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Salt Lake City, Utah
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DECLARATION

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BONNEVILLE TOWER CONDOMINIUM

THIS DECLARATION is made and executed by Thompson Michie Associates, Inc., a Utah corporation ("declarant"), pursuant to the provisions of the Utah Condominium Ownership Act, Utah Code Ann. §§ 57-8-1 through 57-8-35 (Repl. vol. 1963), hereinafter referred to as the "act."

1. Recitals.

1.1. Declarant, and the persons joining in this declaration, are the sole owners of the real property and improvements ("property") located at 777 East South Temple, Salt Lake City, Salt Lake County, Utah, hereinafter more particularly described.

1.2. Declarant, by recording this declaration, submits the property to the provisions of the act.

1.3. The covenants, conditions and restrictions contained in this declaration and in the appendices hereto shall be enforceable equitable servitudes and shall run with the land.

1.4. Declarant has filed simultaneously herewith a record of survey map ("map"), as required by section 57-8-13 of the act.

1.5. The administration of the property shall be governed by by-laws which are embodied in a separate instrument, a true copy of which are appended to and recorded with this declaration as appendix B.

1.6. All terms used in this declaration and the appended by-laws shall have the same definition as the terms defined in the act, unless the act allows for a variation of the terms and such variation is contained herein.

1.7. The property shall be known as Bonneville Tower Condominium. The address of the property is 777 East South Temple, Salt Lake City, Utah 84102.

2. Description of the Land.

The land on which the building and improvements are located is particularly described as follows: All of Lots 2 and 3, Block 3, Plat "D", Salt Lake City Survey.

3. Description of the Building.

3.1. The building has a subbasement, three parking levels, thirteen full floors above the third parking level, and a superstructure located above the highest full floor, all of which comprise eighteen stories above grade. The main entrance, which is located on East South Temple,

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leads to a lobby, a mail room, a manager's office, and the entrance to the elevator lobby. There is a laundry room for use of the occupants on the second floor or third parking level. Storage spaces for the use of the occupants are located in the subbasement and in designated areas in the parking levels. Each of the three parking levels has an individual entrance and exit which are located at the front, side, and rear of the building, respectively.

3.2. There are 115 units in the building.

3.3. The building is constructed of steel frame with concrete slabs. The exterior consists of brick, masonry panels and glass windows. The interior floors are of concrete with carpet or wood veneer coverings and ceilings are of plaster. Most interior partitions between units are of concrete block construction with plaster finishes. The building is supplied with electricity, water and sewage service, a central garbage collection system and a master T.V. antenna. The building is centrally heated and centrally air conditioned with individual heat and air conditioning controls in each unit. There are two fully automatic passenger elevators. The building is more fully depicted in the map.

4. Description of Units.

4.1. Each unit has immediate access to a central hallway which is part of the common areas and facilities. Appendix A hereto contains a table setting forth the number and letter designation of each unit, the number portion designating the floor on which the unit is located. The units are more particularly described in the map.

4.2. The boundary lines of each unit are the undecorated and/or unfinished interior surfaces of its perimeter walls, bearing walls, lowermost floor, uppermost ceiling, interior services of windows and doors, window frames and door frames and trim. Each unit shall include both the portions of the building that are not common areas and facilities within such boundary lines and the space so encompassed. 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 pipes, lines, systems, fixtures, or appliances found within the boundary lines of the unit and servicing only that unit.

5. Description of Common Areas and Facilities.

The common areas and facilities shall mean and include: the land on which the building is located and all portions of the property not contained within any unit, including, but not by way of limitation: the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, and entrances and exits of the building; the basements, grounds, gardens, parking areas, swimming pool, changing rooms and storage spaces; the manager's office, the mail room, and the areas used for storage of janitorial

supplies, maintenance equipment and materials; installations of all central services, including power, light, gas, hot and cold water, heating, air conditioning, and garbage collection; the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for common use; all patios, courts and drive-ways; any utility pipes, lines or systems servicing more than a single unit and all ducts, flues, chutes, wires, conduits and other accessories and utility installations to the outlets used therewith; all limited common areas and facilities as hereinafter described; all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally common in use, or which have been designated as common areas and facilities in the map; and all repairs and replacements of any of the foregoing.

6. Description of Limited Common Areas and Facilities.

Limited common areas and facilities mean and include those portions of the common areas and facilities reserved for the use of certain units to the exclusion of other units. The limited common areas and facilities shall be the assigned parking spaces and the storage areas as set forth in appendix A, as well as all balconies and/or those patios that are immediately adjacent to and contiguous with certain units located on the third, tenth and fifteenth floors, as more particularly identified in the map. The use and occupancy of designated limited common areas and facilities shall be reserved to its associated unit and each unit owner is hereby granted an irrevocable license to use and occupy said limited common areas and facilities.

7. Percentages of Undivided Interest in Common Areas and Facilities.

The percentage of undivided interest in the common areas and facilities appurtenant to each unit and its owner for all purposes, including voting, is set forth in appendix A. Such percentages have been computed by taking as a basis the value of the individual units in relation to the value of the property.

8. Purpose of the Property.

8.1. The purpose of the property is to provide residential housing, parking and recreational facilities for unit owners, their respective families, tenants, guests and servants.

8.2. The units and common areas and facilities shall be occupied and used as follows:

8.2.1. A unit shall not be occupied as a permanent residence by children under the age of sixteen years.

8.2.2. A unit owner shall not permit his unit to be occupied or used other than as a private residence for a single family, without the express approval of the management committee or its designee.

8.2.3. A unit owner shall not permit his parking space(s) to be used for any other purposes except to park a vehicle or for storage in storage cabinets specifically approved by the management committee.

8.2.4. A unit owner shall not obstruct the common areas and facilities. A unit owner shall not place or store anything within the common areas and facilities without the prior written consent of the management committee or its designee except in the limited common areas and facilities appurtenant to his unit specifically designated or approved by the management committee for storage.

8.2.5. Without the prior written consent of the management committee or its designee, a unit owner shall not permit anything to be done or kept in his unit or in the limited common areas and facilities appurtenant to his unit that would result in an increase in the cost of insurance on the property, or that would result in the cancellation of insurance with respect to all or any part of the property, or that would be in violation of any governmental law, ordinance, or regulation.

8.2.6. Without prior written consent of the management committee or its designee, a unit owner shall not permit any sign of any kind to be displayed to the public view from his unit or from the limited common areas and facilities appurtenant to his unit.

8.2.7. A unit owner shall not permit any animals of any kind to be raised, bred, or kept in his unit or in the limited common areas and facilities appurtenant to his unit, except that the management committee may provide in its rules and regulations that dogs, cats, and other household pets may be kept in units subject to the rules and regulations adopted by the management committee.

8.2.8. A unit owner shall not permit any obnoxious or offensive activity or nuisance to be carried on in his unit or in the limited common areas and facilities appurtenant to his unit.

8.2.9. A unit owner shall not alter, construct in, or remove anything from the common areas and facilities, except with the prior written consent of the management committee or its designee.

8.2.10. A unit owner shall not violate any of the rules and regulations for the use of units, common areas and facilities, or limited common areas and facilities adopted by the management committee and furnished in writing to the unit owners.

9. Agent for Service of Process.

9.1. The name and address of the person in Salt Lake County, State of Utah, appointed as first agent to receive service of process in matters pertaining to the property is: Franz W. Schoenfeld, Manager, 777 East South Temple, Salt Lake City, Utah 84102.

