



\*W2371303\*

**When Recorded, Mail to:**

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Parr Brown Gee & Loveless  
185 S State St, Ste 800  
Salt Lake City, UT 84111

E# 2371303 PG 1 OF 81  
ERNEST D ROWLEY, WEBER COUNTY RECORDER  
21-OCT-08 323 PM FEE \$175.00 DEP LF  
REC FOR: BOYER CO

**Affects Tax Parcel Numbers:**  
01-099-0007, 01-100-0002,  
and 01-100-0003

Space Above for Recorder's Use

**DECLARATION OF CONDOMINIUM**

**for**

**THE JUNCTION CONDOMINIUMS**

01-103-0001 to 0010 -

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**DECLARATION OF CONDOMINIUM  
FOR  
THE JUNCTION CONDOMINIUMS**

This Declaration of Condominium (as amended from time to time, this "Declaration") is made as of October 16, 2008, by Ogden City Redevelopment Agency, a body politic and political subdivision of the State of Utah (together with its successors and assigns, "Ogden") and Boyer Ogden Mall, L.C., a Utah limited liability company (together with its successors and assigns, "Boyer"; together with Ogden, collectively, "Declarant").

**RECITALS**

A. Ogden owns fee interest in the Land located in the County of Weber, State of Utah, as is more particularly described on Exhibit A hereto.

B. Ogden has leased all of the Land and additional real property to Boyer pursuant to and in accordance with the provisions of that certain Lease Agreement and Grant of Option to Lease Future Development Land dated December 13, 2005, a memorandum of which was recorded on March 1, 2007, in the Weber County Records as Entry No. 2245549 (the "Master Ground Lease").

C. Declarant desires to create a condominium project on the Land pursuant to the Utah Condominium Ownership Act, Utah Code Sections 57-8-1 through 57-8-40, as the same may be amended from time to time. The condominium project will be known as the "The Junction Condominiums".

D. Declarant desires to explicitly reserve the option in the future for the Owner of a Unit to subject its Unit to additional subdivision through submission of such Unit to an additional condominium declaration applicable to such Unit, as more particularly set forth herein.

**DECLARATION**

In consideration of the foregoing, Declarant hereby declares as follows:

**Article 1  
DEFINITIONS**

As used in this Declaration, the following terms have the meanings given to them in this Article 1.

**1.1 Act.**

The Utah Condominium Ownership Act, Utah Code Annotated §§ 57-8-1 through 57-8-40 (2008 General Session), as the same may be amended from time to time.

**1.2 Arbitrator.**

An individual selected by the Owners or, if the Owners are not able to agree on an individual to serve as an Arbitrator within ten days, then upon motion by any Owner, an individual will be appointed by the presiding judge of the Second Judicial District Court in and for the State of Utah.

**1.3 Articles.**

The articles of incorporation of the Association, as the same may be amended from time to time.

**1.4 Assessment.**

A General Assessment, a Special Assessment or a Default Assessment levied and assessed pursuant to Article 7 below.

**1.5 Assessment Lien.**

Defined in Section 7.8.

**1.6 Association.**

The association of Owners known as The Junction Condominium Association, Inc., a Utah nonprofit corporation, and its successors and assigns.

**1.7 Association Documents.**

This Declaration, the Articles, the Bylaws and the Rules and Regulations, as the same may be amended from time to time.

**1.8 Base Structure.**

The portion of a Building that consists of the Retail Unit and the Common Elements, including the Common Deck, but specifically excluding any portion of the Building located within a Residential Unit.

**1.9 Boyer.**

Boyer Ogden Mall, L.C., a Utah limited liability company, together with its successors and assigns.

**1.10 Boyer Affiliate.**

Any Person who controls, is controlled by, or is under common control with The Boyer Company, L.C., a Utah limited liability company.



**1.11 Boyer Residential.**

Boyer Ogden Mall Residential Holdings, L.C., a Utah limited liability company, together with its successors and/or assigns.

**1.12 Building.**

Each of the following structures or groups of structures: (a) the multi-story structure with an address of 2344 Kiesel Ave, Ogden, UT 84401, and labeled "A" on the Plat, (b) the multi-story structures with addresses of 2362 Washington Blvd, 2333 Washington Blvd, and 2332 Kiesel Ave, Ogden, UT 84401, and labeled "B" on the Plat, and (c) the multi-story structure with an address of 2353 Kiesel Ave, Ogden, UT 84401, and labeled "F" on the Plat. Each Building consists of a Base Structure and a Tower Structure.

**1.13 Bylaws.**

The bylaws of the Association, attached hereto and forming a part hereof as Exhibit B, as the same may be amended from time to time.

**1.14 Common Deck.**

The horizontal slab that lies above the ceiling of the Retail Unit and physically separates the Tower Structure above from the Retail Unit below. The Common Deck in Building A is composed of wood; the Common Deck in Building B is a composite system of steel, metal, and concrete; and the Common Deck in Building F is a post tensioned concrete slab. The upper surface of the Common Deck will be the bottom of the Residential Unit. As more specifically set forth herein, the Owner of a Residential Unit will be solely responsible for the installation, maintenance, repair and replacement of all fixtures and other surface applications and installations attached to or located upon the Common Deck.

**1.15 Common Elements.**

All areas of the Condominium Project other than the Units. Without limiting the generality of the preceding sentence, the Common Elements include:

- (a) the land that lies directly underneath the Base Structures;
- (b) the structural elements of the Base Structures, including the foundations, columns, girders, beams, supports, and perimeter and supporting walls;
- (c) any chute, flue, duct, wire, conduit, bearing wall, bearing column, tank, pump, motor, fan, compressor, or any other fixture that serves both a Retail Unit and a Residential Unit or that serves a Retail Unit and one or more Parking Units, or that serves any portion of the Common Elements;
- (d) utility systems, mechanical systems, sprinkler systems, exhaust, heating, ventilation, and air-conditioning systems, and storage areas located in the Base Structure;

- (e) the Common Deck;
- (f) the outdoor areas designated as "Common Area" or "Common Elements" on the Plat and any improvements and fixtures located thereon; and
- (g) any parcels of real property and improvements and fixtures located thereon (i) that are owned by a Person other than the Association, but in which the Association has rights of use or possession pursuant to this Declaration or a lease, license, easement or other agreement, and (ii) that are used or possessed by the Association for the benefit of all Owners.

**1.16 Common Expenses.**

- (a) any and all costs, expenses and liabilities incurred by or on behalf of the Association, including, without limitation, costs, expenses and liabilities for (i) managing, operating, insuring, improving, repairing, replacing, restoring, and maintaining the Common Elements; (ii) providing facilities, services and other benefits to Owners; (iii) administering and enforcing the covenants, conditions, restrictions, reservations and easements created hereby including, but not limited to, the Rules and Regulations; (iv) levying, collecting and enforcing the Assessments, charges and liens imposed pursuant hereto; (v) regulating and managing the Condominium Project; (vi) any amounts payable by the Association under the Junction Master Declaration; and (vii) operating the Association;
- (b) costs, expenses and liability agreed upon as Common Expenses by the Association or declared to be Common Expenses by this Declaration, the Act or the Association;
- (c) all sums lawfully assessed against the Owners; and
- (d) reserves for any such costs, expenses and liability.

**1.17 Condominium Project.**

The real estate condominium project created on the Land by this Declaration, consisting of the Units and the Common Elements, known as The Junction Condominiums.

**1.18 Condominium Unit.**

A Unit together with:

- (a) the Interest in Common Elements appurtenant to that Unit;
- (b) the right to the nonexclusive use of the Common Elements appurtenant to that Unit; and
- (c) the membership in the Association appurtenant to that Unit.

**1.19 Declarant.**

(a) Ogden and Boyer together with their respective successors and assigns. Notwithstanding anything in this Declaration to the contrary:

(i) So long as Boyer is the Owner of any Unit within the Condominium Project, Boyer will be deemed to be the "Declarant" for purposes of this Declaration (unless Boyer elects otherwise), and Ogden hereby assigns and delegates all of Ogden's rights and obligations as a Declarant under this Declaration to Boyer.

(ii) If at any time (A) Boyer is no longer the Owner of any Unit within the Condominium Project or (B) Boyer elects to no longer be the Declarant under this Declaration, then so long as a Boyer Affiliate is the Owner of any Unit, the Boyer Affiliate will be deemed to be the Declarant for purposes of this Declaration (unless the Boyer Affiliate elects otherwise), and the Boyer Affiliate will succeed to all of Boyer's rights and obligations as a Declarant under this Declaration.

(iii) If at any time (A) neither Boyer nor any Boyer Affiliate is the Owner of any Unit within the Condominium Project, (B) Boyer is the Owner of a Unit within the Condominium Project but elects not to be the Declarant under this Declaration, or (C) a Boyer Affiliate is the Owner of a Unit within the Condominium Project but elects not to be the Declarant under this Declaration, then the lessee under the Master Ground Lease will be the Declarant for purposes of this Declaration (unless such lessee elects otherwise).

(iv) If at any time (A) the Master Ground Lease has been terminated and no party is entitled to a successor ground lease in accordance with the provisions of the Master Ground Lease, or (B) the Master Ground Lease has not been terminated (or a party is entitled to a successor ground lease in accordance with the provisions of the Master Ground Lease), but the lessee under the Master Ground Lease (or the party entitled to be the lessee under a successor ground lease) has elected not to be the Declarant under this Declaration, then Ogden will be the sole Declarant under this Declaration.

(b) Notwithstanding anything to the contrary in this Declaration, in no event will this Declaration be amended without the consent of fee Owners holding an aggregate of at least 67% of the total votes allocated to the Units.

**1.20 Declarant Control Period.**

Defined in Section 6.3.

**1.21 Declaration.**

This Declaration of Condominium for The Junction Condominiums, as the same may be amended from time to time.

**1.22 Default Assessment.**

Has the meaning given to that term in Section 7.6 below.

**1.23 Director.**

A duly elected or appointed member of the Management Committee.

**1.24 Eligible First Mortgagee.**

An Eligible Mortgagee who holds a First Mortgage on a Unit.

**1.25 Eligible Mortgagee.**

Any Mortgagee of a Unit (or any insurer or guarantor of a Mortgage on a Unit, or any tax credit investor in an Owner) who has provided a written request to the Association (such request to state the name and address of such Eligible Mortgagee and the street address of the Unit to which its Mortgage relates), to be notified of any of the events listed in Section 16.2. "Eligible Mortgagee" will include Wachovia Community Development Enterprises, LLC, a North Carolina limited liability company, so long as it remains a tax credit investor in Liberty Junction.

**1.26 First Mortgage.**

Any Mortgage which is not subordinate to any other monetary lien or encumbrance, except liens for taxes or other liens which are given priority by statute.

**1.27 First Mortgagee.**

A Mortgagee under a First Mortgage.

**1.28 General Assessment.**

Has the meaning given to that term in Section 7.4 below.

**1.29 Guest.**

Any family member, employee, agent, independent contractor, lessee, customer, or invitee of an Owner.

**1.30 Improvements.**

The Buildings, together with any other building, structure or other improvement (including, without limitation, all fixtures and improvements contained therein) now or hereafter located on the Land.

**1.31 Index.**

The Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics (the "Bureau") "All Items" for All Urban Consumers, U.S. City Average (1982-84 = 100). Should the Bureau discontinue the publication of the Index, publish the same less frequently or alter the same in some other manner, the most nearly comparable index or procedure as determined by the Management Committee will be substituted therefor.

**1.32 Interest in Common Elements.**

The undivided interest in the Common Elements appurtenant to each Unit, determined in accordance with the terms and conditions of Section 3.4 below.

**1.33 Junction Master Declarant.**

The Declarant under the Junction Master Declaration.

**1.34 Junction Master Declaration.**

The Declaration and Establishment of Protective Covenants, Conditions and Restrictions and Grant of Easements for the Junction Project, recorded concurrently with this Declaration in the Weber County Records, as the same may be amended from time to time.

**1.35 Junction Project.**

The overall mixed use project of which the Condominium Project is a part, located on portions of Blocks 32 and 39 of Ogden City, Utah, and commonly known as The Junction.

**1.36 Land.**

The real property legally described on Exhibit A, excluding the Improvements.

**1.37 Liberty Junction.**

Liberty Junction, LLC, a Utah limited liability company.

**1.38 Management Committee.**

The Association's board of directors which will also be and have all of the rights, duties and authority of the management committee described by the Act, except as otherwise expressly provided herein.

**1.39 Master Ground Lease.**

That certain Lease Agreement and Grant of Option to Lease Future Development Land dated as of December 13, 2005, by and between Boyer, as ground lessee and Ogden, as ground lessor, as amended by (a) that certain First Amendment to Lease Agreement and Grant of Option to Lease Future Development Land, dated December 1, 2006, and (b) that certain Second Amendment to Lease Agreement and Grant of Option to Lease Future Development Land dated on or around the date hereof, and as such document may be further amended, restated, supplemented or otherwise modified from time to time. A Memorandum of Lease and Option to Lease dated effective December 13, 2005, was recorded on March 1, 2007, as Entry Number 2245549 in the Weber County Records. The Master Ground Lease covers the Retail Units and the Retail Parking Unit and the Interests in Common Elements appurtenant to those Units. The term "Master Ground Lease" includes any successor ground lease entered into in accordance with the Master Ground Lease.

**1.40 Mortgage.**

Any mortgage, deed of trust or other document pledging any Condominium Unit or interest therein as security for payment of a debt or obligation.

**1.41 Mortgagee.**

Any Person named as a mortgagee or beneficiary in any Mortgage and any successor to the interest of any such Person under a Mortgage.

**1.42 Officer.**

A duly elected or appointed officer of the Association.

**1.43 Ogden.**

Ogden City Redevelopment Agency, a body politic and political subdivision of the State of Utah, together with its successors and/or assigns.

**1.44 Owner.**

(a) With respect to a Retail Unit or the Retail Parking Unit, (i) the holder of the entire leasehold interest in that Retail Unit or Retail Parking Unit under the Master Ground Lease, (ii) the association of Sub-Unit owners, if the Retail Unit or Retail Parking Unit is subdivided into Sub-Units in accordance with Section 3.3(d)(iv), or (iii) the holder of the entire fee simple interest in the Retail Unit or the Retail Parking Unit as reflected in the Weber County Records if the Master Ground Lease has been terminated (and no successor ground lease has been entered into in accordance with the Master Ground Lease);

(b) With respect to a Residential Unit or a Residential Parking Unit, (i) the holder of the entire subleasehold interest in that Residential Unit or Residential Parking Unit under the Residential Ground Sublease, (ii) if the Residential Ground Sublease is terminated, the holder of the entire leasehold interest in that Residential Unit or Residential Parking Unit under the Residential Ground Lease (iii) the association of Sub-Unit owners, if the Residential Unit is subdivided into Sub-Units in accordance with Section 3.3(d)(iv), or (iv) the holder of the entire fee simple interest in the Residential Unit as reflected in the Weber County Records if the Residential Ground Lease has been terminated (and no successor ground lease has been entered into in accordance with the Residential Ground Lease).

(c) The term "Owner" includes (i) Liberty Junction, while Liberty Junction is a subtenant under the Residential Ground Sublease; (ii) Boyer, while Boyer is a lessee under the Master Ground Lease, and (iii) Ogden, if (A) Ogden holds fee title to a Condominium Unit and (B) the Master Ground Lease has been terminated (and no successor ground lease has been entered into in accordance with the Master Ground Lease).

(d) Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term "Owner" will not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such Person has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof and has satisfied the other requirements for ownership set forth in this Section 1.44.

**1.45 Par Value.**

The number of points assigned to each Unit by this Declaration as set forth on Exhibit C hereto.

**1.46 Parking Unit.**

Each of Residential Parking Unit A, Residential Parking Unit B, and the Retail Parking Unit.

**1.47 Person.**

Any natural person, corporation, partnership, limited liability company, association, trustee, governmental or quasi-governmental entity or any other entity capable of owning real property under the laws of the State of Utah.

**1.48 Plat.**

The condominium plat entitled "The Junction Condominiums, a Utah Condominium Project", executed and acknowledged by Declarant, consisting of 16 sheets, and prepared by Mark E. Babbitt, a duly registered Utah Land Surveyor holding Certificate No. 166484, and recorded concurrently with this Declaration in the Weber County Records, as such Plat may be amended or supplemented in accordance with law and the provisions hereof from time to time.

**1.49 Project Development Agreement.**

That certain Development Agreement dated on or around the date hereof, by and between Boyer and Liberty Junction, which Development Agreement specifies the manner in which the Condominium Project is to be developed by Boyer and Liberty Junction.

**1.50 Purchaser.**

A Person, other than Declarant or a Successor Declarant, who acquires the interest in a Condominium Unit necessary to become an Owner.

**1.51 Record, Recording, Recorded, and Recorder.**

Defined in Section 57-8-3(24) of the Act.

**1.52 Residential Ground Lease.**

That certain Ground Lease Agreement dated on or around the date hereof, entered into by and between Ogden, as ground lessor, and Boyer Residential, as ground lessee. The Residential Ground Lease covers the Residential Units, the Residential Parking Units, and the Interests in Common Elements appurtenant to the Residential Units and the Residential Parking Units. The term "Residential Ground Lease" includes any successor ground lease entered into in accordance with the Residential Ground Lease.

**1.53 Residential Ground Sublease.**

That certain Ground Sublease Agreement dated on or around the date hereof, entered into by and between Boyer Residential, as sublandlord, and Liberty Junction, as subtenant. The Residential Ground Sublease covers the Residential Units and the Residential Parking Units and the Interests in Common Elements appurtenant to the Residential Units and the Residential Parking Units. The term "Residential Ground Sublease" includes any successor ground sublease entered into in accordance with the Residential Ground Sublease.

**1.54 Residential Parking Unit.**

Each of Residential Parking Unit A and Residential Parking Unit B, as shown on the Plat. Each Residential Parking Unit consists of a parcel of land whose exterior boundaries are shown on the Plat, together with the roads, driveways, parking spaces, and related facilities constructed on the parcel and maintained and operated by the Owner of the applicable Residential Parking Unit in accordance with the Project Development Agreement.

**1.55 Residential Unit.**

Each of Units A-101, B-101, and F-101, as shown on the Plat. Each Residential Unit consists of a volume of air space whose boundaries are depicted on the Plat and are generally described as follows:

(a) The upper horizontal boundary is coextensive with the exterior surface of the roof of the Tower Structure. Chimneys, vents, and other items that protrude from the roof of the Tower Structure are part of the Residential Unit.

