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PROSPECTOR SQUARE PROPERTY OWNERS ASSOCIATION
P. O. Box 3273
Park City, UT 84060

**AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
OF PROSPECTOR SQUARE SUBDIVISION
A PLANNED COMMERCIAL DEVELOPMENT
PARK CITY, SUMMIT COUNTY, UTAH**

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1996 JUL 19 16:55 PM FEE \$286.00 BY DMG
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**AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
OF PROSPECTOR SQUARE SUBDIVISION
A PLANNED COMMERCIAL DEVELOPMENT
PARK CITY, SUMMIT COUNTY, UTAH**

This Amended and Restated Declaration of Covenants, Conditions and Restrictions of the Prospector Square Subdivision is adopted by the members of the Prospector Square Owners Association, effective this 1st day of June, 1996.

Recitals:

Whereas the Original Declaration of Covenants, Conditions, and Restrictions was recorded in the office of the Summit County Recorder as Entry Number 123717 on July 5, 1974, in Book M58 beginning at Page 1; and

Whereas amendments to that original declaration have been adopted from time to time by the members of the Owners Association, specifically an amendment dated March 10, 1977, which is recorded in the office of the Summit County Recorder as Entry Number 138572 in Book M95 at Page 763; and an amendment dated September 11, 1978 which was recorded as Entry Number 165756 in Book M156 at Page 74; and an Amendment dated October 22, 1980 which was recorded as Entry Number 1731184 in Book M172 at Page 551; and an Amendment dated January, 1986 recorded as Entry Number 246993 in Book 374 at Page 814; and

Whereas there are additional amendments that have been approved by the Association, and other matters of record that affect the property that should be referenced in the Covenants; and

Whereas, the Association desires to restate all of the Covenants in a single document for ease of reference;

Now therefore, pursuant to a vote of the requisite percentage of the Association at a meeting duly noticed and held for that purpose, the Association hereby adopts the following Amended and Restated Declaration of Covenants, Conditions and Restrictions of Prospector Square Subdivision:

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Article 1

Definitions

1.1 "Declaration" shall mean this Amended and Restated Declaration of Covenants, Conditions and Restrictions, which shall supersede all prior declarations and amendments to prior declaration.

1.2 "Plat" shall mean and refer to the subdivision plat of the Prospector Square Subdivision, Park City, Utah as filed for record in the office of the Summit County Recorder, together with subsequent amendments to that Plat recorded on December 26, 1974 as Entry Number 125443; amended plat recorded February 9, 1990 as Entry No. 320224; amended plat recorded March 27, '990 as Entry No. 322581; amended plat recorded February 1, 1994 as Entry No. 397064; and amended plat recorded June 3, 1994 as Entry No. 405982; and amended plat recorded July 27, 1994 as Entry No. 410749, and any subsequent amendments affecting the Property; provided however that this Declaration shall not affect or include Lots 39 through 47 as shown on the Plat. An illustrative drawing showing the portion of original plat subject to this Declaration and subsequent amendments to the date of this Declaration is attached. It is not an official plat, and reference should be made to the original and official amended plats for survey data.

1.3 "Property" shall mean the property that is subject to this Declaration, which is depicted on the attached Exhibit A, and more particularly described below.

1.4 "Lot" shall mean any of the development Lots depicted on the Plat that are subject to this Declaration; provided however that the designated Parking Lots are termed Common Area.

1.5 "Improved Lot" shall mean any Lot that has been improved by the construction of a building on all or a portion of the Lot.

1.6 "Improvements" shall mean any building, structure, landscaping, utilities, or other facilities installed by an Owner on his or her Lot. When Improvements are constructed by or for the Association on Common Areas, they will be treated as Common Area Improvements.

1.7 "Unimproved Lot" shall mean any Lot that has not had a building constructed on it, and remains a vacant Lot.

1.8 "Common Areas" shall mean and refer to those portions of the Property which are not within any Lot and not within a dedicated public street. Common Areas specifically include Parking Lots A, through K, and the walking mall areas as shown on the Plat, together with any Common Area Improvements other than utility lines now or later constructed or installed on the Common Areas by or with the approval of the Association.

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1.9 "Parking Lots" shall mean those portions of the Common Areas designated for use as parking lots, specifically Lots A through K, which are owned in fee by the Association for the use and benefit of the Members.

1.10 "Owner" shall mean and refer to the person or entity who is the owner of record (in the office of the Summit County Recorder) of the fee simple or undivided fee

simple interest in any Lot. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like security instrument, the term Owner shall not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until the secured party has acquired title and taken possession pursuant to foreclosure, trustee's sale, or any arrangement or proceeding in lieu thereof. In the case of Lots that have been improved by the construction of buildings that are held in condominium ownership, the management entity or condominium association having control over the common elements of that condominium will be the Owner for purposes of this declaration, and the persons holding title to individual condominium units shall not be Owners or Members for purposes of this declaration.

1.11 "Association" shall mean and refer to Prospector Square Property Owners Association, a Utah non-profit corporation.

1.12 "Member" shall mean every person who holds membership in the Association. In the case of Lots that have been improved by the construction of buildings that are held in condominium ownership, the management entity or condominium association having control over the common elements of that condominium will be the Member for purposes of this declaration, and the persons holding title to individual condominium units shall not be Owners or Members for purposes of this declaration.

1.13 "Assessments" shall mean the membership dues and assessments levied by the Association for the purposes of maintaining and improving the Common Areas, as set forth in this Declaration. There may be regular Assessments for on-going budgeted expenses and Special Assessments for unexpected expenses or capital improvements.

Article 2

Property Description

This Declaration affects the following described property located in Park City, Summit County, Utah:

Lots Number 2-A through 49-D of the Prospector Square Subdivision, as shown on the official amended plat thereof, as it appears of record in the office of the Summit County Recorder, including Parking Lots A through K, all as depicted on Exhibit A. The Property does not include Lots 39 through 47, inclusive, as shown on the original Plat, which are not part of the Association, and do not participate in the ownership and/or use of the Common Areas.

Article 3

The Association, Membership and Voting Rights

3.1 Membership. Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to the Lot in which the Owner has the necessary interest, and shall not be separated from the Lot to which it appertains.

3.2 Voting Rights.

(a) Number of Votes. Members shall be entitled to one vote for each square foot of area in their Lot or Lots, rounded down to the nearest square foot. The votes allocated to each Lot are shown on the attached Exhibit B.

(b) Eligibility to Vote. Members entitled to vote shall be Members in good standing. Members in good standing shall be defined as those Owners who are current in the payment of their Assessments and any Special Assessments as set forth in this Declaration. Members who have forfeited their voting rights by failing to pay Assessments may reinstate their right to vote by paying to the Association all current Assessments and all prior Assessments which are delinquent, together with interest as set forth below.

