

***DECLARATION OF CONDOMINIUM
OF THE
INN CONDOMINIUMS @ HARBOR VILLAGE
A UTAH CONDOMINIUM PROJECT***

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EXHIBIT "B"	Bylaws of Inn Condominium Owner's Association

When Recorded, Mail To:
Harbor Village @ Bear Lake
P.O. Box 201
Garden City, UT 84028

Recorded NOV 17 1993 filing No. 44755
At 4:02 PM 1993 in Book 76 Page 053
Fee 78⁰⁰ Debra L. James, Rich County Recorder
Requested By Summa Bulluck

DECLARATION OF CONDOMINIUM
OF THE
INN CONDOMINIUMS @ Harbor Village
A UTAH CONDOMINIUM PROJECT

This Declaration of Condominium, hereinafter referred to as the "Declaration," is made and executed this 17th day of May, 1993 by THE INN @ HARBOR VILLAGE, INC., a Utah Corporation, hereinafter referred to as the "Declarant."

RECITALS

A. Description of Land. The Declarant is the record title owner of the following-described parcel of land, referred to hereinafter as the "Land," which is located in Garden City, Rich County, State of Utah, to wit:

Part of the Northeast quarter of Section 17, Township 14 North, Range 5 East, Salt Lake Base and Meridian.

Beginning at a point that is South 34°51'46" West 832.51 feet from the Northeast corner of said Section 17, and running thence South 25°11'19" East 40 feet; thence South 64°48'41" West 140 feet; thence South 25°11'19" East 100 feet; thence North 64°48'41" East 45 feet; thence South 25°11'19" East 65.5 feet; thence North 64°48'41" East 80 feet; thence North 25°11'19" West 60 feet; thence North 64°48'41" East 43.5 feet; thence South 25°11'19" East 9.5 feet; thence North 64°48'41" East 14.75 feet, thence South 25°11'19" East 16 feet; thence North 64°48'41" East 42.75 feet; thence North 25°11'19" West 171 feet; thence South 64°48'41" West 86 feet to the point of beginning.

Together with an easement for access, utilities, and scenic easement, as shown on the official Plat and described in the Declaration.

B. Buildings and Improvements. The Declarant has constructed or will construct on the Land certain buildings and other improvements as shown more specifically on the Record of Survey Map of the INN Condominiums @ Harbor Village, as defined below;

C. Record of Survey Map. The Declarant shall execute and record in the office of the Rich County Recorder concurrently with the recording of this Declaration, as defined below, an instrument entitled the "Record of Survey Map of the INN Condominiums @ Harbor Village, a Utah Condominium Project;

D. Intent and Purpose. Declarant, by recording this Declaration and the Record of Survey Map as required by statute, intends to submit the Land, building and other improvements presently existing or to be constructed upon the Land to the provisions of the Utah Condominium Act, Amended, Utah Code Annotated, Section 57-8-1, et. seq., and to impose upon said Land mutually beneficial covenants, conditions and restrictions pursuant to a general plan of improvement for the

benefit of all Condominium Units in the Project as well as the Owners thereof;

E. Bylaws. The administration of the Project shall be governed by this Declaration and the Bylaws of the Association, which Bylaws are attached hereto as Exhibit "B";

NOW THEREFORE, pursuant to the foregoing, Declarant hereby makes the following Declaration:

ARTICLE I

DEFINITIONS

Unless the context clearly indicates otherwise, certain terms as used in this Declaration shall have the meanings set forth in this Article I.

1.01 "Additional Land" shall mean the real property described in Section 16.02 which has not yet been submitted to the provisions of the Act, but which may hereafter be added as a whole or in part to the project as provided in Article XVI.

1.02 "Administrator" shall mean and refer to the Administrator of the Veterans Administration, an agency of the government of the United States of America.

1.03 "Association" shall mean the INN Condominium Owners Association, a Utah non-profit corporation, operating pursuant to the Articles of Incorporation and Bylaws thereof, together with this Declaration.

1.04 "Board of Directors" shall mean and refer to the Board of Directors as then constituted of the Inn Condominium Owners Association, a Utah non-profit corporation.

1.05 "Building" shall mean any one of the buildings in the Project containing one or more Units that have been or will hereafter be constructed on the land, as such buildings are shown on the Map.

1.06 "Common Area and Facilities" or simply the "Common Areas" shall mean and refer to:

- a. all physical portions of the Project except the Units;
- b. those portions of the Project specifically set forth and designated on the Map as intended for common ownership;
- c. all elevators, stairways outside a Unit, foundations, columns, girders, beams, supports, main walls, exterior retaining walls, roofs, exterior walkways, streets, yards, gardens, fences, balconies, all open parking spaces, installation of central services such as power, light, gas, all apparatuses and installations existing for common use, such community facilities as may be provided for, and all other parts of the real property necessary or convenient to its existence, maintenance, and safety of the common areas or normally in common use;
- d. all common areas and facilities as defined in the Condominium Act, whether or not expressly listed herein; and all other parts of the Project normally in common use, or necessary or convenient to the use, existence, maintenance, safety or management of the other common areas;
- e. generally all furniture, furnishings, equipment, facilities, and other property

(real, personal, or mixed) and interests therein at any time leased, acquired, owned, or held by the Association for the use and benefit of all of the Owners and all other property (real, personal or mixed) hereafter purchased in accordance with this Declaration, with monies from the Common Expense Fund. Common Facilities shall be deemed to be part of the Common Areas, except to the extent otherwise expressly provided in this Declaration.

1.07 "Common Expense Fund" shall mean the fund created or to be created pursuant to the provisions of Article IX of this Amended Declaration and into which all monies of the Association shall be deposited.

1.08 "Condominium" or "Condominium Unit" shall mean (i) the fee simple interest in and to the Unit; and (ii) the undivided interest (expressed as a percentage of the entire ownership interest) in the Common Areas appurtenant to such Unit, as set forth in Exhibit "A", attached hereto and by this reference made a part hereof.

1.09 "Condominium Act" shall mean the Utah Condominium Ownership Act, Utah Code Annotated, as amended, Section 57-8-1, et. seq.

1.10 "Declarant" shall mean THE INN @ HARBOR VILLAGE, INC., a Utah Corporation, and its successors and assigns.

1.11 "Declaration" shall mean and refer to this Declaration of Condominium of the INN Condominiums At Harbor Village as the same may be hereafter modified, amended, supplemented or expanded in accordance with the provisions hereof.

1.12 "First Mortgagee" shall mean a Mortgagee which is a bank or savings and loan association or established mortgage company, other entity chartered under federal or state laws, any corporation or insurance company, or any federal or state agency which has a first mortgage lien on any Condominium in the Project. "Eligible First Mortgagee" shall mean any First Mortgagee who has requested notice of those certain matters referred to in Section 14.01.

1.13 "FHA" shall mean the Federal Housing Administration.

1.14 "FHLMC" shall mean the Federal Home Loan Mortgage Corporation.

1.15 "FNMA" shall mean the Federal National Mortgage Association.

1.16 "Land" shall mean the land upon which the Project is situated, as more particularly described in Recital A above.

1.17 "Lease" shall mean any agreement for the leasing or rental of the Property.

1.18 "Limited Common Areas" shall mean any Common Area designated as reserved for use of a certain Unit or Units to the exclusion of the other Units in the Project. Structural separations between Units or the space which would be occupied by such structural separations may become Limited Common Areas for the exclusive use of the Owner or Owners of the Units on either side thereof as provided in Section 4.03 hereof. Any balconies, porches, parking stalls, or storage facilities that are identified on the Map with the same number or other storage facilities that are identified on the Map with the same number or other designation by which a Unit is identified shall be Limited Common Areas for the exclusive use of the Owner of the Unit bearing the same number or designation.

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

1.20 "Map" shall mean the Record of Survey Map for INN Condominiums @ Harbor Village, a Utah Condominium Project, recorded contemporaneously with this Declaration, and any Supplemental Maps pertaining to the Project and recorded or to be recorded in the office of the County Recorder of Rich County, State of Utah.

1.21 "Mortgage" shall mean any mortgage, deed of trust, or other security instrument by which a Condominium or any part thereof is encumbered.

1.22 "Mortgagee" shall mean (i) any persons or entities named as the mortgagee or beneficiary under any Mortgage or Deed of Trust by which the interest of any Owner is encumbered, (ii) any successor to the interest of such person or entity under such Mortgage or Deed of Trust, or (iii) any insurer or guarantor of such person or entity under such Mortgage or Deed of Trust.

1.23 "Mortgage Servicer" shall mean a Mortgagee who services any Mortgage or Deed of Trust on any individual Condominium in the Project on behalf of FHLMC, FNMA, or any other federally associated financing program, including Veterans Administration and/or Federal Housing Administration financing.

1.24 "Owner" or "Unit Owner" shall mean the person or persons including the Declarant, owning in fee simple a Condominium in the Project, as such ownership is shown by the records of the County Recorder of Rich County, State of Utah. The term "Owner" shall not refer to any Mortgagee (unless such Mortgagee has acquired title for other than security purposes) or to any person or persons purchasing a Condominium under contract (until such contract is fully performed and legal title conveyed of record or unless a written and notarized statement executed by the title owner is delivered to the Developer or Association which specifically allows the contract purchaser to exercise the Owner's rights under this Declaration and Bylaws. Under no circumstances shall such parties be entitled to more votes than the unit owner is entitled to have.

1.25 "Project" shall mean the land, the buildings, and all improvements submitted by this Declaration and the Map to the provisions of the Condominium Act.

1.26 "Total Votes of the Association" shall mean the total number of votes appertaining to all Condominiums in the Project, as shown in Exhibit "A", attached hereto.

1.27 "Unit" shall mean an individual air space unit, consisting of enclosed rooms occupying part of a building and bounded by the unfinished interior surfaces of the walls, floors, ceilings, windows, and doors along the perimeter boundaries of the air space, as said boundaries are shown on the Map, together with all fixtures and improvements therein contained. Paint and other wall, ceiling, or floor coverings on interior surfaces shall be deemed to be part of the Unit.

1.28 "Unit Number" shall mean and refer to the number, letter, or combination thereof which designate a Unit on the Map.

1.29 "Use Fees" shall have the meaning ascribed to it in Section 5.05.3.

1.30 "VA" shall mean the Veterans Administration, an agency of the government of the United States of America.

