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Bradley R. Helsten, Esq.
NELSON RASMUSSEN
& CHRISTENSEN, P.C.
576 E. South Temple
Salt Lake City, Utah 84102

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GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
GARY MANGUM
2804 E PALMA WY
SLC UT 84121
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**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF
THE HIGHLAND CENTER OFFICE CONDOMINIUMS**

**THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
THE HIGHLAND CENTER OFFICE CONDOMINIUMS ("Declaration")** is executed this
30th day of OCTOBER, 2001, by **THE HIGHLAND CENTER, L.C.**, a Utah limited
liability company (the "**Declarant**").

RECITALS:

- A. Capitalized terms in this Declaration are defined in Article I.
- B. The Declarant holds legal title to a certain tract of real property and improvements located in Salt Lake County, Utah, more particularly described in Article II of this Declaration. It is intended that the various Units described in this Declaration will be conveyed to the Owners in fee simple.
- C. By this Declaration, Declarant intends to establish a common scheme and plan for the possession, use, enjoyment, repair, maintenance, restoration and improvement of the Property and the interests therein conveyed and to establish thereon a planned unit development consisting of commercial condominiums in accordance with the terms hereof, all in accordance with the provisions of the Utah Condominium Ownership Act (UCA 57-8-1 et. seq. 1963 as amended).

NOW, THEREFORE, it is hereby declared that the Property shall be held, sold, conveyed, leased, rented, encumbered and used, subject to the following Declaration and its covenants, restrictions, limitations, and conditions, all of which shall constitute covenants which run with the land and shall be binding on and be for the benefit of the Declarant, its successors and assigns and all owners of all or any part of the Property, together with their grantees, successors, heirs, executors, administrators, devisees and assigns, all as set forth herein.

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ARTICLE I. DEFINITIONS

When used in this Declaration (including in that portion hereof headed "Recitals") the following terms shall have the meaning indicated.

1. "**Articles**" or "**Articles of Incorporation**" shall mean and refer to the Articles of Incorporation of the Association which shall be filed with the Utah State Department of Commerce, and Commercial Code at or about the time this Declaration is filed for record.
2. "**Association**" shall mean and refer to Highland Center Owners Association, Inc., a Utah nonprofit corporation.
3. "**Board of Trustees**", "**Board of Directors**" or "**Board**" shall mean and refer to the governing board of the Association which shall be appointed or elected in accordance with the Declaration, the Articles of Incorporation and Bylaws of the Association.
4. "**Bylaws**" shall mean and refer to the Bylaws of the Association attached hereto as **Exhibit "B"** as amended from time to time.
5. "**Common Areas**" shall mean and refer to that part of the Property which is not included within the Units, including hallways, walkways, stairwells, foyers and technical areas within the Project and all improvements, parking lots, garages and storage areas other than utility lines now or hereafter constructed or located thereon and subject to the easements herein described.
6. "**Common Expense Fund**" shall mean and refer to the fund created or to be created pursuant to the provisions of Article V of this Declaration and into which all monies of the Association shall be deposited. Two separate and distinct funds shall be created and maintained hereunder, one for operating expenses and one for capital expenses which together shall constitute the Common Expense Fund.
7. "**Common Expenses**" shall mean and refer to those costs and expenses arising out of or connected with the maintenance and operation of the Project and Association as described in Article V hereof and which determine the assessments made to Owners.
8. "**Condominium Buildings**" shall mean and refer to the Highland Center Office Building containing four (4) Units, each constituting a portion of the Project.
9. "**Condominium Building Exteriors**" shall mean and refer to those portions of the Condominium Buildings which are open to the elements such as roofs, soffit, facie, exterior walls, exterior doors, footings and foundations.
10. "**Declaration**" shall mean and refer to this *Declaration of Covenants, Conditions and Restrictions of The Highland Center Office Condominiums*, as the same may hereafter be modified, amended and supplemented.

11. "**Declarant**" shall mean and refer to, THE HIGHLAND CENTER, L.C., a Utah limited liability company and/or any successors thereof which, either by operation of law or through a voluntary conveyance, transfer, or assignment, comes to stand in the same relation to the Property (or a portion thereof) as did its predecessor.

12. "**Eligible Mortgagee**" shall mean and refer to a First Mortgagee which has requested notice of certain matters from the Association in accordance with Section 1 of Article XII of this Declaration.

13. "**First Mortgage**" shall mean any Mortgage which is not subject to any lien or encumbrance except liens for taxes or other liens which are given priority by statute.

14. "**First Mortgagee**" means any person named as a Mortgagee under a First Mortgage, or any successor to the interest of any such person under a First Mortgage, which First Mortgage is not subject to any lien or encumbrance except liens for taxes or other liens which are given priority by statute.

15. "**Limited Common Areas**" shall mean any Common Areas designated as reserved for use by the Owner of a certain Unit or Units to the exclusion of the other Owners in the Project. Any areas and facilities that are identified on the Plat as Limited Common Areas or hereafter designated by the Association are permanently assigned to specific Units, as an appurtenance to such Units, for the exclusive use of such Units. The Plat permanently designates the Unit or Units to which each of the Limited Common Areas is reserved and appurtenant.

17. "**Manager**" shall mean and refer to the person, firm or company, if any, designated from time to time by the Association to manage, in whole or in part, the affairs of the Association and Project.

18. "**Member**" shall mean and refer to every person who holds membership in the Association.

19. "**Mortgage**" shall mean any mortgage, deed of trust, or other document pledging any portion of a Unit or interest therein as security for the payment of a debt or obligation.

20. "**Mortgagee**" shall mean a beneficiary of a Mortgage as well as named Mortgagee.

21. "**Owner**" shall mean the person or persons, including the Declarant, owning in fee simple a Unit in the Project, as such ownership is shown by the records of the County Recorder of Salt Lake County, State of Utah. The term "Owner" shall not refer to any Mortgagee (unless such Mortgagee has obtained title in fee simple to a Unit pursuant to a judicial or non-judicial action, including, without limitation, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure) or to any person or persons purchasing a Unit under contract (until such contract is fully performed and legal title conveyed of record).

22. "Plat" shall mean and refer to the condominium map for the Highland Center Office Condominiums recorded in the office of the County Recorder of Salt Lake County, Utah, and all amendments thereto.

23. "Project" shall mean and refer to the Property and the plan of development and ownership of the Property created and governed by this Declaration, the Articles and the Bylaws.

24. "Property" shall mean and refer to the entire tract of real property now or hereafter covered by the Plat. A description of the real property covered by the Plat on the effective date of this Declaration is set forth in Article II of this Declaration.

25. "Unit" shall mean and refer to any of the separately numbered and individually described condominium units now or hereafter shown on the Plat.

ARTICLE II. PROPERTY DESCRIPTION

1. The Property initially associated with the Project which is and shall be held, transferred, sold, conveyed, and occupied subject to the provisions easements and restrictions of this Declaration and the plat consists of the following described real property situated in Salt Lake County, State of Utah:

See Exhibit "A"

ARTICLE III. THE ASSOCIATION

1. Membership. Each Owner shall be entitled and required to be a Member of the Association. Membership will begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner. If title to a Unit is held by more than one person, the membership appurtenant to that Unit shall be shared by all such persons in the same proportionate interest and by the same type of tenancy in which title to the Unit is held. An Owner shall be entitled to one membership for each Unit owned by such Owner. Each membership shall be appurtenant to the Unit to which it relates and shall be transferred automatically by conveyance of that Unit. Ownership of a Unit within the Project cannot be separated from membership in the Association appurtenant thereto, and any devise, encumbrance, conveyance or other disposition of such Unit shall automatically constitute a devise, encumbrance, conveyance or other disposition of the Owner's membership in the Association and rights appurtenant thereto. No person or entity other than an Owner may be a Member of the Association and membership in the Association may not be transferred except in connection with the transfer of a Unit. The Association shall make available to the Owners, Mortgagees and the holders, insurers and guarantors of the First Mortgage on any Unit current copies of the Declaration, Articles, Bylaws and other rules governing the Project and other books, records and financial statements of the Association. The term "available" as used in this Section 1 shall mean available for inspection, upon request, during normal business hours or under other reasonable circumstances.

2. Board of Directors. Until such time as the responsibility for electing the Board of Directors of the Association is turned over to the Owners, the Declarant shall have the exclusive right to appoint and remove all such Directors. This exclusive right of the Declarant to appoint the Directors shall terminate after the first to occur of the following:

- A. Five years from the date on which the first Unit in the Project is conveyed;
- or
- B. One Hundred Twenty Days after 75% of the total floor square footage shall have been conveyed by Declarant.

3. Votes. Each Member shall be entitled to the number of votes appurtenant to his or her Unit, as set forth on **Exhibit "B"**, which is attached hereto and incorporated herein by this reference. The number of votes appurtenant to each Unit shall be permanent, and shall not change in the event an Owner modifies a Unit to increase or decrease the size of his Unit relative to other Units. In the event that there is more than one Owner of a particular Unit, the votes relating to such Unit shall be exercised as the Owners may determine among themselves. No Unit shall have more than the number of votes shown on **Exhibit "B"**, regardless of the number of persons having an ownership interest in the Unit. The votes cast at any Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the votes attributable to the Unit concerned unless an objection is immediately made by another Owner of the same Unit. In the event such an objection is made, the votes involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists. The Declarant shall have full voting rights with respect to each Unit which it owns. Notwithstanding any of the foregoing, so long as the Declarant controls appointment of the Board of Trustees as set forth in Article III, Section 2, above, the Declarant shall have 5 votes for each vote set forth on **Exhibit "B"** appurtenant to any Unit owned by Declarant.

4. Maintenance of Condominium Building Exteriors. The Association shall maintain all Condominium Building Exteriors as follows: paint, stain, repair, replacement and care of roofs trusses, roof joists, gutters, downspouts, foundations, fences, exterior building surfaces, exterior doors and other exterior improvements, as well as any landscaping, trees, shrubs, grass, walks and steps located on or around a Unit and all exterior glass, surfaces, carpets, elevators, and improvements located in Common Areas. The Association shall have the right of entry to any Unit to perform emergency repairs or do other work necessary for maintenance of the Condominium Building Exteriors.

In the event that the need for maintenance or repair of the Condominium Building Exteriors is caused through the willful or negligent acts of its Owner(s), or through the willful or negligent acts of the guests, tenants or invitees of the Owner(s) of the Unit needing such maintenance or repair, the cost of such exterior maintenance shall be immediately due and payable from such Owner(s) and added to and become a part of the assessment to which such Unit is subject.

