

When Recorded Mail To:
Consolidated Capital Corp.
4600 Holladay Blvd.
Salt Lake City, Utah 84117
ATT: Edwin J. Pond

95-36

DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS
OF
HIGHLAND COVE CONDOMINIUM
Phase No. 1

95-36
REF. TO TITLE CO.
APOSHIAN CONSULTING ENGINEERS, INC.
SALT LAKE CITY, UTAH

MAR 30 4 20 PM '82
KALE B. SMITH
REGISTRAR
SALT LAKE COUNTY
UTAH

3661596

THIS DECLARATION is made and executed this 17th day of November, 1981, by CONSOLIDATED-AUTUMN GROUP, a Utah General Partnership (hereinafter referred to as "Declarant"), pursuant to the provisions of the Act as hereinafter defined.

I. SUBMISSION

The Declarant, owner in fee simple of the Tract particularly described in Exhibit "A" annexed hereto, located in Salt Lake County, Utah, hereby submits the Tract together with the buildings and all improvements and all easements, rights, and appurtenances thereunto belonging, to the provisions of the Act as an expandable condominium, to be known as HIGHLAND COVE CONDOMINIUM. The Project is described as Phase I of Highland Cove Condominium on the Record of Survey Map recorded simultaneously herewith.

II. DEFINITIONS

When used in this Declaration and in the By-Laws which are made a part of this Declaration and are attached hereto as Exhibit "C", the following terms shall have the meaning indicated. Any term used herein which is defined by the Act shall, to the extent permitted by the context hereof, have the meaning ascribed by the Act.

1. Act shall mean and refer to the Utah Condominium Ownership Act (Sections 57-8-1 through 57-8-36, Utah Code Annotated (1953), as the same may be amended from time to time.
2. Declaration shall mean and refer to this instrument, as the same may be amended from time to time.
3. Declarant shall mean and refer to Consolidated-Autumn Group, a Utah General Partnership, and its successors and assigns.
4. Record of Survey Map and Map shall mean and refer to the Record of Survey Map filed simultaneously herewith, consisting of five sheets, and prepared and certified to by Aposhian Consulting Engineers, Inc., a duly registered Utah Land Surveyor having Certificate No. 2967.
5. Property shall mean and refer to the land in Exhibit

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"A" and other land that may be annexed to the Project as provided herein, the buildings, all improvements, and the structures thereon, all easements, rights, and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

6. Management Committee and Committee shall mean and refer to the Management Committee of the Highland Cove Condominium Project as it exists at any given time.

7. Association shall mean and refer to all of the Unit Owners acting as a group in accordance with the Declaration and the By-Laws.

8. Common Areas and Facilities and Common Areas shall mean, refer to, and include:

(a) The real property and interests in real property which this Declaration submits to the terms of the Act. The additional land, described in Exhibit "B" annexed hereto which may be added to the project as an expansion thereof, contains a certain easement approximately 28 feet in width described as Parcel "B" in said Exhibit, in favor of the Big Cottonwood Lower Canal Company and on which canal water now flows. The Declarant has obtained the consent of Big Cottonwood Lower Canal Company to develop improvements on the property occupied by the easement in any manner so long as the flow of water in the canal is not restricted. The Declarant intends to develop said easement for parking, carports, and streets.

(b) All Common Areas and Facilities designated as such in the Survey Map.

(c) All Limited Common Areas and Facilities.

(d) All foundations, columns, girders, beams, supports, perimeter walls, roofs, balconies, and any entrances and exits which are designed for the use of more than one Unit, parking spaces, access roads, driveways, walkways, pedestrian sidewalks, landscape and planting areas, fences, street lights, and other common facilities.

(e) All apparatus, installations, and facilities included within the Project and existing for common use.

(f) All portions of the Project not specifically included within the individual Units.

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(g) All Common Areas as defined in the Act, whether or not enumerated herein.

9. Limited Common Areas and Facilities and Limited Areas shall mean and refer to those Common Areas designated herein and in the Map as reserved for the use of a certain Unit or Units to the exclusion of the other Units.

10. Percentage Interest means and refers to the percentage undivided interest of each unit in the Common Areas as set forth in Article III, paragraph 3 of this Enabling Declaration.

11. Condominium Unit and Unit means and refers to a separate physical part of the Property intended for independent use, consisting of rooms or spaces located in a building. Units are shown in the Map by single cross-hatching. Mechanical equipment and appurtenances located within any one Unit or located without said Unit but designated and designed to serve only the Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus, fixtures and the like, shall be considered part of the Unit, as shall all decorated interiors, all surfaces of interior structural walls, floors and ceilings, windows and window frames, doors and door frames, and trim, consisting of, inter alia and as appropriate, wallpaper, paint, flooring, carpeting, and tile. All pipes, wires, conduits, or other public utility lines or installations constituting a part of the Unit and serving only the Unit, and any structural members or any other property of any kind, including fixtures and appliances within any Unit, which are removable without jeopardizing the soundness, safety, or usefulness of the remainder of the building within which the Unit is situated shall be considered part of the Unit.

12. Unit Number shall mean and refer to the number which designates a Unit in the Map.

13. Unit Owner or Owner shall mean and refer to the owner of the fee in a Unit and the Percentage Interest in the Common Areas which is appurtenant thereto. In the event a Unit is the subject of an executory contract of sale, the contract purchaser shall, upon notice to the Committee by the Purchaser, unless the seller and the purchaser have otherwise agreed and have informed the Committee in writing of such agreement, be considered the Unit

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Owner for purposes of voting and Committee membership.

14. Rules and Regulations means those rules and regulations adopted from time to time by the Management Committee that are deemed necessary for the enjoyment of the Project, provided they are not in conflict with the Act or the Declaration.

15. Common Expenses shall mean and refer to all sums which are expended on behalf of all the Unit Owners and all sums which are required by The Management Committee to perform or exercise its functions, duties, or rights under the Act, this Declaration, any Management Agreement for operation of the Project, and such Rules and Regulations as the Management Committee may from time to time make and adopt. By way of illustration but not limitation, common Expenses shall include: (i) Expenses of administration, maintenance, operation, repair, replacement of those elements of the Common Areas that must be replaced on a periodic basis, and other reserves as may be from time to time established pursuant to the Declaration; (ii) Expenses agreed upon as Common Expenses by the Association and lawfully assessed against the Owners in accordance with the Declaration; (iii) Expenses declared Common Expenses by the provisions of the Act or by this Declaration or by the By-Laws; and (iv) Any valid charge against the Project as a whole.

16. Common Profits shall mean and refer to the balance of income, rents, profits, and revenues from the Common Areas remaining after deduction of the Common Expenses.

17. Condominium Project and Project shall mean and refer to the Highland Cove Condominium Project.

18. Tract shall mean and refer to the real property hereby submitted to the Project and to each portion of the Additional Land which is separately submitted to the terms of the Act with the intention that it shall thereby comprise, or in the future may become, a part of the Project. The Property which Exhibit "A" of this Declaration submits to the Terms of the Act constitutes a Tract.

19. Phase shall mean and refer to each separate step in development of the Project which is initiated through the submission of any parcel to the terms of the Act. The term shall also include all improvements which are constructed and all appurtenances,

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rights, obligations, and legal relationships which come into existence in conjunction with the submission of any single parcel of property. The submission which is effected by this Declaration, the rights and obligations which are created by this Declaration, and the improvements described in the Map which have been or will be constructed, together constitutes a Phase, to-wit: Phase No. I of the Project.

20. Additional Land shall mean and refer to any land or an interest therein which may come from time to time to be added to the Project as an expansion thereof under the terms and conditions of this Declaration. Such additional land may include all or part of the real property located within Salt Lake County, State of Utah, together with all appurtenances thereto, described in Exhibit "B" annexed hereto. (See Common Areas and Facilities and Common Areas, paragraph 8 above.)

21. Mortgage shall mean any mortgage, deed of trust or other security instrument by which a Unit or any part thereof is encumbered. First Mortgage shall refer to a mortgage which has a lien position prior to any other mortgage.

22. Mortgagee shall mean any person named as a Mortgagee or beneficiary under or holder of a deed of trust.

23. Majority of the Owners shall mean and refer to the Owners of the Units to which more than fifty percent (50%) of the votes in the Association appertain.

24. The term "FNMA" shall mean the Federal National Mortgage Association.

25. Eligible Holder, Insurer, or Guarantor shall mean a holder of a first mortgage on a unit or an insurer or governmental guarantor of a first mortgage as defined in the current FNMA Conventional Home Mortgage Selling Contract Supplement.

III. COVENANTS, CONDITIONS, AND RESTRICTIONS

The submission of the Tract to the provisions of the Act is made upon and under the following covenants, conditions, and restrictions:

1. Description of Improvements. The improvements included in the Project are now or will be located on the property described in Exhibit "A" annexed hereto, and all such improvements are described on the Map. The Map indicates the number

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of stories, the number of Units which are contained in the Buildings, which comprise a part of such improvements, the dimensions of the Units, the recreational areas and facilities such as the Clubhouse, swimming pool, game courts, putting green, gazebo, and all other Common Areas thereof. There are 72 Units contained in three buildings, with each building containing 24 Units as shown on the Map. Each building contains three levels with eight Units on each level. There is one Clubhouse to be so designated and constructed at a location designated on the Map. There are 72 covered carports and 36 parking stalls that are not covered. Said covered carports are limited Common Area and uncovered parking stalls are Common Area. There is a possibility that 49 additional parking spaces may be built in the future at the location designated on the Map, depending upon demand for parking and as determined by the Committee. The covered parking spaces are of concrete or asphalt and frame construction. All buildings are structurally of wood frame construction with stucco and rough sawn cedar exterior.

2. Description and Legal Status of Units. The Map shows the Unit and Building designation, its location, dimensions from which its area may be determined, those Limited Common Areas which are reserved for its use, and the Common Areas to which it has immediate access. All Units are residential Units. All Units shall be capable of being independently owned, encumbered, and conveyed.

3. Par Value of Units. The Par Value of each unit in the Project expressed as a percentage is 1.3888%. With respect to the Percentage Interest, to avoid a perpetual series of digits and to obtain in a total of one hundred percent (100%), the last digit has been adjusted and rounded up or down to a value that is most nearly correct. (See paragraph 5 for computation of Percentage Interests.) (See Exhibit "D" attached)

4. Common and Limited Common Areas. (a) The Common Areas contained in the Project are described and identified in Article II of this Declaration. Neither the Percentage Interest nor the right of exclusive use of a Limited Common Area shall be separated from the Unit to which it appertains; and, even though not specifically mentioned in the instrument of transfer, the Percentage Interest and such right of exclusive use shall automatically accompany the transfer of the Unit to which they relate. Each Unit Owner shall at its own cost keep the Limited Common

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Areas designed for exclusive use in connection with his Unit in a clean, sanitary, and attractive condition at all times. Balconies, patios, and carports shown adjacent to certain Units are Limited Common Areas appurtenant to such Unit. Such Limited Common Areas are depicted on the Map by double cross-hatching.

