

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
HARVEST PARK COMMERCIAL
(A Planned Unit Development)

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR HARVEST PARK COMMERCIAL (A Planned Unit Development), Mapleton, Utah 84664 (the "Declaration") made and executed this 15 day of August, 2012, by HP Commercial, LLC, (the "Declarant").

RECITALS

WHEREAS, Declarant is the owner of certain real property situated in the city of Mapleton, Utah 84664, Utah County, State of Utah, which is more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Property");

WHEREAS, Declarant intends to establish the Property as a planned unit development known and to be known as "Harvest Park Commercial" (a Planned Unit Development) (referred to herein as the "Project").

WHEREAS, Declarant desires to provide for the preservation of values and amenities within the Project and for the maintenance of roadways, sidewalks, walkways, parking spaces, landscaped areas, open spaces, and any other Common Areas or facilities to be developed as part of the Project and to this end desires to subject the Property to the covenants, conditions, restrictions, uses, limitations, obligations, servitudes, easements, charges, liens, and other provision (herein all together called "covenants and restrictions") set forth in this Declaration, each and all of which is and are for the benefit of the Property and the subsequent owners thereof;

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the values and amenities in the Project to create an association to which will be delegated and assigned the powers and duties of maintaining and administering said Common Areas, administering and enforcing the provisions of this Declaration, and disbursing the charges and assessments herein created;

WHEREAS, Declarant has caused to be formed *Harvest Park Commercial Owners' Association* a Utah Non-Profit Corporation (the "Association"), for the purposes of carrying out the aforesaid powers, duties, and responsibilities; and

WHEREAS, there will be constructed upon said Property certain Buildings and other improvements.

NOW, THEREFORE, Declarant hereby declares that the Property is and shall be held, conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied, and improved subject to the covenants and restrictions hereinafter set forth, all of which are declared and agreed to be for the benefit of the Project; shall protect the value of the Property and the improvements comprising the Project; shall run with and bind the Property and all persons or entities having any right, title, or interest therein, their heirs, successors, and assigns, and shall inure to the benefit of and be enforceable by Declarant, its successors and assigns, the Association and any Lot Owner in the Project.

DECLARATION

ARTICLE I.
DEFINITIONS

When used in this Declaration (including that portion hereof captioned "RECITALS") each of the following terms shall have the meaning indicated:

1. **Assessment** shall mean an assessment levied to offset certain common expenses and/or special expenses as the context so specifies.
2. **Association** shall mean *Harvest Park Commercial Owners' Association, Inc.*, a Utah Non-Profit corporation, its successors and assigns.
3. **Board or Board of Directors** shall mean the Board of Directors of the Association.
4. **Building or Buildings** shall mean a structure or structures which is designated and intended for professional, commercial, and/or residential uses as permitted by applicable zoning and other laws, together with all improvements located on the same Lot and used in conjunction with such structure, such as steps, landings, handrails, entrance areas, etc.
5. **Bylaws** shall mean the Bylaws of the Association to be submitted hereafter.
6. **Common Areas** shall mean all portions of the Project, including the limited common areas, except the Lots, and shall include all property under the control and management of the Association for the common use and enjoyment of the Owners, such as all undedicated roads or streets, parking spaces, sidewalks, landscaped areas, open spaces, and the like, together with all easements appurtenant thereto, whether or not expressly listed herein or on the Plat Map. The Common Areas also include: (i) the limited common areas; (ii) those areas specifically set forth and designated as such on the Plat Map; (iii) those areas used in the installation and maintenance of central services such as water electricity, gas, sewer, communications, fiber optic cables, etc., and all apparatus and installations existing for common use; and (iv) those areas within the Project normally used in common with regards to use, maintenance, safety, or management
7. **Common Expenses** shall mean and refer to any of the following: (i) the expenses of (or reasonable reserves for, as may be permitted under the terms of this Declaration) the maintenance, management, operation, repair, and replacement of the Common Areas; (ii) the expenses of management and administrations of the Association, including compensation paid by the Association to a Manger, accountants, attorneys, or other employees or agents; (iii) any other item or items designated in this Declaration or the Bylaws of the Association to be common Expenses; and (iv) any other expenses reasonably incurred by the association on behalf of all owners.
8. **Declarant** shall mean *HP Commercial, LLC*, its successors and assigns.
9. **Declaration** shall mean this Declaration of Covenants, Conditions, and Restrictions for Harvest Place, as the same may be amended or supplemented.
10. **Lot** shall mean any designated lot of land within the Project that is improved, or is intended to be improved, with a Building, as more specifically described on the Plat Map.
11. **Lot Owner or Owners** shall mean any person(s) or entity(ies) who is the owner of record (as reflected in the records in the office of the County Recorder of Utah County, State of Utah) of a fee or undivided fee interest in any Lot and the undivided interest in the Common Areas which is appurtenant thereto, which is a part of the Project, including contract buyers. Notwithstanding any applicable theory relating to Mortgages,

no Mortgagee shall be an Owner unless such party acquires fee title pursuant to foreclosure or sale or conveyance in lieu thereof. Declarant shall be an Owner with respect to each Lot owned by it.

12. **Manager** shall mean any person or entity appointed or employed as a Manager by the Association in regards to the maintenance, management, operation, and repair of the Common Areas.
13. **Member** shall mean a member of the association.
14. **Mortgage** shall mean any mortgage, deed of trust or trust deed, or other security instrument by which the Lot or any part thereof is encumbered.
15. **Mortgagee** shall mean and include any person or entity named as a mortgagee or beneficiary under a recorded Mortgage as defined above. 16. **Officer or Officers** shall mean an officer or officers of the Association.
16. **Officer or Officers** shall mean an officer or officers of the Association.
17. **Plat Map** shall mean and refer to the recorded Plat Map of Harvest Park Commercial, and by reference made a part hereof, as recorded at the Utah County Recorder's Office, state of Utah, as may be amended or supplemented.
18. **Project** shall mean Harvest Park Commercial (A Planned Unit Development) as it may exist at any given time.
19. **Property** shall mean all land covered by this Declaration, including Common Areas and Lots, and shall consist of the land described in ARTICLE II hereof.
20. **Reimbursement Assessment** shall mean a charge against a particular Owner and its Lot for the purpose of reimbursing the Association for costs incurred in bringing the Owner and its Lot into compliance with the provisions of this Declaration, the Bylaws, the rules and Regulations of the association, or any other charge designated as a Reimbursement Assessment in this Declaration, the Bylaws, or the rules and Regulations of the association, together with costs, interest, attorneys' fees, and other charges payable by such Owner, pursuant to the provisions of this Declaration.
21. **Rules and Regulations** shall mean the rules, regulations, and procedures governing the operation and use of the Common Areas; architectural standards, guidelines, and procedures governing the construction, repair, and replacement of Buildings and other structures and improvements; and any other matters concerning the Project, duly adopted by the Association.
22. **Special Assessment** shall mean an assessment for special Expenses.
23. **Special Expenses** shall mean the following: (i) the expenses incurred by the Association for the repair of damage or loss to the Common Areas; and (ii) unanticipated expenses reasonably incurred by the Association to protect or further the interests of the Association or its Members.