9.2. The agent for service of process may be changed from time to time by the management committee by recording an appropriate affidavit.

10. Association of Unit Owners: Management Committee.

10.1. The persons or entities who are at the time of reference the unit owners constitute an unincorporated association and not a legal entity, the characteristics and nature of which are determined by the act, the declaration, and the bylaws. The name in which contracts shall be entered into, title to property shall be acquired, held, dealt in and disposed of, bank accounts shall be opened and suits shall be brought and defended by the management committee or officers thereof on behalf of and agents for the unit owners in the manner specified by the act, this declaration, or the bylaws, is: "Bonneville Tower Association, an association of unit owners under the Utah Condominium Ownership Act."

10.2. The management and maintenance of the property and the business, property and affairs of the Bonneville Tower Association ("association") shall be managed by a management committee, consisting of five (5) members, who need not be unit owners. The management committee shall be elected as provided in the bylaws.

10.3. 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 bylaws, including but not limited to the following:

10.3.1. To make and enforce all house rules and administrative rules and regulations covering the operation and maintenance of the property.

10.3.2. To engage the services of a manager or managing company, accountants, attorneys or other employees or agents and to pay to said persons a reasonable compensation therefor.

10.3.3. To operate, maintain, repair, improve and replace the common areas and facilities.

10.3.4. To determine and pay the common expenses.

10.3.5. To assess and collect the proportionate share of common expenses from the unit owners.

10.3.6. 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.

10.3.7. To open bank accounts on behalf of the association and to designate the signatures therefor.

10.3.8. To purchase, hold, sell, convey, mortgage or lease any one or more units in the name of the association or its designee.

10.3.9. To bring, prosecute and settle litigation for itself, the association and the property, provided that it shall make no settlement which results in a liability against the management committee, the association, or the property in excess of \$5,000 without prior approval of a majority of unit owners.

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10.3.10. To obtain insurance for the association with respect to the units and the common areas and facilities, as well as workmen's compensation insurance.

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

10.3.12. To own, purchase or lease, hold and sell or otherwise dispose of, on behalf of the unit owners, items of personal property necessary to or convenient in the management of the business and affairs of the association and the management committee and in the operation of the property, including without limitation furniture, furnishings, fixtures, maintenance equipment, appliances, and office supplies.

10.3.13. To keep adequate books and records.

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

10.4. The management committee may delegate to a manager or managing company all of its foregoing powers, duties and responsibilities referred to in paragraph 10.3. above except: the final determination of common expenses, budgets and assessments based thereon; the promulgation of house rules and administrative rules and regulations; the power to enter into any contract involving more than \$5,000 in any one fiscal year; the opening of bank accounts; the power to purchase, hold, sell, convey, mortgage or lease any units in the name of the association or to bring, prosecute and settle litigation.

10.5. Members of the management committee, the officers and any assistant officer, agents and employees of the association (i) shall not be liable to the unit owners as a result of their activities as such for any mistake of judgement, negligence or otherwise, except for their own willful misconduct or bad faith; (ii) shall have no personal liability in contract to a unit owner or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the association in their capacity as such; (iii) shall have no personal liability in tort to any unit owner or any person or entity direct or imputed, by virtue of acts performed by them, except for their own willful misconduct or bad faith, or acts performed for them in their capacity as such; and (iv) shall have no personal liability arising out of the use, misuse or condition of the property, which might in any way be assessed against or imputed to them as a result or by virtue of their capacity as such.

10.6. The unit owners shall indemnify and hold harmless, any person, his heirs and personal representatives, from and against all personal liability and all expenses including counsel fees, incurred or

imposed, or arising out or in settlement of any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative instituted by any one or more unit owners, or any other persons or entities, to which he shall be or shall be threatened to be made a party by reason of the fact that he is or was a member of the management committee or an officer or assistant office, agent or employee of the association, other than to the extent, if any, that such liability or expense shall be attributable to his willful misconduct or bad faith, provided, in the case of any settlement, that the management committee shall have approved the settlement, which approval is not to be unreasonably withheld. Such right of indemnification shall not be deemed exclusive of any other rights to which such person may be entitled as a matter of law or agreement or vote of unit owners or of the management committee, or otherwise. The indemnification by the unit owners as contained herein shall be paid by the management committee on behalf of the unit owners and shall constitute a common expense and shall be assessed and collectible as such.

11. Maintenance, Alteration and Improvement.

11.1. The maintenance, replacement and repair of the common areas and facilities shall be the responsibility of the management committee and the cost thereof shall be a common expense. The management committee shall also maintain, replace and repair all parking areas, balconies and patios and all conduits, ducts, plumbing and wiring and other facilities for the furnishing of heat, gas, light, power, air conditioning, water and sewer contained in the portions of the units that service part or parts of the property other than the unit in which they are contained. All incidental damages caused to a unit by the maintenance replacement and repair of the common areas and facilities or utility services shall be repaired promptly at the expense of the management committee.

11.2. The unit owners shall have the responsibility to maintain, repair, replace and keep in a clean and sanitary condition, at the unit owner's expense, all portions of the owner's unit, except those portions to be maintained, repaired and replaced by the management committee. The unit owners shall keep clean and in a sanitary condition their storage areas and balconies and patios, if any. The management committee shall be responsible for cleaning and general maintenance of all parking areas.

12. Insurance.

12.1. The management committee shall obtain and maintain at all times insurance of the type and kind as provided herein and including insurance for such other risks, of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other properties similar to the property in construction, design and use. The management committee shall make every reasonable effort to obtain insurance with the following provisions or endorsements:

12.1.1. Exclusive authority to adjust losses shall be vested in the management committee as insurance trustee;

12.1.2. The insurance coverage shall not be brought into contribution with insurance purchased by individual unit owners or their respective mortgagees;

12.1.3. Each unit owner may obtain additional insurance covering his real property interest at his own expense;

12.1.4. The insurer waives its right of subrogation as to any claims against each unit owner;

12.1.5. The insurance coverage cannot be cancelled, invalidated or suspended because of the conduct of any one or more individual unit owners or their respective lessees, employees, agents, contractors, and guests;

12.1.6. The insurance coverage cannot be cancelled, invalidated or suspended because of the conduct of any officer or employee of the association or management committee or their employees, agents, or contractors, without prior demand in writing that the management committee cure the defect and then only if the defect is not cured within fifteen (15) days.

12.2. The management committee, for the benefit of the property and the unit owners, shall maintain a policy or policies of casualty and multi-risk, "all peril" insurance on the property, with the provisions and endorsements as set forth in paragraph 12.1. above, if obtainable, also with extended coverage endorsements, for the full insurable replacement value of the units, common areas and facilities, items of common personal property and fixtures, payable to the management committee as insurance trustee to be dispersed in accordance with the terms of this declaration. The limits and coverage of said insurance shall be reviewed at least annually by the management committee and shall include an appraisal of the property. Said policy or policies shall provide for a separate loss payable endorsement in favor of the mortgagee or mortgagees, if any, of each unit.

