

AFTER RECORDING, PLEASE RETURN TO:

Diane H. Banks, Esq.
Fabian & Clendenin
P.O. Box 510210
Salt Lake City, Utah 84151-0210

AMENDED AND RESTATED
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
AND GRANT OF EASEMENTS OF
SUMMIT CENTER
SUMMIT COUNTY, UTAH

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND GRANT OF EASEMENTS OF SUMMIT CENTER ("Declaration") is made and executed this 29th day of October, 2007, by ALLRED SUMMIT, LLC ("Declarant"), and supercedes and replaces that certain Declaration of Covenants, Conditions and Restrictions recorded May 26, 2006, as Entry No. 00779161, in Book 01793, at Page 01871 - 01885 of the Official Records of the Summit County Recorder, and November 1, 2006, at Entry No. 00796081, in Book 828, at Page 864 of those official records.

RECITALS:

A. Declarant is the owner of certain real property (the "Property") in Summit County, State of Utah, which it desires to subject to this Declaration. The Property is more particularly described on Exhibit "A" attached hereto. The Property is also subject to the SPA Development Agreement dated November 17, 2004.

B. The Property will be developed into a development known as the Summit Center (the "Center") consisting of seven (7) parcels (each, a "Lot"). All capitalized terms used herein without definition shall have the meaning set forth in Article I below. In addition to the improvements constructed by the Owners of the Lots, the Center will be improved with certain landscaping, private roadways, surface parking, sidewalks, and other amenities that will constitute common elements of the Center as more particularly described herein.

C. In furtherance of a common plan of development for the Center, Declarant adopts these covenants, conditions and restrictions affecting the Property. Declarant will develop and convey all portions of the Property subject to these covenants, conditions, and restrictions and grant of easements, all of which shall run with the title to the Property. Declarant has created the Association to which it will delegate and

assign the powers of owning, as applicable, maintaining and administering the Common Area and the Common Facilities, the duties of administering and enforcing this Declaration, and the duty of collecting and disbursing the Assessments and charges hereinafter set forth concerning the operation, maintenance, repair and replacement of the Common Area, the Common Facilities and the functions and obligations of the Association set forth herein.

ARTICLE I DEFINITIONS

In addition to the defined terms set forth above, the following terms shall have the definitions set forth below for purposes of this instrument:

“Articles” shall mean the Articles of Incorporation of the Association, as such Articles may be amended from time to time.

“Assessments” shall mean all charges set forth in Section 6.4, below.

“Assignment” shall have the meaning set forth in Section 2.3.

“Association” shall mean The Summit Center Association, Inc., formed by Declarant under the Utah Revised Nonprofit Corporation Act, and such Association’s successors and assigns.

“Available Funds” shall have the meaning set forth in Section 7.1, below.

“Board” shall mean Board of Trustees of the Association elected in accordance with the Articles and Bylaws of the Association.

“Budget” shall have the meaning set forth in Section 6.4.1.

“Buildings” means all structures and buildings built upon and affixed to the Property at any time and from time to time which are intended for permanent and exclusive use and occupancy, and shall include any area directly below any Buildings, all projections, additions or extensions of any Buildings, any drive-in window area, platforms and docks affixed to the outside of any Buildings, and porches and stairways protruding from but not enclosed within any Building. Notwithstanding the preceding sentence, Buildings shall not include Common Area or Common Facilities or any portion thereof.

“Bylaws” shall mean the Bylaws of The Summit Center Association, as such Bylaws may be amended from time to time.

“Capital Improvement Assessment” shall have the meaning set forth in Subsection 6.4.4, below.

“Center” means the Summit Center which is the subject of this Declaration, and includes the Property, Buildings and Improvements thereon, and includes the Common Property. The Declarant may change the name of the Center at any time in Declarant’s sole discretion.

“Committee” means the Architectural and Development Control Committee as organized, constituted and operated in accordance with the provisions of Article 3 hereof.

“Common Area” means all property within the Property outside of the Lots, and shall include, by way of illustration and without limitation, landscaping, gardens, walkways, sidewalks (within the Common Area only), parking areas, roadways, drive aisles and entry and exit ways to adjacent streets, utility lines and equipment designed to serve solely the Common Area. Common Area shall not include (i) any Building or any area within any Building; or (ii) any area within any Lot. The Common Area will be specified on the Plat, a copy of which is attached hereto as Exhibit “B,” as the Plat may hereafter be amended, and in supplemental declarations or in other separately recorded documents identifying Common Area. Common Area shall also include any CATV or other communications systems or any security system operated by the Association for the benefit of the Members.

“Common Expenses” means all costs and expenses incurred by the Association or the Committee in maintaining, managing or operating the Common Property or in performing or exercising its functions, duties, obligations or rights under this Declaration, or under such rules and regulations as the Association may from time to time make and adopt. Common Expenses shall include, by way of illustration and without limiting the generality of the foregoing, costs and expenses of (a) operating and managing the Common Property, such as overhead, salaries and wages (including employment taxes and fringe benefits) of all personnel employed by the Association and/or customary management fees paid to any person or entity, (b) insurance authorized by this Declaration or otherwise deemed appropriate by the Association to protect the Common Property, the Association and its Employees, Representatives or Occupants, (c) real and personal property taxes and Assessments (whether General or Special, known or unknown, foreseen or unforeseen) in respect of the Common Property, any other governmental or quasi-governmental charges or Assessments levied against any Common Property, and any tax, Assessment or similar charge by a governmental or quasi-governmental entity levied or charged in lieu of any of the foregoing, whether assessed against the Association or Representatives or Occupants, and whether collected from the Association or Representatives or Occupants, (d) security personnel and equipment employed in connection with the Common Property, if any, (e) snow removal from the Common Property, (f) acquisition, repair and maintenance of tools and equipment used in maintaining the Common Property, as for example, landscaping and snow removal equipment, (g) cleaning, sweeping, removing trash and otherwise maintaining the Common Property in good appearance, (h) capital improvements to and other costs and expenses incurred in constructing and installing additions or replacements to the Common Property after the Common Property is initially constructed, (i) utilities which are utilized primarily for the benefit of the Common Property, and which are separately metered and billed to the Association (all other utilities are to be billed to and paid for by the Representatives of the Building using or benefiting from the same), (j) services of independent contractors relating to the Common Property, (k) rental expense of personal property used in the maintenance, operation and repair of the Common Property, (l)

the cost incurred by or imposed upon the Association or in respect of the Common Property in repairing, replacing, improving, upgrading, or otherwise dealing with improvements in public roads or rights of way for the benefit of the Property such as the repair or upgrading of curb and gutter, sidewalks, deceleration or acceleration lanes, (m) legal accounting and other services incurred by the Association in performing its duties and enforcing this Declaration, (n) maintenance and repair of any right of way or any roadway or area over or with respect to which an easement exists for the benefit of the Property or any portion thereof, (o) rental costs for space required to facilitate maintenance and management of the property; and (p) any costs and expenses incurred by the Association or the Committee in the good faith belief that the same are "Common Expenses." Common Expenses shall not include the development costs and expenses incurred in initially constructing and installing the Common Property.

"Common Facilities" means the parking areas, landscaping, sprinkling systems or water distribution systems including any associated pumps and hardware installed for the purpose of watering the landscaping; fountains, monuments, sculptures, plazas, flag poles and related facilities; and all tanks, electrical transformers, pumps, motors, fans, compressors, ducts, and, in general, all apparatus, installations, utility lines and facilities existing for common use, if located within or upon the Common Area.