(b) The vertical boundaries that do not directly abut a side wall of the Base Structure are coextensive with the exterior surface of the exterior walls of the Tower Structure. Decks and other items that protrude from the exterior walls of the Tower Structure are part of the Residential Unit.

(c) The vertical boundaries that directly abut a side wall of the Base Structure are coextensive with the exterior surface of that side wall.

(d) The lower horizontal boundary of that portion of the Residential Unit that lies on top of the Common Deck is coextensive with the upper surface of the Common Deck.

(e) The lower horizontal boundary of that portion of the Residential Unit that lies at ground level is coextensive with the underlying land. Footings and foundations that support only the Tower Structure (and not the Base Structure) are part of the Residential Unit.

The Owner of a Residential Unit will construct, maintain and operate the Tower Structure within its Residential Unit. A Residential Unit will include all portions (whether structural or nonstructural) of the Tower Structure, including, without limitation, (i) foundations, footings, columns, girders, beams, supports, perimeter and supporting walls that provide structural support for the Tower Structure but not for the Base Structure; (ii) the land located directly underneath the Tower Structure; and (iii) utility systems, mechanical systems, sprinkler systems, exhaust,



heating, ventilation, and air-conditioning systems, storage areas, the clubhouse, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, chimneys, vents, antennae, drainage facilities, patios, balconies, decks, porches, stoops, exits and entrances, tanks, pumps, motors, fans, compressors, ducts, and other apparatus and installations that serve solely the Residential Unit.

**1.56 Retail Parking Unit.**

A portion of the Condominium Project consisting of a parcel of land whose exterior boundaries are shown on the Plat, together with roads, driveways, parking spaces, and related facilities constructed on the parcel and maintained and operated by the Owner of the Retail Parking Unit in accordance with the Project Development Agreement.

**1.57 Retail Unit.**

Each of Units A-102, B-102, and F-102, as shown on the Plat. Each Retail Unit consists of one or more rooms or spaces located in one or more floors or parts of floors within a Base Structure. The walls, floors, and ceilings are designated as the boundaries of a Retail Unit. The finished surfaces of the walls, floors, and ceilings, including all paneling, tiles, wallpaper, painting, and finished flooring, are part of the Retail Unit. Nonstructural partition walls within the Retail Unit are part of the Retail Unit. All other portions of the walls, floors, and ceilings of the Base Structure are part of the Common Elements.

**1.58 Rules and Regulations.**

Any instrument adopted from time to time by the Association for the regulation and management of the Condominium Project, as the same may be amended from time to time.

**1.59 Share of Common Expenses.**

The share of Common Expenses allocated to each Unit in accordance with the terms and conditions of Section 7.2 below.

**1.60 Special Assessment.**

Has the meaning given to that term in Section 7.5 below.

**1.61 Special Declarant Rights.**

All rights that Declarant reserves for itself in this Declaration.

**1.62 Sub-Declaration.**

Is defined in paragraph 3.3(d)(iv).

**1.63 Subdivided Unit.**

A Condominium Unit subdivided pursuant to the provisions of paragraph 3.3(d)(iv).

**1.64 Sub-Unit.**

Is defined in paragraph 3.3(d)(iv).

**1.65 Successor Declarant.**

Any Person who succeeds to any Special Declarant Right.

**1.66 Tower Structure.**

With respect to a given Building, the portion or portions of that Building that are to be constructed, maintained, and operated by the Owner of the applicable Residential Unit in accordance with the Project Development Agreement.

**1.67 Unit.**

Each of Units A-101, B-101, F-101, A-102, B-102, F-102, Residential Parking Unit A, Residential Parking Unit B, and the Retail Parking Unit, as shown on the Plat.

**1.68 Unit Number.**

The number, letter, or combination thereof which designates a Unit on the attached Exhibit C and on the Plat.

**1.69 Weber County Records.**

The official real property records of Weber County, Utah.

**Article 2  
SUBMISSION**

**2.1 Submission.**

There is hereby submitted to the provisions of the Act, as the Land associated with The Junction Condominiums, the following-described parcels of real property situated in Weber County, State of Utah:

See Exhibit A attached hereto and incorporated herein by this reference.

TOGETHER WITH: (a) all buildings, if any, improvements, and structures situated on or comprising a part of the above-described parcels of real property, whether now existing or hereafter constructed; (b) all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying said parcels; and (c) all articles of personal property intended for use in connection with said parcels.

ALL OF THE FOREGOING IS SUBJECT TO: all liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all patent reservations and exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described Land or any portion

thereof, including, without limitation, any mortgage or deed of trust and the Junction Master Declaration; all visible easements and rights-of-way; all easements and rights-of-way of record; any easements, rights-of-way, encroachments, or discrepancies shown on or revealed by the Plat or otherwise existing; an easement for each and every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the above-described Land at such times as construction of all Improvements is complete; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cables, wires, utility lines, and similar facilities.

RESERVING UNTO DECLARANT, however, such easements and rights of ingress and egress over, across, through, and under the above-described Land and any improvements now or hereafter constructed thereon as may be reasonably necessary for Declarant or for any assignee, sublessee, delegate or successor of Declarant (in a manner which is reasonable and not inconsistent with the provisions of this Declaration) to construct and complete the Base Structure and all of the other improvements described in this Declaration, in the Plat recorded concurrently herewith, or the Project Development Agreement, and to do all things reasonably necessary or proper in connection therewith. If, pursuant to the foregoing reservations, the above-described Land or any improvement thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line will exist. With the exception of such perpetual easements, the reservations hereby effected will, unless sooner terminated in accordance with their terms, expire on the earlier of (i) five (5) years after the date on which this Declaration is filed for record in the Weber County Records, or (ii) completion of all Improvements according to the terms and conditions of the Project Development Agreement.

## **2.2 Covenants Running with the Land.**

All covenants, conditions, restrictions, reservations, easements, charges, liens and other provisions of this Declaration are covenants running with the land, or equitable servitudes, as the case may be. The obligations, burdens and benefits created by this Declaration will bind and inure to the benefit of Declarant, the Owners, the Association, all other parties having any, right, title or interest in the Land or any portion thereof and their respective successors, assigns, heirs, devisees, executors, administrators and personal representatives.

## **2.3 Statement of Intention.**

The condominium project to be created on the Land is hereby created pursuant to and will be governed by the provisions of the Act.

### **Article 3 BUILDINGS, UNITS, AND COMMON ELEMENTS**

#### **3.1 General.**

The Improvements constructed or to be constructed within the Condominium Project include the Buildings, the Units, and other improvements of a less significant nature which are

not depicted on the Plat, such as outdoor lighting, area landscaping, and concrete sidewalks and walkways.

### 3.2 Buildings.

(a) The Condominium Project includes three Buildings, each of which consists of a Base Structure and a Tower Structure. The location and configuration of the Buildings are depicted on the Plat. The Plat shows the number of stories contained in each Building and diagrammatic floor plans of each Building.

(b) The principal materials used or to be used in the construction of each Base Structure are as follows: all load bearing and non-load bearing walls are wood frame or concrete; the ground floor is comprised of reinforced concrete; the above-grade floors are of reinforced concrete or wooden joists covered with plywood and concrete; the roof is of wood framing or concrete covered with single ply roofing asphalt shingles, fluid applied water proofing, or metal roofing; interior walls are surfaced with sheetrock or gypsum board; and exterior walls are surfaced with EIFS, faux stone and/or pre-cast concrete.

(c) The principal materials used or to be used in the construction of each Tower Structure are as follows: all load bearing and non-load bearing walls are wood frame or concrete; the bottom floor is comprised of reinforced concrete; the above-grade floors are of wooden joists covered with plywood and concrete; the roof is of wood framing covered with asphalt shingles, single ply roofing, or metal; interior walls are surfaced with sheetrock or gypsum board; and exterior walls are surfaced with EIFS, faux stone and/or precast concrete.

### 3.3 Units.

(a) Declarant hereby creates three Residential Units, three Retail Units, two Residential Parking Units, and one Retail Parking Unit within the Condominium Project. The Plat shows (i) the Unit Number and the location of each Unit, (ii) the official datum elevations of the interior finished surfaces of the floors and ceilings of each Retail Unit, (iii) the official datum elevations of the interior finished surfaces of the floors and ceilings within each Tower Structure, (iv) the linear measurements of the interior surfaces of the perimeter walls and the lateral extensions of each Retail Unit and of each Tower Structure, and (v) the linear measurements of the boundaries of the Residential Parking Units and the Retail Parking Unit. Each Unit will be capable of being separately owned, encumbered and conveyed. Each Owner of a Unit will be entitled to the exclusive possession of such Owner's Unit, subject to the terms and conditions of this Declaration.

(b) No Owner may alter its Unit, subdivide its Unit or relocate the boundaries between a Unit and an adjacent Unit, except as expressly provided by this Declaration and the Act.

(c) Except as expressly provided to the contrary in this Declaration, the Interest in Common Elements may not be partitioned or separated from the Unit or any part thereof; provided that this subparagraph 3.3(c) will not prejudice or otherwise affect the rights set forth in Article 13 and Article 14 of this Declaration in the event of casualty or condemnation.

(d) Notwithstanding anything to the contrary contained in paragraphs 3.3(b) and 3.3(c) above or elsewhere in this Declaration:

(i) nothing will prevent or limit Declarant's exercise or enjoyment of any Special Declarant Right;

(ii) an Owner may grant its rights to use the Common Elements to the Owner's Guests or to the owners of Sub-Units pursuant to a Sub-Declaration duly recorded in accordance with the provisions of this Declaration;

(iii) the Owner of a Unit may construct partitions within its Unit and lease separate portions of its Unit to one or more lessees if otherwise permitted by the Act or applicable law; provided, however, the Owner of a Unit may not assign all or any portion of the voting rights allocated to its Unit to any lessee to whom the Owner leases all or a portion of its Unit, unless the lessee is itself an Owner

(iv) the Owner of a Condominium Unit may subject all, but not part, of its Condominium Unit to a separate condominium declaration (a "Sub-Declaration") applicable to such Condominium Unit only for the purpose of subdividing the Condominium Unit into common elements and various smaller units capable of separate ownership (each a "Sub-Unit") subject to the following instructions and limitations:

(A) The submission of a Condominium Unit to a Sub-Declaration will comply with all applicable laws, ordinances, codes, rules and regulations of all governmental or quasi-governmental bodies with jurisdiction, and each Sub-Declaration and the rights of Sub-Unit owners and any association of such owners thereunder will be expressly subject to and subordinate to this Declaration.

(B) The Sub-Declaration for such Subdivided Unit will provide that the owners of the Sub-Units created thereby will have no vote in the Association or any other right to participate in the government and affairs of the Association; provided, however, that the association of Sub-Unit owners may vote the interest in Common Elements assigned to the Subdivided Unit from and after the date the Owner of the Subdivided Unit has prepared, executed and recorded the required Sub-Declaration and plat as required by the Act in order to effect the subdivision of the Condominium Unit. Except as the same may be limited by the Sub-Declaration for the applicable Condominium Unit, each owner of a Sub-Unit will have the right to use the Common Elements to the same extent as the Owner of a Subdivided Unit prior to such subdivision; provided, however, that any rights pertaining to the installation of utilities or similar facilities and accompanying easements granted hereby will, to the extent that they impact the Common Elements or any other Unit, be exercised by the association of Sub-Unit owners only, and may not be exercised by any Sub-Unit owner individually.

(C) After a Condominium Unit has been subdivided, it will not be further subdivided except pursuant to the terms of the Sub-Declaration accomplishing such subdivision.

(D) The Owner of any Condominium Unit will have the sole power and authority to subdivide such Condominium Unit as set forth in this Section, subject

however to the limitations and provisions contained in this Section and in the Act. Such power and authority to so subdivide a Condominium Unit will be an appurtenance of the Condominium Unit in question, may not be separated from the ownership of such Condominium Unit, and will be automatically transferred to and held by any successor in title to such Condominium Unit, subject to the limitations and provisions contained in this Section and the Act. Except as expressly provided in this Section, no Condominium Unit may be further subdivided by any Owner.

### 3.4 Interests in Common Elements.

(a) The Interests in Common Elements will be allocated among the Units according to the respective Par Values assigned to the Units.

(b) The Par Value assigned to each Unit and the corresponding Interest in Common Elements appurtenant to each Unit are set forth on Exhibit C, attached hereto and made a part hereof.

(c) Except as provided in Section 57-8-32.5 of the Act, the Interests in Common Elements will have a permanent character and will not be altered without the express consent of two-thirds of the Owners expressed in an amendment to this Declaration adopted as provided in Section 18.3 hereof, and then only in accordance with the Junction Master Declaration. The Par Value assigned to a Unit will not be considered to reflect or control the sales price or fair market value of any Unit, and no opinion, appraisal, or fair market transaction may affect the Par Value of any Unit, or such Unit's Interest in Common Elements, voting rights in the Association, liability for Common Expenses, or the right to any common profits, assigned on the basis thereof.

(d) Except as provided in Sections 57-8-22 and 57-8-31 of the Act, an Interest in Common Elements may not be partitioned from the Unit to which it is appurtenant, and any purported conveyance, encumbrance or transfer of an Interest in Common Elements made without the Unit to which the Interest in Common Elements is appurtenant will be void. The immediately foregoing sentence will not prejudice or otherwise affect the rights set forth in Article 13 and Article 14 of this Declaration in the event of casualty or condemnation. There will not be any restriction upon an Owner's right of ingress to and egress from such Owner's Unit.

### 3.5 Separate Taxation of Condominium Units.

Pursuant to the Act, each Condominium Unit constitutes a separate parcel of real estate and will be separately assessed and taxed.

### 3.6 Description of Condominium Units.

Any deed, lease, mortgage, deed of trust, or other instrument conveying, encumbering or otherwise affecting a Condominium Unit will describe the interest or estate substantially as follows:

[Residential Unit A-101 and Residential Parking Unit A / Residential Unit B-101 and Residential Parking Unit B / Residential Unit F-101 / Retail Unit \_\_\_ / The Retail

Parking Unit], contained within The Junction Condominiums as the same is identified in the Condominium Plat recorded in the official records of Weber County, Utah, on October \_\_, 2008 as Entry No. \_\_\_\_\_ (as said Condominium Plat will have heretofore been amended or supplemented) and in the Declaration of Condominium for The Junction Condominiums, recorded in the official records of Weber County, Utah on October \_\_, 2008 as Entry No. \_\_\_\_\_, (as said Declaration may have heretofore been amended or supplemented). TOGETHER WITH the undivided ownership interest in said Project's Common Elements that is appurtenant to said Unit as more particularly described in said Declaration.

Whether or not the description employed in any such instrument is in the above-specified form, however, all provisions of this Declaration will be binding upon and will inure to the benefit of any party who acquires any interest in a Condominium Unit. The Interest in Common Elements may not be separated from the Unit to which it appertains; and, even though not specifically mentioned in the instrument of transfer, such Interest in the Common Elements will automatically accompany the transfer of the Unit to which it relates.

### **3.7 Interpretation.**

In interpreting this Declaration, the Plat or any deed or other instrument affecting a Building (or a Base Structure and a Tower Structure separately), or a Unit, the boundaries of a Building (or a Base Structure and a Tower Structure separately) or Unit constructed or reconstructed in substantial accordance with the Plat will be conclusively presumed to be the actual boundaries rather than the description expressed in the Plat, regardless of settling or lateral movement of a Building, including the component Base Structure and Tower Structure, and regardless of minor variance between boundaries shown on the Plat and those of a Building or Unit.

## **Article 4 THE ASSOCIATION**

### **4.1 Formation of the Association.**

On or before the date on which Declarant conveys the first Unit to a Purchaser, Declarant will form the Association.

### **4.2 Purposes and Powers.**

(a) The Association's purposes are:

(i) to manage, operate, insure, construct, improve, repair, replace, alter and maintain the Common Elements;

(ii) to provide certain facilities, services and other benefits to the Owners;

(iii) to administer and enforce the covenants, conditions, restrictions, reservations and easements created hereby;

(iv) to levy, collect and enforce the Assessments, charges and liens imposed pursuant hereto;

(v) to enter into agreements with other Persons, including, without limitation, easements, licenses, leases and other agreements with one or more condominium associations or the Junction Master Declarant, with or without the vote or consent of the Owners, Mortgagees, insurers or guarantors of Mortgages, or of any other Person, including, but not limited to, those which contemplate the sharing of expenses among the Association and other condominium associations or the Junction Master Declarant, for facilities and services that serve the Association and other condominium associations or the Junction Master Declarant, provided, however, that in the event any such agreements would result in a material increase in the annual budget of the Association, such agreements must be approved by the Owners in connection with the approval of an annual budget;

(vi) to take any action that it deems necessary or appropriate to protect the interests and general welfare of Owners;

(vii) to regulate and manage the Condominium Project; and

(viii) to execute and record, on behalf of all Owners, any amendment to this Declaration or the Plat which has been approved by the vote or consent necessary to authorize such amendment.

(b) Unless expressly prohibited by law or any of the Association Documents, the Association may:

(i) take any and all actions that it deems necessary or advisable to fulfill its purposes;

(ii) exercise any powers conferred on it by the Act or any Association Document; and

(iii) exercise all powers that may be exercised in Utah by nonprofit corporations.

(c) Without in any way limiting the generality of paragraph 4.2(b) above, the Association may, but is not obligated to:

(i) to the extent not provided by a public, quasi-public or private utility provider, provide certain facilities and services to the Owners, such as (A) recreational facilities and services, (B) water, sewer, propane, electric, cable television and other utility services, and (C) trash collection facilities and services;

(ii) acquire, sell, lease and grant easements over, under, across and through Common Elements which are reasonably necessary to the ongoing development and operation of the Condominium Project;



(iii) borrow monies and grant security interests in the Common Elements and in the assets of the Association as collateral therefor;

(iv) make capital improvements, repairs and replacements to Common Elements; and

(v) hire and terminate managers and other employees, agents and independent contractors.

(vi) In the exercise of its power to adopt Rules and Regulations, the Association will not adopt any Rule or Regulation that interferes with:

(A) the use of a Unit for usual and customary purposes otherwise permitted by law or any of the Association Documents;

(B) the pedestrian access provided for in Section 11.9 hereof;  
or

(C) snow removal, maintenance, and repair of the roof of a Tower Structure.