(b) The use of the Common Areas shall be limited to the Owners in residence and to their tenants in residence, and to their guests, invitees, and licensees. The use of each of the Limited Common Areas shall be restricted to the Owner of the Unit to which it is appurtenant, to his tenants in residence, and to his guests, invitees, and licensees. The use of the Common Areas and Limited Common Areas shall be governed by the Declaration and the Rules and Regulations as initially established by Declarant and as adopted and amended from time to time by the Management Committee.

5. Computation of Percentage Interests. The proportionate share of the Unit Owners in the Common Areas of the Project is based on the par value that each of the Units bear to the total par value of all Units and the Percentage Interest of the respective Unit Owners will be adjusted at such time or times as the Project is expanded as provided in this Declaration to reflect the increased total par value of all Units resulting from expansion. The proportionate ownership in the Common Areas shall be for all purposes including, but not limited to, voting, participation in Common Profits, and assessments for Common Expenses. The interest for each of the Unit Owners in the Common Areas shall be 1.3888%. Such interest shall be subject, as to each Unit Owner, to diminution to .6944% in the event the Project is expanded to the maximum number of Units set forth in paragraph 23.

6. Unit Maintenance. Each Owner shall at his own cost and expense maintain, repair, paint, repaint, tile, wallpaper, or otherwise refinish and decorate the interior surface of the walls, ceilings, floors, windows, and doors forming the boundaries of his Unit and all walls, ceilings, floors, windows, and doors within such boundaries. Each owner in decorating the windows of his own unit shall line all drapes in white or any other window treatment which shows to the exterior shall show in white, with the aim of giving a uniform appearance to the

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Project. In addition to decorating and keeping the interior of his Unit in good repair and in a clean and sanitary condition, he shall be responsible for the maintenance, repair, or replacement of any plumbing fixtures, water heater, heating equipment, air conditioner, lighting fixtures, refrigerator, dishwasher, disposal equipment, range, or other appliances or fixtures that may be in, or connected with, his Unit. Each Unit shall be maintained so as not to affect adversely the value or use of any other Unit.

7. Association Membership. Membership in the Association shall be mandatory, shall be appurtenant to the Unit in which the Owner has the necessary interest, and shall not be separated from the Unit to which it appertains. The property, business, and affairs of the Association shall be governed by the Management Committee as agent of the Association.

8. Easement for Encroachment. If any part of the Common Areas encroaches or shall hereafter encroach upon a Unit or Units, an easement for such encroachment and for the maintenance for the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas, or upon an adjoining Unit or Units, an easement for such encroachment and for the maintenance shall and does exist. Such encroachments shall not be considered to be encumbrances either to the Common Areas or the Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of the building(s) on the tract, by error in the Map, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

9. Access for Repair of Common Areas. Some of the Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Owners of the other Units shall have the irrevocable right, to be exercised by the Committee, as its agent, to have access to each Unit and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, repair, or replacement of any of the Common Areas located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Areas or to another Unit or Units. The Committee shall

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also have such rights independent of the agency relationship. Damage to the interior of any part of a Unit or Units resulting from the maintenance, repair, emergency repair, or replacement of any of the Common Areas or as a result of emergency repairs within another Unit at the instance of the Committee or of Unit Owners shall be the responsibility of the Association; provided, that if such damage is the result of negligence of the Owner of a Unit, then such Owner shall be financially responsible for all such damage. Such damage shall be repaired and the property shall be restored substantially to the same condition as existed prior to damage. Amounts owing by Owners pursuant hereto shall be collected by the Committee by assessment.

10. Right of Ingress, Egress. Each owner shall have the right to ingress and egress over, upon, and across the Common Areas necessary for access to his Unit, and to the Limited Common Areas designated for use in connection with his Unit, and such rights shall be appurtenant to and pass with the title to each Unit.

11. Pipes, Ducts, Cables, Wires, Conduits, Public Utility Lines, and Other Common Facilities Located Inside of Units; Support. Each Unit Owner shall have an easement in common with the Owners of all other Units to use all pipes, wires, ducts, cables, conduits, public utility lines, and other Common Facilities located in any of the other Units and other Common Facilities located in any of the other Units and serving his Unit. Each Unit shall be subject to an easement in favor of the Owners of all other Units to use the pipes, ducts, cables, wires, conduits, public utility lines and other Common Facilities serving such other units and located in such Unit. The Management Committee shall have a right of access to each Unit to inspect the same, to remove violations therefrom, and to maintain, repair, or replace the Common Areas contained therein or elsewhere in the buildings. Every portion of a Unit which contributes to the structural support of the building shall be burdened with an easement of structural support for the benefit of all other Units and the Common Areas.

12. Easement to Management Committee. The Management Committee shall have non-exclusive easements to make such use of the Common Areas as may be necessary or appropriate to

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perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration.

13. Easement for Utility Service. There is hereby created a blanket easement upon, across, over, and under the property described in Exhibit "A" for ingress, egress, installation, replacing, repairing, and maintaining all utilities, including but not limited to water, sewers, gas, telephones, electricity, and other utility services.

14. Easement for Use of Recreational Areas and Facilities.

(a) Each Unit Owner and each person lawfully residing in a Unit located on any portion of the land described as Additional Land on Exhibit "B" hereto is hereby granted a non-exclusive right and easement of enjoyment in common with others of the amenities and recreational facilities constituting a portion of the Common Areas of the Project.

(b) The right and easement of enjoyment created hereby shall be subject to the following:

(1) The rights of the Management Committee to charge guests reasonable admission and other fees for the use of the recreational areas and facilities.

(2) The right of the Declarant prior to the termination of the period of Declarant's control to grant and reserve easements and rights-of-way through, under, over, and across the recreational areas, for the installation, maintenance, and inspection of the lines and appurtenances for public or private water, sewer, drainage, gas, electricity, telephone, and other utilities; and

(3) The right of the Management Committee to adopt Rules and Regulations governing the use by the Owners of the recreational areas and facilities.

(c) Any person having the right to use and enjoy the recreational areas and facilities may delegate such rights to the members of his family, tenants who reside on the land in Exhibit "A" hereof and Additional Land and to such other persons as may be permitted by the Management Committee.

(d) Each person having the right to use the recreational areas and facilities and each person to whom such right has been delegated shall comply with the Rules and Regulations

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regarding such use, as such Rules and Regulations may be established and amended from time to time by the Management Committee. Such rights to use may be suspended upon failure of a Unit Owner to pay his assessments.

15. Use of Units and Common Areas. (a) Each of the Units in the Project is intended to be used for single family residential housing and is restricted to such use.

(b) There shall be no obstructions of the Common Areas by the Owners, their tenants, guests, or invitees without the prior written consent of the Committee. The Committee may by Rules and Regulations prohibit or limit the use of the Common Areas as may be reasonably necessary for protecting the interest of all the Owners or protecting the Units or the Common Areas. Nothing shall be kept or stored on any part of the Common Areas without the prior written consent of the Committee, except as specifically provided herein. Nothing shall be altered on, constructed in, or removed from the Common Areas except upon the prior written consent of the Committee.

(c) Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would result in the cancellation of the insurance on the Project or any part thereof over what the Committee, but for such activity, would pay, without the prior written consent of the Committee. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Committee and the Owners harmless against all loss resulting from any such damage or waste caused by him or his invitees; provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee of any other Owner. No noxious, destructive, or offensive activity shall be carried on in any Unit or in the Common Areas or any part thereof, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any person at any time lawfully residing in the Project.

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(d) No Owner shall violate the Rules and Regulations for the use of the Units and of the Common Areas as adopted from time to time by the Management Committee.

(e) No structural alterations to any Unit shall be made by any Owner without the prior written consent of the Committee.

(f) No recreational vehicle (boats, campers, trailers, motor homes, or similar items) shall be parked on any portion of the Common Areas except for temporary parking.

(g) No signs whatsoever shall be erected or maintained in the Common Areas without the prior written consent of the Committee, except: (i) Such signs as may be required by legal proceedings, and (ii) Such signs as Declarant may erect or maintain incident to sale of Units.

(h) Notwithstanding anything contained herein to the contrary, until the Declarant has completed and sold all of the Units, neither the Unit Owners who have purchased Units from the Declarant nor the Committee shall interfere with the completion of improvements and sale of the remaining Units. The Declarant reserves the right to use any Units owned by Declarant as models, management offices, or sales offices until such time as Declarant conveys title thereto to Unit Owners. Declarant reserves the right to relocate the same from time to time within the Project; upon relocation or sale of a model, management office, or sales office, the furnishings thereof may be removed. Declarant further reserves the right to maintain on the Project such advertising signs, which may be placed in any location on the Project and may be relocated or removed all at the sole discretion of Declarant. The reservation of this easement to facilitate sales is expressly made applicable to the Additional Land.

(i) The Highland Cove Condominium has been designated for adult living. Neither the Units nor the Common Areas are designed to accommodate large families or children. No children are allowed to live in any of the condominium units except as the management committee gives its specific authorization and no disturbance or nuisance is caused for other unit owners. The Management Committee has authority to preclude children if they desire and to prescribe reasonable rules and regulations for the

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purpose of effectuating the purposes of this subparagraph. Declarant does not warrant, however, that the Project will always be an adult community as the action of subsequent Management Committees may alter its present makeup in nature. In addition, the Declarant does not warrant that the restriction currently being placed upon children at the Highland Cove Condominium would be legally enforceable if subjected to a test in a court of law.

16. Status and General Authority of Committee. Notwithstanding anything herein contained to the contrary, the Condominium Project shall be managed, operated, and maintained by the Management Committee exclusively as agent of the Association and any act performed by the Management Committee pursuant to this Declaration or the By-Laws, as the same may be amended from time to time, shall be deemed to be performed by the Committee for and on behalf of the Association as its agent. The Management Committee shall have, and is hereby granted, the following authority and powers:

(a) The authority, without the vote or consent of the Unit Owners or of any other person(s), to grant or create, on such terms as it deems advisable, utility and similar easements over, under, across, and through the Common Areas and Facilities.

(b) The authority to execute and record, on behalf of all the Unit Owners, any amendment to the Declaration or Map which has been approved by the vote or consent necessary to authorize such amendment.

(c) The power to sue and be sued.

(d) The authority to enter into contracts which in any way concern the Project, so long as any vote or consent of the Unit Owners necessitated by the subject matter of the agreement has been obtained.

(e) The power and authority to convey or transfer any interest in real property authorized by the Owners having an interest therein.

(f) The power and authority to purchase, otherwise acquire, and accept title to any interest in real property, so long as such action has been authorized by any vote or consent which is necessary under the circumstances.

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(g) The authority to license persons not otherwise entitled to use any of the recreational areas and facilities to use the same from time to time as the Committee deems appropriate upon payment of fees prescribed by it to help defray the cost of maintenance thereof.

(h) The power and authority to borrow money, provided that no indebtedness for borrowed funds shall exceed at any given time the sum of \$5,000.00 without the prior approval of the Majority of the Owners.

(i) The authority to promulgate such reasonable Rules and Regulations, and procedures as may be necessary or desirable to aid the Committee in carrying out any of its functions or to insure that the Project is maintained and used in a manner consistent with the interests of the Unit Owners.

