated clubs that have met predetermined guest standards and service levels. Members are prohibited from engaging in third party vacation exchange programs that are not approved by CloudNine ResortClubs and the Management Committee.

THE SKY LODGE
SHARED OWNERSHIP INTEREST - PRIORITY ROTATION ASSIGNMENTS

UNIT #	Rotation
106-1	B
106-2	E
106-3	D
106-4	A
106-5	C
106-6	F
106-7	G
106-8	H
202-1	D
202-2	C
202-3	B
202-4	A
202-5	E
202-6	F
202-7	G
202-8	H
204-1	A
204-2	C
204-3	D
204-4	B
204-5	E
204-6	F
204-7	G
204-8	H
206-1	D
206-2	E
206-3	C
206-4	B
206-5	A
206-6	F
206-7	G
206-8	H
207-1	A
207-2	B
207-3	F
207-4	C
207-5	D
207-6	E
207-7	G
207-8	H
209-1	D
209-2	B
209-3	A
209-4	E
209-5	C
209-6	F
209-7	G
209-8	H

THE SKY LODGE
SHARED OWNERSHIP INTEREST - PRIORITY ROTATION ASSIGNMENTS

301-1	C
301-2	A
301-3	D
301-4	B
301-5	E
301-6	F
301-7	G
301-8	H
303-1	E
303-2	F
303-3	D
303-4	B
303-5	A
303-6	C
303-7	G
303-8	H
305-1	B
305-2	E
305-3	A
305-4	D
305-5	C
305-6	F
305-7	G
305-8	H
306-1	E
306-2	A
306-3	B
306-4	C
306-5	D
306-6	F
306-7	G
306-8	H
309-1	B
309-2	D
309-3	C
309-4	A
309-5	E
309-6	F
309-7	G
209-8	H
401-1	D
401-2	E
401-3	C
401-4	B
401-5	A
401-6	F
401-7	G
401-8	H

THE SKY LODGE
SHARED OWNERSHIP INTEREST - PRIORITY ROTATION ASSIGNMENTS

402-3
402-4
402-5
402-6
402-7
402-8
403-1
403-2
403-3
403-4
403-5
403-6
403-7
403-8
404-1
404-2
404-3
404-4
404-5
404-6
404-7
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**THE SKY LODGE
SHARED OWNERSHIP INTEREST - PRIORITY ROTATION ASSIGNMENTS**

506-3	C
506-4	D
506-5	E
506-6	F
506-7	G
506-8	H
507-1	E
507-2	B
507-3	F
507-4	C
507-5	D
507-6	A
507-7	G
507-8	H
PH-1	A
PH-2	B
PH-3	D
PH-4	E
PH-5	C
PH-6	F
PH-7	G
PH-8	H

EXHIBIT D

Overview of The Sky Club

The Sky Club

The Sky Club ("Club") is a service organization organized as a for-profit, non-equity private club owned in its entirety by Easy Street Partners, LLC ("ESP"). The Club is managed by CloudNine Resorts, LLC on behalf of ESP for the benefit and use of members of the Club and their guests as defined by the Club Bylaws.

Club Memberships – Three Classes

Residential Members – This class of membership is restricted to the owners of the Hotel Residence Shared Interests of The Sky Lodge. Under a collective membership agreement with the Union Square Owners Association (the "Union Square HOA"), each Shared Interest Owner, and their direct family members (defined as the spouse and dependent children), is entitled to use the Club facilities and enjoy all Club activities and benefits while "in residence" at The Sky Lodge as long as they are a member in good standing with the Union Square HOA.

Social Members – This class of membership is restricted to individuals not affiliated with the Union Square HOA who have been approved by the Club Membership Committee for entry into the Club. This membership is an annually renewing membership and subject to termination without cause by the Club at the end of each renewal period. Members in this category must pay any initiation fee and monthly dues as dictated by the Club Management. Members, and their direct family members (defined as the spouse and dependent children), are entitled to use the Club Facilities and enjoy all Club activities and benefits as long as they are a member in good standing with The Sky Club.

Hotel Members - This class of membership is restricted to individuals who are registered CloudNine Resorts guests at The Sky Lodge. This membership is issued only for the length of stay of the hotel guest. Hotel Members, and their guests residing with them in a Sky Lodge Hotel Residence Unit, are entitled to use the Club Facilities and enjoy all Club activities as long as they are a registered guest of The Sky Lodge.