ARTICLE II

SUBMISSION AND DIVISION OF PROJECT

2.01 Submission to Condominium Act. The Declarant hereby submits the Land, the Buildings, and all other improvements now or hereafter made in or upon the Land to the provisions of the Condominium Act. All of said property is and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, and improved as a fee simple Condominium Project to be known as INN Condominiums At Harbor Village, a Utah Condominium Project. All of said property is and shall be subject to the covenants, conditions, restrictions, uses, limitations, and obligations set forth herein, each and all of which are declared and agreed to be for the benefit of said property and division thereof into Condominiums; further, each and all of the provisions hereof shall be deemed to run with the Land and shall be a burden and a benefit on the Land and shall be binding upon the Declarant, its successors and assigns, and to any person acquiring, leasing, or owning an interest in the real property and improvements comprising the Project, and to their respective personal representatives, heirs, successors, and assigns.

2.02 Division into Condominiums. The Project is hereby divided into Condominiums, each such Condominium consisting of a Unit and an appurtenant undivided interest in the Common Areas, as set forth in Exhibit "A", attached hereto.

ARTICLE III

BUILDINGS AND IMPROVEMENTS

3.01 Buildings and Improvements. The Buildings and other improvements constructed or to be constructed on the land are described on the Map. The following information regarding the Buildings is also contained on the Map: (i) the number of floors and basements in a Building; and (ii) the number of units on each floor of a Building.

3.02 Description of Units. The Map contains the unit number, location and dimensions of each Unit in the Project and all other information necessary to identify each such Unit. Each Unit shall have at least one parking space which is reserved for its exclusive use as a Limited Common Area which shall not be severed from such Unit.

3.03 Description of Common Areas. The Map contains a description of the Common Areas of the Project.

3.04 Description of Limited Common Areas. The Map contains a description of the Limited Common Areas of the Project. The Map also designated the Unit or Units to which each of the Limited Common Areas is reserved.

3.05 Principal Construction Materials. The Buildings in the Project will rest on reinforced concrete footings and foundations. The walls of the Buildings are of 2 x 6 frame construction, the exterior surfaces of which are drivet, and the interior surfaces of which are covered with gypsum sheetrock. The floors are concrete or wood covered with carpet, linoleum, or equivalent floor coverings. The Buildings are supported by steel and laminated wooden support beams and the roof is composed of wood frame covered with sheet metal.

ARTICLE IV

NATURE AND INCIDENTS OF CONDOMINIUM OWNERSHIP

4.01 Interior of Units. Each Owner shall have the exclusive right to paint, repair, tile, wax, paper, carpet, or otherwise decorate the interior surfaces of the walls, ceilings, floors, and doors within such boundaries. Each Owner shall also have the right to construct partition walls, fixtures, and improvements within the boundaries of his Unit; provided, however, that such partition walls, fixtures and improvements (i) shall comply with all applicable laws, ordinances, and building codes, (ii) shall not interfere with facilities necessary for the support, use, or enjoyment of any other part of the Project, (iii) shall not impair the structural soundness or integrity of the Building in which it is located, and (iv) shall not encroach upon the Common Areas or any part thereof, unless the Association shall consent in writing to such encroachment.

4.02 Maintenance of Units. Each Owner shall keep the interior of his Unit, including with limitation, interior walls, windows, ceilings, floors, and permanent fixtures and appurtenances thereto, in a clean and sanitary condition and in a state of good repair. In the event that any such Unit shall develop and unsanitary or unclean or unsafe condition or fall into a state of disrepair, and in the event that the Owner of such Unit shall fail to correct such condition or state of disrepair promptly following written notice and the hearing procedure provided for in the Bylaws of the Association, the Board of Directors, in behalf of the Association, shall have the right at the expense of the Owner and without liability to the Owner for trespass or otherwise, to enter said Unit and correct or eliminate said unsanitary or unclean condition or state of disrepair; provided, however, that the Association shall in no event have the obligation to correct or eliminate such condition or state of disrepair.

4.03 Right to Combine Units. With the written consent of the Association, which consent shall not be unreasonably withheld, two or more Units may be utilized by the Owner or Owners thereto as if they were one Unit. To the extent permitted in the written consent of the Association, any walls, floors, or other structural separations between any two such Units, or any space which would be occupied by such structural separations but for the utilization of the two Units as one Unit, may, for as long as the two Units are as one Unit, be utilized by the Owner or Owners of the adjoining Units as Limited Common Areas, except to the extent that any such structural separations are necessary for the support, use, or enjoyment of other parts of the Project. At any time, upon the request of the Owner of one of such adjoining Units, any opening between the two units which but for joint utilization of the two Units, would have been occupied by structural separation, shall be closed, at the equal expense of the Owner or Owners of each of the two Units and the structural separations between the two Units shall thereupon become Common Areas.

4.04 Title. Title to a Condominium within the Project may be held or owned by any person or entity, or any combination thereof, and in any manner in which title to any other real property may be held or owned in the State of Utah, including without limitation joint tenancy or tenancy in common.

4.05 Ownership of Common Area. The undivided interest in the Common Areas appurtenant to each Unit in the Project shall be as set forth in Exhibit "A" attached hereto. The percentages appurtenant to each Unit as shown in said Exhibit "A" shall have a permanent character and shall not be altered a) except with the unanimous written consent of all Owners expressed in an amendment to this Declaration duly recorded, or b) except to the extent necessary to allow for the expansion or phasing of the project as provided in Article XVI of this Declaration and the Condominium Act. Except as otherwise provided in this Declaration, any Owner shall be entitled to nonexclusive use of the Common Areas (other than Limited Common Areas) in any manner that does not hinder or encroach upon the rights of the other Owners and is not contrary to any rules and regulations promulgated by the Association. Except as otherwise provided in this Declaration,

any Owner shall have the exclusive right to use and enjoy Limited Common Areas that may be designated for exclusive use by such Owner.

4.06 Inseparability. Title to no part of a Condominium within the Project may be separated from any other part thereof, and each Unit and the undivided interest in the Common Areas appurtenant to each Unit shall always be conveyed, devised, encumbered, and otherwise affected only as a complete Condominium. Every devise, encumbrance, conveyance, or other disposition of a Condominium, or any part thereof, shall be construed to be a devise, encumbrance, conveyance, or other disposition, respectively, of the entire Condominium; together with all appurtenant rights created by law or by this Declaration, including appurtenant Membership in the Association as hereinafter set forth.

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

4.08 Separate Mortgages by Owners. Each Owner shall have the right separately to mortgage or otherwise encumber his Condominium. No Owner shall attempt to or have the right to mortgage or otherwise encumber the Common Areas or any part thereof, except the undivided interest therein appurtenant to his Condominium. Any mortgage or other encumbrance of any Condominium within the Project shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure the provisions of this Declaration shall be binding upon any Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.

4.09 Special Taxation. Each Condominium within the Project including each Unit and appurtenant undivided interest in the Common Areas, shall be deemed to be a parcel and shall be assessed separately for all taxes, assessments, and other charges of the State of Utah or of any other taxing or assessing authority. For purposes of such assessment, the valuation of the Common Areas shall be apportioned among the Units in proportion to the undivided interests in Common Areas appurtenant to such Units. All such taxes, assessments, and other charges on each respective Condominium shall be separately levied against the Owner thereof. No forfeiture or sale of any Condominium for delinquent taxes, assessments, or other governmental charges shall divest or in any way affect the title to any other Condominium.

4.10 Mechanics Liens. No labor performed or materials furnished for use in connection with any Unit with the consent or at the request of an Owner or his agent or subcontractor shall create any right to file a statement of mechanic's lien against the Unit or any other Owner not expressly consenting to or requesting the same or against any interest in the Common Areas, except the undivided interest therein appurtenant to the Unit of the Owner for whom such labor shall have been performed and such materials shall have been furnished.

4.11 Description of Condominium. Every contract for the sale of a Condominium and every other instrument affecting title to a Condominium within the Project may describe a Unit by its identifying number or symbol as indicated in this Declaration or as shown on the Map. Such description will be construed to describe the Unit, together with its appurtenant undivided interest in the Common Areas, and to incorporate all of the rights incident to ownership of a Condominium within the Project and all of the limitations on such ownership.

ARTICLES V

EASEMENTS

5.01 Easements for Encroachments. If any part of the Common Areas encroaches or shall hereafter encroach upon any Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas, or upon an adjoining Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of the Common Areas or any part of a Unit shall hereafter encroach on real property now owned by the Declarant outside the boundaries of the Land, an easement for such encroachment shall and does exist. Such encroachment shall not be considered to be encumbrances either on the Common Areas or the Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of the Building or any improvements constructed or to be constructed within the Project, by error in the Map, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction on the Project, or any part thereof, in accordance with the provisions of this Declaration.

5.02 Easements for Maintenance, Cleaning and Repair. Some of the Common Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Association shall have the irrevocable right to have access to each unit and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, cleaning, repair or replacement of any Common Areas or for making emergency repairs at any time therein necessary to prevent damage to the Common Areas or to any Unit. In addition, agents of the Association may enter any Unit when necessary in connection, or reconstruction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Association with funds from the Common Expense Fund.

5.03 Right to Ingress, Egress, and Support. Each Owner shall have the right to ingress and egress over, upon, and across the Common Areas as necessary for access to such Owner's Unit and to any Limited Common Areas appurtenant to such Unit, and shall have the right to horizontal, vertical, and lateral support of such Unit, and such rights shall be perpetual and shall be appurtenant to and pass with title to each Condominium.

5.04 Association's Right to Use. The Association shall have an easement to make such use of the Common Areas as may be necessary or convenient to perform the duties and functions that it is obligated or permitted to perform pursuant to this Declaration, including without limitation the right to construct and maintain in the Common Areas (other than Limited Common Areas) facilities for use by Owners generally or by the Association and its agents exclusively.

5.05 Easement for Completion of Project. The Declarant shall have a transferable easement over and on the Common Areas for the purpose of completing construction of the Project and making improvements therein as shown on the Map and for the purpose of doing all things reasonably necessary or appropriate in connection therewith. To the extent that damage is inflicted on any part of the Project by any person utilizing said easement, the Declarant and the person causing the damage shall be liable to the Association for the prompt repair of such damage.

5.06 Additional Development. Declarant and affiliated companies are developing certain improvements on real property adjacent to or in the area of the Project which improvements are anticipated to include certain recreational amenities such as one or more swimming pools, one or more tennis courts, decorative lakes and related walking paths and lawns and shall be collectively referred to herein as the "Inn Facilities". Declarant does hereby grant to each Owner certain

easement and use rights contained in this Declaration, which easements and use rights are hereby granted, conveyed and/or reserved as applicable, all set forth herein for the use and benefit of the Owners.

