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**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND GRANT OF EASEMENTS
FOR
TECH RIDGE MIXED-USE MASTER PLANNED DEVELOPMENT**

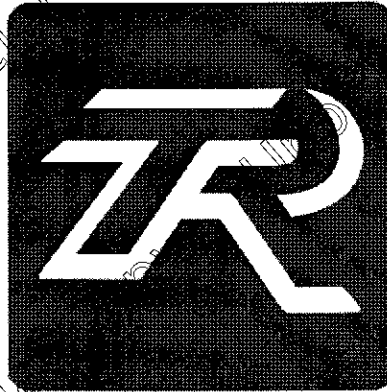


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**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND GRANT OF EASEMENTS
FOR
TECH RIDGE MIXED-USE MASTER PLANNED DEVELOPMENT**

This DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND GRANT OF EASEMENTS FOR TECH RIDGE MIXED-USE MASTER PLANNED DEVELOPMENT ("Declaration") is made and entered into as of the 30th day of May 2019, by TECH RIDGE, L.L.C., a Utah limited liability company ("Declarant").

RECITALS:

A. Declarant is the owner of approximately 14.38 acres of unimproved land located in the City of St. George, Washington County, State of Utah, which is described on the attached "Exhibit A" (the "Property"), which is incorporated herein by this reference.

B. Declarant is subdividing a portion of the Property into separate and independent Lots (defined herein) by an official plat entitled "Tech Ridge Phase I Subdivision" to be recorded in the Official Records on or about the date of this Declaration (as such plat may be amended and along with any supplemental plat or map of property annexed into this Declaration in accordance with this Declaration, the "Plat").

E. Declarant intends to develop the Property as a portion of a larger mixed-use development to be known as "Tech Ridge Mixed-Use Master Planned Development," and desires to impose upon the Property certain covenants, conditions, easements, restrictions, charges, agreements, reservations, and other encumbrances. Such covenants, conditions, easements, restrictions, charges, agreements, reservations, and other encumbrances shall run with the land and be binding on the Property and benefit the Property, Declarant, Manager and other Owners (defined herein) as set forth herein. Declarant desires and intends that the Owners and any other Person hereafter acquiring any interest in the Property shall at all times enjoy the benefits of and hold their interests subject to the terms contained in this Declaration.

F. Declarant intends the Property to include certain Maintenance Areas and Facilities. Declarant intends such Maintenance Areas and Facilities to be maintained, repaired and replaced, as necessary by Manager.

G. In order to facilitate the orderly development and use of the Property, Declarant desires to record this Declaration for the benefit of the Property, Declarant, Manager and other Owners and Occupants of the Property.



DECLARATION:

NOW, THEREFORE, in consideration of the above recitals (which are incorporated by reference into this Declaration), Declarant hereby covenants, agrees, and declares that the Property and every part thereof shall be held, transferred, sold, hypothecated, encumbered, conveyed, leased, subleased and occupied, built upon or otherwise used, improved or transferred, in whole or in part, subject to the covenants, conditions, easements, restrictions, charges, agreements, reservations, and other encumbrances set forth below.

1. **Definitions.** As used in this Declaration, each of the following terms shall have the indicated meanings:

1.1 **“Access Areas”** means all areas within each Lot or which are appurtenant rights to each Lot intended to be used at any time and from time-to-time as traffic lanes, driveways, sidewalks, walkways or similar areas for ingress and egress of vehicles and pedestrians, or the installation and use of Utility Lines, as depicted on the Site Plan, which areas may change for a particular Lot when that Lot is developed or redeveloped. Access Areas do not include any portion of a Lot on which a Building is located unless such Building is a parking structure expressly designated as an Access Area.

1.2 **“Approved Plans”** means the grading, drainage and utility plans for a Lot, and the plans for construction of all other Improvements for a Lot, including plans for (a) any Building, Access Areas and Landscaping Improvements, and (b) any additions, remodeling, reconstruction or other alteration of existing Improvements, all subject to the Architectural Standards and as approved in writing by Declarant.

1.3 **“Architectural Standards”** means an overall framework and comprehensive set of standards and procedures, established by the Declarant, for the development of the Tech Ridge Master Plan in an orderly and cohesive manner. The architectural and improvement design standards, and the landscaping and site standards assist in the initial development and the modifying of Lots, Improvements, and Buildings within the Property and set forth criteria for design, style, materials, colors and location of site improvements, landscaping, lighting, and signage.

1.4 **“Assessment”** means the method for recovering from the Owners their share of the Property Expenses as provided in Section 7.3.

1.5 **“Assessment Lien”** means the lien provided for in Section 7.7 to secure the obligation to pay Assessments.

1.6 **“Building”** means any permanently enclosed structure placed, constructed or located on a Lot, which for the purpose of this Declaration shall include any building appurtenances such as stairs leading to or from a door, canopies, supports, loading docks, truck ramps, and other outward extensions of such structure.



1.7 “Building Area” means all of those areas on each Lot on which a Building may be erected, in accordance with the provisions of Section 4. 1 and in compliance with the applicable Governmental Requirements. Except as otherwise specifically set forth in this Declaration, one or more Buildings may be located within a Building Area.

1.8 “Building Square Footage” means the aggregate square footage of the Building(s) located on a Lot, unless no Building has been constructed, in which case Building Square Footage means the Maximum Allowable Square Footage of all Buildings that may be constructed on a Lot. Each Owner is hereby restricted to the Maximum Allowable Square Footage as reflected in Exhibit C. In the event of a discrepancy between the Maximum Allowable Square Footage shown on Exhibit C and the transfer deed recorded in the Official Records, the transfer deed shall govern.

1.9 “City” means the City of St. George, Washington County, State of Utah.

1.10 “Constant Dollars” means the value of the U. S. dollar to which such phrase refers, as adjusted from time-to-time. An adjustment shall occur on the 1st day of January of the sixth (6th) full calendar year following the date of this Declaration, and thereafter at five (5) year intervals. Constant Dollars shall be determined by multiplying the dollar amount to be adjusted by a fraction, the numerator of which is the Current Index Number and the denominator of which is the Base Index Number. The “Base Index Number” shall be the level of the Index for the calendar month during which this Declaration is recorded in the Official Records; the “Current Index Number” shall be the level of the Index for the calendar month of the year preceding the adjustment year; the “Index” shall be the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the United States Department of Labor for U.S. City Average, All Items (1996=100), or any successor index thereto as hereinafter provided. If publication of the Index is discontinued, or if the basis of calculating the Index is materially changed, then Manager shall substitute for the Index comparable statistics as computed by an agency of the United States Government or, if none, by a substantial and responsible periodical or publication of recognized authority most closely approximating the result which would have been achieved by the Index.

1.11 “Declarant” means Tech Ridge, L.L.C., a Utah limited liability company, and to the extent provided in Section 10 hereof, its successors and assigns. References in this Declaration to the Declarant shall mean the Declarant so long as it is the Owner of any part of the Property, and thereafter shall mean Declarant’s Successor.

1.12 “Declarant’s Successor” means, in the following order of preference, once the Declarant is no longer the Owner of any part of the Property, the partnership, corporation, limited liability company, or other entity which is the Owner of any Lot within the Property and which is owned (whether directly as its member, partner, shareholder or beneficiary, or indirectly through intermediate tiers of ownership entities) by Tech Ridge Management, LLC (the “Initial Successor”). If an Initial Successor does not exist, then Declarant’s Successor shall mean any Person which acquires from the Declarant or from the Initial Successor, all of the land within the Property which the Declarant or the Initial Successor owned immediately preceding such acquisition. If none of the foregoing apply or no longer exist, then the Declarant’s Successor shall



be a managing agent selected by the Owners containing in the aggregate at least fifty-one percent (51%) of the aggregate area (square footage) within the Property.

1.13 “Declaration” means this Declaration of Covenants, Conditions, Restrictions and Grant of Easements for Tech Ridge Mixed-Use Master Planned Development, as amended from time-to-time, including by a Supplemental Declaration.

1.14 “Development Agreement” means that agreement by and between the Declarant and the City that will be entered into after the date hereof and shall be recorded in the Official Records.

1.15 “Governmental Authorities” means any federal, state, county, city or local governmental or quasi-governmental authority, entity or body (or any departmental agency thereof) exercising jurisdiction over a particular subject matter.

1.16 “Governmental Requirements” means the Development Agreement and all applicable laws, statutes, ordinances, codes, rules, regulations, orders, and applicable judicial decisions or decrees, as presently existing and hereafter amended, of any Governmental Authorities that are applicable to the development, maintenance and operation of the Property.

1.17 “Improvements” means any and all improvements constructed on a Lot by its Owner, including but not limited to Buildings, Utility Lines, Landscaped Area Improvements, Streetscape Area Improvements, paved areas, lighting and signs, parking lots, and parking structures.

1.18 “Landscape Areas” has the meaning set forth in Section 5.1.3.

1.19 “Landscape Area Improvements” has the meaning set forth in Section 5.1.3.

1.20 “Lot” means a legal building pad, parcel or lot within the Property on which a Building is to be constructed. Lot includes without limitation any legal lot, Building Pad (as defined in the Plat) or Parcel (as defined in the Plat) as shown on the Plat.

1.21 “Maintenance Areas and Facilities” means those areas within the Property, including (i) Private Roads, (ii) Sign Easement Areas, (iii) Storm Drainage Areas, (iv) Landscape Areas, (v) Streetscape Areas; and (iv) Parking Areas, controlled and maintained by the Declarant. Notwithstanding anything to the contrary contained herein, Maintenance Areas and Facilities does not mean any areas or facilities maintained by the City, such as publicly-dedicated and accepted rights-of-way, public parking stalls, parks, trails, or open space.

1.22 “Manager” means the qualified, reputable and experienced Person designated by Declarant from time-to-time to maintain and operate the Maintenance Areas and Facilities and otherwise perform the obligations of Manager set forth in this Declaration. The Person designated as Manager shall serve in such capacity until it resigns or is removed by Declarant. Declarant hereby designates Tech Ridge Management, LLC, as the initial Manager.

1.23 “Maximum Allowable Square Footage” means the allotted buildable square footage for each Lot as more particularly described on Exhibit C attached hereto and incorporated



herein by this reference or as restricted and reserved in the transfer deed for such Lot recorded in the Official Records.

1.24 “Mortgage” means a mortgage, deed of trust, security deed or other security instrument recorded in the Official Records.

1.25 “Mortgagee” means the mortgagee or beneficiary or grantee, as applicable, under a Mortgage, recorded in the Official Records.

1.26 “Occupant” means any Person from time-to-time entitled to the use and occupancy of any portion of a Building in the Property under an ownership right or under any lease, sublease, concession, or similar agreement, but only during the term of any such agreement.

1.27 “Official Records” means the official records of the Washington County, Utah Recorder.

1.28 “Owner” means the person (including the Declarant, if applicable) that at the time concerned is the legal owner of record (in the Official Records) of a whole or undivided fee interest in any portion of any Building Pad (as defined on the Plat), Parcel (as defined on the Plat), or Lot. If a Lot is owned by more than one Owner, the Owner or Owners holding at least fifty-one percent (51%) of the ownership interest in such Lot shall designate in writing one (1) Person to represent all of such Owners and such designated Person shall be deemed the Person authorized to act on behalf of such Owners for purposes of this Declaration. Notwithstanding any applicable theory relating to a Mortgage, the term “Owner” shall not mean a Mortgagee unless and until the Mortgagee has acquired title to the applicable Lot pursuant to foreclosure or any arrangement or proceeding in lieu of foreclosure. If so provided in its lease agreement with an Owner (and if with an Owner other than Declarant, with the written consent of Declarant), a lessee may also be considered an “Owner” solely for purposes of this Declaration, notwithstanding any contrary language in this Declaration.

1.29 “Parking Areas” means parking lots and parking structures within the Property owned, controlled and maintained by the Declarant in accordance with Governmental Requirements. Parking Areas does not mean parking lots or parking stalls owned by an Owner other than the Declarant.

1.30 “Parking Easement Agreements” means separate agreements between the Declarant and an Owner that grants rights and sets forth obligations with respect to Parking Areas.

1.31 “Permittee” means all Occupants and the officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, invitees, licensees, subtenants, and concessionaires of Occupants insofar as their activities relate to the intended development, use and occupancy of the Property. Persons engaged in civic, public, charitable or political activities within the Property, including but not limited to the activities set forth above, shall not be considered Permittees.

1.32 “Person” means any individual, partnership, firm, association, corporation, limited liability company, trust, or any other form of business or governmental entity.



1.33 “Private Roads” means those Access Areas that are roadways for vehicular traffic, and may include directional or stop signs, signage, landscaping, streetscaping, lighting, sidewalks, walkways or similar areas for the ingress and egress of pedestrians as depicted on the Site Plan. Private Roads does not mean any roads or areas owned and maintained by the City such as publicly-dedicated and accepted rights-of-way, parks, trails, or open space.

1.34 “Property” has the meaning set forth in Recital A above and any additional real property that may from time-to-time be annexed to the Property and made subject to this Declaration by supplemental declaration and/or supplemental plat or map together with all improvements now or hereafter located thereon, together with all easements, rights, appurtenances and privileges belonging or in any way pertaining thereto. If any property is subsequently withdrawn from the Property pursuant to the provisions of this Declaration, the term “Property” shall thereafter not include said withdrawn property.

1.35 “Rules and Regulations” has the meaning set forth in Section 6.14.

1.36 “Sign Easement Areas” means those portions of the Property to be determined by Declarant on which the Signs are to be erected, and may include landscaping, hardscaping and lighting, which areas need not be contiguous, subject to a possible future relocation of the Sign Easement Areas pursuant to Section 3.6.

