

ORIGINAL

DECLARATION OF
CONDOMINIUM
Park Hotel Condominiums

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DECLARATION OF CONDOMINIUM
PARK HOTEL CONDOMINIUMS

THIS DECLARATION is made and executed by MAYFLOWER MANAGEMENT CORPORATION, a Utah corporation (hereinafter referred to as "Declarant"), pursuant to the provisions of the Utah Condominium Ownership Act, Title 57, Chapter 8, Utah Code Annotated, hereinafter referred to as the "Act".

1 RECITALS.

- 1.1 Declarant is the sole owner of the real property ("Property") located in Summit County, Utah, hereinafter more particularly described.
- 1.2 The covenants, conditions and restrictions contained in this Declaration and in the appendices hereto shall be enforceable equitable servitudes and shall run with the land.
- 1.3 Recorded simultaneously herewith is a record of survey map ("Map") of the Property as required by the Act.
- 1.4 All terms used in this Declaration and the appended Bylaws shall have the definitions as set forth herein.
- 1.5 The Property shall be know as Park Hotel Condominiums ("Park Hotel").

2 DEFINITIONS.

- 2.1 Unless the context clearly indicates otherwise, certain terms as used in this Declaration and the foregoing Recitals shall have the meanings set forth in this Section 2.
- 2.2 Act shall mean the Utah Condominium Ownership Act and amendments thereto. (Title 57, Chapter 8, Utah Code Annotated).
- 2.3 Association shall mean Park Hotel Condominiums Association of Unit Owners, an unincorporated association, organized in accordance with the provisions of Section 16 hereof.
- 2.4 Building shall mean the five-level concrete and steel building with a Victorian wood facade constructed on the Property as shown on the Map.
- 2.5 Bylaws shall mean the Bylaws of the Association, recorded herewith in the Office of the County Recorder for Summit County, State of Utah. A true copy of said Bylaws is attached to this Declaration as Appendix B.
- 2.6 Commercial Condominium shall mean a Condominium within the Project consisting of ownership of a Commercial Unit and an undivided interest in the Common Areas and Facilities appurtenant to such Commercial Unit as set forth

in Appendix A hereto.

- 2.7 Commercial Owner shall mean any person or entity, including the Declarant, at any time owning a Commercial Condominium within the Project. The term shall not include any Mortgagee, unless such Mortgagee has acquired title for other than security purposes.
- 2.8 Commercial Unit shall mean those Units designated in Exhibit A hereto as Commercial.
- 2.9 Condominium shall mean a Time Period Unit or a Commercial Unit, together with the undecided interest (expressed as a percentage of the entire ownership interest) in the Common Area and Facilities appurtenant to such Unit as set forth in Appendix A hereto.
- 2.10 Maintenance Period Units shall mean those Time Period Units to be deeded by Declarant to the Association as provided in Paragraphs 10.2 and 10.3 hereof.
- 2.11 Management Committee shall mean the governing committee of the Association, appointed or elected in accordance with this Declaration and the Bylaws of the Association.
- 2.12 Manager shall mean the person., firm or company designated by the Association to manage, in whole or in part, the affairs of the Association and the Project.
- 2.13 Map shall mean the Record of Survey Map of Park Hotel Condominiums, recorded in the office of the County Recorder for Summit County, State of Utah, concurrently with this Declaration.
- 2.14 Mortgage shall mean any mortgage, deed of trust or other security instrument by which a Condominium or any part thereof is encumbered.
- 2.15 Mortgagee shall mean any person named as the mortgagee or beneficiary under any Mortgage by which the interest of any Owner is encumbered, or any successor to the interest of such person under such Mortgage.
- 2.16 Owner shall mean any person or entity, including Declarant, at any time owning a Condominium within the Project, and shall include Time Period Owners and Commercial Owners. The term "Owner" shall not refer to any Mortgagee, unless such Mortgagee has acquired title for other than security purposes.
- 2.17 Parlor shall mean the Limited Common Areas and Facilities in the center of each of Levels 3, 4 and 5 of the Building adjacent to the elevator which are reserved for the use of Time Period Owners.
- 2.18 Project shall mean the Property and the Building and all improvements submitted by this Declaration to the provisions of the Act.
- 2.19 Property shall mean that certain real property situated in Park City, Summit County, State of Utah, more particularly described in Section 3 hereinafter, on which the Building is located.

- 2.20 Time Period Condominium shall mean a Condominium within the Project consisting of ownership of a Time Period Unit, except Maintenance Period Units, and an undivided interest in the Common Areas and Facilities appurtenant to such Time Period Unit as set forth in Appendix A hereto.
- 2.21 Time Period Owner shall mean any person or entity, including Declarant, at any time owning a Time Period Condominium; provided, however, that the Association with respect to any Time Period Units owned as Maintenance Period Units shall not be considered a Time Period Owner.
- 2.22 Time Period Unit shall mean each of fifty-two (52) annually recurring time periods established and designated in Appendix A hereto during which the Owner thereof shall have exclusive use and occupancy of a particular designated Unit within the Project.
- 2.23 Time Period and Parlor Furnishings shall mean all furniture, furnishings, equipment, facilities and personal property within particular Units and the Parlors for the exclusive use and benefit of Time Period Owners and all furniture, furnishings, equipment, facilities and personal property hereafter purchased with monies from the Furniture and Maintenance Fund.
- 2.24 Total votes of the Association shall mean the total number of votes appertaining to all Condominiums, as shown in Appendix A attached hereto.
- 2.25 Unit shall mean an individual air space unit, consisting of enclosed rooms occupying part of the Building and bounded as described in Section 5 hereinafter.

3 DESCRIPTION OF THE PROPERTY

The Property on which the Building and improvements are located ("Land") is particularly described as follows:

All of Lots 1,2 & 3, Block 8, AMENDED PLAT OF PARK CITY SURVEY.

ALSO:

BEGINNING at the Southeasterly corner of Block 8, Park City Survey, Park City, Utah and running thence South 66°54' West along the Southeasterly boundary of said Block 8, 75.00 feet to the Southwesterly corner of Lot 1 of said Block 8; thence South 23°38' East 0.70 feet to a point within the right-of-way of Sixth Street (as signed; Second Street as platted); thence North 66°22' East 75.00 feet to the point of BEGINNING.

4 DESCRIPTION OF THE BUILDING.

The Building is a five-level building constructed of concrete and steel with a wood facade in the Victorian style. The Building includes hallways and parlors on three upper levels. The Building is supplied with electricity, water, natural gas and sewage service.

5 DESCRIPTION OF UNITS.

The boundary lines of each Unit are the undecorated and/or unfinished interior surfaces of its perimeter walls, bearing walls, lowermost floor, uppermost ceiling, interior surfaces of windows and doors, and the exterior surfaces of porches and decks, except railings. The interior surfaces of the doors and windows means the points at which such surfaces are located when such window or door is closed. Each Unit shall include both the portions of the Building that are not Common Areas and Facilities within such boundary lines and the space so encompassed, excepting Common Areas and Facilities.

Without limitation, a Unit shall include any finishing material applied or affixed to the interior surfaces of the interior walls, floors and ceilings; non-supporting interior walls; and all utility outlets, fixtures or appliances found within the boundary lines of the Unit and servicing only that Unit.