"Common Parking Area" means the areas of the Common Area described as such on the Plat and all other areas of the Property which are part of the Common Area and which are from time-to-time designated for use as parking for automobiles or other vehicles.

"Common Property" shall include the Common Area and Common Facilities.

"Declarant" means Alfred Summit, LLC, a Utah limited liability company.

"Declaration" shall mean this document.

"Development Guidelines" means standards, requirements and restrictions which may be adopted by the Committee, as such guidelines may hereafter be amended.

"Easement" means the easement granted to the Association in Subsection 2.1.1 below.

"General Assessment" shall have the meaning set forth in Subsection 6.4.1 below.

"Improved Space" means all gross square footage of floor space in any Buildings situated on any Lot at any time following issuance of a certificate of occupancy.

"Improvements" means all improvements in, on or to the Property.

"Landscaping" means any ground covered with lawn, flowers, ground cover, shrubbery, trees, ponds or the like, which may be complemented with earth berms, masonry or similar materials.

“Lot” means each of the lots set forth on the Plat, each of which is assessed as a separate tax parcel.

“Manager” shall have the meaning set forth in Section 6.2.

“Member” means the Owner of any Lot.

“Mortgagee” shall mean any lender holding a mortgage against any portion of the Property.

“Occupant” means any person who has a legal right, whether by purchase, lease or rental to occupy and use any Building, or any part thereof.

“Operating Expense Denominator” shall have the meaning set forth in Subsection 6.4.1(a) below.

“Operating Expense Numerator” shall have the meaning set forth in Subsection 6.4.1(a) below.

“Owner” means the person, including Declarant, holding title of record to any Lot, including sellers under executory contracts of sale, but excluding those persons having such interest merely as security for the performance of any obligation. For the purposes of membership in the Association, voting in the Association and being obligated to pay assessments levied against Lots in this Declaration, the term “Owner” shall refer only to Owner of Lots within the Property.

“Plat” shall mean the plat to be recorded with the Summit County recorder’s office, a copy of which is attached hereto as Exhibit B, as such Plat may hereafter be amended.

“Property” means that real property described in Exhibit “A” attached hereto.

“Representative” means the designated representative of the record Owner of title to any Lot.

“Special Assessment” shall have the meaning set forth in Subsection 6.4.2 below.

“Specific Assessment” shall have the meaning set forth in Subsection 6.4.3 below.

“Substantial Condemnation” shall have the meaning set forth in Section 7.2 below.

“Substantial Destruction” shall have the meaning set forth in Section 7.2 below.

“Turnover Date” means the date on which the Declarant records a Notice of Turnover as set forth in Section 2.3 below or the number of Lots specified in that Section have been conveyed.

“User” means the persons entitled to use the Common Property, namely each Member and Occupant.

and their respective customers, clients, guests, invitees, tenants, employees and agents.

ARTICLE II
THE ASSOCIATION

Section 2.1 Purpose of Association. The purpose of the Association is and shall be to maintain and administer the Common Property, collect and disburse the Assessments and charges provided for herein, otherwise administer, enforce and carry out the terms of the Declaration and generally provide and promote the health, safety and welfare of the Members, all for the collective benefit of the Members, Occupants and the Users. The Association shall act solely for the benefit of those parties and shall not have or conduct any separate business or have any business interests other than those expressly herein provided. All activities of the Association undertaken hereunder from time to time shall be carried out in an equitable and fair manner for the benefit of the Members, Occupants and Users.

Subsection 2.1.1 Easement. Declarant hereby grants to the Association an easement across the Property and each Lot therein for the purpose of construction, maintenance, repair and replacement of utility lines and facilities, including without limitation ingress and egress for such purposes (the "Easement"). The Easement is assignable to any utility service provider at the sole discretion of the Association. This grant of Easement does not impose any obligation on the Association for construction or maintenance of any utility systems except as expressly provided herein.

Section 2.2 Membership In Association. As of the date of the recordation of this instrument, Declarant constitutes the sole Member of the Association. Membership in the Association shall be mandatory for any owner holding legal title to any Property within the Center, shall be appurtenant to the Lot or Lots in which the Member holds the interest causing it to be a Member, and shall not be separable from the Lot(s) to which it is appurtenant, provided that a Member may pledge its membership to a mortgagee in connection with the financing of its Lot(s) such that a Mortgagee upon obtaining title to a Lot(s) by foreclosure, trustee's sale or other similar proceeding will succeed to all rights and obligations as a Member with respect to such Lot(s).

Section 2.3 Turnover Date. On the earlier of the date that Declarant conveys all of the Lots to third parties or records a Notice of Turnover (the "Turnover Date"), all remaining rights and obligations of Declarant hereunder are automatically assigned to the Association (the "Assignment"). Any Notice of Turnover shall specify that the voting rights of the Members shall thereafter be in effect and further specify:

- (a) the number of votes then assigned to each Lot, and
- (b) the composition of the Architectural and Development Control Committee.

Prior to the Turnover Date, the Association shall act through Declarant. Following the Turnover Date, the Association shall act through its Board. If no Notice of Turnover is recorded, the Board shall meet to establish the votes and compensation of the Committee as set forth in Sections 2.3(a) and (b) above.

Section 2.4 Voting.

Subsection 2.4.1 Allocation of Votes.

(a) Prior to Turnover. Prior to the Turnover Date, Declarant shall be the sole Member of the Association and shall have total voting control of the Association.

(b) Following Turnover. Following the Turnover Date, each Member of the Association shall be entitled to one (1) vote for each 1,000 square feet of Improved Space within each Lot owned by such Member; and no vote shall be allocated for any space less than 1,000 square feet.

Subsection 2.4.2 Voting Representatives. Following the Turnover Date, each Member shall designate to the Association and to each other Member an individual who will be the representative to cast such Member's vote(s) as a Member (each, a "Representative"). The Representative may be changed at any time by notice from the Member to the Association and the Representative for each of the other Lots. If no Representative is designated, the Owner shall be deemed to be the Representative until such time as a designation is made.

Subsection 2.4.3 Voting. Following the Turnover Date, holders of a majority of the votes in the Association shall bind the Association, except as specifically provided otherwise herein.

Subsection 2.4.4 Unanimous Written Consent in Lieu of Vote. In any case in which the Declaration requires, for authorization or approval of a transaction or matter, the assent or affirmative vote of the majority of the votes of the Association, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from every Member entitled to cast a vote. All necessary consents must be obtained prior to the expiration of one hundred eighty (180) days after the first consent is given by any Member, and any change in ownership of a Lot which occurs after a vote has been cast on behalf of such Lot shall not be considered or taken into account for the purpose of this Section 2.4.4.

Subsection 2.4.5 Amendment. Following the Turnover Date, seventy-five percent (75%) of the votes that Members present in person or represented by proxy are entitled to cast at a meeting of the Members of the Association shall be required to amend or terminate the Declaration, the Plat, the Articles or the Bylaws, and any amendment or termination of the Declaration shall be accomplished through the recording of an instrument executed by Members of the Association holding seventy-five percent (75%) of such votes. Prior to the Turnover Date, Declarant shall have the right to amend the

Declaration without consent of any other Member, and any such amendment shall be accomplished through recordation of an instrument reflecting such amendment.