12.3. The management committee shall obtain a policy or policies of insurance insuring the management committee, the unit owners and their respective lessees, servants, agents or guests against any liability to the public or to the owners of units, members of the households of unit owners and their respective invitees or tenants, incident to the ownership and/or use of the property, and including the personal liability exposure to the unit owners, incident to the ownership and/or use of the property. Limits of liability under such insurance shall not be less than One Million Dollars (\$1,000,000) for any one person injured in any one occurrence, and shall not be less than One Hundred Thousand Dollars (\$100,000) for property damage in each occurrence. The limits in coverage of said liability policy or policies shall be reviewed at

least annually by the management committee and increased at its discretion. Said policy or policies shall be issued on a comprehensive liability basis and, if possible, shall provide cross-liability endorsements for possible claims of any one or more or group of insureds against any one or more or group of insureds, without prejudice to the right of a named insured under the policies to maintain an action against another named insured.

12.4. Each unit owner shall be required to notify the management committee of, and shall be liable for any increased insurance premium for insurance maintained by the management committee occasioned by, all improvements made by the unit owner to his unit, the value of which is in excess of One Thousand Dollars (\$1,000). Each unit owner shall bear the risk of loss for all improvements made to his unit that were not the subject of notice to the management committee.

12.5. Any unit owner who obtains individual insurance coverage covering any portion of the property, other than personal property belonging to such unit owner, shall be required to file a copy of such individual policy or policies with the management committee within thirty (30) days after obtaining such insurance coverage.

12.6. No unit owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount that the management committee, on behalf of all of the unit owners, may realize under any insurance policy that the management committee may have in force covering the property or any part thereof at any time.

13. Destruction or Damage.

13.1. In case of fire or any other disaster which causes damage or destruction to all or part of the property, the management committee, with the help of an independent appraisal, shall determine the percentage of the building that was destroyed or substantially damaged. If less than seventy-five percent (75%) of the building was destroyed or substantially damaged, the management committee shall arrange for the prompt repair and restoration of the building using the proceeds of insurance on the building for that purpose, and the unit owners shall be liable for assessment for any deficiency, if any, in proportion to their respective percentages of undivided interest in the common areas and facilities. Reconstruction of the building shall mean the restoring of the building 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, unless the destruction or damage is by reason of eminent domain, in which event the provisions of paragraph 15 hereof shall apply.

13.2. If seventy-five percent (75%) or more of the building is destroyed or substantially damaged, the management committee shall, within one hundred (100) days after such destruction or damage, call a special meeting of the unit owners for the purpose of deciding whether

or not the building shall be repair and restored. If at least three-fourths (3/4) of the unit owners, in person or by proxy, vote to repair or restore the building, the management committee shall promptly arrange for the reconstruction of the building, using the proceeds of insurance on the building for that purpose, and the unit owners shall be liable for assessment for any deficiency, if any, in proportion to their respective percentage of undivided interest in the common areas and facilities. If the destruction or damage is by reason of eminent domain, the provisions of paragraph 15 hereof shall apply. However, if at least three-fourths (3/4) of the unit owners vote not to make provision for reconstruction, the management committee shall record, with the County Recorder, a notice setting forth such facts, and upon the recording of such notice: (i) the property shall be deemed to be owned in common by the unit owners; (ii) the undivided interest in the property owned in common which shall appertain to each unit owner shall be the percentage of undivided interest previously owned by such owner in the common areas and facilities; (iii) any liens affecting any of the units shall be deemed to be transferred in accordance with the existing priorities to the undivided interest of the unit owner in the property; and (iv) the property shall be subject to an action for partition at the suit of any unit owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the property, shall be considered as one fund and shall be divided among all unit owners in a percentage equal to the percentage of undivided interest owned by each owner in the property, after first paying out of the respective shares of the unit owners, to the extent sufficient for such purposes, all sums necessary to satisfy liens on the undivided interest in the property owned by each unit owner.

13.3. For purposes of this paragraph 13, the terms "disaster," "destruction" or "substantial damage" shall mean and include a temporary or permanent taking, injury or destruction of all or part of the common areas and facilities or one or more units or portions thereof by the exercise of the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation.

14. Termination.

14.1. In the event three-fourths (3/4) of the building is destroyed or substantially damaged and if the unit owners vote not to reconstruct the building, the property shall be removed from the provisions of the act without further agreement one hundred and one (101) days after such destruction or damage.

14.2. All of the unit owners may remove the property from the provisions of the act by an instrument duly recorded to that effect, provided that the holders of all liens affecting any of the units consent or agree by instruments duly recorded, that their liens be transferred to the percentage of the undivided interest of the unit owners in the property.

14.3. After removal of the property from the act, the unit owners shall own the property and all assets of the association as tenants in

common and the respective mortgagees and lienors shall have mortgages and liens upon the respective undivided interests of the unit owners. Such undivided interests of the unit owners shall be the same as the percentage of undivided interest in the common areas and facilities appurtenant to the owners' units prior to removal from the act.

14.4. This paragraph 14 cannot be amended without consent of all unit owners and all record owners or mortgages on units.

15. Eminent Domain.

15.1. 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 unit owner shall be entitled to notice thereof and the management committee shall and the unit owners at their respective expense may participate in the proceedings incident thereto.

15.2. With respect to common areas and facilities, any damages or awards shall be determined for such taking, injury or destruction as a whole and not for each unit owner's interest therein. After such determination, each unit owner shall be entitled to a share in the damages in the same proportion as his percentage of undivided interest of the common areas and facilities. This provision does not prohibit a majority of unit 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 map are duly amended.

15.3. 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 paragraph 13 hereof and shall be deposited with the management committee as trustee. Even though the damage or awards may be payable to one or more unit owners, the unit owners shall deposit the damages or awards with the management committee as trustee, and in the event of failure to do so, at the option of the management committee, either a special assessment shall be made against a defaulting unit owner in his unit in the amount of this award or the amount of such award shall be set off against the sums hereafter made payable to such unit owner. The proceeds of the damages or awards shall be distributed or used in a manner and the unit owners of affected units shall have the rights provided in paragraph 13 for insurance proceeds provided the property is removed from the provisions of the act. If the property is not removed from the provisions of the act and one or more units are taken, in whole or in part, the taking shall have the following effects:

15.3.1. If the taking reduces the size of a unit and the remaining portion of the unit may be made tenantable, the unit shall be

made tenantable. If the cost of such work exceeds the amount of the award, the additional funds required shall be assessed against the owner of the unit. The balance of the award, if any, shall be distributed to the unit to the extent of the unpaid balance of its mortgage and the excess, if any, shall be distributed to the unit owner. If there is a balance of the award distributed to the unit owner or a mortgagee, the unit owner's percentage of undivided interest in the common areas and facilities shall be equitably reduced. This shall be done by reducing such interest in the proportion by which the floor area of the unit is reduced by the taking, and then recomputing the percentages of undivided interests of all unit owners in the common areas and facilities.

15.3.2. If the taking destroys or so reduces the size of a unit that it cannot be made tenantable, the award shall be paid to the mortgagee of the unit to the extent of the unpaid balance of its mortgage and the excess, if any, shall be paid to the unit owner. 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 unit owners in the manner approved by the management committee. If the cost of such work shall exceed the balance of the fund from the award for the taking, such work shall be done only if approved by a majority of the unit owners. The percentages of undivided interests in the common areas and facilities appurtenant to the units that continue as part of the property shall be equitably adjusted to distribute the ownership of the common areas and facilities among the reduced number of unit owners.

15.3.3. 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 paragraph 15 shall be evidenced by an amendment to this declaration and map, which need be approved by all unit owners.