3.3 Notice. Notice of meetings of the Association will be sent to Members by mail at least 15 days, but no more than 45 days from the date of the meeting. Notice will include the time, place, and date of the meeting, and a general agenda of matters to be discussed. Notice will be mailed to the Owner of the Lot at the last known address, or the address shown on the Summit County Tax Assessment Rolls if no other address is available. On Lots with multiple Owners, only one notice will be mailed. In the case of Lots under condominium ownership, the Notice will be sent to the condominium association for that Lot.

3.4 Quorum Requirements. In all actions submitted to the Membership, a quorum shall consist of 60% of the total votes in the Association, whether in person or represented by proxy. If a quorum is not present, those Members present may vote to continue the meeting. Notice will be given for the continued meeting as provided above. At the continued meeting, a quorum will be deemed to exist among the Membership present in person or by proxy. No such continued meeting shall be held more than 45 days following the first meeting. When voting at any regular or continued meeting, items presented to the Membership will be approved by a simple majority of those present, unless a greater majority is specifically required by this Declaration.

3.5 Multiple Ownership Interests. In the event there is more than one Owner of a particular Lot, the vote relating to such Lot shall be exercised by such Owners as they may determine among themselves, provided that the votes appurtenant to each Lot must be cast the same way. A vote cast at any Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the Lot concerned unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

(a) Voting from Condominiums. In the case of Lots which have been Improved by the construction of buildings held in condominium ownership, the owners of individual condominium units within that Lot shall not be entitled to vote, and are not Members of the Association. The votes appurtenant to such Lots will be cast by the condominium association or entity having jurisdiction over the common elements of that condominium. The Association may accept the vote from any officer or director of the condominium association, and may rely on representations of authority made by the

person casting the votes of the condominium without independently verifying that person's authority or the regularity of that person's action on behalf of the condominium.

(b) Leasehold Interests. The Membership is appurtenant to the ownership of the Lot. Persons holding leasehold interests are not presumed to be able to vote the interest of their landlords unless they hold a written proxy from the landlord.

3.6 Board of Directors. The affairs of the Association will be managed by the Board of Directors. The Board will be elected from the Members. There will be no fewer than 5 nor more than 15 Board Members, with the actual number to be fixed by the Members from time to time as the needs of the Association dictate.

(a) Eligibility. A majority of Directors must be Owners of Lots, or, in the case of Lots owned by corporations or other business entities, the Board Member may be an officer, director or employee of that entity, including condominium management. Not all Directors need to be Owners or Members.

(b) Terms. Each Board Member will serve a two year term, which will be staggered so that approximately half of the Board will stand for election each year. The terms will be extended until successors have been elected and assumed office. Resignations or otherwise vacant seats will be filled by appointment by the Board of a replacement member to fill the unexpired term.

(c) Board Actions. The Board will keep written records of its meetings, and give notice of meetings to all Board Members at least 5 days in advance of the meeting. Matters before the Board will be decided by a majority vote of the Board Members present at a duly noticed meeting.

(d) Committees. The Board may, from time to time, establish committees to deal with particular issues or matters. The Board will be represented on each committee, but membership on committees may include any Owner, or, when special knowledge or expertise is useful or required, may include persons who are not Owners. The Committees will make recommendations to the Board as a whole, which must be acted upon by the Board to be effective.

Article 4

Property Rights in Common Areas

4.1 Easement of Enjoyment. Each Member shall have a right and easement of use and enjoyment in and to the Common Areas. Such right and easement shall be appurtenant to and shall pass with title to each Lot, and in no event shall be separated therefrom. Any Member may delegate the right and easement of use and enjoyment described herein to any tenant, lessee, or contract purchaser who resides on or is in lawful possession of such Member's Lot.

4.2 Title to Common Areas. Title to the Common Areas is vested in the Association by deed from the original developer of the subdivision, which is recorded on September 6, 1984 in the office of the Summit County Recorder as Entry No. 224751,

in Book 313 at Page 303. The title is expressly made subject to this Declaration, and the easement rights of the Members of the Association.

4.3 Limitation on Easement. A Member's right and easement of use and enjoyment concerning the Common Areas is by the provisions below entitled "Use Restrictions," and in addition, shall be subject to the following:

(a) Non-Payment of Assessments. The right of the Association to suspend a Member's right to the use of any walking mall area or parking facilities included in the Common Areas for any period during which an Assessment on such Member's Lot remains unpaid;

(b) Infractions. The right of the Association to suspend a Member's right to use any of the walking mall areas or parking facilities included in the Common Areas in the case of an infraction or violation of this Declaration or any rule or regulation promulgated by the Association under this Declaration, by such Member for a period not exceeding 90 days;

(c) Public Dedication. The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association. Any such dedication or transfer must, however, be assented to by two-thirds (2/3) of the vote of the Membership in a meeting duly called for that purpose. Written or printed notice setting forth the purpose of the meeting and the action proposed shall be sent to all Members at least ten (10) days but not more than thirty (30) days prior to the meeting;

(d) Utility Easements. The Association may, without a vote of the Membership, grant utility easements within the Common Areas as necessary to extend utility services to Lots.

Article 5

Assessments

5.1 Personal Obligation and Lien. Each Owner shall, by acquiring or in any way becoming vested with his interest in an Lot, be deemed to covenant and agree to pay to the Association the monthly and the special assessments described in this Declaration, together with interest and costs of collection as provided below. All such amounts shall be, constitute and remain (i) a charge and continuing lien on the Lot with respect to which the assessment is made; and (ii) the personal obligation of the Owner of such Lot at the time the assessment falls due. No Owner may exempt himself or his Lot from liability for payment of Assessments by waiver of his rights concerning the Common Areas, or by abandonment of his Lot.

5.2 Annual Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the commercial development of the Property. The use made by the Association of funds obtained from Assessments may include payment of the cost of: advertising for the common benefit of the Owners; taxes and insurance on the Common Areas; maintenance, repair, and improvements of the Common Areas; management and supervision of the Common Areas; establishing and funding a reserve to cover the major repair or replacement of improvements within the Common Areas, and any expense necessary or desirable to enable the Association to perform or

fulfill its obligations, functions, or purposes under this Declaration or its Articles of Incorporation.

5.3 Levy of Routine Assessments. Regular Assessments for the routine expenses of operating and maintaining the Common Areas will be levied by the Board on an annual basis. The Board will prepare an annual budget and submit it to the Members prior to the annual meeting of the Association. At the annual meeting, the Members may increase, decrease, or re-allocate the budget as they see fit. If the annual meeting fails to take action on the budget, or fails for lack of a quorum, the budget as proposed by the Board is deemed to have been approved, and the Board will levy the Assessment in accordance with the budget. Annual Assessments may be payable in installments on such basis as the Board determines to be reasonable. Routine Assessments will be used for the regular and on-going operation and maintenance expenses, including, without limitation, snow removal, landscape maintenance, insurance, taxes, administration, creation of a reserve as the Board determines appropriate, and similar expenses to maintain the Common Areas in a safe and attractive condition for their intended uses.