(j) The power and authority to perform any other acts and to enter into any other transactions which may be reasonably necessary for the Management Committee to perform its functions as agent of the Association.

Any instrument executed by the Management Committee that recites facts which, if true, would establish the Committee's power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument.

17. Manager. The Committee may carry out any of its functions which are capable of delegation through a Project Manager. Any Manager retained for such purposes must be an individual or entity experienced and qualified in the field of property management. The Manager so engaged shall be responsible for managing the Project for the benefit of the Unit Owners and shall, to the extent permitted by Law and the terms of the agreement with the Committee, be authorized to perform any of the functions or acts required or permitted to be performed by the Management Committee itself.

18. Composition of Committee and Initial Selection Thereof. Until the election of the Committee takes place at the first annual meeting of the Association as provided in Section 4 of Article II of the By-Laws, the Committee shall consist of such

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persons as shall have been designated by the Declarant. From and after the first annual meeting of the Association, the Management Committee shall be composed of five persons, all of whom shall be officers, directors, or designees of Owners or spouses of Owners, or Mortgagees (or designees of Mortgagees) of Units. The Declarant shall have the right in its sole discretion to replace such members of the Committee as may be so selected and designated by it, and to select and designate their successors. In all other cases of vacancy, the remaining Committee members shall elect a replacement to sit on the Committee until the expiration of the term for which the member being replaced was elected. Declarant may, by a written instrument duly recorded, waive its right to select the members of the Committee at any time prior to the termination of the right to select Committee members reserved hereunder.

19. Agreement to Pay Assessment. Each Owner of any Unit by the acceptance of a deed, therefore, whether or not it be so expressed in the deed or by entering into a sale and purchase contract, shall be deemed to covenant and agree with each other and with the Committee to pay to the Committee annual assessments made by the Committee for the purposes provided in this Declaration, and special assessments for capital improvements and other matters as provided in this Declaration. Such assessments shall be fixed, established, and collected from time to time in the manner hereinafter provided.

(a) Amount of Total Annual Assessments. The total annual assessments against all Units shall be based upon advance estimates of cash requirements by the Committee to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Areas, which estimates may include, among other things, expenses of management, grounds maintenance, taxes, and special assessments, (until the Units are separately assessed as provided herein), premiums for all insurance which the Committee is required or permitted to maintain pursuant hereto, common lighting and heating, water charges, trash collection, sewer service charges, repairs, and maintenance of the Common Areas and replacement of those elements of the Common Areas that must be replaced on a periodic basis, wages for Commit-

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tee employees, legal and accounting fees, any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus and or sinking fund; and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under or by reason of this Declaration.

(b) Apportionment of Annual Assessments. Expenses attributable to the Common Areas and to the Project as a whole shall be apportioned among all Owners in proportion to their respective Percentage Interest in the Common Areas.

(c) Notice of Annual Assessments and Time for Payment Thereof. Annual assessments shall be made on a calendar year basis. The Committee shall give written notice to each Owner as to the amount of the annual assessment with respect to his Unit not less than thirty (30) days nor more than sixty (60) days prior to the beginning of the next calendar year. Such assessment shall be due and payable in monthly installments on the first day of each and every month of each year; provided, however, that the first annual assessment shall be for the balance of the calendar year remaining after the date fixed by the Committee as the date of commencement of the Project and which date shall not be later than 60 days after the conveyance of the first unit in the project. Such assessment shall be due and payable within thirty (30) days after written notice of the amount thereof shall have been given to the respective Owner of a Unit. Each monthly assessment shall bear interest at the rate of eighteen percent (18%) per annum from the date it becomes due and payable if not paid within thirty (30) days after such date. Failure of the Committee to give timely notice of any assessment as provided herein shall not affect the liability of the Owner of any Unit for such assessment, but the date when payment shall become due in such case shall be deferred to a date thirty (30) days after such notice shall have been given. Annual assessments for Units which may be added to the project as an expansion thereof under the terms and conditions of this Declaration, shall also be assessed by the Committee as described above. Such assessments shall be payable by the Declarant upon completion of construction of the units and until such units are conveyed, at which time of conveyance, the then unit owners shall be responsible for such assessments.

(d) Special Assessments for Capital Improvements. In addition

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to the annual assessments authorized above, the Committee may levy in any assessment year a special assessment, payable over such a period as the Committee may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or for any other expense incurred or to be incurred as provided in this Declaration. This Section shall not be construed as an independent source of authority for the Committee to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections hereof. Any amounts assessed pursuant hereto shall be assessed to Owners in proportion to their respective Percentage Interests in the Common Areas. Notice in writing of the amount of such special assessments and the time for payment thereof shall be given promptly to the Owners, and no payment shall be due less than thirty (30) days after such notice shall have been given. A special assessment shall bear interest at the rate of eighteen percent (18%) per annum from the date it becomes due and payable if not paid within thirty (30) days after such date. Notwithstanding anything to the contrary herein contained, additions or capital improvements to the Project which cost no more than \$5,000.00 may be authorized by the Management Committee alone. Additions or capital improvements, the cost of which will exceed such amount must, prior to being constructed, be authorized by the Majority of the Owners. Any addition or capital improvement which would materially alter the nature of the Project must, regardless of its cost and prior to being constructed, be authorized by a vote of Unit Owners in person or by proxy of not less than 67% of the Percentage Interest at a meeting of the Association, special or annual, at which a quorum is present. Unsold units which are not occupied may be accorded a reasonable reduced assessment, as determined by the Committee, for a period of not to exceed sixty (60) days from the date of the first conveyance of a unit in the project or completion of said unit, which ever occurs later.

(e) Lien for Assessments. All sums assessed to any Unit pursuant to this Declaration, together with interest, late charges, or fees thereon as provided herein, shall be secured by a lien on such Unit in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Unit, except only for (a) valid tax and special assessment liens on the Unit in favor of any

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governmental assessing authority; and (b) a lien for all sums unpaid on a first Mortgage, or on any Mortgage to Declarant, duly recorded in the Official Records of Salt Lake County, Utah, including all unpaid obligatory advances to be made pursuant to such Mortgage and all amounts advanced pursuant to such Mortgage and secured by the lien in accordance with the terms of such instrument. All other lienors acquiring liens on any Unit after this Declaration shall have been recorded in said records shall be deemed to consent that such liens shall be inferior to future liens for assessments, as provided herein, whether or not such consent be specifically set forth in the instruments creating such liens.

To evidence a lien for sums assessed hereunder, the Committee may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Unit, and a description of the Unit. Such a notice shall be signed by the committee and may be recorded in the Office of the County Recorder of Salt Lake County, Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by judicial foreclosure by the Committee in the same manner in which mortgages on real property may be foreclosed in Utah. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding, the costs and expenses of filing the notice of lien, and all reasonable attorneys' fees. All such costs, expenses, and fees shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Committee any assessments against the Unit which shall become due during the period of the action, the Unit Owner shall pay a reasonable rental for his use of the Unit and the Committee shall, without regard to the value of the Unit, be entitled to the appointment of a receiver to collect any rentals due from the Owner or any other person. The Committee shall have the right and power to bid an amount equal to its then existing lien at the foreclosure sale or other legal sale and to acquire, hold, convey, lease, rent, encumber, use, and otherwise deal with the same as the Owner thereof.

A release of notice of lien shall be executed by the Commit-

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tee and recorded in the Office of the County Recorder of Salt Lake County, Utah, upon payment of all sums secured by a lien which has been made the subject of a recorded notice of lien.

Any encumbrancer holding a lien on a Unit may pay, but shall not be required to pay any amounts secured by the lien created hereunder, and upon such payment, encumbrancer shall be subrogated to all rights of the Committee with respect to such lien including priority.

The Committee shall report to any encumbrancer of a Unit any unpaid assessments remaining unpaid for thirty (30) days after the same shall have become due; provided, however, that such encumbrancer first shall have furnished to the Committee written notice of such encumbrance.

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

(g) Statement of Account. Upon payment of a reasonable fee not to exceed ten dollars (\$10.00), or such other amount as may in the future be allowed by the Act, and upon written request of any Owner or any Mortgagee, prospective Mortgagee or prospective purchaser of a Unit, the Committee shall issue a written statement setting forth the amount of the unpaid assessments, if any, with respect to such Unit; the amount of the current yearly assessment and the date that such assessment becomes or became due; credit for advanced payments or prepaid items including, but not limited to, an Owner's share of prepaid insurance premiums; and such statement shall be conclusive upon the Committee in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within twenty (20) days, all unpaid assessments which became due prior to the date of making such request shall be subordinate to the lien of a Mortgagee which acquired its interest subsequent to requesting such statement.

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Where a prospective purchaser makes such requests, both the lien for such unpaid assessments and the personal obligations of the purchaser shall be released automatically if the statement is not furnished within the twenty (20) day request period provided herein and thereafter an additional written request is made by such purchaser and is not complied within ten (10) days, and the purchaser subsequently acquires the Unit.

(h) Personal Liability of Purchaser for Assessments.

Subject to the provisions of subparagraph (g), a purchaser of a Unit shall be jointly and severally liable with the seller for all unpaid assessments against the Unit up to the time of the grant or conveyance, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

20. Transition of Management. Notwithstanding anything to the contrary contained in paragraph 18 above, Declarant may at any time relinquish its reserved right to select the members of the Committee and to transfer the management of the Project to the Committee elected by Unit Owners. If and when Declarant elects so to do, Declarant shall notify Owners in writing the effective date of such transfer (Transfer Date) at least twenty (20) days prior thereto. Thereupon, Unit Owners shall call a meeting to elect the members of the Management Committee to take office as of the Transfer Date. Declarant covenants to cooperate with Unit Owners in effecting orderly transition of management. Accordingly, it is intended that the cash position of the Committee as of the Transfer Date will be zero.

21. Insurance. The Management Committee shall secure and at all times maintain the following insurance coverage:

(a) A multi-peril policy or policies of fire and casualty insurance, with extended coverage and all other coverage in the kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location, and use on a replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based upon replacement cost). Such insurance shall cover all of the common and limited common elements including fixtures and build-

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ing service equipment to the extent they are part of the common elements of the condominium (excepting only land, foundations, and other items normally excluded from coverage). Each such policy shall contain the standard mortgagee clause which must be endorsed to provide that any proceeds shall be paid to the Association for the use and benefit of the Mortgagees as their interests may appear. The insured shall be the "Association of Owners of the Highland Cove Condominiums for the use and benefit of the individual owners."

(b) A comprehensive policy of public liability insurance insuring the Association, the Committee, the Manager, and the Unit Owners against any liability incident to the ownership, use, or operation of the Common Areas and public ways of the Project or of any Unit which may arise among themselves, to the public, or to any invitees, or tenants of the Project, or of the Unit Owners. Limits of liability under such insurance shall be not less than one million dollars (\$1,000,000.00) per occurrence for personal property injury and/or property damage. Such insurance policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of negligent acts of the Association or other Unit Owners. The scope of coverage must include all other coverage in the kinds and amounts required by private institutional mortgage investors for similar project in location, construction, and use including, but not limited to host liquor liability, contractual and all-written contract insurance, employers liability, and comprehensive automobile liability insurance.