5. Professional Management. The Association may carry out through a Manager those of its functions which are properly the subject of delegation. The Manager (who may be an affiliated entity or a related person to Declarant), so engaged shall be an independent contractor and not an

agent or employee of the Association, shall be responsible for managing the Project for the benefit of the Association and the Owners, and shall, to the extent permitted by law and by the terms of the agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Association itself. Any such management agreement executed on or before the termination of Declarant's control of the appointment of the Board of Directors as described in Section 2 of Article III may be terminated by the Association (pursuant to a vote held according to the Bylaws) without cause at any time after termination of such control. The above term and termination provisions shall not apply to any other types of service contracts.

6. Amplification. The provisions of this Section may be amplified by the Articles and the Bylaws; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth in this Declaration.

ARTICLE IV. PROPERTY RIGHTS IN COMMON AREAS AND UNITS

1. Description of Building and Units. The Building is a two (2) story building, (plus covered parking garage) containing a combined total of 23,520 square feet. The Building is constructed of Steel, concrete, glass, stucco and stone construction, with a single ply membrane and composition roof. The Units are not currently intended to be separately metered for electricity, sewer or water. The Units shall be connected to a public sewage disposal system. A more detailed description of the Units may be found on the Plat. Revised Unit descriptions may be contained in subsequent plats or amendments.

2. Easement of Enjoyment. Each Member shall have an undivided interest, right and easement of use and enjoyment in and to the Common Areas. Each Owner shall have an unrestricted right of ingress or egress to and from its Unit over and across such Common Areas. Each Owner shall also have the exclusive right to use and enjoy any Limited Common Areas that may be designated on the Plat for exclusive use by such Owner or as may be designated by the Association. Such rights and easements shall be appurtenant to and shall pass with title to each Unit and in no event shall be separated therefrom. Any Member may delegate the right and easement of use and enjoyment described herein to any guest, invitee, tenant, lessee, contract purchaser, or other person who occupies or utilizes such Member's Unit.

3. Easements for Encroachments. In the event the construction, reconstruction, repair, shifting, settlement or any other movement of any portion of the improvements causes any part of a Unit built in substantial accord with the boundaries for such Unit as depicted on the Plat to encroach upon the Common Areas, or upon an adjoining Unit, or if any part of the Common Areas encroaches or shall encroach upon a Unit for any such reasons, an easement for such encroachment and for the maintenance of the same shall and does hereby exist. There is also hereby created an easement for any encroachment by any roof overhang or other architectural appurtenances upon an adjoining Unit or any part of the Common Areas.

4. Limitation on Easement. A Member's equal, undivided interest, right and easement of use and enjoyment concerning the Common Areas shall be subject to the following:

A. The right of the Association to suspend a Member's voting right in the Association upon notice and a chance for hearing for any period during which (i) an assessment on such Member's Unit remains unpaid; (ii) for a period not exceeding sixty (60) days for any infraction by such Member of the provisions of this Declaration or of any rule or regulation promulgated by the Association; and (iii) for successive 60-day periods if any such infraction is not corrected during any prior 60-day suspension period;

B. The right of the Association to (i) impose reasonable limitations of the number of guests per Member who at any given time are permitted to use the Common Areas; (ii) allocate and/or assign specific parking spaces to each Owner of such spaces as may be available, if any, based on the assessment percentages set forth in **Exhibit "B"** as may be reasonably necessary; and (iii) to designate portions of the Common Areas as Limited Common Area for the use and benefit of the Owner or Owners of any Unit or Units.

C. The right of Salt Lake County or any other governmental or quasi-governmental body having jurisdiction over the Property to access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Property or to which the Property has rights for purposes of providing police and fire protection and providing other governmental or municipal service;

D. The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association. No such dedication or transfer shall be effective unless an instrument signed by Members holding sixty seven percent (67%) or more of the total votes of the Association agreeing to such dedication or transfer has been recorded, except that the Board shall have authority to transfer to such public agencies, authorities or utilities, permits, licenses, easements and rights-of-way which are intended to benefit and which do not have any substantial adverse effect on the enjoyment of the Common Areas by the Members.

5. Party Walls. Each wall-to-wall or ceiling-to-floor physical boundary which is built as part of the original construction (or reconstruction) of the Units placed on the dividing line (whether horizontal or vertical) between the Units shall constitute a "**Party Wall**" and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to all Party Walls within the Project. The cost of reasonable repair and maintenance of a Party Wall shall be shared equally by the Owners who make use of such Party Wall. If a Party Wall is destroyed or damaged by fire or other casualty, the provisions of Article VII hereof shall apply. Notwithstanding any other provision of this Section, an Owner who by his negligent or willful act causes a Party Wall to be damaged shall bear the entire cost of furnishing repairs to the Party Wall. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title.

6. Form for Conveyancing. Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering title to a Unit may describe the interest or estate involved substantially as follows:

Unit No. _____ of the Highland Center Office Condominiums, a Utah Condominium Project, according to the Record of Survey Map filed for record as Entry No. _____ in Book _____ of Plats at Page _____, together with the appurtenant undivided ownership interest in the "Common Areas", all of which are defined and described in the *Declaration of Covenants, Conditions and Restrictions of The Highland Center Office Condominiums* and the Exhibits attached thereto, filed for record as Entry No. _____ in Book _____ at Pages _____ through _____, of Official Records.

Whether or not the description employed in any such instrument is in the above specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Unit.

7. Transfer of Title. The Declarant agrees to cause the conveyance of the Common Areas to the Members of Association as tenants in common with an equal undivided interest in the Common Areas.

ARTICLE V. ASSESSMENTS

1. Agreement to Pay Assessments. The Declarant for each Unit owned by it within the Project and each Owner of any Unit by the acceptance of instruments of conveyance and transfer therefor, whether or not it be so expressed in said instruments, shall be deemed to covenant and agree with each other and with the Association to pay to the Association all assessments made by the Association for the purposes provided in this Declaration. Such assessments shall be fixed, established and collected from time to time as provided in this Article V. In any event, all Units shall be allocated the then applicable assessments upon conveyance of the first Unit.

2. Assessments. Assessments shall be computed and assessed against all Units in the Project as follows:

A. Common Expense. Assessments shall be based upon advance estimates of the Association's cash requirements to provide for payment of all estimated expenses arising out of or connected with the maintenance and operation of the Common Areas, the Condominium Building Exteriors, obligations under any easement agreements applicable to the Property and furnishing common utility services and other common items to the Units. Such estimated expenses may include, without limitation, the following: expenses of management; real property taxes and special assessments on the Common Areas (and the Units until the Units are separately assessed); premiums for all insurance that the Association is required or permitted to maintain hereunder; repairs, maintenance and cleaning of the Common Areas and Condominium Building Exteriors; landscaping; snow removal, wages of Association employees, fees for a Manager; trash removal; utility charges, including charges for utility services to the Units to the extent not separately metered or billed; legal

and accounting fees; any deficit remaining from a previous period; creation of an adequate contingency reserve, major maintenance reserve and/or sinking fund; creation of an adequate reserve fund for maintenance repairs, and replacement of those Common Areas and Condominium Building Exteriors that must be replaced on a periodic basis; 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. The aggregate of all such items shall constitute the Common Expenses, and all funds received from assessments under this Section 2.A shall be part of the Common Expense Fund. Two separate and distinct funds shall be created and maintained hereunder, one for operating expenses and one for capital expenses which together shall constitute the Common Expense Fund.

B. Apportionment. Common Expenses shall be apportioned among and assessed to all Units and their Owners based on relative Unit approximate square footage, as set forth on **Exhibit "B"**, which is attached hereto and incorporated herein by this reference. The Declarant shall be liable for the amount of any assessments against Units owned by it as provided herein.

C. Annual Budget. Annual assessments shall be determined on the basis of a fiscal year beginning January 1st and ending on December 31st next following, provided the first fiscal year shall begin on the date of the conveyance of the first Unit by Declarant. On or before January 1st of each year thereafter, the Board of Directors shall prepare and furnish to each Owner, or cause to be prepared and furnished to each Owner, an operating budget for the upcoming fiscal year. The budget shall itemize the estimated Common Expenses for such fiscal year, anticipated receipts (if any) and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the annual assessment for the upcoming fiscal year and as the major guideline under which the Project shall be operated during such annual period.

D. Notice and Payment. Except with respect to the first fiscal year, the Board of Directors shall notify each Owner in writing as to the amount of the annual assessment against his or her Unit on or before December 1st each year for the fiscal year beginning on the January 1st following. Except as otherwise provided by the Board, each annual assessment shall be payable in twelve equal monthly installments, one such installment due on the first day of each calendar month during the fiscal year to which the assessment relates; provided, however, the annual assessment for the first fiscal year shall be based upon such portion of the first fiscal year. All unpaid installments of any annual assessment shall bear interest at the rate established by the Board not to exceed eighteen percent (18%) per annum from fifteen (15) days after the date each such installment became due until paid. The Board of Directors shall also have the right to assess a late fee of up to ten percent (10%) of any assessment installment not paid within ten (10) days following the due date thereof. In addition, in the event any installment of the annual assessment is not paid within fifteen (15) days of the date such an installment becomes due, the Association may, at its option, and upon fifteen (15) days prior written notice to the Owner, accelerate the due date for all remaining unpaid installments of the annual assessment for the remainder of the fiscal year and all accrued but unpaid interest thereon. Payment of the annual assessment installments so accelerated shall be due at the expiration of said fifteen (15) day notice period and interest

shall accrue on the entire sum at the rate established by the Board not to exceed eighteen percent (18%) per annum from such date until paid in full. The failure of the Board of Directors to give timely notice of any annual assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of Owner from the obligation to pay such assessment or any other assessment.

E. Inadequate Funds. In the event that the Common Expense Fund proves inadequate at any time for whatever reason, including nonpayment of any Owner's assessment, the Board of Directors may, on behalf of the Association, levy additional assessments in accordance with the procedure set forth in Article V Section 3 below, except that the required vote set forth therein shall be unnecessary.