ARTICLE II.
SUBMISSION OF PROPERTY; PROPERTY DESCRIPTION

1. **Submission of Property.** The property described in Exhibit "A" is to be subject to the provisions of this Declaration, and shall be held, transferred, sold, conveyed, and assigned subject to the provisions herein.
2. **Division into Lots.** The Project is hereby divided into Lots as set forth on the Plat Map. Each Lot consists of a Building and an appurtenant undivided percentage interest in and to the Common Areas as set forth in

Exhibit "B" attached hereto. The undivided percentage of interest will be based upon a per square foot basis of gross building area in each building, excluding permanent unfinished storage areas. The Project shall consist of eight (7) lots. Each Lot Owner owns a certain undivided ownership interest in all the Common Areas as set forth in Exhibit "B" attached hereto.

ARTICLE III.
NATURE AND INCIDENTS OF OWNERSHIP

1. **Lot Title.** Title to a Lot may be held or owned by any person or entity and in any manner in which title to real property may be held or owned in the state of Utah, including, but without limitation, joint tenancy or tenancy in common.
2. **No Separation.** No Lot may be divided or separated from its respective appurtenant undivided interest in the Common Areas. Accordingly, each Lot and its respective appurtenant undivided interest in the Common Areas shall always be conveyed, devised, encumbered, and otherwise affected only together and may never be separated from one another. Every gift, devise, bequest, transfer, encumbrance, conveyance, or other disposition of a Lot shall constitute a gift, devise, bequest, transfer, encumbrance, conveyance, or disposition respectively, of the entire Lot, together with all appurtenant rights created by law or this Declaration.
3. **Membership in Association.** Every Owner upon acquiring fee simple title to a Lot shall automatically become a member of the Association and shall remain a Member thereof until such times as its ownership of such Lot ceases for any reason, at which time its membership in the Association with respect to such Lot shall automatically cease and the successor Owner shall become a Member. Membership in the Association shall be mandatory and shall be appurtenant to and may not be separated from the ownership of a Lot.
4. **Undivided Interest in Common Areas.** Each Lot Owner shall have, for each Lot owned, a specified undivided interest in and to the Common Areas: as the same is established in Exhibit "B" attached hereto.
5. **Use of Common Areas.** Subject to the limitations contained in this Declaration, each Lot Owner shall have the non-exclusive right to use and enjoy the Common Areas designated herein and on the Plat Map.
6. **Partition.** The Common Areas shall be owned in common by all the Owners of Lots as provided in this Declaration, and no Lot Owner may bring action for partition thereof, except as authorized by law.
7. **Duty of Owner to Pay Taxes on Lot Owned.** It is understood that each Lot, and its respective undivided percentage interest in and to the Common Areas, in the Project is subject to separate assessment and taxation of each taxing authority and special district which has such jurisdiction over the Project for all types of taxes and assessments authorized by law, and that as a result thereof no taxes will be assessed or levied against the Project as such. Accordingly, each Lot Owner will pay and discharge any and all taxes and assessments which may be assessed against such Owner relative to its Lot and appurtenant undivided interest in the Common Areas. The taxes on the Common Areas will be apportioned in the same proportion as other assessments in the common area. Within thirty (30) days of written notice of the proportionate, the Lot Owner shall pay such taxes to the Association. The Association shall then be responsible for payment of the Common Area taxes after it has received the Lot Owner's payment. The proportionate amount of each Lot Owner's property tax liability shall be an assessment in addition to such other assessments as set forth in this Declaration.
8. **Duty to Pay Association Assessments.** Each Lot Owner is obligated to pay and discharge all Assessments and charges levied by the Association as set forth herein.
9. **Multiple Ownership Interests.** In the event there is more than one Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves. A vote cast at

any Association meeting by any of the such Owners, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the Lot concerned except that if an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists. Upon the failure of co-owners to agree regarding a vote, no vote shall be recognized as to that specific Lot. Partial votes will not be accepted.

10. **Record of Ownership.** Every Owner shall promptly cause to be filed of record the conveyance documents (or in the case of a contract buyer, a copy of the sales contract) of its Lot and shall file a copy of such conveyance document, along with the name and address said Owner desires any notices under this Declaration to be sent to, with the Secretary of the Association, who shall maintain a record of ownership of the Lots. Any Owner who mortgages its Lot or any interest therein by a Mortgage which has priority over the lien of any assessment provided herein shall notify the Secretary of the Association of the name and address of the Mortgagee, and also of the release of such Mortgage; and the Secretary of the Association shall maintain all such information in the record of ownership.
11. **Exhibit "B".** Exhibit "B" attached to this Declaration and made a part hereof furnishes the following information with respect to each Lot: (1) Lot number; (2) appurtenant undivided percentage ownership interest in the Common Areas, appurtenant percentage membership interest in the Association, and percentage of votes; and (iii) size.
12. **Lot and Building Maintenance.** Each Owner shall at its own costs and expense maintain and keep in good order and repair and in a clean and sanitary condition its respective Lot and the building, structures, and improvements located thereon.

ARTICLE IV.
ASSOCIATION

1. **Status and General Authority of Association.** The Project shall be managed, operated, and maintained by the Association of the Lot Owners. The association, through its Board of Directors and Officers, shall have the power to do any and all things which may be authorized, required, or permitted to be done under law and by virtue of this Declaration and the Bylaws, including the power to levy and collect Assessments as hereinafter provided. Without limiting the generality of the foregoing, the Association shall have the following authorities and powers:
 - A. The authority to grant, create, or vacate on such reasonable terms as deemed advisable, utility and similar easements over, under, above, across, and through the Common Areas.
 - B. The authority to execute and record, on behalf of all Lot Owners, any amendments to the Declaration or the Plat Map which have been approved by the vote or consent of the Lot Owners necessary to authorize such Amendments as provided in this Declaration.
 - C. The power to sue and be sued.
 - D. The authority to enter into contracts relating to the Common Areas and other matters over which it has jurisdiction, so long as any vote or consent of the Lot Owners necessitated by the subject-matter of the agreement has been obtained.
 - E. The power and authority to purchase, or otherwise acquire, and accept title to, any interest in real property so long as such action has been authorized by the vote or consent which is necessary under the circumstances.
 - F. The power and authority to add any interest in real property obtained pursuant to Paragraph E above to the Project, so long as such action has been authorized by the necessary vote or consent.