16. Mortgage Protection.

16.1. The term "mortgage" as used herein shall mean any recorded mortgage having priority over other mortgages and shall include a recorded deed of trust. The term "mortgagee" shall mean the owner and holder of a mortgage and shall include a beneficiary under a deed of trust.

16.2. The management committee shall maintain a roster of unit owners from the evidence of change of ownership furnished to the management committee, which roster shall include the mailing addresses of unit owners. If the management committee has been given notice in the necessary information, the management committee shall maintain another roster which shall contain the name and address of each mortgagee of a unit. Each notice shall consist of a certified copy of the recorded instrument evidencing the title of the mortgagee. The mortgagee shall be stricken from the roster upon receipt by the management committee of a request from the mortgagee or of a certified copy of a recorded release or satisfaction of the mortgage. Notice of such removal shall be given to the mortgagee unless the removal is requested by the mortgagee.

16.3. Any mortgagee on any unit is entitled to written notification from the management committee of any default by the mortgagor of such unit in the performance of such mortgagor's obligation under the declaration which is not cured within thirty (30) days.

16.4. A mortgagee of any unit who comes into possession of the unit pursuant to the remedies provided in the mortgage, foreclosure of mortgage, or deed (or assignment) in lieu of foreclosure, shall take the property free of any claims or unpaid assessments or charges against the mortgage unit which accrued prior to the time such mortgagee comes into the possession of the unit (except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessment or charges to all units, including the mortgaged unit).

16.5. The liens created under the act or pursuant to this declaration or bylaws upon any unit shall be subject and subordinate to, and shall not affect the rights of a mortgagee upon such interest made in good faith and for value, provided that after the foreclosure sale, which said liens, if any claimed, shall have the same effect and be enforced in the same manner as provided herein.

16.6. No amendment to this paragraph shall affect the rights of a mortgagee recorded prior to the recordation of any such amendment not otherwise entitled thereto.

17. Sale or Lease; Right of First Refusal.

17.1. No unit owner may transfer a unit or any interest therein by sale or lease without approval of the management committee, except to another owner. The approval of the management committee required for the transfer of ownership or interest of a unit or lease of a unit shall be requested as follows:

17.1.1. A unit owner intending to make a bona fide sale or lease of a unit or any interest therein shall give to the management committee notice of such intention, together with the name and address of the intended purchaser or lessee and such other information concerning the intended purchaser or lessee as the management committee may reasonably require. The notice shall be accompanied by an executed copy of the proposed contract of sale or proposed lease.

17.1.2. If the notice to the management committee herein required is not given, at any time after receiving knowledge of the transaction, or in the event transferring ownership or possession of a unit, the management committee at its election and without notice may approve or disapprove the transaction or ownership. If the management committee disapproves the transaction or ownership, the management committee shall proceed as if it had received the required notice on the date of such disapproval.

17.1.3. Each unit owner required to give notice to the management committee of a transfer or lease of a unit shall pay a reasonable fee to the management committee in an amount determined by the rules and regulations to cover the costs incident to the determination of approval. The fee shall be paid with the giving of the notice, and the notice shall not be complete unless the fee is paid. If the notice is not given, the fee shall be assessed against the unit owner liable for the payment.

17.2. Within thirty (30) days after the receipt of such notice and information, the management committee shall approve or disapprove the proposed sale or lease. If approved, the approval shall be set forth in a certificate executed by the management committee. The certificate shall be delivered to the purchaser and shall be recorded at the expense of the purchaser.

17.3. If the management committee shall disapprove a transfer of ownership of a unit, of an interest in the unit, or a lease of a unit, within thirty (30) days after the receipt of such notice and information, the management committee shall deliver or mail by certified mail to the unit owner an agreement to purchase or lease by a purchaser or lessee approved by the management committee to whom the unit owner must sell or lease the unit upon the following terms:

17.3.1. At the option of the purchaser or the lessee to be stated in the agreement to purchase or lease agreement, the price to be paid or the lease amounts shall be that stated in the disapproved contract to sell or contract to lease; provided, however, that the purchaser or lessee provided by the management committee shall have the option to have the fair market value of the unit or the fair market value of the lease be determined by the average of two appraisals of the unit performed by two M.A.I. appraisers, one appointed by the management committee and one appointed by the unit owner desiring to sell or lease. The expense of the appraisal shall be paid by the proposed purchaser or lessee. The purchase price shall be paid in cash or upon terms approved by the seller, or the lease terms shall be those as set forth in the proposed lease. The sale or lease shall be closed within thirty (30) days after the delivery or mailing of said agreement to purchase or proposed lease or within thirty (30) days of the determination of the sales price or the lease payments, if such is done through the appraisal method referred to above. A certificate executed by the management committee approving the purchaser or lessee shall be recorded at the expense of the purchaser or lessee.

17.3.2. If the management committee shall fail to provide a purchaser or lessee upon the demand of the selling unit owner, or if a purchaser or lessee furnished by the management committee shall default in the agreement to purchase or lease, then notwithstanding the disapproval, the proposed transaction shall be deemed to have been approved and the management committee shall furnish a certificate of approval as provided which shall be recorded at the expense of the purchaser.

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17.4. In the event any unit owner shall attempt to sell or lease his unit without affording to the other unit owners the right of first refusal herein provided, such sale or lease shall be wholly null and void and shall confer no title or interest whatsoever upon the intended purchaser or lessee.

17.5. The subleasing or subrenting of said interest shall be subject to the same limitations as are applicable to the leasing or renting thereof. The liability of the unit owner under these covenants shall continue, notwithstanding the fact that he may have leased or rented said interest as provided herein.

17.6. In no case shall the right of first refusal reserved herein affect the right of a unit owner to subject his unit to a trust deed, mortgage or other security instrument whereby a bank, insurance company, savings and loan association or other similar institution becomes the owner and holder of such trust deed, mortgage or security instrument.

17.7. The failure of or refusal by the management committee to exercise the right to so purchase or lease shall not constitute or be deemed to be a waiver of such right to purchase or lease when a unit owner receives any subsequent bona fide offer from a prospective purchaser or tenant.

17.8. In the event of any default on the part of any unit owner under any first mortgage made in good faith and for value, which entitled the holder thereof to foreclose the same, any sale under such foreclosure, including delivery of a deed to the first mortgagee in lieu of such foreclosure, shall be made free and clear of the provisions of this paragraph 17, and the purchaser (or grantee under such deed in lieu of foreclosure) of such unit shall be thereupon and thereafter subject to the provisions of this declaration. If the purchaser following such foreclosure sale (or grantee under deed given in lieu of such foreclosure) shall be the then holder of the first mortgage, or its nominee, the said holder or nominee may thereafter sell and convey the unit free and clear of the provisions of this paragraph 17, but its grantee shall thereupon and thereafter be subject to all of the provisions thereof.

17.9. The transfer of a deceased joint tenant's interest to the surviving joint tenant or the transfer of the decedent's interest to a devisee by will or his heirs at law under intestacy laws shall not be subject to the provisions of this paragraph 17.

18. Encroachments.

18.1. None of the rights and obligations of any unit owners created by this declaration, bylaws or by any deed conveying a unit shall be affected in any way by an encroachment: (i) by any portion of the common areas and facilities upon any unit; (ii) by any unit upon any portion of the common areas and facilities, or (iii) by any unit upon another unit due to settling or shifting of the building or other

structure, including the rebuilding of the building and other structure after fire or other casualty or an eminent domain taking or delivery of a deed in lieu of condemnation, unless there occurs an encroachment that results from the willful or negligent act or omission of the unit owner of the encroaching unit, or of the owners of the units to which the use of the encroaching limited common areas and facilities is appurtenant, or of the management committee in the event of an encroachment by any portion of the common areas and facilities other than the limited common areas and facilities.