3. Special Assessments. In addition to the annual assessments authorized by this Article, the Board of Directors may, on behalf of the Association, levy, at any time and from time to time, upon the affirmative vote of at least sixty-seven percent (67%) of the voting power of the Association in person or by proxy at a meeting called for such purpose, special assessments, payable over such periods as the Board of Directors 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 expenses incurred or to be incurred as provided in this Declaration (including, without limitation, Common Expenses). This Section shall not be construed as an independent source of authority for the Association to incur expenses but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections or Articles hereof. Any amounts assessed pursuant hereto shall be assessed to Owners in accordance with the assessment percentages allocated to each Unit as set forth on **Exhibit "B"**. Notice in writing of the amount of each such special assessment and the time for payment thereof shall be given promptly to the Owners; no payment shall be due less than fifteen (15) days after such notice shall have been given. All unpaid portions of any special assessment shall bear interest at the rate established by the Board not to exceed eighteen percent (18%) per annum from the date such portions become due until paid. All funds received from assessments under this Section shall be part of the Common Expense Fund. In connection with any such special assessment, if the Declarant is only obligated to pay twenty-five percent (25%) of the annual assessment attributable to Units it owns pursuant to Section 4 below, it shall only be required to pay twenty-five (25%) of the special assessment otherwise attributable to each such Unit. The provisions of this Section are not intended to preclude the assessment, collection or use of annual assessment for the aforesaid purposes.

4. Uniform Rate of Assessment. The amount of any annual or special assessment against each Unit shall be fixed at a uniform rate based on the number of votes allocated to each Unit, as set forth on **Exhibit "A."** **Notwithstanding the foregoing, until termination of Declarant's control of the appointment of the Board as described in Section 2 of Article III, Declarant shall pay only twenty-five percent (25%) of the annual assessment attributable to each Unit which it owns until the conveyance by Declarant of such Unit to a third-party purchaser.** If the Declarant ceases to qualify for the reduced twenty-five percent (25%) rate during the period to which an annual assessment is attributable, the assessment attributable to the membership shall be prorated between the applicable rates on the basis of the number of days in the period that the Owner qualified for each rate. Annual assessments may be collected on a monthly

basis and special assessments may be collected as specified by the Board unless otherwise determined by the resolution of the Members of the Association approving the special assessment.

5. Notice and Quorum for Any Action Authorized Under Sections 1 and 3. Written notice of any meeting called for the purpose of taking any action authorized under Sections 1 or 3 of this Article shall be sent to all Members no less than ten (10) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes (exclusive of suspended voting rights) of Members shall constitute a quorum. If the required quorum is not present, the meeting may be adjourned and the notice requirement of this section shall not apply. The required quorum at the subsequent meeting shall be sixty percent (60%) of the required quorum at the preceding meeting. No such adjourned meeting shall be held more than sixty (60) days following the preceding meeting.

6. Lien for Assessments. All sums assessed to Owners of any Unit within the Project pursuant to the provisions of this Article VI, together with penalties and interest thereon as provided herein, shall be secured by a lien on such Unit in favor of the Association. To evidence a lien for sums assessed pursuant to this Article V, the Board of Directors 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 notice shall be signed and acknowledged by a duly authorized officer of the Association and may be recorded in the office of the County Recorder of Salt Lake County, State of Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by sale or foreclosure conducted in accordance with the provisions of law applicable to the exercise of powers of sale or judicial foreclosure of deeds of trust or mortgages or in any other manner permitted by law. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees), and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessment against the Unit which shall become due during the period of foreclosure, and all such assessments shall be secured by the lien being foreclosed. The Board of Directors shall have the right and power in behalf of the Association to bid in at any foreclosure sale and to hold, lease, mortgage or convey the subject Unit in the name of the Association.

7. Personal Obligation of Owner. In addition to the lien rights set forth in Section 6 above, the amount of any annual or special assessment against any Unit shall be the personal obligation of the Owner of such Unit to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his Unit or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment of unpaid assessment hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorneys' fees.

8. Personal Liability of Purchaser. The personal obligation of an Owner to pay unpaid assessments levied against his Unit as described in Section 7 of this Article V shall not pass to successors in title but shall remain the personal obligation of the owner, except to the extent that a lien for such obligations shall have been recorded by the Association. A lien to secure unpaid

assessments shall not be affected by the sale or transfer of the Unit except as otherwise provided by law.

9. Reserves. In addition to its day-to-day operating funds, the Association shall establish the following fund:

A. Reserve Fund. The Association may in its sole discretion establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Areas and Condominium Building Exteriors the Association is obligated to maintain, repair or replace. The reserve fund shall be maintained out of regular assessments for Common Expenses.

10. Evidence of Payment of Annual and Special Assessments. Upon receipt of a written request by a Member or any other person, the Association within a reasonable period of time thereafter, shall issue to such Member or other person a written certificate stating (a) that all annual and special assessments (including interest, costs and attorneys' fees, if any, as provided in Section 2 above) have been paid with respect to any specified Unit as of the date of such certificate, or (b) if all annual and special assessments have not been paid, the amount of such annual and special assessments (including interest, costs and attorneys' fees, if any) due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificates, which charges must be paid at the time the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matter therein stated as against any bona fide purchaser of, or Mortgagee on, the Unit in question.

ARTICLE VI. OPERATION AND MAINTENANCE

1. Maintenance of Units. Each Condominium and Unit shall be maintained by the Owner thereof so as not to detract from the appearance of the Property and so as not to affect adversely the value or use of any other Unit. The Association shall have no obligation regarding maintenance or care of Units except as set forth in Section 4 of Article III, Section 2 of this Article VI, or elsewhere in this Declaration.

2. Operation and Maintenance by Association. 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 Units and to keep them clean, functional, attractive and generally in good condition and repair. The Association shall also provide for the maintenance of all Condominium Building Exteriors. The expenses incurred by the Association for such purposes shall be paid for with funds from the Common Expense Fund.

3. Utilities. The Owner shall pay for all utility services furnished to each Unit except utility services which are not separately billed or metered to individual Units by the utility or other party furnishing such service. The Association shall pay such bills which are not separately metered and charge an appropriate share to each Unit and Owner as part of the Common Expenses. In the event any Owner is found to use any service disproportionately, the Association may make alter the share so charged. In the event that submeters are installed or used for common utilities which are

billed collectively, each Owner agrees to pay for the actual utility usage attributable to his or her Unit.

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

A. Hazard Insurance. A "master" or "blanket" type policy of property insurance shall be maintained covering the entire Project, including: Common Areas; all Condominium Buildings including all Units, (other than the interior content thereof); fixtures, building service equipment, personal property and supplies comprising a part of the Common Areas or owned by the Association; but excluding land, foundations, excavations, and other items normally not covered by such policies. References herein to a "master" or "blanket" type policy of property insurance are intended to denote single entity insurance coverage. As a minimum, such "master" or "blanket" policy shall afford protection against loss or damage by fire, by other perils normally covered by the standard extended coverage endorsement, and by all other perils which are customarily covered with respect to projects similar to the Project in construction, location, and use, including (without limitation) all perils normally covered by the standard "all risk" endorsement, where such endorsement is available. Such "master" or "blanket" policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all elements of the Project covered by such policy, exclusive of land, foundations, excavation, and other items normally excluded from coverage. The insurance policy shall include either of the following endorsements to assure full insurable value replacement cost coverage: (1) a Guaranteed Replacement Cost Endorsement (under which the insurer agrees to replace the insurable property regardless of the cost) and, if the policy includes a co-insurance clause, an Agreed Amount Endorsement (which waives the requirement for co-insurance; or (2) a Replacement Cost Endorsement (under which the insurer agrees to pay up to one-hundred percent of the property's insurable replacement cost but no more) and, if the policy includes a co-insurance clause, an Agreed Amount Endorsement (which waives the requirement for co-insurance). The maximum deductible amount for such policy covering the Common Areas shall be the lesser of Ten Thousand Dollars (\$10,000) or one percent (1%) of the policy face amount. However, for losses related to individual Units that are covered by such a policy, the deductible related to each individual Unit shall be One Thousand Dollars (\$1,000.00). Funds to cover these deductible amounts shall be included in the Association's operating reserve account.

B. Flood Insurance. If any part of the Project is or comes to be situated in a Special Flood Hazard Area as designated on a Flood Insurance Rate Map, a "master" or "blanket" policy of flood insurance shall be maintained covering the Condominium Buildings, any machinery and equipment that are not part of a Condominium Building and all Common Areas within the Project (hereinafter "**Insurable Property**") in an amount deemed appropriate, but not less than the lesser of: (1) the maximum limit of coverage available under the National Flood Insurance Administration Program for all Condominium Buildings and Insurable Property within any portion of the Project located within a designated flood hazard area; or (2) one hundred percent (100%) of the insurable value of all such facilities. The maximum deductible amount for any such policy shall be the lesser of Five Thousand Dollars (\$5,000.00) or one percent (1%) of the policy face amount.

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

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

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

(iv) Each policy required to be maintained by the foregoing item A shall also contain or provide the following: (1) "Inflation Guard Endorsement", if available; (2) "building Ordinance or Law Endorsement", if the enforcement of any building, zoning, or land use law will result in loss or damage, increased cost of repairs or reconstruction, or additional demolition and removal costs. (The endorsement must provide for contingent liability from the operation of building laws, demolition costs, and increased costs of reconstruction); and (3) "Steam Boiler and Machinery Coverage Endorsement", if the project has central heating or cooling, which shall provide that the insurer's minimum liability per accident at least equals the lesser of Two Million Dollars (\$2,000,000.00) or the insurable value of the Unit or Condominium Building containing the boiler or machinery. In lieu of obtaining this as an endorsement to the commercial package property, the Association may purchase separate stand-alone boiler and machinery coverage.

C. Fidelity Bonds. The Association shall at all times maintain in force and pay the premiums for "blanket" fidelity bonds for all officers, members, and employees of the Association and for all other persons handling or responsible for funds of or administered by

the Association whether or not that individual receives compensation for services. Furthermore, where the Association has delegated some or all of the responsibility for the handling of funds to a Manager, the Manager shall provide "blanket" fidelity bonds, with coverage identical to such bonds required of the Association, for the Manager's officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. The total amount of fidelity bond coverage required shall be based upon the Association's best business judgment and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association, or the Manager, as the case may be, at any given time during the term of each bond. A lesser amount of fidelity insurance coverage is acceptable for the Project so long as the Association and the Manager adhere to the following financial controls: (1) the Association or the Manager maintains separate bank accounts for the working account and the reserve account, each with appropriate access controls, and the bank in which funds are deposited sends copies of the monthly bank statements directly to the Association; (2) the Manager maintains separate records and bank accounts for each Association that uses its services and the Manager does not have authority to draw checks on or to transfer funds from the Association's reserve account; or (3) two members of the Board must sign any checks written on the reserve account. Nevertheless, in no event may the amount of such bonds be less than the sum equal to three months' aggregate assessments on all Units. The bonds required shall meet the following additional requirements: (1) the fidelity bonds shall name the Association as obligee; (2) the bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions; (3) the premiums on all bonds required herein for the Association (except for premiums on fidelity bonds maintained by the Manager for its officers, employees and agents) shall be paid by the Association as part of the Common Expenses; and (4) the bonds shall provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days' prior written notice to the Association and to any Insurance Trustee. The requirements of this Section C may be satisfied by naming the Association and its officers, members and employees as "also insureds" under the Managers Fidelity Bond and otherwise meeting the foregoing requirements.