- G. The authority to promulgate such reasonable Rules and Regulations as may be necessary or desirable to aid the Association in carrying out its function or to insure that the Project is maintained and used in a manner consistent with the interest of the Lot Owners. All such Rules and Regulations adopted by the Association shall be set forth in writing.
 - H. To the extent not assessed to or paid by the Owners directly, the Association shall pay all property taxes and assessments levied upon any portion of the Common Areas, provided that the association shall have the right to contest or compromise any such taxes or assessments.
 - I. The Association shall obtain and maintain in force such policies of insurance required by the provision of this Declaration, and such insurance policies or bonds as the Association may deem appropriate for the protection and benefit of the Declarant, the Association, the Owners, and any employee, agent, guest, lessee/tenant, customer, licensee, or invitee of the same.
 - J. To have the power and authority to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or any rules and Regulations promulgated by the Association, or to enforce by mandatory injunction or otherwise all of the provisions of this Declaration and such Rules and Regulations.
 - K. The power and authority to perform any other acts and to enter into any other transactions which may be reasonably necessary for the Association and the Lot Owners. Any instrument executed by the Association relating to the Common Areas of the Project that recites facts which, if true, would establish the Association's power and authority to act thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument.
 - L. In fulfilling any of its duties under this Declaration, the Association shall have the power and authority to: (i) pay and discharge any and all liens placed upon any Common Areas on account of any work done or performed in the fulfillment of any of its obligations and duties of maintenance, repair, operation, or administration; and (ii) obtain, contract for, pay for, or otherwise provide for: (i) construction, maintenance, repair, and landscaping of the Common Areas on such terms and conditions as the Association shall deem appropriate; (ii) such utility services, including, without limitation, water, sewer, trash removal, electrical, telephone, cable television, communication, and natural gas services, as the Association may from time to time deem desirable; (iii) the services of architects, engineers, attorneys, certified public accountants, and such other professional or non-professional services as the Association may deem desirable; (iv) fire, police, and such other protection services as the Association may deem desirable for the benefit of the Project and the Owners; and (v) such materials, supplies, equipment, services, and labor as the Association may deem necessary.
2. **Composition of Association; Board of Directors; Officers; Election; Vacancy; Declarant Control.**
 The Association is comprised of all the Members/Lot Owners in the Project. The Board of Directors shall be elected by and from the general membership of the Association by majority vote as more specifically provided in the Bylaws. The Board of Directors shall be composed of three (3) members from whom shall be elected the following Officers of the Association: President, Vice President and Secretary Treasurer. The Directors shall be elected each year at the annual meeting of the Members of the Association, and shall hold office for a period of one (1) years or until their successors are elected. At the annual meetings, each Lot Owner may vote its percentage of undivided ownership interest in favor of as many Director positions as there are to be filled (not to be construed as permitting cumulative voting); provided, however, that until the happening of the first of the following two (2) events, namely either: (i) thirty (30) days following which title to Lots representing seventy-five percent (75%) of the votes of Lot Owners shall have been conveyed or transferred by Declarant to the purchaser (s) thereof; or (ii) *Fifteen(15)years from the date of recording this Declaration*; the Declarant alone shall have the right to select two (2) members on the Board of Directors. Upon the occurrence of either or both of the aforesaid

events, the Declarant alone shall then have the right to select one (1) member on the Board of Directors until such time when one hundred percent (100%) of the Lots shall have been conveyed or transferred by Declarant to the purchaser(s) thereof. In the event a Director position which was filled by Declarant becomes vacant, Declarant shall have the right to select a replacement member to sit on the Board of Directors for the balance of the term associated with the vacant position. In all other cases of vacancy, the Lot Owners, by majority vote, shall elect a replacement to sit on the Board of Directors for the balance of the term associated with the vacant position. In all other cases of vacancy, the Lot Owners, by majority vote, shall elect a replacement to sit on the Board until the expiration of the term for which the Director being replaced was elected.

3. **Rights and Duties.** The Association shall be responsible for the general management and administration of the Project. It is understood that the Association has the obligation to maintain the Common Areas of the Project.
4. **Maintenance of Common Areas.** The Association shall maintain, repair, replace, and landscape the Common Areas and improvements; it being understood and agreed that each Lot Owner shall maintain, repair, and replace the Building, structures, and improvements on its Lot.
5. **Right of Delegation to a Manager.** The Association may carry out any of its functions which are capable of delegation through a Manager. The Manager so engaged shall be responsible for managing the Common Areas and shall, to the extent permitted by law and the terms of the agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Association itself. All agreements between the Association and a Manager shall be in writing.
6. **Payment of Services: Etc.** The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of its function in the Project. The Association may obtain and pay for the operation of the Project or the enforcement of this Declaration. It is recognized that the Association may arrange with other persons or entities to furnish snow removal, ground maintenance, and other common services to the Project, whether such personnel are furnished or employed directly by the Association. All agreements between the Association and other persons or entities for certain services shall be in writing.
7. **Personal Property Ownership and Use.** The association may acquire and hold for the use and the benefit of all the Owners tangible and intangible personal property, and any interest in such property shall be deemed to be owned by the Owners in the same proportion as their respective interest in the Common Areas. Such interest shall not be transferrable except with a transfer of a Lot. A transfer of a Lot shall transfer to the transferee ownership of the transferor's beneficial interest in such personal property without reference thereto, and such beneficial interests may in no event be reserved by the transferor of a Lot. Each Owner may use such personal property in accordance with the purposes for which they are intended, in accordance with applicable rules and Regulations, without interfering with or encroaching upon the lawful rights of the other Owners. The transfer of title to a Lot under foreclosure shall entitle the purchaser to the interest in such personal property associated with the foreclosure.
8. **Rules and Regulations.** Subject to applicable zoning and other laws, and consistent with the terms of this Declaration and the Bylaws, the Association may make reasonable Rules and Regulations governing the operation and use of the Common Areas: use of the personal property; architectural standards, guidelines, and procedures governing the construction, repair, and replacement of Buildings and other structures and improvements; and any other matters concerning the Project. The Association may suspend any Owner's voting rights at the meetings of Lot Owners for periods during which such Owner fails to comply with the said Rules and Regulations, Or with any other obligations of such Owner under this Declaration. In order to suspend an Owner's voting rights in any manner, the Association must

first hold a hearing on the matter giving reasonable notice to the accused owner and allowing it an opportunity to be heard. The Board of Directors of the Association must unanimously agree upon the decision to suspend an owner's voting rights and all terms and conditions relating thereto. The association may also take judicial action against any Owner to enforce compliance with such Rules and Regulations or other obligations or to obtain damages for noncompliance, all to the extent provided by law.

9. **Capital Improvements.** There shall be no structural alterations, capital additions to, or capital improvements of the Common Areas without the prior approval of the Association. Any single item, structural alteration or capital improvement in the Common Areas in the amount of One Hundred Fifty Thousand dollars (\$150,000) or more in any given fiscal year, ending on December 31st, shall require the unanimous consent of the Board of Directors of the association. Any structural alterations or capital improvements in the Common Areas that in the aggregate amount to Five Hundred Thousand dollars (\$500,000) or more in any given fiscal years ending on December 31st, shall require the unanimous consent of the Board of Directors of the Association. The Association has the discretion to require that any structural alterations or capital improvements in the Common Areas be paid directly by the Lot Owners in proportion to their relative ownership interests in the Common Areas to accomplish tax reporting and accounting purposes of the Lot Owners.
10. **Extended Rights.** The Association may exercise any other right or privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.
11. **Architectural Control.** The Association shall act in all matters pertaining to architectural control, and shall establish standards, guidelines, rules, and procedures for submitting plans for approval of any and all construction, alteration, remodeling, etc. of Buildings or other structures or improvements in the Project. For the purpose of implementing architectural control, the Board of Directors shall appoint an Architectural Control Committee (ACC) consisting of not less than three (3) members and not more than five (5) members.
12. **Limitation of Liability and Indemnification of Directors and Officers.** No Director or Officer of the association acting in good faith shall be liable to any Owner, employee, agent, guest, lessee/tenant, customer, licensee, invitee, or any other person or entity for the error or omission of the Association and its representatives and employees. Each Director and Officer shall be indemnified and held harmless by the Lot Owners against all costs, expenses, and liabilities whatsoever (excluding fraudulent and/or criminal actions) including, without limitation, attorneys' fees reasonably incurred by him/her in connection with any proceedings to which he/she may become involved by reason of his/her being or having been a Director or Officer of said Association.
13. **Association.** The conveyance of each Lot and its proportionate share of the Common Areas shall be subject to the covenants, conditions, restrictions, easements, charges, and liens as contained in this Declaration and any supplements or amendments thereto recorded in the office of the Utah County Recorder, State of Utah. This Declaration provides, inter alia, that all Lot Owners in Harvest Park Commercial (a Planned Unit Development) shall upon becoming the same, automatically become members of the Harvest Place Owners Association, Inc., a Utah Non Profit Corporation, which said Association shall maintain and administer certain facilities, maintain Common Areas in the Project, enforce the covenants and restrictions imposed in this Declaration, and collect and disburse the Assessments and charges created herein. The Association has been established for the benefit of the Lot Owners in Harvest Place.