5.06.1 Right of Way Easement. Declarant hereby grants to each Owner for the benefit and use of all occupants of the Project, a non-exclusive easement for vehicular and pedestrian traffic over and across those portions of the Inn Facilities which may from time to time be designated for such use by all users of the Inn Facilities, including without limitation, the general public, business guests and invitees, patrons, customers and occupants of the Inn Facilities. Such usage shall be subject to reasonable rules and regulations adopted from time to time to govern the usage of such portions of the Inn Facilities, provided, however, that any such rules and regulations which shall be adopted shall be applicable uniformly to all users of the Inn Facilities.

5.06.2 Use of Facilities. Declarant hereby grants unto each Owner, their guest and invitees, the right to use any and all areas of the Inn Facilities which may now exist or which in the future may exist, for the nonexclusive use and benefit of all users of the Inn Facilities, which areas and facilities may include, by way of illustration and not limitation, exercise facilities and/or equipment; swimming pool, whirlpool, sauna and related facilities; outdoor lawns, gardens and related facilities; and all other facilities that may from time to time exist or any replacements or substitutions for same, and including such portions of hallways, corridors and walkways as may be necessary to gain access to such facilities. Declarant makes no representations or warranties with respect to whether or not any or all of such Inn Facilities will be constructed, or if such are constructed, if the same will be maintained. Declarant specifically reserves the right to include within the Inn Facilities such items as it may determine, in its sole discretion, are necessary and desirable for the operation of that portion of Declarant's development. Declarant does, however, hereby grant each Owner the right to use any and all Inn Facilities as may from time to time exist and such right may not be unilaterally withdrawn by Declarant or its successors or assigns; provided, however, that such usage shall be strictly in accordance with rules and regulations as may be applicable and uniformly applied to all persons who are entitled to use same.

5.06.3 Assessment for Inn Facilities. The Association shall pay to Declarant, or its successors or assigns, a portion of the actual cost of the operation, maintenance and refurbishing of such Inn Facilities, which portion shall be reasonably determined based upon the cost of such operations being allocated among all persons entitled to use such Inn Facilities. The total of such costs charged to the Association shall be referred to herein as "Use Fees". The total Use Fees charged to the Association shall be allocated among and charged to all Owners on a prorata basis by dividing the total Use Fees by the number of all Condominiums. Each Owner's share of the Use Fees shall be separately itemized on any statements sent to an Owner for notification and/or collection of assessments, but for all other purposes shall be part of and collected as assessments levied against the Owner pursuant to this Declaration. No Owner may avoid or diminish its obligation to pay its prorata share of the Use Fees by waiver of its right to use such Inn Facilities or by actual non-use thereof. The assessment for use of the Inn Facilities shall not commence until such time as the Inn Facilities shall be actually completed and available for usage by Owners and shall terminate at such time as the Inn Facilities shall cease to exist.

5.06.4 Association as Agent. The Association shall act as Agent for the Owners in entering into any and all agreements or easements which may be required to provide for the implementation and provisions of this section 5.06, negotiation of Use Fees and rules and regulations applicable to the use of the Inn Facilities by the Owners and such other matters as may be required to provide for the cooperation and mutually beneficial ownership, management of operation of the Project and adjacent projects of Declarant. The Association shall not enter into any agreement or take any action that shall affect an Owner's rights under this Declaration, except by and amendment hereto which has been duly adopted in accordance with the provisions hereof.

5.07 Blanket Utility Easement. Declarant hereby grants a blanket utility easement assuring permanent access for installation and maintenance of any and all utilities over the following described parcel, to wit; Part of the N.E. 1/4 of Section 17, Township 14 North, Range 5 East, Salt Lake Base and Meridian: Beginning at a point that is North 200 feet from the Northeast Corner of Lot 1 RASPBERRY PATCH ESTATES, UNIT 1, said lot corner also being West 492.21 feet and South 903.54 feet from the Northeast Corner of Section 17, Township 14 North, Range 5 East of the Salt Lake Base and Meridian; thence, North 436.85 feet; thence South 88° 30' 35" East 466.60 feet, more or less, to the West right-of-way line of State Highway 89, thence Southwesterly along said right-of-way line to a point that is South 88° 30' 35" East 375 feet, more or less, from the point of beginning; thence North 88° 30' 35" West 375 feet, more or less, to the point of beginning.

Together with a 40 foot wide easement for access and utilities, 15 feet on each side of the following described line: Beginning at a point that is South 88° 30' 35" East 275 feet from the Southwest Corner of the above described parcel and running thence, South 0° 45' 00" West 175 feet, thence, South 200 feet, more or less, to Raspberry Patch Road (785 North Street).

Excepting therefrom the following described parcels: Part of the N.E. 1/4 of Section 17, Township 14 North, Range 5 East, Salt Lake Base and Meridian: Beginning at a point that is S 34° 51' 46" W 616.525 feet from the NE Corner of said Section 17, and running thence N 83° 29' 11" E 80 feet, thence S 6° 30' 49" E 150 feet, thence S 83° 29' 11" W 80 feet, thence N 6° 30' 49" W 150 feet to the point of beginning, containing 0.2755 acres, more or less.

5.08 Scenic Easement. Declarant hereby grants a scenic easement extending thirty (30) feet from the east facing Units upon which nothing greater than six (6) feet in height shall be constructed with the exception of a temporary or permanent swimming pool cover. The scenic easement is more specifically described as beginning at a point that is North 64°48'41" East 86 feet and South 34°51'46" West 832.51 feet from the Northeast corner of Section 17, Township 14 North, Range 5 East, Salt Lake Base and Meridian; thence North 64°48'41" East 30 feet; thence South 25°11'19" East 168.5 feet; thence South 64°48'41" West 30 feet; thence North 25°11'19" West 168.5 feet to the point of beginning.

5.09 Easements Deemed Created. All conveyances of Condominiums within the Project hereafter made, whether by the Declarant or otherwise, shall be constructed to grant and reserve such reciprocal easements as are provided herein, even though no specific reference to such easements appears in any such conveyance.

ARTICLE VI

RESTRICTIONS ON USE

6.01 Residential Use. All Units within the Project shall be used exclusively for residential purposes and for no other purpose. Occupancy of a Unit for residential use, whether by the Owner, a Tenant under short or long term lease or rental agreement, through a rental pool for limited transient occupancy on a nightly basis, time period occupancy or exchange shall all be deemed to be residential occupancy.

6.02 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on, in or upon any part of the Project which is or may become a nuisance or which may cause disturbance or annoyance to Owners. No activities shall be conducted, nor improvements constructed, in or upon any part of the Project which are or may become unsafe or hazardous to any person or property.

6.03 Restrictions on Signs. No signs, flags, or advertising devices of any nature, including without limitation, commercial, political, informational, or directional signs or devices, shall be erected or maintained on any part of the Project, without the prior inspection and written approval of the Board of Directors, except as may be necessary temporarily to caution or warn of danger. If the Association consents to the erection of any such signs or devices, the same shall be removed promptly at the request of the Association. All such signs or devices must also comply with applicable zoning ordinances.

6.04 Pets and Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept in any Unit or in the Common Areas except that household pets may be kept or housed in Units when expressly permitted in writing to the Board of Directors. Each owner who desires to keep a pet in his Unit shall apply in writing to the Board of Directors for permission to keep such pet. In no event shall any pet be permitted in any portions of the Common Areas unless carried or on a leash. Each owner who keeps a pet in a unit shall indemnify and hold all other owners harmless against any loss or liability of any kind or character whatsoever arising from or as a result of having such pet in the Project. If a pet disturbs other owners by barking or biting or in other ways become obnoxious, the Board of Directors will give notice to the owner of such pet to cause such annoyance to be discontinued; and if such annoyance is not discontinued and corrected, the Board of Directors may revoke its permission to keep the pet in the Project and the pet shall be revoked therefrom.

6.05 Use of Balconies With Decks. No Owner shall permit or store or cause to be stored any property on any balcony or deck which shall be designated as a limited common area for said Owner's Unit. No Owner shall cause or permit anything (including without limitation, signs, awnings, sunscreens, canopies, shutters, radio or television antennas, satellite transmission or receiving dishes or other facilities, bicycles, exercise equipment, towels, rugs, or any other materials to be displayed, hung, draped, or fixed or otherwise placed upon any balcony or deck. Balconies or decks for which access is available through sliding glass doors may be used for such purposes as may normally be associated with the use thereof, provided, however, that said balconies shall not be used for storage.

6.06 Driveways. In the event that any driveway is provided for the specific use and benefit of any Condominium, such driveway shall not be used for storage. All motor vehicles, campers, boats and trailers which are located upon said driveway must be and continue to be in good mechanical working order, licensed in accordance with applicable law. No vehicle, camper, boat, trailer or any other item located upon said driveway shall be permitted to extend into any roadway.

6.07 Parking. Parking shall be permitted only in areas of the Project designated for such use as evidenced by parking stalls painted upon parking surfaces or by signs otherwise designation specified areas for such parking. No parking shall be permitted upon any roadway, upon any lawns or upon any other area of the Project unless such area shall be specifically designated for such purpose.

6.08 No Alterations. No Owner shall, without the prior written consent of the Board of Directors in each specific instance, make or cause to be made any alteration, addition, removal, or improvement in or to the Common Areas or any part thereof, or do any act that would impair the structural soundness or integrity of the Buildings or other improvements, or jeopardize the safety of persons or property or impair any easement or hereditament appurtenant to the Project.

6.09 No Obstruction. No Owner shall obstruct the Common Areas or any part thereof. No Owner shall store or cause to be stored in the Common Areas any property whatsoever, unless the Board of Directors shall consent thereto in writing.

6.10 No Overloading. No Owner shall bring anything into his Unit or permit anything to be done in his Unit that will cause damage to the Building. No Owner shall overload the floor of his Unit. No Owner shall permit the use or operation in his Unit of any equipment, machinery, or other apparatus that will in any manner injure, vibrate, or shake the Building or portions thereof, excepting only the reasonable use of stereo and other similar audio equipment.