D. Liability Insurance. The Association shall maintain in force, and pay the premium for a policy providing comprehensive general liability insurance coverage covering all of the Common Areas, Condominium Building Exteriors, public ways in the Project, including any dedicated trail system(s), all other areas of the Project that are under the Association's supervision, and commercial spaces owned by the Association, if any, whether or not such spaces are leased to some third party. The coverage limits under such policy shall be in amounts generally required by private institutional Mortgage investors for projects similar to the Project in construction, location, and use. Nevertheless, such coverage shall be for at least One Million Dollars (\$1,000,000) for bodily injury, including deaths of persons, and property damage arising out of a single occurrence. Coverage under such policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance, or use of the Common Areas, and/or Condominium Building Exteriors, and legal liability arising out of lawsuits related to employment contracts of the Association. Additional coverages

under such policy shall include protection against such other risks as are customarily covered with respect to projects similar to the Project in construction, location, and use, including but not limited to (where economically feasible and if available), host liquor liability, contractual and all-written contract insurance, employers liability insurance, and comprehensive automobile liability insurance. If such policy does not include "severability of interest" in the terms, the policy shall include a special endorsement to preclude an insurer's denial of any Owner's claim because of negligent acts of the Association or any other Owner. Such policy shall provide that it may not be canceled or substantially modified, by any party, without at least ten (10) days' prior written notice to the Association and to each Mortgagee which is listed as a scheduled holder of a Mortgage in such policy.

E. Insurance Trustees and General Requirements Concerning Insurance.

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

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

F. Annual Review of Policies. All insurance policies shall be reviewed at least annually by the Board in order to ascertain whether the coverage contained in the policies

is sufficient to make any necessary repairs or replacement of the Project which may have been damaged or destroyed. In addition, such policies shall be reviewed to determine their compliance with the provisions of this Declaration.

G. Right and Duty of Owners to Insure. It is the responsibility of each Owner to provide insurance on his personal property and upon all other property and improvements within his Unit. Nothing hereby shall preclude any Owner from carrying any public liability insurance as he deems desirable to cover his individual liability for damage to persons or property occurring inside his individual Unit or elsewhere upon the Property. Such policies shall not adversely affect or diminish any liability under any insurance obtained by or on behalf of the Association, and duplicate copies of such other policies shall be deposited with the Board upon request. If any loss intended to be covered by insurance carried by or on behalf of the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him to the Association to the extent of such reduction, for application by the Board to the same purposes as the reduced proceeds are to be applied.

ARTICLE VII. DAMAGE OR DESTRUCTION

1. Association as Attorney-in-Fact. All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney in fact in their name, place and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute an appointment by said grantee of the Association as his or her attorney-in-fact as herein provided. As attorney-in-fact, the Association shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted. All insurance proceeds shall be payable to the Association except as otherwise provided in this Declaration.

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

3. Procedure. In the event all or any part of the Project is damaged or destroyed, the Association shall proceed as follows:

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

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

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

D. Insufficient Insurance-Less than Seventy-Five Percent (75%) Destruction. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project and if less than seventy-five percent (75%) of the Project is damaged or destroyed, such repair and reconstruction shall nevertheless be carried out. The Association shall levy a special assessment sufficient to provide funds to pay the actual costs of such repair and reconstruction to the extent that such insurance proceeds are insufficient to pay such costs. Such special assessment shall be allocated and collected as provided in Article V Section 3 hereof, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected (together with the proceeds of insurance) are insufficient to pay all actual costs of such repair and reconstruction.

E. Insufficient Insurance; Seventy-Five Percent (75%) or More Destruction. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project and if seventy-five percent (75%) or more of the Project is damaged or destroyed, such damage or destruction shall be repaired and reconstructed, but only if within one hundred (100) days following the damage or destruction, Owners entitled to vote at least seventy-five percent (75%) of the votes of the Members elect to carry out such repair and reconstruction. If, however, the Owners do not, within one hundred (100) days after such damage or destruction, elect by a vote of at least seventy-five percent (75%) of the votes of the Members to carry out such repair and reconstruction but rather elect to terminate the Project and if Eligible Mortgagees who represent at least fifty-one percent (51%) of the votes of Units subject to Mortgages held by Eligible Mortgagees approve such termination, the Association shall record in the office of the County Recorder of Salt Lake County, State of Utah, a notice setting forth such facts. Upon the recording of such notice, the following shall occur:

(i) the Project shall be deemed to be owned in common by the Owners;

(ii) Each Owner shall own an undivided interest in the Project equal to such Owner's Common Expense allocation percentage as set forth on **Exhibit "A"**;

(iii) Any liens affecting any of the Units shall be deemed to be transferred, in accordance with the existing priorities, to the undivided interest of the respective Owner in the Project; and

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

of funds shall be based on the fair market values of the Units immediately prior to the damage or destruction, and the Owners shall divide said funds based upon the relative value of the Units prior to the damage or destruction.

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

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

5. Disbursement of Funds for Repair and Reconstruction. If repair or reconstruction is to occur, the insurance proceeds held by the Association and any amounts received from assessments made pursuant to Section 3.D of this Article VII shall constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for costs of repair and reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners equally.

6. Amendment of Article. This Article VII shall not be amended unless Owners entitled to vote at least seventy-five percent (75%) of the votes of the Members consent and agree to such amendment and such consent and agreement is reflected in an instrument duly executed by the Board of Directors of the Association and recorded in accordance with the provisions of this Declaration.

ARTICLE VIII. CONDEMNATION

1. Condemnation. If at any time or times all or any part of the Project shall be taken or condemned by any public authority under power of eminent domain, the provisions of this article shall apply. A voluntary sale or conveyance of all or any part of the Project in lieu of condemnation, but under threat of condemnation, shall be deemed to be a taking by power of eminent domain. 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 Board of Directors shall give prompt written notice of any such proceeding or proposed acquisition to each Owner in the Project and to any First Mortgagee who has requested in writing notice thereof. The Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for

acquisition of the Common Areas, or any part thereof, and each Owner hereby appoints the Association as such Owner's attorney-in-fact for the purposes of such representation.

2. Proceeds. All compensation, damages and other proceeds from any such taking by power of eminent domain (hereinafter "**Condemnation Award**") shall be made payable to the Association and shall be distributed by the Board of Directors, on behalf of the Association as herein provided.

3. Complete Taking. In the event the entire Project is taken by power of eminent domain, ownership pursuant hereto shall terminate and the Condemnation Award shall be allocated among and distributed to the Owners and the Owners shall divide the Condemnation Award based upon the relative values of the Units immediately prior to the condemnation. Such distribution shall be made by check payable jointly to the respective Owners and their respective Mortgagees, as appropriate.

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

A. Allocation of Award. As soon as practicable, the Board of Directors shall, on behalf of the Association, reasonably and in good faith, apportion the Condemnation Award between compensation, severance damages or other proceeds and shall allocate such apportioned amounts and pay the same to the Owners as follows:

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

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

(iii) The respective amounts apportioned to the taking of or injury to a particular Unit shall be allocated and distributed to the Owner of such Unit.

(iv) The total amount apportioned to consequential damages and any other taking or injuries shall be allocated and distributed as the Association determines to be equitable under the circumstances;

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

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

(vii) No provision of this Article VIII or any other provision of this Declaration, the Articles or the Bylaws shall entitle the Owner of a Unit or other party to priority over any First Mortgagee holding such Unit with respect to the distribution to such Unit of the proceeds of any award, settlement or proceeds from any eminent domain or condemnation proceeding.

B. Continuation and Reorganization. If less than the entire Project is taken by power of eminent domain, ownership pursuant hereto shall not terminate but shall continue. In such event the Project shall be reorganized as follows:

(i) If any partial taking results in the taking of an entire Unit, then the Owner thereof shall cease to be a member of the Association and all voting rights shall terminate;

(ii) If any partial taking results in the taking of a portion of a Unit, the voting rights appertaining to such Unit shall continue.

(iii) If any partial taking results in the taking of a portion of a Unit and if there is a determination made by the Board of Directors, after duly considering any recommendations, proposals, or other input from the Owners, that such taking makes it impractical to use the remaining portion of such Unit, then all voting rights terminate and the remaining portion of such Unit shall thenceforth be part of the Common Areas;

(iv) The Board of Directors, after duly considering any recommendations, proposals or other input from the Owners, shall have the duty and authority to make all determinations and to take all actions necessary or appropriate to effectuate reorganization of the Project under the provisions of this Section VIII. 4.B; provided, however, that if any such determination shall have been or such action take by judicial decree, the Board of Directors shall defer thereto and proceed in accordance therewith.

C. Repair and Reconstruction. Any repair and reconstruction necessitated by condemnation shall be governed by the provisions specified in Article VII hereof for cases of Damage or Destruction; provided, however, that the provisions of said article dealing with sufficiency or insufficiency of insurance proceeds shall not be applicable.

ARTICLE IX. TERMINATION

1. Required Vote. Except as otherwise provided in Article VII and Article VIII, the Project may be terminated only by agreement of all Owners of the Units.

2. Termination Agreement. An agreement to terminate shall be evidenced by the execution or ratification of a termination agreement, in the same manner as a deed, by all of the Owners. Such an agreement to terminate must also be approved by the holders of all liens affecting any of the Units. The termination agreement shall specify a date after which the agreement will be

void unless it is recorded before that date. A termination agreement, including all ratifications of such termination agreement, shall be recorded in Salt Lake County, Utah and is effective only on recordation.

3. Sale of Project. A termination agreement may provide that the entire Project shall be sold following termination. If, pursuant to the agreement, any real estate in the Project is to be sold following termination, the termination agreement shall set forth the minimum terms of the sale.