Club Facilities

The Sky Club Lounge – The lounge will be located on the fourth floor of The Sky Lodge and will be comprised of an indoor area with bar, billiard area, living room area, and private bathrooms. Adjacent to the indoor facilities is the sun deck and hot tub lounge. Use of this area will be restricted to members and a limited number of their guests.

The Amatsu Spa will be located on the first floor of The Sky Lodge. The Spa will be comprised of treatment rooms, locker areas, indoor pool, fitness center and retail area. Members will be entitled to use the fitness center and indoor pool when they are open, free of charge. Use of the Spa facilities and locker areas and any treatments or classes associated with those areas will be subject to reserved use and fees will be charged.

The Meeting Room – The meeting room will be located on the first floor of The Sky Lodge. Members will be able to reserve use of this room for private parties or meetings through the Hotel Management and will be required to pay all applicable fees and rental charges.

Club Concierge Services – A full-time Concierge staff will be available to members to facilitate vacation planning, arrange transportation needs, provide pre-arrival services, and assist with reservations at restaurants, theaters, and recreation activities. Members will be responsible for all fees and charges associated with procuring these services.

Shuttle Services – Residential Members will have complimentary airport pick up and delivery from Salt Lake International Airport. Residential and Hotel Members will have a complimentary in-town shuttle service available.

Hotel Services – Residential Members will have full hotel services provided to their Hotel Residence Unit while in residence and will pay a nightly “housekeeping fee” for such services during their visit.

Valet and Parking Facilities – Residential Members will have use of one underground parking stall while in residence on a complimentary basis. Parking at The Sky Lodge will be on a valet basis and complimentary to all classes of memberships. Social members may park at the Lodge but are not guaranteed availability subject to business demands and space constraints.

Preferred Reservations – Members will have preferred reservation priority the Spa and Easy Street Brasserie.

Club Discount – Residential and Social Members will be extended a 10% discount on all charges at Club-owned facilities for services and product purchases. Such discounts will be applied as a sum deduction to the Member Account prior to payment.

ESP, as owner of The Sky Club and the Club Facilities, reserves the right to change the features and benefits of club membership at any time, in its sole discretion. The overview provided herein is subject to change.

SCHEDULE ONE

**THE SKY CLUB
RESERVATION PRIORITY TABLE**

NOTES

Club Years ending December 15th

Each Hotel Residence is divided into eight interests and the Reservation Priority Designation system to assign Reservation Requests using only the eighth interests in each unit.

The initial assignment of an individual interest priority will be done via a lottery draw in April of 2006 at which time the owner of the particular interest will be assigned the selected Priority Designation (i.e. A, B, C, D, E, F, G, H) within the Unit. The Priority Designation shall become a fixed designation for the interest in question and will supersede all subsequent transfers of ownership.

TYPICAL HOTEL RESIDENCE PRIORITY TABLE

HOLIDAY WEEK RESERVATION ASSIGNMENTS

	2007 2015	2008 2016	2009 2017	2010 2018	2011 2019	2012 2020	2013 2021	2014 2022
Member Priority Designation	A	B	C	D	E	F	G	H
	B	C	D	E	F	G	H	A
	C	D	E	F	G	H	A	B
	D	E	F	G	H	A	B	C
	E	F	G	H	A	B	C	D
	F	G	H	A	B	C	D	E
	G	H	A	B	C	D	E	F
	H	A	B	C	D	E	F	G

RESERVED USE RESERVATION ASSIGNMENTS

	2007 2015	2008 2016	2009 2017	2010 2018	2011 2019	2012 2020	2013 2021	2014 2022
Member Priority Designation	H	A	B	C	D	E	F	G
	G	H	A	B	C	D	E	F
	F	G	H	A	B	C	D	E
	E	F	G	H	A	B	C	D
	D	E	F	G	H	A	B	C
	C	D	E	F	G	H	A	B
	B	C	D	E	F	G	H	A
	A	B	C	D	E	F	G	H

EXAMPLE

For Hotel Residence #206 there will be eight shared interests. The owner of each interest will be assigned in April of 2006 a Priority Designation based upon the unit lottery. At that time the interest will be known as #206 - A, #206 - B, etc. by the Club Reservation Department and assignment of reservation requests will be done using the above tables for the year noted.