6.11 Prohibition of Damage and Certain Activities. Except with the prior written consent of the Board of Directors, nothing shall be done or kept in any Unit, in the Common Areas, or in any other part of the Project that would result in cancellation of the insurance on the Project or any part thereof, nor shall anything be done or kept in any Unit that would increase the rate of insurance on the Project or any part thereof over that which increase the Association, but for such activity, would pay. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would be in violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental authority or the Association. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or guest of any Owner, and each Owner shall indemnify and hold harmless the Association and the other Owners from and against all loss resulting from any such damage or waste caused by such Owner or by the guests, tenants, licensees, or invitees of such Owner.

6.12 No Commercial Business. No commercial business shall be permitted within the Project unless the same is permitted and approved by the appropriate municipalities, lenders, the Association, and, if applicable, VA, FHA, FNMA, and FHLMC.

6.13 Rules and Regulations. Each Owner shall comply strictly with all rules and regulations adopted by the Association for the governance of the Units, the Common Areas, and the Project, as such rules and regulations may be modified, amended, and construed by the Association in the sole discretion of its Board of Directors.

6.14 Construction Period Exemption. During the course of actual construction of any permitted structures or improvements within the Project, the provisions, covenants, conditions, and restrictions contained in this Declaration shall be deemed waived to the extent necessary or convenient to permit such construction; provided, however, that during the course of such construction, nothing shall be done which will result in a violation of any said provisions, covenants, conditions, or restrictions upon completion of the construction.

ARTICLE VII

THE ASSOCIATION

7.01 Membership. Each Owner shall be entitled and required to be a Member of the Association. Membership shall begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner. If title to a condominium is held by more than one person, the Memberships appurtenant to the Condominium shall be shared by all such persons in the same proportionate interest and by the same type of tenancy in which title to the Condominium is held. An Owner shall be entitled to one Membership for each Condominium owned by him. Each Membership shall be appurtenant to the Condominium to which it relates and shall be transferred automatically by conveyance of that Condominium. Ownership of a Condominium within the Project cannot be separated from Membership in the Association appurtenant thereto, and any attempted devise, encumbrance, conveyance, or other disposition, respectively, of the Owner's Membership in the Association and rights appurtenant thereto separate to Condominium ownership shall be null and void, ab initio.

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 condominium.

7.02 Board of Directors. Until such time as the responsibility for appointing the Board of Directors of the Association is turned over to the Owners in accordance with Utah law, the Declarant shall have the exclusive right to appoint and to remove all such Directors. This exclusive right shall terminate after the first to occur of the following:

(a) Six (6) years from the date on which the first Condominium in the Project is conveyed; or

(b) The date of the sale of Condominiums to which three-fourths (3/4) of the undivided interest in the Common Areas in the Project have been conveyed, or after all Additional Land has been added to the Project, whichever last occurs.

The termination of the exclusive right shall not, however, affect Declarant's rights, as a Unit Owner, to exercise the votes allocated to Units which Declarant owns.

7.03 Right of Board of Directors to Bind Association. Until such time as the responsibility for electing the Board of Directors of the Association is turned over to the Owners in accordance with Section 7.02, the Board of Directors shall not have any authority to enter into any contracts, agreements or leases on behalf of the Association, either directly or indirectly, unless such contracts, agreements or leases may be terminated by the Association at any time without cause or penalty after such transfer of control upon ninety (90) days prior written notice.

7.04 Votes. The number of votes appurtenant to each respective Condominium shall be set forth in Exhibit "A". The number of votes appurtenant to each Condominium as set forth in said Exhibit "A" shall have a permanent character and shall not be altered without the unanimous written consent of all Owners expressed in a duly recorded amendment to this Declaration, except as provided in Section 16.01(b)(ii) herein.

7.05 Amplification. The provisions of this Article VII may be amplified by the Articles and 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 VIII

CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION AND BOARD OF DIRECTORS

8.01 The Common Areas. The Board of Directors, acting on behalf of the Association and, subject to the rights and duties of the Owners as set forth in the Declaration, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon (including the Common Facilities), and shall keep the same in good, clean, attractive, safe, and sanitary condition, order, and repair; provided, however that unless otherwise stated herein, each Owner shall keep the Limited Common Areas designated for use in connection with his Unit, if any, in a clean, sanitary and attractive condition. The Association shall be responsible for the maintenance and repair of the exterior of the Buildings, other improvements and grounds, including without limitation painting thereof, repair and replacement of exterior trim, roofs and fences, and maintenance of landscaping, walkways, driveways, and parking areas. The Board of Directors shall also be responsible for maintenance, repair, and replacement of Common Areas within the Buildings, including without limitation landings, stairways, utility lines, Common Facilities, and all improvements and other items located within or used in connection with the

Common Areas. The specification of duties of the Board of Directors with respect to particular Common Area shall not be construed to limit its duties with respect to other Common Areas. All goods and services procured by the Board of Directors in performing its responsibilities under this Section shall be paid for with funds from the Common Expense Fund.

8.02 Manager. If required by a First Mortgagee, or if desired by the Board of Directors, the Board of Directors shall retain the services of an experienced, professional Manager to manage the Project. Appropriate fidelity bond coverage shall be required for any employee of the Manager who handles funds for the Association. The Board of Directors may by written contract delegate in whole or in part to a Manager such of the duties, responsibilities, functions, and powers hereunder of the Board of Directors as are . The services of any Manager retained by the Board of Directors shall be paid for with funds from the Common Expense Fund. Any management agreement or contract providing for services of Declarant for the Project will be terminable by the Board of Directors for cause upon thirty (30) days written notice thereof, and such Agreement may be terminated by either party without cause and without payment of a termination fee on ninety (90) days written notice. The terms of any such agreement may not exceed one year, renewable by agreement of the parties for successive one-year periods.

8.03 Miscellaneous Goods and Services. The Board of Directors may, on behalf of the Association, obtain and pay for the services of such personnel as the Board of Directors shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Board of Directors may, on behalf of the Association, obtain and pay for the legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration. In addition to the foregoing, the Board of Directors may, on behalf of the Association, acquire and pay for out of the Common Expense Fund water, sewer, garbage collection, electrical, gas, and other necessary or desirable utility services for the Common Areas (and for the Units to the extent not separately metered or billed), insurance, bonds, and other goods and services common to the units.

8.04 Real and Personal Property. The Board of Directors may acquire and hold on behalf of the Association real, personal, and mixed property of all types for the use or benefit of all of the Owners and may dispose of such property by sale or otherwise; provided that any acquisition or disposition of any real, personal or mixed property by the Board of Directors wherein the value of such property exceeds \$5,000 must be approved by a vote of at least fifty-one percent (51%) of the Total Votes of the Association at a meeting duly called for that purpose. All such property, including Common Facilities, shall be paid for out of the Common Expense Fund and all proceeds from the disposition thereof shall be part of such fund.

8.05 Rules and Regulations. The Board of Directors may make reasonable rules and regulations governing the use of the Units, the Common Areas, and Limited Common Areas, and all parts of the Project, which rules and regulations shall be consistent with the rights and duties established by this judicial action against any Owner to enforce compliance with such rules and regulations or other obligations of such Owner arising hereunder, or to obtain such damages for noncompliance therewith, as permitted by law. In the event of such judicial action, the Association shall be entitled to recover its costs, including reasonable attorneys' fees, from the offending Owner.

8.06 Granting Easements. The Board of Directors may, without the vote or consent of the owners or of any other person, grant or create, on such terms as it deems advisable, easements, licenses and rights-of-way over, under, across, and through the Common Areas for utilities, roads, and other purposes reasonably necessary or useful for the property maintenance or operation of the Project.

8.07 Statutory Duties and Powers. All duties, responsibilities, rights, and powers imposed upon or granted to the Board of Directors or to the Manager under the Condominium Act shall be duties, responsibilities, rights, and powers of the Board of Directors.

8.08 Implied Rights. This Association may exercise any right, power, or privilege given to it expressly by this Amended Declaration or by law, and every other right or privilege reasonably implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

ARTICLE IX

ASSESSMENTS

9.01 Agreement to Pay Assessments. The Declarant, for each Condominium owned by it within the Project, and for and as the owner of the Project and every part thereof, hereby covenants and each Owner of any Condominium 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 IX. So long as a Condominium shall be owned by the Declarant and shall remain vacant and not occupied for actual use by Declarant its guest or invitees, whether for compensation or otherwise, the Association may enter into an agreement with Declarant for the payment of such portion of the costs and expenses actually incurred by the Association in the operation of the Project attributable to the existence of such Condominium or Condominiums owned and not occupied by Declarant in lieu of payment of assessments for Condominiums sold to parties other than Declarant.

9.02 Annual Assessments. Annual assessments shall be computed and assessed against all Condominiums in the Project as follows:

(a) Common Expense. Annual assessments shall be based upon advance estimates of the Association's cash requirements to provide for maintenance and operation of the Common Areas and Facilities and/or furnishing utility services and other common items to the Units. Such estimated expenses may include, without limitation, the following: Expenses of management; premiums for all insurance that the Association is required or permitted to maintain including fees for a Manager (if any); 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 or 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 Facilities that must be replaced on a periodic basis, and such reserve shall be funded by monthly payments rather than extraordinary special assessments; 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. Such shall constitute the Common Expense, and all funds received from assessments under this Section 9.02 shall be part of the Common Expense Fund.

(b) Apportionment. Expenses attributable to the Common Expense or to the Project as a whole shall be apportioned among and assessed to all Owners in proportion to their respective undivided interests in the Common Areas. The Declarant shall be liable for the amount of any assessments against Condominiums owned by it.

(c) Annual Budget. Annual assessments shall be determined on the basis of a

fiscal year beginning January 1 and ending December 31 next following; provided the first fiscal year shall begin on the date of this Declaration. On or before December 15 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 expenses of Common Expense 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. Such budgets shall be unnecessary for annual assessments relative to, or for operation of the Project during, any operating period ending before January 1, 1994.

(d) Notice and Payment. Except with respect to the first fiscal year, the Board of Directors shall notify each Owner as to the amount of the annual assessment against his Condominium on or before December 15 each year for the fiscal year beginning on January 1 next following. 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. The Owners shall commence payment of the full monthly assessments against their respective Condominiums no later than sixty (60) days after the conveyance of the first Condominium in the Project or phase. All unpaid installments of any annual assessment shall bear interest at the rate of eighteen percent (18%) per annum from the date each such installment became due until paid. 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 any Owner from the obligation to pay such assessment or any other assessment; but the date when the payment shall become due in such case shall be deferred to a date fifteen (15) days after notice of such assessment shall have been given to the Owner in the manner provided in this Declaration.