Subsection 2.4.6 Multiple Representatives. Following the Turnover Date, in the event there is more than one Representative with respect to a particular Lot, the votes relating to such Lot shall be exercised as such Representatives may determine among themselves or as indicated to the Association at the time of the designation. The votes cast at any Association meeting by any of such Representatives, whether in person or by proxy, shall be conclusively presumed to be the votes properly attributable to the Lot concerned unless the total number of votes cast by all of such Representatives exceeds the total number of votes held with respect to such Lot, determined in accordance with Section 2.4 hereof, or unless a colorable objection to the allocation of votes with respect to a Lot is immediately made by another Representative of the same Lot. In the event the votes exceed the proper number of votes, or such an objection is made, none of the votes of the Lot involved shall be counted at such meeting for any purpose whatsoever other than to determine whether a quorum exists.

Subsection 2.4.7 Lists of Representatives, Eligible Mortgagees and Eligible Insurers. The Association shall maintain up-to-date records showing: (a) the name of each Representative, the address of such person and the Lot for which he or she is a Representative; (b) the name of each person or entity who is an eligible mortgagee, the address of such person and the Lot which is encumbered by the mortgage held by such person; and (c) the name of each person who is an eligible insurer, the address of such person, and the Lot which is encumbered by the insured mortgage. In the event of any transfer of a fee or undivided fee interest in a Lot, either the transferor or transferee shall furnish the Association with evidence establishing that the transfer has occurred and that the deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Summit County, Utah. The Association may for all purposes act and rely on the information concerning Representatives and Lot ownership which is thus acquired by it, or at its option, the Association may act and rely on current ownership information respecting any Lot or Lots which is obtained from the office of the County Recorder of Summit County, Utah.

Section 2.5 Powers of Association. Prior to the Turnover Date, the Association, acting through Declarant, shall have the powers and duties provided in the Articles and Bylaws and such additional powers as shall be reasonable and necessary for the Association to accomplish the purposes of this Declaration including without limitation the right to:

- (a) grant easements or rights-of way in the Common Area as required by utilities and as required for access to and throughout the Common Area as needed;
- (b) promulgate rules and regulations governing the use and occupation of the Common Property;
- (c) permit various activities within and upon the Common Property;

- (d) manage and contract for the management of the Common Property;
- (e) insure the Common Property;
- (f) act as attorney-in-fact as set forth in Section 7.5, below;
- (g) take such action as may reasonably be necessary or desirable to enforce the terms and provisions of the Articles, Bylaws, Declaration and Development Guidelines, including the filing of liens or bringing any action to enforce such provisions; and
- (h) levy and collect assessments as provided herein.

Following the Turnover Date, all such power shall be held by the Association, acting through the Board.

ARTICLE III ARCHITECTURAL AND DEVELOPMENT CONTROLS

Section 3.1 Architectural and Development Control Committee. Prior to the Turnover Date, Declarant shall be the sole member of the Architectural and Development Control Committee, and prior to the Turnover Date, Declarant shall establish the Architectural Control Committee by specifying the member of that committee in the Assignment. Thereafter, at the first meeting of the Board, the Trustees may elect replacement members of the Committee, who shall thereafter be elected by majority vote of the Members at any annual meeting of the Association.

Section 3.2 Submission to the Committee. No Improvement shall be constructed or maintained on the Property, and no alteration, repainting, renovating, replacing or refurbishing of any Improvement shall be performed, unless complete plans and specifications therefor have first been submitted to and approved by the Committee as set forth in Section 3.3, below. Any and all signs placed or located on any Building or in any Parking Area, or which is located within a Building but visible from outside of the Building shall be subject to the prior written approval of the Committee. In addition to the building elevations, submissions must include a site plan which indicates the proposed primary parking areas and parking needs for the proposed Improvements.

Section 3.3 Approval Procedure. The Committee shall approve or disapprove any plans and specifications submitted to it in writing within the following time periods after submission, no later than thirty (30) days if the projected cost is less than \$100,000.00; and, no later than sixty (60) days if the projected cost is greater than \$100,000.00; provided that the Committee may extend such period for any additional thirty (30) days if reasonably necessary to complete its review. Any such extension shall be automatic upon written notice to the Member requesting approval from the Committee at any time prior to expiration of the sixty (60) day period. A vote of a majority of the members of the Committee shall be

required to approve or disapprove any plans and specifications submitted to the Committee. In the event the Committee fails to take any action within such period, it shall be deemed to have rejected the material submitted. If the Committee rejects or disapproves any proposed plans and specifications it shall upon request specify in reasonable detail the basis of such disapproval, and the applicant may resubmit revised plans and specifications after using its best efforts to remedy the aspect giving rise to the disapproval. All costs and expenses reasonably incurred by the Committee in connection with the review shall be paid by the applicant except as specifically set forth in Section 3.7. If the applicant resubmits plans and specifications more than one time, the Committee may thereafter also impose a fee for subsequent review. Notwithstanding any approval granted pursuant to this Article, all development applications shall be subject to the approval of Summit County pursuant to the Development Agreement and the Summit County Code.

Section 3.4 No Liability for Damages. Neither the Declarant, Committee, the Association, any member of the Committee nor any Member of the Association shall be liable for damages by reason of any action, inaction, approval or disapproval by it with respect to any request made pursuant to this Article III.

Section 3.5 Development Guidelines.

(a) Adoption. The Declarant may promptly adopt Development Guidelines at any time, and may thereafter rescind, amend and modify such Development Guidelines at such times and from time-to-time as it deems necessary to inform the Committee of the standards which will be applied in approving or disapproving proposed Improvements.

(b) Content. The Development Guidelines may specifically state the rules and regulations of the Committee with respect to the submission of plans and specifications for approval, the time or times within which such plans or specifications must be submitted (which shall not be inconsistent with the provisions of this Declaration), and such other rules, regulations, policies and recommendations which the Committee will consider in approving or disapproving proposed construction of or alterations to Improvements.

Section 3.6 Standards. In deciding whether to approve or disapprove plans and specifications submitted to it, the Committee shall use its best judgment to insure that all Improvements conform to and harmonize with the Development Guidelines, if any, and the requirements and restrictions of this Declaration. Compliance with the Development Guidelines and/or approval by the Committee shall not relieve a Member (or those claiming under it) of the duty to obtain all permits and licenses required by law nor of the duty to comply with all applicable laws and ordinances.

Section 3.7 Arbitration. From and after the Turnover Date, if the Committee rejects or disapproves any proposed plans and specifications, the matter shall be, at the request of the Member that submitted such plans and specifications for approval (for purposes of this Section, the "Contesting

Member”), submitted to a three-member arbitration panel for final approval or disapproval of the proposed plans and specifications. The Committee and the Declarant shall each be entitled to appoint one arbitrator and the Member of the Association with the greatest number of votes shall be entitled to appoint one arbitrator. The fees and expenses of the three arbitrators shall be borne equally by the Contesting Member and the Association, the latter's share constituting a Common Expense hereunder; otherwise, each Member (including the Contesting Member) shall bear its other costs and expenses incurred in connection with the arbitration proceedings.

ARTICLE IV
USES; BUILDINGS; TENANT'S INSURANCE

Section 4.1 Prohibited Uses. No portion of the Center may be occupied for any use which is in violation of any applicable ordinance, law or regulation of or agreement with any governmental entity having jurisdiction over the use of all or any part of the Center or for any use which is inconsistent with the provisions of this Declaration.