(d) Any Owner may state in a writing delivered to the Association its objection to the Rules and Regulations adopted by the Association within forty-five (45) days after the Association's promulgation of the same and delivery of a copy to the Owners. Such writing will state with reasonable particularity such Owner's objection and what modifications to the Rules and Regulations that, if made, would satisfy such Owner's concerns. If the objection cannot be resolved by the Owner and the Association within thirty (30) days of the Association's receipt of the Owner's objection, the disputed Rules and Regulations, or applicable portions thereof, will be submitted to a vote of the Owners. Such Rules and Regulations will be deemed approved upon a sixty-seven percent (67%) or greater vote of the votes allocated the Units; provided, however, no Owner will unreasonably withhold its approving vote of the Rules and Regulations proposed by the Association for approval. Rules and Regulations that are not objected to within the forty-five (45) day period specified above will be deemed approved by the Owners.

#### 4.3 Association Documents.

(a) This Declaration and the Plat create the Condominium Project and set forth certain covenants, conditions, restrictions, reservations, easements, assessments, charges and liens applicable to the Condominium Project. The Articles create the Association. The Bylaws provide for the regulation and management of the Association, and the Rules and Regulations provide for the regulation and management of the Condominium Project.

(b) In accordance with Section 57-8-40 of the Act: (i) if there is any conflict or inconsistency between the provisions of the Act, the provisions of the Utah Revised Nonprofit Corporation Act, and the terms and conditions of the Articles, this Declaration, the Bylaws or the Rules and Regulations, the provisions of the Act will control; (ii) if there is any conflict or inconsistency between the provisions of the Utah Revised Nonprofit Corporation Act and the

terms and conditions of the Articles, this Declaration, the Bylaws or the Rules and Regulations, the provisions of the Utah Revised Nonprofit Corporation Act will control; (iii) if there is any conflict or inconsistency between the terms and conditions of the Articles and the terms and conditions of this Declaration, the Bylaws or the Rules and Regulations, the terms and conditions of the Articles will control; (iv) if there is any conflict or inconsistency between the terms and conditions of this Declaration and the terms and conditions of the Bylaws or the Rules and Regulations, the terms and conditions of this Declaration will control; (v) if there is any conflict or inconsistency between the terms and conditions of the Bylaws and the terms and conditions of the Rules and Regulations, the terms and conditions of the Bylaws will control.

#### 4.4 Books and Records.

The Management Committee, or manager, if any, will keep detailed, accurate records in chronological order, of receipts and expenditures affecting the Common Elements, specifying and itemizing the Common Expenses and any other expenses incurred. Upon request, the Association will allow Owners and Mortgagees and their respective agents to inspect current copies of the Association Documents and the current and past books, records, budgets and financial statements of the Association during normal business hours and under other reasonable circumstances. The Association may charge a reasonable fee for copying such materials.

### Article 5 VOTING

#### 5.1 Voting.

(a) At any meeting of the Association, the Interest in Common Elements appurtenant to a Unit may be voted in connection with issues presented to the Owners for vote.

(b) The votes allocated to the Units of the Condominium Project are and will at all times remain equal to the Interests in Common Elements set forth on Exhibit C attached hereto and made a part hereof.

(c) Each Unit, including any Subdivided Unit, will be entitled to the number of votes allocated to it in accordance with paragraphs 5.1(a) and (b) above, regardless of the number of Owners of the Unit. If the Owners of a Unit cannot agree among themselves as to how to cast their votes on a particular matter, they will lose their right to vote on such matter. If any Owner casts a vote representing a particular Unit, it will thereafter be presumed for all purposes that the Owner was acting with the authority and consent of all other Owners with whom such Owner shares the Unit, unless objection thereto is made by an Owner of that Unit to the Person presiding over the meeting at the time the vote is cast. If more than the number of allocated votes are cast for any particular Unit, none of such votes will be counted and all of such votes will be deemed null and void other than to determine whether a quorum exists. With respect to a Subdivided Unit, the votes allocated to such Subdivided Unit in accordance with paragraphs 5.1(a) and (b) above, will be voted in a block by the association of Sub-Unit owners created by the applicable Sub-Declaration and related documents. No Sub-Unit owner will be deemed an Owner, nor will any such owner have the right to participate directly in any matter requiring a vote of the Owners.

(d) Each Owner, by acceptance of its deed, lease, or sublease, as applicable, to its Unit, covenants and agrees that it will exercise its voting rights granted hereunder in good faith and in a manner that deals fairly and reasonably with all those having an interest in the Condominium Project.

(e) In any case in which the Act or this Declaration requires the vote of a stated percentage of the Owners or approval of an act or transaction, such requirement will be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners who collectively hold at least the stated percentage of required votes. Such written consents will be subject to the following conditions:

(f) All necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Owner.

(g) Any change in ownership of a Condominium Unit which occurs after consent has been obtained by the Owner having an interest therein will not be considered or taken into account for any purpose.

(h) Unless consent of all Owners having an interest in the same Condominium Unit is secured, the consent of none of such Owners will be effective.

**Article 6  
MANAGEMENT COMMITTEE**

**6.1 Number and Election of Directors.**

The Management Committee will consist of three Directors, two of which will be appointed by a majority of the votes entitled to be cast by the Owners of the Retail Units and the Retail Parking Unit, and one of which will be appointed by a majority of the votes entitled to be cast by the Owners of the Residential Units and the Residential Parking Units. Subject to the terms and conditions of Sections 6.3 and 6.4 below, each Director will hold office for a term of one year and the Owners will appoint the Directors at the annual meetings.

**6.2 Powers of the Management Committee.**

(a) Except as provided in this Declaration, the Articles and the Bylaws, the Management Committee may act on behalf of the Association in all instances.

(b) The Management Committee may not act on behalf of the Association to:

- (i) amend this Declaration;
- (ii) terminate the Association, this Declaration or the Condominium;
- (iii) elect Directors to the Management Committee; or
- (iv) determine the qualifications, powers and duties, or terms of office,

of Directors.

### 6.3 Declarant Control Period.

(a) Subject to the terms and conditions of paragraphs 6.3(b) and (c) below, but notwithstanding Section 6.1 or anything else to the contrary contained in this Declaration or in any other Association Document, Declarant will have the exclusive right to appoint and remove all Directors and Officers during the Declarant Control Period. The phrase "Declarant Control Period" means the period commencing on the date on which this Declaration is Recorded, and ending on the first to occur of the following:

- (i) two (2) years from the date that the Declaration is Recorded;
- (ii) the date upon which Units representing seventy-five percent (75%) of the total Interests in the Common Elements have been conveyed to Purchasers; or
- (iii) completion of the Tower Structures according to the terms and conditions of the Project Development Agreement.

(b) Declarant may voluntarily surrender its right to appoint and remove Officers and Directors prior to the expiration of the Declarant Control Period, but, in that event, Declarant may require, for the remainder of the Declarant Control Period, that specific actions of the Association or the Management Committee, as described in a recorded instrument executed by Declarant, be approved by the Declarant before they become effective.

(c) During the thirty (30)-day period immediately preceding the date on which the Declarant Control Period expires, the Owners will appoint a Management Committee of three (3) Directors as set forth in Section 6.1 above consisting of Owners or designated representatives of Owners. Directors will take office upon being appointed.

(d) No management contract, lease of recreational areas or facilities, or any other contract or lease designed to benefit the Declarant which was executed by or on behalf of the Association or the Unit Owners as a group will be binding after the expiration of the Declarant Control Period unless renewed or ratified by the consent of at least 67% of the votes allocated to the Units as provided in Section 5.1(b).

### 6.4 Removal of Directors.

(a) During the Declarant Control Period, Directors appointed by Declarant may be removed, with or without cause, solely by Declarant.

(b) After the expiration of the Declarant Control Period, Directors may be removed, with or without cause, by the Owners that appointed such Director to serve on the Committee.

### 6.5 Replacement of Directors.

(a) Vacancies on the Management Committee created by the removal, resignation or death of a Director appointed by Declarant will be filled by a Director appointed by Declarant.

(b) A vacancy on the Management Committee created by the removal, resignation or death of a Director appointed by the Owners will be filled by a Director appointed by the Owners who appointed the Director that is being replaced.

(c) Any Director appointed pursuant to this Section 6.5 will hold office for the remainder of the unexpired term of the Director that Director replaced.

#### **6.6 Management Committee Liability.**

No Director will be liable to the Owners for any mistake in judgment, for negligence, or on other grounds, except for such Director's own individual and willful misconduct or gross negligence. The Owners and the Association will indemnify and hold harmless each Director from and against all liability to third parties arising out of any contract made by the Management Committee on behalf of the Association or Owners, unless such contract was made in bad faith or contrary to the provisions of the Act or this Declaration. The liability of an Owner arising out of the foregoing indemnification will be limited to the total liability concerned multiplied by such Owner's Interest in Common Elements.

### **Article 7**

#### **ASSESSMENTS, COMMON EXPENSES, BUDGETS, AND LIENS**

#### **7.1 Obligations for Assessments.**

(a) Each Owner, by accepting a deed, lease, or sublease, as applicable, to a Unit (regardless of whether it is expressly stated in such deed, lease, or sublease, as applicable), will be deemed to have covenanted and agreed to pay to the Association all:

- (i) General Assessments;
- (ii) Special Assessments;
- (iii) Default Assessments; and

(iv) other charges that the Association is required or permitted to levy or impose on such Owner or such Owner's Unit pursuant to this Declaration or any other Association Document.

(b) Notwithstanding the definition of the term "Owner", a Mortgagee (or a successor or assign of a Mortgagee) who acquires a Unit in a foreclosure sale or by deed in lieu of foreclosure will be personally liable for all Assessments and other charges that the Association is required or permitted to levy or impose on that Unit or on the Owner of that Unit that are attributable to (i) the period before the Mortgage was recorded and (ii) the period after the Mortgagee acquires title to the Unit in a foreclosure sale or by deed in lieu of foreclosure, but will not be liable for Assessments against the prior Owner attributable to the period after the Mortgage was recorded but before the Mortgagee acquired title to the Unit in a foreclosure sale or by deed in lieu of foreclosure.

(c) No Owner will be exempt from liability for any Assessment or other charges by waiving the use or enjoyment of any Common Element or by abandoning a Unit against which such Assessments or other charges are made.

(d) Each Owner will be personally liable for all Assessments and other charges levied on such Owner or such Owner's Unit during the period of such Owner's ownership of the Unit. If there is more than one Owner of a Unit, each Owner will be jointly and severally liable with the other Owners of the Unit for all Assessments and other charges levied on the Unit or any Owner of the Unit. In a voluntary conveyance, the grantee of a Unit will be jointly and severally liable with the grantor for all unpaid Assessments against the grantor without prejudice to the grantee's rights to recover from the grantor the amount of the Assessment paid by the grantee.

(e) Each Assessment or other charge, together with interest and penalties thereon and all costs and expenses incurred by the Association to collect such Assessment or other amount, including all fees and disbursements of attorneys, accountants, appraisers, receivers and other professionals engaged by the Association in connection therewith, may be recovered by a suit for a money judgment by the Association without foreclosing or waiving any Assessment Lien securing the same.

### 7.2 Shares of Common Expenses.

(a) Except as otherwise set forth in this Declaration, the Association's Common Expenses will be allocated among the Units in accordance with the Interest in Common Elements appurtenant to such Units (the "Shares of Common Expenses").

(b) Until the Association levies an Assessment, Declarant will pay all Common Expenses. No assessments will be levied until five (5) months after substantial completion of all of the Base Structures, which substantial completion will be deemed to have occurred upon such date as all of the Base Structures are sufficiently completed to allow construction of the Tower Structures to begin.

### 7.3 Budgets.

(a) Prior to the first levy of a General Assessment, and thereafter at least 90 days before the beginning of each fiscal year, the Management Committee will adopt a proposed annual budget for the Association for the following fiscal year that sets forth:

(i) the Management Committee's estimates of Common Expenses for the next fiscal year, taking into account any default or surplus realized for the current fiscal year and any amounts as may be necessary to fund the reserve provided for in Section 7.11 of this Declaration;

(ii) the amount of funds for such Common Expenses that the Management Committee proposes to raise through General Assessments; and

(iii) the amount of funds for such Common Expenses that the Management Committee proposes to raise through Special Assessments.

(b) Within thirty (30) days after adopting a proposed annual budget, the Management Committee will deliver a summary of the proposed annual budget to the Owners and set a date for a meeting of the Owners to consider ratification of the proposed annual budget. The date of such meeting will not be less than fourteen (14) days nor more than sixty (60) days after the delivery of the summary of the proposed annual budget to the Owners. Unless the proposed budget is ratified at the meeting of the Owners by a vote of at least sixty-seven percent (67%) of the votes allocated to all Units, the proposed budget will be deemed rejected. If the proposed annual budget is rejected, the annual budget last ratified by the Owners will be deemed renewed for the next fiscal year and will remain in full force and effect until such time as (i) the Owners ratify a subsequent annual budget proposed by the Management Committee, or (ii) the annual budget is determined by an Arbitrator in accordance with Section 7.3(d).

(c) If the Management Committee deems it necessary or advisable to amend an annual budget that has been ratified by the Owners under paragraph 7.3(b) above, the Management Committee may adopt a proposed amendment to the annual budget, deliver a summary of the proposed amendment to all Owners and set a date for a meeting of the Owners to consider ratification of the proposed amendment. The date of such meeting will not be less than fourteen (14) days nor more than sixty (60) days after the delivery of the summary of the proposed amendment. Unless the proposed amendment is ratified at the meeting of the Owners by a vote of at least sixty-seven percent (67%) of the votes allocated to all Units, the proposed amendment will be deemed rejected.

(d) If the Owners fail to ratify a proposed annual budget or a proposed amendment to an annual budget within 30 days after such budget or amendment is first rejected, the budget or amendment adopted by the Management Committee, together with any counterproposals by Owners who voted against the budget or amendment, will be submitted to an Arbitrator for resolution, and the decision of the Arbitrator will be binding and final. Within 15 days after the Arbitrator issues his decision, the Owners will pay any increase in Assessments due under the budget or amendment approved by the Arbitrator.

#### 7.4 General Assessments.

(a) After the Management Committee has adopted an annual budget pursuant to paragraph 7.3(b) above, the Association will levy an assessment for Common Expenses (a "General Assessment") on each Unit. The amount of the General Assessment levied against a Unit will equal the product obtained by multiplying:

(i) the amount set forth in the annual budget adopted by the Management Committee as the amount of Common Expenses to be raised by General Assessments, by

(ii) that Unit's Interest in Common Elements.

(iii) Each Owner will pay the General Assessment levied against its Unit as and when required by the Association.

(b) If the Management Committee adopts an amendment to the General Assessment portion of an annual budget pursuant to paragraph 7.3(c) above, the amount of the

General Assessment levied against each Unit will be adjusted accordingly, as will the amount of each Owner's periodic installments.

(c) If the Management Committee fails to adopt an annual budget for any fiscal year prior to the beginning of that fiscal year, the Owners will continue to pay periodic installments of the General Assessment to the Association at the rate payable during the prior fiscal year until such time as the Management Committee adopts a new annual budget for the then current fiscal year. Once the Management Committee adopts a new annual budget, the Association will levy against each Unit the General Assessment for the then current fiscal year and each Owner's periodic installments will be adjusted as necessary to pay the new General Assessment in equal periodic installments over the remainder of such fiscal year, giving the Owners credit, in such manner as the Management Committee deems necessary or appropriate, for any installments that the Owners have previously paid to the Association during such fiscal year.

(d) The failure of the Association to levy a General Assessment for any fiscal year will not be deemed a waiver, modification or release of an Owner's liability for the Share of Common Expenses allocated to such Owner's Unit.

#### 7.5 Special Assessments.

(a) The Assessments that the Association may levy pursuant to this Section 7.5 are referred to in this Declaration as "Special Assessments".

(b) Notwithstanding anything to the contrary contained in Section 7.4 above, if the Association determines that an Assessment is required to immediately fund any Common Expense (including the cost of repair and/or restoration in the event of casualty or condemnation), the Association will amend the budget in accordance with Section 7.3 and thereafter levy a Special Assessment for such Common Expense against the Units in proportion to the Interests of Common Elements.

(c) Each Special Assessment levied against the Units will be shown on an annual budget, or an amendment to an annual budget, adopted by the Management Committee pursuant to Section 7.3 above and will be paid as and when required by the Association; provided, that a Special Assessment occasioned by the operation of Section 13.2 will be assessed against the Owners even if the Owners reject (in accordance with Sections 7.3(c) or (d)) the annual budget or amendment thereto on which such Special Assessment is shown. Special Assessments will be allocated among the Units in proportion to their respective Interests in Common Elements.

#### 7.6 Default Assessments.

(a) Notwithstanding anything to the contrary contained herein, if any Common Expense is caused by:

(i) the negligence or misconduct of an Owner or an Owner's Guest; or



(ii) a violation of any covenant or condition of an Association Document by an Owner or an Owner's Guest, the Association may levy an Assessment for such Common Expense against such Owner's Unit. Any such Assessment levied by the Association and each fine, penalty, fee or other charge imposed upon an Owner for the Owner's violation of any covenant or condition of any Association Document are each referred to herein as a "Default Assessment".

(b) Default Assessments need not be shown on an annual budget, or on an amendment to an annual budget, adopted by the Management Committee pursuant to Section 7.3 above.

(c) With respect to any Default Assessment, or portion thereof, levied other than as a late charge or in connection with a service benefiting less than all of the Units, the Owner of the Unit against which the Association seeks to levy the Default Assessment will be provided notice and an opportunity to be heard. Owners of Units against which Default Assessments have been levied will pay such Default Assessments as and when required by the Association.

(d) The cost of any item or service benefiting less than all of the Units may, in the Management Committee's discretion, be assessed as a Default Assessment exclusively against the Units benefiting from the service. Default Assessments will also include (i) fines imposed against an Owner for violation of the Association Documents, (ii) charges assessed against an Owner to reimburse the Association for costs incurred in bringing a Unit or its Owner into compliance with the Association Documents, and (iii) charges assessed against a Residential Unit Owner to reimburse the Association for costs incurred in repairing, restoring, or demolishing the Tower Structure in accordance with Section 13.5(c).

#### 7.7 Assignment of Assessments.

The Association will have the unrestricted right to assign its right to receive Assessments and other future income, either as security for obligations of the Association or otherwise, on the condition that any such assignment is approved by at least 67% of the votes allocated to Units represented at a meeting at which a quorum is present.