(e) Inadequate. In the event that the Common Expense Fund proves inadequate at any time for whatever reason, including non-payment 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 Section 9.03 below, except that the vote therein specified shall be unnecessary.

9.03 Special Assessments. In addition to 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 affirmative vote of at least fifty-one percent (51%) of the Total Votes of the Association, Special Assessments, payable over such periods as the Board of Directors may determine or the purpose of defraying, in whole or in part, the cost of any or any part thereof, or of any other expenses incurred or to be incurred as provided in this Amended 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 proportion to their respective undivided interests in the Common Areas. 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 of 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.

9.04 Lien for Assessments. All sums assessed to Owners of any Condominium within the Project pursuant to the provisions of this Article IX, together with penalties and interest thereon as provided herein, shall be secured by a lien on such Condominium in favor of the Association. To

evidence a lien for sums assessed pursuant to this Article IX, 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 Condominium, and a description of the Condominium. Such a 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 Rich 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 foreclosure in deeds of trust or mortgages or in any other manner permitted by law by the Association in the same manner in which mortgages on real property may be foreclosed under the laws of the State of Utah. In any such foreclosure, the owner shall be required to pay the costs and expenses of such proceedings (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 assessments against the Condominium 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 Condominium in the name of the Association.

9.05 Personal Obligation of Owner. The amount of any annual or special assessment against any Condominium shall be the personal obligation of the Owner of such Condominium 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 Condominium or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment for unpaid assessments hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorneys' fees.

9.06 Statement of Account. Upon payment of a reasonable fee not to exceed \$10.00 and upon written request of any Owner, Mortgagee, or prospective purchaser of a Condominium, the Board of Directors shall issue a written statement setting forth the following: The amount of the unpaid assessments, if any, with respect to such Condominium; the amount of the current annual assessment and the date or dates upon which installments thereof become due; credit for advanced payments or prepaid items, including without limitation the Owner's share of prepaid insurance premiums. Such statements shall be conclusive upon the Association in favor of persons who rely thereon in good faith. In the event that the Board of Directors fails upon written request to issue such a written statement, any unpaid assessments with respect to such Condominium which became due prior to the written receipt of such written request by the Board of Directors shall become subordinate to a lien held by the person or entity requesting such statement.

9.07 Personal Liability of Purchaser. Subject to the provisions of Section 9.06, a purchaser of a Condominium shall be jointly and severally liable with the seller thereof for all unpaid assessments against such Condominium up to the time of the grant or conveyance; provided, however, that the provisions of this Section shall not prejudice the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

9.08 Reserves and Working Capital. The Association shall establish the following funds:

(a) Capital Reserve Fund. The association shall establish and maintain an adequate capital reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Areas and Facilities and to the Limited Common Areas the Association may be obligated to maintain. The reserve fund shall be maintained out of regular assessments for common expenses. The purpose of the capital reserve fund is to insure that the Association will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed

necessary or desirable by the Association, or to pay the cost of periodic anticipated major repairs or improvements due to normal wear and tear to the Common Areas and facilities. Amounts paid into the capital reserve fund are not to be considered adverse payment of any regular assessment. Each budget shall disclose that percentage of the annual assessment which shall be added to the capital reserve fund and each owner shall be deemed to make a capital contribution to the Association equal to such percentage multiplied by each installment of the annual assessment paid by such Owner.

(b) Working Expense Fund. The Association shall also establish and maintain for the initial months of the Project, a working expense fund equal to at least two (2) months' Common Area charges for each Condominium. The purposes of this fund are to provide for the normal day-to-day expenses of operating the Association and the Project. Each Condominium's share of the working capital fund must be collected and transferred to the Association at the time of the closing of sale of that Condominium. The working expense fund must be budgeted for separately and maintained in a segregated account for the use and benefit of the Association. The contribution to the working expense fund for each unsold Condominium in a legal phase of the Project shall be paid to the Association within sixty (60) days after the date of conveyance of the first Condominium in such legal phase of the Project.

9.09 Amendment of Article. This Article IX shall not be amended unless seventy-five (75%) of the Owners of the Condominiums in the Project consent and agree to such amendment in a duly recorded instrument.

ARTICLE X

INSURANCE

10.01 Types of Insurance. The Association shall obtain and keep in full force and effect at all times the following types of insurance coverage, provided by companies licensed to do business in the State of Utah:

(a) Hazard Insurance. The Association shall obtain, maintain and pay for as Common Expense a "master" or "blanket" multi-peril policy of property insurance covering the entire Project, including, without limitation, fixtures and Building service equipment to the extent that they are part of the Common Areas and Facilities, Limited Common Areas, common personal property and supplies belonging to the Association, and any fixtures, equipment or other property owned by the Association and any such property that is within the Units which are encumbered by a Mortgage purchased by FNMA or FHLMC. Such master policy of hazard insurance shall provide, as a minimum, protection against the following:

(i) loss or damage by fire and other perils normally covered by the standard extended coverage endorsement; and

(ii) all other perils customarily covered with respect to projects similar to the Project in construction, location, and use, and any other perils for which coverage is commonly required by private institutional mortgage investors for such projects, including all perils normally covered by the standard "all risk" endorsement, where such is available. The policy shall be in an amount equal to 100% of the current replacement cost of the Project and all property covered by the policy. In addition, such master policy of hazard insurance shall include the following endorsements, if available: an Agreed Amount and Inflation Guard Endorsement; and if the Project should hereafter become subject to a construction code provision which would require the Association to incur a significant expense in order to effect code required changes in the undamaged portions of the Project in the event of the partial destruction of the Project by an

insured peril, Construction Code Endorsements (e.g., a Demolition Cost Endorsement, a Contingent Liability from Operation of Building Laws Endorsement and an Increased Cost of Construction Endorsement).

(b) Public Liability Insurance. The Association shall obtain and maintain a comprehensive policy of public liability insurance covering all of the Common Areas and Common Facilities, commercial spaces and public ways (if any) in the Project, whether or not they are leased to a third party. Such insurance policy shall contain a Severability of Interest Endorsement or equivalent coverage which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or another Owner. The scope of coverage shall include, without limitation:

(i) Legal liability of the insured for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Areas and Facilities and legal liability arising out of law suits related to employment contracts of the Association; and

(ii) Additional coverages as may be required to include protection against such other risks as are customarily covered with respect to projects similar to the Project in construction, location and use, any other coverage in the kinds and amounts required by private institutional mortgage investors for such projects, including, but not limited to, host liquor liability, contractual and all-written contract insurance, and comprehensive automobile liability insurance. Coverage limits shall be in amounts generally required by private institutional mortgage investors for projects similar to the Project in construction, location and use; provided, however, that such coverage shall be for at least \$1,000,000 for bodily injury, including deaths of persons, and property damage arising out of a single occurrence.

(c) Workman's Compensation Insurance. The Association shall obtain and maintain workmen's compensation and employer's liability insurance and all similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by law.

(d) Fidelity Insurance or Bond. The Association shall obtain and maintain blanket fidelity bonds for all officers, directors, and employees of the Association and all other persons, including without limitation, volunteers, handling or responsible for funds of or administered by the Association. Furthermore, where the Association has designated some or all of the responsibility for the handling of funds to a management agent, such bonds shall be required for such management agent's officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. Such fidelity bonds shall meet the following requirements:

(i) all shall name the Association as an obligee and the named insured:

(ii) all shall be written in an amount equal to at least one and one-half times the estimated annual operating expenses and reserves of the Association, and in no event less than an amount, based upon best business judgement, equal to the estimated maximum funds, including reserve funds, in the custody of the Association, or the management agent as the case may be, at any given time during the term of each bond;

(iii) all shall contain waivers by the insurers of the bonds or policies of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar terms or expressions, or shall contain an appropriate endorsement to the policy to cover any persons who serve without compensation if the policy would not otherwise

cover volunteers;

(iv) all shall provide that they may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days prior written notice to the Association or any Insurance Trustee and each Mortgage Servicer on behalf of FNMA, or FHLMC; and

(v) the premiums shall all be paid by the Association as a common expense, except for premiums on fidelity bonds or insurance maintained by a management agent for its officers, employees and agents.

(e) Flood Insurance. The Project is not located in either an area identified by the Secretary of Housing and Urban Development or the Federal Emergency Management Agency as an area having special flood hazards for which flood insurance is not available because the community in which the Project is located is ineligible for participation in the National Flood Insurance Program or an area having special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program. In the event that at some future time the Project should be declared to be in an area having special flood hazards and for which flood insurance is available under the National Flood Insurance Program, the Association shall at that time obtain and maintain at all times a blanket policy of flood insurance that meets the then existing FHLMC/FNMA and FHA/VA flood insurance requirements for similar condominium projects.

(f) Notwithstanding any other provisions contained herein to the contrary, the Association shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for condominium development projects established by FNMA and Government National Mortgage Association, and FHA/VA so long as either is a mortgagee or owner of a Unit within the Project, except to the extent such coverage is not available or has been waived in writing by FNMA or Government National Mortgage Association, or FHA/VA, whichever is applicable.