18.2. There are hereby created valid easements for the maintenance of any encroachments permitted by this paragraph 18 of this declaration so long as such encroachments exist.

19. Conveyances, Easements.

19.1. Every deed, lease, mortgage or other instrument may describe a unit by its identify number and letter designation set forth in appendix A and in the map. Every such description shall be deemed good and sufficient for all purposes and shall be deemed to convey, transfer, encumber or otherwise affect the unit owner's corresponding percentage of undivided ownership in the common areas and facilities, as a tenant-in-common, as set forth in appendix A even though the same is not exactly mentioned or described.

19.2. Every deed, lease, mortgage or other similar instrument shall be deemed to:

19.2.1. Except and reserve with respect to a unit: (i) any portion of the common areas and facilities lying within said unit; (ii) easements through said unit, appurtenant to the common areas and facilities and all other units, for support and repair of the common areas and facilities and all other units; and (iii) easements, appurtenant to the common areas and facilities, for encroachment upon the air space of said unit by those portions of the common areas and facilities located within said unit.

19.2.2. Include with respect to a unit nonexclusive easements for ingress and support of said unit through the common areas and facilities, for the repair of said unit through all other units and through the common areas and facilities, and for the use of the balcony, patio, storage area and parking spaces as indicated in appendix A and the map.

19.2.3. Except and reserve, with respect to the undivided percentage interest in the common areas and facilities, nonexclusive easements appurtenant to all units for ingress, egress, support and repair and exclusive easements appurtenant to each unit for the use of the balcony, patio, storage area and parking spaces as set forth in appendix A and the map.

19.2.4. Include, with respect to the undivided percentage interest in the common areas and facilities, nonexclusive easements

through each unit for support and repair of the common areas and facilities and nonexclusive easements for encroachments upon the air space of all of the units by and for the portions of the common areas and facilities lying within the units.

20. Combination of Units.

20.1. An owner of two or more adjoining units shall have the right upon approval of the management committee to combine one or more adjoining units or portions thereof and to alter or amend the declaration and map to reflect such combination.

20.2. Such amendments may be accomplished by the unit owner recording an amendment or amendments to this declaration, together with an amended map or maps containing the same information with respect to the altered units as required in the initial declaration and map with respect to the initial units. All costs and expenses required in such amendments shall be borne by the unit owner desiring such combination.

20.3. All such amendments to the declaration and map must be approved by attorneys employed by the management committee to insure the continuing legality of the declaration and the map. The cost of such review by the attorneys shall be borne by the person wishing to combine the units.

20.4. Any amendment of the declaration or map pursuant to this paragraph 20 shall reflect the changes occasioned by the alteration. Such changes shall include a change in the percentage of undivided interest in the common areas and facilities which are appurtenant to the units involved in the alterations. The remaining combined unit, if two or more units are totally combined, will acquire the total of the percentage of undivided interest in the common areas and facilities appurtenant to the units that are combined as set forth in appendix A. If a portion of one unit is combined with another, the resulting units shall acquire a proportionate percentage of the total undivided interest in the common areas and facilities of the units involved in the combination on the basis of area remaining in the respective, combined units. The percentage of undivided interest in the common areas and facilities appurtenant to all other units shall not be changed. All such amendments must, in all instances, be consented to by the management committee and also all other persons holding interest in the units affected. The consent of other unit owners need not be obtained to make such amendments or alterations valid, providing the percentages of undivided interest in the common areas and facilities of the other unit owners remain unchanged.

21. Amendment.

21.1. Except as otherwise provided in this declaration and except as prohibited by the act, the provisions of this declaration may be amended by an instrument in writing signed and acknowledged by unit owners who own three-fourths (3/4) in the aggregate of ownership interest in the common areas and facilities, which amendment shall be effective upon recording.

21.2. The management committee may from time to time amend appendix A to reflect the change in assignments of parking spaces or storage spaces.

22. Assessments.

The making and collection of assessments from unit owners for their share of common expenses shall be pursuant to the bylaws and subject to the following provisions:

22.1. Each owner shall be liable for a proportionate share of the common expenses and shall share in the common profits, such shares being the same as the percentage of undivided interest in the common areas and facilities appurtenant to the unit owned by the unit owner as set forth in appendix A.

22.2. 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 ten percent (10%) per annum, or at such rate of interest as may be set by the management committee, from the date when due until paid. All payments on account shall be first applied to interest and then to the assessment payment first due.

22.3. A lien for unpaid assessments shall also secure reasonable attorneys' fees and all costs and expenses including taxes, if any, incurred by the management committee incident to the collection of such assessment or enforcement of such a lien.

22.4. In any foreclosure of a lien for assessments, the unit owner subject to the lien shall be required to pay a reasonable rental for the unit, and the management committee shall be entitled to the appointment of a receiver to collect the same.

22.5. The management committee may include in the monthly assessments amounts representing contributions to the capital of the association to be used for the replacement of or additions to capital items or improvements in the property. Said amounts shall be set up as capital accounts for each unit. In the event of transfer of a unit, the capital account shall be deemed transferred to the unit transferee.

22.6. In assessing the unit owners for capital improvements to the common areas and facilities, for which there are not sufficient amounts in the respective capital accounts, there shall be no single improvement exceeding the sum of Fifteen Thousand Dollars (\$15,000) made by the management committee without the same having been first voted on and approved by two-thirds (2/3) majority of those present in person or by proxy of the association at a meeting duly called for that purpose. The foregoing shall not apply in connection with damage or destruction referred to in paragraph 13 hereof or to such structural alterations, capital additions to or capital improvements of the common areas and facilities as are necessary in the management committee's reasonable judgment to preserve or maintain the integrity of the common areas and facilities or the property.

22.7. If the unit owner shall, at any time, let or sublet his unit and shall default for a period of one month in the payment of assessments, the management committee may, at its option, so long as such default shall continue, demand and receive from any tenant or subtenant of the owner the rent due or becoming due in the payment of such rent to the management committee shall be sufficient payment and discharge of such tenant or subtenant and the owner to the extent of the amount so paid.

23. Voting.

At any meeting of the Association of Unit Owners, each unit owner, including declarant, either in person or by proxy, shall be entitled to the same number of votes as the percentage of undivided interest of the common areas and facilities assigned to his unit in appendix A to this declaration. If there is more than one unit owner with respect to a particular unit, any or all of such unit owners may attend any meeting of the association, but it shall be necessary for all such unit owners present to act unanimously in order to cast the votes pertaining to their unit.

24. Notices.

Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to be delivered twenty-four (24) hours after a copy of the same has been deposited in the U.S. postal service, postage prepaid, return receipt requested. Notice to unit owners shall be addressed to each unit owner at the address given by such unit owner to the management committee for the purpose of service of such notice or to the unit of such unit owner if no such address has been given to the management committee. Such address may be changed from time to time by notice in writing to the management committee. Notice to the management committee shall be addressed to: Management Committee, Bonneville Tower Association, 777 East South Temple, Salt Lake City, Utah 84102.