(c) The Association shall maintain fidelity coverage to protect against dishonest acts on the part of Committee Members, Manager, employees, or volunteers responsible for handling funds belonging to or administered by the Association. The fidelity bond or insurance must name the Association as the named insured and shall be written in an amount sufficient to provide protection which in no event shall be less than the estimated maximum of funds, including reserve funds in the custody of the Association or its agent at any given time. In no event may the aggregate amount of such coverage be less than a sum equal to three months aggregate assessments on all units plus reserve funds. In connec-

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tion with such coverage, an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

The following additional provisions shall apply with respect to insurance:

(d) In addition to the insurance and bond coverage described above, the Committee shall secure and at all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with all condominium projects similar to the Project in construction, nature, and use.

(e) Each hazard insurance policy shall be written by a company holding a financial rating of Class VI or better from Best's Insurance Reports. Each insurer must be specifically licensed to transact business within the State of Utah. Policies are unacceptable where (i) under the terms of the carrier's charter, by-laws or policy, contributions, or assessments may be made against the Borrower or FNMA or its designee on said contributions or assessments may become a lien superior to FNMA's lien of mortgage; or (ii) by the terms of the carrier's charter, by-laws or policy, loss payments are contingent upon action by the carrier's board of directors, policy holders, or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent FNMA or the borrower from collecting insurance proceeds.

(f) The Committee shall have the authority to adjust losses.

(g) Insurance secured and maintained by the Committee shall not be brought into contribution with insurance held by the individual Unit Owners or their mortgagees.

(h) Each policy of insurance obtained by the Committee shall provide: a standard mortgagee clause commonly accepted by private institutional mortgage investors in the Area in which the Project is located and which appropriately names FNMA or its Servicer if FNMA is a holder of one or more first mortgages on units in the project. If Servicer is named, Servicer's name shall be followed by the phrase "its successors and assigns;" a waiver (if available) of the insurer's subrogation rights with respect to the Committee, the Manager, the Unit Owners, and their respective

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servants, agents, and guests; that it cannot be cancelled, prejudiced, suspended, or invalidated due to the conduct of any particular Unit Owner or Owners; that it cannot be cancelled, suspended, or invalidated due to the conduct of any member, officer, or employee of the Committee or the Manager without a prior written demand that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Unit Owners; that a mortgagee clause endorsement which must provide that the insurance carrier shall notify the first Mortgagee (or trustee) named and the Owners Association at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy; and that the policy will recognize any Insurance Trust Agreement.

(i) Any Unit Owner may obtain additional insurance at his own expense, so long as such additional insurance does not have the effect of decreasing the amount which may be realized under any policy maintained by the Committee. Any Unit Owner who individually obtains insurance covering any portion of the Project shall supply the Committee with a copy of his policy within thirty (30) days after he acquires such insurance.

(j) Notwithstanding the foregoing provisions, an insurance trustee may be named as an insured on behalf of the Owners Association or its representative, who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance. Unit Owners are hereby deemed to appoint the Association or any Insurance Trustee designated by the Association as their attorney-in-fact for the purpose of purchasing and maintaining such insurance including negotiation of losses, execution of releases, collection and distribution of proceeds, and all other acts necessary to accomplish such purpose. The Association or any insurance trustee shall receive, hold, or dispose of any insurance proceeds in trust for Unit Owners and their first mortgage holders, as their interests may appear.

(k) The project is not located in an area identified by the (Federal Emergency Management Agency) as an area having special flood hazards. In the event that at some future time the Project should be declared to be in such flood area, a blanket policy of flood insurance on the Project shall be maintained in

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the amount of the aggregate of the outstanding principal balances of the mortgage loans on the Units comprising the Project or the maximum limit of coverage available under the National Flood Insurance Program, whichever is less. The name of the insured under each required policy must be in form and substance as that required by the Federal National Mortgage Association at any given time.

22. Damage to Project. In the event of damage or destruction of part or all of the improvements in the Condominium Project, the following procedures shall apply:

(a) If proceeds of the insurance maintained by the Management Committee are alone sufficient to repair or reconstruct the damage or destroyed improvement, such repair or reconstruction shall be carried out.

(b) If less than 75% of the Project's improvements are destroyed or substantially damaged, and if proceeds of the insurance maintained by the Committee are not alone sufficient to accomplish repair or reconstruction, restoration shall be carried out and all the Unit Owners shall be assessed for any deficiency on the basis of their respective Percentage Interest.

(c) If 75% or more of the Project's improvements are destroyed or substantially damaged, if proceeds of the insurance maintained by the Management Committee are not alone sufficient to accomplish restoration, and if the Unit Owners within 100 days after the destruction or damage by a vote of at least 75% elect to repair or reconstruct the affected improvements, restoration shall be accomplished in the manner directed under subparagraph (b) above.

(d) If 75% or more of the Project's improvements are destroyed or substantially damaged, if proceeds of the insurance maintained by the Committee are insufficient to accomplish restoration, and if the Unit Owners do not, within 100 days after the destruction or damage and by a vote of at least 75%, elect to repair or reconstruct the affected improvements, the Management Committee shall promptly record with the Salt Lake County Recorder a notice setting forth such facts. Upon the recording of such notice, the provisions of subsections (1) through (4) of Section 57-8-31, Utah Code Annotated (1953), shall apply and shall govern

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the rights of all parties having an interest in the Project or any of the Units.

Any reconstruction or repair which is required to be carried out by this Paragraph 22 regarding the extent of damage to or destruction of Project improvements shall be made by three MAI appraisers selected by the Management Committee. The decision of any two such appraisers shall be conclusive.

23. (a) Reservation of Option to Expand. Declarant hereby explicitly reserves an option until the fifth (5th) anniversary of the recording of this Declaration to expand the Project from time to time by recording the record of survey map together with amendment to the declaration in compliance with Sections 57-8-13.6 of the Act, as the same may be amended from time to time, without the consent of any Unit Owner or Mortgagee. The option to expand may be terminated prior to such anniversary only upon the filing by Declarant of an amendment to this Declaration which by the provision of such Amendment terminates the right to expand. Declarant expressly reserves the right to add any or all portions of the Additional Land at any time, at different times, in any order, without limitation; provided, however, that the Additional Land shall not exceed the area described on Exhibit "B" hereto. There are no other limitations on the option to expand.

(b) Assurances. Declarant makes no assurances as to the location of buildings or other improvements on the Additional Land. At such time as the Project is expanded, the maximum number of Units on the Additional Land will be no more than 72 additional Units. Units to be constructed on the Additional Land will be compatible in quality, materials, and architectural style with the Units hereby submitted to the provisions of the Act. Units on Additional Land will be substantially identical or similar to those within the initial phase of the Project and no Unit will be constructed on additional Land which will not be substantially identical to the Units depicted on the Map. All intended improvements on Additional Land will be substantially completed prior to submission of the Act. Declarant expressly reserves the right to create Limited Common Areas on the Additional Land and to designate Common Areas therein which may be subsequently assigned

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as Limited Common Areas. Declarant makes no assurances as to type, size, or maximum number of such Common Areas or Limited Common Areas. The allocation of Percentage Interests in the Additional Land shall be computed as required by Section 57-8-13.10 of the Act on the basis of size of Units. Assessments shall be due and votes appurtenant to additional units shall attach as provided respectively in Article III, paragraph 19 (c) of this Declaration and Article II, paragraph 2 of the By-Laws. In the event the Declarant shall not add any portion of the Additional Land, the Declarant shall nevertheless have the right to construct all or any portion of any building on the Additional Land and operate the same without restriction. The maximum number of Units per acre that may be created on any portion of the Additional Land added to the Project shall be approximately .032 Units. There will be no Unit that may be created on the Additional Land or any portion thereof, the use of which will not be restricted exclusively to residential purposes. Declarant makes no assurances as to what improvements, if any, will be made on the Additional Land with respect to kind of improvements thereon. Declarant agrees, prior to submission of Additional Land to the provisions of the Act, to pay all taxes and other assessments relating to said Additional Land.

(c) No Obligation to Expand. Notwithstanding anything to the contrary which may be contained herein, this Declaration is not intended, and shall not be construed so as to impose upon Declarant any obligation respecting, or to restrict Declarant in any way with regard to: (i) the submission of any portion of the Additional Land to the provisions of the Act as a Tract or Tracts; (ii) the creation, construction, or addition to the Project of any additional Phase or Phases; (iii) the carrying out in any particular way or within any particular time of any development which may be undertaken; or (iv) the taking of any particular action with respect to the Additional Land, the Project, any Tract, or any Phase. Accordingly, Declarant may create on Additional Land any development which would be entirely independent and unrelated to the Project created by this Declaration.

24. Certain Provisions Applicable to Declarant. Notwithstanding any other provision herein contained, for so long as Declarant continues to own any of the Units, the following prov-

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sions shall be deemed to be in full force and effect, none of which shall be construed so as to relieve the Declarant from any obligations as Unit Owner to pay assessments, except as herein otherwise provided, as to each Unit owned by Declarant in accordance with the Declaration.

(a) Declarant specifically disclaims any intent to have made any warranty or representation in connection with the Project or the Declaration except as specifically set forth herein or in any agreement for sale of Unit, and no person shall rely upon any warranty or representation not so specifically made therein.

(b) No amendment may be made to the Declaration without the written consent of Declarant so long as Declarant retains the ownership of five (5) or more Units; provided, however, that the obligation to acquire said written consent of Declarant shall cease on a date two (2) years from the date of recording of the final phase of the Declaration.

25. Amendment. Except as provided below, the vote of at least 67% of the Percentage Interest of the Unit Owners in person or represented by proxy at a meeting of the Association at which a quorum is present shall be required to amend the Declaration or the Map. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the Management Committee. In such instrument, the Committee shall certify that the vote required by this Paragraph for amendment has occurred. The foregoing right of amendment shall be subject to the following paramount rights:

(a) Except as hereinafter provided, until all but five Units of the entire Project have been sold, Declarant shall have, and is hereby vested with, the right to unilaterally amend this Declaration or the Map. Such right shall obtain without regard to the subject matter of amendment, so long as the amendment involved is consistent with law and does not attempt to divest any vested property rights of any Owner or Mortgagee.

(b) Notwithstanding anything to the contrary contained in the Declaration, including in the immediately preceding paragraph, neither the insurance provisions of paragraph 21, the Mortgagee protection provisions of paragraph 29,

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nor the maximum minimum Percentage Interest in the Common Areas provision of paragraph 5, shall be amended without the written approval of eligible holders holding mortgages on units which have at least 67% of the votes subject to eligible holder mortgages. An eligible mortgage holder who receives a written request to approve additions or amendments who does not deliver or post to the requesting party a negative response within 30 days shall be deemed to have approved such request.