10.02 Insurance Policy Requirements. The Hazard, Public Liability and Flood Insurance policies obtained by the Association pursuant to Section 10.01 (a), (b), and (e) shall be subject to the following:

(a) The named insured under any such policies shall be set forth therein substantially as follows: "INN Condominiums @ Harbor Village Owners Association, a Utah Non-Profit Corporation, for the use and benefit of the individual Owners (designated by 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 (each of which shall be referred to as "Insurance Trustee"), for the use and benefit of the individual Owners. Loss payable shall be paid 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 the policies according to the undivided interest in the Common Areas appurtenant to each Owner's respective Condominium in the percentage of common ownership. Evidence of insurance shall be issued to each Owner and Mortgagee upon request;

(b) Insurance coverage obtained and maintained pursuant to the requirement of Section 10.01 (a), (b) and (e) shall be primary in the event any Owner has insurance covering the same loss;

(c) Insurance coverage must not be prejudiced by an act or neglect of individual Owners when such act or neglect is not within the control of either such Owners collectively or the Association;

(d) Coverage may not be cancelled, changed in a way which is adverse to Mortgagee, or substantially reduced or modified (including cancellation for nonpayment of premium) without at least (10) days prior written notice to any and all insured parties, including any Mortgage Servicer on behalf of FNMA, FHLMC, FHA or VA, as applicable, and any First Mortgagee;

(e) All policies must contain a waiver of subrogation by the insurer as to any and all claims against the Association, or the Owner of the Unit;

(f) Each hazard insurance policy shall be written by a hazard insurance carrier which has a current financial rating by Best's Insurance Reports of Class B+/VI or better;

(g) Policies shall be deemed unacceptable where (i) under the terms of the carrier's charter, bylaws or policy, contributions or assessments may be made against the Association, an Owner, FNMA, FHLMC, FHA, VA or any designee of FNMA, FHLMC, FHA or VA; or (ii) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policy holders, or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent FNMA, FHA or VA or an Owner from collecting insurance proceeds;

(h) All policies shall contain or have attached the standard mortgagee clause, or equivalent endorsement (without contribution), which is commonly accepted by private institutional mortgage investors in the area in which the Project is located and which appropriately names FHLMC, FNMA, FHA, VA or their Mortgage Servicer in the policy if such corporations are holders of one or more first mortgages on Units within the Project. If Mortgage Servicer is named as Mortgagee in the mortgagee clause, Mortgage Servicer's name shall be followed by the phrase "its successors and assigns." The standard mortgage clause in each policy must be endorsed to provide that any proceeds shall be paid to the Association, or any Insurance Trustee, for the use and benefit of the Owners and their first mortgage holders as their interests may appear, or must be otherwise endorsed to fully protect FNMA's, FHLMC's, FHA's or VA's interests;

(i) Policy contracts shall provide that no assessment may be made against FNMA, FHLMC, FHA or VA (or their designees), and that any assessment made against others may not become a lien on the Mortgaged Premises superior to the first mortgage; and

(j) Policies shall be in compliance with and consistent with applicable local and State insurance law. Each insurer and any reinsurer must be specifically licensed or authorized by law to transact business within the State of Utah.

10.03 Evidence of Insurance. The Board of Directors shall provide the Mortgage Servicer with a copy of the "master" or "blanket" policy of multi-peril property insurance, including copies of endorsements to such policy as required by FHLMC, FNMA, FHA, or VA, and where applicable, a copy of any flood insurance, and appropriate certificate or memorandum of insurance as to each Condominium in the Project which is the subject of a mortgage being serviced for FHLMC, FNMA, FHA, or VA, any other insurance drafts, policies, notices, invoices and other similar documents.

10.04 Additional Coverage. The provisions of the Declaration 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 by this Declaration, in such amounts and in such forms as the Association may deem appropriate from time to time.

10.05 Owner's Own Insurance. Each Owner, at his own expense, may procure and

maintain at all times fire and extended coverage insurance covering personal property of such Owner and additional fixtures and improvements added by such Owner against loss by fire or other casualties, including, without limitation, vandalism and malicious mischief. All policies providing such casualty insurance shall provide that they do not diminish the insurance carrier's coverage for liability arising under insurance policies obtained by the Association pursuant to this Article. Notwithstanding the provisions hereof, each Owner may obtain insurance at his own expenses providing such other coverage upon his Condominium, his personal property, for his personal liability, and covering such other risks as he may deem appropriate; provided that each such policy shall provide that it does not diminish the insurance carrier's coverage for liability arising under insurance policies obtained by the Association pursuant to this Article. If obtainable under industry practice without an unreasonable additional charge for such waiver, all such insurance shall contain a waiver of the insurance company's right of subrogation against the Association, the Declarant, the Manager, other Owners, and their respective servants, agents and guests.

10.06 Review of Insurance. The Association shall review annually the coverage and policy limits of all insurance on the Project and adjust the same at its discretion. Such annual review may include an appraisal of the improvements in the Project by a representative of the insurance carrier or carriers providing the policy or policies on the Project, or by such other qualified appraisers as the Association may select.

10.07 Insurance Trustee, Power of Attorney. Notwithstanding anything to the contrary in this Declaration, the Hazard, Public Liability and Flood Insurance policies obtained by the Association pursuant to Section 10.01 (a), (b), and (e) may name as an insured, on behalf of the Association's authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement or any successor to such trustee (each of whom shall be referred to herein as the "Insurance Trustee"). All such policies obtained by the Association must provide for recognition of any Insurance Trust Agreement, and the Insurance Trustee, or such other authorized representative, shall have exclusive authority to negotiate losses under any such policy. Each Owner appoints the Association, or the Insurance Trustee (in the event a trustee is designated hereafter to represent the Association), as 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 must hold or otherwise properly dispose of any proceeds of insurance in trust for the owners and their first mortgage holders, as their interests may appear.

ARTICLE XI

DAMAGE OR DESTRUCTION

11.01 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 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.

11.02 Definition of Repair and Reconstruction. Repair and reconstruction of the improvements as used herein mean 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.

11.03 Procedures. In the event all or any part of the Project is damaged or destroyed and subject to the provisions of Article XIV below, the Association shall proceed as follows:

(a) Notice to First Mortgagees. The Association shall give timely written notice to any institutional holder of any first mortgage on a Unit in the event of substantial damage to or destruction of any Unit or any part of the Common Areas.

(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 that part of the Project damaged or destroyed.

(c) Sufficient Insurance. If the proceeds of the insurance maintained by the Association 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 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 Section 9.03 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-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 as provided in Section 11.03(c) hereof if, but only if, either not enough Eligible First Mortgagees approve the termination of the Project pursuant to Section 14.02(a) or, within one hundred (100) days following the damage or destruction, the Owners shall elect by a vote of at least seventy five percent (75%) of the Total Votes of the Association to carry out such repair and reconstruction. If, however, the termination of the Project is approved by a sufficient number of Eligible First Mortgagees pursuant to Section 14.02(a) and 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 Total Votes of the Association to carry out such repair and reconstruction, the Association shall record in the office of the County Recorder of Rich 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) The undivided interest in the Project owned in common which shall appertain to each Owner shall be the percentage of the undivided interest previously owned by such Owner in the Common Areas;

(iii) Any liens affecting any of the Condominiums 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 the Owner, in which event the net proceeds of any sale resulting from such suit for partition, together

with the net proceeds of the insurance of the Project, if any, shall be considered as one fund and shall be divided among all Owners in a percentage equal to the percentage of undivided interest owned by each respective Owner in the Common Areas, as set forth in Exhibit "A" hereto, 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.

(f) In no event shall an Owner of a Unit or any other party have priority over the institutional holder of any first mortgage on such Unit with respect to the distribution to such Unit of any insurance proceeds.

11.04 Repair or Reconstruction. If the damage or destruction is to be repaired and 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 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, unless other action is first approved in writing by a sufficient number of Eligible First Mortgagees pursuant to Section 14.02(f).

11.05 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 Sections 11.03(c) and (d) hereof shall constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for cost 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 in proportion to their respective percentages of Ownership of the Common Areas.

11.06 Amendment of Article. This Article XI shall not be amended unless the Owners of all Condominiums in the Project unanimously consent and agree to such amendment by duly executed and recorded instruments.

ARTICLE X11

CONDEMNATION

12.01 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 and facilities 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. 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.

12.02 Proceeds. All compensation, damages, and other proceeds from any such taking by power of eminent domain (hereinafter the "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.

12.03 Complete Taking. In the event the entire Project is taken by power of eminent domain, condominium ownership pursuant hereto shall terminate and the condemnation award shall be allocated among and distributed to the Owners in proportion to their respective undivided interests in the Common Areas. Such distribution shall be made by check payable jointly to the respective Owners and their respective Mortgagees, as appropriate.

12.04 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) in proportion to their respective undivided interests in the Common Areas;

(ii) The total amount apportioned to severance damages shall be allocated among and distributed to the Owners of those Condominiums that have not been taken, in proportion to their respective undivided interests in the Common Areas;

(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 takings 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 XII or any other provisions in 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 proceedings.

(b) Continuation and Reorganization. If less than the entire Project is taken by power of eminent domain, condominium 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 and the

undivided interest in the Common Areas appertaining to such Unit shall be reallocated to, and shall appertain to, the remaining Units in proportion to their respective undivided interests in the Common Areas;

(ii) If any partial taking results in the taking of a portion of a Unit and if no determination is made by the Board of Directors that such taking makes it impractical to use the remaining portion of such Unit for any lawful purpose permitted by this Declaration, then the fair market value of such remaining portion of the Unit shall be determined by the Board of Directors and all voting rights and the undivided interest in the Common Areas appertaining to such Unit shall be reduced in proportion to the diminution in fair market value of such Unit resulting from the taking. The voting rights and undivided interest in the Common Areas so divested from such Unit shall be reallocated to, and shall appertain to, such Unit and the other Units in the Project in proportion to their respective undivided interests in the Common Areas; provided, however, that such Unit shall participate in such reallocation on the basis of the undivided interest reduced in accordance with the preceding sentence;

(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 that such taking makes it impractical to use the remaining portion of such Unit for any lawful purpose permitted by this Declaration, then all voting rights and the entire undivided interest in the Common Areas appertaining to such Unit shall be reallocated to, and shall appertain to the remaining Units in proportion to their respective undivided interests in the Common Areas, and the remaining portion of such Unit shall thenceforth be part of the Common Area; and

(iv) The Board of Directors 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 12.04(b); provided, however, that if any such determination shall have been or such action taken 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 its provisions specified in Article XI hereof for cases of Damage or Destruction; provided, however, that the provisions of said Article dealing with sufficiency or insufficiency of insurance proceeds shall be applicable.

ARTICLE XIII

OBSOLESCENCE

13.01 Adoption of Plan. Subject to the provisions of Section XIV hereof, Owners holding seventy five percent (75%) or more of the Total Votes of the Association may agree that the Project is obsolete and adopt a written plan for the renewal and reconstruction of the Project. Written notice of adoption of such a plan shall be given to all Owners and First Mortgagees.

13.02 Payment for Renewal and Reconstruction. The Association shall levy a special assessment sufficient to provide funds to pay the estimated expenses of renewal or reconstruction. Such special assessment shall be allocated and collected as provided in Section 9.03 hereof, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected prove insufficient to pay the actual expenses of such renewal or reconstruction. In the event amounts collected pursuant hereto are in excess of the amounts required for the renewal or reconstruction, such excess shall be distributed to the Owners in proportion to their respective percentages of ownership of Common Areas.