5.4 Special Assessments. The Association may levy special assessments for the purpose of defraying, in whole or in part: (i) any expense or expenses not reasonably capable of being paid with funds generated by monthly assessments; or (ii) the cost of any construction, reconstruction, or unexpectedly required repair or replacement of an improvement or of personal property upon the Common Areas. Any such special assessment must be assented to by sixty percent (60%) of the votes present in person or by proxy at a meeting duly called for that purpose. Written notice setting forth the purpose of the meeting shall be sent to all Members at least ten (10) but not more than thirty (30) days prior to the meeting date.

5.5 Rate of Assessment. Assessments for Common Area operations and maintenance will be based on Assessment Points allocated to each Lot. Vacant Lots will be assessed on the basis of 1 assessment point for each square foot of Lot area, rounded down to the nearest square feet. Improved Lots will be assessed on the basis of their lot area, plus 1 assessment point for each square feet of gross building floor area, rounded down to the nearest 10 square feet. In determining the assessment due on each Lot, the Association will take its total budget for the fiscal year, and divide it by the total number of Assessment Points in the Subdivision (both lot area and building area) at the beginning of the year. Each Lot will be subject to its proportionate share of the total budget based on the Assessment Points allocated to that Lot:

Total Budget

Total Assessment Points = Amount Due per Point

To determine the Assessment due on a particular Lot, the Amount Due per Point is multiplied by the number of Assessment Points applicable to that Lot:

Amount Due per Point x Points on Lot = Assessment Due

At the beginning of each calendar quarter, the Association will review any new construction starts, or building remodeling or additions, and add the new construction to the total number of Assessment Points within the Property. New construction will become liable for increased Assessment as of the first day of the quarter following the commencement of construction, and will, for Assessment purposes, be treated as

completed buildings, subject to full Assessment on the basis of the total square footage of the building as shown on the plans as of that date.

In computing gross square footage of buildings, all areas under roof and enclosed by walls on all sides will be counted. Private parking garages, if any, will be excluded.

5.6 Adjustment in Assessments. When levying Special Assessments to pay for Improvements to Common Areas, the Association will initially use the formula for normal operating assessments above, but the Board, with the approval of a majority of the Members present at a meeting to approve the Special Assessment, may allocate the costs of a Special Assessment differently when: (i) the benefits of the Special Assessment are not uniformly spread throughout the project and will logically benefit one area more than another; (ii) when there are unique uses or burdens created by the use or occupancy of one or more Lots, such as uses that generate extraordinary parking demand, which have materially contributed to the need for the improvements to be funded by the Special Assessment, or (iii) a uniform application of the assessment formula is otherwise seen as inequitable under the circumstances.

5.7 Certificate Regarding Payment. Upon the request of any Owner or prospective purchaser or encumbrancer of a Lot the Association shall issue a certificate stating whether or not all assessments respecting such Lot is current and, if not, the amount of the delinquency, including accrued interest. Such certificate shall be conclusive in favor of all persons who in good faith rely thereon.

5.8 Effect of Non-Payment; Remedies. Any assessment not paid when due shall, together with interest and costs of collection, be, constitute, and remain a continuing lien on the Lot. The person who is the Owner of the Lot at the time the assessment falls due shall be and remain personally liable for payment. Such personal liability shall not pass to the Owners successors in title unless expressly assumed by them. If the assessment is not paid within 30 days after the date on which it become delinquent, the amount thereof shall bear interest from the date of delinquency at the rate of 18% per annum (provided that the Board may establish a lower rate of interest if appropriate) and the Association may bring an action either against the Owner who is personally liable or to foreclose the lien against the Lot. Any judgment obtained by the Association shall include reasonable attorneys fees, court costs, and each and every other expense incurred by the Association in enforcing its rights.

Article 6

Operation and Maintenance

6.1 Maintenance of Lots and Private Improvements. Each Owner is solely responsible for the maintenance of his or her Lot and the Improvements constructed on that Lot. The Association shall have no obligations to maintain, operate, insure or otherwise manage the Lots or Improvements on the Lots. In those cases where an Owner elects to build on less than all of the available land area of the Lot, the Owner will be solely responsible for the maintenance of the portion of the Lot outside of the building. These areas shall be landscaped, screened, or otherwise finished as approved by the Architectural Committee.

6.2 Operation and Maintenance of Common Areas. The Association shall provide for such maintenance and operation of the Common Areas as may be necessary or desirable to make them appropriately usable in conjunction with the Lots and to keep them in clean, functional, attractive and generally in good condition and repair.

6.3 Insurance. The Association shall secure and at all times maintain the following insurance:

(a) A policy or policies of fire and casualty insurance, with extended coverage endorsement, for the full insurable replacement cost of the value of all improvements comprising a part of the Common Areas. the name of the insured party under each such policy shall be in form and substance similar to "Prospector Square Property Owners Association, for the use and benefit of the individual Lot Owners and mortgagees as their interest may appear."

(b) A policy or policies insuring the Owners, the Association, and its directors and officers, agents and employees against liability incident to the ownership, use, or operation of the Common Areas which may arise among themselves, to the public and to any invitees or tenants of the Property or of the individual Owners. Limits of liability shall be not less than \$1 million for any one person injured, \$1 million for all persons injured in any one accident or occurrence, and \$500,000 for property damage resulting from any one occurrence. Such policies shall be issued on a comprehensive liability basis and shall provide a cross liability endorsement pursuant to with the rights of the named insureds or Members of the Association as between themselves are not prejudiced.

(c) The following additional provisions shall apply with respect to insurance: (i) in addition to the insurance provided above, the Association shall secure and at all times maintain insurance against such risks as are or hereafter become customarily insured against in connection with developments similar to the Property in construction, nature, and use; (ii) All policies shall be written by a company holding a rating of "AA" or better from Bests' Insurance Reports; (iii) the Association shall have the sole authority to adjust losses on behalf of the Members; (iv) the insurance secured and maintained by the Association shall not be brought into contribution with insurance held by the individual owners or their Mortgagees; and (v) Each policy of insurance obtained by the Association shall, if reasonable possible: provide a waiver of the insurer's subrogation rights with respect to the Association, the Owners and their respective directors, officers, agents, employees, invitees, and tenants; a provision that it cannot be cancelled, suspended, or invalidated due to the conduct of any particular Owner or Owners; that it cannot be cancelled, suspended, or invalidated due to the conduct of the Association or any director, officer, agent, or employee of the Association without a prior written demand that the defect be cured; and that any "no other insurance clause" therein shall not apply with respect to insurance held individually by the Owners.

6.4 Manager. The Association may carry out through a Property Manager any of its functions which are properly the subject of delegation. Any Manager so engaged shall be an independent contractor and not an agent or employee of the Association, shall be responsible for managing the Common Areas for the benefit of the Association and the Owners, and shall, to the extent permitted by law and terms of the agreement

with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Association itself.