Notwithstanding the fact that they may be within the boundaries of the Unit, the following are not part of any Unit: Bearing walls, floors, ceilings and roofs (except the interior surfaces thereof), foundations, ceiling equipment, tanks, pumps, pipes, vents, ducts, shafts, flues, chutes, conduits, wires and other utility installations, except the outlets thereof when located within the Unit.

6 DESCRIPTION OF COMMON AREAS AND FACILITIES.

The Common Areas and Facilities shall mean and include the Property on which the Building is located and all portions of the Project not contained within any Unit, including, but not by way of limitation, the foundation, columns, girders, beams, supports, main walls, roofs, halls, corridors, fire escapes and entrances and exits of the Building; the grounds and storage spaces; the areas used for storage of janitorial supplies and maintenance equipment and materials; installations of all central services, including power, light, gas, hot and cold water, heating and garbage collection; tanks, pumps, motors, fans, ducts and, in general, all apparatuses and installations existing for common use; any utility pipes, lines or systems servicing the Units; all ducts, flues, chutes, wires, conduits and other accessories and utility installations to the outlets used therewith; all other parts of the Property necessary of convenient to its existence, maintenance and safety, or normally in common use, or which have been designated as a Common Areas and Facilities on the Map or any amended Map; and all repairs and replacements of any of the foregoing.

7 DESCRIPTION OF LIMITED COMMON AREAS AND FACILITIES.

Limited Common Areas and Facilities shall mean and include those portions of the Common Areas and Facilities reserved for the use of certain Owners to the exclusion of other Owners. The Limited Common Areas and Facilities are designated as such on the Map or any amended Map and include the lobbies on Levels 3,4 and 5, and the health club facility on Level 1, which are reserved for the sole use of the Time Period Owners, their families, guests, servants, employees and invitees, as well as the Owner storage area on Level 1. The use and occupancy of all other designated Limited Common Areas and Facilities shall be reserved to its associated Unit. Each Time Period Owner is

hereby granted and irrevocable license to use and occupy the Limited Common Areas and Facilities during his time period of ownership. Each Commercial Owner is hereby granted an irrevocable license to use and occupy the Limited Common Areas and Facilities appurtenant to his Unit at all times.

8 SUBMISSION TO CONDOMINIUM

Declarant hereby submits the Property and the Building and all other improvements thereon to the provisions of the Condominium Act. All of said Property is and shall be held, conveyed, hypothecated, encumbered, leased, subleased, rented, used and improved for the aforesaid term as a Condominium Project to be known as Park Hotel Condominiums. 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 Project and in furtherance of a plan for improvement 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 to the Declarant, the successors and assigns of said Declarant, and any person acquiring, leasing, subleasing or owning an interest in the real property and improvements comprising the Project, their assigns, lessees, sublessees, heirs, executors, administrators, devisees and successors.

9 DIVISION INTO CONDOMINIUMS.

The Project is hereby divided into two types of Condominium: First, Time Period Condominiums, consisting of a Time Period Unit and (except for Maintenance Period Units) an appurtenant undivided interest in the Common Areas and Facilities; and second, Commercial Condominiums, each consisting of ownership of a Commercial Unit and an appurtenant undivided interest in the Common Areas and Facilities.

10 NATURE AND INCIDENTS OF TIME PERIOD CONDOMINIUM OWNERSHIP

10.1 A Time Period Owner shall have the right to occupy the Unit to which his Time Period Unit relates and to use the Common Areas and Facilities only during the particular annually recurring time period or periods that he owns, except as the Association or the Declaration may otherwise permit use of the Common Areas and Facilities.

10.2 Two Time Period Units in each Unit shall be designated by the Declarant as Maintenance Period Units and shall have no appurtenant ownership interest in the Common Areas and Facilities and shall not be deemed Condominiums. Declarant shall select and convey to the Association without charge the subject Maintenance Period Units by a date not later than three (3) years from the date of recording of the Declaration. Prior to such conveyance, Declarant shall make available to the Association two (2) weeks in each Unit each year commencing six (6) months after the Project is operational, to be used solely for maintenance purposes, and to be held and used by the Association strictly in accordance with the provisions of this Paragraph.

- 10.3 As to all Time Period Units and the Parlors, the Association shall provide maid service for and all cleaning, maintenance, painting and repair of such Units and Parlors, and repair and replacement of the Time Period Unit and Parlor Furnishings therein. The Association shall acquire and pay for such goods and services with funds from the Furniture and Maintenance Fund, as hereinafter provided for, unless the damages were caused by the intentional or negligent acts or omissions of an individual Owner, his family, guests, invitees or licensees, in which event the costs of repair and replacement shall be assessed to such Owner. The Association shall have the same responsibilities with respect to Limited Common Areas and Facilities, if any, appurtenant to such Units, except that it shall not be responsible to any Owner for loss or damage by theft or otherwise of articles stored in any storage area, balcony or Unit.
- 10.4 Maintenance Period Units shall be used exclusively for the purpose of cleaning, maintaining, repairing, replacing and refurbishing the appurtenant Unit and Time Period Unit Furnishings therein in accordance with the provisions of this Declaration.
- 10.5 Each Time Period Condominium is and shall hereafter be a parcel of real property, which may be separately held, conveyed, devised, mortgaged, encumbered, leased, rented, used, occupied, improved and otherwise affected in accordance with the provisions of this Declaration.
- 10.6 Each year shall be divided into 52 Time Periods, designated respectively Time Periods 1 through 52. Time Period 1 shall commence on the first Saturday of each calendar year at 4:00 p.m. local time and end at 10:00 a.m. local time on the following Saturday. Succeeding Time Periods shall be numbered consecutively and shall commence at 4:00 p.m. local time on the last day of the previous Use Period. Time Period 52 shall end at 10:00 a.m. local time on the first Saturday of the next succeeding calendar year. No Time Period Condominium shall be further divided nor shall the days and times of commencement and conclusion of Time Periods be altered.
- 10.7 In the event that any Owner shall occupy a Time Period Unit beyond the Time Period(s) which he owns or otherwise attempts to use or occupy such Unit at any time other than the Time Period(s) appertaining to his Time Period Condominium, the Management Committee shall be entitled, upon allegations in a verified complaint signed by any member of the Management Committee, to obtain from any court of competent jurisdiction an order for eviction of said Owner and to obtain enforcement thereof by an appropriate law enforcement agency. Any Owner who does so wrongfully occupy his Unit shall be assessed by the Association as a Common Expense an amount equal to the sum of the following: (1) two times the cost of reasonable alternate lodging for the rightful Owner(s) and their guests for so many 24-hour days or parts thereof as such rightful Owner(s) and their guests have been deprived of the use and occupancy of the Unit, and (2) the reasonable cost of transportation for the rightful

Owner(s) and their guests from their home(s) or other point of origination. When such amount is collected by the Association, it shall be promptly remitted to the rightful Owner.