ARTICLE V.
ASSESSMENTS

1. **Personal Liability and Lien.** Each Owner shall, by acquiring or in any Way becoming vested with its interest in a Lot, be deemed to covenant and agree to pay to the Association the assessments described in this ARTICLE V. together with interest, costs, and attorney's fees: if and when applicable. All such amounts shall be, constitute, and remain: (i) a charge and continuing lien upon the Lot with respect to which such Assessment is made until fully paid; and (ii) the personal joint and several obligation of the Owner of Owners of such Lot at the time the Assessment becomes due. A lawsuit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may exempt itself or its Lot from liability for payment of Assessments by waiver of its rights in the Common Areas or by abandonment of its Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all such unpaid Assessments, interest, costs, and attorneys' fees which shall be a charge on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore.

2. **Purpose of Assessments.** Assessments levied by the Association shall be used for the purpose of promoting the best interest of Lot Owners in the Project. The use made by the Association of funds obtained from Assessments may include payment of the cost of: (i) taxes and insurance on the Common Areas; (ii) maintenance, repairs, and improvements of the Common Areas; (iii) establishment and funding of a reserve to cover major repairs, replacements, or improvements within the Common Areas (contingent upon the prior unanimous consent of the Board of Directors of the Association - it being intended that all reserve funds for major repairs, replacements, or improvements in the Common Areas will not be assessed and maintained by the Association, but will be maintained separately by the Lot Owners outside the Association (see Section 7, below; and (iv) any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under this Declaration or the Bylaws.

3. **Minimum Monthly Assessments.** Each Lot shall be subject to a minimum monthly assessment as follows:

Lot 1:	\$769
Lot 2:	\$60
Lot 3:	\$53
Lot 4:	\$321
Lot 5:	\$367
Lot 6:	\$466
Lot 7:	\$466
Lot 8:	\$705

The foregoing minimum monthly assessments shall be revised based on final building sizes. There shall be no assessment for vacant or unimproved lots owned by the Declarant or the Association until the issuance of a certificate of occupancy for a building (or part of building) constructed on such lot. The following property subject to this Declaration shall be exempt from the assessments created herein: (i) Portions of the Property dedicated to and accepted by any local authority; (ii) The Common Area; and (iii) Property exempt from general property taxes under Utah law.

4. **Monthly Assessment Due Dates.** The monthly assessments provided for herein shall commence with respect to each specific lot when a Certificate of Occupancy has been issued by Mapleton City for a building (or part of building) constructed on such lot. The first monthly assessment shall be adjusted according to the number of days remaining in the month of conveyance, contract or occupancy as the case may be. Thereafter all monthly assessments shall be due and payable on the first day of each month. A monthly assessment not paid within ten (10) days of due date thereof shall be deemed late and subject to a late fee of \$25.00 or an amount as determined by a majority of the Board. At least fifteen (15) days prior to the effective date of any change in the amount of the monthly assessment, the Association shall give each

Owner written notice of the amount and the first due date of the assessment concerned. The Annual Assessment amount may be increased by the Association each fiscal year by not more than ten percent (10%) of the previous year without the unanimous consent of the Board of Directors of the Association (specifically excluding increases in the Assessment amount due to tax liability).

5. **Apportionment of Assessments.** Expenses attributable to the Common Areas and to the Project as a whole shall be apportioned among the Lots in proportion to their respective undivided interest in the Common Areas assessed by the Association.
6. **Special Assessments.** In addition to the Annual Assessments authorized hereunder, subject to any applicable approval requirements set forth in this Declaration, the Association may determine the amount and levy Special Assessments payable over such period as the Association may determine for the purpose of defraying, in whole or in part the cost of any construction or reconstruction, unexpected repair or replacement of the Common Areas of the Project or any other part thereof, shortfalls in the Annual Assessments, or for any other expenses incurred or to be incurred as provided in this Declaration. Any amount assessed pursuant thereto shall be assessed to Owners in proportion to their respective undivided interest in and to the Common Areas. Notice in writing of the amount of any such Special Assessment and the time for payment thereof shall be given promptly to the Owners. A Special Assessment, or any portion thereof as determined by the Association, shall bear interest at the rate of one and one-half (1.5%) per month, assessed and compounded daily, from the date it becomes due and payable if not paid within ten (10) days after such date. Unless otherwise agreed to by the unanimous consent of the Board of Directors of the Association, it is the intention of the Lot Owners that all major repairs, replacements, or improvements in the Common Areas that are anticipated to cost One Hundred Thousand Dollars (\$100,000) or more for any single item or in the aggregate, in any given fiscal year, ending December 31st, will not be paid from any reserve funds maintained by the Association, but will be paid for by Special Assessment of the Lot Owners in proportion to said Lot Owner's respective undivided interest in the Common Area.
7. **Reimbursement Assessments on a Specific Lot.** In addition to the Annual Assessments and any Special Assessments authorized herein, the Association may levy at any time Reimbursement Assessments: (i) on every Lot especially benefitted by any improvement made by the written request of the Owner of the Lot to be charged; (ii) on every Lot the Owner or occupant which shall cause any damage to the Common Areas necessitating repairs; and (iii) on every Lot as to which the Association shall incur any expense for maintenance or repair work performed, or enforcement action taken, pursuant to the provisions of this Declaration. The aggregate amount of any such Reimbursement Assessments shall be determined by the cost of such improvements, repairs, maintenance, or enforcement action, including all overhead and administrative costs, shall be allocated among the affected Lots according to the special benefit or cause of damage, maintenance, repair work, or enforcement action, as the case may be, and such Reimbursement Assessment may be made in advance of the performance of work. If a special benefit arises from any improvement which is part of the general maintenance obligations of the Association, it shall not give rise to a Reimbursement Assessment against the Lot(s) benefitted.
8. **Liens for Unpaid Assessments.** All sums assessed to any Lot pursuant to this ARTICLE V, together with interest thereon as provided herein, and all costs, expenses, and attorneys' fees incurred, with or without lawsuit or before or after any judgment, in collecting delinquent accounts or foreclosing against the Lot(s) concerned, shall be secured by a lien on such Lot(s) in favor of the Association, and, upon recording of a Notice of Lien by the Association shall be a lien upon the Lot(s) prior to all other liens and encumbrances, recorded or unrecorded, except: (i) first Mortgages; and (ii) tax and special assessment liens on the Lot in favor of any governmental assessment authority or special improvement district.
9. **Consent by Lienors.** All lienors acquiring liens on any Lot after this Declaration shall have been recorded shall be deemed to consent that such liens shall be inferior to future liens for Assessments, as provided herein, whether or not such consent be specifically set forth in the instrument creating such liens.