Section 4.2 Construction and Maintenance. All Buildings shall be first-class retail, commercial, office, fitness, school and related compatible use buildings of the type and quality typically found in centers of comparable size and nature and located in the same geographic area as the Property. Each Member will maintain the Building and Improvements located on its Lot in good condition and repair in a first-class, high quality manner, clean and free of rubbish and other hazards to persons using such Buildings and in compliance with all laws, ordinances, rules and regulations. Each Member shall bear the cost and expense of maintaining its Lot. Such maintenance will include, without limitation:

- (a) keeping their Lot in a clean and slightly condition and in good condition and repair, consistent with the character and quality of improvements constructed within the Center;
- (b) maintaining and keeping the exterior portion of the Building located on their respective Lot in first-class condition and state of repair, in compliance with all governmental requirements, and in compliance with the provisions and requirements of this Declaration;
- (c) storing all trash and garbage on their respective Lots in adequate containers, locating such containers so that they are not readily visible from the customer parking areas of the Lots, and arranging for regular removal of such trash or garbage;
- (d) maintaining the surfaces in their respective Lots in a level, smooth and evenly covered condition, with the type of surfacing material originally installed or substituting, as shall in all respects be equal in quality, use and durability; and
- (e) maintaining their respective Lots by:

(i) promptly removing all papers, debris, filth and refuse and thoroughly sweeping the area to the extent reasonably necessary to keep the area in a clean and orderly condition, and free of snow, ice, dirt, and debris;

(ii) placing, keeping in repair and replacing any necessary or appropriate directional signs, markers and lines;

(iii) operating, keeping in repair and replacing, where necessary, such artificial lighting facilities as shall be reasonably required for adequate lighting; and

(iv) maintaining all landscaped areas in a thriving and trimmed condition and making such replacements of shrubs and other landscaping as is necessary.

(f) If any Lot Owner fails to carry out its obligations with respect to the maintenance of its Lot referenced herein, and such failure shall continue for a period of thirty (30) days for non-emergency matters after written notice thereof, Declarant may maintain and repair the Lot and charge the Lot Owner for its portion of such costs. In the event of an emergency, Declarant may immediately maintain and repair any Improvements after reasonable efforts to notify the Lot Owner(s), if such condition negatively impacts or threatens to negatively impact other property within the Center. The Lot Owner(s) shall reimburse Declarant for such costs within thirty (30) days from the date of Declarant's invoice. If the Lot Owner fails to reimburse Declarant within such thirty (30) day period, Declarant may, at its discretion, place a lien for unpaid costs, with interest at an annual rate of fifteen percent (15%), upon the title to the Lot of the nonpaying Owner by recording a lien claim and notice.

Section 4.3 Destruction. If any Building is partially or wholly damaged or destroyed, the Member with respect to the Lot on which the Building is located shall promptly commence to restore such Building so as to render the Building capable of occupancy as a first-class building in accordance with the provisions of this Declaration and diligently pursue such restoration to completion, or if the Member elects not to repair, restore or replace such Building or damaged portion thereof, such Member shall, at its cost and expense, grade level that portion of the Lot on which such Building was located, and cover such portion with asphalt of sufficient thickness that the Lot may be used as a parking area, or if requested by the Committee, landscape such area in a manner approved by the Committee.

Section 4.4 Liability Insurance. Each Member shall obtain commercial general liability coverage relative to each Lot owned by such Member, and the Buildings located thereon, to provide protection against liability for bodily injury, death and property damage, in the amount of at least \$5,000,000 per occurrence or as otherwise approved by Declarant, as adjusted periodically for inflation. Insurance limits may be maintained by a combination of primary and umbrella policies. Each Member will also carry commercial automobile liability coverage, if applicable.

Section 4.5 Association's Right to Cure. If a Member shall at any time fail to comply as expeditiously as reasonably feasible with any law, ordinance, rule or regulation concerning or affecting the Building or the use and occupation thereof, or with any of its obligations under this instrument (including, but not by way of limitation any obligations pursuant to this Article 4, the Association, after five (5) days' prior written notice to the Owner or Representative for the Lot, may (but shall not be obligated) perform any such obligation in the stead of the Member, and the reasonable costs and expenses of the Association incurred in performing such obligation shall be paid by the Member. Such amount shall be payable upon demand and shall constitute a lien against the Lot pursuant to Subsection 6.4.3. below.

ARTICLE V RIGHTS TO COMMON AREA AND COMMON FACILITIES

Section 5.1 Construction and Maintenance. Except as specifically provided otherwise herein, Declarant shall construct all infrastructure improvements and all other Improvements within the Common Area. Each Owner shall be responsible to construct all infrastructure improvements within its Lot in accordance with plans and specifications approved by the Association and at the sole cost and expense of such Owner.

Section 5.2 Easements of Enjoyment. Subject to the limitations set forth in Section 5.3, 5.5 and Article 8 hereof and elsewhere in this Declaration, every User shall have nonexclusive rights and easements of use and enjoyment in and to the Common Property. These easements shall be appurtenant to and shall pass with title to each Lot, shall in no event be separated therefrom, and shall bind and burden all Common Property.

Section 5.3 Limitation on Easements. The rights and easements of use and enjoyment as described in Section 5.2 hereof shall be subject to and limited as follows:

(a) Interference. The limitation that they shall not be exercised in any manner which substantially interferes (i) with the purposes for which the Common Property is provided; or (ii) with the rights and easements of any other User;

(b) Governmental Access. The right of Summit County and any other governmental or quasi-governmental body having jurisdiction over the Property at any time and from time-to-time, and any private or public utility company serving the Center, of access to, and rights of ingress and egress over and across, any of the Common Areas contained within the Property for purposes of providing police and fire protection, and providing any other governmental, municipal or utility services;

(c) Easements. The right of the Association, in its sole discretion, to grant permits, licenses and easements over, across, through and under the Common Area to any governmental or quasi-governmental authority, to any public or private utility company or to any other person or entity for the

purpose of installing, maintaining or providing utilities and related facilities or roads or for such other purposes reasonably necessary or useful for the proper construction, development, maintenance or operation of the Center;

(d) Rules and Regulations. The right of the Association to promulgate at any time and from time-to-time rules and regulations governing the use or occupation of the Common Property;

(e) Activities. The right of the Association to allow and permit various activities within and upon the Common Property, including but not limited to, displays, kiosks and booths advertising or promoting the Center or any Building or selling merchandise or services of any type, and shows, exhibits, or other activities of all types, the expenses of which activities shall be borne by the Member, or may be assessed as part of the Special Assessments pursuant to Subsection 6.4.2 hereof, and all income from any such activities shall be retained by the Association and used as an offset against Common Expenses assessed and allocated pursuant to Subsection 6.4.1;

(f) No Public Rights or Dedication. The limitation that such rights shall not be construed as creating any rights in or for the benefit of the general public, or be deemed to be a gift or dedication of any of the Common Property to the general public or for any public use whatsoever; and

(g) Limited by Terms. All easements appurtenant to any specific Lot or Lots in the Association or otherwise specifically limited shall be limited by their terms.

ARTICLE VI

MANAGEMENT AND MAINTENANCE OF COMMON AREA, LIMITED COMMON AREA AND COMMON FACILITIES, ASSESSMENTS AND INSURANCE

Section 6.1 Management of Center. The Association shall manage the Common Property and otherwise discharge its obligations hereunder in a first-class manner and shall perform all acts and take all such actions that are customary or necessary and desirable for the management of projects of like size, type and character to the Property or as may be required for the efficient operation, management and maintenance of the Property. The Association shall perform all acts and take all such actions that are customary or necessary and desirable to insure that the Common Property is well maintained and kept in first-class condition and repair and working order and in a first-class state of cleanliness at the Association's expense, which expense shall be treated as a part of Common Expenses hereunder.