1.37 “Site Plan” means the conceptual site plan of the Property attached as “Exhibit B” to this Declaration, which Site Plan may be modified from time-to-time in accordance with Section 12.5 below.

1.38 “Special Assessments” shall mean assessments which the Declarant or Manager may levy from time to time, in addition to the Assessments, for unexpected Property Expenses or other purposes as provided herein.

1.39 “Streetscape Areas” has the meaning set forth in Section 5.1.3.

1.40 “Streetscape Area Improvements” has the meaning set forth in Section 5.1.

3.

1.41 “Storm Drainage Area” has the meaning set forth in Section 3.9.

1.42 “Structure” means (a) anything or device the placement of which upon any Lot might affect the physical appearance thereof, including, by way of illustration and not limitation, Buildings, sheds, covered patios, driveways (including public road access), fountains, parking areas, paving, curbing and curb cuts for public road access, fences or walls, exterior lighting devices, or any sign or signboard, and (b) any excavation or fill, the volume of which exceeds ten (10) cubic yards, or any excavation, fill, ditch, diversion, dam or other thing or device which affects or alters the natural flow of surface waters upon or across any Lot.

1.43 “Supplemental Declaration” means an amendment to this Declaration that annexes real property to the Property, subject such real property to this Declaration, and sets forth such amendments to the Declaration and such additional covenants, conditions, easements, restrictions, charges, agreements and other encumbrances as may be applicable to the annexed



property, executed by Declarant and recorded in the Official Records, and any recorded amendments thereto.

1.44 “Tech Ridge Mixed-Use Master Planned Development” or “Tech Ridge Master Plan” means all that real property now or hereafter made subject to this Declaration. The Tech Ridge Master Plan is intended to ultimately consist of commercial, retail, for-sale residential, for-rent residential, hospitality and office uses along with Private Roads, Maintenance Areas and Facilities, and Parking Areas.

1.45 “Utility Lines” mean those facilities and systems for transmissions of utility services, including, but not limited to, storm water drainage and storage systems or structures or both; fire protection, irrigation and domestic water mains and manholes; lift stations; sewer lines and systems; fire and landscape water sprinkler systems (including without limitation, fire risers); telephone lines, data lines, and manholes, electrical conduits or systems, gas mains and other public or private utilities providing service to any Lot and its Occupants.

1.46 Other Defined Terms. Any other term to which meaning is specifically given by any provision of this Declaration shall for purposes of this Declaration be deemed to have such meaning.

2. Property Subject to the Declaration

2.1 General Declaration Establishing the Tech Ridge Mixed-Use Master Planned Development. The Declarant hereby declares that (a) all of the Property is and shall be held, transferred, hypothecated, encumbered, conveyed, leased, subleased and occupied, built upon or otherwise used, improved or transferred, in whole or in part, subject to this Declaration, and (b) the provisions of this Declaration are declared and agreed to be in furtherance of a general plan for the orderly subdivision, improvement, maintenance and sale of the Property and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property and every part thereof. Each of the easements and rights granted or created in this Declaration (except those granted to Declarant or Manager or Third Party) are appurtenances to the affected Lots, and none of such easements and rights (except those granted to Declarant or Manager or Third Party) may be transferred, assigned or encumbered except as an appurtenance to such Lots. For the purposes of such easements and rights, the Lots benefitted shall constitute the dominant estate, and the portions of the Lots burdened by such easements and rights shall constitute the servient estate. Each right-of-way, easement, covenant and restriction created by this Declaration (whether affirmative or negative in nature) shall create an equitable servitude on the burdened portions of the Lots in favor of the benefitted Lots (but no other real property) or Declarant or Manager or Third Party. This Declaration shall constitute a covenant running with the land, and shall be binding on each Owner and their respective successor and assigns and shall benefit each Owner, Declarant, Manager and Third Party and their respective successors and assigns as set forth herein. This Declaration shall be binding on each Lot. Any lease agreement between a Owner and an Occupant respecting a Lot shall be subject in all respect to the provision of this Declaration and any failure by the Occupant to comply with the terms hereof shall be a default under such lease. An Owner shall be responsible and liable for any damage to the Property caused by its Occupants and the Permittees and invitees of such Owner and its Occupants. Each Owner of a Lot, by acceptance of a deed (or ground lease as provided in the definition of “Owner”



above) conveying title thereto shall accept said deed (or ground lease as provided in the definition of "Owner" above) subject to all of the provisions of this Declaration and shall be deemed to agree with each Owner of any other Lot that, for so long as it shall retain an ownership interest (or ground lease interest as provided in the definition of "Owner" above) in said Lot, it shall perform, observe and comply with all provisions of this Declaration.

2.2 Annexation. Any real property contiguous to or in the immediate vicinity of the real property described on Exhibit A attached hereto may be annexed within the Property by the Declarant so long as the Declarant is the Owner of any portion of the Property, thereby subjecting such property to this Declaration, without the consent of any Owner, Mortgagee, Occupant or other Person. The scheme of this Declaration shall not, however, be extended to include any such real property unless and until the same is expressly subjected to this Declaration by the recordation of a Supplemental Declaration as herein provided. Any Supplemental Declaration recorded pursuant to the provisions of this Section 2.2 may contain such complimentary or supplemental additions and modifications to the covenants, conditions, easements, restrictions, charges, agreements and other encumbrances set forth in this Declaration as may be considered necessary or desirable by the maker of the Supplemental Declaration to reflect the different character, use or nature of the annexed property, provided that such complimentary or supplemental additions and modifications do not adversely affect the Lots or any use thereof in a material manner. Nothing in this Declaration shall be construed to require the Declarant to annex or develop any additional property.

2.3 Deannexation. So long as the Declarant is the Owner of any portion of the Property, the Declarant may unilaterally amend this Declaration in order to withdraw (deannex) any portion of the Property owned by the Declarant from the force and effect of this Declaration; provided that any such deannexation shall not affect any plans, specifications or use theretofore approved by the Declarant, or any Structure or Parking Area, at any time constructed pursuant to such approvals, or any easements benefitting any such Structure or Parking Area. Upon recordation of an amendment to withdraw any portion of the Property, such deannexed property shall no longer be subject to the provisions of this Declaration except for (a) any easements, rights, reservations, exemptions, powers or privileges reserved to the Declarant pursuant to this Declaration which affect the deannexed property, (b) any easements for Maintenance Areas and Facilities located on the deannexed property which serve or benefit the Property and improvements thereon which remain subject to this Declaration, (c) any other easements, rights, reservations, exemptions, powers or privileges which are expressly reserved to the Declarant in the instrument effectuating such deannexation, and (d) any unsatisfied obligations under this Declaration relating to the deannexed property which accrued prior to the deannexation. Such deannexation shall be made by recording a written instrument among the Official Records withdrawing the effect of the covenants, conditions, easements, restrictions, charges, agreements and other encumbrances of this Declaration from the deannexed property. Such deannexed property may be used by the Declarant or any successor, assign or transferee, for any lawful purpose or use.

3. Easements.

3.1 Development Easements. There is hereby reserved unto the Declarant and to such other parties as the Declarant may specifically, and in writing, assign such rights, for the benefit of the Declarant, non-exclusive blanket easements upon, across and under the Property for



(a) vehicular and pedestrian ingress and egress, (b) curb cuts, slope, or grading easements, (c) the placement (including relocation) of signs relating to the Property and the uses thereof and signs used for sales and marketing purposes, (d) the right to erect entry features, promotional and sales displays and other similar items within the Property, (e) the right to maintain, repair and replace the foregoing items and easements, and (f) the installation, replacement/repair and maintenance of all utilities, including, but not limited to, water, sewer, drainage, storm water detention and/or sediment control, gas, cable television, telephones and electricity, and further including the right to connect to and use any such utilities which may exist or be located upon the Property from time-to-time, provided that the location of any such easements does not unreasonably and materially interfere with the use, operation and enjoyment of any existing or approved Structures on any Lots. By virtue of this easement, it shall be expressly permissible to install and maintain the necessary conduits, pipes, lines and other equipment within the Property, to affix and maintain electrical or telephone wires and conduits, sewer and water drainage lines, on, above, or below any portion of the Property, including any improvements constructed thereon, and to have construction vehicles, equipment and the like exercise the aforesaid right of ingress and egress within the Property. There is further reserved unto the Declarant the right to grant specific easements, both temporary and permanent, to any person or entity, including all public authorities and utility companies, over any part of the Property in furtherance of the blanket easements created by this Section.

3.2 Private Road Easements. Declarant does hereby grant and establish in favor of the Owners (and their Occupants and Permittees) and for the benefit of the Property, a perpetual and non-exclusive easement for ingress and egress by vehicular and pedestrian traffic into, out of, on, over and across the Private Roads. Declarant shall, at its sole expense, construct the Private Roads (including any related landscaping or lighting) as and when dictated by the pace of development of the Property. Once constructed, the Private Roads shall be operated, maintained and repaired by Manager in conformance with the terms of this Declaration, and Declarant does hereby grant and establish in favor of Manager an easement for such purpose. The Private Roads may also be used to accommodate directional signs for those Lots located or to be located adjacent thereto, to the extent permitted by applicable Governmental Requirements, subject to approval by Declarant or Manager of the size, appearance, and location of such directional signs, and Declarant does hereby grant and establish in favor of the Owners of Lots located or to be located adjacent thereto or benefited thereby a perpetual non-exclusive easement for such purpose. Each such Owner shall be solely responsible for the initial cost and maintenance (including cleaning and replacement, as needed) of its own directional sign.

3.3 Cross-Parking and Cross-Access Easements. Declarant does hereby grant and establish in favor of the Owners (and their Occupants and Permittees) of contiguous Lots and for the benefit of the Property, subject to applicable Parking Easement Agreements, a perpetual and non-exclusive cross-easement for ingress and egress into, out of, on, over and across the Parking Areas and access aisles designated by the Declarant from time-to-time on such Lots and for the parking of vehicles in the parking spaces designated. The Owners and Occupants of each Lot shall use reasonable efforts to ensure their respective employees, contractors, agents and representatives park on the Parking Areas on such Owner's Lot or on the Parking Areas designated for said Owner's Lot in an applicable Parking Easement Agreement. Notwithstanding anything to the contrary contained herein, the rights and easements contained in this Section 3.3 are subordinate to the terms of any applicable Parking Easement Agreements. Except as otherwise provided in a Parking Easement Agreement, parking lots and parking stalls on an Owner's Lot are



the Owner's private property and subject to their control and exclusive use. The Parking Easement Agreements shall set for the number of stalls assigned to an Owner's Lot and such number of stalls shall not be decreased by Declarant or Manager except as allowed by and in accordance with Governmental Requirements.

3.4 Utility Lines and Facilities Easements.

3.4.1 Easements. Declarant does hereby grant and establish in favor of each of the Owners, a non-exclusive perpetual easement under, through and across the Access Areas of each Lot for the installation, operation, flow, passage, use, maintenance, connection, repair, relocation, removal and replacement of Utility Lines, subject to the written approval of the Owner of the burdened Lot as to the location of such Utility Lines, such approval not to be unreasonably withheld, conditioned or delayed. The grant of easement contained in this Section 3.4.1 shall only be operative to the extent the necessary utility services are not available from an adjacent public right-of-way.

3.4.2 Relocation. At any time and from time-to-time the Owner of a Lot shall have the right to relocate or add to any Utility Lines installed pursuant to the above grant of easement which is then located on such Owner's Lot, provided that any such relocation (A) shall be performed only after sixty (60) days' notice of the Owner's intention to undertake the relocation shall have been given to the Owner of each Lot served by the utilities, (B) shall not unreasonably interfere with or diminish utility service to the businesses served by the utilities, (C) shall not reduce or unreasonably impair the usefulness or function of the utilities, (D) shall be performed without cost or expense to the Owner or Occupant of any other Lot, (E) shall provide for the original and relocated area to be restored to the original specifications, and (F) shall not unreasonably interfere with the pedestrian and vehicular access or the Access Areas. Further, if the Utility Lines on the other Lot are accessed or the surface of the other Lot is disturbed in such relocation, the original area shall be restored to its original specifications. The Owner performing such relocation shall provide as-built plans for all such relocated Utility Lines to the Owners of all Lots served by such utilities within thirty (30) days after the date of completion of such relocation. Each Owner agrees to grant such additional easements as are reasonably required by any public or private utility for the purpose of providing the utilities described herein provided such easements are not otherwise inconsistent with the provisions of this Declaration and to the extent possible, such additional easements shall be located along the perimeters of such Owner's Lot.

3.5 Temporary Construction Easement. The Owners shall have the right to grant non-exclusive temporary construction easements to other Owners for construction of the Improvements (the "Temporary Construction Easement"). In that regard, each Owner agrees to cooperate in a commercially reasonable manner with each other Owner to grant as necessary those non-exclusive Temporary Construction Easements which may be required from time-to-time as between the Owners, Governmental Authorities and others in connection with completion of the Improvements; provided, however, that any and all such easements shall be located so as to minimize the quantity of the most valuable land to the extent possible being encumbered by such temporary easement(s), all such easements shall be as proximate and contiguous to roadways as reasonably possible, shall extend only from the perimeter of a Lot, and shall not encumber any



land unnecessarily. Notwithstanding any provision herein to the contrary, in no event shall access to any construction site be obstructed except for temporary interruptions not to exceed twenty-four (24) hours, provided the affected Owner is given not less than five (5) business days prior written notice thereof.