13.03 Sale of Project. Subject to the provisions of Section XIV hereof, the Owners may

at any time, by an affirmative vote of at least seventy five percent (75%) of the total votes of the Association, at a special meeting of the Members of the Association duly called for such purpose, elect to sell or otherwise dispose of the Project. In such event, the Board of Directors shall forthwith record in the office of the County Recorder of Rich County, State of Utah, a notice setting forth such facts, and upon the recording of such notice by the Board of Directors, the Project shall be sold or otherwise disposed of by the Board of Directors as attorney-in-fact for all of the Owners. Such action shall be binding upon all Owners and each Owner shall have the duty to execute and deliver such instruments and to perform all acts in such manner and form as may be necessary or appropriate to effect such sale or other disposition of the Project. The proceeds of such sale or disposition shall be apportioned among the Owners in proportion to their respective undivided interests in the Common Areas, and such apportioned proceeds shall be paid into separate accounts, each such account representing one Condominium. Each such account shall remain in the name of the Association, and shall be further identified by the Condominium designation and the name of the Owner. The Board of Directors, as attorney-in-fact, shall use and disburse the total amount of each such account, without contribution from one account to another, first to the payment of valid tax and special assessment liens on the Condominium in favor of any governmental assessing authority, second to the payment of any First Mortgagee holding a first mortgage lien on the Condominium, third to the payment of assessments made pursuant to this Declaration, fourth to the payment of other holders of liens or encumbrances on the Condominium in the order of priority of their liens, and the balance remaining, if any, to the respective Owners.

13.04 Amendment of Article. This Article XIII shall not be amended unless the Owners of seventy five percent (75%) of the Condominiums in the Project and at least seventy five percent (75%) of the First Mortgagees which have a first mortgage lien on any Unit in the Project, based on one vote for each mortgage, unanimously consent and agree to such amendment by duly executed and recorded instruments.

ARTICLE XIV

MORTGAGE PROTECTION

14.01 Notice of Action. Upon written request made to the Association by a First Mortgagee, or an issuer or governmental guarantor of a First Mortgage, which written request shall identify the name and address of such First Mortgagee, issuer or governmental guarantor, and the Unit number or address of the Unit, any such First Mortgagee, issuer 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 Condominium on which there is a first mortgage held, insured, or guaranteed by such First Mortgagee, issuer or governmental guarantor;

(b) Any default in the performance by the Owner of a Condominium which is held or is subject to a First Mortgage held, insured, or guaranteed by such First Mortgagee, insurer, or governmental guarantor, of any obligation under this Declaration, including, without limitation, any delinquency in the payment of assessments or charges owed by such Owner, 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 First Mortgagees as specified in Section 14.02 below.

14.02 Matters Requiring Prior Eligible First Mortgagee Approval. Except as may be

required to give effect to the provisions of Article XVI relating to the expansion and phased development of the Project, the prior written consent of Owners entitled to vote at least sixty-seven percent (67%) of the Total Votes in the Association (unless pursuant to a specified provision of this Declaration the consent of Owners entitled to vote a greater percentage of the Total Votes in the Association is required, in which case such specific provision shall control), and Eligible First Mortgagees holding First Mortgages on Condominiums subject to First Mortgages held by Eligible First Mortgagees shall be required to:

(a) Abandon or terminate the legal status of the Project (whether by act or omission); provided that any election to terminate the legal status of the Project following the substantial destruction or a substantial taking of the Project through condemnation shall only require the prior written consent of Eligible First Mortgagees holding First Mortgages on the remaining Condominiums, whether such remaining Condominiums are existing in whole or in part, having at least fifty-one Percent (51%) of the votes of the remaining Condominiums subject to First Mortgages held by Eligible First Mortgagees;

(b) Establish self-management of the Project by the association when professional management has been previously required by any Eligible First Mortgagee, insurer, or guarantor; and

(c) Add or amend any material provision of the Declaration, Articles, Bylaws or Map 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
- (ii) Assessments, assessment liens or subordination of such liens;
- (iii) Reserves for maintenance, repair and replacement of the Common Areas;
- (iv) Fidelity Bonds or Insurance;
- (v) Rights to use of Common Areas and Common Facilities;
- (vi) Responsibility for maintenance and repair of the several portions of the Project;
- (vii) Boundaries of any Unit;
- (viii) Any provisions which are for the express benefit of First Mortgagees.

Any Eligible First Mortgagee 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.

(d) Change the prorata interest or obligations of any individual Condominium for the purpose of:

- (i) levying assessments or charges or allocating distribution of hazard insurance proceeds or condemnation awards; or

(ii) determining the pro rata ownership of each Condominium in the Common Areas except as permitted by expansion of the Project pursuant to Article XVI.

(e) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas. (The granting of easements by the Association for public utilities or for other public purposes consistent with the intended use of the Common Areas by the Owners shall not be deemed a transfer within the meaning of this clause);

(f) Except as provided in Section 14.02(a), use hazard insurance proceeds for losses to any portion of the Project (whether to Units or to Common Areas) for other than the repair, replacement or reconstruction of the Project. In addition, the prior written approval of Eligible First Mortgagees holding First Mortgages on Condominiums having at least fifty-one percent (51%) of the votes of Condominiums subject to First Mortgages held by Eligible First Mortgagees shall be required to effect any restoration or repair of the Project, after a partial condemnation or damage due to an insurable hazard, which will not be substantially in accordance with the Declaration and the original architectural plans and specification of the Project.

14.03 Prior Liens Relate Only to Individual Condominiums. All taxes, assessments and charges which may become liens prior to the first mortgage under local law shall relate only to the individual Condominiums and not to the Project as a whole.

14.04 Subordination of Common Expense Lien. Any lien which the Association may have on any Condominium in the Project for the payment of common expense assessments attributable to such Condominium and any fees, late charges, taxes or interest levied by the Association in connection therewith shall be subordinate to the lien or equivalent security interest of any first mortgage on the Condominium recorded prior to the date on which any such common expense assessments became due.

14.05 Information Made Available to Owners, Lender, and Holders, Insurers and Guarantors of any First Mortgages. Any Owner, lender or holder, insurer or guarantor of any First Mortgage shall, upon request, be entitled to inspect current copies of the Declaration, Bylaws, other rules and regulations concerning the Project and the books, records and financial statement of the Association during normal business hours. Additionally, any holder, insurer or guarantor shall, upon request and without cost, receive an annual audited financial statement of the Association and written notice of all meetings of the Association and may designate a representative to attend such meetings.

14.06 Priority of First Mortgagee in Event of Damage. In the event of substantial damage to or destruction of any Unit or any part of the Common Area, no provision of the Declaration, Articles, or Bylaws or any amendment thereto shall entitle the owner of a Unit or other party to priority over any First Mortgagee with respect to the distribution to such Unit of any insurance proceeds.

14.07 Priority of First Mortgagee in Event of Condemnation. 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, no provision of the Declaration, Articles, or Bylaws or any amendment thereto, shall entitle the Owner of a Unit, or any other party, to priority over any First Mortgagee with respect to the distribution to such Unit of the proceeds of an award or settlement.

14.08 First Mortgagee Rights in Event of Foreclosure. Each holder of a first mortgage lien on a Unit who obtains title to the Unit pursuant to the remedies provided in the Mortgage, or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the

Unit free of an claims for unpaid assessments and charges against the Unit which accrue prior to the acquisition of title to such Unit by the Mortgagee, except for claims for a pro rata share of such assessments or charges as a common expense to all Units in the Project, including the mortgaged Unit.

14.09 No Right of First Refusal. No "right of first refusal" shall be included in or added by amendment to the Declaration, Articles or Bylaws.

ARTICLE XV

COMPLIANCE WITH DECLARATION AND BYLAWS

15.01 Compliance. Each Owner shall comply strictly with the provision of this Declaration, the Articles of Incorporation and Bylaws of the Association, rules and regulations promulgated by the Association, and the decisions and resolution of the Association adopted pursuant thereto, as the same may lawfully be modified and amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or for injunctive relief or for both, maintainable by the Association or, in a proper case, by the aggrieved Owner.

15.02 Enforcement and Remedies. The obligations, provisions, covenants, restrictions, and conditions contained in this Declaration, or in any supplemental or amended declaration, with respect to the Association or Condominiums within the Project shall be enforceable by the Declarant or by any Owner of a Condominium within the Project, subject to this Declaration, by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages or to recover any amount due or unpaid. The obligations, provisions, covenants, restrictions, and conditions contained in this Declaration, or in any Supplemental or further Declaration, with respect to a person or entity or property of a person or entity other than the Association shall be enforceable by the Amended Declarant or by the Association or, in a proper case, by an aggrieved Owner by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages or to recover any amount due or unpaid. No summary abatement or similar procedure may be utilized through non-judicial means to alter or demolish items of construction.

ARTICLE XVI

EXPANDABLE CONDOMINIUM

16.01 Reservation of Right to Expand. The Declarant hereof expressly reserves the option and right to expand the INN Condominiums @ Harbor Village Condominium Project pursuant to the provisions of this Article:

(a) Consent of Owners Not Required. The consent of the Owners in the Project shall not be required to such expansion and the Declarant may proceed with such expansion at its sole option. No signature of any Owner shall be required for such expansion, including the execution of any document including, without limitation, a Supplemental Map or an amendment to this Declaration made for such purpose.

(b) Preparation and Recording of Supplemental Map and Amendment. Prior to adding all or any portion of the Additional Land to the Project, the Declarant shall:

(i) record, with regard to the Additional Land or any portion thereof that is being added to the Project, a supplemental record of survey map (the "Supplemental Map") which

shall describe the land added to the Project and comply in all respects with this Article XVI. Each such Supplemental Map shall be certified as to its accuracy and compliance with the requirements of the Act by the land surveyor who prepared or supervised the preparation thereof; and

(ii) record concurrently with each Supplemental Map an amendment to the Declaration (the "Amendment") which shall contain a legal description by metes and bounds of the land added to the Project, shall reallocate individual interest in the Common Areas, and shall designate the number of votes that the Owner of each respective Unit shall be entitled to vote as a member of the Association. Dilution of each individual interest in the Common Areas shall be based upon the total square footage of the Units covered by this Declaration.

(c) Expiration of Right to Expand. This option to expand the Project shall expire seven (7) years after the recording of this Declaration; however, the Declarant may, at any time prior to the expiration of such period, terminate its option to expand by recording among the land records wherein this Declaration is recorded an executed and notarized document terminating this option.