26. Consent Equivalent to Vote. In those cases in which the Act or this Declaration requires the vote of a stated percentage of the Project's undivided ownership interest for the authorization or approval of a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Unit Owners who collectively hold at least the necessary percentage of undivided ownership interest.

27. Eminent Domain. In the event that all or part of the Common Areas shall be taken, injured, or destroyed as the result of the exercise of the power of eminent domain, each Unit Owner hereby appoints the Owners Association as their attorney-in-fact to represent said Unit Owner in any proceedings, negotiations, settlements, or agreements with the condemning authority; any award or proceeds of settlement that result from such proceedings shall be payable to the Owners Association for the use and benefit of the Unit Owners in the same portion as his Percentage Interest in the Common Areas.

28. Service of Process. Edwin J. Pond, whose address is 4600 Holladay Boulevard, Salt Lake City, Utah 84117, is the person to receive service of process in cases authorized by the Act. The Management Committee shall, however, have the right to appoint a successor substitute process agent. Such successor or substitute agent and his address shall be specified by an appropriate instrument filed in the Office of the County Recorder of Salt Lake County, State of Utah. Provided, however, that the agent for service of process named in the Declaration relating to the Phase most recently added to the Project shall automatically constitute such agent for the Project, and shall automatically replace any agent previously named by the Management Committee or any agent designated in any enabling declaration relating to

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a previously added Phase.

29. Mortgage Protection. Notwithstanding anything to the contrary contained in the Declaration:

(a) An adequate reserve fund for repair, maintenance and replacement of those elements of the Common Areas that must be replaced on a periodic basis must be established and shall be funded by regular monthly payments rather than by special assessments.

(b) There shall be established a working capital fund for the initial months of operation of the Project equal to a minimum amount of two month's estimated Common Area charge for each Unit. Each Unit's share of said fund shall be collected at the time of closing of the sale of each unit and transferred to the Owners Association for the benefit of the Association. The contribution to said fund for unsold units shall be paid within 60 days after the date of the conveyance of the first unit in the Project.

(c) Any mortgage holder which comes into possession of the Unit pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage or deed (or assignment in lieu of foreclosure) shall be exempt from any "right of first refusal," or other provisions which may exist relating to sale or lease of the Units in the Project, and no right of first refusal shall impair the rights of any mortgage to: (i) foreclose or take title to a Unit pursuant to the remedies provided in the Mortgage, or (ii) accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgager, or (iii) interfere with a subsequent sale or lease of the Unit so acquired by the Mortgagee.

(d) Any agreement for professional management of the Project, or any other contract providing for services by the Declarant must provide for termination by either party without cause or payment of a termination fee on 30 days or less written notice and a maximum contract term of one year, renewable by agreement of the parties for successive one-year periods.

(e) In the event of damage to or destruction of any Unit or part of the Common Areas, the institutional holder, insurer, or guarantor of any first mortgage on a Unit shall be entitled upon written request to the Owners Association, to timely written notice to any such damage or destruction. No Unit Owner

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or other party shall be entitled to priority over such institutional holder with respect to the distribution to such Unit Owner of any insurance proceeds regardless of the amount of loss. Upon request of any first mortgagee, the Association must provide a letter to said first Mortgagee wherein the Association agrees to notify the first Mortgagee or any organization it designates at the address indicated by the Mortgagee whenever damage to a Unit covered by the first Mortgagee's Mortgage occurs or damage to the Common Areas and related facilities occurs.

(f) If any Unit or portion thereof or the Common Areas or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the institutional holder, insurer, or guarantor of any first mortgage of a Unit shall be entitled upon written request to the Owners Association, to timely written notice of any such proceeding or proposed acquisition. No Unit Owner or other party shall have priority over such institutional holder regardless of the amount of the condemnation award with respect to the distribution to such Unit Owner of the proceeds of any award or settlement.

(g) With the exception of a lender in possession of a Unit following default in a first mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no Unit Owner shall be permitted to lease his Unit for transient or hotel purposes. No Unit Owner may lease less than the entire unit. Any lease agreement shall provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration and By-Laws and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be in writing and for a period of not less than 30 days.

(h) Each holder of a first mortgage lien on a Unit who obtains title to a Unit by virtue of remedies provided in the Mortgage, including but not limited to, foreclosure, shall take the Unit free of unpaid charges and shall not be liable for any unpaid claims or assessments and charges against the Unit which accrue prior to the acquisition of title of such Unit by Mortgagee.

(i) Any holder, insurer, or guarantor of a Mortgage

is entitled upon written request to the Owners Association, 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 sixty (60) days.

(j) Any lien which the Management Committee may have on any Unit in the Project for the payment of Common Expense assessments attributable to such Unit will be subordinate to the lien or equivalent security interest of any first mortgage on the Unit.

(k) Unless 67% of the first Mortgagee's of Units have given their prior written approval (said approval shall be deemed to have been given if said first Mortgagee does not deliver or post a negative response within 30 days of receiving a written request for approval), neither the Management Committee, Declarant, nor the Association shall:

(1) By act or omission, seek to abandon or terminate the Project, except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or taking by condemnation or eminent domain.

(2) Change the pro-rata interest or obligations of any Unit for (i) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards or for (ii) determining the pro-rata share of ownership of each Unit in the appurtenant Common Areas, except as necessary to allow the expansion of the Project as provided in the Declaration.

(3) Partition or subdivide any Unit.

(4) Make any material amendment to the Declaration or to the By-Laws of the Association, including, but not limited to, any amendment which would change the percentage interests of the Units Owners in the Common Areas, except as may be necessary to effect expansion of the Project as provided in the Declaration.

(5) By act or omission, seek to amend, partition, subdivide, encumber, sell, abandon, or transfer the Common Areas. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas of

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this subparagraph.)

(6) Use hazard insurance proceeds for losses to any condominium property (whether to Units or to the Common Areas) for other than the repair, replacement, or reconstruction of such improvements, except as provided by statute in cases of substantial loss to the Units and/or the Common Areas of the Project.

(7) Allow any insurance policy or fidelity bond maintained by said Owners Association, Committee, or Declarant to lapse, be cancelled, or to be materially modified.

(L) The holders, insurers, or guarantors of first mortgages (or trust deeds) shall have the right to examine the books and records of the Project during business hours and to receive upon written request an audited financial statement of the Project for the preceding fiscal year within a reasonable time following such request.

(m) Whenever there is a change in ownership of a Unit, the Committee shall require that the new Unit Owner furnish the Committee with the name of the holder of any first mortgage (or trust deed) affecting such Unit. The Management Committee or Manager shall maintain a current roster of Unit Owners and of the holders of first mortgages (or trust deed) affecting Units in the Project.

(n) If professional management is provided for by requirement of any eligible mortgage holder, insurer, or guarantor, or otherwise, then any decision to establish self management by the Owners Association shall require the prior consent of owners of units to which at least 67% of the votes are allocated and the approval of 51% of the eligible mortgage holders on units in the project.

(o) At least 70% of the Units in the Project must be sold to individuals for use as their principal year-round residence.

(p) The Association shall make available to Unit Owners or lenders, or insurers, current copies of the Declaration, By-Laws, and other rules for inspection during normal business hours.

30. Duty of Owner to Pay Taxes on Unit Owned. It is understood that under the Act each Unit (and its Percentage Inter-

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est in the Common Areas) in the Project is subject to separate assessment and taxation of each taxing authority and the special district(s) for all types of taxes and assessments authorized by law, and that as a result thereof, no taxes will be assessed or levied against the Project as such, except for certain personal properties thereof. Accordingly, each Unit Owner will pay and discharge any and all taxes and assessments which may be assessed against him on his Unit.

31. Covenants to Run With Land; Compliance. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall insure to the benefit of Declarant, all parties who hereafter acquire any interest in a Unit or in the Project, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Unit shall comply with, and all interests in all Units shall be subject to, the terms of the Act, the terms of this Declaration, the By-Laws, and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration, and failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Committee on behalf of Unit Owners, or, in a proper case, by an aggrieved Unit Owner. By acquiring any interest in a Unit or in the Project, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

32. Information Regarding Transferee of Unit. Any Unit Owner who sells, leases, or otherwise disposes of his Unit shall submit to the Committee pertinent information concerning the transferee or new occupant within one week of any transfer of title or possession on a form furnished by the Committee.

33. Indemnification of Management Committee. Each member of the Management Committee shall be indemnified and held harmless by the Unit Owners against all costs, expenses, and fees, reasonably incurred by him in connection with any proceeding to which he may become involved by reason of his being or having been a member of said Committee.

34. Invalidity. The invalidity of any provisions of this

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Declaration, or any portion thereof, shall not be deemed to impair or affect in any manner the validity, enforceability, or effect of the remainder of this Declaration and, in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

35. Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

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

37. Topical Headings. The headings appearing at the beginning of the paragraphs of this Declaration are only for convenience of reference and are not intended to describe, interpret, define, limit, extend, or otherwise affect the content, meaning or intent of this Declaration or any paragraph or provision hereof.

38. Conflicts. This Declaration is set forth to comply with the requirements of the Act. In the event of any conflict between this Declaration and the provisions of the Act, the provisions of the latter shall control.

39. Effective Date. This Declaration shall take effect upon recording in the Office of the County Recorder of Salt Lake County, Utah.

IN WITNESS WHEREOF, the undersigned, being the Declarant, has caused this instrument to be executed and its seal be affixed hereto on the day and year first above written.

CONSOLIDATED-AUTUMN GROUP,
A Utah General Partnership
By Consolidated Capital Corporation,
A General Partner

By Richard E. Chipman
Richard E. Chipman
Vice President of
Consolidated Capital Corporation

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ATTEST:

Edwin J. Pond
Edwin J. Pond, Secretary of
Consolidated Capital Corporation

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

On the 24th day of March of 1981, personally appeared before me Richard E. Chipman and Edwin J. Pond, who being by me duly sworn did say, each for himself, that he, the said Richard E. Chipman, is the Vice President of Consolidated Capital Corporation and he, the said Edwin J. Pond, is the Secretary of Consolidated Capital Corporation and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its board of directors and said Richard E. Chipman and Edwin J. Pond each duly acknowledge to me that said corporation executed the same for and in behalf of the Consolidated-Autumn Group.



Glenn L. Watson
NOTARY PUBLIC
Residing at Salt Lake City, Utah

Commission Expires: 8-31-85

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EXHIBIT "A"

OF

HIGHLAND COVE CONDOMINIUM

The following described tract of real property situate in the County of Salt Lake, State of Utah, to wit:

BEGINNING AT A POINT which is South 2373.94 Feet and West 1417.79 Feet from the North Quarter Corner of Sectin 33, Township 1 South, Range 1 East, Salt Lake Base and Meridian; said point also lies the following four (4) courses and distances from a Salt Lake County Monument at the Intersection of Highland Drive and Siggard Avenue: S 24°48'32" E 105.08 feet, S 65°11'28" W 40.00 feet, West 498.58 feet and South 33.74 feet; Running Thence West 25.12 feet; thence S 45°00'00" W 110.36 feet; thence S 45°00'00" E 131.64 feet; thence S 10°00'00" W 70.00 feet; thence South 51°59'34" W 69.15 feet; thence N 56°42'23" W 99.46 feet; thence N 4°58'46" W 56.43 feet; thence N 74°56'41" W 79.00 feet; thence S 15°03'19.5" W 89.50 feet; thence N 74°56'40" W 150.83 feet; thence S 28°02'38" W 63.67 feet; thence N 54°31'05" W 220.09 feet; thence West 57.53 feet; thence N 42°45'00" W 57.92 feet; thence North 123.47 feet; thence East 715.93 feet; thence South 39.00 feet to the Point of Beginning. Containing 3.66 Acres.