3.6 Sign Easement Area. Declarant does hereby reserves unto itself a perpetual, non-exclusive, blanket easement over the Property for the erection, operation, and maintenance of one or more monument signs or pylon signs to be located in each Sign Easement Area as determined by Declarant (the "Signs") and for the installation of related landscaping, hardscaping, and lighting (if any) that Declarant elects to have installed with the Signs in the Sign Easement Areas. Declarant shall erect the Signs (and the initial installation of landscaping, hardscaping, and lighting or the making of other improvements to the surrounding portions of the Sign Easement Areas) in conformance with the terms of this Declaration as and when dictated by the pace of development of the Property. Once completed, the Signs and the other improvements to the Sign Easement Areas shall be maintained by Manager in conformance with the terms of this Declaration and Declarant does hereby grant and establish in favor of Manager an easement for such purpose. The Signs shall be used for the placement of the names (and identifying logos) of the Tech Ridge Master Plan and Occupants of the Property and to identify the Property as determined by Declarant or Manager in their sole discretion. All identifying panels to be located on such Signs shall be supplied at the sole cost and expense of the Occupants using such Signs, and shall be subject to the approval of Declarant or Manager. The grant of easement set forth above in this Section also includes a perpetual easement as reasonably necessary for access to the Sign Easement Areas along the boundaries of the Lot(s) on which the Sign Easement Areas are located; provided, however, that this access easement may be relocated, as needed, at any time the Sign Easement Areas are relocated by Manager. Manager shall have the right at any time and from time-to-time to relocate the Sign Easement Areas if Manager determines that such relocation is in the best interest of the Property and the affected Owners (i.e., those sharing space or intending to share space on the Signs).

3.7 Landscape Area and Streetscape Area Easement. Declarant does hereby reserve unto itself and grant and establish in favor of Manager and for the benefit of the Property, a perpetual easement for the installation and maintenance of the Landscape Area Improvements and the Streetscape Area Improvements in the Landscape Areas and Streetscape Areas.

3.8 Easement for Encroachments. Declarant does hereby grant and establish in favor of each Owner a non-exclusive easement for Landscaping Improvements and Streetscape Improvements encroaching upon an adjacent Lot and/or portion thereof so long as such encroachment is minor and non-material and does not adversely affect the use and enjoyment of the adjacent Lot. This encroachment easement expressly does not apply to any Building encroachments.

3.9 Storm Water Drainage Easement. Declarant does hereby grant and establish in favor of each of the Owners a reciprocal, perpetual, non-exclusive easement (the "Drainage Easement") to discharge surface water runoff across the portions of the Property designated from time-to-time by Declarant, including any such area designated on the Site Plan as a "Storm Drainage Area." In the event an Owner discharges or is responsible for the discharge of any oil, gasoline, pesticides, gasoline fertilizers, or other Hazardous Materials into any of the



Storm Drainage Areas, such Owner shall be held liable for such discharge and shall be responsible for any repairs, costs and expenses incurred in the remediation and clean-up of any such materials from the Storm Drainage Areas and any affected areas of the Property. The Owner responsible for such discharge shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless the other affected Owners (and any Mortgagee), Declarant and the Manager from any and all claims, actions, damages, fines, liabilities and expenses (including, without limitation, reasonable attorney's fees and reasonable attorney's fees on appeal) of any and every kind, nature or sort whatsoever which may be imposed upon, incurred by or asserted against the other Owners, Declarant and the Manager in connection with any occurrence or in connection with such a discharge into the Storm Drainage Areas. Notwithstanding any of the above language in this Section 3.9, in no event shall any Owner be held responsible, under the terms of this Section 3.9, for the clean-up or remediation of incidental amounts of motor oil, gasoline, and other like by-products of motorized vehicles solely resulting from the existence of motorized vehicular traffic on its Lot in the ordinary course of such Owner's business. The Storm Drainage Areas and the Drainage Easement shall be deemed to include any future enlargement or change in the location of the Storm Drainage Areas, if determined necessary by Declarant or Manager. Notwithstanding any language to the contrary in this Declaration, this Section 3.9 shall not apply with respect to any Owner whose Lot has its own storm water detention facilities. Declarant further reserves to itself and also grants Manager a non-exclusive easement and right of passage on, through, over and across the Lots to maintain, repair and replace any storm water management area or facilities situated within the Lots including, without limitation, ponds, basins, bio-retention or similar devices, recharge facilities, storm drainage pipes, infiltration trenches, inlets, oil grit separators, drainage areas and underground facilities.

3.10 No Merger. Notwithstanding an Owner's ownership of more than one Lot, the easements granted hereunder (i) shall be binding on, enforceable against and burden, and shall be appurtenant to and for the benefit of each Lot individually, without merger as a result of such common ownership, and (ii) upon conveyance of a Lot so that such Lot ceases to be under common ownership, neither the Owner conveying such Lot nor the Owner acquiring such Lot shall need to execute additional documentation to evidence the existence of such easements, and such easements shall relate back to and shall be deemed to have been created as of the date this Declaration is recorded.

4. Design and Construction

4.1 Building Location. Declarant or Manager, together with the Owner of a particular Lot or the purchaser thereof shall mutually determine the Building Area for such Lot, subject to applicable Governmental Requirements. The Building Area of a particular Lot may be described in the purchase and sale agreement for such Lot and referenced as a restriction in the conveyance deed for such Lot. A Building shall be placed or constructed upon the Lots in that Lot's Building Area, unless otherwise approved in writing by Declarant. Buildings may be located (or relocated) anywhere within the Building Area. Declarant shall have the right, in its sole discretion, to allow the construction, expansion, reconstruction or reconfiguration of any separate and/or connected Buildings outside the Building Area on such conditions as Declarant shall determine, so long as such development and construction complies with all applicable Governmental Regulations.



4.2 Architectural Standards. All Lots, Improvements, and Buildings are subject to the Architectural Standards as established by the Declarant or Manager, and as amended from time to time.

4.3 Land and Building Development Standards.

4.3.1 Type and Design of Building and Other Improvements. All Improvements in the Property shall be constructed in conformity with the Approved Plans, the Architectural Standards, and in compliance with the applicable provisions of this Declaration and all applicable Governmental Requirements. Prior to constructing any Improvements on a Lot, each Owner shall submit to Declarant for its approval (a) grading, drainage and utility plans, and (b) the plans for construction of all other Improvements for a Lot, including plans for any Building (including elevations), plans for Landscaping Improvements, and plans for Access Areas (collectively, the "Proposed Plans"). The Proposed Plans shall (i) depict exterior Building elevations that are architecturally and aesthetically compatible with first class commercial retail and office centers and consistent with the Architectural Standards, and (ii) indicate that the design and construction of the Building(s) shall be of high quality. Declarant's approvals shall not be unreasonably withheld, conditioned or delayed. Declarant may charge and collect a reasonable fee for the examination of any plans and specifications submitted for approval pursuant to this Section, payable at the time such plans and specifications are so submitted. Throughout the construction, Declarant shall have the right to confirm that the Building and all other Improvements are being constructed in compliance with the Approved Plans, Architectural Standards, and otherwise as required by Section 4. No Improvements upon a Lot may be constructed without Approved Plans and Declarant permission. Unless specifically approved in writing by Declarant, Improvements shall not be modified, altered or otherwise changed from the Approved Plans (provided, however, a modification to a Utility Line that does not impact any other Lot shall not require additional approval). There shall be no interference with the established drainage pattern and system over any portion of the Lots unless adequate provision is made for proper drainage and such interference is approved by all affected Owners. All impervious surface Improvements to be constructed by an Owner within its Lot shall be designed and permitted so that the storm water originating from such paved areas shall be collected and routed into the existing or future Storm Drainage Area.

4.4 Construction Requirements.

4.4.1 All construction activities performed within the Property shall be performed in compliance with all applicable Governmental Requirements. All construction shall utilize new materials and shall be performed in a good, safe, workman-like manner.

4.4.2 All work performed in the construction, repair, replacement, alteration or expansion of any Improvements shall be performed as expeditiously as possible and in such a manner as not to unreasonably interfere, obstruct or delay access to or from the Property, or any part thereof, to or from any public right-of-way. Unless otherwise specifically stated herein, the Person contracting for the performance of such



work ("Contracting Party") shall, at its sole cost and expense, promptly repair and restore or cause to be promptly repaired and restored to its prior condition all Buildings, signs and Maintenance Areas and Facilities damaged or destroyed in the performance of such work.

4.4.3 The applicable Owner or other Contracting Party shall not permit any mechanics' materialmen's or other professional services liens (as contrasted with consensual monetary liens, such as construction and/or permanent financing) to attach to any Lot or other portion of the Property for any work done or materials furnished in connection with the performance of the work described above; provided, however, that the Contracting Party may contest the validity of any such lien, but upon a final determination of the validity thereof, the Contracting Party shall cause the lien to be satisfied and released of record.

4.4.4 Staging for the initial construction of a Building, or the replacement, alteration or expansion of any Building, sign or Maintenance Areas and Facilities located in the Property including, without limitation, the location of any temporary buildings or construction sheds, the storage of building materials, and the parking of construction vehicles and equipment shall (i) be located solely on the constructing Owner's Lot, or (ii) be limited to specific areas of the Property designated on the Site Plan (if any) or otherwise approved in writing by Declarant. Each Owner shall submit to Declarant a construction mitigation plan, detailing the arrangements for the issues enumerated in this Section, as well as addressing such other issues as Declarant or Manager shall reasonably require. The construction mitigation plan shall be submitted with the Proposed Plans and shall be subject to Declarant's review and approval pursuant to Section 4.3.1.

4.4.5 The Contracting Party shall provide Declarant with at least twenty (20) days' prior written notice of the commencement of any work at the Property. Declarant may take those steps allowable under Governmental Requirements to protect its interests from the imposition of a lien or other encumbrance arising out of or related to the Contracting Party's work at the Property.

5. Manager's Obligations.

5.1 Manager's Maintenance and Repair of Maintenance Areas and Facilities. Declarant shall appoint a Manager, who shall be obligated to maintain, or cause to be maintained the Maintenance Areas and Facilities in an attractive condition and good state of repair and reasonably free of refuse and debris, and in compliance with all applicable Governmental Requirements, and the provisions of this Declaration. Such operation, maintenance and repair obligation shall include but not be limited to the following:

5.1.1 Private Roads. Repairing and maintaining the Private Roads, including, without limitation, replacement of base, skin patch, resealing, resurfacing and, if necessary, restriping such areas, and also including maintaining, cleaning and replacing (as needed) any directional or stop signs or markers located within the Private Roads that are installed by Declarant or Manager, but not those that may be installed by an Owner, as any such Owner retains such maintenance responsibility for its directional signs under



Section 3.2. For the purpose of this Section, an overlay of the surface of the Private Roads shall be considered a maintenance item. Manager's repair and maintenance responsibilities under this Section also include (a) replacement, if needed, of the Private Roads, and (b) the periodic sweeping and removal of debris to the extent reasonably necessary to keep the Private Roads in a clean and orderly condition. All sweeping shall be at appropriate intervals during such times as shall not interfere with the conduct of business or use of the Private Roads by Permittees. Notwithstanding the foregoing, road sweeping during periods of construction may be required from Owners as part of a construction mitigation plan.

5.1.2 Sign Easement Areas. Maintaining and repairing the Sign Easement Areas, including the Signs located thereon. Costs incurred for original construction, maintenance and repair of the Sign Easement Areas and the Signs shall be equitably allocated among the Owners benefited by the Signs (i. e. , those whose names appear on them), as reasonably determined by Manager. Manager's responsibilities with respect to the Sign Easement Areas includes maintaining and replacing all landscape plantings, trees and shrubs located thereon in an attractive condition, trimmed and weed-free; providing water for landscape irrigation through a properly maintained system, including performing any modifications to such system to satisfy governmental water allocation or emergency requirements.

5.1.3 Landscape Areas and Streetscape Areas. Costs incurred by Declarant for maintenance of, the landscaping (including ground cover, decorative mulch or rock, grass, shrubs and trees), Streetscape (including hardscaping, base materials, paving, street furniture, shade structures, trash receptacles, etc.) and any lighting facilities shall be equitably allocated among the Owners in a manner to be reasonably determined by Declarant or Manager. Manager's responsibilities with respect to the Landscape Areas includes maintaining and replacing all landscape plantings, trees and shrubs and any lighting facilities located thereon (collectively, the "Landscape Area Improvements") in an attractive and thriving condition, trimmed and weed-free; providing water for landscape irrigation through a properly maintained system, including performing any modifications to such system to satisfy governmental water allocation or emergency requirements. "Landscape Areas" and "Streetscape Areas" means those areas of the Property designated as such from time-to-time by Declarant and that are located (i) adjacent to any public roadway, (ii) within the adjacent right-of-way (but only to the extent Manager is allowed or required to provide and maintain Landscaping, Streetscaping, signage or lighting in such right-of-way area), (iii) included as part of any Private Road, or (iv) within the right-of-way of any existing or future public roadway in the Property (but only to the extent Declarant or Manager is allowed or required to provide and maintain Landscaping, Streetscaping, signage, or lighting in such right-of-way areas).

5.1.4 Lighting. Maintaining, cleaning and replacing lighting facilities, including light standards, wires, conduits, lamps, ballasts and lenses, time clocks and circuit breakers, as applicable that may be located within the Private Roads, the Sign Easement Areas, the Landscape Areas, or Streetscape Areas.



5.1.5 Obstructions. Keeping the Private Roads free from any obstructions, unless such obstruction is permitted under the provisions of this Declaration.

5.1.6 Storm Drainage Areas. Maintaining (including keeping free and clear of debris) and repairing the Storm Drainage Areas serving the Property, excluding any facilities located on a specific Lot for the sole benefit of the Owner of such Lot, which shall be maintained by such Owner at its sole cost and expense.

5.1.7 Parking Areas. Maintain, clean, repair and replace, and secure any parking lots or parking structures used by the Owners or as required within a Parking Easement Agreement.