25. No Waiver.

The failure of the management committee or its contractors to insist, in one or more instances, upon the strict performance of any of the terms, covenants, conditions, or restrictions of this declaration or the bylaws, or to exercise any right or option herein contained, or to serve any notice or to institute any action shall not be construed as a waiver or 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 contractor of the payment of any assessment from a unit owner, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by the management committee of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the management committee.

26. Enforcement.

Each unit owner shall strictly comply with the provisions of the declaration, the bylaws, the house rules and administrative rules and regulations and decisions issued pursuant thereto. Failure to so comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the management committee or its designee on behalf of the unit owners, or in an appropriate case, by an aggrieved unit owner.

27. Declarant's Use.

Declarant and persons it may select from time to time shall have the right of ingress and egress over, upon and across the common areas and facilities and limited common areas and facilities and the right to store materials therein and to make such other use thereof as may be reasonably necessary incident to the refurbishing, development and sale of all of the units.

28. 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.

29. 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.

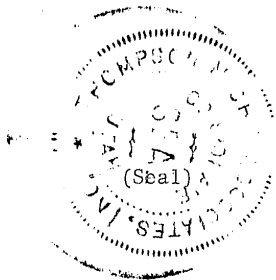
30. Law Controlling.

This declaration, the map and the bylaws shall be construed and controlled by and under the laws of the State of Utah.

31. Effective Date.

This declaration shall take effect when recorded.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 29th day of March, 1974



THOMPSON MICHIE ASSOCIATES, INC.

By Amos J. Michie
President

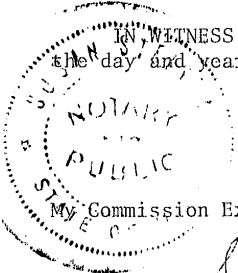
ATTEST:

Roger H. Thompson
Secretary

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

On the 27th day of March, 1974, A.D. personally appeared before me James R. Michie and Roger H. Thompson who, being by me duly sworn, did say, that they were the President and Secretary, respectively of Thompson Michie Associates, Inc., and that said instrument was signed in behalf of said corporation by resolution of its board of directors and said James R. Michie, and Roger H. Thompson acknowledged to me that said corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the 27th day and year first above written.



Susan Steiner
Notary Public

My Commission Expires: Dec. 15, 1975

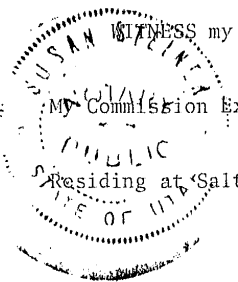
Residing At: Salt Lake City, Utah

BONNEVILLE TOWERS ASSOCIATES,
A California Limited Partnership

By Franklin D. Richards, Jr.
Franklin D. Richards, Jr., a General Partner

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

On the 27th day of March, 1974 before me, the undersigned, a Notary Public in and for said State, personally appeared FRANKLIN D. RICHARDS, JR., known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for and on behalf of the partnership.



IN WITNESS my hand and official seal.

My Commission Expires: Dec 15, 1975
Susan Steiner
Notary Public

Residing at Salt Lake City, Utah

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APPENDIX A

BONNEVILLE TOWER CONDOMINIUM

<u>Unit Designation</u>	<u>Percentage of Undivided Interest in the Common Areas and Facilities</u>	<u>Assigned Limited Common Areas and Facilities</u>	
		<u>Parking Space(s)</u>	<u>Storage Space</u>
3AB	1.93999		
3C	.60884		
3D	.60884		
3E	.84888		
3F	.84888		
3G	.84888		
3H	.84888		
3I	.84888		
3J	.84888		
4A	.89253		
4B	.89253		
4C	.57829		
4D	.57829		
4E	.80524		
4F	.80524		
4G	.80524		
4H	.80524		
4I	.80524		
4J	.80524		
5A	.90562		
5B	.90562		
5C	.58702		
5D	.58702		
5E	.81833		
5F	.81833		
5G	.81833		
5H	.81833		
5I	.81833		
5J	.81833		
6A	.91435		
6B	.91435		
6C	.60011		
6D	.60011		
6E	.82706		
6F	.82706		
6G	.82706		
6H	.82706		
6I	.82706		
6J	.82706		
7A	.92744		
7B	.92744		
7C	.60884		

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<u>Unit Designation</u>	<u>Percentage of Undivided Interest in the Common Areas and Facilities</u>	<u>Assigned Limited Common Areas and Facilities</u>	
		<u>Parking Space(s)</u>	<u>Storage Space</u>
7D	.60884		
7E	.84015		
7F	.84015		
7G	.84015		
7H	.84015		
7I	.84015		
7J	.84015		
8A	.93617		
8B	.93617		
8C	.62193		
8D	.62193		
8E	.84888		
8F	.84888		
8G	.84888		
8H	.84888		
8I	.84888		
8J	.84888		
9A	.94926		
9B	.94926		
9C	.63066		
9D	.63066		
9E	.86198		
9F	.86198		
9G	.86198		
9H	.86198		
9I	.86198		
9J	.86198		
10A	1.08892		
10B	1.08892		
10C	.87070		
10D	.87070		
10E	.87070		
10F	.87070		
10G	.87070		
10H	.87070		
11A	1.04528		
11B	1.04528		
11C	.88380		
11D	.88380		
11E	.88380		
11F	.88380		
11G	.88380		
11H	.88379		
12A	1.05837		
12B	1.05837		
12C	.89253		
12D	.89253		
12E	.89253		
12F	.89253		

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<u>Unit Designation</u>	<u>Percentage of Undivided Interest in the Common Areas and Facilities</u>	<u>Assigned Limited Common Areas and Facilities</u>	
		<u>Parking Space(s)</u>	<u>Storage Space</u>
12G	.89253		
12H	.89253		
13A	1.06710		
13B	1.06710		
13C	.90562		
13D	.90562		
13E	.90562		
13F	.90562		
13G	.90562		
13H	.90562		
14A	1.08019		
14B	1.08019		
14C	.91435		
14D	.91435		
14E	.91435		
14F	.91435		
14G	.91435		
14H	.91435		
15A	1.28750		
15B	1.28750		
15C	1.08019		
15D	1.08019		
15E	.60884		
15F	.60884		
	<u>100.00000</u>		

APPENDIX B

BYLAWS

BONNEVILLE TOWER ASSOCIATION

An Association of Unit Owners Under
the Utah Condominium Ownership Act

The administration of the Bonneville Tower Condominium (the "property") and the Bonneville Tower Association ("association") shall be governed by these bylaws, by the Utah Condominium Ownership Act, Utah Code Ann. §§ 57-8-1 through 57-8-35 (Repl. vol. 1963) (the "act") and by the declaration.

1. Application of Bylaws.

All present and future unit owners, mortgagees, lessees and occupants of units and their employees, and any other persons who may use the facilities of the property in any manner are subject to the declaration, these bylaws and all rules made pursuant hereto and any amendment thereof. The acceptance of a deed or conveyance or the entering into of a lease or the act of occupancy of a unit shall constitute an agreement that the provisions of the declaration and these bylaws (and any rules and regulations made pursuant thereto), as they may be amended from time to time, are accepted, ratified and will be complied with.

2. Management Committee.

2.1. The administration of the property on behalf of the association shall be conducted by a management committee of five natural individuals.