10. **Notice of Lien.** To evidence a lien for sums assessed pursuant to this ARTICLE V. the Association may prepare a written Notice of Lien setting forth the amount of the Assessment, the due date, the amount remaining unpaid, the name of the Owner of the Lot, and a description of the Lot. Such Notice shall be signed by or on behalf of the Association and recorded in the office of the Utah County Recorder, state of Utah. No Notice of Lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by foreclosure by the Association in the same manner in which Mortgages on real property may be foreclosed in the State of Utah. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding, the costs and expenses of filing the Notice of Lien, and all reasonable attorneys' fees. All such costs, expenses and attorneys' fees shall be secured by the lien being foreclosed. The lien shall also secure, and the Owner shall also be required to pay to the Association, any assessments against the Lot which shall become due during the period of foreclosure. The Association shall have the right and the power to bid an amount equal to its then existing lien at the foreclosure sale or other legal sale to acquire, hold, convey, lease, rent, encumber, use, and otherwise deal with the subject Lot as the Owner thereof.
11. **Release of Lien.** A Release of Notice of Lien shall be executed by or on behalf of the Association and recorded in the office of the Utah County Recorder, State of Utah, upon payment of all sums secured by a lien which has been made the subject of a recorded Notice of Lien.
12. **Payment by Encumbrancer.** Any encumbrancer holding a lien on a Lot may pay, but shall not be required to pay, any amounts secured by the lien created by this ARTICLE V. and upon such payments such encumbrancer shall be subrogated to all rights of the Association with respect to such lien, including priority. The Association, upon written request, payment of a reasonable fee, and evidence of such encumbrance, shall report to any encumbrancer of a Lot any unpaid Assessment remaining unpaid for longer than thirty (30) days after the same shall have become due and payable.
13. **Information Concerning Unpaid Assessments.** Upon payment of a reasonable fee, and upon written request of any Owner, Mortgagee, prospective Mortgagee, or prospective purchaser of a Lot, the Association shall issue a written statement setting forth the amount of the unpaid Assessments, if any, with respect to such.
14. **Assessment and Collection by Association.** It is recognized that the Association will maintain the Common Areas of the Project, except as otherwise contained herein. It is further recognized that the Association is authorized to determine the amount and levy Assessments for the purposes of performing functions it is authorized to perform with the Project. With respect to the Lots in the Project, the Association is authorized to collect from the Lot Owners and enforce liability for the payment of assessments levied pursuant to this Declaration.
15. **Tax Liability.** It is the objective of the Association to minimize its overall tax liability. To accomplish this objective, the Lot Owners acknowledge and agree that the Assessments will be closely monitored and controlled by the Association in timing and amount so that the Assessments and expenses match as closely as possible for tax reporting and accounting purposes of the Lot Owners. In the event that the Association incurs any tax liability, such tax liability shall be apportioned among the Lot owners in proportion to their respective undivided interest in the Common Areas assessable by the Association. In the event that applicable consolidation rules for federal and state income taxes require any Lot Owner to include the Association in said Lot Owner's consolidated income tax returns, then the Association shall enter into an appropriate Tax Sharing Agreement with all Lot Owners to assure that any and all income tax liability borne by the particular Lot Owner as a result of the consolidation of the Association into said Lot Owner's consolidated income tax returns will be apportioned, assessed and paid by all the Lot Owners in proportion to their respective undivided interest in the Common Areas.

ARTICLE VI.
PROPERTY RIGHTS; CONVEYANCES; EASEMENTS

1. **Easement Concerning Common Areas.** Each Owner shall have a non-exclusive right and easement of use and enjoyment in and to the Common Areas, including but not limited to the parking area. Each owner shall have the right to vehicular and pedestrian ingress and egress over, upon, and across the Common Areas necessary for access to its Lot. Each Owner shall have the right to utilize the roadways, parking areas, and landscaped areas within the Common Areas. Such right and easement shall be appurtenant to, and shall pass with, title to each Lot and in no event shall be separated there from. Any Owner may delegate the right and easement of use and enjoyment described herein to any employee, agent, guest, lessee/tenant, customer, licensee, invitee, contract purchaser, or other person or entity who uses and or occupies such Owner's Lot. Notwithstanding the foregoing, no owner shall have any right or interest in any easements forming a portion of the Common Areas except for the necessary parking, access, communication, utility, drainage, and sewer purposes for which such easements are intended for use in common with others. The number of parking spots is more particularly set forth in Exhibit B attached hereto and is to govern the number of parking stalls for each building.
2. **Lot Maintenance Easement.** Reserved unto Declarant, its designees and assigns, is an easement and rights of ingress and egress over, across and through and under the above-described tract and any improvements now or hereafter constructed thereon as may be reasonably necessary for Declarant or any assignee of Declarant, in a manner which is reasonable and not inconsistent with the provisions of this Declaration, a perpetual easement, which shall be transferable to the Association or other designee of Declarant, to maintain the real property around the the buildings in the event of failure of any Owner to properly maintain same.
3. **Form of Conveyancing: Leases.** Any deed, lease, Mortgage, deed of trust, or other instrument conveying or encumbering title to a Lot shall describe the interest or estate involved by said Lot's specific number/letter as shown on the Plat Map on record in the office of the Utah County Recorder, State of Utah. Whether or not the description employed in any such instrument is in the above-specified form, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot. Any lease of a Lot shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration and the Bylaws of the Association, and that any failure by the lessee/tenant to comply with the terms of such documents shall be a default under the lease.
4. **Limitations on Common Areas.** An Owner's right and easement of use and enjoyment concerning the Common Areas shall be subject to the following:
 - A. The right of the association to govern by Rules and Regulations the use and operation of the Common Areas by the Owners.
 - B. The right of the City of Mapleton, Utah 84664, County of Utah, State of Utah, and any other governmental or quasi-governmental body have jurisdiction over the Project to have access to and rights of ingress and egress over and across any street, parking area, sidewalks, walkways, or open area contained within the Common Areas for the purpose of providing police and fire protection and providing any other governmental or municipal service.
 - C. The right of the association to dedicate or transfer any part of the Common Areas to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association; provided that such dedication or transfer must first be consented to in writing by: (1) all holders of Mortgages secured by Lots; and (2) all Owners of the Lots.
5. **Easement for Utility Services.** There is hereby created a blanket easement upon, across, under, and over the Common Areas for ingress, egress, installation, replacing, repairing, and maintaining all utilities,

including, but not limited to, water (irrigation and culinary), drainage, sewer, natural gas, telephone, cable television, communication, fiber optic cables, network cabling conduits, electricity, and other utility services, as shall be under the control and direction of the Association.