5.2 Manager's Maintenance and Repair of Lots. If at any time an Owner is not maintaining its Lot, including any Building and Improvements thereon, in accordance with the terms of this Declaration, as Manager may determine in its reasonable discretion, Manager may, without obligation, maintain or repair any improvements on such Lot at the sole cost and expense of the Owner. Before exercising its right described in this Section 5.2, Manager shall give such Owner the prior written notice and opportunity to cure required by Section 10.12 below. If Manager does not pursue its "self-help" right, Manager shall use commercially reasonable efforts to enforce the terms of this Declaration using other appropriate means, including civil litigation. Expenses incurred by Manager under this Section 5.2 shall be collected from the breaching Owner in the same manner as described in Section 7.7 below.

5.3 Nonprofit Entity in the Future. Declarant may, at any time and in its sole discretion, create a nonprofit entity and designate such entity as the Manager. If, in Declarant's sole discretion, Declarant structures such entity as an owners' association, each Owner hereunder shall be a member thereof in accordance with the governing documents for such entity. Notwithstanding the foregoing, Declarant is under no obligation to create an association of owners, and if the Manager is a special purpose nonprofit entity, Declarant may retain all control and membership in such entity.

5.4 Acceptance of Maintenance Areas and Facilities. Declarant may, at any time and in its sole discretion, deed, transfer, or otherwise convey the Maintenance Areas and Facilities or any Lot it owns to Manager, and Manager shall accept such conveyance and assume all obligations and responsibilities with respect to ownership of such Maintenance Areas and Facilities.

6. Operation of the Property

6.1 Permitted Uses. Except as otherwise provided in this Declaration and subject to the terms of this Declaration, any Lot or portion thereof, or any Structure erected thereon shall be used or permitted to be used, temporarily or permanently, only for those purposes as permitted pursuant to the applicable Governmental Requirements as may apply to the Property from time-to-time, but expressly excluding, however, any use for which a special exception, variance or reclassification by petition is required under the applicable Governmental Requirements as may apply to the Property, as the same may hereafter from time-to-time be amended, unless (a) such use as may be allowed pursuant to such special exception, zone change,



variance or reclassification is approved in writing by Declarant, which may be withheld, conditioned or delayed, or Declarant is applying for and prosecuting the obtaining thereof, and (b) such special exception, zone change, variance or reclassification is finally granted by proper Governmental Authorities. Notwithstanding the foregoing, Declarant reserves the right, however, to further limit or restrict the use of any Lot or Lots in accordance with the other provisions of this Declaration.

6.2 Prohibited Uses. No use shall be permitted in the Property except for the uses set forth in Section 6.1 above ("Permitted Uses"). In addition, no use shall be permitted in the Property which is inconsistent with the operation of a first-class commercial development even if it is permitted by Section 6.1 above. Without limiting the generality of the foregoing, and even if it is permitted by Section 6.1 above, the following uses are expressly prohibited:

6.2.1 any use which emits an obnoxious odor, noise, or sound which can be heard or smelled outside of any Building in the Property;

6.2.2 a Building primarily used as a storage warehouse, or for any assembling, manufacturing, or distilling;

6.2.3 any refining, smelting, agricultural or mining operation;

6.2.4 any "second hand" store, "surplus" store, or pawn shop;

6.2.5 any tattoo or piercing parlor;

6.2.6 any mobile home park, trailer court, labor camp, junkyard, or stockyard; provided, however, this prohibition shall not be applicable to the temporary use of construction trailers during periods of construction, reconstruction or maintenance;

6.2.7 any fire sale, bankruptcy sale (unless pursuant to a court order) or auction house operation;

6.2.8 any central laundry, dry cleaning plant or laundromat; provided, however, this prohibition shall not be applicable to nominal supportive facilities for on-site service oriented to pickup and delivery by the ultimate consumer as the same may be found in retail shopping centers in the metropolitan area where the Property is located;

6.2.9 any automobile, truck, trailer or recreational vehicle sales, leasing, display or body shop repair operation;

6.2.10 any veterinary hospital or animal raising or boarding facility;

6.2.11 any mortuary or funeral home;

6.2.12 any establishment selling or exhibiting "obscene" or otherwise pornographic material;



6.2.13 any establishment selling drugs, or drug-related paraphernalia, or smoke shop;

6.2.14 any establishment which exhibits either live or by other means to any degree, nude or partially clothed dancers;

6.2.15 any massage parlor or similar establishment other than a national or regional concern, such as Massage Envy;

6.2.16 any health spa, fitness center or workout facility exceeding ten thousand (10,000) square feet of floor area;

6.2.17 any dumping, disposing, incineration, or reduction of garbage (exclusive of garbage compactors located near the rear of the Premises, if any, and any recycling facility required by Governmental Requirements in connection with an otherwise Permitted Use);

6.2.18 any gambling facility or operation, including but not limited to off-track or sports betting parlor; table games such as blackjack or poker; slot machines, video poker/blackjack/keno machines or similar devices; or bingo hall (notwithstanding the foregoing, this prohibition shall not apply to government sponsored gambling activities or charitable gambling activities, so long as such governmental and/or charitable activities are incidental to the retail business operation being conducted by the Occupant;

6.2.19 any use that includes the storage of explosives; and

6.2.20 any use which is in violation of any applicable Governmental Requirements or the Rules and Regulations.

The uses proscribed in this Section 6.2 are "Prohibited Uses."

6.3 Antennas. No antenna for transmission or reception of television signals, cellular phone service, or any other form of electro-magnetic radiation or any other equipment for provisions of communications services ("Communications Equipment") shall be erected, used or maintained on any Lot outside any Building, whether attached to a Structure or otherwise, without the prior approval of the Declarant. Declarant reserves the exclusive right to allow commercial providers ("Third Parties") of communications services for the placement and operation of towers, antennae, and other related equipment ("Third Party Communications Equipment") to place any Third Party Communications Equipment on the Property to service more than the property upon which the Third Party Communications Equipment sits, and Declarant may enter into an easement with one or more Third Parties over any of the Property owned by Declarant to do so. If any Occupant installs any Communications Equipment on the rooftop or in other portions of any Building, such Occupant acknowledges and agrees that the use of any such Communications Equipment shall in no way interfere with the operation of the Third Party Communications Equipment, and that the Third Party is an express beneficiary of the non-interference covenant contained in this Section and that the Third Party shall be entitled to bring an action directly against any Occupant in the event of a breach of such covenant. Each Occupant acknowledges and agrees that such Communications Equipment is solely limited to Occupant's own use in the conduct of



its business from the applicable Lot and may not be used for the use of or sale to third parties. Any Occupant installing Communications Equipment shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless Declarant (and Declarant's directors, officers, shareholders, employees, partners, members, managers, agents, contractors, affiliates, successors and assigns) from all expenses, costs, damages, losses, claims, or other expenses and liabilities arising from any prohibited interference. If such interference occurs, the interfering Occupant agrees to suspend the use of its Communications Equipment until the interference has been corrected to the satisfaction of Declarant and the Third Party. Any such Occupant shall be responsible for all costs associated with any tests deemed necessary to resolve any and all interference caused by its Communications Equipment, or any other use that is not permitted by this Section. If such interference has not been corrected within twenty (20) days, Declarant may require such Occupant to remove those components of its communications Equipment causing such interference, or Declarant shall enjoin such interference at such Occupant's sole cost and expense.

6.4 Hazardous Materials: No Occupant shall use, or permit the use of, Hazardous Materials on, about, under or in the Property, except those Hazardous Materials customarily used with respect to any of the Permitted Uses, provided that any such use shall at all times be in compliance with this Declaration and all Environmental Laws. If any Owner becomes aware of or receives notice or other communication concerning any actual, alleged, suspected, or threatened violation of Environmental Laws, including but not limited to notice or other communication concerning any actual or threatened investigation, inquiry, lawsuit, claim, citation, directive, summons, proceeding, complaint, notice, order, writ, or injunction relating to the same, then such Owner shall promptly notify Declarant and Manager of the same. Each Owner agrees, to the fullest extent permitted by law, to indemnify, defend, reimburse and hold harmless, the Manager, Declarant (and the directors, officers, shareholders, employees, partners, members, managers, agents, contractors, affiliates, successors and assigns of such Persons) from and against all claims, judgments, damages, losses, penalties, fines, liabilities, encumbrances, liens, costs, and expenses of whatever kind or nature, contingent or otherwise, matured or unmatured, foreseeable or unforeseeable, any of which are incurred at any time as a result of the existence at Hazardous Materials upon, about, or beneath the Property as the result of the activities or negligence of the indemnifying Owner or its Permittees. The term (i) "Hazardous Materials" shall mean and refer to the following: petroleum products and fractions thereof, asbestos, asbestos containing materials, urea formaldehyde, polychlorinated biphenyls, radioactive materials and all other dangerous, toxic or hazardous pollutants, contaminants, chemicals, materials, substances and wastes listed or identified in, or regulated by, any Environmental Law, and (ii) "Environmental Laws" shall mean and refer to the following: all federal, state, county, municipal, local and other statutes, laws, ordinances and regulations which relate to or deal with human health or the environment, all as may be amended from time-to-time.

6.5 Taxes: Each Owner shall pay directly to the tax collector when due the Real Property Taxes assessed against the Owner's Lot, including such Owner's Proportional Share of the Maintenance Areas and Facilities; subject, however, to the right of any such Owner to contest the amount or validity of all or any part of such taxes and assessments, provided that such Owner will take all such action as may be necessary to prevent any assessment or tax lien from being foreclosed or enforced with respect to any property within each Lot, including recording an adequate bond to remove such lien as a matter of record or to otherwise secure the payment of such lien. For purposes of this Declaration, "Real Property Taxes" will mean any and all taxes,



assessments, impositions or levies of any kind (in all cases, whether general or special, anticipated or unanticipated) imposed by any Governmental Authority or financing district upon the land within each Lot and/or any Improvements therein or thereon.

6.6 Parking. All Buildings or other Improvements constructed on any Lot shall be developed to comply with the Governmental Requirements governing parking for the use proposed for the Lot. The private parking area on any Lot or as provided for in a shared parking agreement or Parking Easement Agreement, shall provide at least such number of parking stalls as required to comply with Governmental Requirements or as may be required by Governmental Authorities to provide for all required parking for the Buildings located on such Lot. No Lot shall be developed in so intense a manner as to adversely impact the parking available on the other Lots or within Parking Areas absent an express written agreement with the Declarant and Owners of such other Lots permitting such. Any request, application, or allocation of public or street parking to satisfy any Governmental Requirements must first be approved by the Declarant. Such approval shall be at Declarant's sole and absolute discretion.

6.7 Signs. Except with respect to the Signs, the installation of which is governed by Section 3.6, all signs installed at the Property by or at the request of an Owner shall conform to all applicable Governmental Requirements and to the sign criteria for the Property, as such criteria may be adopted and amended from time-to-time by Declarant, and must be approved in writing by Declarant, which approval shall not be unreasonably withheld, conditioned or delayed.

6.8 Animals. No livestock, poultry or other animals shall be kept on any Lot and in no event shall any stable, hutch, barn, coop or other housing or shelter for animals or for the storage of materials be placed or maintained upon any Lot, except as approved by the Declarant in writing.

6.9 Equipment.

6.9.1 Mechanical Equipment. All mechanical equipment, including roof-mounted, shall be enclosed or screened in a manner approved by the Declarant so as to be an integral part of the architectural design.

6.9.2 Roof-mounted Equipment. All roof-mounted equipment, other than the mechanical equipment subject to the provisions of Section 6.9.1, including, but not limited to, vents, hoods and hatches, must blend with the color of the exposed roofing material so that such equipment is as inconspicuous as possible and integral with the roof area of any Building upon which such equipment is mounted to the extent feasible and available at a commercially reasonable cost.

6.10 Landscaping. Each Owner is responsible for maintaining the landscaping located on its Lot mowed, trimmed, watered and free from refuse, rubbish and debris. Each Owner shall install landscaping improvements on its Lot, including among other things, mulch, decorative rocks, grass, plants, shrubs, trees, flowers and irrigation equipment, in accordance with the Approved Plans for such Lot (the "Landscaping Improvements"). Once in place, the Landscaping Improvements on a Lot shall not be modified without the prior written approval of Declarant. The



Owner of each Lot must also provide water for landscape irrigation through a properly maintained system, including performing any modifications to such system to satisfy governmental water allocation or emergency requirements. Each Owner may negotiate and contract with the Manager to maintain the landscaping located on its Lot.

6.11 Maintenance of Buildings. Each Owner shall at all times be responsible for the regular maintenance, repair and replacement of the Buildings and Improvements located on its Parcel. All Buildings and Improvements shall be kept and maintained in a clean and attractive condition and in good order, condition and repair. Any damage that is caused by the intentional or negligent acts of one of the Owners or its Permittees, shall be promptly repaired at the sole cost of such Owner.

6.12 Prohibited Activities at the Property. To the maximum extent permitted by law, the following activities are prohibited at the Property:

6.12.1 Exhibiting any placard, sign or notice except as expressly permitted under this Declaration.

6.12.2 Distributing any circular, handbill, placard or booklet.

6.12.3 Soliciting memberships or contributions for private, civic, public charitable or political purposes.

6.12.4 Parading, picketing or demonstrating.

6.12.5 Failing to follow regulations established by Manager relating to the use and operation of the Property.

6.13 Soils Conditions. Owners acknowledge that unstable soil conditions may exist on or near the Property and will design, install, and maintain any landscaping, water features, drainage or water runoff, and all structural components of any Building in accordance with any geotechnical reports, Governmental Requirements, or Manager requirements. Declarant reserves the right to restrict irrigation and water runoff in order to mitigate any unstable soils conditions. Declarant makes no representations or warranties of any kind with respect to soil conditions of the Property, and all Owners are advised to obtain thorough and appropriate geotechnical studies and structural engineering advice in connection with the design and construction of any Improvements.