- 10.8 No Owner shall make or cause to be made any alterations, improvements, replacements or repairs in or to the Unit related to his Time Period Condominium or to any Time Period and Parlor Furnishings therein, except with the prior written consent of the Management Committee or as may be necessary in an emergency to prevent injury to persons or damage to property. In no event shall any Owner subject any Unit or Time Period Furnishings therein to any lien for the making of any alterations, improvements, replacements or repairs therein or thereto. No Owner, nor persons within his control, shall commit any waste with respect to the Property or any part thereof, including without limitation Units, Common Areas and Facilities, Limited Common Areas and Facilities and Time Period Furnishings.
 - 10.9 It is understood that in the year 2030 A.D., the Owners of Time Period Condominiums shall become tenants in common. The Management Committee shall, not less than sixty (60) nor more than one hundred twenty (120) days prior to the actual date of such conversion to tenancies in common, call a meeting of all Owners. The presence in person or by proxy of Owners holding a majority of the total voting power of all Units shall constitute a quorum. At such meeting, the Owners may decide by a majority vote, which shall bind all Owners, to continue their occupancy rights, in which case the provisions of this Declaration governing the same shall be extended for an additional ten-(10) year period. Successive extensions of occupancy rights for periods of ten (10) years each may be approved pursuant to the foregoing procedures. If at any time less than a majority of the Owners shall approve continuation of occupancy rights, the Management Committee shall file suit in a court of competent jurisdiction for partition of all Time Period Condominium in the Project.
 - 10.10 No Owner or other person or entity acquiring any right, title or interest in a Time Period Condominium shall seek or obtain through any legal procedures, judicial partition of the Time Period Condominium or sale of the Time Period Condominium in lieu of partition at any date prior to the expiration of the exclusive occupancy rights provided for hereinabove; provided, that nothing herein contained shall be construed to prohibit a judicial sale in lieu of partition of a Time Period Condominium owned by two or more persons as between such co-owners.
- 11 NATURE AND INCIDENTS OF COMMERCIAL CONDOMINIUM OWNERSHIP
- 11.1 Each Commercial Owner shall have the exclusive right to paint, repaint, tile, wax, paper, carpet or otherwise decorate the interior surfaces of the walls, ceilings, floors and doors forming the boundaries of his Unit and the surfaces of all walls, ceilings, floors and doors within such boundaries.

- 11.2 Each Commercial Owner shall keep the interior of his Unit, including without 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 should develop an unsanitary or unclean condition or fall into a state of disrepair, and in the event that the Owner of such Unit should fail to correct such condition or state of disrepair promptly following written notice from the Association, 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.
- 11.3 With the written consent of the Association, two or more Commercial Units may be utilized by the Owner(s) thereof 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 utilized as one Unit, be utilized by the Owner(s) of the adjoining Units as Limited Common Areas and Facilities, except to the extent that any such structural separations are necessary or contain facilities 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 the structural separation, shall be closed, at the equal expense of the Owner(s) of each of the two Units and the structural separations between the two Units shall thereupon become Common Areas and Facilities.

12 OWNERSHIP OF COMMON AREAS AND FACILITIES.

The undivided interest in the Common Areas and Facilities appurtenant to each Unit or Time Period Unit in the Project shall be as set forth in Appendix A attached hereto and by this reference made a part hereof. The percentages appurtenant to each Unit or Time Period Unit as shown in said Appendix A shall have a permanent character and shall not be altered without the unanimous written consent of all Owners expressed in an amendment to this Declaration duly recorded. Except as otherwise provided in this Declaration, each Owner shall be entitled to use the Common Areas and Facilities (other than the Limited Common Areas and Facilities) in any manner that does not hinder or encroach upon the rights of other Owners and is not contrary to any Rules and Regulations promulgated by the Association.

13 TITLE OF CONDOMINIUMS

- 13.1 Except as limited by Paragraphs 10.6 and 10.7, title to a Condominium within the Project may be held or owned by any person or entity and in any manner in which title to any other real property may be held or owned in the State of Utah, including, but not by way of limitation, joint tenancy or tenancy in common.

- 13.2 Title to no part of a Condominium within the Project may be separated from any other part thereof during the period of condominium ownership prescribed herein, and each Time Period Unit (except Maintenance Period Units) and Commercial Unit, and the undivided interest in the Common Areas and Facilities appurtenant to each shall always be conveyed, devised, encumbered and otherwise affected only as a complete Condominium. Every gift, devise, bequest, transfer, encumbrance, conveyance or other disposition of a Condominium, or any part thereof, shall be construed to be a gift, devise, bequest, transfer, encumbrance or conveyance, 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.
- 13.3 The Common Areas and Facilities shall be owned in common by all of the Owners, and no Owner may bring any action for partition thereof.
- 13.4 Each Owner shall have the right to mortgage or otherwise encumber his Condominium. However, no Owner shall attempt to or shall have the right to mortgage or otherwise encumber the Common Areas and Facilities 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 the Declaration shall be binding upon any Owner whose title is derived through the foreclosure by private power of sale, judicial foreclosure, or otherwise.
- 13.5 No labor performed or material furnished for use in connection with any Unit and/or Time Period 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 and/or Time Period Unit of any other Owner not expressly consenting to or requesting the same or against any interest in the Common Areas and Facilities except as to the undivided interests therein appurtenant to the Unit of the Owner for whom such labor shall have been performed and such materials shall have been furnished.
- 13.6 Every contract for the sale of a Condominium and every other instrument affecting title to a Condominium within the Project may describe a Unit and/or Time Period 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 and/or Time Period Unit, together with the appurtenant undivided interest in the Common Areas and Facilities, and to incorporate all the rights incident to ownership of a Condominium within the Project and all of the limitations on such ownership as described in this Declaration and/or the Bylaws of the Association.
- 13.7 The Association shall be named in all deeds of conveyance concerning the Units

or any of them as the party to receive, and shall receive, all notices concerning all taxes, assessments and other charges of the State of Utah or of any political subdivision or of any special improvement district or of any other taxing or assessing authority levied on the Units and/or the Common Areas and Facilities.

The Management Committee shall be responsible for apportioning all such taxes and/or assessments among the Time Period Condominiums in proportion to the undivided percentage interests in the Common Areas and Facilities appurtenant to each such Condominium. The Association shall furnish to the assessor all necessary information with respect to such apportionment. No forfeiture or sale of any Time Period Condominium for delinquent taxes, assessments or other governmental charges shall divest or in any way affect the title to any other Time Period Condominium.

14 EASEMENTS

14.1 If any part of the Common Areas and Facilities encroaches or shall hereafter encroach upon a Unit or Units, 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 and Facilities, or upon an adjoining Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of Common Areas and Facilities or any part of a Unit or Units encroaches or shall hereafter encroach on real property now owned by Declarant or lessor outside the boundaries of the Property an easement for such encroachment shall and does exist during the period of condominium ownership prescribed herein. Such encroachments shall not be considered to be encumbrances either on the Common Areas and Facilities or the Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of any improvement 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 of the Project or any part thereof.

14.2 Some of the Common Areas and Facilities are or may be located with 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 and Facilities from time to time during such reasonable hours as may be necessary for the maintenance, cleaning, repair or replacement of any Common Areas and Facilities or Time Period Unit Furnishings located therein or accessible therefrom or for making emergency repairs at any time therein necessary to prevent damage to the Common Areas and Facilities or to a Unit or Units. In addition, the Association or its agents may enter any Unit when necessary in connection with any cleaning, maintenance, repair, replacement, landscaping or construction 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.

- 14.3 Each Owner shall have the right to ingress and egress over, upon and across the Common Areas and Facilities as necessary for the access to his Unit and to any Limited Common Areas and Facilities appurtenant to his Unit, and shall have the right to horizontal, vertical and lateral support of his Unit.
- 14.4 The Association shall have an easement to make such use of the Common Areas and Facilities 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 and Facilities, other than those Limited Common Areas and Facilities reserved for the use of specific Time Period Owners or Commercial Owners, facilities for use by Owners generally or by the Association and its agents exclusively.
- 14.5 All conveyances of Condominiums within the Project hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve such reciprocal easements as are provided herein, even though no specific reference to such easements appears in any such conveyance.