2.2. Beginning with the first annual meeting and at every annual meeting thereafter, the association shall elect the members of the management committee for the forthcoming year. At least thirty (30) days prior to any annual meeting of the association, the management committee shall elect from the unit owners a nominating committee of not less than three (3) members (none of whom shall be members of the then management committee) who shall recommend to the annual meeting one nominee for each position on the management committee to be filled at that particular annual meeting. Nominations for positions on the management committee may also be made by petition filed with the secretary of the association at least seven (7) days prior to the annual meeting of the association, which petition shall be signed by ten (10) or more unit owners and signed by the nominee named therein indicating his willingness to serve as a member of the management committee, if elected. Members of the management committee shall not be required to be unit owners, but must be natural individuals and residents of the State of Utah.

2.3. Members of the management committee shall serve for a term of two (2) years; provided, however, that two members of the management committee elected at the first annual meeting shall serve for an initial term of one (1) year and the three other members shall serve for initial terms of two (2) years. Thereafter, all management committee members elected shall serve for a two-year term. The terms of no more than three members will end each year. The members of the management committee shall serve until their respective successors are elected, or until their death, resignation or removal. Any member of the management committee who fails to attend three consecutive management committee meetings or fails to attend at least 25% of the management committee meetings held during any calendar year shall forfeit his membership on the management committee.

2.4. Any member of the management committee may resign at any time by giving written notice to the president of the association, or the remaining management committee members. Any member of the management committee may be removed from membership on the management committee by a two-thirds majority vote of the association. Whenever there shall occur a vacancy on the management committee due to death, resignation, removal or any other cause, the remaining members shall elect a successor member to serve until the next annual meeting of the association, at which time said vacancy shall be filled by the association for the unexpired term, if any.

2.5. The members of the management committee shall receive no compensation for their services unless expressly approved by a majority of the association; provided, however, that any member of the management committee may be employed by the association in another capacity and receive compensation for such employment.

2.6. The management committee, for the benefit of the property and the association, shall manage the business, property and affairs of the property and the association and enforce the provisions of the declaration, these bylaws, the house rules and the administrative rules and regulations governing the property. The management committee shall have the powers, duties and responsibilities with respect to the property as contained in the act, the declaration and these bylaws.

2.7. The meetings of the management committee shall be held at such places within the State of Utah as the management committee shall determine. Three (3) members 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. The management committee shall annually elect all of the officers of the association. The meeting for the election of officers shall be held at the first meeting of the management committee immediately following the annual meeting of the association.

2.8. Special meetings of the management committee may be called by the president or by any two management committee members.

2.9. Regular meetings of the management committee may be held without call or notice. The person or persons calling a special meeting of the management committee shall, at least ten (10) days before the meeting, give notice thereof by any usual means of communication. Such notice need not specify the purpose for which the meeting is called; if an agenda is prepared for such a meeting, the meeting need not be restricted to discussions of those items listed on the agenda.

2.10. Any member of the management committee may, at any time, waive notice of any meeting of the management committee in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the management committee at a meeting shall constitute a waiver of notice of such meeting except if a management committee member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the members of the management committee are present at any meeting of the management committee, no notice shall be required and any business may be transacted at such meeting.

2.11. Until a date one (1) year from the recording of the declaration, the rights, duties, and functions of the management committee shall be exercised by declarant. The first annual meeting of the association shall be held on the second Thursday of the twelfth month following the recording of the declaration, at which time the association shall elect the members of the management committee.

2.12. After the election of the members of the management committee at the first annual meeting of the association, declarant shall execute, acknowledge and record an affidavit stating the names of the members of the newly elected management committee. Thereafter, any two (2) persons who are designated of record as being members of the most recent management committee (regardless of whether or not they shall still be members) may execute, acknowledge and record an affidavit stating the names of all of the members of the then current management committee. The most recently recorded of such affidavits shall be prima facie evidence that the persons named therein are all of the incumbent members of the management committee and shall be conclusive evidence thereof in favor of all persons who rely thereon in good faith.

2.13. The fiscal year shall be determined by the management committee.

3. Meetings of the Association.

3.1. The presence in person or by proxy at any meeting of the association of fifty percent (50%) of the unit owners in response to notice of all unit owners of record properly given shall constitute a quorum. In the event that fifty percent (50%) of the unit owners are not present in person or by proxy, the meeting shall be adjourned for twenty-four (24) hours, at which time it shall reconvene and any number of unit owners present at such subsequent meeting shall constitute a quorum. Unless otherwise expressly provided in the declaration, any action may be taken at any meeting of the unit owners upon a majority vote of the unit owners who are present in person or by proxy and who are voting.

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3.2. There shall be an annual meeting of the association on the second Thursday of January at 7:00 p.m. at the property or at such other reasonable place or time (not more than sixty (60) days before or after such date) as may be designated by written notice by the management committee delivered to the unit owners not less than fifteen (15) days prior to the date fixed for said meeting. At or prior to an annual meeting, the management committee shall furnish to the unit owners: (i) a budget for the coming fiscal year that shall itemize the estimated common expenses of the coming fiscal year with the estimated allocation thereof to each unit owner; and (ii) an audited statement of the common expenses itemizing receipts and disbursements for the previous and current fiscal year, together with the allocation thereof to each unit owner. Within ten (10) days after the annual meeting, that budget statement shall be delivered to the unit owners who were not present at the annual meeting.

3.3. Special meetings of the association may be held at any time at the property or at such other reasonable place to consider matters which, by the terms of the declaration, require the approval of all or some of the unit owners, or for any other reasonable purpose. Special meetings shall be called by written notice, signed by a majority of the management committee, or by unit owners representing at least one-third (1/3) in interest of the undivided ownership of the common areas and facilities and delivered to all unit owners not less than fifteen (15) days prior to the date fixed for said meeting. The notices shall specify the date, time and place of the meeting, and the matters to be considered.

3.4. Robert's Rules of Order (latest edition) shall govern the conduct of the association's meeting when not in conflict with the declaration or these bylaws.

4. Officers.

4.1. All officers and employees of the association shall serve at the will of the management committee. The officers shall be a president, secretary and treasurer. The management committee may appoint such other assistant officers as the management committee may deem necessary. No officer shall be required to be a unit owner, but the president must be a member of the management committee. No officer shall receive compensation for serving as such. Officers shall be annually elected by the management committee and may be removed and replaced by the management committee. The management committee may, in its discretion, require that officers (and other employees of the association) be subject to fidelity bond coverage.

4.2. The president shall be the chief executive of the management committee and shall preside at all meetings of the unit owners and of the management committee and may exercise the powers ordinarily allocable to the presiding officer of an association, including the appointment of committees. The president shall exercise general supervision over the property and its affairs. He shall sign on behalf of the

association all conveyances, mortgages and contracts of material importance to its business. He shall do and perform all acts which the management committee may require.

4.3. The secretary shall keep minutes of all proceedings of the management committee and of the meetings of the association and shall keep such books and records as may be necessary and appropriate for the records of the unit owners and the management committee. In the absence or inability of the president, the secretary shall perform the functions of the president.