4. Association Duties. The Association, on behalf of the Owners, may contract for the sale of real estate in the Project, but the contract is not binding on the Owners until approved pursuant to Sections 1 and 2. If any real estate in the Project is to be sold following termination, title to that real estate on termination vests in the Association as trustee for all Owners. Thereafter, the Association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds of the sale distributed, the Association continues in existence with all powers it had before termination. Proceeds of the sale shall be distributed to Owners and Mortgagees as their interests may appear, based on the relative value of each Unit. Unless otherwise specified in the termination agreement, as long as the Association holds title to the real estate, each Owner and their successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted their Unit in accordance with the terms of this Declaration. During the period of that occupancy right, each Owner and their successors in interest remain liable for all assessments and other obligations imposed on Owners by this Declaration.

5. Proceeds of Sale. Following termination of the Project, the proceeds of any sale of real estate, together with the assets of the Association, shall be held by the Association as trustee for Owners and Mortgagees as their interests may appear. Following termination, Mortgagees holding Mortgages on the Units which were recorded before termination may enforce those liens in the same manner as any lienholder.

ARTICLE X. GENERAL USE RESTRICTIONS

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

2. Use of Common Areas. The Common Areas shall be used only in a manner consistent with their nature and with the rules, regulations and use restrictions applicable to Units. No admission fees, charges for use, leases, or other income generating arrangement of any type shall be employed or entered into with respect to any portion of the Common Areas. Provided, however, vending machines, mailing or packaging and similar services approved by the Board, in its sole and absolute discretion, may be made available within the Common Areas.

3. Use of Units. The Units within the Project may be used only as business offices, professional offices, government offices, and for such other similar uses as may be allowed under applicable zoning and other laws; provided that such uses do not otherwise violate the provisions

or this Declaration. Unless consented to in writing by the Board, in its sole and absolute discretion, the Units shall not be used for:

- (i) the storage, sales or repair of motor vehicles;
- (ii) a movie theater or restaurant;
- (iii) a bowling alley, miniature golf course, video arcade; video or music rental or sales (retail);
- (iv) the sale, distribution, rental or viewing of sexually explicit materials or sexually explicit performances;
- (v) the sale of paraphernalia related to illegal drugs;
- (vi) escort services;
- (vii) Any business establishment utilizing an indoor or outdoor speaker system that produces in excess of 40 db's or which can be heard by a person occupying the Units or any business establishment utilizing an indoor or outdoor speaker system during the hours of midnight to 8:00 a.m. on weekdays and 1:00 a.m. to 8:00 a.m. on weekends;
- (viii) The storage or sale of petroleum products or other Hazardous Materials (as defined herein);
- (ix) Any business establishment creating noxious or harmful odors; or
- (x) Any business which utilizes more than four parking stalls per 1,000 square feet of Unit space.
- (xi) For rental for periods of less than thirty (30) days per rental period.

4. Exception for Declarant. Notwithstanding the restrictions contained in this Article X, for the five (5) year period following the date on which this Declaration is filed for record in the office of the County Recorder of Salt Lake County, Utah, Declarant shall have the right to use any Unit owned by it, and any part of the Common Areas reasonably necessary or appropriate, in furtherance of any activities designed to accomplish or facilitate improvement, sale or lease of all Units owned by Declarant. Declarant shall also have the right to maintain a reasonable number of promotional, advertising, or directional signs, banners, or similar devices at any place or places on the Property. Declarant shall have the right from time to time to locate or relocate any of its signs, banners or similar devices.

5. Leases. Any lease agreement between an Owner and a lessee respecting a Unit shall be subject in all respects to the provisions of this Declaration, the Articles and Bylaws and any failure by the lessee to comply with the terms of such documents shall be a default under the lease.

All such lease agreements shall be in writing and approved by the Board, which approval shall not be unreasonably withheld.

In addition, all Owner's acknowledge:

a. Prior to renting any Unit the Owner and the tenant shall execute a written lease agreement which shall include the following provisions:

(i) The tenant shall agree to comply with all of the terms and conditions of the Declaration and Bylaws;

(ii) The tenant shall agree not to allow or commit any nuisance, waste, unlawful or illegal act upon the Property; and

(iii) The Owner and the tenant shall acknowledge that the Association is an intended third party beneficiary of the lease agreement and that the Association shall have the right to enforce compliance with the Declaration and Bylaws and to abate any nuisance, waste, unlawful or illegal activity upon the Property and that the Homeowner's Association shall be entitled to exercise all of the Owner's rights and remedies under the lease agreement to do so.

b. Prior to a tenant's occupancy of a Unit, the Owner must provide to the Association the name, address and telephone number of the tenant and a copy of the written lease agreement.

c. The Association shall have the right and the obligation to enforce compliance with the Declaration and Bylaws against any Owner and/or occupant of any Unit, and shall have all rights and remedies available under state or local law, in addition to its rights and remedies as a third party beneficiary under any lease agreement, to enforce such compliance.

Other than the foregoing, there is no restriction on the right of any Owner to lease his Unit. An Owner shall be responsible and liable for any damage to the Project caused by its tenant.

6. Utility Easements. Easements for installation and maintenance of utilities are reserved as shown on the Plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities. Easements for the installation, repair and maintenance of utilities are also reserved within each Unit. It is contemplated that telephone, gas, water, fire sprinkling systems, electricity and other utilities may originate in one Unit and terminate in another Unit. A right of access to all such utilities is reserved to the Association and Owners and to all utility suppliers. The Owners and the Association shall have an easement for ingress and egress upon reasonable notice, and the right of emergency access to the roof access way located in Unit 200.

7. Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property and no odors shall be permitted to arise therefrom so as to render any part of the Property unsanitary or unsightly or which would be offensive or detrimental to any other

part of the Property or to the occupants thereof. No noise, odors or other nuisance shall be permitted to exist or operate upon any part of the Property or from within any Unit so as to be offensive or detrimental to any other part of the Property, or to the occupants thereof. Without limiting the generality of any of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on the Property without the prior written approval of the Board.

8. Unsightly Articles. No unsightly articles shall be permitted to remain on or near a Unit or the Common Areas so as to be visible from any other Unit or the Common Areas. Refuse, garbage and trash shall be kept at all times in a covered, noiseless container and any such container shall be kept within an enclosed structure or appropriately screened from view within each Unit. No lumber, waste, metals, bulk materials or scrap or refuse or trash shall be kept, stored or allowed to accumulate on any Unit except within an enclosed structure or when appropriately screened from view.

9. Temporary and Other Structures. No structures of a temporary nature, trailer, tent, shack, shed, garage, barn or other outbuildings shall be allowed on the Property either temporarily or permanently at any time.

10. Trash Removal. Trash or refuse containers of any kind shall not be permitted on the Common Areas without the prior written consent of the Board. Each Owner shall utilize the common trash containers provided for and assessed by the Association located on the Common Areas on an area arranged by the Association. If any Owner shall abuse the common trash containers provided in the Common Areas, the Board may in its discretion (i) require such Owner to maintain at such Owner's expense a separate garbage removal system in an area designated by the Board, or (ii) charge such Owner such additional amount for garbage removal as the Board deems necessary or proper to defray the added cost of garbage removal resulting from such abuse. The term "**abuse**" as used herein shall mean any overuse of the garbage removal system in the reasonable judgment of the Board.

11. No Further Subdividing; Exception. No Unit or Common Areas may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Association; provided, however, that nothing herein shall be deemed to prevent or require the approval of the Association for the transfer or sale of any Unit or Condominium to more than one person to be held by them as tenants in common, joint tenants, or otherwise; and provided further, that nothing herein shall be deemed to prevent conversion pursuant to Article XII.

12. Signs. The following shall apply to signs within the Project:

A. As stated in Paragraph 4 of Article X, for five (5) years following the date on which this Declaration is filed for record in the office of the County Recorder of Salt Lake County, Utah, Declarant shall have the right to maintain a reasonable number of promotional, advertising, and directional signs, banners, or similar devices at any place or places on the Property to aid in selling or leasing of any Unit owned by Declarant.

B. A Unit owner shall have the right to advertise their Unit for sale or lease by placing a sign inside of their Unit, provided the dimensions of such sign do not exceed 2 ft. x 3 ft.

C. The Association shall have the right to install and maintain such directional, directory and monument signs as the Board deems reasonably necessary and appropriate for the Project.

D. Each Unit Owner (or lessee) shall have the right to install and maintain (at its sole expense) in the place designated by the Board, letters or insignias which identify the business being conducted from such Unit; provided that such lettering and insignias are pre-approved in writing by the Board, in its reasonable discretion.

E. Except as set forth herein, signs, flags, or advertising devices of any kind are prohibited from being placed or maintained anywhere in the Project without the prior written consent of the Board, which consent may be withheld in its absolute discretion.

13. No Hazardous Materials. Each Owner shall not cause or permit any Hazardous Substance to be use, stored, generated or disposed of on or in such Owner's Unit. If any Hazardous Substance is used, stored, generated or disposed of on or in any Owner's Unit, or if an Owner's Unit becomes contaminated in any manner by such Owner (or its lessee), such Owner shall indemnify and hold harmless all other Owners from any and all claims, damages, fines, judgments, penalties, costs, liabilities, or losses including, without limitation, a decrease in the value of the non-contaminated Units, damages caused by loss or restriction of usable space, or any damages caused by adverse impact on the marketing of the non-contaminated Units, and any and all sums paid for settlement of claims, attorney's fees, consultant and expert fees. This restriction shall not apply to the use or storage of a reasonable amount of typical household and office cleaning supplies.

As used herein, the term "**Hazardous Substance**" shall mean any pollutants, contaminants, chemicals, waste and any toxic, infectious, carcinogenic, reactive, corrosive, ignitable or flammable chemical or chemical compound or hazardous substance, material or waste, whether solid, liquid or gas, including any quantity of asbestos in any form, urea, formaldehyde, PCB's, radon gas, crude oil or any fraction thereof, all forms of natural gas, petroleum products or byproducts or derivatives, radio-active substance, waste waters, sludges, slag and any other substance, material or waste that is substant to regulation, control or remediation under any Environmental Laws.

As used herein, "**Environmental Laws**" shall mean all local, state and federal laws and regulations which regulate or relate to the protection, clean-up and restoration of the environment; the use, treatment, storage, transportation, generation, manufacture, processing, distribution, handling or disposal of, or emission, discharge or other release or threatened release of Hazardous Substance or otherwise dangerous substances, wastes, pollution or materials and shall include the Resource Conservation & Recovery Act, Clean Water Act, Safe Drinking Water Act, Atomic Energy Act, Occupational Safety and Health Act, Toxic Substances Control Act, Clean Air Act, Oil Pollution Act of 1990, Comprehensive Environmental Response Compensation and Liability Act and the Hazardous Materials Transportation Act.