Article 7

Use Restrictions

7.1 Use of Common Areas. The rights of the Owners to make use of the Common Areas are not unlimited. In order to provide for the efficient use of the Common Areas, to minimize operating costs, and to provide maximum use and benefit to all of the Owners, the following restrictions apply to the use of all Common Areas within the Property:

(a) **Easement to Encroach.** Each abutting Lot Owner shall have the right to encroach on the walking mall areas or parking lots with footings. Other encroachments, such as awnings or canopies, stairwells, or other architectural elements may encroach, subject to the approval of the Board.

(b) **Utility Connections.** Each Owner shall have an easement to make utility connections through the Common Areas to serve his Lot. The routing of utility connections is subject to review by the Board. The Owner is responsible for all costs of repairing any damage to Common Areas caused by his or her utility connections.

(c) **Special Uses.** The Board may grant any Owner or third party the right to make short term, special uses of one or more walking malls or parking lots as it deems appropriate. This will include outdoor sales, special events using the walking malls for the display of merchandise or vehicles, and construction staging areas. In granting special uses, the Board will attempt to minimize the interference with the reasonable needs of the adjacent Lots, and require insurance, bonds, or other security as appropriate to protect the Association from liability and to protect the Common Areas from physical damage.

(d) **Construction Staging.** The Board may approve the use of Common Areas for temporary construction staging in conjunction with the on-going construction of Improvements to any Lot. Such consent will be subject to such reasonable conditions as necessary to protect the Common Areas from damage, to guarantee repair of any damage, and to minimize disruption to adjoining Lots. Fire access must be maintained to all Lots.

(e) **No Private Use.** Except as expressly authorized by the Board, no Owner may make any use of any Common Area to the exclusion of any other Owner. Loading zones, driveways to private parking on any Lot, or other private uses will only be permitted under written easement agreements between the Association and the Owner making private use of the Common Area.

7.2 Use of Parking Lots. The Prospector Square Subdivision, as approved by Park City, is based on a shared parking concept, in which all of the Lots can be Improved without providing on-site parking. Parking is provided through the Association on those Common Areas that have been designated as Parking Lots. No Owner is guaranteed specific parking spaces, the availability of parking adjacent to his or her Lot, or the right to reserve parking spaces. Each Owner may utilize parking in

any or all of the Parking Lots, in common with all of the other Owners. The use of the Parking Lots is further subject to the following:

(a) Fleet Parking. No Owner may use any Parking Lot for the storage or display of cars, truck, boats or other vehicles or equipment being offered for sale or rent. No Parking Lot may be used for the repair, maintenance, or salvage of any motor vehicle.

(b) Non-Related Vehicles. No Owner will use the Parking Lots for the storage of vehicles not related to the use of that Owner's Improved Lot. Storage of boats or recreational vehicles, storage of construction equipment, or similar uses in the Parking Lots are prohibited. The intended use of the Parking Lots is for the ordinary and customary use of the businesses occupying the Improved Lots, including their employees, customers, guests, and invitees. Owners of Unimproved Lots shall not store any vehicles in the Parking Lots.

(c) Rules and Regulations. The Board may adopt additional rules and regulations concerning the use of the parking lots, including over night parking permits, snow removal regulations, and regulations concerning the use of enclosed parking areas.

7.3 Use of Walking Malls, Landscaped areas. There are other Common Areas that serve as pedestrian walking malls to access Lots. These also serve as fire access routes, and therefore must be maintained in an unobstructed condition. The use of the walking malls is subject to the following:

(a) No Obstructions. No parking is allowed in the pedestrian malls of the Common Areas. No other obstruction is permitted, including storage of inventory. No permanent stairways, planters, retaining walls, or other physical obstructions which might reasonably interfere with the use of the walking malls as fire or emergency vehicle access to any Lot will be permitted.

7.4 Use of Lots. All Lots are intended to be improved with the construction of buildings that house business or residential uses consistent with the General Commercial zone. These uses include office, retail, restaurant, hotel and multi-family residential uses. No Lot will be used for open storage of construction equipment or machinery, or open storage of construction or similar material (except during the actual period of construction of the Improvements). No mining, industrial, or chemical processing uses are permitted. No Lot shall be used, occupied, or altered in violation of law, so as to create a nuisance or interfere with the rights of any Owner, or in a way which would result in an increase in the cost of any insurance covering the Common Areas or adjacent Lots.

7.5 Excavations, Subjacent Support. No construction on any Lot shall be carried out in a manner so as to jeopardize the lateral or subjacent support of any other Lot.

7.6 Quiet Enjoyment. No noxious or offensive trade or activity shall be carried out on any Lot, nor shall anything be done thereon which may be, or may become an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the Owners of his respective Lot or which shall in any way increase the cost of any insurance provided by the Association.

7.7 Temporary Structures and Equipment. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any Lot at any time, except that temporary construction trailers and offices may be approved in writing by the Architectural Control Committee during actual periods of construction.

7.8 Animals. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats and other household pets may be kept on the Lots. Notwithstanding the foregoing, no animals or fowl may be kept on any Lot or Common Area which result in an annoyance or are obnoxious to the occupants of any other Lot.

7.9 Garbage Removal. Trash removal is the responsibility of the Owners. All rubbish, trash, and garbage shall be regularly removed from the Lots, and shall not be allowed to accumulate on the Lots or Common Areas. All refuse containers, woodpiles, storage areas and machinery and equipment shall be prohibited on any Lot unless obscured from view of adjoining Lots and streets by a fence, building or appropriate screen. The Association may designate central trash disposal or dumpster pads within the Common Areas.

7.10 Antennas. No satellite dish, television, radio, or other electronic antenna or device of any type shall be erected, constructed, placed or permitted to remain on any of structures on the Lots, or on the Common Areas unless they have been approved in advance by the Architectural Control Committee of the Association. Installations must comply with applicable City codes and ordinances.

7.11 Slope Erosion. All slopes or terraces on any Lot shall be maintained so as to prevent any erosion thereof upon adjacent streets of adjoining property.

7.12 Fire Sprinklers. All Improvements constructed after the date of this Amended Declaration must be equipped with interior automatic fire sprinklers.

Article 8

Architectural Control

8.1 Architectural Control Committee. The Board of Directors of the Association shall appoint a three member Committee, the function of which shall be to insure that all improvements and landscaping within the Property harmonize with existing surroundings and structures. The Committee need not be comprised of Owners. If no such committee is appointed, the Board of Directors shall perform the duties required of the committee.

8.2 Submission to Committee. No building, accessory use, landscaping or other improvement to any Lot shall be constructed or maintained, and no alteration repainting or refurbishing of the exterior of any building shall be performed unless complete plans and specifications therefor have been first submitted to and approved by the Architectural Control Committee.