15 RESTRICTIONS ON USE.

- 15.1 The Commercial Units within the Project, except as otherwise permitted in writing by the Association, shall be used only as follows:
 - 15.1.1 The Commercial Unit with the Project may be used only as restaurants, retail businesses, lounges, business offices, professional offices or for property management; provided, however, that if the particular use of any Commercial Unit increases the rate of insurance on the Project or any part thereof over what the Association, but for such activity, would pay, the Owner of such Commercial Unit shall be assessed for and shall pay the amount of such increase.
 - 15.1.2 All customers, clients, patrons and licensees of Owners of Commercial Unit shall be permitted to enter upon the Project and shall have a non-exclusive easement across the Common Areas and Facilities located on Levels 1 and 2 for access to such Commercial Units.
- 15.2 The Time Period Units, except as otherwise permitted in writing by the Association, shall be used and occupied only as follows:
 - 15.2.1 The Time Period Units within the Project shall be used exclusively as a residence for a single family.
 - 15.2.2 No Time Period Unit shall be used to accommodate more persons than it was designed to accommodate comfortably, which is defined herein as no more than four persons in each Time Period Unit.
 - 15.2.3 No Time Period Unit shall be used for business or commercial activity; provided, however, that nothing in this Subsection shall be deemed to

prevent (a) Declarant or its duly authorized agent from using any Units owned by Declarant as sales models or property management office, or (b) any Owner or his duly authorized agent from freely renting or leasing his Unit from time to time.

- 15.3 The Units, Common Areas and Facilities and Limited Common Areas and Facilities, except as otherwise permitted in writing by the Association, shall be used in accordance with the following restrictions:

- 15.3.1 No noxious or offensive activity shall be carried on in or upon any part of the Project nor shall anything be done or placed in or upon any part of the Project which is or may become a nuisance or may cause embarrassment, disturbance or annoyance to Owners.
- 15.3.2 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.
- 15.3.3 No signs, flags or advertising devices of any nature, including, without limitation, commercial, political, information 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 Association, except as may be necessary temporarily to caution or warn of danger.
- 15.3.4 No animals, birds, fish or pets shall be kept or allowed to remain on any part of the Project.
- 15.3.5 The draperies, shades and other interior window coverings in Units shall present a uniform and pleasant appearance from the outside of the Building. No draperies, shades or other interior window coverings shall be installed or employed in any Unit with out the prior inspection and approval of the Association.
- 15.3.6 No Unit, Time Period Unit, Common Areas and Facilities, or portions thereof may be divided or subdivided or a fractional portion thereof sold or conveyed so as to be held in divided ownership (as opposed to tenancy in common).
- 15.3.7 No Owners shall, without the prior written consent of the Association, make or permit to be made any structural alterations, improvement or addition in or to his Unit or to the Common Areas and Facilities. No Owner shall, without prior written consent of the Association, do any act that would impair the structural soundness or integrity of the Building or the safety of property or impair any easement or hereditament appurtenant to the Project.
- 15.3.8 There shall be no obstruction of the Common Areas and Facilities by any Owner. Owners shall neither store nor leave any of their property in the Common Areas and Facilities, except with the prior consent of the

Association.

15.3.9 Nothing shall be done or kept in any Unit or in the Common Areas and Facilities or any part thereof which would result in cancellation of the insurance on the Project or any part thereof, nor shall anything be done or kept in any Time Period Unit which would increase the rate of insurance on the Project or any part thereof over what the Association, but for such activity, would pay, without the prior written consent of the Association. Nothing shall be done or kept in any Unit or in the Common Areas and Facilities or any part thereof which would be in violation of any statute or rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Areas and Facilities or any part thereof shall be committed by any Owner or guest, lessee, licensee or invitee of any Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by him or his guests, lessees, licensees or invitees.

15.3.10 No Owner shall violate the Rules and Regulations for the use of Commercial Units, Time Period Units and Common Areas and Facilities as adopted from time to time by the Association.

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

16 ASSOCIATION OF UNIT OWNERS; MANAGEMENT COMMITTEE

16.1 The persons or entities who are at the time of reference the Owners constitute an unincorporated association and not a legal entity, the characteristics and nature of which are determined by the Act, the Declaration and the Bylaws. The name in which contracts shall be entered into, title to property shall be acquired, held, dealt in and disposed of bank accounts shall be opened and suits shall be brought and defended by the Management Committee or officers thereof on behalf of, or as agent for the Owners in the manner specified by the Act, this Declaration and/or the Bylaws, is: "Park Hotel Condominiums Association or Unit Owners" ("Association").

16.2 The management and maintenance of the Project and the administration of the affairs of the Association shall be conducted by a Management Committee consisting of not fewer than three (3) and not more than seven (7) natural persons who need not be Owners, the exact number to be determined by a separate vote at each annual meeting of the Association. The Management

Committee shall be elected as provided in the Bylaws. The rights, duties and functions of the Management Committee may be exercised by Declarant until a date not more than 120 days after completion of the transfer to purchasers of title to Condominiums representing 75 percent of the votes of all Owners or until February 23, 1985, whichever shall first occur, unless it should, at its sole option, turn over such rights, duties and functions to the Management Committee at an earlier date.

- 16.3 The Management Committee shall have all the powers, duties and responsibilities as are now or may hereafter be provided by the Act, this Declaration and the Bylaws, including but not limited to the following:
- 16.3.1 To make and enforce all rules and regulations covering the operation and maintenance of the Project and the Units. Such rules and regulations shall include provisions for check-in and check-out times relative to use of Time Period Condominiums.
 - 16.3.2 To engage the services of a manager or managing company, accountants, attorneys or other employees or agents and to pay to said persons a reasonable compensation therefor.
 - 16.3.3 To operate, maintain, repair, improve and replace the Common Areas and Facilities, provided however, that any single expenditure for capital improvements in excess of \$20,000 must receive the prior approval of a majority of the Owners.
 - 16.3.4 To determine and pay the expenses of maintenance, repair and replacement of the Common Areas and Facilities ("Common Expenses"), as well as all expenses related to Time Period and Parlor Furnishings and maintenance of Time Period Condominiums and Parlors ("Furniture and Maintenance Expenses").
 - 16.3.5 To assess and collect the proportionate share of Common Expenses and Furniture and Maintenance Expenses from the Owners, as provided in Section 24 hereinafter.
 - 16.3.6 To enter into contracts, deeds, leases and/or other written instruments or documents and to authorize the execution and delivery thereof by the appropriate officers.
 - 16.3.7 To open bank accounts on behalf of the Association and to designate the signatures therefor.
 - 16.3.8 To purchase, hold, sell, convey, mortgage or lease any one or more Condominiums in the name of the Association or its designee.
 - 16.3.9 To bring, prosecute and settle litigation for itself, the Association and the Project, provided that it shall make no settlement which results in a liability against the Management Committee, the Association or the

Project in excess of \$10,000 without the prior approval of a majority of Owners.