14. Repair of Buildings. No improvement upon the Property shall be permitted to fall into disrepair, and each such improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner thereof or the Association as applicable.

15. Increase in Insurance Premiums. If any activity, materials stored or used on the Property result in an increase in the insurance premium for the Property, the Owner responsible for such increase shall pay the increase in the premium, due at the time the premium is due. The cost of such increase shall be assessed against the Owner responsible therefor and such assessment shall be secured by a lien on such Owner's Unit in favor of the Association in accordance with Article V, Section 6.

16. Improvements and Alterations. There shall be no excavation, construction or alteration which in any way alters the exterior appearance or structural integrity of any improvement within the Property nor removal of any Unit or other improvement within the Property (other than repairs or rebuilding) without the prior written approval of the Board.

17. Rooftop Antennas. No television, ham radio, citizens band or radio antenna, satellite receiving or other similar electronic receiving or sending device shall be permitted upon the rooftop or side of any unit or elsewhere without prior written approval of the Board. Such antennas, if used, must be of the type that are installed within the natural building structure. In no case will any such receiving or sending antenna or other device be allowed to interfere with the peace and quiet enjoyment of any neighboring Unit Owner's premises or equipment. Provided, however, Declarant and the Association reserve the right and option to install cable service lines and antennas as needed throughout the Project in connection with its development.

18. General Obligations. Each Owner shall enjoy and be subject to all rights and duties assigned to Owners pursuant to this Declaration. With respect to unsold Units, the Declarant shall enjoy the same rights and assumes the same duties with respect to each unsold Unit.

19. No Warranty of Enforceability. While Declarant has no reason to believe that any of the restrictive covenants contained in this Article X or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, and the Unit Owner shall assume all risks of the validity and enforceability thereof and, by acquiring the Unit agrees to hold Declarant harmless therefrom.

ARTICLE XI. MORTGAGEE PROTECTION

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

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

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

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

D. Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in Section 2 below or elsewhere herein.

2. Matters Requiring Prior Eligible Mortgagee Approval. Except as provided elsewhere in this Declaration, the prior written consent of Owners entitled to vote at least sixty-seven percent (67%) of the votes of the Units in the Association (unless pursuant to a specific provision of this Declaration the consent of Owners entitled to vote a greater percentage of the votes in the Association is required, in which case such specific provisions shall control), and Eligible Mortgagees holding First Mortgages on Units having at least fifty-one percent (51%) of the votes of the Units subject to First Mortgages held by Eligible Mortgagees shall be required to:

A. Abandon or terminate the legal status of the Project after substantial destruction or condemnation occurs.

B. Add or amend any material provision of the Declaration, Articles, Bylaws or Plat, which establishes, provides for, governs or regulates any of the following (an addition or amendment to such documents shall not be considered material if it is for the purpose of correcting technical errors or for clarification only):

(i) voting rights;

(ii) increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or the priority of assessment liens;

(iii) reductions in reserves for maintenance, repair, and replacement of Common Areas;

(iv) responsibility for maintenance and repairs;

(v) reallocation of interests in the Common Areas, or rights to their use;

(vi) redefinition of any Unit boundaries (with the exception of the subdivision of the Basement Commercial Unit);

- (vii) convertibility of Units into Common Areas or vice versa;
- (viii) expansion or contraction of the Project, or the addition, annexation, or withdrawal of property to or from the Project;
- (ix) hazard or fidelity insurance requirements;
- (x) imposition of any restrictions on the leasing of Units;
- (xi) imposition of any restrictions on Owner's right to sell or transfer his or her Unit;
- (xii) a decision by the Association to establish self-management if professional management had been required previously by the Declaration or by an Eligible Mortgagee.
- (xiii) restoration or repair of the Project (after damage or partial condemnation) in a manner other than that specified in the Declaration; or
- (xiv) any provisions that expressly benefit Mortgagees, insurers, or guarantors.

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

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

The Association shall make an unaudited financial statement for the preceding fiscal year. Every three (3) years the Association shall make an audited financial statement. The Association shall make available to the holder, insurer, or guarantor of any First Mortgage, the most recent audited financial statement and any subsequent unaudited financial statements.

4. Subordination of Lien. The lien or claim against a Unit for unpaid assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to the First Mortgage affecting such Unit if the First Mortgage was recorded before the delinquent assessment was due, and the First Mortgagee thereunder which comes into possession of or which obtains title to the Unit shall take the same free of such lien or claim for unpaid assessment or charges, but only to the extent of assessments or charges which accrue prior to foreclosure of the First Mortgage, exercise of a power of sale available thereunder, or taking of a deed or assignment in lieu of

foreclosure. No assessment, charge, lien, or claim which is described in the preceding sentence as being subordinate to a First Mortgage or as not to burden a First Mortgagee which comes into possession or which obtains title shall be collected or enforced by the Association from or against a First Mortgagee, a successor in title to a First Mortgagee, or the Unit affected or previously affected by the First Mortgage concerned.

5. Payment of Taxes. In the event any taxes or other charges which may or have become a lien on the Common Areas are not timely paid, or in the event the required hazard insurance described in paragraph A of Section 4 of Article VI lapses, is not maintained, or the premiums therefore are not paid when due, any Mortgagee or any combination of Mortgagees may jointly or singly, pay such taxes or premiums or secure such insurance. Any Mortgagee which expends funds for any of such purposes shall be entitled to immediate reimbursement therefor from the Association.

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

ARTICLE XII. OPTION TO EXPAND

1. Option To Expand. It is anticipated that additions to the Project will be developed in a series of phases. Accordingly, Declarant (or its assigns) hereby reserves, pursuant to Section 57-8-13.6 of the Condominium Act, the option to expand the Project (the "**Option to Expand**") by adding additional Units to the Project by additional divisions of Unit 100 upon the terms and provisions set forth in this Section without the prior consent of the Owners or the Association. The Option to Expand must be exercised by Declarant (or its assigns) within seven (7) years after recordation of this Declaration. The terms and conditions of the Option to Expand shall be as follows:

A. Legal Description. Subject to the power granted Declarant in Section 2(C) below, the real property subject to the Option to Expand consists of the real property sometimes hereinafter referred to as the "**Additional Land**", being more particularly described as follows:

See Exhibit "A"

The number of additional Units shall be no more than 10.

The foregoing limitations on the number of Units to be constructed in any addition or expansion of the Project are set forth herein for the purpose of satisfying Section 57-8-10(4)(a)(vii) of the Condominium Act.

D. Use Restrictions. The additional Units shall be subject to the same uses as provided in this Declaration.

E. Use of Common Areas. Each Owner of a Unit constructed on any phase of the Project shall have an unrestricted right of ingress and egress to and from its Unit over and across all Common Areas of the Property. Each Owner of a Unit constructed on any phase shall have the non-exclusive right to use all parking stalls located within the Common Areas of the Property. Each Owner of a Unit constructed on any phase of the Additional Land shall have the exclusive right to use and enjoy any Limited Common Areas that may be designated for exclusive use by such Owner.

F. Nature of Improvements. All Units and improvements shall be generally consistent with the existing Building and Units within the Project. Declarant reserves the right to add additional Limited Common Areas without limitation.

G. Substantial Completion. All Units and other improvements constructed in the Project shall be substantially completed prior to adding such Units and improvements to the Project.

H. Documentation to Convert. In order to add all or any portion of the Expansion Option to the Project, the Declarant (or its assigns) shall:

i. Record, with regard to the Project or any portion thereof that is being added to the Project as Units, Common Areas or Limited Common Areas, a Supplemental Condominium Plan ("**Supplemental Condominium Plan**") showing the location and dimensions of the vertical and horizontal boundaries of each Unit, Common Areas or Limited Common Areas, if any, formed out of the Additional Land or a portion thereof, and assigning any Limited Common Areas which are to be appurtenant to any such Unit. Each such Supplemental Condominium Plan shall be certified as to its accuracy and compliance with the requirements of the Condominium Act by the engineer or land surveyor who prepared or supervised the preparation of it; and

ii. Record simultaneously with each Supplemental Condominium Plan an amendment to this Declaration ("**Amendment**") describing the addition. Each such Amendment shall assign a Unit number to each Unit, if any, formed and shall reallocate to each Unit, on the basis provided for in this Declaration, votes appurtenant to each Unit, the apportionment of Common Expenses and the percentage of undivided interest in the Common Areas appertaining to all Units following such addition. Except as otherwise provided by the Condominium Act, each such Amendment or Supplemental Condominium Plan shall also describe the Limited Common Areas, if any, formed, showing or designating the Unit or Units to which each is assigned.

The ownership interest in the Common Areas for all Units in the Project and the apportionment of Common Expenses shall change at the time Declarant records an Amendment and a Supplemental Condominium Plan reflecting Declarant's exercise of the Option to Expand. It is contemplated that there may be multiple amendments filed by Declarant and such amendments and supplements are hereby expressly authorized. Declarant

shall have the right to adjust the resulting ownership interests of all Units in the Common Areas of the Project as may be necessary to assure that the total ownership interest equals 100% as required by the Condominium Act.

I. Title to Units. Each Owner, by execution of a contract or deed or the acceptance of a deed to a Unit in the Project, shall be deemed to have consented to all provisions of this Article XII, including the procedure for adjustment of Unit ownership interests. After the filing for record of any amended Exhibit "A" to this Declaration and the Supplemental Condominium Plan reflecting Declarant's exercise of the Option to Expand, or any part thereof, legal and equitable title to each Unit thereby created within the Additional Land including its appurtenant ownership interest in the Common Areas shall be vested in and held by Declarant (or its assigns) and none of the other Owners shall have any claim or title to or interest in such Unit or the appurtenant ownership interest in the Common Areas.

J. Amendment. No provision of this Article XII shall be amended without the prior written consent of Declarant or its successor in interest, so long as Declarant or its successor in interest either owns or has the right to acquire or construct any Units in the Project.

ARTICLE XIII. MISCELLANEOUS

1. Notices. Any notice required or permitted to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly furnished if mailed postage prepaid to the person who appears as an Owner, at the latest address for such person, appearing in the records of the Association at the time of mailing.

2. Term. This Declaration shall be effective upon the date of recordation hereof and, as amended from time to time, shall continue in full force and effect for a term of forty (40) years from the date this Declaration is recorded. From and after said date, this Declaration, as amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by seventy-five percent (75%) of the votes of the Members cast at an election held for such purpose or otherwise approved in writing by such Members within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension.