8.3 Architectural Standards. In deciding whether to approve or disapprove plans and specifications submitted to it, the Committee shall use its best judgment to insure that all improvements, construction, landscaping and alterations on Lots within the

Property conform to and harmonize with existing surroundings and structures, and shall meet the following criteria:

- (a) The buildings on adjacent Lots must complement each other. Variation in styles, while encouraged, shall only be allowed to the extent that such variation creates a pattern of consistency throughout the Property. The Committee shall be permitted to make recommendations and shall approve or disapprove all designs. The judgment of the Committee shall be final with respect to all matters of design, architecture and style.
- (b) All designs, plans and drawings shall be done by a licensed architect.
- (c) All construction shall conform to all applicable ordinances, rules and codes.
- (d) Sewer drainage and utility lines, conduits or systems shall not be constructed or maintained above ground level.
- (e) The Owner shall have the right and easement to encroach on Common Areas for the placement of footings and utility lines. The Owner may place signs, canopies cornices and other building features attached to a building which project over Lot lines into Common Areas only if they are approved in writing by the Committee.
- (f) No fence or wall shall be erected upon any Lot. Hedges not exceeding 4 feet in height may be grown immediately adjacent to any building. These restrictions may be waived or modified by the Committee when appropriate.

8.4 Signs. The following standards apply to all signs used within the Property:

- (a) All signs must comply with the Park City Sign Code in effect at the time the sign is erected.
- (b) No sign, symbol, advertisement or billboard shall be constructed, used maintained, erected, posted, pasted, displayed, or permitted on or about any portion of a Lot except a sign which identifies the name, business, or symbol of the occupant of the building on the Lot. Signs may not advertise a particular item or merchandise. Signs must be harmonious with the general exterior architectural treatment of the Building and which is of a type, size, and design which complies with the criteria set forth in these covenants.
- (c) All signs shall be integrated with the architecture and materials used in the construction of the building to which the sign is attached or appurtenant. All signs must be submitted for approval by the Architectural Control Committee.
- (d) No sign shall be erected in or on the Common Areas by an individual Owner of for the benefit of a single Lot. Signs and directories which benefit the entire Property may be erected on Common Areas by the Association.
- (e) The Committee must approve all signs and shall have the power to alter, amend or waive any provision contained in this section, provided however that in

no case may the committee waive, alter, or amend the provision prohibiting private signs in the Common Areas.

8.5 Approval Procedure. Any plans and specifications submitted to the Committee shall be approved or disapproved by it in writing within 30 days after the submission. In the event the committee has not taken action within that time, it shall be deemed to have approved the material submitted.

8.6 Construction. Once begun, any improvements, construction, landscaping or alterations approved by the Committee shall be diligently prosecuted to completion, which, barring force majeure, shall be completed within 18 months. If reasonably necessary to enable such improvement, construction, landscaping, or alteration, the Board may grant permission to the Owner to occupy specific Common Areas for construction staging. With the permission of the Owner of an Unimproved Lot, the Owner may use an Unimproved Lot for staging.

8.7 No Liability for Damages. The committee shall not be held liable for damages by reason of any action, inaction, approval or disapproval by it with respect to any request made pursuant to this Article.

Article 9

Miscellaneous

9.1 Notices. Any notice required or permitted to be given to any Owner or Member under the provisions of this Declaration shall be deemed to have been properly furnished if mailed, postage prepaid, to the last known address of the person who appears as a Member or Owner in the records of the Association at the time of the mailing.

9.2 Rules and Regulations. The Association shall have the authority to promulgate and enforce such reasonable rules, regulations and procedures as may be necessary or desirable to aid the Association carrying out any of its functions or to insure that the Property is maintained and used in a manner consistent with the interests of the Owners.

9.3 Amendments. This Declaration may be amended by a vote of 2/3rds of the voting quorum present at a meeting called for that purpose. Amendments will be signed by the president of the Association and recorded in the office of the Summit County Recorder.

9.4 Mortgagee Protection. To facilitate financing for the Units in the Project, the following provisions for the protection of Mortgagees shall apply:

(a) Subordination of Lien. The Association's lien for Common Area Assessments is hereby subordinated to the first lien purchase money Mortgage on each Lot. In the event that a Mortgagee takes title to any Lot through a trustee's sale, foreclosure or a deed in lieu of foreclosure or sale, the Association will waive the right to a lien for accrued but unpaid Assessments. The Mortgagee will take title free of the lien for unpaid Assessments accrued prior to the date of possession. The Mortgagee in possession will, however, be subject to the Assessments accruing from the date it takes possession.

(b) No Release of Prior Owner. The obligation to pay Assessments is personal, and despite subordination or waiver for the benefit of a Mortgagee or new Owner, the Association reserves its rights to proceed against the prior Owner to collect any amounts due.

(c) Mortgage Consent. No amendment which materially changes the nature of ownership of any Lot, changes the nature of the use or occupancy of the Property, eliminates the right to use the Common Areas, or eliminates the provisions of the Mortgagee Protection section of this Declaration will be effective on any Mortgagee unless the Mortgagee has consented to the amendment in writing.

9.5 Interpretation. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so required, the singular shall include the plural, the plural shall include singular, the whole shall include any part thereof, and any gender shall include both other genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof, This Declaration shall be liberally construed to effect all of its purposes.


9.6 Covenants to Run with the Land. 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 inure to the benefit of all parties who hereafter acquire any interest in a Lot or in the Common Areas, and their respective grantees, transferees, heirs, devisees, personal representatives, successors and assigns. Each Owner or occupant of a Lot shall comply with, and all interests in all Lots or in the Common Areas shall be subject to the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments and determinations contemplated by this Declaration. By acquiring any interest in a Lot or in the Common Areas, the party acquiring such interest consents to, and agrees to be bound by each and every provision of this Declaration.

9.7 Certification. The persons signing this instrument represent that the Amended and Restated Declaration was duly adopted by the Members of the Association at a meeting called for that purpose, at which a quorum was present, and the requisite number of votes were cast in favor of the adoption of this Amended and Restated Declaration.

9.8 Effective Date. This Amended and Restated Declaration of Covenants, Conditions and Restrictions shall take effect upon its recordation in the office of the Summit County Recorder.

Prospector Square Property
Owners Association,

By: 
Byron Phillips, President

Attest: 
Marlene, Ligare Secretary

STATE OF UTAH)
 :SS
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this 15th day of July, 1996 by Byron Phillips and Marlene Ligare, who stated that they are the President and Secretary of Prospector Square Property Owners Association, a Utah corporation, who executed the foregoing on behalf of that corporation with proper authority.