6.14 Rules and Regulations. Declarant or Manager may establish and maintain reasonable general policies, rules, and regulations for the access, repairs, management, maintenance, operation, and use of the Property, including the Maintenance Areas and Facilities Access Areas and other easement areas designated in this Declaration (the "Rules and Regulations"), consistent with the provisions of this Declaration, which Rules and Regulations may not materially interfere with Declarant's or an Owner's rights hereunder. Declarant or Manager shall be permitted to enforce the Rules and Regulations against any Owner or Permittee, including imposing reasonable fines that may be established by the Rules and Regulations or excluding an Owner or Permittee from using a particular easement. Any such fines established by the Rules and Regulations shall not be considered liquidated damages. The Manager shall consistently apply and enforce any Rules and Regulations.



7. Reimbursement of Manager.

7.1 Contracting for Maintenance. Manager shall contract for and pay for all of the items set forth in Section 5 (the expenses therefor, along with insurance expenses arising under Section 9 and the Service Charge are sometimes collectively being referred to as "Property Expenses"). Manager, in Manager's sole discretion, agrees to use commercially reasonable efforts to engage qualified vendors willing to provide such products or services for a fair and reasonable price.

7.2 Reimbursement/Limitations. Except as expressly otherwise provided in Section 7.3, the Owner of each Lot shall reimburse Manager for such Owner's Proportionate Share of the Property Expenses, plus an administrative fee of six percent (6%) of such expenses to cover management and administrative costs (the "Service Charge").

7.3 Owners' Payment of Proportionate Share of Assessments. The Owner of each Lot may be billed monthly or quarterly, in advance, for its Proportionate Share (defined below) of all estimated Property Expenses (each such bill, an "Assessment"). The Assessments shall be due and payable within fifteen (15) days after receipt. Manager may adjust such estimates at any time based upon Manager's experience and reasonable anticipation of costs, however such adjustment to the Assessment may not result in an increase in the annual Assessments of more than 10% of the Assessments for the immediately prior year, without the acceptance of such increase of Owners owning more than 50% of the aggregate Proportional Share of all Owners of any portion of the Property. Such adjustments shall be effective as of the next payment date after notice is given to the affected Owners at least thirty (30) days in advance. If Manager elects to bill the Owners in advance as provided in this Section, within one hundred twenty (120) days after the end of each calendar year Manager shall deliver to each Owner a statement setting forth in reasonable detail the Property Expenses paid or incurred by Manager during the preceding calendar year and each Owner's Proportionate Share that was paid through Assessments. If such statement reveals underpayment of Property Expenses, the Manager shall levy an Assessment against the Owner of each Lot for its Proportionate Share of such underpayment, which shall be due within fifteen (15) days after receipt of written notice of the Assessment. If such statement reveals an overpayment of Property Expenses, Manager shall, at the option of the Owner of each Lot, either provide a credit against future payments of Assessments or reimburse the Owner of each Lot (or its respective Occupants, as the Owner may direct) in the amount of its overpayment at the time such statement is provided. If Manager elects not to bill the Owners in advance as provided in this Section, Manager will send periodic billing statements for Assessments to the Owners within a reasonable time after Property Expenses are actually incurred; provided, however, that such statements shall not be sent more often than monthly.

As used in this Declaration, the "Proportionate Share" of the Property Expenses to be borne by each Owner of a Lot shall be the percentage obtained by dividing the Maximum Allowable Square Footage for the Owner's Lot by the aggregate Maximum Allowable Square Footage for all of the Lots subject to the Assessments, provided, however, that only those Owners that are benefitted by the Signs (i.e., those whose names appear on them) shall pay their share of the Property Expenses attributed to the Signs, with such share to be reasonably determined by Manager as provided in Section 5.1.2. Furthermore, only those Lots that (i) are owned by an Owner other than the Declarant (unless the Lot owned by Declarant contains an occupied Building)



or (ii) are at the time of such Assessment being developed by Declarant with one or more Buildings, shall be subject to Assessment. In the event that an Owner and Declarant agree to increase the Maximum Allowable Square Footage of a Lot, Declarant or Manager shall have the unilateral right to amend Exhibit C to reflect such change and recompute each Owner's Proportionate share accordingly. Declarant or Manager shall retain, in a commercially reasonable format, any side agreement with an Owner under which the Declarant has agreed to increase or decrease such Owner's Maximum Allowable Square Footage. Notwithstanding anything to the contrary contained herein, prior to the commencement of construction related activities on an Owner's Lot, such Owner's Proportionate Share shall be the percentage obtained by dividing seventy-five percent (75%) of the Maximum Allowable Square Footage for such Owner's Lot by the aggregate Maximum Allowable Square Footage for all Lots subject to the Assessments.

Notwithstanding anything to the contrary in this Section 7.3, the Declarant and Manager shall have the right to set the Assessment amount or Proportionate Share for an Owner or third party purchaser of a Lot through a separate contract with such Owner in order to adjust for uncertainties and fluctuation of Property Expenses during the early years of the development of the Property or for any other reasons that the Declarant or Manager may determine.

7.4 Special Assessments. In addition to other Assessments, the Declarant or Manager may levy in any calendar year, Special Assessments applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction (except for any construction by Declarant as part of the initial improvements to the Property) or reconstruction, repair or replacement of a described capital improvement included as part of the Maintenance Areas and Facilities including the necessary fixtures and personal property related thereto, and other costs, expenses of operation or shortfalls in the collection of Assessments from the Owners. The portion of any Special Assessment levied against a particular Lot shall be equal to the Proportionate Share for such Lot. These provisions with respect to the imposition or allocation of Special Assessments shall not apply when the special assessment against an Owner is a remedy utilized by the Declarant or Manager to reimburse for costs incurred in bringing the Owner and/or his or her Lot into compliance with the provisions of this Declaration, rules and regulations, or any other governing instrument for the Project. The Manager shall provide notice by first class mail to all Owners of any Special Assessments not less than thirty (30) nor more than sixty (60) days prior to the date such Special Assessment is due. Budget. No later than sixty (60) days prior to the commencement of a calendar year, Manager shall provide each of the Owners with an estimated budget for the next succeeding calendar year (the "Budget"). If an Owner believes the charge for a particular line item in the Budget is excessive, such Owner may notify Manger of such belief, and thereupon Manager shall provide to such Owner commercially reasonable supporting documentation or other information available to Manager concerning the Property Expenses believed to be excessive. Notwithstanding the foregoing, Manager shall not be required to obtain multiple bids or accept the lowest available price for any specific products or services if Manager has a commercially reasonable basis for doing otherwise. The Budget shall reasonably identify each of the categories of maintenance costs to be incurred by Manager. Business Records. Manager will maintain full and accurate records of all Property Expenses incurred and will provide commercially reasonable supporting documentation available to Manager concerning the Property Expenses upon written request and a showing of good cause by any Owner. The requesting Owner shall reimburse the Manager for reasonable out of pocket expenses and personnel expenses incurred in connection with providing such supporting documentation.



7.7 Failure to Pay Property Expenses. In the event any Owner fails or refuses to pay when due its bill for the Property Expenses, which failure continues for a period of fifteen (15) days after receipt of such bill, such failure shall constitute a default and Manager may, as permitted by law, secure a lien ("Assessment Lien") against the Owner's delinquent Lot. In order to establish and perfect such lien the Manager shall record a notice of lien setting forth the name of the delinquent Owner as shown in the records of the Manager, the legal description or street address of the Lot and the amount claimed to be past due as of the date of the recording of the notice, including interest, late fees, lien recording fees and reasonable attorneys' fees. Interest shall accrue from the date such bill was due and payable to and including the date such bill is paid at the rate equal to the Prime Rate as announced from time-to-time in the Wall Street Journal or, if it no longer exists, in a reasonable similar publication, plus eight percent (8.00%) per annum, calculated and compounded monthly ("Default Interest").

7.7.1 Lien Priority. The Assessment Lien shall have priority over all liens or claims except for (a) tax liens for real property taxes; (b) assessments in favor of any municipal or other governmental body or assessment district, and (c) the lien of any Mortgage encumbering the Lot.

7.7.2 Release Upon Satisfaction. The Manager shall not be obligated to release any recorded notice of lien until all delinquent Assessments, interest, lien fees, reasonable attorneys' fees, court costs, collection costs and all other sums payable to the Manager by the delinquent Owner have been paid in full.

7.7.3 Lien Enforcement. The Manager shall have the right, at its option, to enforce collection of any delinquent Assessments together with interest, lien fees, reasonable attorneys' fees and any other sums due to the Manager in any manner allowed by law including, but not limited to: (a) bringing an action at law against the delinquent Owner and such action may be brought without waiving the Assessment Lien securing the delinquent Assessments; or (b) enforce the Assessment Lien against a Lot by sale or foreclosure conducted in accordance with the provisions of law applicable to the exercise of powers of sale or judicial foreclosure of deeds of trust or mortgages or in any other manner permitted by law. In order to facilitate the foreclosure of any such lien in the manner provided at law for the foreclosure of deeds of trust, Manager hereby designates Southern Utah Title Company as trustee and the delinquent Owner shall be deemed to have granted and conveyed its Lot, IN TRUST, to Southern Utah Title Insurance Company, as trustee, with full power of sale, to foreclose any such liens as directed by the Manager. The Manager may, at any time, designate one or more successor trustees, in the place of Southern Utah Title Company, in accordance with provisions of Utah law for the substitution of trustees under deeds of trust. Such trustee, and any successors, shall not have any other right, title or interest in the Lot beyond those rights and interests necessary and appropriate to foreclose any liens against a delinquent Owner's Lot. In any such foreclosure, the delinquent Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees), and such costs and expenses shall be secured by the lien being foreclosed. The Manager shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey the Lot and Lot purchased at such sale.



7.8 Evidence of Payment of Assessments. Upon receipt of a written request by an Owner or any other person, the Manager, within a reasonable period of time thereafter, shall issue to the requesting Owner or other person a written certificate stating: (a) that all Assessments, interest and other fees and charges have been paid with respect to the Lot as of the date of such certificate; or (b) if all Assessments have not been paid, the amount of such Assessments, interest, fees and charges due and payable as of such date. The Manager may make a reasonable charge for the issuance of such certificates, which charges must be paid at the time the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matters therein stated as against any bona fide purchaser of, or lender on, the Lot.

8. Maintenance Areas and Facilities.

8.1 No Obstruction. Except to the extent necessary (on a temporary basis) for reasonable construction, for repair and maintenance, or to prevent a public dedication or the accrual of any rights to the public (as provided in Section 10.1), no Owner shall permit to be constructed or placed across the Private Roads located on such Owner's Lot any fence, gate, wall, barricade or other obstruction, whether temporary or permanent in nature, which limits or impairs the free and unimpeded access over any part of the Private Roads, or shall otherwise obstruct or interfere with the free flow of vehicular and pedestrian traffic on such Private Roads.

8.2 Alteration, Relocation or Changes to Maintenance Areas and Facilities. The Owner of a Lot shall be permitted to alter, relocate or change the configuration of the Access Areas which it owns at any time and from time to time, but only upon strict compliance with the provisions of this Section.

8.2.1 Any proposed alteration, relocation, or other change shall comply with all applicable Governmental Requirements.

8.2.2 Any proposed alteration, relocation, or other change shall not modify or unreasonably obstruct access between a Lot and any adjacent public road.

8.2.3 The Owner proposing to make any alteration, relocation, or other change shall pay the entire cost of such alteration, relocation or change.

8.2.4 The Owner proposing to make such alteration, relocation, or change may not perform any work on, or stage any work from, any other Lot without the consent of the Owner of such other Lot, which consent shall not be unreasonably withheld, conditioned or delayed.

8.2.5 Declarant or Manager must approve the proposed alteration, relocation, or other change. In connection with obtaining such approval, the Owner proposing to make such alteration, relocation or change shall provide copies of its preliminary plans to the Declarant or Manager prior to commencing such work for review and approval by the Declarant or Manager. In the event an Owner (the "Submitting Owner") submits a preliminary plan to the Declarant or Manager for its consent as required by this subsection, such preliminary plan shall be deemed approved if not disapproved in



writing within thirty (30) days of the delivery of the preliminary plans to the Declarant or Manager. In the event the Declarant or Manager disapproves of such preliminary plans, the Declarant or Manager shall, within such thirty (30) day period, deliver to the Submitting Owner the written objections to the preliminary plans which objections shall include a reasonably detailed description of what changes, if any, and if made, would cause the Declarant or Manager to give its approval of the preliminary plans. The Submitting Owner shall revise the preliminary plans and resubmit them to the Declarant or Manager for its approval in accordance with the procedures set forth above in this subsection. Notwithstanding anything above to the contrary, an Owner shall not be required to obtain the consent of the Declarant or Manager to make any alteration, relocation, or modification on such Owner's Lot if such alteration, relocation, or modification is required by Governmental Requirements; provided, however, that, to the extent the Owner has any discretion regarding the manner of the alteration, relocation, or modification within the parameters of what is required by the Governmental Requirements, the Declarant or Manager shall have approval rights over the exact implementation of the alteration, relocation, or modification.

9. Insurance and Indemnity.

9.1.1 Manager shall maintain or cause to be maintained in full force and effect at least the following minimum insurance coverage, which may be amended from time to time, in Constant Dollars: Commercial General Liability insurance with a combined single limit of liability of \$2,000,000.00 for bodily injury, personal injury and property damage, arising out of any one occurrence.

9.1.2 Prior to commencing any construction activities within the Property, each Owner shall obtain and maintain or require its contractor to obtain and thereafter maintain so long as such construction activity is occurring, at least the minimum insurance coverages in Constant Dollars set forth below:

9.1.2.1 Workers' compensation and employer's liability insurance:

(a) Worker's compensation insurance as required by any applicable Governmental Requirements.