- 16.3.10 To obtain insurance for the Association with respect to the Units and the Common Areas and Facilities, as well as workmen's compensation insurance.
- 16.3.11 To repair or restore the Project following damage or destruction or a permanent taking by the power of or power in nature of eminent domain or by an action or deed in lieu of condemnation not resulting in the removal of the Project from the provisions of the Act.
- 16.3.12 To own, purchase or lease, hold and sell or otherwise dispose of, on behalf of the Owners, items of personal property necessary to or convenient to the management of the business and affairs of the Association, and the Management Committee and in the operation of the Project, including without limitation furniture, furnishings, fixtures, maintenance equipment, appliances and office supplies.
- 16.3.13 To keep adequate books and records.
- 16.3.14 To form a non-profit corporation to conduct the affairs of the Association in lieu of the unincorporated association constituted under paragraph 16.1 hereof.
- 16.3.15 To do all other acts necessary for the operation and maintenance of the Project, including the maintenance and repairing of any Unit if the same is necessary to protect or preserve the Project.
- 16.4 The Management Committee may delegate to a manager or managing company all of the foregoing powers, duties and responsibilities referred to in paragraph 16.3 above except the final determination of estimated expenses, annual budgets and assessments based thereon; the promulgation of rules and regulations; the power to enter into any contract involving more than \$10,000 in any one fiscal year; the opening of bank accounts; the power to purchase, hold, sell, convey, mortgage or lease any Units in the name of the Association; the authority to bring, prosecute and settle litigation or the power to form a non-profit corporation.
- 16.5 Members of the Management Committee, the officers and any assistant officers, agents and employees of the Association (I) shall not be liable to the Owners as a result of their activities as such for any mistake of judgment, negligence or otherwise, except for their own willful misconduct or bad faith; (ii) shall have no personal liability in contract to an Owner or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Association in their capacity as such; (iii) shall have no personal liability in tort to any Owner or any person or entity, direct or imputed, by virtue of acts performed by them, except for their own willful misconduct or bad faith, nor for

acts performed for them in their capacity as such; and (iv) shall have no personal liability arising out of the use, misuse or condition of the Property, which might in any way be assessed against or imputed to them as a result or by virtue of their capacity as such.

- 16.6 The Owners shall indemnify and hold harmless any person, his heirs and personal representatives, from and against all personal liability and all expenses, including attorneys' fees, incurred or imposed, or arising out of or in settlement of any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, instituted by any one or more Owners, or any other persons or entities, to which he shall be or shall be threatened to be made a party by reason of the fact that he is or was a member of the Management Committee or an officer or assistant officer, agent, or employee of the Association, other than to the extent, if any, that such liability or expense shall be attributable to his willful misconduct or bad faith, provided that in the case of any settlement, the Management Committee shall have approved the settlement, which approval is not to be unreasonably withheld. Such right of indemnification shall not be deemed exclusive of any other rights to which such person may be entitled as a matter of law or agreement, vote of Owners or the Management Committee or otherwise. The indemnification by the Owners as contained herein shall be paid by the Management Committee on behalf of the Owners and shall constitute a Common Expense and shall be assessed and collected as such.

17 MAINTENANCE, ALTERATION AND IMPROVEMENT

- 17.1 The maintenance, replacement and repair of the Common Areas and Facilities shall be the responsibility of the Management Committee, and the cost thereof shall be a Common Expense. The Management Committee shall also maintain, replace and repair all porches and decks and all conduits, ducts, plumbing and wiring and other facilities for the furnishing of heat, gas, light, power, water and sewer service. All incidental damages caused to a Unit by the maintenance, replacement and repairs of the Common Areas and Facilities or utility services shall be repaired promptly and the cost thereof charged as a Common Expense.
- 17.2 Some of the Common Areas and Facilities 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 and Facilities from time to time during such reasonable hours as may be necessary for the cleaning, repair or replacement of any Common Areas and Facilities or for making any emergency repairs at any time and when necessary to prevent damage to the Common Areas and Facilities or to any Unit. The Association shall also have the irrevocable right to have access to any Unit when necessary in the connection with any maid service, cleaning, maintenance, repair, replacement, painting, landscaping, construction or reconstruction for which the Association is responsible. Such entry shall be

made with as little inconvenience to the Owners as is practicable under the circumstances and any damage caused thereby shall be repaired by the Association with funds from the Furniture and Maintenance Fund provided for hereinafter.

18 INSURANCE

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

18.1.1 Exclusive authority to adjust losses shall be vested in the Management Committee as insurance trustee;

18.1.2 The insurance coverage shall not be brought into contribution with insurance purchased by individual Owners or their respective mortgagees;

18.1.3 Each Owner may obtain additional insurance covering his real property interest at his own expense;

18.1.4 The insurer waives its right of subrogation as to any claims against each Owner;

18.1.5 The insurance coverage cannot be canceled, invalidated or suspended because of the conduct of any one or more individual Owners or their respective tenants, employees, agents, contractors or guests;

18.1.6 The insurance coverage cannot be canceled, invalidated or suspended because of the conduct of any officer or employee of the Association or Management Committee or their employees, agents or contractors, without prior demand in writing that the Management Committee cure the defect, and then only if the defect is not cured in fifteen (15) days after receipt of said demand by the Management Committee.

18.2 The Management Committee, for the benefit of the Property and the Owners, shall maintain a policy or policies of casualty and multi-risk "all peril" insurance on the Property, with the provisions and endorsements as set forth in paragraph 18.1 above, if obtainable, and with extended coverage endorsements for the full insurable replacement value of the Units, Common Areas and Facilities, Time Period Furnishings, common personal property and fixtures, payable to the Management Committee as insurance trustee to be disbursed in accordance with the terms of the Declaration. The limits and coverage of said insurance shall be reviewed at least annually by the Management Committee and shall include an appraisal of the Project. Said . . . policy or policies shall provide for a separate loss payable endorsement in favor of the mortgagee or mortgagees, if any, of each Time Period Condominium.

- 18.3 The Management Committee shall obtain a policy or policies of insurance insuring the Management Committee, the Owners and their respective tenants, servants, agents or guests against any liability to the public or to the Owners, members of the households of Owners and their respective invitees or tenants arising out of and incident to the ownership and/or use of the Project, including the personal liability exposure of the Owners incident to the ownership and/or use of the Project. Limits of liability under such insurance shall not be less than One Million Dollars (\$1,000,000) for any one person injured in any one occurrence, and shall not be less than Three Hundred Thousand Dollars (\$300,000) for property damage in each occurrence. The limits in coverage of said liability policy or policies shall be reviewed at least annually by the Management Committee and increased or decreased at its discretion, provided that such limits shall not fall below the minimums specified in this paragraph. Said policy or policies shall be issued on a comprehensive liability basis, and if possible, shall provide cross-liability endorsements for possible claims of any one or more or group of insureds against any one or more or group of insureds without prejudice to the right of a named insured under the policies to maintain an action against another named insured.
- 18.4 Each Owner shall be required to notify the Management Committee of all improvements, if allowed, made to his Unit, the value of which is in excess of One Thousand Dollars (\$1,000) and shall be liable for any increased insurance premium for insurance maintained by the Management Committee occasioned thereby. Each Owner shall bear the risk of loss for all improvements made to his Unit that were not the subject of notice to the Management Committee.
- 18.5 Any owner who obtains individual insurance coverage covering any portion of the Project, other than personal property belonging to such Owner, shall be required to file a copy of such individual policy or policies with the Management Committee within thirty (30) days after obtaining such insurance coverage.
- 18.6 No owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount that the Management Committee on behalf of all the Owners may realize under any insurance policy that the Committee may have in force covering the Project or any part thereof at any time.
- 19 DESTRUCTION OR DAMAGE
- 19.1 In case of fire or any other disaster which causes damage or destruction to all or part of the Project, the Management Committee, with the help of an independent appraiser, shall determine the percentage that was destroyed or substantially damaged. If less than two-thirds ($\frac{2}{3}$) of the Project was destroyed or substantially damaged, the Management Committee shall arrange for the prompt repair and restoration thereof, using the proceeds of insurance on the Project for

that purpose, and the Owners shall be liable for assessment for any deficiency in proportion to their respective percentages of ownership interest in the Common Areas and Facilities. Reconstruction of the Project shall mean restoring to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas and Facilities having the same vertical and horizontal boundaries as before, in which even the provisions of Section 21 hereof shall apply.