Dean S. Berrett

Notary Public

Residing at:

Park City, UT

Commission Expires:

11-11-98

00458513 8K00979 P600330

EXHIBIT B
PROSPECTOR SQUARE SUBDIVISION
VOTE ALLOCATION

Lot Number	Lot Area/ Votes per Lot
1	There is No Lot #1
2-A	6,375
2-B	6,375
3-A	3,150
3-B	3,600
4-A	3,250
4-B	4,500
5-A,B	7,200
5-C	3,400
6	4,550
7-A-1	3,000
7-A-2	4,200
7-B-1	3,922
7-B-2	2,508
8-1	2,977
8-2,9A-2	4,695
9-A-1	2,577
9-B	5,182
9-C	4,405
10-A-B-C-D 11, 12-A-B- C-D (Olympia Park Hotel)	45,195

00458513 Bk00979 Pg00332

13-A, B	11,352
14-A	3,000
14-B	3,200
14-C	2,800
15-A	2,400
15-B	3,000
15-C	2,600
16-A	6,075
16-B	8,084
17-A	4,578
17-B	3,713
17-C	4,347
18-A	6,062
18-B	3,000
19-A	2,200
19-B	2,600
19-C	3,000
20-A-B (New Claim Condo)	17,800
21-A-B, 48 22-A (Carriage House Condo)	20,964
22-A	4,000
22-B	3,600
22-C	3,200
23-A	3,360
23-B-C	5,850
24-A	4,950

00458513 Bk00979 Pg00333

24-B	5,760
25-A	4,950
25-B	5,773
26-A-B, 27-A (Suncreek Condo)	16,480
27-B-1,	2,700
27-B-2	2,250
28-A	3,600
28-B	3,150
29-A	3,840
29-B	3,500
30	4,125
31-A	1,575
31-B	2,000
32-A	2,610
32-B-1	1,800
32-B-2	2,340
33, 34-A-B, 35 (Park Regency Hotel)	39,169
36	6,200
37-A, B	5,925
37-C	3,900
38-A	5,409
38-B	4,883
39-47	NOT INCLUDED
47-A	3,285
47-B	3,285
47-C	3,285

00458513 Bk00979 Pg00334

48	See Carriage House	
48-A		1,913
48-B		1,913
48-C		5,113
48-D		2,700
48-E		2,700
49-A-B-		
C-D (Belmarc Plaza)		12,562
Totals		425,491.00

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION**

for

PROSPECTOR SQUARE SUBDIVISION OWNERS ASSOCIATION, INC.

A Utah Non-Profit Corporation

The undersigned, being duly elected officers of Prospector Square Subdivision Owners Association, Inc., hereby execute these Amended and Restated Articles of Incorporation which were adopted on March 23, 1996 in a meeting duly called for the purpose of making these amendments. A quorum was present, and the Amendments were adopted by a vote of 3611 for and 0 against, with 447 votes absent or abstaining. The number of affirmative votes was sufficient to adopt these amendments. The following constitutes a complete amendment and restatement of the Articles of Incorporation, and supersedes all prior articles on file:

I. Name. The name of the corporation is PROSPECTOR SQUARE SUBDIVISION OWNERS ASSOCIATION, INC.

II. Duration. The duration of the corporation shall be perpetual, unless dissolved by the action of the Corporation or by operation of law.

III. Purposes. The purposes of the corporation are to function as the owners association for the Prospector Square Subdivision located in Park City, Summit County, Utah; to enforce the covenants, conditions, and restrictions on the lots within that subdivision as set forth in the Declaration of Covenants; to hold title to and manage parking lots and other common elements of the subdivision for the benefit of the owners/members; and to provide the other services, and perform all of the other functions set forth in the Declaration and as may become desirable or necessary for the benefit of the members. The corporation shall have all powers, rights, and privileges available to non-profit corporations under the laws of the State of Utah.

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IV. Membership. The members of the corporation shall be the owners of the Lots in Prospector Square Subdivision in Park City, Summit County, Utah as described in the declaration. The lots entitled to Membership are Lots 2-A through 49-D, inclusive, with the exception of Lots 39-47,

inclusive, as depicted on the attached plat. Membership is deemed an appurtenance to the Lot, and shall pass automatically to the owner of that lot upon conveyance of title. The corporation shall not have stock or issue shares or certificates of membership. Membership shall not be severed from the title to the Lot.

V. Voting Rights. All memberships shall be of a single class. Each Member is entitled to cast votes on the basis of the land area of his or her Lot. The votes allocated each Lot are shown on Exhibit A. In the election of Directors, or other matters, there is no cumulative voting.

VI. Bylaws. The Board of Directors will adopt bylaws consistent with these articles at its first meeting. Thereafter, bylaws may be adopted, amended, or repealed by the vote of the Members.

VII. Principal Place of Business. The principal place of business of the corporation, and its initial offices are located at the address stated in the annual report now on file with the Utah Department of Commerce. The mailing address of the corporation is P.O. Box 3273, Park City, Utah 84060. The corporation may establish such other offices and locations as it deems appropriate for the operation of its business.

VIII. Board of Directors. There will be at least 5, but no more than 15 Directors of the corporation, with the number determined from time to time by the Members. The Members may increase or decrease the size of the Board from time to time, provided that no Director's term will be terminated prior to its expiration by a contraction of the Board. The present trustees are named in the Annual Report on file.

IX. Officers. The required officers of the corporation are the President, Vice President, Secretary/Treasurer. The Board may establish such other officers as it determines necessary for the purposes of the corporation. Officers serve at the pleasure of the Board of Directors. The present officers are named in the Annual Report on file.

X. Annual Meeting. The annual meeting of Members will be held on the second Saturday of July at the offices of the corporation at the hour of 9:00 a.m., or at such other time or place as may be stated in the notice of annual meeting.

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XI. Limitations on Liability. The Officers, Directors, and Members of the corporation shall not be held personally liable for the debts and obligations of the corporation.

XII. Indemnification. To the extent permitted by law, the Association will indemnify the officers and directors against all claims arising from the proper exercise of their authority on behalf of the association, excluding claims

EXHIBIT A
PROSPECTOR SQUARE SUBDIVISION
VOTE ALLOCATION

Lot Number	Lot Area/ Votes per Lot
1	There is No Lot #1
2-A	6,375
2-B	6,375
3-A	3,150
3-B	3,600
4-A	3,250
4-B	4,500
5-A,B	7,200
5-C	3,400
6	4,550
7-A-1	3,000
7-A-2	4,200
7-B-1	3,922
7-B-2	2,508
8-1	2,977
8-2,9A-2	4,695
9-A-1	2,577
9-B	5,182
9-C	4,405
10-A-B-C-D	
11, 12-A-B-	
C-D (Olympia	

00458513 Ek00979 Pg00340

Park Hotel)	45,195
13-A, B	11,352
14-A	3,000
14-B	3,200
14-C	2,800
15-A	2,400
15-B	3,000
15-C	2,600
16-A	6,075
16-B	8,084
17-A	4,578
17-B	3,713
17-C	4,347
18-A	6,062
18-B	3,000
19-A	2,200
19-B	2,600
19-C	3,000
20-A-B (New Claim Condo)	17,800
21-A-B, 48 22-A (Carriage House Condo)	20,964
22-A	4,000
22-B	3,600
22-C	3,200
23-A	3,360
23-B-C	5,850
24-A	4,950