(b) Employer's liability insurance in the amount of \$1,000,000.00 each accident for bodily injury, \$1,000,000.00 policy limit for bodily injury by disease, and \$1,000,000.00 each employee for bodily injury by disease.

9.1.2.2 Commercial General Liability insurance covering all operations by or on behalf of the contractor, which shall include the following minimum limits of liability and coverages:

(a) Required coverages:

(i) Premises and Operations



- (ii) Products and Completed Operations.
 - (iii) Contractual Liability, including the indemnity obligations assumed by contractor under the contract documents.
 - (iv) Broad Form Property Damage (including Completed Operations).
 - (v) Explosion, Collapse and Underground Hazards.
 - (vi) Personal Injury Liability.
- (b) Minimum limits of liability:
- (i) \$1,000,000.00 each occurrence (for bodily injury and property damage).
 - (ii) \$1,000,000.00 for Personal Injury Liability.
 - (iii) \$1,000,000.00 aggregate for Products and Completed Operations
 - (iv) \$2,000,000.00 general aggregate.

9.1.2.3 Automobile liability insurance including coverage for owned, hired and non-owned automobiles. The limits of liability shall not be less than \$2,000,000.00 each accident for bodily injury and property damage. The contractor shall require each of his subcontractors to include in their liability insurance policies coverage for automobile contractual liability.

9.1.2.4 If the General Liability policy does not have a per project endorsement, then the limit shall be \$2,000,000.00.

9.1.2.5 Each Owner or its contractor shall carry "Builder's Risk" insurance in an amount approved by Manager covering the construction of any and all Improvements on a Lot, and such other insurance as Manager may reasonably require in connection with such work.

9.1.3 Effective upon the commencement of construction of any Improvements on its Lot and so long as Improvements exists, each Owner shall maintain or cause to be maintained in full force and effect, policies of property insurance covering loss of or damage to the Improvements located on its Lot in the full amount of their replacement value, with such policies providing protection against loss or damage due to perils covered by a "Causes of Loss-Special Form" (or equivalent) policy. For purposes of this Declaration, a Lot is deemed "developed" when Improvements such as Building(s) and landscaped and paved areas, have been constructed thereon, and such Lot is available for use and occupancy.



9.1.4 Each Owner of a Lot shall maintain or cause to be maintained in full force and effect, a policy of Commercial General Liability insurance (or equivalent) with respect to such Owner's Lot, the business operated by such Owner and any Permittees of the Owner on its Lot. The minimum amount of such insurance in Constant Dollars shall be Two Million Dollars (\$2,000,000.00) per occurrence. Each such policy shall at all times name Declarant and Manager as an additional insured, and each Owner shall provide Manager with an appropriate "additional insured" endorsement, on a primary and non-contributory basis (in a form reasonably acceptable to Manager).

9.1.5 All insurance required by this Section shall be written on an occurrence basis and procured from companies with a Financial Strength Rating of "A-" or better and a Financial Size Category of "VII" or larger, based on the most recent published ratings of the A.M. Best Company (or comparable rating) which are authorized to do business in the state where the Property is located. All insurance may be provided under (i) an individual policy covering the Property, or (ii) a blanket policy or policies which includes other liabilities, properties and locations of such Person; provided, however, that if such blanket commercial general liability insurance policy or policies contain a general policy aggregate of less than Ten Million Dollars (\$10,000,000.00) in Constant Dollars, then such insuring Person shall also maintain excess liability coverage necessary to establish a total liability insurance limit of Ten Million Dollars (\$10,000,000.00) in Constant Dollars. All policies of insurance carried hereunder shall include a provision requiring written notice to Declarant and Manager at least thirty (30) days prior to the cancellation or termination of such policy. The insuring Person shall provide, upon written request, a certificate of insurance (in form acceptable to Manager) executed by an authorized officer or agent of the insurer, certifying that the required insurance is in full force and effect. The insuring Person shall be responsible for the payment of any and all applicable deductibles, and in no event shall any deductible or self-insured retention amount exceed Fifty Thousand Dollars (\$50,000.00) in Constant Dollars without the prior written consent of Manager.

9.1.6 In the event any Owner fails to maintain the insurance coverage required in this Declaration, Manager may, but shall have no obligation to obtain, comparable coverage for Manager's benefit at the defaulting Owner's expense. The premiums paid for such insurance, plus the Service Charge, shall be reimbursed by the defaulting Owner immediately upon presentation of Manager's bill.

9.1.7 Each Owner hereby waives any claim that it might have against any other Owner for damages which would be covered by any of the property insurance required to be carried under this Section. Such mutual waivers shall be in addition to, and not in limitation or derogation of, any other waiver or release regarding any loss of, or any damage to the property of any Owner. Because the above mutual waivers will preclude the assignment of any such claim by way of subrogation (or otherwise) to an insurance company (or any other person, firm or corporation) each Owner shall give to each insurance company which has issued to it policies of property insurance, written notice of the terms of such mutual waivers, and shall have such insurance policies properly endorsed, if necessary, to prevent invalidation of such insurance coverage by reason of such waiver.



9.1.8 The Owner of each Lot hereby agrees, to the fullest extent permitted by law, to indemnify, defend and hold harmless Declarant, Manager, and the Owners from and against any and all liability, claims, damages, expenses (including reasonable attorneys' fees and reasonable attorneys' fees on appeal), judgments, proceedings and causes of action, for injury to or death of any person or damage to or destruction of any property resulting from the negligent or willful act or omission of the indemnifying person, its tenants, subtenants, agents, contractors or employees, or arising out of the performance or nonperformance of any of the obligations set forth in this Declaration, except to the extent caused by the negligent or willful act or omission of the indemnified person, its tenants, subtenants, agents, contractors or employees.

9.1.9 An Owner shall have the right to satisfy its insurance obligations under this Declaration by means of self-insurance, but only so long as: (a) such self-insurance is permitted under all laws applicable to such Owner and/or the Property at the time in question; (b) such Owner maintains a tangible net worth (as evidenced by its financial statements on file) of not less than Five Hundred Million Dollars (\$500,000,000.00); (c) such Owner maintains a Moody's rating of Baa or better or a Standard & Poor's rating of BBB or better (in case of a public company); (d) unless such information is already generally available to the public through filings with the U.S. Securities and Exchange Commission, such Owner shall, not less than annually, provide Manager an audited financial statement, prepared in accordance with generally accepted accounting principles, showing the required net worth of such Owner; and (e) such self-insurance provides for loss reserves that are actuarially derived in accordance with accepted standards of the insurance industry and accrued (i.e., charged against earnings) or otherwise funded. "Self-insure" shall mean that such Owner is itself acting as though it were the third-party insurer providing the insurance required under the provisions of this Declaration, and such Owner shall pay any amounts due in lieu of insurance proceeds because of self-insurance which amounts shall be treated as insurance proceeds for all purposes under this Declaration. To the extent an Owner chooses to provide any required insurance by "self-insurance," then such Owner shall have all of the obligations and liabilities of an insurer, and the protection afforded Declarant, Manager, and the other Owners, shall be the same as if provided by a third-party insurer under the coverages required under this Declaration. Without limiting the generality of the foregoing, all amounts which such Owner pays or is required to pay and all losses or damages resulting from risks for which such Owner has elected to self-insure shall be subject to the waiver of subrogation provisions of Section 9.1.7 above, and shall not limit such Owner's indemnification obligations set forth in Section 9.1.8 above. In the event that an Owner elects to self-insure and an event or claim occurs for which a defense and/or coverage would have been available from a third-party insurer, such Owner shall undertake the defense of any such claim, including a defense of Declarant and Manager, at such Owner's sole cost and expense, and use its own funds to pay any claim or replace any property or otherwise provide the funding which would have been available from insurance proceeds but for such election by such Owner to self-insure. In the event that an Owner elects to self-insure, such Owner shall provide Manager with certificates of self-insurance in form reasonably acceptable to Manager specifying the extent of self-insurance coverage.



9.2 Assignment Allowed. Any or all of the interests, rights and powers (including discretionary rights and powers and the powers of consent and approval) (collectively referred to as the "Declarant's Reserved Powers") herein reserved by or conferred upon the Declarant may be assigned or transferred by the Declarant, at its election and in its sole discretion, to any one or more Persons agreeing to accept and assume the duties of the Declarant pertaining to the Declarant's Reserved Powers so assigned or transferred. Any such assignment or transfer of the Declarant's Reserved Powers may be made by the Declarant as to all or any part or parts of the Property and may be to different Persons. No such assignment or transfer shall be deemed effective unless such assignment or transfer shall be evidenced by an appropriate written instrument in recordable form (a) duly executed by the Declarant, (b) duly executed by such assignee or transferee and containing the agreement of such assignee or transferee to accept the same and assume the duties of the Declarant thereunder, (c) which is recorded among the Official Records, and (d) expressly and specifically refers to and identifies the Declarant's Reserved Powers so assigned and transferred. Any such instrument may be subject to such limitations, conditions, reservations and provisions as the Declarant may set forth therein and may provide, among other things, for the future or further assignment or transfer of the Declarant's Reserved Powers to others by the assignee or transferee named therein. No such assignment or transfer shall be deemed to arise by implication. When the Declarant or its assignee pursuant to this Section 9 shall no longer be the Owner of any part of the Property, all rights and powers of the Declarant (or such assignee) shall automatically devolve upon, and be exercisable by, the Declarant's Successor.

10. Dispute Resolution

10.1 Alternate Dispute Resolution. Declarant, Manager, Owners and all persons subject to this Declaration, and any person not otherwise subject to this Declaration who agrees to submit to this Section 10 (collectively, "Bound Parties"), agree that it is in the best interests of all concerned to encourage the amicable resolution of disputes involving the Project without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees to first submit such Claim to the mediation procedures set forth in Section 10.3 in a good faith effort to resolve such Claim. If mediation fails, the Arbitration Provision (defined below) below shall apply.

10.2 Claims Subject to Dispute Resolution. As used in this Section 10, the term "Claim" shall refer to any claim, grievance, or dispute arising out of or relating to: (i) the interpretation, application or enforcement of the this Declaration and any other governing documents for the Property, (ii) the rights, obligations, and duties of any Bound Party under this Declaration and any other governing documents for the Property, or (iii) the design or construction of improvements on the Property, other than matters of aesthetic judgment, which shall not be subject to review. Notwithstanding the foregoing, the following will not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 10.3: (i) any suit by the Declarant or Manager to collect assessments or other amounts due from any Owner; (ii) any suit by the Declarant or Manager to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo; (iii) any suit between Owners, which does not include Declarant or the Manager as a party, if such suit asserts a Claim which would constitute a cause of action independent of this Declaration; (iv) any suit in which an indispensable party is not a Bound Party; and (v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 10.3, unless the parties against whom the Claim is made



agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Section 10.

10.3 Mediation Procedures.

10.3.1 The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice to each Respondent and to the Manager stating plainly and concisely: (i) the nature of the Claim, including the persons involved and the Respondent's role in the Claim; (ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises); (iii) the Claimant's proposed resolution or remedy; and (iv) the Claimant's desire to meet with the Respondent to discuss in good faith, ways to resolve the Claim.

10.3.2 The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Manager may appoint a third-party facilitator to assist the parties in negotiating a resolution of the Claim.

10.3.3 If the parties have not resolved the Claim through negotiation within 30 days of the date of the notice described in Section 10.3.1 (or within such other period as the parties may agree upon), the Claimant shall have 30 additional days to submit the Claim to mediation with either (i) a person that is mutually acceptable to the Claimant and the Respondent, having relevant knowledge and experience with the subject matter of the Claim (for example, but without limitation, design, construction, insurance, accounting, or legal expertise); or (ii) a person designated by the Manager (unless the Manager is a party to the dispute, in which case the mediator will be selected by the Declarant if the Declarant is not a party to the Claim) or to an independent agency or individual providing dispute resolution services in Washington County, Utah. If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

10.3.4 If the parties do not settle the Claim within 60 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to commence arbitration proceedings.

10.3.5 Any settlement of the claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorney's fees and court costs.



10.4 Arbitration Procedures.

10.4.1 A Claim that is not resolved through negotiation or mediation shall be resolved by binding arbitration. Any arbitration will be conducted in accordance with the provisions of this Section 10.4 and the rules of the Administrator in effect at the time the Claim is filed. "Administrator" means either of the following companies to be selected by the Bound Party initiating the arbitration: National Arbitration Forum ("NAF"), P.O. Box 50191, Minneapolis, MN 55405, <http://www.naf-forum.com>, or the American Arbitration Association ("AAA"), 1633 Broadway, 10th Floor, New York, NY 10019, <http://www.adr.org>.

10.4.2 Each Bound Party shall bear the fees and expenses of that Bound Party's attorneys, experts, and witnesses, provided that upon conclusion of the arbitration the award to the prevailing party shall include recovery of its reasonable attorney's fees and expenses incurred in connection with the arbitration.

10.4.3 This Arbitration Provision shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1-16 (the "FAA") and not state arbitration laws, provided that Utah law shall govern to the extent that state law is relevant under the FAA in determining the enforceability of this Arbitration Provision. If a participatory arbitration hearing is requested, it will take place in Washington County or Salt Lake County, Utah. The arbitrator shall be obligated to follow applicable substantive laws, statutes of limitations and privilege rules related to any Claim. The arbitrator shall award the remedies, if any, that would be available in an individual court proceeding if arbitration had not been elected. This includes, without limitation, compensatory, statutory and punitive damages (which shall be governed by the constitutional standards applicable in judicial proceedings), declaratory, injunctive and other equitable relief, and attorneys' fees and costs. Upon the timely request of any Bound Party, the arbitrator shall write a brief explanation of the grounds for his or her decision. In addition to the Bound Parties' rights under the Administrator's rules to obtain information prior to the hearing, any Bound Party may ask the arbitrator for more information from the other party. The arbitrator will decide the issue in his or her sole discretion, after allowing the other Bound Party the opportunity to object.