Section 6.2 Management Contract. To fulfill its obligations hereunder, the Association may enter into a management contract on reasonable and customary terms with a qualified management company (the "Manager"). The Manager may from time to time subcontract in arms-length transactions, in the name of the Association, with qualified subcontractors to perform all services and labor and provide all materials and supplies that are required for the management, operation and maintenance of the

Property as herein provided. A Manager shall only be selected by the Association with the prior written approval of Members holding seventy five percent (75%) or more of the votes determined in accordance with Section 2.4 hereof and may be an affiliate of any Member as long as the fees charged by said affiliate are no greater than those that an unaffiliated third party would charge for similar services.

Subsection 6.2.1 Existing Manager. It is hereby acknowledged and agreed that Declarant is the Manager as of the date of execution of this instrument.

Subsection 6.2.2 Termination of Manager. Any agreement for professional management of the Center shall provide that any Member or Members holding seventy-five percent (75%) or more of the votes determined in accordance with Section 2.4 hereof, may terminate such agreement for any reason, without payment of any termination fee or being subject to any penalty, by giving thirty (30) days prior written notice to the Association, the Manager and each Member that is not a party to such termination notice.

Subsection 6.2.3 Arbitration. In the event a Manager resigns or is removed as provided herein and the Members are unable to agree on the selection of a successor Manager as provided in Section 6.2 above, the selection of a new Manager shall be made by Declarant prior to the Turnover Date, and following the Turnover Date, the selection shall be submitted to and made by a three-member arbitration panel consisting of one arbitrator appointed by each of Declarant, the Association and the Member of the Association with the greatest number of votes. Until selection of a Manager by the arbitration panel, the Declarant shall be entitled to select an interim Manager.

Section 6.3 Books and Records. The Association shall, as it deems appropriate, cause to be kept such books and records of all revenues and Assessments received, and all Common Expenses paid in performing its duties pursuant to this Article 6. In addition to the monthly billing statements required by Section 6.4 below, the Association shall cause to be prepared an annual statement of the operating revenues and expenses incurred by the Association in performing its duties relative to this Declaration. Such statement shall be prepared within a reasonable period following the end of each calendar year and shall be mailed to each Owner or Representative within a reasonable time hereafter. Any Representative may, upon appointment during regular business hours, and at its own expense, cause an inspection or audit to be made of the books and records maintained by the Association.

Section 6.4 Assessments.

Subsection 6.4.1 General Assessments. The Association shall prepare a yearly budget setting forth projected Common Expenses ("Budget") and shall assess the Members for those Common Expenses, which expenses shall be due and payable twenty (20) days after the date billed, as follows:

(a) Each Member shall be subject to a monthly Assessment equal to the total Common Expenses, excluding the cost of insurance obtained by the Association pursuant to Section 6.5

hereof and the taxes paid by the Association with respect to any of the Common Property, incurred for that month, multiplied by a fraction, the numerator of which is the Operating Expense Numerator, and the denominator of which is the Operating Expense Denominator. "Operating Expense Numerator" shall mean and refer to the gross Improved Space with respect to the Lot or Lots owned by said Member on the first day of said month. Each Member shall be assessed as of the first to occur of the date a Certificate of Occupancy has first been granted by the appropriate governmental authority or a date certain agreed upon by the Association. In agreeing on such date, the Association may take into account the impact to the Common Area arising from construction of Improvements by any Member. Until such time the Operating Expense Numerator for such Lot shall be zero (0). "Operating Expense Denominator" shall mean and refer to the sum obtained by taking, for each Lot for which the numerator of this fraction is greater than zero (0), the gross Improved Space, and adding such numbers for all Lots located on the Property together.

(b) Each Member shall be subject to an additional Assessment at any time and from time-to-time equal to the cost incurred for the insurance obtained by the Association pursuant to Section 6.5 hereof and the taxes incurred by or charged against the Association and included in the definition of Common Expenses above, which expenses shall be allocated as set forth in Section 6.4.1(a) above.

Subsection 6.4.2 Special Assessments. The Association may assess Members for Special Assessments, all of which are payable twenty (20) days after the date billed, as follows:

(a) In addition to the monthly Assessments authorized above, the Association may, subject to the limitations of clauses (b) and (c) of this Subsection 6.4.2, levy, in any month, a Special Assessment for any general assessment exceeding the Budget or for the purpose of paying or establishing a reserve to pay, in whole or in part, the cost of any reconstruction, repair or replacement of any Common Facility or Improvement located upon the Common Area or that benefits the Common Area but lies off the Common Area, as may be necessitated by normal wear and tear and damage by the elements. If any such Assessment is in an amount less than One Hundred Thousand Dollars (\$100,000.00), consent thereto by the Members shall not be required.

(b) Except as provided in subsection (a), above, any Assessment proposed to be levied pursuant to clause (a) of this Subsection 6.4.2 may be levied only after the Association obtains the written consent of Members holding seventy-five percent (75%) or more of the votes determined in accordance with Section 2.4 hereof. Any such Special Assessment shall be prorated among all Members in the same manner as additional Assessments are allocated among the Members in accordance with Subsection 6.4.1, above. Any such Special Assessment may, at the discretion of the Association after approval of the Members as herein provided, be made prior to an expenditure for such costs and placed in a sinking fund account.

Subsection 6.4.3. Specific Assessments. The Association may assess Members for Specific Assessments, all of which are payable twenty (20) days after the date billed to cover costs, including overhead and administrative costs, for:

(a) Providing particular services, items, or benefits to a specific Lot or to a Member at the request of a Member pursuant to a list of special services which the Association may authorize or offer from time to time, including, without limitation, snow removal, landscape, maintenance, and handyman services, and which assessments may be levied in advance of providing such special services.

(b) Enforcing any provision of the Articles, Bylaws, this Declaration or the Development Guidelines against a specific Lot or of bringing any Lot or the Improvements thereon into compliance with such requirements.

(c) Maintenance, repairs or replacements of or within the Common Property arising out of or caused by the willful or negligent act or omission of a Member or a Member's employees, guests, invitees, tenants, licensees or concessionaires.

Subsection 6.4.4 Capital Improvement Assessments. The Association may assess Members for Capital Improvement Assessments to defray, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement of or upon the Common Area, including fixtures and personal property related thereto; provided, however, that following the Turnover Date, any assessment in excess of Five Hundred Thousand Dollars (\$500,000.00) shall require the affirmative vote or written consent of Members holding a majority of the votes in the Association. Capital Improvement Assessments shall be included in the Budget and thereafter will be included as a Common Expense.

Subsection 6.4.5 Lien for Assessments.

(a) Each Owner, by acquiring or obtaining an interest in or with respect to a Lot, is deemed to covenant and agree to pay to the Association the Assessments described in Subsections 6.4.1 through 6.4.4 hereof. All such Assessments, together with interest thereon, as herein provided, costs and reasonable attorneys' fees for collection thereof, shall be a charge on the Lots and from and after the date this Declaration is recorded, shall be a continuing lien upon the Lot to which the delinquent Assessments pertain, and upon any Building or Improved Space located thereon, and upon any rents derived therefrom. Subject to Subsection 6.4.8(a) hereof, the priority date of any lien for delinquent Assessments provided for herein shall be the date this Declaration is recorded and not the date the Assessments concerned become delinquent or the date a notice with respect thereto is recorded.