00458513 Bk00979 Pg00341

24-B	5,760
25-A	4,950
25-B	5,773
26-A-B, 27-A (Suncreek Condo)	16,480
27-B-1,	2,700
27-B-2	2,250
28-A	3,600
28-B	3,150
29-A	3,840
29-B	3,500
30	4,125
31-A	1,575
31-B	2,000
32-A	2,610
32-B-1	1,800
32-B-2	2,340
33, 34-A-B, 35 (Park Regency Hotel)	39,169
36	6,200
37-A, B	5,925
37-C	3,900
38-A	5,409
38-B	4,883
39-47	NOT INCLUDED
47-A	3,285
47-B	3,285
47-C	3,285

00458513 Bk00979 Pg00342

48	See Carriage House	
48-A		1,913
48-B		1,913
48-C		5,113
48-D		2,700
48-E		2,700
49-A-B-		
C-D (Belmarc Plaza)		12,562
Totals		425,491.00

BY-LAWS

OF

PROSPECTOR SQUARE SUBDIVISION OWNERS ASSOCIATION

A Utah Non-Profit Corporation

The Board of Directors of Prospector Square Subdivision Owners Association hereby adopts the following By-Laws for the governance of the affairs of the corporation:

Article 1

Name and Principal Office

1.1 Name. The name of the corporation is "Prospector Square Subdivision Owners Association," and it is referred to below as the "Association."

1.2 Offices. The office of the Association will be in Park City, Summit County, Utah.

Article 2

Members and Meetings

2.1 Membership. Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to the Lot in which the Owner has the necessary interest, and shall not be separated from the Lot to which it appertains.

2.2 Annual Meetings. The annual meeting of the members of the Association shall be held on the second Saturday in July at 9:00 a.m. at the offices of the Association, or such other location as designated in the Notice. The Board of Directors may designate some other time, date and place for the annual meeting by giving proper notice of the change in advance of the meeting. The purpose of the annual meeting is the election of Directors, and to consider such other business that comes before the meeting, including the annual budget and any improvements to Association property. If the Directors are not elected at the annual meeting, the existing Directors shall continue to serve until their successors are named in a special meeting called for that purpose, or until the next annual meeting. The Directors may change the date, time and place of the annual meeting as they see fit by formal resolution.

2.3 Special Meetings. Special Meetings of the Members may be called by the Board of Directors or by the President as they see fit, or by the Members of the Association representing not less than 25% of the total votes of the Association. Any notice of special meeting shall state the time, place, and date of the meeting, and the matters to be considered at that meeting. When a special meeting is called by the Members of the Association, the notice shall be in writing, and delivered to the President or the Chairman of the Board, who shall then cause notice to be sent to all of the Members.

2.4 Place of Meetings. All meetings will be held in Park City, Summit County, Utah, unless the Members have authorized a meeting to be held elsewhere by written waiver.

2.5 Notice. Notice of meetings of the Association will be sent to Members by mail at least 15 days, but no more than 45 days from the date of the meeting. Notice will include the time, place, and date of the meeting, and a general agenda of matters to be discussed. Notice will be mailed to the Owner of the Lot at the last known address, or the address shown on the Summit County Tax Assessment Rolls if no other address is available. On Lots with multiple Owners, only one notice will be mailed. In the case of Lots under condominium ownership, the Notice will be sent to the condominium association for that Lot.

2.6 Voting Rights.

(a) Number of Votes. Members shall be entitled to one vote for each square foot of area in their Lot or Lots, rounded down to the nearest whole square foot. Votes are based on the area of the Lot, without including the area of Improvements to the Lot. The votes allocated to each Lot are shown on the attached Exhibit A.

(b) Eligibility to Vote. Members entitled to vote shall be Members in good standing. Members in good standing shall be defined as those Owners who are current in the payment of their Assessments and any Special Assessments as set forth in this Declaration. Members who have forfeited their voting rights by failing to pay Assessments may reinstate their right to vote by paying to the Association all current Assessments and all prior Assessments which are delinquent, together with interest as set forth below.

(c) Multiple Ownership Interests. In the event there is more than one Owner of a particular Lot, the vote relating to such Lot shall be exercised by such Owners as they may determine among themselves, provided

that the votes appurtenant to each Lot must be cast the same way. A vote cast at any Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the Lot concerned unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

(d) Voting from Condominiums. In the case of Lots which have been Improved by the construction of buildings held in condominium ownership, the owners of individual condominium units within that Lot shall not be entitled to vote, and are not Members of the Association. The votes appurtenant to such Lots will be cast by the condominium association or entity having jurisdiction over the common elements of that condominium. The Association may accept the vote from any officer or director of the condominium association, and may rely on representations of authority made by the person casting the votes of the condominium without independently verifying that person's authority or the regularity of that person's action on behalf of the condominium.

(e) Leasehold Interests. The Membership is appurtenant to the ownership of the Lot. Persons holding leasehold interests are not presumed to be able to vote the interest of their landlords unless they hold a written proxy from the landlord.

2.7 Quorum Requirements. In all actions submitted to the Membership, a quorum shall consist of 60% of the total votes in the Association, whether in person or represented by proxy. If a quorum is not present, those Members present may vote to continue the meeting. Notice will be given for the continued meeting as provided above. At the continued meeting, a quorum will be deemed to exist among the Membership present in person or by proxy. No such continued meeting shall be held more than 45 days following the first meeting. When voting at any regular or continued meeting, items presented to the Membership will be approved by a simple majority of those present, unless a greater majority is specifically required by this Declaration.

2.8 Proxies. At each meeting of the Members, each Member entitled to cast a vote shall be entitled to vote in person or by written proxy. All proxies must be in writing, signed by the Member as shown on the records of the corporation. When a Membership is jointly held, the proxy must be signed by all of the joint owners of the Membership. Proxies must be presented

to the Secretary of the Meeting at the beginning of the meeting for purposes of determining a quorum. The secretary will make an entry of proxies in the minutes of the meeting.

2.9 Simple Majority. Any matter placed before the Members for a vote shall pass if there is an affirmative vote of the majority of the Members present at the meeting (provided a quorum is present). Election of Directors will be by secret ballot. Other matters may be voted by secret ballot or by show of hands or such other means as the Officer conducting the meeting shall determine. Amendments of the Declaration will require the affirmative vote of 2/3rd of the quorum present at the meeting in person or by proxy.

2.10 Waiver of Irregularities. Any inaccuracies, irregularities, or errors in any call for a meeting or notice of meeting, inaccuracies or irregularities in the determination of a quorum or acceptance of proxies are deemed waived unless there is a objection stated at the meeting prior to the vote being taken.

2.11 Informal Action. Any act which is required to be taken or approved at a meeting may be taken or approved without a formal meeting if a majority of the Members consent to the action in writing prior to the action being taken. The Members may hold meetings for which formal notice was not given if the Members waive notice prior to the meeting.