#### 7.8 Assessment Lien.

(a) The Association will have a lien on each Unit for any Assessment levied against that Unit and for any fines, late charges, penalties, interest and attorneys' fees, disbursements and costs of collection imposed against the Owner of such Unit under any Association Document (the "Assessment Lien"). The Assessment Lien will secure all of the foregoing obligations of an Owner from the time such obligations become due. If an Assessment is payable in installments, the Assessment Lien will secure each installment from the time it becomes due, including the due date set by any valid Association acceleration of installment obligations.

(b) An Assessment Lien will constitute a lien upon the Owner's Unit, and, upon the Recording of a notice of lien by the Management Committee or manager, if any, it is a lien prior to all other liens and encumbrances on a Unit, recorded and unrecorded except:

(i) encumbrances on the interest of an Owner recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances; and

(ii) liens for real estate taxes and special assessment liens on the Unit in favor of any governmental assessing unit or special improvement district; and

(iii) the lien of a First Mortgage recorded before the date on which the Assessment sought to be enforced became delinquent.

(c) An Assessment Lien is extinguished unless proceedings to enforce the Assessment Lien are instituted within six (6) years after the full amount of the Assessment secured thereby becomes due. A suit to recover a money judgment for unpaid Assessments is maintainable without foreclosing or waiving the Assessment Lien securing the unpaid Assessments.

(d) This Section 7.8 does not prohibit actions or suits to recover sums secured by an Assessment Lien or the Association from taking a deed in lieu of foreclosure.

(e) In any action by the Association to collect Assessments or to foreclose an Assessment Lien for unpaid Assessments, the court may appoint a receiver of the Owner to collect all sums alleged to be owed by the Owner prior to or during the pendency of the action, including, but not limited to, all costs and expenses of such proceedings, reasonable attorneys' fees, and a reasonable rental for the Unit. A court may order the receiver to pay any sums held by the receiver to the Association during the pending of the action to the extent of the Association's Assessments.

(f) An Assessment Lien may be foreclosed in like manner as a deed of trust or mortgage on real estate or in any other manner permitted by law. Periodic Assessments will be payable during the period of foreclosure of an Assessment Lien.

**7.9 Waiver of Homestead Exemptions.**

To the fullest extent permitted by law, by acceptance of the deed or other instrument of conveyance of a Unit or a Sub-Unit, each Owner, and each owner of a Sub-Unit, irrevocably waives the homestead exemption provided by the Utah Exemptions Act, Utah Code Ann. §§ 78-23-1 through 78-23-15 as amended from time to time, as the same may apply to the Assessment Lien.

**7.10 Estoppel Certificates; Notices to Mortgagees.**

(a) The Association will furnish to an Owner or such Owner's designee (in the case of a Subdivided Unit, the association created by the Sub-Declaration and related documents) or to a Mortgagee or its designee upon written request, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the Association's registered agent, and payment of a reasonable fee not to exceed the amount provided for in the Act, a statement setting forth the amount of unpaid Assessments currently levied against such Owner's Unit. The statement will be furnished within ten calendar days after receipt of the request and is

binding on the Association, the Management Committee and every Owner in favor of all Persons who rely upon such statement in good faith. If no statement is furnished to the Owner, the Mortgagee or their designee, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party, then the Association will have no right to assert the priority of its Assessment Lien upon the Unit for unpaid Assessments which were due as of the date of the request.

(b) If a First Mortgagee delivers to the Association a written request for notice of unpaid Assessments levied against a Unit subject to a First Mortgage held by that First Mortgagee, the Association will report to the First Mortgagee any unpaid Assessments levied against such Unit that remain unpaid for more than sixty (60) days after the same will have become due. The First Mortgagee may pay any such unpaid Assessment, together with any and all costs and expenses incurred with respect to the Assessment Lien securing such unpaid Assessment, and upon such payment, such First Mortgagee will have a lien on the Unit for the amounts paid with the same priority as a lien of the First Mortgage held by such First Mortgagee.

#### **7.11 Reserve Fund.**

(a) The Association will have the right to maintain a reserve fund for Common Expenses. Notwithstanding the foregoing, the Association will only establish such reserve fund by a vote of at least sixty-seven percent (67%) of the votes allocated to all Units. The reserve fund will include such amounts as the Management Committee may deem proper for general working capital, for a general operating reserve, and for a reserve fund for replacements and major maintenance or capital replacement, and will be funded as follows. At the time of conveyance of a Unit by Declarant to a Purchaser or the date that is five (5) months after the Base Structures are substantially completed as set forth in paragraph 7.2(b), whichever is later, the Purchaser will pay to the Association an amount equal to the Association's estimate of three (3) months of Common Expenses for the fiscal year in which the conveyance of the Unit occurs or the first fiscal year following substantial completion of the Base Structures. Thereafter, the Association may increase the reserve fund or replace funds withdrawn from the reserve fund with funds collected through Assessments.

(b) Payments by Purchasers to the Association under paragraph 7.11(a) above will not be credited against, or relieve Purchasers from, their obligation to pay other Assessments levied against Units by the Association.

(c) Upon the conveyance of a Unit from one Owner to another, the Association will not be obligated to return to the transferor any funds held in reserve, but the transferor will be entitled to an appropriate credit from its transferee.

### **Article 8 UTILITY AND OTHER SERVICES**

#### **8.1 Water, Sewer, Propane, Electric, and Trash Removal Services.**

(a) It is initially contemplated that natural gas, electric, water, sewer, and trash removal services will be separately obtained by each Owner and that all such services will be separately metered and billed to such Unit by the utility company or other party furnishing

such services. The charges incurred by the Owners of Units for such services will not be a part of the Common Expenses of the Condominium Project.

(b) All water, sewer, natural gas, and electric services furnished to the Condominium Project which are separately metered and billed to an individual Unit by the utility company or other party furnishing such services will be paid for by the Owner of the Unit to which such utility is metered. All other water, sewer, natural gas and electric services will be a part of the Common Expenses and will be allocated by the Association among the Units and charged to the Owners in accordance with their Shares of Common Expenses.

(c) Each Owner will ensure that its Unit is sufficiently heated to prevent the freezing of water and sewer lines serving the Condominium Project.

#### **8.2 Cable Television.**

(a) Each Owner of a Residential Unit will be responsible for obtaining cable television services for its Residential Unit, and each Owner of a Retail Unit will be responsible for obtaining cable television services, if any, for its Retail Unit. Each Owner will pay all costs, expenses, fees, rates and other installation and connection charges incurred in connection with the cable television services for its Unit, including, without limitation, any connection fees, directly to the provider of such services.

(b) All cable television services furnished to the Condominium Project which are separately metered and billed to an individual Unit by the cable company or other party furnishing such services will be paid for by the Owner of the Unit to which such services are metered. All other cable television services will be a part of the Common Expenses and will be allocated by the Association among the Units and charged to the Owners in accordance with their Shares of Common Expenses.

#### **8.3 Telephone.**

(a) Each Owner will be responsible for obtaining telephone services for its Unit and will pay all costs, expenses, fees, rates and other charges incurred in connection therewith, including, without limitation, any connection fees, directly to the provider of such services.

(b) The Association will determine what, if any, telephone services are necessary for the Common Elements and will be responsible for obtaining those services. The Common Expenses incurred by the Association for those services will be allocated among the Units in accordance with their proportionate Shares of Common Expenses.

#### **8.4 Other Utilities.**

If the Association incurs Common Expenses for any utility service not described above, or if the manner of providing or metering any utility service described above changes from the manner in which such service is provided or metered as of the date of this Declaration, the Association may allocate the Common Expenses incurred for such new utility service or changed utility service in any reasonable and equitable manner consistent with the Act.

**Article 9**  
**MAINTENANCE OF COMMON ELEMENTS AND UNITS**

**9.1 Maintenance of Common Elements.**

Except as otherwise provided in this Declaration, the Association, or its duly designated agent (which may include the Junction Master Declarant), will maintain the Common Elements and the other Association property in good order and condition and will otherwise manage and operate the Common Elements as it deems necessary or appropriate. The Association will not be responsible for maintaining any portions of the Common Elements which are maintained by the Junction Master Declarant, but the Association will take all steps necessary to cause the Junction Master Declarant to perform the Junction Master Declarant's obligations under the Junction Master Declaration. The Management Committee will have the irrevocable right to have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of the Common Elements or for making emergency repairs necessary to prevent damage to the Common Elements or to another Unit or Units. In addition, the Association will ensure that all interior Common Elements are sufficiently heated to prevent the freezing of water and sewer lines serving the Condominium Project. Without the limiting the foregoing, the Association may:

- (a) construct, modify, add to, repair, replace or renovate any improvements that are located on or constitute a part of any Common Element;
- (b) plant and replace trees, shrubs and other vegetation on any Common Element;
- (c) place, maintain and replace signs upon any Common Element;
- (d) adopt and enforce Rules and Regulations regulating the use of Common Elements; and
- (e) take any other actions as the Association deems necessary or advisable to protect, maintain, operate, manage or regulate the use of the Common Elements.

**9.2 Maintenance of Units.**

Each Owner, at such Owner's sole cost and expense, will maintain its Unit in good order and repair and keep its Unit in a clean and sanitary condition. By way of clarification and without limiting the generality of the previous sentence, (a) each Residential Unit Owner will be responsible for maintaining and repairing (i) the roof and roof membranes of the Tower Structure within its Residential Unit, (ii) all fixtures and surface applications installed or otherwise located on the Common Deck, (iii) all landscaping located within the Residential Unit, (iv) all utility facilities, lines, ducts, and other such apparatus within the Residential Unit, and (v) all other improvements (structural or otherwise) within the Residential Unit; and (b) each Parking Unit Owner will be responsible for maintaining, repairing, repaving, and repainting the surface of the parking lot within its Parking Unit and keeping its Parking Unit clean and free of garbage or other unsightly materials. The Association will have no obligation to perform maintenance, repairs, or cleaning that are required to be accomplished by any Owner or group of Owners.

### **9.3 Mechanic's Liens and Indemnification.**

No labor performed or materials furnished and incorporated into a Unit with the consent or at the request of an Owner or an agent, contractor or subcontractor of an Owner will be the basis either for filing a lien against the Unit of any other Owner not expressly requesting or consenting to the same, or against the Common Elements. Notwithstanding the foregoing, labor performed or materials furnished for the Common Elements, if authorized by the Owners, the manager or the Management Committee in accordance with this Declaration, the Bylaws, the Rules and Regulations, or the Act, will be deemed to be performed or furnished with the express consent of each Owner and will be the basis for filing a lien pursuant to applicable law. Payment for any such lien will be made as provided in the Act. Each Owner will indemnify and hold harmless each of the other Owners and any Mortgagee from and against all liability arising from any claim or lien against the Unit of any other Owner or against the Common Elements for construction performed or for labor, materials, services or supplies incorporated in the Owner's Unit at the Owner's request.

### **9.4 Junction Master Declarant.**

The rights and obligations of the Association and the Owners under this Article 9 are subject to the rights of the Junction Master Declarant.

## **Article 10 COVENANTS, CONDITIONS AND RESTRICTIONS**

### **10.1 Applicability of Covenants, Conditions and Restrictions.**

Except as otherwise provided in this Declaration, the covenants, conditions and restrictions set forth in this Article 10 will apply to all Units and Common Elements.

### **10.2 Association Documents.**

Each Owner will strictly comply with, and will require its Guests to comply with, all provisions of the Association Documents that apply to such Owner or such Owner's Unit.

### **10.3 Junction Master Declaration.**

Each Owner will strictly comply with, and will require its Guests to comply with, all provisions of the Junction Master Declaration that apply to such Owner or such Owner's Unit. The Association will strictly comply with all provisions of the Junction Master Declaration that apply to the Association.

### **10.4 Notice of Conveyance, Assignment or Encumbrance.**

(a) Promptly after a conveyance of a fee simple interest in a Unit or portion thereof, or at such time as the lessee under the Residential Ground Lease or the sublessee under the Residential Ground Sublease obtains a leasehold interest in a Unit, the grantee, lessee or sublessee will furnish a copy of the conveyance deed or lease to the Association.

(b) Promptly after an encumbrance of a fee simple or leasehold interest in a Unit or portion thereof, the Owner will furnish the Association with a copy of the Mortgage creating the encumbrance.

#### 10.5 Use of Common Elements.

All Owners and their Guests may use the Common Elements for the purposes for which such Common Elements are intended. Notwithstanding the preceding sentence, neither an Owner nor a Guest may use any Common Element in any manner that unreasonably interferes with, hinders or encroaches upon the rights of other Owners in and to the Common Elements. Without limiting the generality of the foregoing, no Owner will cause, or permit its Guests to cause, waste to any Common Element.

#### 10.6 Alterations.

(a) Except as otherwise expressly provided in this Declaration, an Owner of a Unit may not make (i) any improvement or alteration to a Common Element, or (ii) any improvement or alteration to its Unit that affects any Common Element or any other Unit, without the prior written consent of the Association; provided, however, nothing herein will preclude development of the Condominium Project as anticipated by the terms of this Declaration and the Project Development Agreement. No Owner will do any work or make any alterations or changes which would jeopardize the soundness or safety of the Condominium Project without obtaining the written consent of each Owner. No Owner will do any work or make any alterations or changes which would reduce the value of the Condominium Project or impair any easement or hereditament, without in every case first obtaining the prior written consent of the Association.

(b) Subsequent to completion of the Improvements in accordance with the terms and conditions of the Project Development Agreement, no new Improvement will be constructed on the Land and no construction, alteration, installation, or other work affecting the exterior surface of any existing Improvement will be made, except as required under Article 13 or as required or approved by the Junction Master Declarant and the Association, and then only in strict accordance with the terms and conditions of the Junction Master Declaration and the Association Documents.

(c) Notwithstanding paragraphs 10.6(a) and 10.6(b) above, initial construction of the Base Structures and the Tower Structures may be carried out by the Declarant or any Owner responsible for such initial construction without obtaining the prior written consent of the Association or the Junction Master Declarant in each instance; provided, however, that all such initial construction will be accomplished in accordance with the terms and conditions of the Project Development Agreement.

(d) Without limiting the generality of paragraphs 10.6(a) through 10.6(b) above, an Owner of a Unit may not, without the prior written consent of the Association, install or erect any improvement, mechanical system or fixture that either:

- (i) protrudes beyond the boundaries of the Owner's Unit; or

(ii) is located wholly outside the Owner's Unit.

(e) Following completion of a Tower Structure, the Association or the owner of a Residential Unit, as the case may be, will perform or make, or cause to be performed or made, any Improvement, construction, alteration, installation or other work on, to or affecting the exterior of any Improvement on the Land which the Junction Master Declarant requires, in writing, be performed or made; provided, however, the Junction Master Declarant's ability to require any of the foregoing will be limited to such items as the Junction Master Declarant determines are necessary to maintain the exterior of such Improvements clean, safe and in good condition and repair consistent with the overall quality of the Junction Project as a first-class mixed use project.

#### 10.7 Nuisances, Hazardous Activities and Unsightliness.

(a) No Person will conduct any activity on the Land or within a Unit which creates a nuisance.

(b) No Person will conduct any activity on the Land or within a Unit which is or might be hazardous to any Person or property.

(c) No unsightliness will be permitted at the Land.

(d) Normal construction activities will not be considered to violate the terms and conditions of this Section 10.7. By accepting a deed to a Unit or by entering into the Residential Ground Lease or Residential Ground Sublease, an Owner acknowledges that the Condominium Project is a part of the Junction Project and that noises, lights, and odors common to recreational and commercial activities, as well as construction activities, may exist on or near the Land, at any time and from time to time.

#### 10.8 Signs.

(a) No signs whatsoever will be erected or maintained on the Land or upon the exterior or interior of a Building, except signs required by legal proceedings and those permitted or approved by the Association Documents and the Junction Master Declarant.

(b) Without limiting the generality of paragraph 10.8(a) above, no "For Sale" or "For Rent" signs will be displayed on the exterior or interior of a Unit, except that a limited amount of signage may be permitted in accordance with reasonable Rules and Regulations established by the Association with respect to the type and location of such signs.

#### 10.9 Compliance with Laws.

Nothing will be done or kept at the Land or within any Unit in violation of any law, ordinance, rule, regulation or other requirement of any governmental or quasi-governmental authority.



#### **10.10 Compliance with Insurance.**

Except as may be approved in writing by the Association, nothing will be done or kept at the Land or within any Unit that may result in the cancellation of any insurance maintained by the Association or may result in an increase in the rates of any such insurance. Activities incident to or necessary for the conduct of commercial operations will not violate the terms of this Section 10.10 even if such activities result in an increase in rates of insurance. Any such increase in the rates of insurance will be charged to the Owners of the Retail Units whose uses create such increases as Special Assessments.

#### **10.11 Subdivision, Rezoning and Timesharing.**

(a) Subject to Section 3.3(d), no Unit may be subdivided, unless the subdivision has been approved by 100 percent of the votes allocated to all Units at a duly convened meeting of the Association and has received all applicable governmental and quasi-governmental approvals.

(b) Except as may be necessary to construct the Condominium Project in accordance with the requirements of the Project Development Agreement, no application for rezoning any portion of the Land, and no applications for variances or use permits, will be filed with any governmental or quasi-governmental authority, unless the proposed rezoning has been approved by 100 percent of the votes allocated to all Units at a duly convened meeting of the Association (or pursuant to written consents in lieu of such a meeting) and the uses that would be permitted under the rezoning comply with this Declaration and the other Association Documents.

(c) No Owner will offer or sell any interest in any Unit under a "timesharing" or "interval ownership" plan or similar plan.

(d) The covenants, conditions and restrictions set forth in paragraphs 10.11(a) and 10.11(b) above will not apply to Declarant's development of the Land or to Declarant's exercise of any Special Declarant Right; provided the development of the Land and the exercise of any Special Declarant Right will not be inconsistent with the requirements of the Project Development Agreement.

#### **10.12 Vehicles and Parking.**

(a) No motor vehicle classed by manufacturer rating as exceeding three-quarter ton and no mobile home, trailer, detached camper or camper shell, boat or other similar equipment or vehicle may be kept or parked at the Condominium Project, except such delivery and service trucks as are temporarily parked in locations designated by the Association for such purposes.

(b) No motor vehicle will be constructed, repaired or serviced at the Condominium Project, except on a short-term emergency basis where such repairs are necessary to affect the removal of a disabled vehicle.