- 19.2 If two-thirds ($\frac{2}{3}$) or more of the Project is destroyed or substantially damaged, the Management Committee shall, within one hundred (100) days after such destruction or damage, call a special meeting of the Association for the purpose of deciding whether or not the Project shall be repaired and restored. If Owners holding three-fourths ($\frac{3}{4}$) or more of the ownership interests in the Project, in person or by proxy, vote to repair or restore the Project, the Management Committee shall promptly arrange for the reconstruction of the Project using the proceeds of insurance therefrom for that purpose, and the Owners shall be liable for assessment for any deficiency in proportion to their respective percentages of ownership interest in the Common Areas and Facilities. If the destruction or damage is by reason of eminent domain, the provisions of Section 21 hereof shall apply. At such election, if Owners holding three-fourths ($\frac{3}{4}$) or more of the ownership interests in the Project do not vote either in person or by proxy to make provision for reconstruction, the Management Committee shall record with the Recorder of Summit County a notice which complies with Section 57-8-31 of the Act setting forth such facts, and upon the recording of such notice (i) the Project shall be deemed to be owned in common by the Owners as tenants in common, each Owner owning an undivided interest in the Project equal to his percentage ownership in the Common Areas and Facilities; (ii) any liens affecting any of the Units shall be deemed to be transferred in accordance with the existing priorities to the undivided interest of the Owners in the Project; and (iii) the Project shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the Project, shall be considered as one fund and shall be divided among all Owners in a percentage equal to the percentage of ownership interest owned by each Owner in the Project, after first paying out of the respective shares of the Owners, to the extent sufficient for such purposes, all sums necessary to satisfy liens on the undivided interest in the Project owned by each Owner.
- 19.3 For purposes of this Section 19, the terms "disaster", "destruction" or "substantial damage" shall also mean and include a temporary or permanent taking, injury or destruction of all or part of the Common Areas and Facilities or one or more Units or portions thereof by the exercise of the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation.

- 20.1 In the event that such fraction or percentage of the Project is destroyed or substantially damaged so as to bring into effect the provisions of paragraph 19.2 above and the Owners do not vote to reconstruct the Project as provided therein, the Project shall be removed from the provisions of the Act without further agreement one hundred and one (101) days after such destruction or damage.
- 20.2 All of the Owners may remove the Project from provisions of the Act by an instrument duly recorded to that effect, provided that the holders of all liens affecting any of the Units consent or agree by instruments duly recorded that their liens be transferred to the percentage of ownership interest of the Owners in the Project.
- 20.3 After removal of the Project from the Act, the Owners shall own the Project and all assets of the Association as tenants in common and the respective mortgagees and lienors shall have mortgages and liens upon the respective undivided interests of the Owners. Such undivided interests of the Owners shall be the same as the percentage of ownership interest in the Common Areas and Facilities appurtenant to the Units prior to removal from the Act.
- 20.4 This Section 20 cannot be amended without consent of all Owners and all record owners of mortgages on Units.

21 EMINENT DOMAIN

- 21.1 Whenever any proceeding is instituted that could result in the temporary or permanent taking, injury or destruction of all or part of the Common Areas and Facilities or one or more Units or portions thereof by the exercise of the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation, the Management Committee and each Owner shall be entitled to notice thereof and the Management Committee shall, and the Owners at their respective expense man, participate in the proceedings incident thereto.
- 21.2 With respect to the Common or Limited Common Areas and Facilities, any damages or awards shall be determined for such taking, injury or destruction as a whole and not for each Owner's interest therein. After such determination, each Owner shall be entitled to a share in the damages in the same proportion as his percentage of ownership interest in the Common Areas and Facilities. This provision does not prohibit a majority of the Owners from authorizing the Management Committee to use such damages or awards for replacing or restoring the Common Areas and Facilities so taken on the remaining land or on other acquired land, provided that this Declaration and the Map are duly amended.
- 21.3 With respect to one or more Units or portions thereof, the damages or awards for such taking shall be deemed to be proceeds from insurance on account of damage or destruction pursuant to Section 19 above and shall be deposited with the Management Committee as trustee. Even though the damage or awards may

be payable to one or more Owners, the Owners shall deposit the damages or awards with the Management Committee as trustee. In the event an Owner refuses to so deposit his award with the Management Committee, then at the option of the Management Committee. Either a special assessment shall be made against the defaulting Owner and his Unit in the amount of this award or the amount of such award shall be set off against the sum hereafter made payable to such Owner.

- 21.4 In the event the Project is removed from the provisions of the Act pursuant to Section 20 above, the proceeds of the damages or awards shall be distributed or used in accordance with and the Owners of the affected Units shall have the rights provided in paragraph 19.2 above.
- 21.5 If one or more Units. are taken, in whole or in part, and the Project is not removed from the provisions of the Act, the taking shall have the following effects:
 - 21.5.1 If the taking reduces the size of a Unit and the remaining portion of the Unit may be made tenantable, the Unit shall be made tenantable. If the cost of such work exceeds the amount of the award, the additional funds required shall be assessed against the Owner of the Unit. The balance of the award, if any, shall be distributed to the mortgagee to the extent of the unpaid balance of its mortgage and the excess, if any, shall be distributed to the Owner. If there is a balance of the award distributed to the Owner or a mortgagee, the Unit's percentage of ownership interest in the Common Areas and Facilities shall be equitably reduced. This shall be done by reducing such interest in the proportion by which the floor area of the Unit is reduced by the taking and then recomputing the percentages of ownership interest of all Units in the Common Areas and Facilities.
 - 21.5.2 If the taking destroys or so reduces the size of a Unit that it cannot be made tenantable, the award shall be distributed to the mortgagee of the Unit to the extent of the unpaid balance of its mortgage and the excess, if any, shall be distributed to the Owner. The remaining portion of such Unit, if any, shall become a part of the Common Areas and Facilities and shall be placed in condition for use by all Owners in the manner approved by the Management Committee. The percentages of ownership interest in the Common Areas and Facilities appurtenant to the Units that continue as part of the Project shall be equitably adjusted to distribute the ownership of the Common Areas and Facilities among the reduced number of Owners.
- 21.6 Changes in Units, in the Common Areas and Facilities and in the ownership of the Common Areas and Facilities that are affected by the taking referred to in this Section 21 shall be evidenced by an amendment to this Declaration and the

Map, which need not be approved by the Owners.