RESERVED FROM THE FOREGOING SUBMISSION are such easements and rights of ingress and egress over, across, through, and under the above-described Tract and any improvements now or hereafter constructed thereon as may be necessary to develop the entire Project. If pursuant to this reservation, the above-described real property or any improvement thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements, the reservation hereby effected shall terminate upon the completion and sale by Declarant of all Units in the Project. And subject, also, to easements of record and visible and subject, further, to restrictions, provisions and covenants of record.

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EXHIBIT "B"

ADDITIONAL LAND

The following described parcels of real property situate in the County of Salt Lake, State of Utah:

PARCEL A:

BEGINNING at a point which lies South 2614.00 Feet and West 1440.02 Feet from the North Quarter Corner of Section 33, Township 1 South, Range 1 East, Salt Lake Base and Meridian; said point also lies the following eight courses and distances from a Salt Lake County Monument at the intersection of Highland Drive and Siggard Avenue; S 24°48'32" E 105.08 feet, S 65°11'28" W 40.00 feet, West 498.58 feet, South 33.74 feet, West 25.12 feet, S 45°00'00" W 110.36 feet, S 45°00'00" E 131.64 feet and S 10°00'00" W 70.00 feet; running thence S 51°59'34" W 69.15 feet; thence N 56°42'23" W 99.46 feet; thence N 5°08'32" W 56.00 feet; thence N 74°56'41" W 79.00 feet; thence S 15°03'19" W 89.05 feet; thence N 74°56'39" W 150.83 feet; thence S 28°02'38" W 63.67 feet; thence N 54°31'05" W 220.09 feet; thence West 57.53 feet; thence S 42°45'00" E 196.18 feet; thence S 66°00'00" E 161.70 feet; thence S 76°45'00" E 351.09 feet; thence N 13°15'00" W 8.91 feet; thence N 10°00'00" E 171.17 feet to the point of beginning. Containing 1.78 Acres.

PARCEL B:

Over which Declarant has an easement to develop in any manner so long as there is no interference with the flow of water in canal on said piece:

BEGINNING at a point which lies South 2829.96 feet and West 1479.76 feet from the North Quarter Corner of Section 33, Township 1 South, Range 1 East, Salt Lake Base and Meridian; said point also lies the following twelve courses and distances from a Salt Lake County monument at the intersection of Highland Drive and Siggard Avenue: S 24°48'32" E 105.08 feet, S 65°11'28" W 40.00 feet, West 498.58 feet, South 33.74 feet, West 25.12 feet, S 45°00'00" W 110.36 feet; S 45°00'00" E 131.64 feet, S 10°00'00" W 241.17 feet, S 13°15'00" W 8.91 feet, S 8°26'03" W 14.57 feet, and S 13°30'00" W 25.00 feet; running thence N 76°30'00" W 300.37 feet; thence N 0°14'54" E 4.15 feet; thence N 64°06'00" W 209.19 feet; thence N 53°10'00" W 78.0 feet; thence N 47°25'00" W 151.15 feet; thence North 56.85 feet; thence S 42°45'00" E 254.10 feet; thence S 66°00'00" E 161.70 feet; thence S 76°45'00" E 351.09 feet; thence S 8°26'03" W 14.57 feet; thence S 13°30'00" W 25.00 feet to the point of beginning. Containing 0.536 Acres.

EXHIBIT C

THE HIGHLAND COVE CONDOMINIUM

BY-LAWS

ARTICLE I

PLAN OF UNIT OWNERSHIP

1. Condominium Submission. The Property located in Salt Lake County, Utah, has been submitted to the provisions of the Act by the Declaration recorded in the Office of the County Recorder of Salt Lake County, Utah, simultaneously herewith, and shall hereafter be referred to as the "Condominium."

2. By-Laws Applicability. The provisions of these By-Laws are applicable to the Project as the same may be expanded as provided in the Declaration and the use, occupancy, sale, lease, or other transfer thereof. All Owners of any fee or leasehold interest, all occupants or users of the Condominium, and the agents and servants of any of them are subject to the provisions of the Declaration, these By-Laws, the Rules and Regulations, and failure to comply with said provisions will give rise to a cause of action in the Owners Association or any aggrieved owner for the recovery of damages or for injunctive relief or both.

3. Personal Application. All present and future Owners, tenants, future tenants, their guests, licensees, servants, agents, employees, and any other person or persons who shall be permitted to use the facilities of the Condominium, shall be subject to these By-Laws and to the Rules and Regulations of the Condominium. Acquisition, rental, or occupancy of any of the Condominium Units in the Condominium shall constitute an acknowledgment that such Owner, tenant, or occupant has accepted and ratified these By-Laws, the provisions of the Declaration, and the Rules and Regulations and will comply with them.

4. Office. The office of the Condominium and of the Management Committee shall be located at the Condominium or at such other place as may be designated from time to time by the Management Committee (hereinafter sometimes called the "Committee").

ARTICLE II

ASSOCIATION

1. Composition. All of the Unit Owners, acting as a

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group in accordance with the Act, the Declaration, and these By-Laws, shall constitute the Association. Except as to those matters which the Act specifically requires to be performed by the vote of the Unit Owners, the administration of the Condominium shall be performed by the Committee.

2. Voting. The total number of votes in the Association shall be one hundred (100), and each Unit shall be entitled to the number of votes proportionate to the Percentage Interest assigned to such Unit in the Declaration. The votes appurtenant to each Unit, including those units that may be added to the project as an expansion thereof under the terms and conditions of the Declaration, will become effective upon conveyance or contract purchase of said Unit. Since a Unit Owner may be more than one person, if only one of such persons is present at a meeting of the Association, that person shall be entitled to cast the votes appertaining to that Unit. But if more than one of such persons is present, the vote appertaining to that Unit shall be cast only in accordance with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to cast the vote appertaining to that Unit without protest being made forthwith by any of the others to the person presiding over the meeting. Since a person need not be a natural person, the word "person" shall be deemed for the purposes of this Section to include, without limitation, any natural person having authority to execute deeds on behalf of any person, excluding natural persons, which is, either alone or in conjunction with another person or persons, a Unit Owner. Except where a greater number is required by the Act, the Declaration or these By-Laws, a majority of the votes of Unit Owners present in person or represented by proxy in good standing and entitled to vote is required to adopt decisions at any meeting of the Association. If the Declarant owns or holds title to one or more Units, the Declarant shall have the right at any meeting of the Association to cast the votes to which such Unit is entitled.

3. Place of Meeting. Meetings of the Association shall be held at the principal office of the Condominium or at such other suitable place as may be designated by the Committee and stated in the notice of the meeting.

4. Annual Meeting. The first annual meeting of the Association to elect the Management Committee shall be held on a date to be determined by the Declarant, which date shall be no later than one hundred twenty (120) days after Units representing _____ →

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seventy five percent (75%) of the Percentage Interest as fully expanded have been legally conveyed by the Declarant to purchasers thereof or five years after the conveyance of the first Unit in the Project, whichever shall first occur. Annual meeting for any other purpose than the election of the Management Committee may be held at any time on call of the President of the Committee, by a majority of the Committee or by Unit Owners representing 20% of the Percentage Interest. Notice of such meeting shall be given in accordance with the provisions of Section 6 of this Article II.

At such meeting, the persons designated by the Declarant shall resign as members of the Committee, and all of the Owners, including the Declarant if the Declarant owns any Unit or Units, shall elect a new Committee. Thereafter, the annual meetings of the Association shall be held on the same date of each succeeding year, unless such date shall occur on a Sunday or holiday, in which event the meeting shall be held on the next succeeding Monday which is not a holiday. At such annual meetings, the Committee shall be elected by ballot of the Owners in accordance with the requirements of section 4 of Article III. The Unit Owner's Association may transact such other business as may properly come before them at such meetings.

5. Special Meetings. It shall be the duty of the President to call a special meeting of the Association if so directed by resolution of the Committee or, after all of the Committee has been elected by Unit Owners other than Declarant, upon a petition signed and presented to the Secretary by Owners having not less than 20% of the votes of all Owners. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

6. Notice of Meeting. It shall be the duty of the Secretary to mail, by United States mail, a notice of (a) each annual meeting of the Owners at least twenty (20) days in advance of such meeting, and (b) each special meeting of the Owners at least ten (10) days in advance of such meeting, stating the purpose thereof as well as the time and place where it is to be held to each Owner of record at the address of their respective Units and at such other address as each Owner may have designated by

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notice in writing to the Secretary. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice.

7. Voting Requirements. An Owner shall be deemed to be in "good standing" and "entitled to vote" at any annual meeting or at any special meeting of the Association if, and only if, he shall have fully paid all due installments of assessments made or levied against him and his Unit by the Committee as hereinafter provided together with all interest, costs, attorney's fees, penalties, and other expenses, if any, properly chargeable to him and against his Unit, at least three (3) days prior to the date fixed for such annual or special meeting.

8. Proxies. The votes appertaining to any Unit may be cast pursuant to a proxy or proxies duly executed by or on behalf of the Unit Owner, or in cases where the Unit Owner is more than one person, by or on behalf of all such persons. No such proxy shall be revocable except by actual notice to the person presiding over the meeting, by the Unit Owner or by any of such person that it be revoked. Any proxy shall be void if it is not dated and if it purports to be revocable without notice as aforesaid. The proxy of any person shall be void if not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Any proxy shall terminate automatically upon the adjournment of the first meeting held on or after the date of that proxy.

9. Quorum. Except as may otherwise be provided herein or by statute, a majority of the Owners shall constitute a quorum for the adoption of decisions. If, however, such quorum shall not be present or represented at any meeting, the Owners entitled to vote thereat, present in person, or represented by proxy, shall have power to adjourn the meeting and reschedule for a time not earlier than 48 hours, and no later than thirty (30) days after the time set for the original meeting. No notice of such rescheduled meeting shall be required. A quorum for the transaction of business at the rescheduled meeting shall be thirty percent (30) of the Percentage Interest.

10. Order of Business. The order of business at all meetings of the Association shall be as follows: (a) roll call;

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(b) proof of notice of meeting; (c) reading of minutes of preceding meeting; (d) reports of officers; (e) report of special committees, if any; (f) election of inspectors of election, if applicable; (g) election of Committee Members, if applicable; (h) unfinished business; and (i) new business.

11. Title to Unit. Title to Units may be taken in the name of natural person or in the names of two or more natural persons, or in the name of a corporation, partnership, association, or other entity capable of holding title to real property, or any combination thereof.