10.4.4 Any court with jurisdiction may enter judgment upon the arbitrator's award. The arbitrator's decision will be final and binding, except for any appeal right under the FAA. However, for Claims involving more than \$100,000, any Bound Party may appeal the award to a three-arbitrator panel appointed by the Administrator, which will reconsider from the start any aspect of the initial award that is appealed. The panel's decision will be final and binding, except for any appeal right under the FAA. Fees and costs associated with an appeal shall be governed by Section 10.4.2 above.

11. Miscellaneous.

11.1 No Public Dedication: Effects of Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of any portion of the Property or of any Lot or portion thereof to the general public, or for any public use or purpose whatsoever, it being the



intention of Declarant, on behalf of Declarant and its successors and assigns, that this Declaration shall be strictly limited to and for the purposes herein expressed. Each Owner shall have the right to close, if necessary, all or any portion of the Private Road on its Lot from time-to-time for the period of time as may be necessary, in the reasonable opinion of Owner, to prevent a dedication thereof or the accrual of any rights of the public therein; provided, however, prior to such closing (which closing, in any event, shall be for as short a period as is necessary to prevent such dedication or accrual of such public rights), such Owner shall give notice of such closing to, and coordinate such closing with, Manager and such closing shall be subject to Declarant or Manager's approval as to the time and duration of such closing. No Person may dedicate to public use or convey to a Governmental Authority any Maintenance Area without the consent of the Declarant, which may be withheld, conditioned or delayed for any reason. Declarant reserves unto itself the right to dedicate any and all of the Private Roads to public use. If any land within the Property consisting of the Maintenance Areas and Facilities is dedicated for public use or otherwise conveyed to a Governmental Authority, such land will, upon such dedication or other conveyance, no longer be part of the Property unless expressly retained by Declarant or required by the Governmental Authority to be maintained by the Declarant or Owners. Any such exclusion from the Property will be automatic without the necessity of a recorded amendment to this Declaration or other consent or approval of Declarant or any other Owner.

11.2 Duration. This Declaration shall remain in full force and effect for a period of ninety-nine (99) years from the Effective Date (the "Primary Period"), and thereafter shall, as then in force, be continued automatically for successive periods of twenty (20) years each (each such period being referred to as an "Extension Period") and without further notice, and without limitation, unless, at least ninety (90) days prior to the date of expiration of the Primary Period or Extension Period then in effect, Declarant delivers to any other Owners in the Property written notice of termination, in which event this Declaration shall automatically expire at the end of the Primary Period or Extension Period then in effect. Upon termination of the Declaration, all rights and privileges derived from and all duties and obligations created and imposed by the provisions of this Declaration shall terminate and have no further force or effect; provided, however, that the termination of this Declaration shall not limit or affect any remedy at law or in equity that may exist under this Declaration with respect to any liability, or obligation, accrued or otherwise arising, or to be performed, under this Declaration prior to the date of such termination, and, provided further, that all of the easements and the rights and duties related thereto as provided in Section 3 shall continue in effect in perpetuity as to those easement actually in use at the time of the termination of this Declaration until such time as such easements are abandoned or ceased to be used to serve a Lot in the Property.

11.3 Modification and Termination. This Declaration may only be modified or terminated in accordance with Section 11.2 or Section 11.5 hereof.

11.4 Rights of Declarant. Notwithstanding anything to the contrary in Sections 11.2 or 10.3, so long as the Declarant owns any portion of the Property, no such termination, extension, modification or amendment of this Declaration shall be effective without the written approval of the Declarant.

11.5 Changes and Modifications by Declarant. Declarant shall have the unilateral right at any time as long as it owns any portion of the Property, without the consent of any Owner



or any other party, to modify, amend or change any of the provisions of this Declaration as Declarant may deem necessary or desirable; (i) to correct errors or omissions herein; (ii) to bring any provision of the Declaration into compliance with any applicable governmental statute, rule, regulation, or judicial determination which is in conflict herewith; (iii) to enable any reputable title insurance company to issue title insurance coverage with respect to any portion of the Property; (iv) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans to make, purchase, insure or guarantee such mortgage loans; (v) to satisfy the requirements of any governmental or quasi-governmental agency; (vi) in response to changing market conditions; or (vii) as Declarant, in its commercially reasonable business judgment determines to be appropriate, provided that no such amendment shall (a) expand the powers of Declarant beyond those expressly granted herein with respect to property owned by an Owner or (b) impair the rights expressly reserved to, or increase the obligations of, any Owner without the consent of such Owner. If an Owner objects to an amendment to this Declaration on grounds that violates the foregoing limitations (a) or (b), notice of such objection must be provided to Declarant or Manager within thirty (30) days of recordation of such amendment and (ii) such objection shall be subject to the dispute resolution process as more particularly described in Section 10. By acceptance of a deed to any Lot or by the acceptance of any other legal or equitable interest in the Lots, each and every contract purchaser, Owner, Mortgagee or other lienholder or party having a legal or equitable interest in any Lot does automatically and irrevocably name, constitute, appoint and confirm the Declarant as attorney-in-fact for the purpose of executing any such amendment this Declaration, subject to the limitations set forth herein. A copy of any amendment to this Declaration shall be provided to all affected Owners. The power of attorney aforesaid is expressly declared and acknowledged to be coupled with an interest in the subject matter hereof and the same shall run with the title to any and all Lots and be binding upon the heirs, personal representatives, successors, transferees and assigns of any of the foregoing parties. Further, said power of attorney shall not be affected by the death or disability of any principal and is intended to deliver all right, title and interest of the principal in and to said power of attorney. Said power of attorney shall be vested in the Declarant at all times as long as it owns any portion of the Property.

11.6 **Severability.** If any term or provision of this Declaration or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Declaration or the application of such term or provision to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Declaration shall be valid and shall be enforced to the extent permitted by law.

11.7 **Captions and Headings.** The captions and headings in this Declaration are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms, covenants, conditions or agreements contained herein.

11.8 **Interpretation.** Whenever the context requires construing the provisions of this Declaration, the use of a gender shall include both genders, use of the singular shall include the plural, and the use of the plural shall include the singular. The word "including" shall be construed inclusively, and not in limitation, whether or not the words "without limitation" or "but not limited to" (or words of similar importance) are used with respect thereto. The provisions of this Declaration shall be construed as a whole and not strictly for or against any party. Unless otherwise provided, references to Sections refer to the Sections of this Declaration. This



Declaration shall be governed by and construed in accordance with the laws of the State of Utah, without regard to its principles of conflicts of law.

11.9 Default by an Owner. If any Owner fails to comply with the provisions of this Declaration, Manager may (but is not obligated to), after giving at least fifteen (15) days' written notice to the defaulting Owner (or, in the event such lack of compliance relates to a non-monetary obligation which cannot reasonably be performed within such period and it is diligently pursuing compliance, after the defaulting Owner has been granted the period of time reasonably necessary to comply with the provisions of the Declaration but fails to achieve compliance within such period of time), perform or cause to be performed such work or pay such sums as are necessary to comply with the terms of this Declaration (commonly known as self-help remedies), and any such self-help remedy shall not diminish any right to pursue any other legal or equitable remedies available under applicable law against the defaulting Owner. In the event such self-help remedies are pursued, all sums reasonably expended and all costs and expenses reasonably incurred by Manager in connection with such payment or performance shall bear interest from the date expended or incurred (as the case may be) at the Default Interest rate until paid or otherwise satisfied in full, and shall be paid promptly to Manager by the defaulting Owner on written demand. No breach of this Declaration shall entitle any Owner to cancel, rescind, or otherwise terminate this Declaration (but such limitation shall not affect any other right or remedy or limit any obligation that any Owner or Manager may have under this Declaration by reason of such breach). If Manager does not pursue its "self-help" remedy, Manager shall use commercially reasonable efforts to enforce the terms of this Declaration using other appropriate means, and may avail itself of any other rights or remedies available at law or in equity.

11.10 Restoration.

11.10.1 In the event the whole or any part of the Improvements located on a Lot are damaged or destroyed, the Owner of the Lot to which such damage has occurred shall promptly cause the repair, restoration or rebuilding of the Improvements so damaged or destroyed so that the restored portions of the Lot shall (1) be in the condition existing immediately prior to such damage or destruction, and (2) comply with the applicable requirements of this Declaration. In connection with the above, such Owner shall also promptly remove debris and keep the affected portions of the Lot neat, orderly and well maintained and covered during such repair or reconstruction. Notwithstanding the foregoing, in the event any Building or Improvement is damaged or destroyed to the extent of seventy five percent (75%) or greater, the Owner of such Building or Improvement may, with the consent of Declarant (which shall not be unreasonably withheld, conditioned or delayed), elect not to restore such damaged or destroyed Building or Improvement, in which event the Owner shall raze the Building or Improvement and landscape the area to a neat and attractive condition consistent with the Property.

11.10.2 Upon any damage or destruction to the Maintenance Areas and Facilities on a Lot, Manager will promptly after the occurrence of the event of damage or destruction, restore, repair or rebuild such damaged or destroyed Maintenance Areas and Facilities. Unless the work of restoration, repair, rebuilding or improvement is carried out pursuant to the original plans and specifications for the construction of the Maintenance Areas and Facilities as determined by Manager, the plans or specifications for such work



will be subject to the prior written approval of the Owners of the Lots upon which such Maintenance Areas and Facilities are located, which shall not be unreasonably withheld, conditioned or delayed. Manager will use all commercially reasonable due diligence to complete such restoration and repair of the Maintenance Areas and Facilities as expeditiously as possible with as little delay and as little disruption as circumstances permit. The cost of such restoration shall be reimbursed by the Owners pursuant to Section 7.

11.11 Condemnation. In the event the whole or any part of a Lot is taken by right of eminent domain or any similar authority of law (or conveyed under threat of the exercise of such right), the entire award for the value of the land and improvements so taken shall belong to the Owner of that portion of the Lot so taken. No other Owner shall claim any portion of such award by virtue of any interest created by this Declaration. In the event of a partial taking, the Owner of the portion of the Lot so condemned shall, at its sole discretion, either restore the remaining portion of the Lot owned by such Owner as nearly as possible to the condition existing just prior to such condemnation or repair the Lot not taken and landscape any areas left unimproved in an attractive manner, without contribution from any Owner of the Lot not so taken. If any Mortgagee of any portion of the Lot requires, pursuant to a provision in a Mortgage, that the portion of the award representing compensation for property actually taken, as distinguished from compensation for severance damage to property not taken, be paid to the Mortgagee, then the Owner required to make such payment to such Mortgagee shall not be obligated to apply such portion of the award to restoration, but shall be required to expend its own funds either to restore the Improvements on the remaining portion of the Lot if restoration is possible, or to raze such Improvements and landscape the area to a neat and attractive condition consistent with the Property.

11.12 Notices. Any notices and requests for approvals or consents and responses thereto required or authorized to be given by the Declarant or any Person subject to the provisions of this Declaration shall be in writing and shall be deemed to be validly served two (2) business days after being sent by certified mail, return receipt requested, or upon actual hand or other delivery (by FedEx or similar courier service) to such Person, if addressed as follows:

To the Declarant: Tech Ridge, L.L.C.
c/o Tech Ridge Management, LLC
475 S. Donlee Drive
St. George, UT 84770
Attn: Isaac Barlow

With a copy to: Ballard Spahr LLP
201 South Main Street, Suite 800
Salt Lake City, Utah 84111
Attn: Thomas G. Bennett

To any Person subject to this Declaration:

To the mailing address for real property tax bills shown on the real property tax records of the Washington County, Utah Assessor's



Office with respect to the Lot or portion of the Property which is the subject matter of such notice.

The Declarant or any Person entitled to receive any notice pursuant to this Declaration may stipulate from time-to-time for itself an address to be substituted for the above address by the giving of written notice to the other at the last address established pursuant to this section.

11.13 Mortgagee Protection.

11.13.1 Priority of Declaration. This Declaration established hereby with respect to each Owner and Lot, shall be superior and senior to any lien placed upon any Lot, including the lien of any Mortgage. Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the provisions, terms and conditions contained in this Declaration shall be binding upon and effective against any Person (including, but not limited to, any Mortgagee) who acquires title to any Lot or any portion thereof by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

11.13.2 Obligations of Mortgagee. Unless and until it enters into possession or acquires title pursuant to foreclosure of any arrangement or proceeding in lieu of foreclosure, any Mortgagee under any Mortgage affecting any part of the Property shall have no obligation to take any action to comply with, and may not be compelled to take any action to comply with, this Declaration.

11.13.3 Performance. Each Mortgagee shall have the right to act for and in the place of the Owner of that portion of the Property covered by its Mortgage, to the extent permitted by the applicable Mortgage or otherwise agreed to by such Owner in writing. Any Owner shall accept performance by or on behalf of any Mortgagee as if the same had been performed by the other Owner. Such acceptance shall not create any additional rights as against such Owner in such Mortgagee, nor shall such Mortgagee be subrogated to any interest or right of such Owner. Each Mortgagee shall have the right, to the extent the Owner of that portion of the Property covered by the Mortgage concerned agrees in writing, to appear in a legal action or proceeding on behalf of such Owner in connection with such portion of the Property.

11.13.4 Recognition. On request, Declarant agrees to execute, acknowledge and deliver to any Mortgagee an instrument prepared by the Mortgagee concerned, acknowledging that such Mortgagee is entitled to the benefits of this Section 11.13.