22 MORTGAGEE PROTECTION

- 22.1 The term "mortgage" as used herein shall mean any recorded mortgage having priority over other mortgages and shall include a recorded deed of trust. The term "mortgagee" shall mean the owner and holder of a mortgage and shall include a beneficiary under a deed of trust. The term "Unit" shall include a Time Period Condominium, where applicable.
- 22.2 The Management Committee shall maintain a roster of Owners from the evidence of change of ownership furnished to the Association, which roster shall include the mailing addresses of all Owners. The Management Committee will also maintain a roster containing the name and address of each mortgagee of a Unit if the Committee is provided notice of such mortgage by way of a certified copy of the recorded instrument evidencing the mortgage and containing the name and address of the mortgagee. The mortgagee shall be stricken from the roster upon request by such mortgagee or upon receipt by the Management Committee of a certified copy of a recorded release or satisfaction of the mortgage. Notice of such removal shall be given to the mortgagee unless the removal is requested by the mortgagee.
- 22.3 The Management Committee shall give to any mortgagee on the roster written notification of any default by the mortgagor of the respective Units in the performance of such mortgagor's obligations under the Declaration which is not cured within thirty (30) days.
- 22.4 A mortgagee of any Unit who comes into possession of the Unit pursuant to the remedies provided in the mortgage or foreclosure of the mortgage, or by way of deed or assignment in lieu of foreclosure shall take the property free of any claims for unpaid assessments or charges against the mortgaged Unit which accrued prior to the time such mortgagee comes into the possession of the Unit except for claims for a *pro rata* reallocation of such assessment or charges to all Units, including the mortgaged Unit.
- 22.5 Any liens created under the Act or pursuant to this Declaration or the Bylaws upon any Unit shall be subject and subordinate to and shall not affect the rights of a mortgagee under a mortgage on such Unit made in good faith and for value; provided, however, that any lien created after a foreclosure sale shall have the same effect and be enforced in the same manner as provided in the Act, the Declaration and/or the Bylaws.
- 22.6 No amendment to this paragraph shall adversely affect a mortgagee who has recorded a valid mortgage prior to the recordation of any such amendment.

23

AMENDMENT.

Except as otherwise provided in this Declaration and except as prohibited by the Act, the provisions of the Declaration may be amended by an instrument in writing signed

and acknowledged by Owners who own three-fourths ($\frac{3}{4}$) or more of the ownership interests in the Common Areas and Facilities, which amendment shall be effective upon recording; provided, however, that any amendments which affect only Time Period Owners or Commercial Owners shall be signed and acknowledged by both the Owners of three-fourths ($\frac{3}{4}$) or more of the ownership interests of the Time Period Units or the Commercial Units, as applicable, and the Owners of the aforesaid total Project interests.

24 ASSESSMENTS.

- 24.1 The making and collection of assessments from Owners for their share of assessments from Owners for their share of Common Expenses shall be pursuant to the Bylaws and subject to the following provisions:
- 24.1.1 Each Owner shall be liable for a proportionate share of the Common Expenses, such share being the same as the percentage of ownership interest in the Common Areas and Facilities appurtenant to the Condominium owned by him. Common Expenses shall include the costs of maintenance, operating and upkeep of the Parlors or the health club facility on Level 1, but such costs shall be apportioned among and be the sole responsibility of the Owners of the Time Period Condominiums.
- 24.1.2 Assessments and any installments thereof not paid on or before ten (10) days after the date when due shall bear interest at a rate to be determined by the Management Committee but not less than twelve percent (12%) per annum, from the date when due until paid. All payments on account shall be first applied to interest and then to the assessment payment first due.
- 24.1.3 There shall be a lien upon the applicable Condominium for unpaid assessments which shall also secure reasonable attorneys' fees and all costs and expenses, including taxes, if any, incurred by the Management Committee because of such a lien. The lien for assessments shall be superior (prior) to all other liens and encumbrances except assessments, liens and charges in favor of the state or any political subdivision thereof, for taxes past due and unpaid on the Unit, and amounts due under duly recorded mortgages.
- 24.1.4 In any foreclosure of a lien for assessments, the Owner subject to the lien shall be required to pay a reasonable rental for the Condominium, and the Management Committee shall be entitled to the appointment of a receiver to collect the same.
- 24.2 The Management Committee may include in the monthly assessments amounts representing contributions to the capital of the Association to be used for the replacement of or additions to capital items or improvements in the Project. Said amounts shall be set up as capital accounts for each Condominium. In the event of transfer of a Condominium, the capital account shall be deemed

transferred to the transferee of the Condominium.

- 24.3 In assessing the Owners for capital improvements to the Common Areas and Facilities, there shall be no single improvements exceeding the sum of Twenty Thousand Dollars (\$20,000) made by the Management Committee without the same having been first voted on and approved by a majority vote in percentage ownership interest of those present in person or by proxy at a meeting of the Association duly called for that purpose. The foregoing shall not apply in connection with damage or destruction referred to in Section 19 hereof or to such structural alterations of capital additions or capital improvements to the Common Areas and Facilities as are necessary in the Management Committee's reasonable judgment to preserve or maintain the integrity of the Common Areas and Facilities.
- 24.4 In addition to the Assessments authorized by this section, Furniture and Maintenance Assessments shall be computed and levied against all Time Period Units as follows:
- 24.4.1 Furniture and Maintenance Assessments shall be based upon advance estimates of the Association's cash requirements to provide for payment of all estimated expenses arising out of or connected with maid service for and cleaning, maintenance, repair and replacement of Time Period Units, Parlors and of Time Period and Parlor Furnishings. Such estimated expenses may include, among other things, the following: Expenses of maid service for all Time Period Units and the Parlors; expenses for cleaning, maintaining, repairing and replacing Time Period and Parlor Furnishings; any deficit from a previous period; creation of a reasonable contingency reserve, surplus and/or sinking fund; and any other expenses or liabilities which may be incurred in accordance with the provisions of the Declaration by the Association for the benefit of all Owners of Time Period Units. Such estimated expenses shall constitute the estimated Furniture and Maintenance Expense, and all funds received from assessments under this paragraph 24.4 shall be part of the Furniture and Maintenance Fund.
- 24.4.2 Expenses attributable to the Furniture and Maintenance Expense shall be apportioned among and assessed to all Owners of Time Period Units as follows: Sixty percent (60%) of the Furniture and Maintenance Expense shall be apportioned among and assessed to all Owners of Time Period Units in Weeks 1 through 16, and 47 through 52, in the proportion that the total number of Time Period Units owned by each such Owner bears to Time Period Units in the aforesaid weeks; forty percent (40%) of the Furniture and Maintenance Expense shall be apportioned among and addressed to all Owners of Time Period Units in Weeks 17 through 46 in a like manner. The purpose of this allocation of expenses is to compensate for the greater wear and tear and maintenance on Time

Period Units and Time Period and Parlor Furnishings that is experienced during the winter season of the year.

24.4.3 Declaration, or its successors and assigns other than Time Period Unit Owners, shall not be liable for any Furniture and Maintenance Expense for unsold Time Period Units owned by it. Declaration shall be liable for any deficit in Common Expenses and Furniture and Maintenance Expense that may remain after all Owners have paid the regular annual or monthly assessments required by Declaration during the first year of operation of the Project.