**10.13 Deliveries, Trash Removal and Other Services.**

(a) By acceptance of a deed to a Unit or by entering into the Residential Ground Lease or the Residential Ground Sublease, an Owner agrees that all deliveries and all trash removal services, and other such services to that Owner or its Unit will be effected at a location or locations designated by the Association and/or the Junction Master Declarant from time to time for such purposes. Unless otherwise directed by the Association, Owners of all Units and their Guests will place all trash and other waste from the Units in receptacles which are located in the Condominium Project and designated for that purpose.

(b) Owners will not, and will not permit their Guests to litter. No burning of trash, garbage or other waste materials will be permitted at the Land.

**10.14 Exterior Storage.**

No Owner will store any materials or items on or in any Common Element, other than those Common Elements, if any, designed for that purpose, such as storage lockers, and then only in strict accordance with the terms and conditions of the Association Documents.

**10.15 Animals.**

No animals, livestock or poultry of any kind will be raised, bred, or kept in or on the Property or in any Unit, except in accordance with reasonable Rules and Regulations established by the Association with respect to the keeping of such animals.

**10.16 Solid-Fuel Burning Devices.**

No solid-fuel burning devices, such as charcoal grills and wood burning stoves or fireplaces will be used, kept or stored on the Land.

**10.17 Retail Units.**

(a) Each Retail Unit may be used and occupied for commercial purposes only. Any Owner may lease all or any portion of its Retail Unit for such purpose.

(b) Notwithstanding anything to the contrary contained in this Declaration, an Owner of a Retail Unit may make improvements or alterations to its Retail Unit, including without limitation, the erection of partitions as permitted under subparagraph 3.3(d)(iii) above, without the consent of any Owner or the Association, on the conditions that:

(i) the improvement or alteration does not impair or cause damage to any other Unit;

(ii) the Owner of the Retail Unit promptly repairs any damage to any Common Element caused thereby at its cost and expense;

(iii) the improvement or alteration complies with all applicable requirements of the Junction Master Declaration, the Association Documents, the Act and all

laws, ordinances, regulations and rules of governmental and quasi-governmental authorities with jurisdiction.

If any such improvement or alteration will impair any other Unit, the Owner of the Retail Unit will not make the improvement or alteration without the prior written consent of at least 67% of the votes allocated to the Units.

(c) Notwithstanding anything to the contrary contained in this Declaration, and in addition to the rights of an Owner of a Retail Unit under paragraph 10.17(c) above, the Owner of a Retail Unit will have the right to alter that portion of the Building façade that serves as the boundary of that Retail Unit and other Common Elements located immediately adjacent to that Retail Unit (including, without limitation, the creation, removal and relocation of entrances, exits, windows, window boxes, signage and other architectural features), without the consent of any Owner or the Association, on the conditions that (i) the Owner of the Retail Unit repairs any damage to any Common Element caused thereby at its expense, and (ii) such alteration complies with all applicable requirements of the Junction Master Declaration, all applicable laws, ordinances, regulations and rules of governmental and quasi-governmental authorities with jurisdiction.

(d) Notwithstanding anything to the contrary in this Article 10, the Owner of a Retail Unit may:

(i) perform such activities within its Retail Unit as are lawfully permitted and are common to or necessary for the conduct of commercial operations, including, without limitation, restaurant, nightclub, lounge and retail operations, and any lights, sounds and odors which result from such activities will not violate the terms of this Article 10;

(ii) erect and attach signs, banners, window boxes, decorations and other similar items on the exterior of the Condominium Project (but not the Tower Structure) or projections from the exterior of the Condominium Project on the condition that such signs, banners, window boxes, decorations and other similar items and their locations are approved by the Junction Master Declarant and otherwise comply with the Junction Master Declaration;

(iii) apply for and obtain special use permits and licenses (e.g., liquor licenses) which are necessary or appropriate for the conduct of commercial activities in its Unit in accordance with this Declaration and the other Association Documents, without obtaining the approval otherwise required under paragraph 10.11(b) above, on the condition that such permits and licenses are consistent with the existing zoning and actual uses of the Retail Unit at the time the permit or license is applied for.

#### 10.18 Parking Units.

(a) Each Parking Unit may be used and occupied for pedestrian and vehicular ingress and egress and for parking of vehicles only.

(b) Residential Parking Unit A may only be owned or leased by the Owner of Residential Unit A-101. The Owner of Residential Unit A-101 may lease Residential Parking

Unit A to another Person as long as the Owner concurrently leases Residential Unit A-101 to that Person.

(c) Residential Parking Unit B may only be owned or leased by the Owner of Residential Unit B-101. The Owner of Residential Unit B-101 may lease Residential Parking Unit B to another Person as long as the Owner concurrently leases Residential Unit B-101 to that Person.

(d) Notwithstanding anything to the contrary contained in this Declaration, a Parking Unit Owner may make improvements or alterations to its Parking Unit without the consent of any Owner or the Association, on the conditions that:

(i) the improvement or alteration does not impair or cause damage to any other Unit;

(ii) the Parking Unit Owner promptly repairs any damage to any Common Element caused thereby at its cost and expense;

(iii) the improvement or alteration complies with all applicable requirements of the Junction Master Declaration, the Association Documents, the Act and all laws, ordinances, regulations and rules of governmental and quasi-governmental authorities with jurisdiction.

(e) If any such improvement or alteration will impair any other Unit, the Parking Unit Owner will not make the improvement or alteration without the prior written consent of at least 67% of the votes allocated to the Units.

#### 10.19 Residential Units.

(a) Except as otherwise expressly permitted by this Declaration, an Owner of a Residential Unit may use such Residential Unit for residential purposes only. No Owner of a Residential Unit will conduct any business, profession, occupation or trade from its Unit, including, without limitation, the operation of a so-called "bed and breakfast" or "chalet"; provided that this Declaration does not prohibit an Owner from leasing or renting such Owner's Unit to others so long as the use of such Unit complies with the provisions of this Declaration, the Act and other applicable laws and ordinances. Any lease of a Unit or any portion thereof will be in writing and will be subject to this Declaration and the Bylaws.

(b) Notwithstanding the restrictions set forth in paragraph 10.19(a) above:

(i) An Owner may use its Residential Unit and any portion thereof as its private office, on the condition that the Owner does not invite others to its Unit to conduct business and such use complies with all applicable federal, state and local laws, ordinances, regulations and rules; and

(ii) An Owner of a Residential Unit may use a portion of a Residential Unit as a "club house" and may also use a portion of the Residential Unit as a management

office, or a combined management office and residence for a resident manager, for the Residential Unit and/or the Sub-Units created pursuant to a Sub-Declaration.

(c) Notwithstanding anything to the contrary contained in this Declaration, an Owner of a Residential Unit may make improvements or alterations to its Residential Unit, including without limitation, the erection of partitions as permitted under subparagraph 3.3(d)(iii) above, without the consent of any Owner or the Association, on the conditions that:

(i) the improvement or alteration does not impair or cause damage to any other Unit;

(ii) the Owner of the Residential Unit promptly repairs any damage to any Common Element caused thereby at its cost and expense;

(iii) the improvement or alteration complies with all applicable requirements of the Junction Master Declaration, the Association Documents, the Act and all laws, ordinances, regulations and rules of governmental and quasi-governmental authorities with jurisdiction.

(d) If any such improvement or alteration will impair any other Unit, the Owner of the Residential Unit will not make the improvement or alteration without the prior written consent of at least 67% of the votes allocated to the Units.

(e) Notwithstanding anything to the contrary contained in this Declaration, and in addition to the rights of an Owner of a Retail Unit under paragraph 10.17(c) above, the Owner of a Residential Unit will have the right to alter a Tower Structure façade (including, without limitation, the creation, removal and relocation of entrances, exits, windows, window boxes, signage, and other architectural features), without the consent of any Owner or the Association, on the conditions that (i) the Owner of the Residential Unit repairs any damage to any Common Element caused thereby, at its expense, and (ii) such alteration complies with all applicable requirements of the Junction Master Declaration, and all applicable laws, ordinances, regulations and rules of governmental and quasi-governmental authorities with jurisdiction.

(f) Notwithstanding anything to the contrary in this Article 10, the Owner of a Residential Unit may erect and attach signs, banners, window boxes, decorations and other similar items on the exterior of a Tower Structure or projections from the exterior of a Tower Structure on the condition that such signs, banners, window boxes, decorations and other similar items and their locations are approved by the Management Committee and the Junction Master Declarant and otherwise comply with the Junction Master Declaration.

(g) Declarant acknowledges that the use of the Residential Units and the Residential Parking Units, as specified herein, is permitted under the use restrictions for "Residential Building Parcels" and "Residential Parking Parcels" as specified in the Junction Master Declaration.

**10.20 Declarant's Exemption.**

Nothing contained in this Declaration or in any other Association Document will be construed to prevent:

- (a) Declarant's exercise and enjoyment of any Special Declarant Right or any other rights of Declarant under this Declaration or any other Association Document; or
- (b) the conduct by Declarant or its employees or agents of any activity, including, without limitation, the erection or maintenance of temporary structures, improvements or signs, necessary or convenient to the development, construction, marketing or sale of property within or adjacent to the Condominium Project.

**Article 11  
EASEMENTS AND RESERVATIONS**

**11.1 Declarant's Easements Over Common Elements.**

(a) In accordance with the Act, Declarant hereby reserves for itself, its successors and assigns a general, transferable easement over, across, through and under the Common Elements to:

- (i) discharge Declarant's obligations under this Declaration;
- (ii) exercise any of Declarant's rights under this Declaration; and
- (iii) make improvements on the Land or any other real estate owned or leased by Declarant, for the purpose of doing all things reasonably necessary and proper in connection with the foregoing.

(b) Declarant hereby reserves for itself, its successors and assigns, the right to:

- (i) establish from time to time utility and other easements, permits or licenses over, across, through and under the Common Elements for the benefit of the Condominium Project, any property owned or leased by Declarant or any other real property within the Junction Project, provided, however, that the establishment and use of such easement, permit, or license results in no cost to Owners and does not materially interfere with the use of the Units; and
- (ii) create other reservations, exceptions and exclusions for the best interest of the Declarant and other Persons, on the conditions that (A) the parties benefitted by the easement, license, permit, reservation, exception or exclusion must use reasonable efforts to locate any such easement, license, permit reservation, exception or exclusion to minimize interference with the use of the Land by the Owners to the extent practicable; and (B) if the parties benefitted by the easement, license, permit, reservation, exception or exclusion construct or install any improvements on the Land pursuant to the same, the benefitted parties will promptly repair any damage caused to the Land and Improvements thereby at their sole cost and expense.

### 11.2 Utility Easement.

(a) Subject to the terms and conditions of this Declaration and all other Association Documents, Declarant hereby creates a general easement over, across, through and under the Land for ingress to, egress from, and installation, replacement, repair and maintenance of, all utility and service lines and systems, including, without limitation, water, sewer, natural gas, telephone, electricity and cable communication that service the Land or any portion thereof as well as any such lines and systems which service property owned or leased by the Junction Master Declarant; provided, however, that the establishment and use of such easement results in no cost to Owners and does not materially interfere with the use of the Units. The Association may, but is not obligated to, authorize the release of portions of the general easement created pursuant to this Section 11.2 upon the request of any Owner showing good cause therefor.

(b) Pursuant to this easement, a utility or service company may install and maintain facilities and equipment on the Land and affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of Improvements to provide service to the Units or the Common Elements; provided, however, the manner and location of attachment will first be approved by the Association. Notwithstanding anything to the contrary contained in this Section 11.2, no sewers, electrical lines, water lines or other utilities or service lines may be installed or relocated on any portion of the Land, except in accordance with terms and conditions of Sections 10.7 and 10.17 above. Any utility or service company using this general easement will use its best efforts to install, repair, replace and maintain its lines and systems without disturbing the uses of Owners, the Association, Declarant and other utility and service companies.

(c) If any utility or service company furnishing utilities or services to the Land or any portion thereof or property of the Junction Master Declarant as permitted under paragraph 11.2(a) above requests a specific easement by separate recordable document, the Association will have the right and authority, but not the obligation, to grant such easement over, across, through and under any portion of the Land.

### 11.3 Association's Easement.

(a) The Association will have a general easement over, across, through and under each Unit and each Common Element to:

(i) exercise any right held by the Association under this Declaration or any other Association Document; and

(ii) perform any maintenance or other obligation imposed upon the Association by this Declaration or any other Association Document.

(b) Notwithstanding the foregoing, the Association will not enter any Retail Unit or Residential Unit without reasonable prior notice to the Owner thereof, except in cases of emergency.

#### **11.4 Easements to Retail Unit Owners.**

The Owner of a Retail Unit will have the right and a perpetual easement, without charge, to install, operate, maintain, repair and replace machinery, equipment, utility lines, wires, circuits, cables and conduits serving such Retail Unit, along, across and through any and all Common Elements and through the Units within the Condominium Project on the conditions that (a) the Owner of the Retail Unit, at its sole cost and expense, will repair, replace and restore any damage to the Common Elements and the Units caused by such installation, operation, maintenance, replacement or repair, (b) all such machinery, equipment, utility lines, wires, circuits, cables and conduits are located within a Unit, will, except for minor variations, be in the number, specification, and location provided for in construction drawings approved by the Management Committee prior to the commencement of construction of any such facilities, and, to the extent that such machinery, equipment, utility lines, wires, circuits, cables and conduits are located within a Unit, the location will be designated by the Owner of such Unit pursuant to its reasonable discretion; and (c) such installation, maintenance, repair or replacement does not materially interfere with the use of the Base Structure and complies with all applicable requirements of the Junction Master Declaration, the Act and all laws, ordinances, regulations and rules of governmental and quasi-governmental authorities with jurisdiction.

#### **11.5 Easements to Residential Unit Owners.**

(a) The Owner of a Residential Unit will have an easement to construct, maintain, inspect, repair, and replace, when reasonably necessary, within, through and upon the Common Deck such structural supports and anchors as are necessary and advisable with respect to the construction, maintenance and operation of the Tower Structure.

(b) The Owner of a Residential Unit will have the right and a perpetual easement, without charge, to install, operate, maintain, repair and replace machinery, equipment, utility lines, wires, circuits, cables and conduits serving such Residential Unit, along, across and through the Common Elements and through the Units within the Condominium Project on the condition that (i) the Owner of the Residential Unit, at its sole cost and expense, will repair, replace and restore any damage to the Common Elements or any Units caused by such installation, operation, maintenance, replacement or repair, (ii) all such machinery, equipment, utility lines, wires, circuits, cables and conduits will, except for minor variations, be in the number, specification, and location provided for in construction drawings approved by the Management Committee prior to the commencement of construction of any such facilities, and, to the extent that such machinery, equipment, utility lines, wires, circuits, cables and conduits are located within a Unit, the location will be designated by the Owner of such Unit pursuant to its reasonable discretion; and (iii) such installation, maintenance, repair or replacement does not materially interfere with the use of the Base Structure and complies with all applicable requirements of the Junction Master Declaration, the Act and all laws, ordinances, regulations and rules of governmental and quasi-governmental authorities with jurisdiction. Declarant acknowledges that any Improvements (including but not limited to the machinery, equipment, utility lines, wires, circuits, cables and conduits) that are constructed according to the terms and conditions of the Project Development Agreement will satisfy the obligations of this Section 11.5.



**11.6 Entry in Aid of Other Rights.**

There will be an easement in favor of each Owner to enter in and upon the Common Elements and Units with workers, materials and tools to the extent, at the time, and for the periods reasonably necessary to enable an Owner to access Units isolated from public access and to otherwise perform all of the construction, maintenance, inspection, repair, and replacement required of such Owner hereunder or necessary to the operation of the said Owner's Unit. Notwithstanding the foregoing and except when access is required on an emergency basis, any access may be limited to such reasonable times as the Owner of an affected Unit or the Management Committee may designate.

**11.7 Easements for Encroachments.**

In the event that any portion of the Common Elements, a Tower Structure, or a Base Structure encroaches or comes to encroach any other portion of the Common Elements, a Tower Structure or a Base Structure as a result of construction, reconstruction, repair, shifting, settlement, or movement of any portion of the foregoing, an easement is created hereby and will exist so long as such encroachment exists, but such easement will not relieve an Owner of liability in the case of willful misconduct.

**11.8 Emergency Access Easement.**

Declarant hereby grants a general easement to all police, sheriff, fire protection, ambulance and all other similar emergency agencies or Persons to enter upon the Land and the Improvements in the proper performance of their duties.

**11.9 Access Easements.**

Declarant hereby creates the following easements:

(a) a nonexclusive easement for pedestrian (but not vehicular) ingress and egress in favor of the general public over and across any and all roads, streets, plazas, courtyards, paths, pathways, sidewalks, and boardwalks located outside of any Building and on the Land, including such areas located on the Common Areas, the Retail Parking Unit, and Residential Parking Unit A, but expressly excluding any portion of Residential Parking Unit B, subject to the Rules and Regulations;

(b) a nonexclusive easement in favor of the Owner of Residential Unit A-101 and the Owner of Residential Unit B-101 over and across each Parking Unit for vehicular and pedestrian ingress and egress to and from the Owner's Residential Unit; and

(c) a nonexclusive easement in favor of each Residential Parking Unit Owner over and across the Retail Parking Unit for vehicular and pedestrian ingress and egress to and from the Residential Parking Unit Owner's Residential Parking Unit.

### 11.10 Retail Dumpster.

Declarant hereby creates (a) an easement in favor of the Retail Unit Owners and their respective agents, employees, and contractors for the placement, installation, and maintenance of a dumpster (and related improvements serving the dumpster) in the northeast corner of Residential Parking Unit B (as depicted on the Plat), (b) a nonexclusive access easement in favor of the Retail Unit Owners and the owners and lessees of Lot 11C (Ogden City Entertainment Subdivision – Phase 2 (Amended) Lot 11 2<sup>nd</sup> Amendment, according to the official plat thereof, filed at Page 56 in Book 65 of Plats in the official records of Weber County) and their respective agents, employees, and contractors over and across the Residential Parking Units for pedestrian and vehicular ingress and egress to dispose of garbage into the dumpster, and (c) a nonexclusive access easement in favor of the Retail Unit Owners and their respective agents, employees, and contractors over and across the Residential Parking Units for pedestrian and vehicular ingress and egress to remove garbage from the dumpster, and to clean, maintain, repair, and replace the dumpster and any related improvements serving the dumpster.