12. Conduct of Meeting. The chairman shall, or in his absence the Vice-Chairman 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 by the meeting as well as a record of all transactions occurring thereat.

ARTICLE III

MANAGEMENT COMMITTEE

1. Powers and Duties. The affairs and business of the Association shall be managed by the Committee which shall have all of the powers and duties necessary for the administration of the affairs of the Association in accordance with the provisions of the Declaration and may do all such acts and things as are not by the Act or by these By-Laws directed to be exercised and done by the Association. the Committee shall have the power from time to time to adopt any Rules and Regulations deemed necessary for the enjoyment of the Condominium provided such rules and Regulations shall not be in conflict with the Act, the Declaration, or these By-Laws. the committee shall delegate to one of its members the authority to act on behalf of the Committee on all matters relating to the duties of the Managing Agent, if any, which might arise between meetings of the Committee. Subject to any limitations or provisions contained in the Declaration, the Committee shall be responsible for the following:

(a) Preparation of an annual budget, in which there shall be established the contribution of each Owner to the Common Expenses.

(b) Making assessments against Owners to defray the costs and expenses of the Condominium, establishing the means and

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methods of collecting such assessments from the Owners, and establishing the period of the installment payment of the annual assessment for Common Expenses. Unless otherwise determined by the Committee, the annual assessment against each Owner for his proportionate share of the Common Expenses shall be payable in equal monthly installments, each such installment to be due and payable in advance on the first day of each month for said month.

(c) Providing for the operation, care, upkeep, replacement, maintenance and surveillance of all of the Common Areas and services of the Condominium.

(d) Designating, hiring, and dismissing the personnel necessary for the maintenance, operation, repair, and replacement of the Common Areas, and providing services for the Property, and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties, which supplies and equipment shall be deemed the common property of the Owners.

(e) Collecting the assessment against the Owners, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to carry out the administration of the Property.

(f) Making and amending Rules and Regulations respecting the use of the Property.

(g) Opening of bank accounts on behalf of the Condominium and designating the signatories required therefor.

(h) Making or contracting for the making of repairs, additions, and improvements to or alterations of the Property and repairs to and restoration of the Property in accordance with the Declaration and other provisions of these By-Laws, after damage or destruction by fire or other casualty.

(i) Enforcing by legal means the provisions of the Declaration, these By-Laws and the Rules and Regulations for the use of the Property adopted by it, and bringing any proceedings which may be instituted on behalf of the Owners.

(j) Obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration and paying the premium cost thereof.

(k) Paying the cost of all services rendered to the Condominium and not billed to Owners of individual Units.

(l) Keeping books with detailed accounts of the receipts and expenditures affecting the Property, and the administration of the Condominium, specifying the maintenance and repair expenses of the Common Areas and any other expenses incurred. The said books and vouchers accrediting the entries thereupon shall be available for examination by the Owners, their duly authorized agents or attorneys, during general business hours on working days at the times and in the manner that shall be set and announced by the Committee for the general knowledge of the Owners. All books and records shall be kept in accordance with generally accepted accounting practices, and the same, upon resolution of the Association, shall be audited at least once a year by an outside auditor employed by the Committee who shall not be a resident of the Condominium, or an Owner therein. The cost of such audit shall be a Common Expense. A copy of the annual audit report shall be supplied to any first mortgagee of any Unit in the Condominium who requests the same in writing from the Secretary.

(m) To do such other things and acts not inconsistent with the Act, the Declaration or the By-Laws or by a resolution of the Association.

2. Manager. The Committee may employ for the Condominium a professional Manager at a compensation established by the Committee, to perform such duties and services as the Committee shall authorize, including, but not limited to the duties listed in Section 1 of this Article III. The Committee may delegate to the Manager all of the powers granted to the Committee by these By-Laws; provided that any actions by the Manager with respect to the powers set forth in paragraphs (b), (f), (g) and (i) of Section 1 of this Article III shall require the written consent of the Committee. The term of any contract for a Manager may not exceed one (1) year, and any such contract shall provide, inter alia, that such agreement may be terminated by either party without cause or a termination fee on thirty (30) days or less written notice. Such contract may be renewable by the parties for successive one year periods.

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3. Number of Committee Members and Initial Selection of Committee. Until the election of the Committee takes place at the first annual meeting of the Association as provided in Section 4 of Article II, the Committee shall consist of such persons as shall have been designated by the Declarant. From and after said first annual meeting, the Committee shall be composed of five (5) persons, all of whom shall be officers, directors, or designees of the Declarant, Owners or spouses of Owners, or Mortgagees (for designees of Mortgages) of Units; provided, however, that anything in these By-Laws to the contrary notwithstanding, until Units representing ninety percent (90%) of the Percentage Interests in the Project including all expansion thereof have been legally conveyed by the Declarant, the expiration of five years from the date the Declaration is recorded, whichever first occurs, all of the members of the Committee shall be selected and designated by the Declarant. The Declarant shall have the right in its sole discretion to replace such members as may be so selected and designated by it, and to select and designate their successors.

4. Election and Term of Office of the Committee. At the first annual meeting of the Association after 75% of the Percentage Interest in the Project as fully expanded have been conveyed by Declarant, five (5) members of the Committee shall be elected. The term of office of three (3) members shall be fixed at three (3) years and the term of office of two (2) members shall be fixed at two (2) years. At the expiration of the initial term of office of such respective member, each successor shall be elected at subsequent annual meetings of the Association to serve a term of three (3) years. The Committee members shall hold office until their respective successors have been elected and hold their first meeting.

5. Organization Meeting. The first meeting of the members of the Committee following the annual meeting of the Association shall be held within ten (10) days after the annual meeting at such place as shall be fixed by the Committee at the meeting at which such Committeemen were elected and no notice shall be necessary to the newly elected Committee Members in order legally to constitute such meeting provided that a majority of the whole Committee shall be present thereat.

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6. Regular Meetings. Regular meetings of the Committee may be held at such time and place as shall be determined, from time to time, by a majority of the Committee, but at least six (6) such meetings shall be held during each fiscal year after the first annual meeting of the Association. Notice of regular meetings of the Committee shall be given to each member personally by mail or by telephone at least three (3) business days prior to the day named for such meetings.

7. Special Meetings. Special meetings of the Committee may be called by the Chairman on three (3) business days notice to each member. Such notice shall be given personally by mail or by telephone, and such notice shall state the time, place, and purpose of the meeting. Special meetings of the Committee shall be called by the Chairman or Secretary in like manner and on like notice on the written request of at least two (2) Committeemen.

8. Waiver of Notice. Before or at any meeting of the Committee, any Committeeman may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Committeeman at any meeting of the Committee shall be a waiver of notice by him of the time and place thereof. If all the Committeemen are present at any meeting of the Committee, no notice shall be required and any business may be transacted at such meeting.

9. Committee's Quorum. At all meetings of the Committee, a majority of the Committeemen shall constitute a quorum for the transaction of business, and the acts of the majority of the Committeemen present at a meeting at which a quorum is present shall be the acts of the Committee. If at any meeting of the Committee there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

10. Vacancies. Vacancies in the Committee caused by any reason other than removal of the Committeeman by a vote of the Association shall be filled by vote of the majority of the remaining Committeemen, at a special meeting of the Committee held for that purpose promptly after the occurrence of any such vacancy, even

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though the Committeemen present at such meeting may constitute less than a quorum of the Committee; and each person so elected shall be a Committeeman for the remainder of the term of the Committeeman so replaced and until a successor is elected at the next annual meeting of the Association; provided, however, that the vacancy of any Committeeman designated by the Declarant pursuant to a right of the Declarant to make such designation shall be filled by the Declarant.

11. Removal of Committeemen. A Committeeman may be removed with or without cause, and his successor elected, at any duly called regular or special meeting of the Association at which a quorum is present, by an affirmative vote of a majority of the votes represented and voting. Any Committeeman whose removal has been proposed by the Owners shall be given at least ten (10) days' notice of the calling of the meeting and the purpose thereof and an opportunity to be heard at the meeting. Notwithstanding anything in this Section to the contrary, no person selected and designated by the Declarant as a member of the Committee may be removed without the consent of the Declarant and in such event the Declarant shall select and designate his successor.

12. Compensation. No Committeeman shall receive any compensation from the Condominium for acting as such.

13. Conduct of Meetings. The Chairman shall preside over all meetings of the Committee and the Secretary shall keep a Minute Book of the Committee recording therein all resolutions adopted by the Committee and a record of all transactions and proceedings occurring at such meetings.

14. Report of Committee. The Committee shall present at each annual meeting, and when called for by vote of the Association at any special meeting of the Association, a full and clear statement of the business and condition of the Condominium.

15. Fidelity Bonds. The Committee shall require that all officers, agents (including the Managing Agent) and employees of the Association handling or responsible for funds furnish adequate fidelity bonds. The premiums on such bonds shall constitute a Common Expense. The committee shall provide a fidelity insurance coverage as required by the Declaration.

16. Dispensing with Vote. Any action by the Committee

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required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Committee shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Committee.

17. Liability of the Committee. The members of the Committee shall not be liable to the Owners for any mistake of judgment, negligence, or otherwise except for their own individual willful misconduct or bad faith. The Owners shall indemnify and hold harmless each of the Committeemen from and against all contractual liability to others arising out of contracts made by the Committee on behalf of the Owners unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of these By-Laws. It is intended that the members of the Committee shall have no personal liability with respect to any contract made by the Committee or out of the aforesaid indemnity in favor of the members of the Committee shall be limited to such proportion of the total liability thereunder as his Percentage Interest bears to the Percentage Interests of all of the Owners. Every agreement made by the Committee or by the Managing Agent on behalf of the Owners shall, if obtainable, provide that the members of the Committee or the Managing Agent, as the case may be, are acting only as agents for the Owners and shall have no personal liability thereunder (except as Owners), and that each Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his Percentage Interest bears to the Percentage Interests of all Owners. The Owners 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 by reason of the fact that he is or was a Committeeman or officer, against expenses (including attorney's fees), judgments, fines, and amounts paid in settlement incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to the best interests of the Owners. Notwithstanding anything contained herein to the contrary, the provisions of this paragraph 17 shall be deemed void to the extent that it is absolutely necessary in order to obtain fidelity insurance

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coverage as provided in the Declaration.

ARTICLE IV

OFFICERS

1. Designation. The principal officers of the Condominium shall be a Chairman, a Vice Chairman, a Secretary, and a Treasurer, all of whom shall be elected by the Committee. The Committee may appoint assistant secretaries and such other officers as in its judgment may be necessary. With the exception of the Chairman, no officer need be a member of the Committee. Two or more offices may be held by the same person, except that the Chairman shall not hold any other office.

2. Election of Officers. The officers of the Condominium shall be elected annually by the Committee at the organization meeting of such Committee and shall hold office at the pleasure of the Committee. Any vacancy in an office shall be filled by the Committee at a regular meeting or special meeting called for such purpose.