(b) To evidence a lien for delinquent Assessments, the Association may, but shall not be required to, prepare a written notice of lien setting forth the amount of the Assessment, the

date due, the amount remaining unpaid, the name of the Owner which has failed to pay the Assessment concerned, and a description of the property subject to the lien. Such a notice may be signed by a duly authorized officer of the Association, acknowledged and recorded in the office of the County Recorder of Summit County, State of Utah, within ninety (90) days after the Assessment has become delinquent. No notice of lien shall be recorded until there is a delinquency in payment of an Assessment. Such lien may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed under the laws of the State of Utah. In any such judicial 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 delinquent Owner shall also be required to pay to the Association any Assessments which shall become due during the period of foreclosure, and all such Assessments shall be secured by the lien being foreclosed.

Subsection 6.4.6 Obligation of Owner. Any General or Special Assessment shall be the personal obligation of the Owner of such Lot who was such on the first day of the month to which the Assessment relates. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same, and the Association is entitled to receive rents derived from such Lot, or the Building or Improved Space thereon in satisfaction of such Assessments. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Area or by abandonment of its Lot or the Building or Improved Space thereon, or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover any money judgment for unpaid Assessments hereunder, the involved Owner and legal title holder or ground lessee shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorneys' fees.

Subsection 6.4.7 Date of Commencement and Notice of Monthly Assessments. The General Assessment and the Capital Improvement Assessments levied against each Owner as provided for in Subsections 6.4.1 and 6.4.4 hereof shall commence on the first day of the month following the first day such Owner is issued a Certificate of Occupancy by the appropriate governmental entity for the Building located on its Lot. The obligation of the Special Assessment and the Specific Assessment against each Owner as provided in Subsections 6.4.2 and 6.4.3 shall commence on the first day after such Owner becomes an Owner. The Association shall provide the Budget estimating the amount of the General Assessment due from each Owner at least thirty (30) days in advance of each General Assessment period, and shall then bill each Owner for its General Assessments, with payment to be made by each Owner by the first day of the month to which the General Assessment relates. Written notice of the Budget and the General Assessment shall be sent to every Owner subject thereto. Within thirty (30) days after the end of each yearly General Assessment period, the Association shall determine the exact amount of the Common Expenses incurred for said month, and shall charge or credit each Owner in a subsequent monthly billing for the difference between the actual expense and the estimated expense of maintenance for that particular month. Any general Assessment not paid within thirty (30) days of its due date shall be subject to a five percent (5%) late fee and accrue interest thereon both before and after judgment and until paid at the

higher of eighteen percent (18%) per annum or two percent (2%) over the primary rate set by Wells Fargo Bank, as of the date the payment of Assessments is late.

Subsection 6.4.8 Statement of Account. Upon payment of a reasonable fee and upon written request of any Representative, Owner, Occupant, Mortgagee, prospective Mortgagee, or prospective purchaser of a Lot, Building or any part thereof, the Association shall issue a written statement with respect to such Lot, Building or part thereof, setting forth any unpaid Assessments, and the amount of the most recent general Assessment. Such statement shall be conclusive upon the Association but only in favor of bona fide, third parties who rely thereon in good faith to their detriment.

(a) Subordination of the Lien to Mortgages and Deeds of Trust. The lien of the Assessments provided for in Subsection 6.4.5 hereof shall be subordinate to the lien of any Mortgage which constitutes a first Mortgage against any Lot or Building, or part thereof. Sale or transfer of any Lot or Building, or part thereof, shall not affect the Assessment lien. The sale or transfer of any Lot or Building, or part thereof, pursuant to foreclosure of, or trustee's sale with respect to any first Mortgage, shall extinguish the lien of such Assessments as to payments which became due prior to the date of such sale or transfer, but shall not extinguish the liability of the defaulting Owner for past due Assessments, nor shall it extinguish the general lien of this Declaration against the Lot or Building concerned for Assessments arising in the future. No such sale or transfer shall relieve such Lot or Building from liability for any Assessments thereafter becoming due, or from the lien thereof.

Section 6.5 Insurance. The Association shall obtain and keep in full force and effect at all times the following types of insurance coverage, provided by companies licensed to do business in the State of Utah.

(a) The Association shall obtain a policy or policies of property insurance on those portions of the Common Area and Common Facilities, as the Association deems should be insured, in such amounts as shall provide for replacement thereof in the event of the damage or destruction thereof from the hazards and perils against which such insurance is obtained, which insurance shall be in accordance with coverage customarily maintained on the common areas and common facilities of commercial developments. Such insurance shall include fire and extended coverage, vandalism and malicious mischief, and such other risks and hazards against which the Association shall deem it appropriate to provide insurance protection. The Association may comply with the above requirements by the purchase of blanket coverage, and may elect such "deductible" provision as are, in the Association's opinion, consistent with good business practice.

(b) The Association shall obtain a commercial general liability insurance coverage, with respect to the Common Property only, in such amounts and in such forms as it deems advisable, to provide adequate protection against liability for bodily injury, death and property damage. Coverage shall include, without limitation, liability for the operation of vehicles on behalf of the Association, and all activities in connection with the operation, use and maintenance of the Common Area and Common

Facilities in the Center. The Association shall also maintain commercial automobile liability coverage, if applicable.

(c) With respect to each such policy, the Association shall make every effort to secure insurance policies in which the insurer shall waive subrogation as to any claims against the Owner, the Representatives and Occupants and their respective services and agents; the policy or policies cannot be canceled, invalidated or suspended on account of the conduct of any one or more individual Owner, Representatives or Occupants; the policy or policies cannot be canceled, invalidated or suspended on account of the conduct of any trustee, officer, or employee of the Association without a prior demand in writing that the Association cure the defect, and any "no other insurance" clause in the policy or policies shall exclude individual Owner' and Occupants' policies from consideration. The provisions of this Declaration shall not be construed to limit the power or authority of the Association, or of any Representative or Occupant, to obtain and maintain insurance coverage in addition to any insurance coverage required by this Declaration, in such amounts and in such forms as the Association or any Representative or Occupant may deem appropriate from time-to-time. In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Owner (or their Mortgagees) and Occupants. The Association may review annually the coverage and policy limits of all insurance on the Common Property and shall modify and adjust the same at its discretion and in the exercise of good business judgment. Such annual review may include an appraisal of the Common Property by a representative of the insurance carrier or carriers providing the policy or policies, or by such other qualified appraisers as the Association may select.

Section 6.6 Replacement or Repair of Property. Damaged or destroyed Common Property or property of the Association used in connection with the Common Area and Common Facilities, shall be repaired or replaced by the Association, utilizing insurance proceeds therefor. In the event there are no insurance proceeds or the insurance proceeds are insufficient to cover the cost of repair or replacement of the property damaged or destroyed, the Association may make a Special Assessment under Subsection 6.4.2 hereof to cover such cost.

ARTICLE VII DESTRUCTION OR CONDEMNATION OF COMMON AREA

Section 7.1 Available Funds. For purposes of this article, "Available Funds" means any proceeds of insurance, condemnation awards, payments in lieu of condemnation and any uncommitted funds of the Association, including amounts contained in any reserve or contingency fund. Available Funds shall not include that portion of insurance proceeds legally required to be paid to any party other than the Association or that portion of any condemnation award or payment in lieu of condemnation payable to the Owner or Occupant of a Lot for the condemnation or taking of the Lot in which they are interested.