## Article 12 INSURANCE

### 12.1 Commercial General Liability Insurance.

The Association will, during the term of this Declaration, maintain, or cause to be maintained, as a Common Expense, in full force and effect, with good and solvent insurance companies authorized to do business in the State of Utah and having a rating by Best's Insurance Reports of not less than A-VII, a policy or policies of commercial general liability insurance insuring the Owners, the Association, the Management Committee, the manager engaged by the Association, if any, and their respective agents against claims arising out of the maintenance, use and occupancy of the Common Elements, and with combined single limits of at least Five Million Dollars (\$5,000,000) (which minimum limit will be increased on January 1, 2010, and on every fifth (5<sup>th</sup>) anniversary of such date (each an "Adjustment Date") throughout the duration of this Declaration, by the percentage increase in the Index (calculated by multiplying the then applicable insurance limit by a fraction, the numerator of which will be the Index for the month which is three (3) months prior to the subject Adjustment Date and the denominator of which will be the Index for the month which is sixty-three (63) months prior to such Adjustment Date)). Such insurance will cover claims of one or more insured parties against other insured parties. Ogden will be named as an additional insured on all policies maintained under this Section 12.1.

### 12.2 Property Insurance.

The Association will maintain, or cause to be maintained, as a Common Expense, special form property insurance coverage on all insurable Common Elements in an amount not less than one hundred percent (100%) of the full replacement cost of such insurable Common Elements. The named insured on each property insurance policy will be the Association as trustee for the Owners in proportion to their respective Interests in Common Elements. Each property insurance policy will be maintained with good and solvent insurance companies authorized to do business in the State of Utah and having a rating by Best's Insurance Reports of not less than A-VII. Each property insurance policy will include standard mortgagee clause (without contribution)

customarily used in the area in which the Condominium Project is located, which must provide that any proceeds will be paid to the Association for the use and benefit of the Owners and their respective Mortgagees, as their interests may appear.

### 12.3 Additional Provisions to be Contained in Insurance Policies.

Any insurance policies obtained and maintained by the Association pursuant to Sections 12.1 and 12.2 above will provide that:

- (a) the insurer waives its right of subrogation under the policy against the Owners and their respective agents, employees, and representatives;
- (b) no act or omission by any Owner, unless acting within the scope of such Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and
- (c) if, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

### 12.4 Trustee.

Any loss covered by the property insurance policy described in Section 12.2 above must be adjusted with the Association, and the insurance proceeds for that loss will be payable to the Association or any insurance trustee designated for that purpose, and not to any Owners or Mortgagees. The insurance trustee or the Association will hold any insurance proceeds in trust for the Owners and Mortgagees as their interests may appear. Subject to the provisions of Section 13.3 below, the proceeds must be disbursed first for the repair or restoration of the damaged property, and the Owners and Mortgagees are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Condominium Project has been repaired or restored or the Condominium Project is terminated.

### 12.5 Owner Maintained Insurance.

(a) Each Residential Unit Owner will separately obtain and maintain special form property insurance covering the Tower Structure within its Residential Unit, and each Parking Unit Owner will separately obtain and maintain special form property insurance covering the insurable Improvements within its Parking Unit for no less than the full insurable replacement cost of the Tower Structure (or Improvements within the Parking Unit, as applicable), exclusive of land, excavations, foundations and similar items normally excluded from property insurance policies.

(b) Any insurance policies obtained and maintained by the Owner of a Residential Unit or the Owner of a Parking Unit pursuant to this Section 12.5 will provide that:

- (i) the insurer waives its right of subrogation under the policy against the Association, Declarant, Mortgagees, other Owners, and their respective agents, employees, and representatives;

(ii) no act or omission by the Association, Declarant, Mortgagees, other Owners, or their respective agents, employees, and representatives will void the policy or be a condition to recovery under the policy; and

(iii) if, at the time of a loss under the policy, there is other insurance in the name of the Association covering the same risk covered by the policy, the Owner's policy provides primary insurance.

(c) The Owner of any Subdivided Unit or the association of Sub-Unit Owners created by a Sub-Declaration, will separately insure such common areas and facilities as are created pursuant to a subdivision of such Condominium Unit pursuant to Section 3.3(d)(iv) with insurance consistent with the requirement in paragraph 12.5(a) above.

(d) Each Retail Unit Owner will have the right to separately insure its personal property against loss by fire or other casualty. In addition, any Improvements made by a Retail Unit Owner within its Unit may be separately insured by the Retail Unit Owner, but the insurance is to be limited to the type and nature of coverage commonly known as "tenant's improvements." All such insurance that is individually carried must contain a waiver of subrogation rights by the insurer as to other Owners, the Association, Declarant, and Mortgagees.

#### **12.6 Certificates.**

Each Owner will, upon request thereof from the Association, Declarant or any other Owner, furnish, or cause to be furnished, to the party making such request certificates of insurance evidencing the existence of the insurance required to be carried pursuant to this Article.

#### **12.7 Management Committee's Authority to Revise Insurance Coverage.**

(a) Subject to any restrictions imposed by the Act, the Management Committee will have the power and right to deviate from the insurance requirements contained in this Article 12 in any manner that the Management Committee, in its discretion, considers to be in the best interests of the Association. If the Management Committee elects to materially increase or reduce the coverage from the coverage required in this Article 12, the Management Committee will make all reasonable efforts to notify the Owners of the reduction in coverage and the reasons therefor at least thirty (30) days before the effective date of the increase or reduction. Notwithstanding the foregoing, the Association will only institute such material increase or reduction following a vote of at least sixty-seven percent (67%) of the votes allocated to all Units.

(b) The Association and its Directors and Officers will have no liability to any Owner or Mortgagee if, after a good faith effort, (i) the Association is unable to obtain any insurance required hereunder because the insurance is no longer available; or (ii) if available, the insurance can be obtained only at a cost that the Management Committee, in its sole discretion, determines is unreasonable under the circumstances.

(c) The Management Committee is authorized to negotiate and agree on the value and extent of any loss under any policy carried by the Association, including, but not limited to, the right and authority to compromise and settle any claim or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer.

(d) Each Owner, by acceptance of a deed, lease, or sublease, as applicable, to a Unit, irrevocably appoints the Association as that Owner's attorney in fact for purposes of procuring, negotiating, accepting, compromising, releasing, settling, distributing, and taking other related actions in connection with any insurance policy maintained by the Association and any losses or claims related thereto and agrees to be bound by the actions so taken as if the Owner had personally taken the action.

#### **12.8 Periodic Insurance Review.**

The Management Committee periodically (and not less than once every three (3) years) will review the Association's insurance policies and make such adjustments to the policies' terms and conditions as the Management Committee considers to be in the best interests of the Association. The review will include an appraisal by a qualified appraiser of the current replacement costs of all covered property under the Association's policy unless the Management Committee is satisfied that the current dollar limit of the property policy, coupled with the amount of actual reserves on hand, is equal to or greater than the current replacement costs.

#### **12.9 Combined Insurance.**

If at any time and for any reason it is not reasonably possible to obtain separate casualty insurance coverage relative to each of the Base Structure Common Elements and the Tower Structures, or if at any time and for any reason the Management Committee and the Owners of the Residential Units should determine that such separate coverage should not be maintained, the Association will obtain insurance coverage covering all structures and equipment located on the Land under a single policy which otherwise meets the requirements of this Article 12. If for any of the foregoing reasons the Association obtains insurance covering all structures and equipment, then concurrently with payment by the Association of the cost of such insurance, and upon the Association's demand, each Owner of a Residential Unit will reimburse the Association for that part of said total cost as is fairly allocable to its Tower Structure. In determining what part of total insurance cost is fairly allocable to a Tower Structure, consideration will be given to the respective replacement values of those structures and items of equipment which are contained in the Base Structure and the Tower Structure, any different insurance risk factors that may apply thereto, and the like. If any reimbursement to the Association called for by the foregoing provisions of this paragraph 12.8 is not paid when due by a Residential Unit Owner, it will be deemed a violation of the Association Documents by such Owner and the Association may levy a Default Assessment against the applicable Residential Unit.

**Article 13**  
**CASUALTY**

**13.1 Total or Partial Destruction of the Condominium Project.**

If there is a total or partial destruction of the Condominium Project, the Condominium Project will be promptly rebuilt or repaired in accordance with the Act, unless:

(a) the Condominium Project is terminated in accordance with Section 18.2 hereof;

(b) repair or replacement would be illegal under any state or local statute governing health or safety;

(c) destruction or damage in the amount of seventy-five percent (75%) or more of the estimated restored value of the Condominium Project occurs, and the Owners, by a vote of at least seventy-five percent (75%) of the Interests in Common Elements, elect, within 100 days after the occurrence of such damage, not to reconstruct the Condominium Project, and if such event occurs the Management Committee will Record, in the Weber County Records, a notice, in accordance with the Act, thereby subjecting the Condominium Project to an action for partition and sale; or

(d) the Owners, by a vote of at least seventy-five percent (75%) of the Owners of the Interests in Common Elements, elect to sell or otherwise dispose of the Condominium Project in accordance with the Act.

**13.2 Repair or Restoration by Owners or Acquiring Mortgagees.**

(a) In the event that repair or rebuilding of the Condominium Project is not precluded by the provisions of Section 13.1 above, but there are insufficient funds to restore the Common Elements after taking into account available insurance proceeds, the Association will make a Special Assessment of the Owners in accordance with the provisions of Section 7.5 to fund such repairs and/or restoration of the Common Elements. Such Special Assessment will be valid and will be assessed even if a budget (or an amendment thereto) on which such Special Assessment is shown is rejected by the Owners in accordance with Sections 7.3(b) and(c). In the event that an Owner of a Unit fails or refuses to pay its share of such Special Assessment within 30 days after such Special Assessment is levied, the Association will enforce and foreclose on its Assessment Lien in accordance with the provisions of Section 7.8 above.

(b) In the event that repair or rebuilding of the Condominium Project is not precluded by the provisions of Section 13.1 above, but the Association does not commence repair or restoration of the Common Elements within one hundred twenty (120) days of the date the Association receives the casualty insurance proceeds (or, if such casualty is not an insured casualty, 120 days after the date of the casualty), and such repair is not continuously pursued within a reasonable period of time to a point that allows an Owner to begin reconstruction of its Unit, the affected Unit Owner or its Mortgagee may elect to commence or complete the repair and/or restoration of the Common Elements in such a manner as will permit the Owner to restore its Unit.

(c) If the Owner or its Mortgagee elects to repair in accordance with Section 13.2(b), the Association will make available to either the Owner or its Mortgagee so much of the proceeds of insurance obtained as a result of the casualty as are necessary to effectuate such repairs, demolition, and/or restoration of the Common Elements; provided, however the Association will not be required to provide funds to any Owner or Mortgagee for the restoration of any Unit.

(d) If the Owner or its Mortgagee elects to repair in accordance with Section 13.2(b) and the Association fails to levy the Special Assessment required under Section 13.2(a), and if the Owner or Mortgagee then proceeds with the repairs at its own expense, then the Owner or its Mortgagee will have a lien against each Unit for the amount that should have been assessed against that Unit under Section 13.2(a).

(e) If the Owner or its Mortgagee elects to repair in accordance with Section 13.2(b) and the Association levies the Special Assessment but fails to enforce and foreclose on the Assessment Lien against the Unit of an Owner who fails to pay the Special Assessment, and if the Owner or Mortgagee then proceeds with the repairs at its own expense, then the Association will assign its Assessment Lien rights to the Owner or its Mortgagee or, in the absence of such assignment, the Owner or its Mortgagee will have a lien against the delinquent Unit that is prior to the Association's Assessment Lien by virtue of the priority of this Declaration over the Assessment Lien.

### 13.3 Excess Insurance Proceeds.

If the entire Condominium Project is not repaired or replaced, the insurance proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Condominium Project, and, except to the extent that other Persons are distributees, the insurance proceeds attributable to Units that are not rebuilt must be distributed to the Owners of those Units, or to Mortgagees, as their interests may appear, and the remainder of the proceeds, if any, must be distributed to all the Owners or Mortgagees, as their interests may appear, in proportion to the Interests in Common Elements of all the Units.

### 13.4 Casualty to a Unit.

Subject to Section 13.5, and to the extent that the Association is not obligated to make any such repairs or replacements, each Owner will repair or replace any damage to or destruction to its Unit, as soon as is reasonably practical after such damage or destruction occurs.

### 13.5 Casualty to a Tower Structure.

(a) Except as provided in sub-section 13.5(b) below with respect to an Acquiring Mortgagee, in the event of damage to or destruction of a Tower Structure, the Owner of the Residential Unit will be obligated to repair and restore the Tower Structure to the same or better condition than it existed prior to the event of destruction; provided, however, that such repair and restoration obligation will be terminated if the casualty event results in a decision to terminate or not rebuild the Condominium Project pursuant to Section 13.1 above, and it will be suspended if, to the extent that, and for so long as damage to the Base Structure reasonably prevents the repair and restoration of the Tower Structure. The provisions of this Section 13.5

and the rights created thereby will only apply and be available to the Owner of the affected Residential Unit and its Acquiring Mortgagee holding a First Mortgage on the entire Residential Unit. Such provisions and rights will not apply to nor be available with respect to a Mortgagee holding a Mortgage in a Sub-Unit or a Subdivided Unit.

(b) Subject to the foregoing limitations, such repair and restoration will be commenced as soon as practically possible, prosecuted with reasonable diligence, and be at the sole cost and expense of the Residential Unit Owner. Such repair and restoration obligation will apply irrespective of whether the damage or destruction concerned is covered by the insurance contemplated and required by this Declaration and irrespective of whether the proceeds of such insurance are sufficient to pay all of the costs and expenses required for repair and restoration. The proceeds of such insurance will, however, be available for use in paying such costs and expenses.

(c) In the event that repair or rebuilding of the Condominium Project is not precluded by the provisions of Section 13.1 above, and the Residential Unit Owner has not commenced repair, restoration, or demolition of the Tower Structure within one hundred twenty (120) days of the date the Residential Unit Owner receives the casualty insurance proceeds, and such repair, restoration, or demolition is not continuously pursued within a reasonable period of time, the Association or the Retail Unit Owner in the Building of which the Tower Structure is a part or the Retail Unit Owner's Mortgagee may elect to commence or complete the repair, restoration, and/or demolition of the Tower Structure. The Residential Unit Owner will make available to the Association or the Retail Unit Owner or the Retail Unit Owner's Mortgagee so much of the proceeds of insurance obtained as a result of the casualty as are necessary to effectuate such repairs, restoration, and/or demolition of the Tower Structure. If there are insufficient funds to restore the Tower Structure after taking into account available insurance proceeds, the Association will make a Default Assessment against the Residential Unit Owner in accordance with the provisions of Section 7.6 to fund such repairs, restoration, and/or demolition of the Tower Structure.

(d) If a Mortgagee has acquired possession and ownership of a Residential Unit by foreclosure or deed in lieu of foreclosure, either in its own name or in the name of an affiliate or designee (an "Acquiring Mortgagee"), and there is an event of damage to or destruction of the Tower Structure within such Residential Unit, then the Acquiring Mortgagee will have not more than ninety (90) days from the receipt of casualty proceeds (the "Election Period") to elect to either: (i) repair and restore the Tower Structure pursuant to the requirements of paragraph 13.5(a); or (ii) to take the proceeds of insurance maintained by the Acquiring Mortgagee without an immediate obligation to repair and restore the Tower Structure (except for Necessary Repairs, as defined below), and market and attempt to sell the Residential Unit owned or leased by the Acquiring Mortgagee as more specifically set forth below.

(e) The Acquiring Mortgagee's election pursuant to this Section 13.5(e) will be irrevocable and will be made in writing, which writing will be delivered by the Acquiring Mortgagee to the Association and the Junction Master Declarant before the end of the Election Period. Failure of the Acquiring Mortgagee to deliver the required written notice of election as provided herein will be deemed an election by the Acquiring Mortgagee to repair and restore the damaged Tower Structure pursuant to subparagraph 13.5(d)(i) above.



(f) If the Acquiring Mortgagee elects or is deemed to have elected to repair and restore the damaged Tower Structure pursuant to subparagraph 13.5(d)(i) above, the Acquiring Mortgagee will commence such repair and restoration within sixty (60) days after the end of the Election Period and diligently pursue completion of the repair and restoration work so as to achieve substantial completion not later than eighteen (18) months from the close of the Election Period; provided such obligation will be suspended if, to the extent that, and for so long as damage to the Base Structure reasonably prevents the repair and restoration of the Tower Structure.

(g) If the Acquiring Mortgagee elects to take the proceeds of insurance maintained by the Acquiring Mortgagee and market and sell the Residential Unit, the Acquiring Mortgagee will: (i) promptly make such repairs to the damaged Tower Structure as are necessary (the "Necessary Repairs") to allow the Base Structure to remain open and operate under all applicable laws and to render the Tower Structure's condition clean and safe such that the Tower Structure does not pose any material increased threat (i.e., by reason of its damaged, destroyed or unrepaired condition) of casualty to the Base Structure or injury to the occupants thereof or their guests, customers and invitees; and (ii) have a period of six months from the end of the Election Period (the "Marketing Period") to the closing of the sale of the Residential Unit. The terms of any such sale will irrevocably and unconditionally commit the third party acquiring the Residential Unit to assume all of the obligations of a Residential Unit Owner under this Declaration; provided, such obligations will be modified to provide such third party with the option to either: (A) promptly demolish the Tower Structure in its entirety, clean and repair the Common Deck, and promptly commence and diligently prosecute to completion the construction of a façade along the portions of the exterior perimeter boundaries of the Base Structure that directly abutted the Tower Structure; or (B) restore and repair the Tower Structure in not more than eighteen (18) months from such third party's acquisition of the Residential Unit.

(h) If the Acquiring Mortgagee will fail to close a third-party sale of the Residential Unit during the Marketing Period, then the Acquiring Mortgagee will, within ten (10) business days after the termination of the Marketing Period, promptly demolish the Tower Structure in its entirety, clean and repair the Common Deck, and immediately commence and diligently prosecute to completion the construction of a façade along the portions of the exterior perimeter boundaries of the Base Structure that directly abutted the Tower Structure.

(i) The design and building materials used in the construction of the required façade will: (i) be subject to the approval of the Junction Master Declarant; (ii) generally create a uniform roof line with respect to the balance of the Base Structure; and (iii) be compatible with, if not identical to, the Base Structure with respect to architectural features, aesthetic compatibility with the balance of the Base Structure and the quality of materials and construction used in the construction of the Base Structure.