Article 3

Board of Directors

3.1 General Powers. The Board of Directors shall have authority to manage and control the property and affairs of the Association. The Board of Directors may exercise all powers conferred upon them by law, by the Articles of Incorporation, by these By-Laws, or the Declaration of Condominium, provided however that those powers which are specifically reserved to the Members by law shall be exercised only by the Members. The Board may delegate to Officers, managers, special committees, or others, such of its powers as are appropriately delegated.

3.2 Number and Tenure. There shall be at least 5, but nor more than 15 Directors. The number of Directors may be changed from time to time by a simple majority vote of the Members, but such a change will not have the effect of terminating a term of any Director before it expires. A majority of Board Members must be Owners of Lots, or, in the case of Lots owned by corporations or other business entities, the Board Member may be an officer, director or employee of

that entity, including condominium management, but all Board Members need not be Owners or Members of the Association.

3.3 Terms. Each Board Member will serve a two year term, which will be staggered so that approximately half of the Board will stand for election each year. The terms will be extended until successors have been elected and assumed office. Resignations or otherwise vacant seats will be filled by appointment by the Board of a replacement member to fill the unexpired term.

3.4 Quorum. A quorum at a Board meeting will consist of a simple majority of the Board. Board members may be counted as present if they are participating in the meeting by telephone conference call. No proxies will be given among Board members. Actions of the Board may only be taken by formal action of the Board, and no individual Director shall have the authority to act on behalf of the Association. Items before the Board will be approved by a simple majority of the quorum present.

3.5 Deadlock. In the event of a deadlock on the Board, the Board shall immediately call for a special meeting of the Members and, at the direction of the Chairman of the Board, either call for the election of a new Board, or submit the matter to the Members for determination.

3.6 Compensation. The Board of Directors shall serve without compensation, provided that their reasonable out of pocket expenses for Association business may be reimbursed by the Association. These expenses are limited to those items such as postage, copying, overnight courier services, long distance phone charges, and similar items, but do not include travel to and from meetings, meals, entertainment, or similar charges.

3.7 Resignation or Removal. Any Director may resign at any time by giving written notice to the remaining Directors. A Director is deemed to have resigned when he or she sells (or otherwise is divested of) his or her Lot (or in the case of persons entitled to serve by virtue of employment by the Owner of a Lot or Condominium, upon the termination of that relationship) and therefore ceases to be a Member of the Association. Any Director may be removed prior to the end of his or her term of office by an affirmative vote of 2/3rd vote of the quorum at a regular or special meeting called for that purpose. Any Director who misses two consecutive meetings of the Board, or who fails to maintain more than a 50% attendance at Board Meetings is deemed to have resigned, unless the absences are excused by the remainder of the Board.

3.8 Vacancies. Vacancies on the Board of Directors will be filled by appointment of a successor by the remainder of the Board, provided that any such appointee will be confirmed or rejected at the next regular meeting of the Members. Any such Director is to fill the balance of the vacant term which he or she has filled, and will stand for election at the expiration of that term.

3.9 Informal Action by Directors. The Directors may take any action they could take in a formal meeting without a formal meeting, provided that the action is authorized in advance in writing signed by a majority of the Board, and further provided that all of the Directors must have been given an opportunity to approve or reject the action. The Directors may waive notice of meetings by signing written waivers at the time of the meeting. Minutes of all Board meetings will be kept, and when a meeting is held without prior notice, the minutes will reflect the written waiver of notice.

Article 4

Officers

4.1 Number. The Officers of the Association shall consist of at least a President, Vice President, and a Secretary/Treasurer. The Board may establish such other Officers as it deems appropriate. Officers may also serve as Directors.

4.2 Appointment, Tenure. The Officers will be appointed by the Board of Directors at their annual meeting, and all Officers serve at the pleasure of the Board and may be removed by a majority vote of the Board in a meeting called for that purpose. Officers need not be Owners of Lots within the subdivision, or affiliated with owners.

4.3 Duties of the President. The President shall preside at meetings of the Board of Directors and at meetings of Members. He or she shall sign, on behalf of the Association, all legal documents approved by the Board. The President shall supervise and be primarily responsible for the day to day operation of the Association's affairs, including the firing and termination of employees and subordinates. The President shall perform such other duties as assigned by the Board.

4.4 Duties of the Vice President. The Vice President will perform the duties of the President if he or she is not available, and shall perform such other duties as designated by the Board.

4.5 Duties of the Secretary/Treasurer. The Secretary/Treasurer is responsible to keep accurate records of the Members of the Association and the transfer of their interests to others, to keep minutes at the meetings of the Association Members and the Directors, and cause notice of any meetings to be issued as called for in these By-Laws, to file annual reports, and to perform all other assignments of the Board.

4.6 Compensation. The Directors may elect to compensate some or all of the Officers as appropriate for the work performed by the Officers.

Article 5

Indemnification

5.1 Indemnification Against Third Party Actions. The Association will defend and indemnify the Officers and Directors against all actions, claims, and suits brought by third parties or by Members against them individually which arise from the good faith exercise of their obligations and duties as Officers and Directors. This shall include all civil, administrative, criminal, or investigative actions whether brought by an individual or a governmental agency. The indemnification shall extend to the payment of reasonable attorneys fees incurred in the defense of such action, including fees for independent counsel, the costs of defense including depositions, expert witness fees, transportation, and similar costs, and the payment of any fine, settlement, or judgment. This indemnity is limited in scope to those acts or omissions arising from the good faith exercise of the authority of the office held, or the discharge of the duties as an Officer or Director on behalf of the Association. When any Officer, Director or employee of the Association receives notice of any action referred to above, he or she must give notice to the President and to the Board of Directors, stating the nature of the claim, the claimant, and providing all pertinent information about the claim.

Article 6

Miscellaneous

6.1 Amendment. These By-Laws may be amended by the Members of the Association from time to time as the Members see fit by a simple majority vote at a meeting called for that purpose.

6.2 Relation to Declaration. Terms used in these By-Laws shall have the same meaning as the defined terms in the Declaration. In the event of any inconsistency, the

Declaration shall be controlling, and no amendment of these by-laws shall have the effect of amending the declaration.

Adopted this 15th day of July, 1996.

Byron Phillips
Byron Phillips, President

Attest:

Marlene Ligare
Marlene Ligare, Secretary

STATE OF UTAH)
 ss:
County of Summit)

The foregoing instrument was acknowledged before me this 15th day of JULY, 1996, by BYRON PHILLIPS and MARLENE LIGARE, who stated that they are the President and Secretary of Prospector Square Property Owners Association, a Utah corporation, who executed the foregoing on behalf of that corporation with proper authority.

Commission expires: 11-11-98
Residing at: Park City, UT

Dean S. Berrett
NOTARY PUBLIC



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