11.14 Transfer of Property; Release On Transfer. If any Owner transfers all or any portion of the Property owned by such Owner, the transferee shall automatically be deemed to have assumed and agreed to be personally bound by the covenants of such Owner contained in this Declaration. On and after the date an Owner transfers (other than merely for purposes of security) or is otherwise divested of such Owner's interest in the Property, such Owner shall be relieved of all liabilities and obligations under this Declaration related to such Property as of the



date of recordation in the Official Records of the instrument effecting such transfer, except for such liabilities or obligations as may have accrued as of the date of such transfer or divestiture.

11.15 No Waiver. Any failure to insist upon the strict performance of or compliance with any of the terms, provisions, covenants and requirements of this Declaration shall not result in or be construed to be an abandonment or termination of this Declaration or any waiver of the right to insist upon such performance or compliance with the terms of this Declaration in the future.

11.16 Attorneys' Fees. If any action is brought because of a default under or to enforce or interpret this Declaration, in addition to the relief to which such party is entitled, the party prevailing in such action shall be awarded and the unsuccessful party shall pay reasonable attorneys' fees, court costs, and other litigation expenses (including, without limitation, costs of investigation, settlement, expert witnesses, or any additional costs incurred in enforcing this Declaration, and those incurred in connection with any appeal), the amount of which shall be fixed by the court and made a part of any judgment rendered.

11.17 Force Majeure. Any Owner or other Person obligated under this Declaration shall be excused from performing any obligation set forth in this Declaration, except the payment of money so long as (but only so long as) the performance of such obligation is prevented or delayed by an act of God, weather, avalanche, fire, earthquake, flood, explosion, act of the elements, war, invasion, insurrection, riot, malicious mischief, vandalism, larceny, inability to procure or general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, order of government or civil defense authorities or any other cause reasonably beyond the control of the Owner or other Person prevented or delayed.

11.18 Not a Partnership. The provisions of this Declaration are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership, or any other similar relationship between Declarant or Manager and any other Owner.

11.19 Estoppel Certificate. Manager and each Owner agree that upon written request (which shall not be more frequent than one (1) time during any calendar year) of any other Owner or Manager, it will issue within thirty (30) days after receipt of such request to such Owner, or Manager an estoppel certificate stating to the best of the issuer's knowledge as of such date:

11.19.1 Whether it knows of any default under this Declaration by the requesting party, and if there are known defaults, specifying the nature thereof in reasonable detail.

11.19.2 Whether this Declaration has been modified or amended in any way by it and if so, then stating the nature thereof in reasonable detail.

11.19.3 Whether all sums due by the requesting party to Manager have been paid as of the date of such request, or specifying such failure.



11.19.4 Whether Manager (if the request is to Manager) or any other Owner (if the request is to such other Owner) has any off-sets, claims or demands against the requesting party.

Such estoppel certificate shall act to estop the issuer from asserting a claim or defense against a bona fide encumbrancer or purchaser for value to the extent that such claim or defense is based upon facts known to the issuer as of the date of the estoppel certificate which are contrary to the facts contained therein, and such bona fide purchaser or encumbrancer has no knowledge of facts to the contrary. The issuance of an estoppel certificate shall in no event subject the issuer to any damages owed to the requesting party for the negligent or inadvertent failure of the issuer to disclose correct and/or relevant information, nor shall such issuance be construed to waive any rights of the issuer to perform an audit or obtain an adjustment with respect to Property Expenses for any year it is entitled to do so.

11.20 Security. Neither Manager nor Declarant shall in any way be considered insurers or guarantors of the security within the Property. Neither Manager nor Declarant shall be held liable for any loss or damage for failure to provide security or for the ineffectiveness of any security measure undertaken. Owners and Occupants of any Lot and all Occupants and Permittees of any Owner assume all risks for loss or damage to persons and Improvements on a Lot, and further acknowledge that Manager and Declarant have made no representations or warranties, nor has any Owner, Occupant, or Permittee of any Owner relied upon any representations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any security systems recommended or installed or any security measures undertaken within the Property.

11.21 Venue. Venue for any legal action relating to this Declaration shall lie in the District Court in and for Washington County, Utah.

11.22 Third Party Beneficiaries. This Agreement is intended to benefit and burden the Declarant, Manager, and Owners and their respective successors and assigns only and is not intended nor shall it be construed to create any third-party beneficiary rights.

11.23 Cooperation. Declarant and the Owners shall cooperate in good faith in the implementation and effectuation of this Declaration.

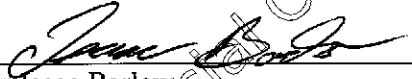
11.24 Entire Agreement. This Declaration constitutes the entire agreement of Declarant with respect to the subject matter thereof, and supersedes all prior agreements, written and oral.

[Intentionally left blank – signature page to follow]



IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the day and year first above written.


TECH RIDGE, L.L.C.
a Utah limited liability company
By its: Manager, Tech Ridge Management, LLC


By: Isaac Barlow
Its: Manager

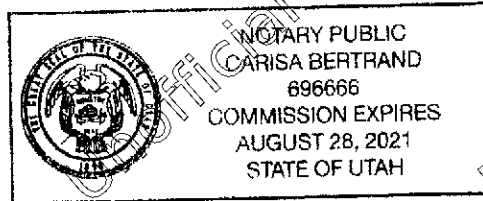
STATE OF Utah)
COUNTY OF Washington : ss.



The foregoing instrument was acknowledged before me this 30 day of May 2019, by Isaac Barlow, the Manager of Tech Ridge L.L.C., a Utah limited liability company.


Notary Public
Residing at: 15. Main st George, VT

My Commission Expires:
August 28, 2021



**Schedule of Exhibits
to
Declaration of Covenants, Conditions, Restrictions
and Grant of Easements
for the Tech Ridge Master Plan**

Exhibit A – Legal Description of Property

Exhibit B – Site Plan of Property

Exhibit C – Maximum Allowable Square Footage



Exhibit ALegal Description of Property

Beginning at a point which is South 88°45'38" East 590.17 feet along the South section line and North 00°00'00" East 1381.62 feet from the South 1/4 corner of Section 25, Township 42 South, Range 16 West of the Salt Lake Base and Meridian, and running thence North 01°20'13" East 50.00 feet; thence North 88°38'43" West 184.78 feet to the point of curvature of a curve to the left having a radius of 225.00 feet; thence Southwesterly 58.55 feet along the arc of said curve through a central angle of 14°54'32" to a point of non-tangency; thence North 01°20'57" East 686.17 feet; thence South 88°47'36" East 222.48 feet to the point of curvature of a curve to the right having a radius of 20.00 feet; thence Southeasterly 31.46 feet along the arc of said curve through a central angle of 90°07'50" to the point of non-tangency; thence South 88°52'05" East 70.00 feet to a point on the arc of a curve to the right having a radius of 20.00 feet; thence Northeasterly 31.37 feet along the arc of said curve through a central angle of 89°52'10" the radial direction bears South 88°39'47" East, to the point of tangency; thence South 88°47'36" East 4.01 feet to the point of curvature of a curve to the right having a radius of 120.00 feet; thence Southeasterly 136.00 feet along the arc of said curve through a central angle of 64°55'58" to the point of tangency said point also being a point on the Westerly Right of Way of Tech Ridge Drive; thence along said Westerly Right of Way through the following four (4) courses: South 23°51'38" East 259.07 feet to the point of curvature of a curve to the left having a radius of 760.00 feet; thence Southeasterly 353.43 feet along the arc of said curve through a central angle of 26°38'41", the radial direction bears North 66°08'20" East, to the point of tangency; thence South 50°30'18" East 162.14 feet to the point of curvature of a curve to the right having a radius of 440.00 feet; thence Southeasterly 22.25 feet along the arc of said curve through a central angle of 02°53'53", the radial direction bears South 39°50'30" West, to a point on the arc of a non-tangent curve to the left having a radius of 50.00 feet; thence Northwesterly 70.03 feet along the arc of said curve through a central angle of 80°14'59", the radial direction bears South 42°44'20" West, to the point of reverse curvature of a curve to the right having a radius of 245.00 feet; thence Southwesterly 80.01 feet along the arc of said curve through a central angle of 18°42'40" to a point of a non-tangency; thence North 88°38'43" West 542.03 feet to the point of beginning.

Contains 10.03 acres.

Exhibit B

Site Plan of Property

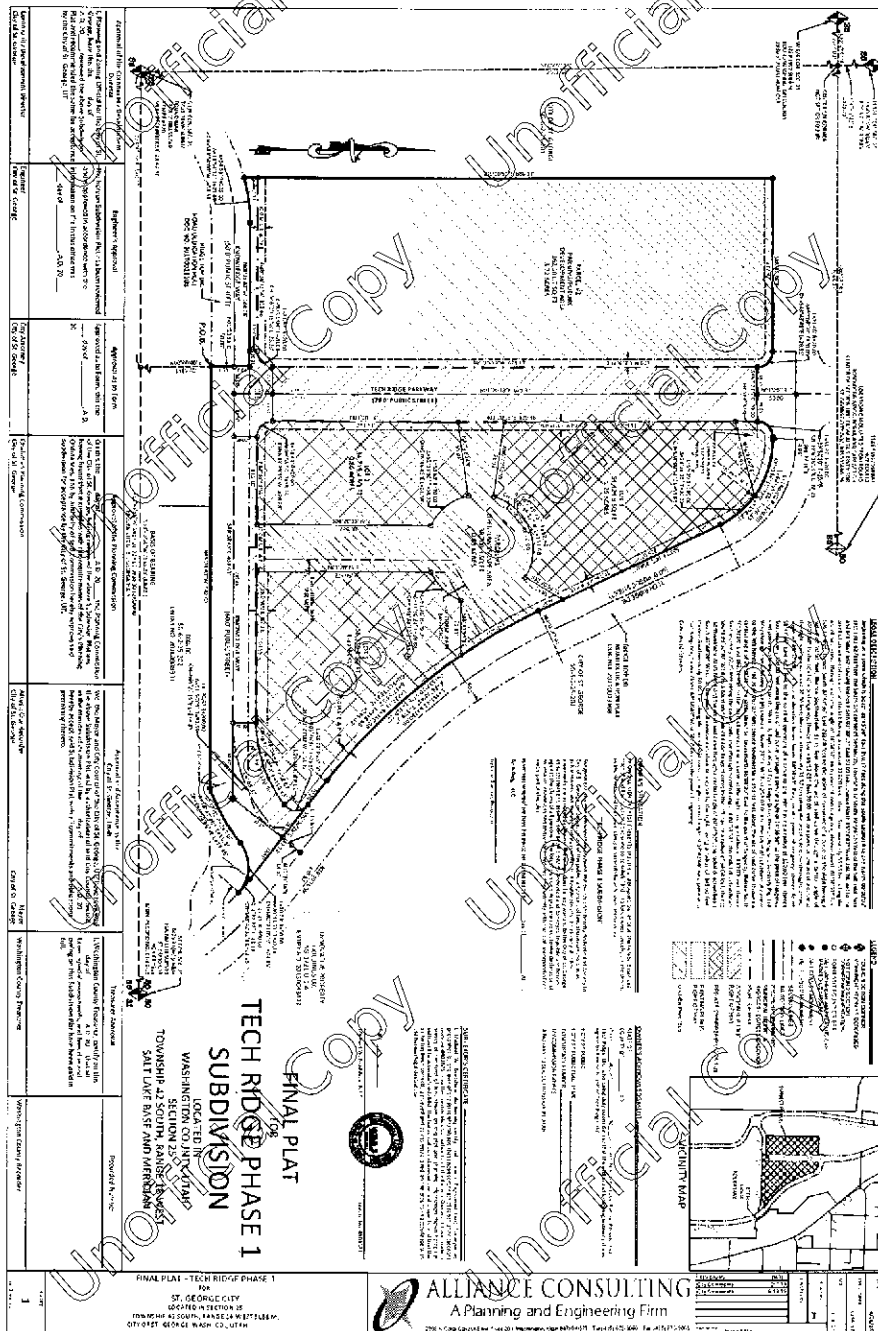


Exhibit C

Maximum Allowable Square Footage

Maximum Allowable Square Footage

Phase One:

Lot 3

58,000 square feet

**CONSENT AND SUBORDINATION
TO
DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS
AND GRANT OF EASEMENTS
FOR
THE TECH RIDGE MASTER PLAN**

THIS CONSENT AND SUBORDINATION (this "Consent") is attached to and forms part of that certain Declaration of Covenants, Conditions, Restrictions and Grant of Easements for Tech Ridge Master Plan, dated the ____ day of _____ 2019, by Tech Ridge, L.L.C., a Utah limited liability company (the "Declaration"). All of the capitalized terms that are used in this Consent shall have the meanings that are set forth for such terms in the Declaration.

THE UNDERSIGNED, as the holder of a first mortgage lien on the Property to secure a Deed of Trust, Assignment and Security Agreement from _____, a _____, to _____, as trustee, for the benefit of _____ dated _____ as of _____ and recorded on _____ as Entry No. _____ in the Recorder's Office for Washington County, Utah, as may be amended ("Lien Instrument"), hereby (1) consents to the Declaration and the Tech Ridge Master Plan subdivision plat of the Property to be recorded on or about the date hereof (the "Plat"); (2) consents to the recordation of the Declaration and the Plat in the official records of the Washington County, Utah Recorder's office; and (3) hereby subordinates the lien and encumbrances of the Lien Instrument to the Declaration and the Plat, in the same manner and as fully as if its lien had been created subsequent to the date of recordation of the Declaration and the Plat.

IN WITNESS WHEREOF, the undersigned, by and through its duly authorized and appointed officers, has caused this Consent to be executed, its seal affixed hereto, and delivered as of the _____ day of _____, 2019.

[Lender]

By: _____
Name: _____
Its: _____

STATE OF _____)
 : ss-
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 201_, by _____, the _____ of _____.

Notary Public
Residing at _____

My Commission Expires: _____