24.4.4 Subject to the subsidy contained in Subparagraph 24.4.2 above, in the event that the Furniture and Maintenance Fund proves inadequate during any fiscal year for whatever reason, including nonpayment of any Owner's assessment, the Association may, at any time and from time to time, levy additional assessments, in the proportions set forth in subparagraph 24.4.2 hereof and payable over such reasonable periods as the Association may determine. Notice in writing of the amount of such assessment and the time for payment thereof shall be given promptly to each appropriate Owner, and no payment shall be due less than thirty (30) days after such notice shall have been given.

24.5 If an Owner shall at any time lease his Unit and shall default in the payment of assessments, the Management Committee may, at its option, so long as such default shall continue, demand and receive from any tenant of the Owner the rent due or becoming due, and the payment of such rent to the Management Committee shall be sufficient payment and discharge of such tenant and the Owner for such assessments to the extent of the amount paid.

24.6 The Management Committee shall handle all assessments hereunder, whether for common expenses or as capital contributions, so as to comply with applicable provisions of the Internal Revenue Code and the regulations adopted thereunder as well as applicable state and local tax law and to avoid undue adverse tax consequences that might result to the Association or individual Owners.

25 VOTING

At any meeting of the Association, each Owner, including Declarant, either in person or by proxy, shall be entitled to the same number of votes as the percentage of ownership interest in the Common Areas and Facilities appurtenant to his Condominium. If there is more than one Owner with respect to a particular Time Period Condominium, any or all of such Owners may attend any meeting of the Association, but it shall be necessary for all such Owners present, in person or by proxy, to act unanimously in order to cast the votes appertaining to their Time Period Condominium.

26 NOTICES.

Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to be delivered twenty-four (24) hours after a copy of the same has been deposited in the U.S. postal service, postage prepaid, return receipt requested. Notice to Owners shall be addressed to each Owner at the address given by such Owners to the Management Committee for the purpose of service of such notice or to the Unit of such Owner if no such address has been given to the Committee. Such address may be changed from time to time by notice in writing to the Management Committee addressed to:

Management Committee
Association of Owners
Park Hotel Condominiums
605 Main Street
Park City, Utah 84060

27 NO WAIVER.

The failure of the Management Committee or its agents or designees to insist, in one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions of the Declaration or the Bylaws, to exercise any right or option herein contained or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction; but such term, covenant, condition or restriction shall remain in full force and effect. The receipt and acceptance by the Management Committee or its agent or designee of the payment of any assessment from an Owner with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by the Management Committee of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Management Committee.

28 AGENT FOR SERVICE

For so long as Declarant owns Condominiums with appurtenant interests in the Common Areas and Facilities aggregating 51 percent of the total of all such interests, the agent for service of process under the Condominium Act shall be Robert Johnston, whose address is 614 Park Avenue, Park City, Utah 84060. Thereafter, the agent for service of process shall be the President of the Association.

29 ENFORCEMENT.

Each Owner shall strictly comply with the provisions of the Declaration, the Bylaws, the rules and regulations and decisions issued pursuant thereto. Failure to so comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the board of managers or its agent or designee on behalf of the Owners, or in appropriate case, by an aggrieved Owner.

30 DECLARANT AND DECLARANT'S USE.

30.1 The term "Declarant" as used herein shall mean and include Mayflower Management Corporation, any party which might acquire title from it through

foreclosure or deed in lieu of foreclosure; or, in the situation where there remain unsold 100 or more Time Period Condominiums, any person who should purchase all, or substantially all, of such remaining Time Period Condominiums in a sale in the nature of a bulk sale.

- 30.2 Declarant and persons it may select from time to time shall have the right of ingress and egress over, upon and across the Common Areas and Facilities and Limited Common Areas and Facilities and the right to store materials therein and to make such other use thereof as may be necessary and incident to the development and sale of all of the Condominiums as determined by the Declarant in its sole discretion.

31 SEVERABILITY.

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

32 CAPTIONS.

The captions in this Declaration are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of the Declaration or the intent of any provision hereof.

33 LAW CONTROLLING.

This Declaration, the Map and the Bylaws shall be construed and controlled by and under the laws of the State of Utah.

34 EFFECTIVE DATE.

The Declaration shall take effect when recorded.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 1 day of JUNE, 1983.

MAYFLOWER MANAGEMENT CORPORATION

/ss/ Robert Johnston, President

Attest:

/ss/ Cynthia Johnston, Secretary

STATE OF UTAH

)

: ss.

COUNTY OF SUMMIT

)

On the 1st day of June, 1983, personally appeared before me ROBERT JOHNSTON and CYNTHIA JOHNSTON, who being by me duly sworn did say, each for himself, that he the said ROBERT JOHNSTON is the President, and she the said CYNTHIA

JOHNSTON is the Secretary of MAYFLOWER MANAGEMENT CORPORATION, and that the within and foregoing instrument was signed in behalf of said corporation, and said ROBERT JOHNSTON and CYNTHIA JOHNSTON each duly acknowledged to me that said corporation executed the same.

/ss/ Margarethe Thomas
NOTARY PUBLIC
Residing at Salt Lake City, Utah

My Commission Expires:
7/13/87

PARK CITY APPROVAL

On this 9th day of January, 1984 (?), Park City Corporation, a body politic and corporate of the State of Utah and the Municipality in which the Park Hotel Condominiums are located, hereby gives final approval of said project, to the foregoing Declaration, to the record of survey map recorded concurrently herewith and to the attributes of said project which are mentioned in Section 57-8-35(3) of the Utah Condominium Ownership Act, as amended and expanded by Laws of Utah, 1975, Chapter 173, Section 18. By signing this Declaration, Park City assumes no responsibility for the completeness or accuracy of any of the statements made in the Declaration nor does this execution mean that the project complies with any or all of the ordinances of Park City.

PARK CITY CORPORATION
By /ss/ (Mayor)

Attest:
/ss/ (Recorder)

APPENDIX A

OLD PARK HOTEL CONDOMINIUMS

Schedule of Commercial Units, Time Period Units and
Appurtenant Percentage Interests in the Common Areas and Facilities

	Approximate	Percentage	Time Period Unit	Calendar Year
<u>Unit No.</u>	<u>Square Footage</u>	<u>Interest</u>	<u>Interest (Per Week)</u>	<u>Location</u>
(Commercial Units)				
101	450	2.659%	N/A	N/A
102	2,000	11.819%	N/A	N/A
201	600	3.546%	N/A	N/A
202	410	2.423%	N/A	N/A
203	690	4.077%	N/A	N/A
204	540	3.191%	N/A	N/A
205	460	2.718%	N/A	N/A
206	<u>750</u>	<u>4.432%</u>	N/A	N/A
Total, All Commer- cial Units	5900	34.864%		
(Time Period Units)				
301, 401, 501	628	3.711%	0.07422	(See schedule
302, 402, 502	700	4.137%	0.08274	on following
303, 403, 503	540	3.191%	0.06382	page)
304, 404, 504	645	3.812%	0.07624	
305, 405, 505	451	2.665%	0.05330	
306, 406, 506	<u>710</u>	<u>4.196%</u>	0.08392	
Total, All Time Pe- riod Units	11,022	65.136%		
TOTAL, ALL UNITS	16,922	100.000%		

Time Period No.	<u>1983</u>			<u>1984</u>			<u>1985</u>			<u>1986</u>			<u>1987</u>		
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