(d) No Effect on Title. This Declaration shall not be deemed to constitute a lien, encumbrance, covenant, easement or restriction on the title to all or any part of the Additional Land nor shall this Declaration be deemed to create any rights in and to such Additional Land unless and until such time as a Supplemental Map and the Amended Declaration shall actually be placed of record. At the time of the recording of the Supplemental Map or Amended Declaration, said Supplemental Map and Amended Declaration shall be subordinate to any and all matters of record in accordance with applicable provisions of Utah law.

16.02 Description of Additional Land. The Additional Land which may, at the option of Declarant, be made part of the Project is located in the City of Garden City, Rich County, State of Utah, and is more particularly described as follows, to-wit: the N.E. 1/4 of the N.E. 1/4 of Section 17, Township 14 North, Range 5 East, Salt Lake Base and Meridian. [INSTRUCTION TO RECORDER: DO NOT SHOW THIS DECLARATION AS A COVENANT AGAINST THIS PROPERTY UNTIL RECORDATION OF SUPPLEMENTAL PLAT AND AMENDMENT TO THIS DECLARATION.]

16.03 Declarant's Right to Add All or Portions of Additional Land. The Declarant need not add all or any portion of the Additional Land to the Project; however, the Declarant may, at its sole discretion and without limitation, add all or any portion or portions of the Additional Land to the Project and may do so at different times and on one or more occasions as Declarant may determine. Such Additional Land may be added to the Declaration in any order and in any configuration that Declarant shall determine.

16.04 Location of Improvements. Declarant makes no representations or assurance as to the location of any improvements that may be constructed on any portions of the Additional Land.

16.05 Maximum Number of Units. The improvement to be placed on the Additional Land shall contain no more than thirty-five (35) units-per-acre.

16.06 Other Improvements. No assurance is given with respect to other improvements that may or may not be placed on the Additional Land.

16.07 Units Not Identical to Initial Units. Although Declarant intends to create Units in the improvements on the Additional Land that will be compatible with the Units initially constructed within the Project, Declarant makes no assurance as to whether units that may be created in the improvements on the Additional Land will be compatible with or identical to Units initially constructed within the Project; provided, however, that the units may be created on the Additional

Land shall be consistent with the units initially constructed in the Project in terms of quality of construction.

16.08 Liens and Liability Insurance. All liens which arise pursuant to Declarant's ownership of, and construction of improvements upon, any Additional Land, shall not adversely affect the rights of existing Owners, or the priority of first mortgages on Units in the Project. All taxes, assessments, mechanics' liens and other charges affecting such additional property shall either be paid or otherwise satisfactorily provided for by the Declarant.

16.09 Common Areas. The Declarant reserves the right, in its sole discretion and without limitation, to create Common Areas and Limited Common Areas within any portion of the Additional Land. No assurance is made as to the nature, type, size, configuration or existence of any such Common Areas or Limited Common Areas.

16.10 Reservation for Residential Use. Any portion of the Additional Land which is hereafter added to the Project and any Units created thereon shall be restricted primarily to residential purposes, including, but not limited to, both owner and tenant occupied condominium structures. Not more than twenty-five percent (25%) of the aggregate land and floor area of all of the Units that may be created on any portion of the Additional Land which is hereafter added to the Project shall be used for any purpose other than for residential purposes. Occupancy of a Unit for residential use, whether by the Owner, a Tenant under short or long term lease or rental agreement, through a rental pool, for limited transient occupancy on a nightly basis, time period occupancy or exchange shall all be deemed to be residential occupancy.

ARTICLE XVII

GENERAL PROVISIONS

17.01 Intent and Purpose. The provisions of this Declaration, and any Supplemental or amended Declaration, shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of a Condominium Project. Failure to enforce any provision, restriction, covenant or condition contained in this Declaration, or in any Supplemental or amended Declaration, shall not operate as a waiver of any such provision, restriction, covenant, or condition or of any other provisions, restrictions, covenants, or conditions.

17.02 Construction. The provisions of this Declaration shall be in addition and supplemental to the provisions of the Condominium Act and all other provisions of law. Whenever used herein, unless the context shall otherwise require, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both genders. The Article and Section headings set forth herein are for convenience and reference only and are not intended to expand, limit, or otherwise affect the meaning or interpretation of this Amended Declaration or any provision hereof. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provisions hereof.

17.03 Notices and Registration of Mailing Address. Each Owner shall register from time to time with the Association his current mailing address. All notices, demands, and other communications to any Owner as provided for in this Declaration shall be in writing and shall be sufficient for all purposes if personally served or if sent by first class U.S. mail, postage prepaid, addressed to the owner at his registered mailing address or, if no address has been registered, to

the Unit of such Owner. All notices, demands, and other communications to the Association as provided for in this Declaration shall be in writing and shall be sufficient for all purposes if personally served or if sent by first class U.S. mail, postage prepaid, addressed to the Association at its offices at 445 East 200 South Suite No. 9, Salt Lake City, UT 84111, or to such other address as the Association may hereafter specify to the Owners in writing. Any notice, demand, or communication referred to in this Declaration shall be deemed to have been given and received when personally served or when deposited in the U.S. mail, postage prepaid, and in the form provided for in this Section, as the case may be.

17.04 Audit. Any Owner may at any reasonable time, upon appointment and at his own expense, cause an audit or inspection to be made of the books and records maintained by the Association. The Association, at the expense of the Common Expense Fund, shall obtain an audit, on all books and records pertaining to the Project at no greater than annual intervals, and copies thereof shall be furnished to the Owners.

17.05 Amendment. Except as otherwise provided herein, this Declaration may be amended if Owners holding at least two-thirds (2/3) of the total votes in the Association consent and agree to such amendment by instruments which are duly recorded in the office of the County Recorder of Rich County, State of Utah.

17.06 Effective Date. This Declaration shall take effect upon recording.

17.07 Agent for Service. Dennis F. Bullock, whose business address is 445 East 200 South, Suite No. 9, Salt Lake City, UT 84111, is the person to receive service of process in cases authorized by the Act. The Board of Directors shall, however, have the right to appoint a successor substitute process agent. Such successor or substitute agent and his address shall be specified by an appropriate instrument filed in the office of the County Recorder of Rich County, State of Utah. Provided, however, that the agent for service of process named in the Supplementary Declaration relating to the Land most recently added to the Project shall automatically replace any agent previously named by the Board of Directors or any agent designated in any enabling declaration relating to a previously added Land.

17.08 Limitation on Association's Liability. The Association shall not be liable for any failure of water service or other utility service (if any) to be obtained and paid for by the Association hereunder, or for injury or damage to any person or property caused by the elements or by another Owner or person in or upon the Project, or resulting from electricity, water, rain, snow, or ice which may leak or flow from outside or from any parts of the Building or its drains, pipes, conduits, appliances, or equipment, or from any other place, unless caused by the grossly negligent or willful misconduct of the Association. No diminution or abatement of any assessments under this Declaration shall be claimed or allowed for inconvenience or discomfort arising from the making of any repairs or improvements to or maintaining the Project or any part thereof, or from any action taken to comply with the provisions of this Amended Declaration or with the laws, ordinances, regulations, rules, or order of any governmental authority.

17.09 Owner's Obligations. All obligations of an Owner, under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that he may be leasing, renting, or selling under contract his Condominium. The Owner of a Condominium within the Project shall have no obligation for expenses or other obligations accruing after he conveys such Condominium. Further, no Unit owner may exempt himself from liability for common expenses by waiver of use or enjoyment of any of the Common Areas and facilities or by abandonment of his Unit.

17.10 Model Units, Sales Offices and Advertising Signs. Declarant and Declarant's duly authorized agents, representatives and employees shall have the right to establish and maintain such

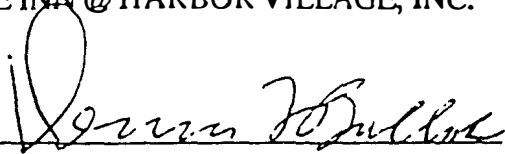
model units and sales offices on the land within the project as are reasonably necessary to market the Units, and Declarant shall have the right to use such model units and sales offices during the period that Condominiums in the Project remain unsold. No more than four model units and one sales office will be established and maintained by the Declarant in the Project. Following the completion of sales, all Units may thereafter be used only for residential purposes. Declarant reserves the right to relocate the same from time to time within the Project. Declarant further reserves the right to maintain advertising signs on the Project and to place the same in any location, and to relocate, replace and remove the same at the sole discretion of Declarant during the period that units in the Project remain unsold. All such unsold signs shall comply with applicable zoning ordinances.

17.11 Termination. In addition to the prior written approval of the percentage of Eligible First Mortgagees specified in Section 14.02, the Total Votes in the Association shall be required before the Project may be abandoned or terminated, except as provided by law and in this Declaration in the case of substantial destruction by fire or other casualty or in the case of taking by condemnation or eminent domain.

17.12 Information to Veterans. Declarant shall furnish to all veteran buyers prior to the receipt of a down payment or execution of an agreement, a brochure informing them about the Condominium regime, the impact of a phased development plan, and the rights and obligations of unit owners. Further, the brochure will explain that title insurance is not provided by the Association, that they must purchase their own, if desired, and that personal liability insurance is also their own responsibility.

IN WITNESS WHEREOF, the undersigned declarant has executed this Declaration the day and year first above written.

DECLARANT: THE INN @ HARBOR VILLAGE, INC.

By: 

ATTEST:

By: 

EXHIBIT "A"
to
DECLARATION OF CONDOMINIUM
of the
INN Condominiums @ HARBOR VILLAGE

<u>Unit No.</u>	<u>Square Feet</u>	<u>Undivided Ownership Interest in Common Area Percentage</u>	<u>Votes</u>
101	615	.03846	3.846
102	615	.03846	3.846
103	615	.03846	3.846
104	615	.03846	3.846
105	615	.03846	3.846
106	615	.03846	3.846
107	615	.03846	3.846
108	615	.03846	3.846
109	615	.03846	3.846
110	615	.03846	3.846
111	615	.03846	3.846
112	615	.03846	3.846
113	615	.03846	3.846
201	615	.03846	3.846
202	615	.03846	3.846
203	615	.03846	3.846
204	615	.03846	3.846
205	615	.03846	3.846
206	615	.03846	3.846
207	615	.03846	3.846
208	615	.03846	3.846
209	615	.03846	3.846
210	615	.03846	3.846
211	615	.03846	3.846
212	615	.03846	3.846
213	615	.03846	3.846
Total Votes of the Association			100.00