**Article 14  
CONDEMNATION**

**14.1 Condemnation of All Units.**

If the entire Condominium Project is taken by condemnation, eminent domain or similar proceeding, the Condominium Project will terminate as of the date of the taking and any condemnation award payable in connection therewith will be paid to the Association and then disbursed by the Association to the Owners in proportion to their Interests in Common Elements.

**14.2 Condemnation of Fewer Than All Units.**

If one or more Units, but less than the entire Condominium Project, is taken by condemnation, eminent domain or similar proceeding,

(a) any condemnation award payable in connection therewith will be paid to the Owners of the Units taken, and

(b) the Interest in Common Elements appurtenant to those Units will be reallocated, in accordance with the terms and conditions of the Act.

**14.3 Condemnation of Common Elements.**

If any portion of the Common Elements is taken by condemnation, eminent domain or similar proceeding, any condemnation award payable in connection therewith will be paid to the Association and then disbursed by the Association to the Owners in proportion to their respective Interests in Common Elements.

**14.4 Restoration.**

The restoration of the Project in the event of condemnation or arrangement or proceeding in lieu of condemnation will be carried out in accordance with the restoration provisions of Article 13.

**Article 15  
SPECIAL DECLARANT RIGHTS**

**15.1 Improvements.**

Declarant hereby reserves for itself, its successors and assigns, subject to the rights and obligations contained in the Project Development Agreement, the right to construct any Improvements shown on the Plat.

**15.2 Development Rights.**

Declarant hereby reserves for itself, its successors and assigns the right to create easements, permits, licenses and other property rights and reservations as described in Article 2 and Article 11 of this Declaration.

### **15.3 Sales Offices and Models.**

Notwithstanding anything in the Declaration to the contrary, during the Declarant Control Period, Declarant will have the following rights in furtherance of any sales, promotional, or other activities designed to accomplish or facilitate the sale of all Units owned or leased or to be owned or leased by Declarant.

(a) Declarant will have the right to maintain a reasonable number of promotional, advertising, and/or signs, banners, or similar devices at any place or places on the Land, but any such device will be of a size and in a location as is reasonable and customary.

(b) Declarant will have the right from time to time to locate or relocate any signs, banners, or similar devices, but in connection with such location or relocation will observe the limitations imposed by the preceding portion of this Section. Within a reasonable period after the end of the Declarant Control Period, Declarant will have the right to remove from the Condominium Project any signs, banners, or similar devices and any separate structure or facility which was placed on a portion of the Land for the purpose of aiding Declarant's sales efforts. Any signs, banners, or similar devices, and any separate structure or facility for aiding Declarant's sales efforts will comply with applicable zoning ordinances.

### **15.4 Exercising Special Declarant Rights.**

Declarant may exercise its Special Declarant Rights at any time prior to the later to occur of the date on which the Declarant Control Period expires or the date that is fifty (50) years after the date on which this Declaration is recorded in the Weber County Records; provided that a Successor Declarant's rights with respect to the conversion of Retail Units will not be subject to the foregoing limitation. Declarant may exercise its Special Declarant Rights in any order, and no assurance is given as to the order in which Declarant will exercise its Special Declarant Rights. If Declarant exercises any Special Declarant Right with respect to any portion of the Land, Declarant may, but is not obligated to, exercise that Special Declarant Right with respect to any other portion of the Land. Notwithstanding anything to the contrary contained in this Declaration, Declarant may exercise any Special Declarant Right described in this Article 15 and any other right reserved to Declarant in this Declaration, without the consent of the Association or any of the Owners.

### **15.5 Interference with Special Declarant Rights.**

Neither the Association nor any Owner may take any action or adopt any Rule or Regulation that interferes with or diminishes any Special Declarant Right, without Declarant's prior written consent. Any action taken in violation of this Section 15.5 will be null and void and have no force or effect.

### **15.6 Rights Transferable.**

Declarant may transfer any Special Declarant Right reserved to it under this Article 15 or under any other provision of this Declaration in accordance with the terms and conditions of the Act.

**Article 16**  
**MORTGAGEE PROTECTIONS**

**16.1 Benefit of Eligible Mortgagees.**

This Article establishes certain standards and covenants which are for the benefit of Eligible Mortgagees. This Article is supplemental to, and not in substitution of, any other provisions of this Declaration, but in the case of any conflict, this Article will control.

**16.2 Notice of Actions.**

The Association will give prompt written notice of the following to each Eligible Mortgagee:

(a) any condemnation loss or any casualty loss which affects a material portion of the Common Elements or any Unit in which an interest is held by the Eligible Mortgagee;

(b) any delinquency in the payment of Assessments which remains uncured for sixty days by an Owner whose Unit is encumbered by a Mortgage held by such Eligible Mortgagee;

(c) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;

(d) any proposed action which would require the consent of First Mortgagees as set forth in this Article; and

(e) any judgment rendered against the Association.

**16.3 Consent Required.**

Notwithstanding anything to the contrary contained in this Declaration, the Association may not take any of the following actions without the consent of sixty-seven percent (67%) of the Eligible First Mortgagees (based on the Interest in Common Elements attributable to each Unit covered by a First Mortgage held by an Eligible First Mortgagee):

(a) by act or omission seek to abandon or terminate the Condominium Project, except after condemnation or substantial casualty;

(b) except as provided herein for condemnation, casualty and the exercise of Special Declarant Rights, change the Interests in Common Elements, Shares of Common Expenses or votes in the Association of any Unit;

(c) subdivide, partition, or relocate the boundaries of any Unit, except as permitted with respect to Special Declarant Rights or pursuant to Section 3.3(d)(iv);

(d) abandon, subdivide, partition, encumber, sell, or transfer the Common Elements (the granting of easements for public utilities or for other purposes provided for in this Declaration will not be deemed transfers);

(e) use property insurance proceeds for losses to any portion of the Common Elements for other than repair, replacement, or reconstruction of such Common Elements, except as provided by this Declaration;

(f) merge the Condominium Project with any other common interest community; or

(g) make any amendment to this Declaration that would materially limit the rights or security of Eligible First Mortgagees.

**16.4 Notice of Objection.**

Unless an Eligible First Mortgagee provides the Association with written notice of its objection, if any, to any proposed amendment or action requiring the approval of Eligible First Mortgagees within thirty days following the receipt of notice of such proposed amendment or action, the Eligible First Mortgagee will be deemed conclusively to have consented to or approved the proposed amendment or action.

**16.5 First Mortgagee's Rights.**

(a) First Mortgagees, jointly or singly, may pay taxes or other charges which are in default and which may or have become a charge against any of the Common Elements or improvements thereon, and may pay overdue premiums on hazard insurance policies, for the Common Elements. First Mortgagees making such payment will be owed immediate reimbursement from the Association.

(b) A First Mortgagee will be entitled to cure any delinquency of the Owner of a Unit encumbered by its First Mortgage in the payment of Assessments. In that event, the First Mortgagee will be entitled to obtain a release from the lien imposed or perfected by reason of such delinquency.

**16.6 Limitations on First Mortgagee's Rights.**

No requirement for approval or consent by an Eligible First Mortgagee provided in this Article will operate to:

(a) deny or delegate control over the general administrative affairs of the Association by the Owners or the Management Committee;

(b) prevent the Association or the Management Committee from commencing, intervening and/or settling any legal proceeding unless the effect of any such suit or settlement would be contrary to the provisions of Section 16.3 or any other rights granted to Eligible First Mortgagees in this Declaration; or

(c) prevent any insurance trustee or the Association from receiving and distributing any insurance proceeds in accordance with the requirements of Article 12 above, provided such distribution does not conflict with the provisions of Section 16.3 or any other rights granted to Eligible First Mortgagees in this Declaration.

#### **16.7 Declarant Rights.**

No provision or requirement of this Article 16 will apply to any Special Declarant Rights or other rights or options reserved to Declarant in this Declaration.

### **Article 17 ENFORCEMENT AND REMEDIES**

#### **17.1 General.**

If an Owner fails to pay any Assessment when due, the Management Committee may, after giving notice and an opportunity to be heard in accordance with Sections 17.2 and 17.3: (i) terminate the Owner's right to receive utility services paid for as a Common Expense, and (ii) terminate the Owner's right to access and use any recreational facilities in the Condominium Project.

#### **17.2 Notice.**

Before terminating utility services or the right to access and use the Condominium Project's recreational facilities, the Management Committee will give written notice to the Owner in accordance with the Association Documents. The notice will include:

- (a) a statement that utility services or the right to access and use recreational facilities will be terminated if payment of the overdue Assessment is not received within two days after receiving the notice;
- (b) the amount of the Assessment due, including any interest or late payment fee; and
- (c) notification of the Owner's right to request a hearing under Section 17.3.

#### **17.3 Hearing.**

An Owner who is given notice under Section 17.2 may request an informal hearing to dispute the Assessment by submitting a written request to the Management Committee within 14 days after receiving the notice. The hearing will be conducted in accordance with the standards provided in the Association Documents. If a hearing is requested, utility services or the right to access and use the Condominium Project's recreational facilities may not be terminated until after the hearing has been conducted and a final decision has been entered. If a hearing is requested, no interest or late fees may accrue until after the hearing has been conducted and a final decision has been rendered.

#### 17.4 Reinstatement.

Upon payment of the Assessment due, including any interest or late payment fee, the Management Committee will immediately take action to reinstate the Unit's terminated utility services.

#### 17.5 Rental Payments.

If an Owner is leasing its Unit and fails to pay an Assessment for a period of more than 60 days after it is due and payable, the Management Committee, upon compliance with this Section 17.5, may demand the tenant to pay to the Association all future lease payments due the Owner, commencing with the next monthly or other periodic payment, until the amount due to the Association is paid. If the Association elects to exercise this remedy, it must do so in accordance with Section 57-8-20(6) of the Act.

#### 17.6 Fines.

Subject to Section 57-8-37 of the Act, the Management Committee may assess a fine against an Owner for violation of a rule, covenant, condition, or restriction that is specifically listed in the Association Documents. A fine must be in the amount specifically provided for in the Association Documents for the specific type of violation, not to exceed the amount set forth in Section 57-8-37(3)(a)(ii) for any single violation or the cumulative amount set forth in Section 57-8-37(3)(b) in any month for a continuing violation. Any Owner assessed a fine may request an informal hearing before the Management Committee to protest or dispute the fine within 30 days after the fine is assessed. The hearing will be conducted in accordance with the standards set forth in the Association Documents. No interest or late fees may accrue on a fine until after the hearing has been conducted and a final decision has been rendered, unless the fined Owner fails to request a hearing within the 30-day time period. A fine assessed under this Section 17.6 that remains unpaid after the 30-day appeal period has expired will become a lien against the Unit and the Owner in accordance with Section 7.8.

#### 17.7 Interest, Expenses, and Attorneys' Fees.

Any fine not paid to the Association when due in accordance with this Declaration will bear interest from the due date (unless a hearing is timely requested, in which case no interest or late fees may accrue until after the hearing has been conducted and a final decision has been rendered) until paid at a rate three percentage points per annum above the prime rate published in the *Wall Street Journal* at the time, or such other rate as may be established by the Management Committee, but not to exceed the lawful rate of interest under Utah law. A late charge may be levied for each delinquent fine in an amount established from time to time by the Management Committee. If the Association files a notice of lien, the lien amount will also include the recording fees associated with filing the notice and a fee for preparing the notice of lien, which fee will be established from time to time by the Management Committee. If the Association prevails in any procedure to enforce the Association Documents, the Association will be entitled to an award of its costs and reasonable attorneys' fees associated with the action.

**17.8 Other Remedies.**

The Association may bring suit or pursue any other remedy available at law or in equity against the offending Owner to enforce the provisions of the Association Documents.

**17.9 Remedies Cumulative.**

An election by the Association to pursue any remedy provided for in this Declaration will not prevent concurrent or subsequent exercise of another remedy permitted under this Declaration. Failure by the Association to enforce any provision of the Association Documents will not be deemed a waiver of the right to do so thereafter.

**Article 18  
TERM AND AMENDMENTS****18.1 Term.**

The covenants, conditions, restrictions, reservations, easements, assessments, charges and liens set forth in this Declaration will run with and bind the Land until the Declaration is terminated pursuant to Section 18.2 below.

**18.2 Termination.**

Subject to the rights of Mortgagees under Article 16 above, the Owners may terminate the Condominium Project and this Declaration, by the vote of one hundred percent (100%) of the votes allocated to all Units. If the necessary votes are obtained, the agreement of the Owners to terminate the Condominium Project and this Declaration will be evidenced by a termination agreement or ratification thereof, executed by the required number of Owners in accordance with the Act. Upon recordation of the termination agreement in the Weber County Records, the Condominium Project will be terminated, this Declaration will have no further force or effect, and the Association will be dissolved. Notwithstanding the foregoing, the Owners may not terminate the Condominium Project or this Declaration during the Declarant Control Period without Declarant's prior written consent, which consent Declarant may withhold in its sole discretion.

**18.3 Amendments.**

Except as otherwise expressly provided in this Declaration or the Act, and except for provisions of this Declaration regarding the rights and obligations of Declarant, which may not be amended without Declarant's prior written consent, and subject to the rights of Mortgagees under Article 16 above, Owners may amend any provision of this Declaration at any time by a vote of at least sixty-seven percent (67%) of the votes allocated to all Units. If the necessary votes and consent are obtained, the Association will cause an amendment to the Declaration to be Recorded in the Weber County Records. Notwithstanding the foregoing, the Owners may not amend this Declaration during the Declarant Control Period without Declarant's prior written consent, which consent Declarant may withhold in its sole discretion.



**Article 19**  
**MISCELLANEOUS**

**19.1 Interpretation of the Declaration.**

Except for judicial construction, the Association, by its Management Committee, will have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof will be final, conclusive and binding as to all persons and property benefited or bound by the covenants and the provisions hereof.

**19.2 Severability.**

Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable will not affect the validity and enforceability of any other provision hereof.

**19.3 Disclaimer of Representations.**

Notwithstanding anything to the contrary contained in this Declaration, Declarant makes no warranties or representations whatsoever that the plan presently envisioned for the complete development of the Condominium Project can or will be carried out or that any land now owned or hereafter acquired by Declarant is or will be subject to this Declaration, or that any such land, whether or not it has been subjected to this Declaration, is or will be committed to or developed for a particular use, that such use will continue in effect.

**19.4 Reference to Declaration and Deeds.**

Deeds to and instruments affecting any Unit or any other part of the Condominium Project may contain the provisions set forth herein by reference to this Declaration, but regardless of whether any such reference is made in any deed or instrument, each and all of the covenants, conditions, restrictions, reservations, easements, assessments, charges and liens set forth herein will be binding upon the grantee-owner or other person claiming through any deed or other instrument and his heirs, executors, administrators, successors and assigns.

**19.5 Successors and Assigns of Declarant.**

Any reference in this Declaration to Declarant will include any successors or assignees of Declarant's rights and powers hereunder on the condition that Declarant's rights and powers may only be assigned by a written recorded instrument expressly assigning such rights and powers.

**19.6 Gender and Number.**

Wherever the context of this Declaration so requires, (a) words used in the masculine gender will include the feminine and neuter genders; (b) words used in the neuter gender will include the masculine and feminine genders; (c) words used in the singular will include the plural; and (d) words used in the plural will include the singular.

**19.7 Captions and Titles.**

All captions and titles of headings of Articles and Sections in this Declaration are for the purpose of reference and convenience and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.

**19.8 Exhibits.**

All exhibits attached to this Declaration are a part of, and are incorporated into, this Declaration.

**19.9 Governing Law.**

This Declaration will be governed by and construed in accordance with Utah law.

**19.10 Notices.**

All Owners of each Unit will have one and the same registered mailing address to be used by the Association or other Owners for notices, demands, and all other communications regarding Association matters. The Owner or the representative of the Owners of a Unit will furnish such registered address to the secretary of the Association within ten days after transfer of title to the Unit to such Owner or Owners. Such registration will be in written form and signed by all of the Owners of the Unit or by such persons as are authorized to represent the interests of all Owners of the Unit. If no address is registered or if all of the Owners cannot agree, then the address of the Unit will be deemed the registered address of the Owner(s), and any notice will be deemed duly given if delivered to the Unit. All notices and demands intended to be served upon the Association will be sent to the following address or such other address as the Association may designate from time to time by notice to the Owners:

The Junction Condominium Association, Inc.  
c/o The Boyer Company  
90 S 400 W, Ste 200  
Salt Lake City, UT 84111

**19.11 Waivers.**

No waivers by the Association of any right of the Association will constitute a waiver by the Junction Master Declarant.

**19.12 Service of Process.**

The name and place of business of the person to receive service of process is as set forth in the Articles and initially will be Boyer Ogden Mall, L.C., whose place of business for purposes hereof is 90 S 400 W, Suite 200, Salt Lake City, UT 84111.

**19.13 Priority of Junction Master Declaration.**

This Declaration and the other Association Documents will be subject and subordinate to the Junction Master Declaration except where expressly provided to the contrary. If there is any conflict or inconsistency between the terms and conditions of this Declaration or any of the other Association Documents and the terms and conditions of the Junction Master Declaration, the terms and conditions of the Junction Master Declaration will control; provided, however, that: (a) any limitations included in the Junction Master Declaration with respect to limiting construction activity during specific months will be inapplicable with respect to the initial construction of the Base and Tower Structures or the reconstruction of the same in the event of casualty; and (b) the provision of Section 8.1 of the Junction Master Declaration with respect to damage to Buildings or other improvements will be qualified by and deemed subject to the provisions of Section 13.5 of this Declaration with respect to any event of damage to or destruction of the Residential Unit that gives rise to the special rights of an Acquiring Mortgagee under Section 13.5 of this Declaration. The terms and conditions of this Section may not be amended or deleted without the prior written consent of the Junction Master Declarant and the Residential Unit Owners.

*Signatures, Acknowledgments, and Exhibits Follow*

Declarant has caused its name to be signed by the signature of a duly authorized officer as of the day and year first written above.