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

5. Common Expenses; Assessments.

5.1. All assessments shall be made in accordance with the general provisions of paragraph 22 of the declaration.

5.2. Within thirty (30) days prior to the annual meeting of the association, the management committee shall estimate the common expenses and capital contributions for the following year. The estimated capital contributions may include such amounts as the management committee may deem proper for general working capital, for the general operating reserve, for a reserve fund for replacements and major maintenance and shall take into account any expected income, surplus or deficit in the common expenses for any prior year. These estimated capital contributions and common expenses shall be presented at the annual meeting and thereafter shall be assessed on a monthly basis to the unit owners in proportion to their percentage of undivided interest in the common areas and facilities as set forth in the declaration. If the estimated common expenses prove inadequate for any reason, including nonpayment of any unit owner's assessments, the management committee may, by resolution duly adopted, make additional assessments, which shall be assessed to the unit owners in the same manner as the estimated common expenses. Each unit owner shall be obligated to pay to the management committee assessments made pursuant to this paragraph on or before the first day of each month, or in such other reasonable manner as the management committee shall designate. The funds received by the management committee from assessments shall be kept in either capital accounts or in the common expense fund and shall be expended by the management committee only in accordance with the provisions of the act, the declaration and these bylaws.

5.3. The rights, duties and functions of the management committee set forth in this paragraph shall be exercised by declarant until thirty (30) days after the first annual meeting of the association.

5.4. The failure by the management committee before the expiration of any year, to estimate the common expenses as required herein, shall not be deemed a waiver or modification in any respect of the provisions

of the declaration or these bylaws or a release of the unit owner from the obligation to pay any past or future assessments, and the estimated common expenses fixed for the previous and current year shall continue until a new estimate is fixed.

5.5. Amendments to this paragraph 5 shall be effective only upon unanimous written consent of the unit owners and their mortgagees.

5.6. No unit owner may exempt himself from liability for common expenses by waiver of the use or enjoyment of any of the common areas and facilities or by abandonment of his unit.

5.7. The treasurer shall keep detailed records of all receipts and expenditures, including expenditures affecting the common areas and facilities, specifying and itemizing the maintenance, repair and replacement expenses of the common areas and facilities and any other expenses incurred. Such record shall be available for examination by the unit owners during regular business hours. In accordance with the actions of the management committee assessing common expenses against the units and unit owners, the treasurer shall keep an accurate record of such assessments and of the payments thereof by each unit owner.

5.8. All common expense assessments shall be a separate, distinct and personal liability of the owner of the unit at the time each assessment is made. The management committee shall have the rights and remedies contained in the act and in the declaration to enforce the collection of assessments for common expenses.

5.9. Any person who shall have entered into a written agreement to purchase a unit shall be entitled to obtain a written statement from the treasurer setting forth the amount of unpaid assessments charged against the unit and its owners, and if such statement does not reveal the full amount of the unpaid 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 assessments shown thereon, provided that the former unit owner grantor shall remain so liable. Any such excess which cannot be promptly collected from the former unit owner grantor shall be reassessed by the management committee as a common expense to be collected from all unit owners, including without limitation the purchaser of the unit, his successors and assigns. The new unit owner shall and the former unit owner shall not be liable for any assessments made after the date of transfer of title to a unit, even though the common expenses for the expenses incurred or the advances made by the management committee for which the assessment is made relate in whole or in part of any period prior to that date.

5.10. In the event that title to a unit is transferred at sheriff's sale pursuant to execution upon any lien against the unit, the management committee shall give notice in writing to the sheriff of any unpaid assessments for common expenses which are a lien against the unit, and

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for any expenses of or advances by the management committee which have not theretofore been reduced to a lien, which shall be paid out of the proceeds of the sale prior to the distribution of any balance to the former unit owner against whom the execution was issued. The purchaser at such sheriff's sale and the unit involved shall not be liable for unpaid assessments for common expenses and for any expenses of or advances by the management committee which became due prior to the sheriff's sale of the unit. Any such unpaid assessments which cannot be promptly collected from the former unit owner shall be reassessed by the management committee as a common expense to be collected from all of the unit owners, including the purchaser who acquired title at the sheriff's sale, his successors and assigns. To protect its right to collect unpaid assessments for common expenses which are a lien against a unit, and for any expenses of and advances by the management committee, the management committee may on behalf of all the unit owners, purchase the unit at sheriff's sale, provided such action is authorized by the affirmative vote of a majority of the members of the management committee.

5.11. In addition to the statements issuable to purchasers of units, the management committee shall provide a current statement of unpaid assessments for common expenses and for any expenses of and advances by the management committee in respect of the unit, to the unit owner, to any person who shall have entered into a binding agreement to purchase the unit and to any mortgagee on request at reasonable intervals.

5.12. In all cases where, all or part of any assessments for common expenses and for any expenses of and advances by the management committee cannot be promptly collected from the persons or entities liable therefor under the act, declaration or bylaws, the management committee shall reassess the same as a common expense, without prejudice to its rights of collection against such persons or entities.

6. Litigation.

6.1. If any action is brought by one or more but less than all unit owners on behalf of the association and recovery is had, the plaintiff's expenses, including reasonable counsel's fees, shall be a common expense; provided, however, that if such action is brought against the unit owners or against the management committee, the officers, employees, or agents thereof, in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all the unit owners, the plaintiff's expenses, including counsel fees, shall not be charged to or borne by the other unit owners, as a common expense or otherwise.

6.2. Complaints brought against the association, the management committee or the officers, employees or agents thereof, in their respective capacities as such, or the property as a whole, shall be directed to the management committee, which shall promptly give written notice thereof to the unit owners and any mortgagees and shall be defended by the management committee, and the unit owners and mortgagees shall have

no right to participate other than through the management committee in such defense. Complaints against one or more, but less than all unit owners shall be directed to such unit owners, who shall promptly give written notice thereof to the management committee and to the mortgagees affecting such units, and shall be defended by such unit owners.

7. Abatement and Enjoinment of Violations by Unit Owners.

The violation of any house rules or administrative rules or regulations adopted by the management committee or the breach of any provision contained herein, or the breach of any provision of the declaration, shall give the management committee the right, in addition to any other rights set forth in these bylaws:

7.1. To enter the unit in which or as to which such violation or breach exists and to similarly abate and remove, at the expense of the defaulting unit owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the management committee shall not thereby be deemed guilty in any manner of trespass; or

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

8. Accounting.

8.1. The books and accounts of the association shall be kept in accordance with generally accepted accounting procedures under the direction of the treasurer.

8.2. At the close of each fiscal year, the books and records of the management committee shall be audited by a certified public accountant approved by the association.

8.3. The books and accounts of the association shall be available for inspection at the office of the association by any unit owner or his authorized representative during regular business hours.

9. Special Committees.

The management committee by resolution may designate one or more special committees, each committee to consist of two (2) or more unit owners, which to the extent provided in said resolution, shall have and may exercise the powers set forth in said resolution. Such special committee or committees shall have such name or names as may be determined from time to time by the management committee. Such special committees shall keep regular minutes of their proceedings and report the same to the management committee when required. The members of such special committee or committees designated shall be appointed by the management committee or the president. The management committee or the president may appoint unit owners to fill vacancies on each of said special committees occasioned by death, resignation, removal or inability to act for any extended period of time.

10. Amendment of Bylaws.

These bylaws may be amended by a two-thirds (2/3) affirmative vote of the association at a meeting duly called for such purpose. Upon such an affirmative vote, the management committee shall acknowledge the amended bylaws, setting forth the fact of the required affirmative vote of the unit owners and the amendment shall be effective upon recording.

11. Severability.

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

12. 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.

13. Effective Date.

These bylaws shall take effect upon recording of the declaration of which they are a part.

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