3. Removal of Officers. The officers shall hold office until their respective successors are chosen and qualify in their stead. Any officer elected or appointed by the Committee may be removed at any time by the affirmative vote of a majority of the whole Committee, and his successor may be elected at any regular meeting of the Committee, or at any special meeting of the Committee called for such purpose.

4. Chairman. The Chairman shall be the chief executive officer; he shall preside at meetings of the Association and the Committee and shall be an ex officio member of all committees; he shall have general and active management of the business of the Condominium and shall see that all orders and resolutions of the Committee are carried into effect. He shall have all of the general powers and duties which are usually vested in or incident to the office of president of a stock corporation organized under the laws of the State of Utah.

5. Vice Chairman. The Vice Chairman shall, in the absence or disability of the Chairman, perform the duties and exercise the powers of the Chairman, and shall perform such other duties as the Committee or the Chairman shall prescribe. If neither the Chairman nor the Vice Chairman is able to act,

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the Committee shall appoint a member of the Committee to do so on an interim basis.

6. Secretary. The Secretary shall attend all sessions of the Committee and all meetings of the Association and record all votes and the minutes of all proceedings in a book to be kept by him for that purpose and shall perform like duties for committees when required. He shall give, or cause to be given, notice of all meetings of the Association, the Committee, and committees and shall perform such other duties as may be prescribed by the Committee. The Secretary shall compile and keep current at the principal office of the Condominium, a complete list of the Owners and their last known post office addresses. This list shall be open to inspection by all Owners and other persons lawfully entitled to inspect the same, at reasonable hours during regular business days. The Secretary shall also keep current and retain custody of the Minute Book and the Association, containing the minutes of all annual and special meetings of the Association and all sessions of the Committee including resolutions.

7. Treasurer. The Treasurer shall have the custody of all funds and securities that are not under the control of the Managing Agent and, with the assistance of the Managing Agent, shall keep full and accurate records of receipts and disbursements, shall prepare all required financial data, and shall deposit all moneys and other valuable effects in such depositories as may be designated by the Committee. He shall disburse funds as ordered by the Committee taking proper vouchers for such disbursements, and shall render to the Chairman and Committeemen, at the regular meetings of the Committee, or whenever they may require it, an account of all of his transactions as Treasurer and of the financial condition of the Condominium.

He shall give a bond, the premium therefor to be considered a Common Expense, in such sum, and with such surety or sureties as shall be satisfactory to the Committee for the faithful performance of the duties of his office and for the restoration, in case of his death, resignation, retirement, or removal from office, of all books, papers, vouchers, money, and other property of whatever kind in his possession or under his control.

8. Agreement, Contracts, Deeds, Checks, etc. All agree-

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ments, contracts, deeds, leases, checks, and other instruments of the Condominium for expenditures or obligations of over \$500.00 shall be executed by any two officers of the Committee or by such other person or persons as may be designated by the Committee. All such instruments for expenditures or obligations of less than \$500.00 may be executed by any one officer of the Committee or by such other person as may be designated by the Committee.

9. Compensation of Officers. No officer shall receive any compensation from the Committee for acting as such.

ARTICLE V

FISCAL YEAR

The fiscal year of the Association shall consist of the twelve month period commencing on January 1 of each year and terminating on December 31 on the same year, except that the first fiscal year shall begin at the date of organization and terminate on December 31. The fiscal year herein established shall be subject to change by the Committee should it be deemed advisable or in the best interests of the Association.

ARTICLE VI

AMENDMENT TO BY-LAWS

1. Amendments. Except as otherwise provided in this Section, these By-Laws may be modified or amended either (i) by a vote of at least sixty-seven percent (67%) of the Percentage Interest at any regular or special meeting of which a quorum is present, provided that Notice of the proposed amendment shall have been given to each Owner simultaneously with the notice of such meeting, or (ii) pursuant to a written instrument duly executed by at least fifty-one percent (51%) of the Percentage Interest, provided, however, that (a) Section 4 of Article II, and Section 3 of Article III, insofar as they relate to the selection of members of the Committee by the Declarant, (b) Section 2 of Article II insofar as it provides that the Declarant, so long as it is the Owner of one or more Units, may vote the votes appurtenant thereto, and (c) this Section 1 of Article VI, may not be amended without the consent in writing of the Declarant, so long as the Declarant shall be an Owner. Furthermore, notwithstanding the foregoing, so long as the Declarant is the Owner of one or more Units, no amendment to the By-Laws or Rules and Regulations may be

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adopted which could interfere with the construction, display, sale, lease, or other disposition of such Unit or Units.

2. Recording. A modification or amendment of these By-Laws shall become effective only if such modification or amendment is recorded in the office of the County Recorder of Salt Lake, Utah.

3. Conflicts. No modification or amendment of these By-Laws may be adopted which shall be inconsistent with the provisions of the Act or with the provisions of the Declaration. A modification or amendment once adopted and recorded as provided for herein shall then constitute part of the official By-Laws of the Condominium and all Owners shall be bound to abide by such modification or amendment.

4. Approval of Mortgagees. These By-Laws contain provisions concerning various rights, priorities, remedies, and interests of the mortgagees of Units. Such provisions in these By-Laws are to be construed as covenants for the protection of the mortgagees on which they may rely in making loans secured by mortgages on the Units. Accordingly, all mortgagees shall be given thirty (30) days notice of all proposed amendments, and no amendment or modification of these By-Laws impairing or affecting the rights, priorities, remedies, or interests of a mortgagee (including the mortgagee's use of a secondary mortgage market, i.e., the saleability of mortgages to Federal National Mortgage Association, etc.) shall be adopted without the prior written consent of such mortgagee. If there is more than one mortgagee holding mortgages on the Units, it shall be sufficient for this purpose to obtain the written consent of the Mortgagee or mortgages holding mortgages on 67% or more of the Units encumbered by mortgages.

ARTICLE VII

NOTICE

1. Manner of Notice. All notices, demands, bills, statements, or other communications provided for or required under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by registered or certified U. S. Mail, first class postage prepaid, (i) if to an Owner, at the address of his Unit and at such other address as the Owner may have designated by notice in writing to the Secre-

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tary, or (ii) if to the Committee or the Manager, at the principal office of the Manager or at such other address as shall be designated by notice in writing to the Owners pursuant to this Section.

2. Waiver of Notice. Whenever any notice is required to be given under the provisions of the statutes, the Declaration or of these By-Laws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether signed before or after the time stated therein, shall be deemed equivalent thereto, unless such waiver is ineffective under the provisions of the Act.

ARTICLE III

COMPLIANCE, CONFLICT, AND MISCELLANEOUS PROVISIONS

1. Compliance. These By-Laws are set forth in compliance with the requirements of the Act.

2. Conflict. These By-Laws are subordinate and subject to all provisions of the Declaration and to the provisions of the Act. All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as they are defined to have in the Declaration or the Act. In the event of any conflict between these By-Laws and the Declaration, the provisions of the Declaration shall control; and in the event of any conflict between the Declaration and the Act, the provisions of the Act shall control.

3. Severability. These By-Laws are set forth to comply with the requirements of the State of Utah. In case any of the By-Laws are in conflict with the provisions of any of its statutes, the provisions of the statutes will apply. If any provisions of these By-Laws or any section, sentence, clause, phrase, or word, or the application thereof in any circumstance is held invalid, the validity of the remainder of these By-Laws, shall not be affected thereby and to this end, the provisions hereof are declared to be severable.

4. Waiver. No restriction, condition, obligation, or provisions of these By-Laws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

5. Captions. The captions contained in these By-Laws are for convenience only and are not part of these By-Laws and are not intended in any way to limit or enlarge the terms and

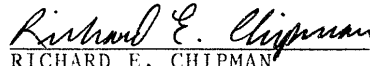
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provisions of these By-Laws.

6. Gender, etc. Whenever in these By-Laws the context so requires, the singular number shall include the plural and the converse; and the use of any gender shall be deemed to include all genders.

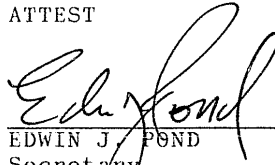
IN WITNESS WHEREOF, Declarant has caused these By-Laws to be executed by its duly authorized officers and its corporate seal to be hereunto affixed this 17th day of November, 1981.

Consolidated-Autumn Group,
A Utah General Partnership
By Consolidated Capital
Corporation, A General
Partner



RICHARD E. CHIPMAN
Vice President
Consolidated Capital Corporation

ATTEST



EDWIN J. POND
Secretary
Consolidated Capital Corporation

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CONSENT OF MORTGAGEE

COMMERCIAL SECURITY BANK, a Utah Corporation, (the Mortgagee), hereby consents to the recordation by Consolidated-Autumn Group, of the "Declaration of Covenants, Conditions, and Restrictions of Highland Cove Condominium" (Phase I) and the related Record of Survey Map in the Official Records of Salt Lake County, Utah, provided, however, that such Consent shall not be deemed to render the Mortgagee a declarant or developer under the Act, this Declaration, or otherwise, or in any way to render the Mortgagee liable for any obligations of the Declarant or developer.

DATED this 26TH day of MARCH, 1982

COMMERCIAL SECURITY BANK
By [Signature]
ASSISTANT VICE PRESIDENT

State of Utah)
 : ss.
County of Salt Lake)

On this 26TH day of MARCH, 1982, personally appeared before me JON R. BURGNER who being by me duly sworn, did say that he is the ASSISTANT VICE PRESIDENT of Commercial Security Bank, a Utah Corporation, and that the foregoing instrument was signed by him in behalf of said Corporation by authority of a resolution of its Board of Directors, and he duly acknowledged to me that the said Corporation executed the same.



[Signature]
NOTARY PUBLIC
Residing at Salt Lake City, Utah

My Commission Expires:

10-31-84

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EXHIBIT "D"

<u>UNIT</u>	<u>BUILDING</u>	<u>UNDIVIDED INTEREST</u>
101	1440	1.3888%
102	"	"
103	"	"
104	"	"
105	"	"
106	"	"
107	"	"
108	"	"
201	"	"
202	"	"
203	"	"
204	"	"
205	"	"
206	"	"
207	"	"
208	"	"
301	"	"
302	"	"
303	"	"
304	"	"
305	"	"
306	"	"
307	"	"
308	"	"
109	1450	1.3888%
110	"	"
111	"	"
112	"	"
113	"	"
114	"	"
115	"	"
116	"	"
209	"	"
210	"	"
211	"	"
212	"	"
213	"	"
214	"	"
215	"	"
216	"	"
309	"	"
310	"	"
311	"	"
312	"	"
313	"	"
314	"	"
315	"	"
316	"	"

EXHIBIT "D" CONT.

<u>UNIT</u>	<u>BUILDING</u>	<u>UNDIVIDED INTEREST</u>
117	1460	1.3888%
118	"	"
119	"	"
120	"	"
121	"	"
122	"	"
123	"	"
124	"	"
217	"	"
218	"	"
219	"	"
220	"	"
221	"	"
222	"	"
223	"	"
224	"	"
317	"	"
318	"	"
319	"	"
320	"	"
321	"	"
322	"	"
323	"	"
324	"	1.3952