6. **Easement for Encroachments.** If any part of the Common Areas now or hereafter encroaches upon any Lot, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall exist. Such encroachments shall not be considered to be encumbrances on either the Common Areas or the Lots. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original placement and construction of the Building(s) on the Lots, by error in the Plat Map, by settling, raising, or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.
7. **Easement for Construction and Development Activities.** The Association and each Lot Owner shall have such easements and vehicular and pedestrian rights of ingress and egress over, under, upon, across, and through the Project, and the right to make such noise, dust, and other disturbances as may be reasonably incident to or necessary for the: (i) construction of Buildings and other improvements on the Lots; (ii) improvement of the Common Areas and construction, installation, and maintenance of roads, parking areas, sidewalks, walkways, structures, landscaping, and other improvements designed for the use and enjoyment of some or all of the Owners; and (iii) construction, installation, and maintenance on lands within, adjacent to, or serving the Project roads, walkways, and other facilities planned for dedication to appropriate governmental authorities.
8. **Easement to Association.** The Association shall have non-exclusive easements to make such use of the Common Areas as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration.
9. **Right of Ingress, Egress, Parking, Etc.** Each Owner shall have: (i) the right to vehicular and pedestrian ingress and egress over, upon, and across the roadways, sidewalks, and walkways, in the Common Areas necessary for access to its Lot; (ii) the right to utilize the parking areas within the Common Areas; and (iii) the right to utilize the landscaped areas within the Common Areas; and such rights shall be appurtenant to and shall pass with the title to each Lot.

ARTICLE VII.
IMPROVEMENTS

1. **Improvements.** The Plat Map designates the number of Lots, and the Common Areas.
2. **Description of Buildings and Lots.** The Project shall consist of seven (7) lots upon which buildings will be constructed.
 - A. Each Lot is anticipated to have individual culinary water, natural gas and electric meters; notwithstanding the foregoing, there is no obligation on the Declarant to assure or require that each Lot is individually metered.
 - B. Each Lot has or is anticipated to have separate telephone/communication hook-ups; notwithstanding the foregoing, there is no obligation on the Declarant to assure or require that each Lot has separate telephone/communication hook-ups.
 - C. Building Features and Materials.

(1) Building Location. Each building shall be oriented as consented to by the Architectural Control Committee (ACC). The ACC shall determine all setback requirements. However, each owner requesting a setback modification shall be solely responsible for obtaining any necessary consents and/or variances from applicable governmental authorities.

(2) Exterior Building Wall Materials. Brick, stucco and fiber reinforced concrete siding are permitted for the exteriors of the buildings, provided that not less than ten percent (10%) of the area of all wall area of each building shall be constructed of brick. The brick is not required to be evenly distributed around the building. The calculation of wall area shall exclude openings such as doors, windows or vents. The use of any other materials for such buildings shall require the prior approval of the ACC.

(3) Roof, Soffit and Fascia. The use and design of roof, soffit and fascia materials is subject to the approval of the ACC. Roof material shall be restricted to thirty-year architectural grade asphalt or metal or other materials approved by the ACC. The asphalt roof color shall be limited to a color approved by the ACC. Other types of contrasting roof may be allowed. The main roof shall have a minimum 12/12 pitch. Other roofs may be approved for a lower pitch.

(4) Mechanical Equipment. All air conditioning, heating equipment, evaporative coolers must be screened from view and insulated for sound attenuation. Air conditioning units and evaporative coolers are not permitted on roofs or through windows. Evaporative coolers shall not be allowed unless approved by ACC

(5) Gas and Electric Meters. Meter locations are to be designed into the architecture of the dwelling and screened from view with shrubbery or decorative fencing.

(6) Exterior Lighting. All exterior site lighting is to be indirect, i.e., not intense bulbs visible from the public street. Direct lighting may be used only when approved by the ACC subject to intensity, color, etc. The direct lighting that may be approved includes decorative lighting, lighted signs, etc.

(6) Exterior Building Style The exterior form, proportion, style and detail of the individual buildings shall be compatible with the design created by J.W. Robinson Architects and submitted to Mapleton City Planning Commission as part of the approval of the center section of the commercial area. The interpretation of what is "compatible" shall be as defined by the opinion of the ACC. "Compatibility" shall not necessarily be interpreted as "duplication" design; on the contrary, variations on the original forms, proportion, style and details are encouraged.

- D. Approval of any improvements by the ACC does not waive the requirement for any other required public agency review or permit. By approving plans, the ACC takes no responsibility for plan conformity to any other criteria other than the requirements of this Declaration and any Architectural Guidelines.
- E. The Project has a portion of the Common Areas landscaped with grass, trees, shrubs, and flowers, equipped with sprinkler systems. Water for the sprinkling systems will be common to the Project, and will be allocated, assessed, and paid through the Association.
- F. The Project shall have such other improvements as indicated on the Plat Map.
- G. It is anticipated that lighting of the common areas will include lighting from fixtures fixed to the exterior of the buildings. The costs of such, including utility bills and maintenance will be the

responsibility of the respective building's owner. If outdoor lighting is placed in the common areas, then electricity for the outdoor lighting will be common to the Project, and will be allocated, assessed, and paid through the Association. Exterior lighting design and intensity shall require the approval of the ACC. Hours of light operation shall be at the discretion of the Owners Association.

ARTICLE VIII.
RESTRICTIONS

1. **Use of Common Areas.** The Common Areas shall be used only in a manner consistent with its nature and with the use restrictions applicable to the Lots.
2. **Use of Lots.** Each of the Lots in the Project is intended to be used for such purposes as allowed for under the zoning ordinances of Mapleton City. No Lot shall be used, occupied, or altered in violation of law, so as to create a nuisance or interfere with the rights of any Owner, or in a way which would result in the cancellation or an increase in the cost of insurance covering the Common Areas.
3. **Leasing.** A Lot Owner may lease all or a portion of the Building on its lot in accordance with the use and occupancy requirements set forth in Section 2 above. All leases and subleases of all or a portion of the Building on a particular Lot shall be in writing executed by the appropriate parties, and except for leases or subleases in existence prior to the date of this Declaration, shall contain a specific statement that the lease or sublease is subject to the provisions of this Declaration and the Bylaws.
4. **Enforcement of Land Use Restrictions.** The following persons or entities have the right to exercise or seek any remedy at law or in equity to enforce strict compliance with this Declaration: (i) any Owner; or (ii) the Association. The prevailing party in an action for the enforcement of any provision of this Declaration shall be entitled to collect court costs and reasonable attorneys' fees.
5. **Restrictions Concerning Common Areas.** There shall be no obstruction of the Common Areas by the Owners, their employees, agents, lessees/tenants, guests, customers, licensees, or invitees without the prior written consent of the Association. The Association may by Rules and Regulations prohibit or limit the use of the Common Areas as may be reasonably necessary for protecting the interest of all the Owners or protecting the Lots or the Common Areas. Nothing shall be kept or stored on any part of the Common Areas without the prior written consent of the Association, except as specifically provided herein. Nothing shall be altered on, constructed in, or removed from the Common Areas except upon prior consent of the Association.
6. **Miscellaneous Restrictions.** Nothing shall be done or kept in or on any Lot or the Common Areas or any part thereof which would result in the cancellation of the insurance of the Project or any part thereof, or increase the rate of the insurance on the Project or any part thereof over what the Association, but for such activity, would pay, without the prior written consent of the Association. Nothing shall be done or kept in or on any Lot or the Common Areas or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or any employee, agent, lessee/tenant, guest, customer, licensee, or invitee of any Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against all losses resulting from any such damage or waste caused thereby. No noxious, destructive, or offensive activity shall be conducted in or on any Lot or the Common Areas or any part thereof, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner in the Project.
7. **Parking.** The parking areas are for the use of the Owners and their respective employees, agents, lessees/tenants, guests, customers, licensees, and invitees. The use and regulation of the parking areas shall

be under the control of the Association and subject to applicable zoning and other laws. Parking stalls shall be allocated as shown on Exhibit B.