Section 7.2 Determination by Association. Upon the occurrence of any damage or destruction to the Common Property or any part thereof, or upon a complete or partial taking of the Common Property under eminent domain or by grant or conveyance in lieu thereof, the Association shall make a determination as to whether the excess of estimated costs of restoration over Available Funds is seventy-five percent (75%) or more of the estimated value of the property after restoration (the "Restored Value"). In making such determination, the Association may retain and rely upon one or more qualified appraisers or other professionals. "Substantial Condemnation" or "Substantial Destruction" exist whenever a complete taking or destruction of the Common Property has occurred and the estimated costs of restoration over Available Funds is seventy-five percent (75%) or more of the estimated Restored Value.

Section 7.3 Restoration of Common Area. Restoration of the Common Property shall be undertaken by the Association promptly without a vote of the Representatives in the event of any destruction or condemnation, and shall also be undertaken in the event of Substantial Destruction or Substantial Condemnation unless restoration is voted against by Members collectively holding at least seventy-five percent (75%) of the total votes of the Association. Within thirty (30) days after the Board of Directors has determined that Substantial Condemnation or Substantial Destruction has occurred, the Association shall send to each Member a written description of the destruction or condemnation involved, shall take appropriate steps to ascertain the preferences of the Representatives concerning restoration, and shall notice a meeting of the Members in accordance with the applicable provisions of this Declaration and the Articles and Bylaws to determine the preferences of the Members regarding restoration. In the event insurance proceeds, condemnation awards or payments in lieu of condemnation actually received by the Association exceed the actual cost of restoration when restoration is undertaken, the excess shall at the discretion of the Association be held as a reserve against any category of future cost or expense or be distributed pro rata to all of the Members according to the formula set forth in Subsection 6.4.1 hereof. Payment to any Member whose Lot is the subject of a Mortgage shall be made jointly to such Member and the interested Mortgagee. In the event the actual cost of Restoration exceeds Available Funds, all of the Members shall be assessed for a portion for the deficiency in accordance with the provisions of Subsection 6.4.1 hereof. In the event the Members vote not to restore the Common Property upon the occurrence of a Substantial Destruction or a Substantial Condemnation as set forth herein, the Available Funds shall be distributed in accordance with the provisions of Subsection 6.4.1 hereof.

Section 7.4 Lack of Restoration. Unless restoration is accomplished in accordance with Section 7.3 hereof, the Association shall take such action as is necessary to make the remaining Common Area and Common Facilities safe for the Owner and Occupants and pay the cost and expense of such action from Association funds. In the event available Association funds are insufficient for such purposes, the Members shall be assessed for the deficiency in accordance with the provisions of Subsection 6.4.1 hereof. Any remaining funds shall, at the discretion of the Association, be held in a reserve against any category of future cost or expense or be distributed pro rata to all of the Members according to the formula set forth in Subsection 6.4.1 hereof. Payment to any Member whose Lot is the

subject of a Mortgage shall be made jointly to such Member and the interested Mortgagee.

Section 7.5 Authority of Association to Restore or to Represent Owner in Condemnation. The Association, as attorney-in-fact for each Owner shall represent all of the Owner in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for the acquisition of all or any part of the Common Area and Common Facilities. The award in any condemnation proceeding, the proceeds of any settlement related thereto and the proceeds of any insurance on the Common Property shall be payable to the Association for the use and benefit of the Owner and the Mortgagees of the Lots as their interests may appear. The Association, as attorney-in-fact for each Owner, shall have and is hereby granted full power and authority to restore the Common Property whenever restoration is undertaken as provided in Section 7.3 hereof or when such areas or facilities are made safe as provided in Section 7.4 hereof. Such authority shall include the right and power to enter into any contracts, deeds, or other instruments which may be necessary or appropriate.

ARTICLE VIII PARKING

Section 8.1 Common Parking Area. The Common Parking Areas shall consist of those portions of the Common Area which the Association designates from time to time for use as parking areas for vehicles. The Association may (but is not obligated), in its sole discretion, to:

- (a) Structures. Construct, or cause to be constructed by an Owner in connection with the construction of a Building upon an Owner's Lot, on the Common Area such structure or structures for the parking of vehicles as it deems appropriate or convenient, using such materials and design, and beginning and completing such construction at such time, as it determines,
- (b) Allocation. Allocate the parking located in the Common Parking Area in such manner as the Association deems appropriate; provided, that there shall be sufficient parking as required by applicable laws, ordinances, regulations and this Declaration. Without limiting the foregoing, the Association may assign, in its sole discretion, any of the parking spaces located in the Common Area to any person or persons and with such conditions and for such term as it deems appropriate; provided, that there shall be sufficient parking on the Property as required by applicable laws, ordinances and regulations. If any parking spaces are so assigned and designated, such spaces shall be used only by the person or persons to whom they are assigned, or by such persons as such assignees may transfer such assignment if assignment is permitted by the Association;
- (c) Construction. The Committee may require as a condition to the approval of any plans and specifications for the construction of a Building or buildings on a Lot that the Owner submitting the same construct at its sole cost and expense;

(i) Parking ramps, structures, or lots and such roadways, curbs, sidewalks and other Improvements on the Lot or on the Common Area as the Committee, at its sole discretion, deems necessary to provide adequate parking for and ingress to and egress from the Building pursuant to such design as the Committee may prescribe; and

(ii) Such plans, landscaping or similar Improvements on the Lot but outside the Building or Buildings as the Committee, at its sole discretion, deems necessary for the integration of the Building into the remainder of the Center; and

(d) Income and Expense. The Association shall determine the parking charges for parking within the Common Areas, if any; provided that such rate shall not increase more than 10% per year without the affirmative vote of a majority of the Members as set forth in Section 2.4. Such voting structure shall apply in this instance regardless of whether the Turnover Date has occurred. Any income received by the Association in respect of the parking in the Common Area shall be the property of the Association, and all expenses associated to such parking shall be an expense of the Association.

Section 8.2 Parking Spaces. In no event shall the Association reduce the allocated parking spaces for any Lot below the number of spaces required by applicable law or favor any Lot in terms of such parking allocation (i.e., by allocating parking that serves more than one Lot to a single Lot or allocating more desirable parking in terms of location, size or covering to any one Lot to the detriment of any other Lot.

ARTICLE IX GENERAL PROVISIONS

Section 9.1 Supplemental Declaration. The recordation of any supplemental declaration shall automatically supplement this Declaration and any amendments previously recorded. . At any point in time, the Declaration for the Property shall consist of this Declaration, as amended and expanded by all amendments and supplemental declarations theretofore recorded pursuant to the terms hereof.

Section 9.2 Enforcement. The Association and any aggrieved Member or Occupant shall have a right of action either at law or in equity against the Association or any Member or Occupant for any failure by such person to comply with this Declaration, the Articles or Bylaws or the provisions of any rules, regulations, agreements, instruments, supplements, amendments or determinations expressly contemplated by this Declaration, the Articles or Bylaws. In the event that the Association or any Representative or Occupant fails to comply with this Declaration and it becomes necessary for any of such persons to employ the services of an attorney in connection therewith, either with or without litigation, the noncomplying party shall pay to the aggrieved party reasonable attorneys' fees and, in addition, such costs and expenses as are incurred in enforcing the provisions of this Declaration. Failure by the Association or any Member or Occupant to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 9.3 Rules and Regulations. The Association shall have authority to promulgate and enforce such reasonable rules, regulations and procedures as may be necessary or desirable to aid the Association in carrying out any of its functions or to insure that the Property is maintained and used in a manner consistent with the interests of the Members and Occupants.