3. Amendment. Except as provided in this Declaration, any amendment to this Declaration shall require the affirmative vote or written approval of at least sixty-seven percent (67%) of the total votes of the Association. Any amendment authorized pursuant to this Section shall be accomplished through the recordation in the office of the Salt Lake County Recorder of an instrument executed by the Association. In such instrument an officer or Trustee of the Association shall certify that the vote required by this Section for amendment has occurred. Anything in this Article or Declaration to the contrary notwithstanding, Declarant reserves the unilateral right to amend all or any part of this Declaration to such extent and with such language as may be requested by any federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of the Declaration, or by any federally chartered lending

institution as a condition precedent to lending funds upon the security of any Unit(s) or any portions thereof. Any such amendment shall be effected by the recordation by Declarant of an amendment duly signed by or on behalf of the authorized officers of Declarant with their signatures acknowledged, specifying the federal, state or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such an amendment shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such amendment, when recorded, shall be binding upon all of the Project and all persons having an interest therein. It is the desire of Declarant to retain control of the Association and its activities during the anticipated period of planning and development. If any amendment requested pursuant to the provisions of this Section deletes, diminishes or alters such control, Declarant alone shall have the right to amend this Declaration to restore such control. Within ten (10) years from the date of recording the Declaration, and so long as the Declarant is the Owner of any Unit in the Project, this Declaration may be amended or terminated only with the written approval of the Declarant. The Declarant alone may amend or terminate this Declaration prior to the closing of a sale of any Unit.

4. Rights of Action. The Association and any aggrieved Owner shall have a right of action against Owners who fail to comply with the provisions of the Declaration or the decisions of the Association. Owners shall have a similar right of action against the Association.

5. Declarant's Rights Assignable. The rights of Declarant under this Declaration or in any way relating to the Property may be assigned, whereupon the assignee of Declarant shall have all the rights of Declarant hereunder.

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

7. Covenants to Run With Land. This Declaration and all of 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 inure to the benefit of Declarant, all parties who hereafter acquire any interest in a Unit or in the Common Areas, 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 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 Unit 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.

8. Lists of Owners and Eligible Mortgagees. The Board shall maintain up-to-date records showing: (i) the name of each person who is an Owner, the address of such person, and the Unit which is owned by him; (ii) the name of each person or entity who is an Eligible Mortgagee, the address of such person or entity and the Unit which is encumbered by the Mortgage held by such

person or entity; and (iii) the name of each person or entity who is an insurer or governmental guarantor, the address of such person or entity, and the Unit which is encumbered by the Mortgage insured or guaranteed by such person or entity. In the event of any transfer of a fee or undivided fee interest in a Unit, either the transferor or transferee shall furnish the Board with evidence establishing that the transfer has occurred and that the Deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Salt Lake County, Utah. The Board may for all purposes act and rely on the information concerning Owners and Unit ownership which is thus acquired by it or, at its option, the Board may act and rely on current ownership information respecting any Unit or Units which is obtained from the office of the County Recorder of Salt Lake County, Utah. The address of an Owner shall be deemed to be the address of the Unit owned by such person unless the Board is otherwise advised.

9. Effective Date. This Declaration and any amendment or supplement hereto shall take effect upon its being filed for record in the office of the County Recorder of Salt Lake County, Utah.

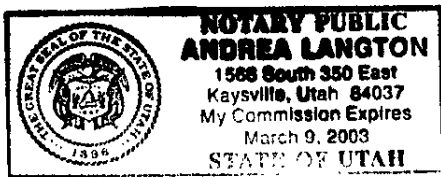
DECLARANT:

THE HIGHLAND CENTER, L.C.,
a Utah limited liability company

By: *Abby K. Mangum*
Its: Manager

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

On this 30 day of October, 2001, personally appeared before me,
GARY K. Mangum, the signer of the above instrument, who duly acknowledged to me
that he executed the same in the capacity indicated.



Andrea Langton
NOTARY PUBLIC

EXHIBIT "A"

LEGAL DESCRIPTION

BEGINNING AT THE NORTHEAST CORNER OF LOT 16, FULLER GARDENS, No. 1 ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE SALT LAKE COUNTY RECORDER, AND RUNNING THENCE SOUTH 15°45'10" EAST 60.04 FEET ALONG THE EAST LINE OF SAID LOT 16; THENCE EAST 6.17 FEET; THENCE NORTH 21°15'00" WEST 4.17 FEET; THENCE EAST 118.97 FEET; THENCE NORTH 84°13'28" EAST 37.12 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF HIGHLAND DRIVE, SAID POINT BEING 758.95 FEET EAST AND NORTH 387.51 FEET MORE OR LESS FROM THE SOUTHWEST CORNER OF LOT 15, BLOCK 1, TEN ACRE PLAT "A", BIG FIELD SURVEY, SAID POINT ALSO BEING NORTH 05°25'00" WEST 690.89 FEET ALONG THE SALT LAKE COUNTY SURVEYORS MONUMENT LINE AND SOUTH 78° 00'55" WEST 40.54 FEET FROM THE SALT LAKE COUNTY SURVEYORS MONUMENT AT THE INTERSECTION OF HIGHLAND DRIVE AND LINCOLN LANE; THENCE NORTH 01°37'46" WEST ALONG THE WESTERLY RIGHT-OF-WAY LINE OF HIGHLAND DRIVE 25.27 FEET; THENCE NORTHWESTERLY ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF A 5,692.67 FOOT RADIUS TO THE LEFT, CHORD BEARS NORTH 07°08'06" WEST 84.14 FEET, A DISTANCE OF 84.14 FEET; THENCE ALONG THE WESTERLY RIGHT-OF-WAY LINE OF HIGHLAND DRIVE NORTH 07°33'30" WEST 165.56 FEET; THENCE WEST 198.70 FEET TO A POINT WHICH IS NORTH 05°50'32" WEST 6.86 FEET FROM THE NORTHWEST CORNER OF LOT 21, FULLER GARDENS No. 5 SUBDIVISION ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE SALT LAKE COUNTY RECORDER; THENCE SOUTH 05°50'32" EAST 92.64 FEET; THENCE NORTH 89°41'21" WEST 5.42 FEET; THENCE SOUTH 21°15'00" EAST ALONG THE EASTERLY LINE OF SAID FULLER GARDENS No. 1, 140.11 FEET TO THE POINT OF BEGINNING.

CONTAINS: 52,267 SQ. FT. 1,200 ACRES

Salt Lake County, State of Utah

BK8522PG8563

EXHIBIT "B"
List of Units, Votes and Assessment Percentages

<u>Building Address</u>	<u>Unit</u>	<u>Votes</u>	<u>Approximate Usable Square Footage</u>	<u>Assessment Percentages</u>
4252 South Highland Drive	100	25	5,021.00	24.715%
4252 South Highland Drive	102	6	1,128.00	5.552%
4252 South Highland Drive	103	16	3,170.00	15.603%
4252 South Highland Drive	200	54	10,997.00	54.130%
TOTALS	2	100	20,316.00	100%

EXHIBIT "C"

Bylaws of the Association

BYLAWS OF
THE HIGHLAND CENTER OWNERS ASSOCIATION, INC.

ARTICLE ONE

Name and Location

The name of the corporation is the HIGHLAND CENTER OWNERS ASSOCIATION, INC., ("**Association**"). The principal office of the Association shall be located at 2804 Palma Way Salt Lake City, Utah 84121, but the meetings of Members and Directors may be held at such places in Salt Lake County, State of Utah, as may be designated by the Board of Directors.

ARTICLE TWO

Application of Bylaws

All present and future owners, mortgagees, lessees and occupants of any Unit or Building and any other persons who may use the facilities or the Project in any manner are subject to these Bylaws, the Declaration of Covenants, Conditions and Restrictions of Highland Center Owners Association ("**Declaration**") and all rules made pursuant hereto and any amendments hereof. The acceptance of a deed or conveyance or the entering into of a lease or the act of occupancy of a Unit or Condominium shall constitute an agreement that the provisions of the Declaration and these Bylaws and any rules and regulations made pursuant hereto, as they may be amended from time to time, are accepted, ratified and will be complied with. Certain capitalized terms in these Bylaws shall be defined in accordance with the definition for such terms set forth in the Declaration.

ARTICLE THREE

Meetings of Members

Section 1. Annual Meetings. The first annual meeting of the Members shall be held within one (1) year from the date of incorporation of the Association, and each subsequent regular meeting of the Members shall be held on the second Friday of each October, at the hour of 7:00 o'clock p.m. at the Project or some reasonable location in Salt Lake County, Utah or on such other annual date and time fixed by the Board of Directors. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Members may be called at any time by the President or by the Board of Directors, or upon written request of the Members who are entitled to vote twenty-five percent (25%) of all of the votes of the membership.

Section 3. Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary of the Association or person authorized to call the

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meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, sixty percent (60%) or more of the votes of the membership shall constitute a quorum for any action except as otherwise provided in the Articles, the Declaration, or these Bylaws. If, however, such a quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Voting. At all meetings of Members, each Member may vote in person or by proxy. In the event of a tie vote on any matter or proposed action, so long as the Declarant owns any interest in the Project and regardless of the number of Votes otherwise attributable to Declarant pursuant to the Declarations or Bylaws, Declarant shall be entitled to the tie-breaker vote to break the tie.

Section 6. Action Taken Without a Meeting. Any action that may be taken at any regular or special meeting of the Association may be taken without a meeting if the following requirements are met:

6.1 A written ballot is distributed to every Member entitled to vote setting forth the proposed action, providing an opportunity to signify approval or disapproval of the proposal and providing a reasonable time for the Member to return the ballot to the Association.

6.2 The number of votes cast by ballot within the specified time under Subparagraph 6.1 equals or exceeds the quorum required to be present at a meeting authorizing the action.

6.3 The number of approvals of the action equals or exceeds the number of votes required to approve the action at a meeting at which the total number of votes cast was the same as the number of votes cast by written ballot.

6.4 The written ballot distributed to Members affords an opportunity for the Member to specify a choice between approval and disapproval of each order of business proposed to be acted upon by the Association and further provides that the vote of the Members shall be cast in accordance with the choice specified.