**Ogden City Redevelopment Agency**  
a body politic and political subdivision  
of the State of Utah

By: *Matthew R. Godfrey*  
Name: Matthew R. Godfrey  
Title: Executive Director

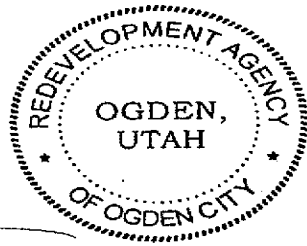
**Boyer Ogden Mall, L.C.**  
a Utah limited liability company,  
by its manager:

The Boyer Company, L.C.  
a Utah limited liability company

By: *Jacob L. Boyer*  
Name: Jacob L. Boyer  
Title: Manager

Attest:

*Lee Ann Peterson*  
City Recorder - *Acting*



Approved as to Form:

*Mark Neatfu*  
City Attorney

*Acknowledgments to Follow*

State of Utah )  
 ) ss.  
County of Weber )

*Matthew E. Godfrey*

The foregoing instrument was acknowledged before me on , 2008, by , in his/her capacity as the of Ogden City Redevelopment Agency a body politic and political subdivision of the State of Utah. *Executive Director*

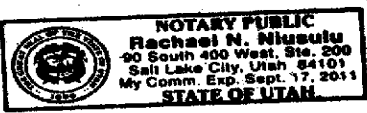
*Tracy Hansen*  
Notary Public



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

*September 16* *Jacob L. Boyer*

The foregoing instrument was acknowledged before me on *September 16*, 2008, by *Jacob L. Boyer* in his capacity as a manager of The Boyer Company, L.C., a Utah limited liability company, in its capacity as the manager of Boyer Ogden Mall, L.C.



*Rachael Nilsen*  
Notary Public

CONSENT OF LIENHOLDER

Wells Fargo Bank, N.A., as the holder of a lien encumbering the above-referenced Land and Improvements arising under that certain Fee and Leasehold Construction Deed of Trust with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing recorded March 1, 2007, as Entry Number 2245552 in the official records of Weber County, Utah, consents to the submission of the Land and Improvements to the Act under the terms of this Declaration and subordinates its lien to the encumbrance created by this Declaration.

Wells Fargo Bank, N.A.

By: Ben Bliss

Name: Ben Bliss

Title: AVP

State of Utah )  
County of Salt Lake ) ss.

The foregoing instrument was acknowledged before me on September 16, 2008,  
by BEN BLISS, AVP of Wells Fargo Bank, National Association.



Beth A. Jepsen  
Notary Public

**Exhibit A**

**Legal Description of the Land**

**Parcel A**

All of Lot 10B, Ogden City Entertainment Subdivision – Phase 2 (Amended), according to the official plat thereof, filed at Page 78 in Book 64 of Plats in the official records of Weber County, Utah.

[For Reference Only: Assessor's Parcel Number 01-099-0007]

AND

**Parcel B**

All of Lot 11B and a portion of Lot 11C, Ogden City Entertainment Subdivision – Phase 2 (Amended) Lot 11 2<sup>nd</sup> Amendment, according to the official plat thereof, filed at Page 56 in Book 65 of Plats in the official records of Weber County, Utah, and more particularly described as follows:

Beginning at the northwest corner of Lot 11A, Ogden City Entertainment Subdivision – Phase 2 (Amended) Lot 11 2<sup>nd</sup> Amendment, Ogden City, Weber County, Utah, which point is 377.10 feet south 88°48'45" east, 180.56 feet north 1°18'53" east, and 30.02 feet south 88°41'51" east from the Ogden City monument located at the intersection of 24<sup>th</sup> Street and Grant Avenue; and running thence northeasterly five (5) courses along the easterly right-of-way line of Kiesel Avenue as follows: north 1°18'08" east 87.74 feet; along the arc of a 70.00-foot radius curve to the right a distance of 39.68 feet (central angle equals 32°28'35" and long chord bears north 16°43'17" east 39.15 feet); north 33°38'38" east 165.02 feet; along the arc of a 130.00-foot radius curve to the left a distance of 73.24 feet (central angle equals 32°16'46" and long chord bears north 16°59'55" east 72.27 feet); and north 1°18'08" east 11.77 feet; thence south 88°41'52" east 99.53 feet; thence south 30°00'04" east 8.49 feet; thence south 88°40'03" east 83.34 feet to the west right-of-way line of Washington Boulevard; thence south 1°18'08" west 338.95 feet along said west right-of-way line to the north boundary line of said Lot 11A; thence north 88°41'50" west 305.52 feet along said north boundary line to the point of beginning.

[For Reference Only: Assessor's Parcel Number 01-100-0002 and a portion of Assessor's Parcel Number 01-100-0003]

**Exhibit B**

**Bylaws**

**(attached)**

*Exhibit B to Declaration of Condominium (The Junction)*



**BYLAWS  
OF  
THE JUNCTION CONDOMINIUM ASSOCIATION, INC.**

**Section 1  
DEFINITIONS**

**1.1 Declaration.**

As used herein, "Declaration" means the Declaration of Condominium for The Junction Condominium Project, to which these Bylaws are attached as Exhibit B, recorded in the official records of Weber County, Utah.

**1.2 Other Definitions.**

Any capitalized term used but not defined in these Bylaws will have the meaning given to it in the Declaration.

**Section 2  
OWNER MEETINGS**

**2.1 Annual Meetings.**

The first annual meeting of the Association will be held in 2008 at a time and in a month specified by the Management Committee. Subsequent annual meetings will be held during the same month each year. Annual meetings will be held for the purpose of electing Directors, approving the annual budget, and transacting such other business as may come before the annual meeting.

**2.2 Special Meetings.**

A special meeting of the Association may be called at any time by the Management Committee or the president of the Association, or upon the written request of at least 30% of the votes entitled to be cast by the Owners. A special meeting may only be held for the purposes set forth in the notice for that special meeting.

**2.3 Place of Meetings.**

The Management Committee may designate the Association's principal offices or any place within Weber County, Utah or Salt Lake County, Utah as the place for any annual or special meeting of the Association. Owners may participate in meetings by any means of electronic or telephonic communication through which all Owners and other participants may simultaneously hear one another during the meeting. Owners who participate in a meeting by such means will be considered present for all purposes, including the presence of a quorum.

#### 2.4 Notice of Meetings.

Notice of each meeting stating the place, date, and time of the meeting and the purpose or purposes for which the meeting is called, will be delivered personally or by mail to each Owner entitled to vote at the meeting, not less than 10 nor more than 50 days before the date of the meeting. If mailed, the notice will be deemed to be delivered when deposited in the United States mail, postage prepaid, and addressed to the Owner at its address as it appears in the records of the Association. The Management Committee may set a record date for determining which Owners are entitled to notice. The Association will give notice at the Association's expense of any special meeting called by the Owners under Section 2.2.

### Section 3 VOTING, QUORUM, AND PROXIES

#### 3.1 Voting.

Votes will be allocated as set forth in Section 5.1 of the Declaration.

#### 3.2 Quorum.

The number of Owners participating in a meeting in person, by proxy, or by written ballot will constitute a quorum.

#### 3.3 Voting Method.

Votes may be cast in person, by proxy, or by written ballot.

#### 3.4 Action by Proxy.

Every proxy must be executed in writing by the Owner or its duly authorized attorney-in-fact and filed with the secretary of the Association before or at the time of the meeting. No proxy will be valid after the expiration of eleven months from the date of its execution unless otherwise provided in the proxy.

#### 3.5 Action by Written Ballot.

(a) Any action that may be taken at any meeting of the Association may be taken without a meeting if the Association delivers a written ballot to every Owner entitled to vote on the matter. Such written ballot will set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot will be valid only when the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by written ballot. Owners submitting a written ballot will be considered to have participated in the meeting for all purposes.

(b) All solicitations for votes by written ballot will: (i) indicate the number of responses needed to meet the quorum requirements; (ii) state the percentage of approvals necessary to approve each matter other than election of Directors; (iii) specify the time by which

a written ballot must be received by the Association in order to be counted; and (iv) be accompanied by written information sufficient to permit each Owner casting a written ballot to reach an informed decision on the matter.

- (c) A written ballot may not be revoked.
- (d) Action by written ballot will have the same effect as action taken at a meeting.
- (e) The number of votes cast by written ballot will constitute a quorum for action on the matter.

(f) A written ballot may also be used in connection with any meeting of the Association, thereby allowing Owners the choice of either voting in person or by written ballot delivered by an Owner to the Association in lieu of attendance at such meeting. A valid written ballot will be counted equally with the votes of Owners in attendance at any meeting for every purpose.

### **3.6 Majority Vote.**

The affirmative vote of a majority of the votes entitled to be cast by the Owners participating in a meeting in person, by proxy, or by written ballot will be the act of the Owners, unless the vote of a greater number is required by law, the Declaration, the Articles, or these Bylaws.

### **3.7 Greater Quorum or Voting Requirements.**

An amendment to these Bylaws that adds, changes, or deletes a greater quorum or voting requirement must meet the same quorum requirement and be adopted by the same vote required to take action under the greater of the quorum and voting requirements then in effect or proposed to be adopted.

## **Section 4 MANAGEMENT COMMITTEE**

### **4.1 Declarant Control Period.**

During the Declarant Control Period, the Management Committee will consist of three Directors, who will be appointed by Declarant in its sole discretion and will serve until replaced by Declarant or until their successors take office following the end of the Declarant Control Period, whichever occurs earlier. Declarant will have the exclusive right to appoint, remove, and replace all Directors during the Declarant Control Period. Sections 4.2 through 4.9 are subject to this Section 4.1.

### **4.2 Number, Election, Term of Directors.**

The Management Committee will consist of three Directors. Two of the Directors (each, a "Retail Director") will be elected by a majority of the votes allocated to the Owners of the

Retail Units and the Retail Parking Unit (collectively, "Retail Owners"), and one of the Directors (each, a "Residential Director") will be elected by a majority of the votes allocated to the Owners of the Residential Units and the Residential Parking Units (collectively, "Residential Owners"). Directors will be elected at the annual meetings of the Association and will hold office for a term of one year.

#### 4.3 Removal.

A Director may be removed and replaced before the expiration of his term at a special meeting of the Association called in accordance with Section 2.2 or by action without a meeting in accordance with Section 4.9. The consent of 60% or more of the votes allocated to the Retail Units and the Retail Parking Unit will be required for the removal of a Retail Director. The consent of 60% or more of the votes allocated to the Residential Units and the Residential Parking Units will be required for the removal of a Residential Director. Only the Retail Owners may fill a vacancy on the Management Committee created by the removal of a Retail Director. Only the Residential Owners may fill a vacancy on the Management Committee created by the removal of the Residential Director. The replacement Director will hold office until his successor is duly elected, which election will occur at the next annual meeting of the Association.

#### 4.4 Resignation or Death.

A Director may resign before the expiration of his term by giving written notice to the president or secretary of the Association. Such resignation will take effect on the date specified in the notice. Upon the resignation or death of a Retail Director, the remaining Retail Director will appoint a replacement Retail Director to serve until his successor is elected at the next annual meeting of the Association or at the next special meeting of the Association called for that purpose, whichever occurs first. Upon the resignation of the Residential Director, the Residential Owners will appoint a replacement Residential Director at a special meeting of the Association called in accordance with Section 2.2 or by action without a meeting in accordance with Section 4.9. The replacement Residential Director will serve until his successor is elected at the next annual meeting of the Association or at the next special meeting of the Association called for that purpose, whichever occurs first.

#### 4.5 Meetings.

Meetings of the Management Committee will be held at least annually, and at any time when called by the president of the Association or by one or more Directors, upon the giving of at least five days' prior notice of the time and place of the meeting to each Director by hand-delivery, prepaid United States mail, fax, email, or telephone. Any business may be transacted at a Management Committee meeting. No notice of a Management Committee meeting need state the purposes for holding the meeting, and no notice of any adjourned Management Committee meeting will be required.

#### 4.6 Place of Meetings.

The Management Committee may designate any place within Weber County or Salt Lake County to hold a Management Committee meeting. Directors may participate in any Management Committee meeting by means of any electronic or telephonic communication by

which all participants may simultaneously hear one another during such meeting. Directors who participate in a Management Committee meeting by such means will be considered present for all purposes, including the presence of a quorum.

#### **4.7 Quorum.**

A majority of Directors will constitute a quorum for the transaction of business, but a lesser number may adjourn any Management Committee meeting from time to time. When a quorum is present at any Management Committee meeting, a majority of the Directors in attendance will, unless otherwise required by the Articles or these Bylaws, decide any question brought before such meeting.

#### **4.8 Waiver of Notice.**

Before, at, or after any Management Committee meeting, any Director may, in writing, waive notice of such meeting and such waiver will be deemed equivalent to the giving of such notice. Attendance by a Director at a Management Committee meeting will constitute a waiver of notice by such Director except when such Director attends the meeting for the express purpose of objecting to the transaction of business based on a claim that the meeting was not duly called or convened.

#### **4.9 Action Without a Meeting.**

Any action required or permitted to be taken at a Management Committee meeting may be taken without a meeting if a written consent setting forth the action so taken is signed by all of the Directors entitled to vote with respect to the subject matter thereof. Such consent will have the same force and effect as a unanimous vote of the Directors.

### **Section 5 OFFICERS AND AGENTS**

#### **5.1 General.**

The Officers of the Association will be a president (who will be chosen from among the Directors), a vice president, a secretary, and a treasurer. The Management Committee may appoint such other Officers, assistant Officers, committees, and agents, including assistant secretaries and assistant treasurers, as it may consider necessary or advisable, who will be chosen in such manner and hold their offices for such terms and have such authority and duties as from time to time may be determined by the Management Committee. One person may hold any two offices, except that no person may simultaneously hold the offices of president and secretary. In all cases where the duties of any Officer, agent, or employee are not prescribed by these Bylaws or by the Management Committee, such Officer, agent, or employee will follow the orders and instructions of the president.

#### **5.2 Removal of Officers.**

The Management Committee may remove any Officer, with or without cause, and elect a successor at any Management Committee meeting.

**5.3 Vacancies.**

A vacancy in any office will be filled by the Management Committee for the unexpired portion of the term.

**5.4 President.**

The president will be the chief Officer of the Association. The president will preside at all Association meetings and Management Committee meetings. The president will have the general and active control of the affairs and business of the Association and general supervision of its Officers, agents, and employees. The president is designated as the Officer with the power to prepare, execute, certify, and record amendments to the Association Documents on behalf of the Association.

**5.5 Vice Presidents.**

The vice president will assist the president and will perform the duties assigned to him by the president or the Management Committee. In the absence of the president, the vice president will have the powers and perform the duties of the president.

**5.6 Secretary.**

The secretary will:

- (a) keep the minutes of the proceedings of the Association meetings and Management Committee meetings;
- (b) see that all notices are duly given in accordance with these Bylaws, the Declaration, and applicable law;
- (c) maintain the records of the Association, including a record of the names and registered addresses of all Owners, the designation of the Unit owned by each Owner, and, if a Unit is Mortgaged, the name and address of each Mortgagee; and
- (d) perform all other duties incident to the office of secretary and the duties assigned to him by the president or the Management Committee.

**5.7 Treasurer.**

The treasurer will be the principal financial Officer of the Association and will have the care and custody of all funds, securities, evidences of indebtedness, and other personal property of the Association. The treasurer will receive and give receipts and acquittances for moneys paid in on account of the Association, and will pay out of the funds on hand all bills, payrolls, and other just debts of the Association upon maturity. The treasurer will perform all other duties incident to the office of treasurer and, upon request of the Management Committee, will make such reports to it as may be required at any time. The treasurer will, if required by the Management Committee, give the Association a bond for the faithful performance of his duties and for the restoration to the Association of all books, papers, vouchers, money, and other

property in his possession or under his control belonging to the Association. The treasurer will have such other powers and perform such other duties assigned to him by the president or the Management Committee.

#### **Section 6**

#### **PROOF OF OWNERSHIP, CONTACT INFORMATION; ASSOCIATION ADDRESS; MORTGAGES**

##### **6.1 Proof of Ownership.**

Each Owner will provide to the Association a copy of the instrument giving that Owner the interest necessary to become an Owner (as the term is defined in the Declaration). Such copy will remain on file with the Association. An Owner who fails to satisfy this requirement will not be deemed an Owner in good standing and will not be entitled to vote at any Association meeting.

##### **6.2 Contact Information.**

Each Owner is required to register a mailing address, a phone number, and an email address with the Association within ten days after becoming an Owner. The contact information of each Owner will be kept on file with the Association. Owners must notify the Association of any change in contact information within ten days after the change. Any notice mailed to an Owner's registered address or—if the Owner fails to register an address with the Association—to the address on file with the Weber County Recorder will be deemed duly delivered.

##### **6.3 Mortgages.**

Any Owner who mortgages its Unit will provide a copy of the recorded Mortgage to the Association. Such copy will remain on file with the Association.

##### **6.4 Address of the Association.**

The initial principal address of the Association will be 90 S 400 W, Ste 200, Salt Lake City, UT 84101-1365. The Association's address may be changed from time to time upon written notice to all Owners and all Eligible Mortgagees.

#### **Section 7**

#### **SECURITY INTEREST IN MEMBERSHIP**

An Owner will have the right to appoint the Mortgagee of its Unit as its true and lawful attorney-in-fact to exercise any and all rights, privileges, and powers that the Owner has as a member of the Association by filing a proxy with the secretary of the Association. A release of the Mortgage covering the Unit will operate to revoke the proxy. An Owner who appoints its Mortgagee as attorney-in-fact will not be relieved of its duties and obligations as an Owner, nor will the appointment impose upon the Mortgagee the duties or obligations of an Owner.

**Section 8  
FISCAL YEAR**

The fiscal year of the Association will be the calendar year, unless otherwise established by the Management Committee.

**Section 9  
AMENDMENTS**

These Bylaws may be amended with the consent of at least 67% of the votes allocated to the Units and, during the Declarant Control Period, the consent of Declarant. Any amendment must be recorded in the form of an amendment to Exhibit B of the Declaration.



**Exhibit C**

**Interests in Common Elements**

<b>Unit No.</b>	<b>Par Value</b>	<b>Interest in Common Areas</b>
<i>Residential Units<sup>1</sup></i>		
A-101	11.2	11.2%
B-101	11.2	11.2%
F-101	11.2	11.2%
<i>Retail Units<sup>2</sup></i>		
A-102	16.7	16.7%
B-102	16.7	16.7%
F-102	16.7	16.7%
<i>Parking Units</i>		
Residential Parking Unit A	7.7	7.7%
Residential Parking Unit B	7.7	7.7%
Retail Parking Unit	0.9	0.9%
<b>Total</b>	<b>100.0</b>	<b>100.0%</b>

<sup>1</sup> Alphabetic designation of Residential Units indicates that Residential Unit A-101 consists of the Tower Structure portion of Building A; Residential Unit B-101 consists of the Tower Structure portion of Building B; and Residential Unit F-101 consists of the Tower Structure portion of Building F.

<sup>2</sup> Alphabetic designation of Retail Units denotes location within Base Structure of Building having such designation.