8. **No Violation of Rules and Regulations.** No Owner shall violate the Rules and Regulations for the use of the Lots and the Common Areas as may be adopted from time to time by the Association.
9. **Signs and Advertising.** A marquee-type sign board will be placed at the entrance of the common areas identifying the Lot Owners or their lessees. Expenses, including electricity, associated with the signs will be allocated, assessed, and paid through the Association. Any signs posted on buildings shall be uniform and subject to the approval of the architectural committee. All signs and other advertising shall be in conformance with all applicable laws, ordinances, and regulations, and in conformance with the Rules and Regulations promulgated by the Association.
10. **Storage of Hazardous Materials.** No Owner shall commit or knowingly permit any waste of the Project and shall not knowingly permit any part of the Project to be used for any unlawful purpose. Lot Owners will comply with all applicable Federal, State and local laws, ordinances and regulations relating to the Project and its use and operation. Lot Owners must also agree not to keep, use or permit to be kept or used on the Project any inflammable fluids, explosives or any "hazardous substance", "solid waste", or "hazardous waste" as said terms are defined in Section 42 U.S.C. 9601(14) and 40 C.F.R. 261.1 et. seq. without the prior written permission of the Association.

ARTICLE IX.
ARCHITECTURAL CONTROL

1. **Architectural Control.** The Board of Directors of the Association shall be in charge of all matters concerning architectural control in the Project, and shall cooperate and work with applicable governmental authorities to insure that all Buildings, improvements, and landscaping within the Project conform with any and all applicable standards, guidelines, procedures, plans, and specifications, laws, ordinances, and harmonize with existing surroundings and structures.
2. **Submission to Board of Directors.** No building, structure, or improvements of any kind shall be constructed, maintained, altered, or refurbished unless complete plans and specifications thereof have first been submitted to and approved by the Board of Directors of the Association and applicable governmental authorities.
3. **Standard.** In deciding whether to approve or disapprove plans and specifications submitted to it, the Board of Directors of the association shall use its best judgment to insure that all Buildings, improvements construction, landscaping, and alterations within the Project conform to any and all applicable standards, guidelines, procedures, plans and specifications, laws, ordinances, and harmonize with existing surroundings and structures.
4. **Approval Procedure.** Subject to submission and approval by applicable governmental authorities, any plans and specifications submitted to the Board of Directors of the Association shall be approved or disapproved by it in writing within thirty (30) days after submission. In the event the Board of Directors fails to take any action within such period it shall be deemed to have approved the material submitted.
5. **Liability for Damages.** The Board of Directors shall not be held liable for damages by reason of any action, inaction, approval or disapproval by it with respect to any request made pursuant to ARTICLE IX.

6. **Diligent Prosecution to Completion.** Once begun, any Buildings, improvements, construction, landscaping, or alterations approved by the Board of Directors of the Association and applicable governmental authorities shall be diligently prosecuted to completion.

ARTICLE X.
INSURANCE

1. **Insurance.** The Association shall secure or cause to be secured such policies of liability insurance for bodily injury and property damage, fire, and hazard insurance, fidelity bond coverage, or other types of insurance to insure the Common Areas, the Association, the Owners and/or others against such risks as the Association may deem advisable. Such insurance policies shall provide such coverages and protections, provide such insurable amounts, and contain such endorsements as deemed advisable by the association.
2. **Review of Insurance.** The Association shall periodically, and whenever requested by twenty five percent (25%) or more of the Owners, review the adequacy of the Association's insurance program and shall report in writing the conclusions and actions taken on such review to the Owner of each Lot and to the holder of any Mortgage on any Lot who shall have requested in writing a copy of such report. Copies of every policy of insurance procured by the Association shall be available for inspection by any Owner upon such reasonable terms as the Association determines.
3. **Lots and Buildings Not Insured by Association.** Unless determined otherwise by the association, the Association shall have no duty or responsibility to procure or maintain any fire, liability, extended coverage, or other insurance covering any Lot and the Building, improvements, structures, and acts and events thereon, and personal property located therein. Accordingly, Owners of Lots in the Project are advised to obtain fire, extended coverage, and liability insurance in regards to their Lots, buildings, improvements, structures, personal property, and the activities conducted therein or thereon.

ARTICLE XI.
RIGHTS OF MORTGAGEES

1. **Mortgagee Protection.** The Association may from time to time amend this Declaration to adopt such provisions regarding the rights of Mortgagees as the Association deems necessary and appropriate.

ARTICLE XII.
GENERAL PROVISIONS

1. **Notices.** Any notice required or permitted to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly furnished if personally delivered or mailed, registered or certified, postage prepaid, to the person Or entity names as the Owner, at the last known address for such person or entity as reflected in the records of the Association at the time of delivery or mailing. Any notice required or permitted to be given to the Association may be given by delivering or mailing the same to the President of the Association.
2. **Amendment.** Except as provided in and/or subject to the terms below, the vote of a majority of the voting rights of the members of the Association shall be required to amend this Declaration or the Plat Map. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the Association. In such instrument, the Association shall certify that the vote required by this Section 2 for amendment has occurred. The foregoing right of amendment shall, however, be subject to the following:

- A. Until such time as: (l) ninety percent (90%) of the buildings of Lot Owners in the Project have been sold by Declarant to the purchasers thereof; or fifteen (15) years from the date this Declaration is recorded, whichever occurs first, Declarant shall have the sole and exclusive right to amend this Declaration and or the Plat Map. Such rights shall obtain without regard to the subject-matter of amendment.
- B. Notwithstanding anything to the contrary herein contained, no amendment to the Plat Map or any provision of this Declaration may have the effect of diminishing or impairing any rights, power, authority, privilege, protection, or control accorded to Declarant (in its capacity as Declarant) herein shall be accomplished or effective unless the instrument through which such amendment is purported to be accomplished is consented to in writing by Declarant.
3. **Consent in Lieu of Vote.** In any case in which this Declaration requires authorization or approval of a transaction with the assent or affirmative vote of a stated percentage of the Project's undivided ownership interest in and to the Common Areas, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners who collectively hold at least the necessary percentage of such undivided ownership interest.
4. **Enforcement.** Each Lot Owner shall comply strictly with the provisions of this Declaration, the Rules and Regulations promulgated pursuant thereto, as the same may be lawfully amended from time to time. Defaulting Owners shall pay all costs and monies paid and due for damages or injunctive relief, or both, maintainable by the Association or in a proper case by an aggrieved Lot Owner.
5. **Waiver.** No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of time lapse or the number of violations or breaches which may occur.
6. **Reserve Fund.** Upon the unanimous consent of the Board of Directors, the Association may establish an adequate reserve to cover the costs of reasonably predictable and necessary repairs and/or replacements of the Common Areas and may cause such reserve to be funded by annual, monthly, or other periodic Assessments as deemed appropriate.
7. **Declarant's Rights Assignable.** All or any portion of the rights of Declarant under this Declaration or in any way relating to the Project may be assigned.
8. **Interpretation.** The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, and any gender shall include both genders, and each shall include corporations, limited liability companies, partnerships, or other legal entities, as applicable. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof, which shall remain in full force and effect. The laws of the State of Utah shall govern the validity, construction, and enforcement of this Declaration, and the parties consent to jurisdiction and venue in the court of Utah County, State of Utah.
9. **Expandability.** The Declarant shall have the right to expand this development in the future by adding additional phases that are also in Mapleton City. This expansion shall not require the approval of any of the current owners at that time. Those phases shall be governed by and shall be subject to the same Declarations of Covenants, Conditions and Restrictions as this Harvest Park Commercial development.
10. **Covenants to Run with Land.** This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Declarant, all parties who hereafter acquire any interest in a Lot, their respective grantees, transferees, heirs, devisees, personal representatives, successors and assigns. Each Owner or occupant of a