Section 7. Proxies. At each meeting of the Members, each Member entitled to vote shall be entitled to vote in person or by proxy; provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the Member himself or by his attorney thereunto duly authorized in writing. The instrument authorizing the proxy to act shall meet the requirements set forth in Subparagraph 6.4 above and shall indicate the name of the secretary of the Association, or such other officer or person or who may be acting as the secretary at the meeting to whom the proxy is to be given for the purpose of casting the vote to reflect the absent Member's vote as specified in the form of proxy. If a Unit is jointly held, the instrument authorizing a proxy to act must have been executed by all Owners of such Unit or their attorneys thereunto duly authorized in writing. Such instrument authorizing a proxy to act shall be delivered at the beginning of the meeting to the Secretary of the Association or to such other officer or person who may be acting as secretary of the meeting. The secretary of the meeting shall enter a record of all such proxies in the minutes of the meeting.

ARTICLE FOUR

Board of Directors, Selection, Term of Office

Section 1. Number. The affairs of this Association shall be managed by a Board of at least three (3) but no more than seven (7) Directors (hereafter collectively referred to as the "Board"), who need not be Members of the Association.

Section 2. Term of Office. At the first annual meeting the Members shall elect at least one Director for a term of one (1) year, at least one trustee for a term of two (2) years, and at each annual meeting thereafter the Members shall elect replacement Directors for a term of two (2) years.

Section 3. Removal. Any Director may be removed from the Board of Directors, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining Members of the Board of Directors and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

ARTICLE FIVE

Nomination and Election of Directors

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a nominating committee. Nominations may also be made from the floor at the annual meeting. The nominating committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two (2) or more Members of the Association. The nominating committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The nominating committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or non-Members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE SIX

Meeting of Directors

Section 1. Regular Meetings. The Board of Directors shall hold a regular meeting at least quarterly, without notice, at such place and hour as may be fixed from time to time by resolution of the Board of Directors. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two (2) Directors, after not less than three (3) days notice to each Director.

Section 3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

ARTICLE SEVEN

Powers and Duties of the Board of Directors

Section 1. Powers. The Board of Directors shall have power to:

1.1 Adopt and publish rules and regulations governing the use of the Common Areas, and the personal conduct of the Members and their guests thereon, and to establish penalties of the infraction thereof;

1.2 Suspend the voting rights of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and an opportunity for hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;

1.3 Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles, or the Declaration;

1.4 Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

1.5 Employ a Manager, an independent contractor, and such other employees as they deem necessary, and to prescribe their duties. Such Managers, contractors or employees may be Directors or their related or affiliated entities.

Section 2. Duties. It shall be the duty of the Board of Directors to:

2.1 Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote;

2.2 Supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

2.3 As more fully provided in the Declaration, to:

2.3.1 Fix the amount of the annual assessment against each Unit at least thirty (30) days in advance of each annual assessment period;

2.3.2 Send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

2.3.3 Foreclose at its discretion the lien against any Unit for which assessments are not timely paid and/or to bring an action at law against the Owner personally obligated to pay the same.

2.4 Issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board of Directors for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

2.5 Procure and maintain adequate liability and hazard insurance on property owned by the association, and adequate officers and Directors indemnity insurance, and all other insurance required by the Declaration;

2.6 Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

2.7 Cause the Common Areas and the Building Exteriors to be maintained;

2.8 Permit First Mortgagees of Units in the Project to pay taxes or other charges which are in default and which may or have become a charge against the Common Areas of the Association, and such First Mortgagees may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for such property, and such First Mortgagees, upon making such payments, shall be owed immediate reimbursement therefor from the Association;

2.9 Assess and collect all assessments referred to or authorized in the Declaration.

ARTICLE EIGHT

Officers and Their Duties

Section 1. Enumeration of Officers. The officers of this Association shall be a President and Vice President, who shall at all times be Members of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board of Directors may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 3. Term. The officers of this Association shall be elected annually by the Board of Directors and each shall hold office for one (1) year or until his or her successor is elected and has qualified, unless he or she shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board of Directors may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the board of Directors may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

President:

The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board of Directors are carried out; shall sign all leases, mortgages, promissory notes, checks, deeds and other written instruments.

Vice President:

The Vice President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary:

The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the

Association together with their addresses; and shall perform such other duties as required by the Board.

Treasurer:

The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall, together with the President, sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit or review of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and statement of income and expenditures, and deliver a copy of each to the Members.

ARTICLE NINE

Indemnification of Officers and Directors

The Association shall provide any indemnification required or permitted by the laws of Utah and shall indemnify Directors, officers, agents and employees as follows:

Section 1. Third Party Litigation. The Association shall indemnify any Director or officer of the Association who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit or proceedings, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association) by reason of the fact that he is or was such Director or officer or an employee or agent of the Association, or is or was serving at the request of the Association as a Director, officer, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith, and in a manner which he reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

Section 2. Association Litigation. The Association shall indemnify any Director or officer of the Association who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was such a Director or officer of an employee or agent of the Association, or is or was serving at the request of the Association as Director, officer, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses

(including attorney's fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit 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 Association, except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Association unless and only to the extent that the court in which such action or suit was brought, or any other court having jurisdiction in the premises, shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnify for such expenses which such court shall deem proper.

Section 3. Expenses. To the extent that a Director or officer of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1 or 2 of this Article Nine, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith, without the necessity for the determination as to the standard of conduct as provided in Section 4 of this Article Nine.

Section 4. Determination of Right to Indemnity. Any indemnification under Section 1 or 2 of this Article Nine (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the Director or officer is proper in the circumstances because he has met the applicable standard of conduct set forth in Section 1 or 2 of this Article Nine. Such determination shall be made (i) by the Board of Directors of the Association by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding, or (ii) if such a quorum is not obtainable, or even if obtainable, and such a quorum of disinterested Directors so directs, by independent legal counsel (who may be regular counsel for the Association) in a written opinion; and any determination so made shall be conclusive.

Section 5. Advance of Expenses. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding, as authorized in the particular case, upon receipt of an undertaking by or on behalf of the Director or officer to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article Nine.

Section 6. Other Indemnification Rights. Agents and employees of the Association who are not Directors or officers of the Association may be indemnified under the same standards and procedures set forth above, in the discretion of the Board of Directors of the Association.

Section 7. Benefitted Parties. Any indemnification pursuant to this Article Nine shall not be deemed exclusive of any other rights to which those indemnified may be entitled and shall continue as to a person who has ceased to be a Director or officer and shall inure to the benefit of the heirs, executors, and administrators of such a person,

ARTICLE TEN

Committees

The Association shall appoint a nominating committee, as provided in these Bylaws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE ELEVEN

Books and Records

Section 1. Accounting.

1.1 The books and accounts of the Association shall be kept in accordance with generally accepted accounting procedures under the direction of the Treasurer.

1.2 At the close of each fiscal year, the books and records of the Association shall be reviewed by an independent public accountant approved by the Association, and financial statements shall be audited by said accountant and distributed to all Owners.

Section 2. Inspection of Records. The membership register, books of account and minutes of meetings of the Association, of the Board of Directors and of committees of the Board of Directors and all other records of the Project maintained by the association or Manager shall be made available for inspection and copying by any member of the Association or his duly appointed representative at any reasonable time and for a non-commercial purpose reasonably related to his interest as a Member, at the office where the records are maintained. Upon receipt of an authenticated written request from a Member along with the fee prescribed by the board of Directors to defray the costs of reproduction, the Manager or other custodian of records of the Association shall prepare and transmit to the Member a copy of any and all records requested. The Board of Directors shall establish reasonable rules with respect to:

2.1 Notice to be given to the custodian of the records by the Member desiring to make the inspection;

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

2.3 Payment of the cost of reproducing copies of documents requested by a Member.

Every member of the Board of Directors, subject to the conditions set forth above, shall have the absolute right at any reasonable time to inspect and make copies of all books, records and documents

of the Association and to inspect all real and personal properties owned or controlled by the Association.

ARTICLE TWELVE

Assessments

All Assessments shall be made in accordance with the general provisions of Article V of the Declaration. The Treasurer shall keep detailed records of all receipts and expenditures, including expenditures affecting the Project, specifying and itemizing the maintenance, repair and replacement expenses of the Project and any other expenses incurred. Such records shall be available for examination by the Owners during regular business hours. In accordance with the actions of the Board of Directors in assessing Common Expenses against the Units and Owners, the Treasurer shall keep an accurate record of such assessments and of the payments thereof by each Owner.

ARTICLE THIRTEEN

Corporate Seal

The Association may, but shall not be obligated to, have a seal in circular form having within its circumference the words: "HIGHLAND CENTER OWNERS ASSOCIATION, INC.," or in lieu thereof the word "SEAL" may be placed adjacent to the signature of an authorized officer of the Association.

ARTICLE FOURTEEN

Amendments

Section 1. Amendment Procedure. These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of a majority of the authorized Members.

Section 2. Conflict. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

ARTICLE FIFTEEN

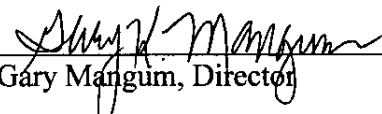
Transfer of Control by Declarant

The Declarant shall relinquish all special rights, express or implied, through which Declarant may directly or indirectly control, direct, modify or veto any action of the Association or a majority of the Unit Owners, and control of the Association shall pass to the Unit Owners within the Project not later than the earlier of the following:

- i 120 days after the date by which seventy-five percent (75%) of the Units have been conveyed to the Unit purchasers, or
- ii. Five (5) years from the date of the first conveyance to a Unit purchaser is made.

Notwithstanding the foregoing, the Declarant shall continue to have the right to vote to break any tie as set forth in Article III section 5 above.

IN WITNESS WHEREOF, we, being all of the originals Directors of HIGHLAND CENTER OWNERS ASSOCIATION, INC., have hereunto set our hands this 30th day of OCTOBER, 2001.



 Gary Mangum, Director



 Scott Mangum, Director



 Karen Mangum, Director

CERTIFICATION

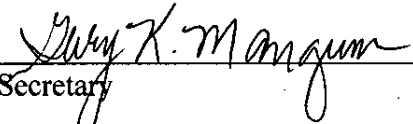
I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Highland Center Owners Association, Inc., a Utah non-profit corporation; and

That the foregoing Bylaws constitute a true and correct copy of the original Bylaws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the 30th day of OCTOBER, 2001.

IN WITNESS WHEREOF, I have hereunto subscribed my name of the Association this 30th day of OCTOBER, 2001.

HIGHLAND CENTER OWNERS
 ASSOCIATION, INC.

By: 
 Its: Secretary