Lot shall comply with, and all interest in all Lots and in the Common Areas shall be subject to, the terms of this Declaration and the provisions of any rules and Regulations, agreements, instruments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot and in the Common Areas, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

- 11. **Limited Liability.** Neither the Declarant, the Association, the Board of Directors of the Association, or the Officers of the Association, nor any officer, director, member, partner, employee, or agent of the same shall be personally liable to a party for any action or omission for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice.
- 12. **Effective Date.** This Declaration, any amendment or supplement hereto, and any amendment or supplement to the Plat Map shall take effect upon its being filed for record in the office of the County Recorder of Utah County, State of Utah.

EXECUTED by the Declarant on the day and year first above written.

DECLARANT

HP Commercial, LLC

By: [Signature]
Jerry W. Robinson, Manager

By: [Signature]
V. Blaine Turner, Manager

MAPLE MOUNTAIN COMMERCIAL, LLC

By: [Signature]
Michael Johnson, Manager

STATE OF UTAH }
 }
COUNTY OF UTAH }

The foregoing Declaration of Covenants, Conditions and Restrictions were acknowledged before me this 15 day of August, 2012 by Jerry W. Robinson, V. Blaine Turner, and Michael Johnson, the signer(s) of the foregoing instrument, who duly acknowledge to me that he/she executed the same.

Managers of HP Commercial, LLC

Manager of Maple Mountain Commercial, LLC

[Signature]
Notary Public
Residing In Utah County

My Commission Expires: 9/19/12

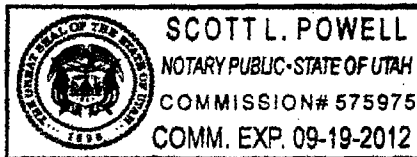


EXHIBIT "A"

HARVEST PARK COMMERCIAL- PROPERTY DESCRIPTION

Amended HARVEST PARK COMMERCIAL PLAT A

A PARCEL OF LAND LOCATED IN SECTION 16, TOWNSHIP 8 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, UTAH, MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT A BRASS CAP MONUMENT MARKING THE EAST 1/4 CORNER OF SAID SECTION 16, THENCE N.00°18'29"W. A DISTANCE OF 48.15 FEET AND WEST A DISTANCE OF 66.42 FEET TO THE POINT OF BEGINNING BEING A POINT ON THE NORTHERN R.O.W. LINE OF HARVEST PARKWAY (800 SOUTH):

THENCE WESTERLY ALONG SAID NORTHERN R.O.W. THE FOLLOWING TWO COURSES: 1) WEST A DISTANCE OF 74.49 FEET TO A POINT OF CURVATURE OF A 830.00-FOOT RADIUS TANGENT CURVE TO THE LEFT; 2) THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, 229.60 FEET, HAVING A CENTRAL ANGLE OF 15°50'59" AND A CHORD THAT BEARS S.82°04'31"W. A DISTANCE OF 228.87 FEET TO THE SOUTHEAST CORNER OF LOT X1 AS RECORDED IN HARVEST PARK PHASE "1" PLAT "B"; THENCE N.00°12'43"W. ALONG THE EASTERLY LINE OF SAID LOT X1 AND EXTENSION THERE OF A DISTANCE OF 379.73 FEET TO A POINT OF CURVATURE OF A 1700.00-FOOT RADIUS NONTANGENT CURVE TO THE LEFT; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, 77.97 FEET, HAVING A CENTRAL ANGLE OF 2°37'41" AND A CHORD THAT BEARS S.88°41'10"E. A DISTANCE OF 77.97 FEET; THENCE EAST A DISTANCE OF 218.18 FEET TO A POINT OF CURVATURE OF A 7.00-FOOT RADIUS TANGENT CURVE TO THE RIGHT; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, 10.74 FEET, HAVING A CENTRAL ANGLE OF 87°55'08" AND A CHORD THAT BEARS S.46°02'26"E. A DISTANCE OF 9.72 FEET;

THENCE ALONG SAID R.O.W. LINE THE FOLLOWING THREE COURSES: 1) WEST A DISTANCE OF 288.17 FEET; 2) THENCE SOUTH A DISTANCE OF 0.54 FEET; 3) THENCE SOUTH. A DISTANCE OF 51.47 FEET TO THE POINT OF BEGINNING. CONTAINS 2.49 ACRES OF LAND.

EXHIBIT "B"
HARVEST PARK COMMERCIAL

PERCENTAGE OF UNDIVIDED INTEREST IN THE PARKING AREAS AND THE PARKING ALLOCATION

EXHIBIT "B" Harvest Park Commercial A Planned Unit Development												
Lot/ Bldg. No.	General Office (sf)	Medical (sf)	Retail (sf)	Resid. (sf)	Total Gross Bldg. Area (sf)	Resid. Units No. Ea.	Resid. 1 Stall/ Unit No. of Stalls	General Office 1 Stall/ 250 Sq. Ft. No. of Stalls	Medical Office 1 Stall/ 150 Sq. Ft. No. of Stalls	Retail 1 Stall/ 333 Sq. Ft. No. of Stalls	Total Alloc. Parking Stalls	Percent Of Undivided Interest in Common Areas
1	2,650	6,190	0	0	8,840	0	0	11	41	0	51.9	19.36%
2	0	0	863	0	863	0	0	0	0	3	2.6	1.89%
3	0	0	1,721	0	1,721	0	0	0	0	5	5.2	3.77%
4	5,835	0	5,430	0	11,265	0	0	23	0	16	39.6	24.67%
5	2,500	0	0	4,200	6,700	4	4	10	0	0	14.0	14.67%
6	2,500	0	0	4,200	6,700	4	4	10	0	0	14.0	14.67%
7	950	2,000	1,830	4,800	9,580	4	4	4	13	5	26.6	20.98%
Total	14,435	8,190	9,844	13,200	45,669	12	12	58	55	30	153.9	100.00%