Section 9.4 Arbitration. In the event any vote of the Association becomes deadlocked, such that a majority of the votes are not cast for or against any item upon which the Association is required to vote, any Member of the Association, upon not less than ten (10) days' prior written notice to the other Members of the Association, may submit such matter to arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. In connection with such proceeding, the Declarant, the Association and the Member holding the largest interest in the Company shall each be entitled to select one arbitrator. The fees and expenses of the arbitrators shall be born equally by the Members of the Association as a Common Expense.

Section 9.5 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect all other provisions, which shall remain in full force and effect.

Section 9.6 Duration. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of ninety-nine (99) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless terminated by unanimous vote of the Members.

Section 9.7 No Severance of Right from Ownership of a Building. No Member nor any person or entity being a member of a Member where the Member is an association of condominium owners, shall convey, transfer, sell, assign, or otherwise dispose of its membership rights in the Association, without at the same time conveying, selling and transferring its interest in the Lot to which its membership attached, and the membership shall be transferred only to a new Member of the Lot to which membership is attached. Notwithstanding the foregoing, a Representative may by proxy transfer any of its voting rights in the Association to any Occupants of the Lot to which such voting rights appertain.

Section 9.8 Mortgage Protection.

(a) Subordination of Lien. The lien or claim against a Lot for unpaid assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to any mortgage recorded on or before the date such Assessments or charges become due. In the event that the State of Utah should enact any statute applicable to the Property with a provision that would allow a lien for unpaid Assessments or charges to survive foreclosure or exercise of a power of sale, all such Assessments and charges, including special Assessments, shall after the date of such enactment be made due and payable to the Association on a monthly basis and the lien for any fees, late charges, fines or interest that may be levied by the Association in

connection with such unpaid Assessments or charges shall be deemed subordinate to the Mortgage on the Lot upon which such assessments or charges are levied.

(b) Extinguishment of Lien. The lien or claim against a Lot for such unpaid assessments or charges shall not be affected by any sale or transfer of such Lot, except that a sale or transfer pursuant to a foreclosure of the mortgage affecting such Lot or the exercise of a power of sale available thereunder shall extinguish a subordinate lien for such Assessments or charges which became payable prior to such sale or transfer. Nevertheless, any such unpaid assessments or charges which are extinguished in accordance with the foregoing sentence may be reallocated by the Association and assessed to all Lots as Common Expenses. Any such sale or transfer pursuant to a foreclosure or power of sale shall not relieve the purchaser or transferee of such Lot from liability for, nor such Lot from the lien of, any assessments or charges thereafter falling due.

(c) Inspection. The Association shall make available for inspection upon request, during normal business hours or under other reasonable circumstances, to Representatives, lenders and holders, insurers or guarantors, of any Mortgage, current copies of this Declaration, the Plat, the Articles, any rules concerning the Property and the books, records and financial statements of the Association.

(d) Notice. Upon written request to the Association by the holder, insurer or guarantor of a mortgage (which request identifies the name and address of such holder, insurer or guarantor and the Lot encumbered by the mortgage held or insured by such holder, insurer or guarantor), such holder, insurer or guarantor shall be included on the appropriate lists maintained by the Association and shall be entitled to timely written notice of any of the following:

(i) Any condemnation or casualty loss which affects a material portion of the Property or any Lot on which there is a mortgage held, insured or guaranteed by such entity;

(ii) Any delinquency in the payment of assessments or charges owed by the Member subject to a mortgage held, insured or guaranteed by such entity (as the case may be), which delinquency remains uncured for a period of sixty (60) days; or

(iii) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

(e) Cure. Any mortgagee or insurer or guarantor receiving notice of a delinquency shall have the right, but not the obligation, within thirty (30) days after the receipt of such notice, to cure or cause to be cured such delinquency, and the Association shall accept such performance by or at the instigation of such mortgagee or insurer or guarantor as if the same had been performed by the Owner of such Lot.

Section 9.9 Estoppel Certificate. Any of the Members shall, upon ten (10) days written request, provide to the Association a certificate, duly executed by such Member that the Association is not in default under this Declaration and has duly and properly performed all of its obligations hereunder.

Section 9.10 Miscellaneous. The captions which precede the Sections and Subsections of this Declaration are for convenience only and shall not be deemed to be part of this Agreement and in no way define, limit, augment, extend or describe the scope, content or intent of any part or parts of this Declaration. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include other genders. Each of the foregoing genders and plurals is understood to refer to a corporation, partnership, or other legal entity when the context so requires. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof. This Declaration shall be liberally construed to effect all of its purposes, and shall be governed by and construed in accordance with the laws of the State of Utah. In the event of any conflict between the Declaration and the Articles or Bylaws, this Declaration shall control. This Declaration may be executed in counterparts, all of which taken together shall constitute an agreement binding on all the parties hereto, their successors and assigns, notwithstanding that all the parties are not signatories to the original or the same counterpart. All exhibits referred to herein and attached hereto are incorporated herein by this reference.

Section 9.11 Notices. Any notice required to be given under this Declaration shall be given by registered or certified mail, return receipt requested and postal charge prepaid, or by hand delivery, with delivery to be effective on the date of delivery, if hand delivered, the date of receipt if sent by recognized overnight delivery service, if mailed, three (3) days after the same is deposited in the mail, addressed as set forth in Section 2.4, above or as changed by written notification to the Association from time-to-time or if sent by telecopy, at the time a confirmation sheet endorsing delivery to the recipient is received.

Section 9.12 Effective Date. This Declaration, any amendment or supplement hereto, and any amendment to the Plat shall take effect upon its being filed for record in the Office of the County Recorder of Summit County, Utah.

Section 9.13 Interpretation. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof, and if any provision of this Declaration or the application thereof should to any extent be invalid, the remainder of this Declaration or the application of such provision other than that application as to which a holding of invalidity if reached shall not be affected thereby. Each provision of this Declaration shall be valid and enforceable to the fullest extent permitted by law. The captions that precede the Sections are for convenience only and in no way shall affect the manner in which any provision hereof is construed. Whenever the context or circumstance so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof and any gender shall include both other genders. This Declaration shall be governed by and construed in accordance with the laws of the state of Utah.

Section 9.14 Lease Within the Property. Any agreement for leasing or rental within the Property shall be subject in all respects to the provisions of this Declaration, the Articles, the Bylaws, and the Development Guidelines, if any. All leases shall be in writing and shall provide that any failure by the lessee thereunder to comply with the terms of the foregoing documents shall be a default under the lease. Any Owner shall be responsible for assuring compliance by such Owner's lessee with this Declaration, the Articles, the Bylaws, and the Development Guidelines, if any. Failure by an Owner to take legal action, including the institution of proceedings in unlawful detainer against this lessee who is in violation, within ten (10) days after receipt of written demand so to do from the Board, shall entitle the Association, through the Board to take any and all such action, including the institution of proceedings in unlawful detainer on behalf of such Owner against the Owner's lessee. Any expenses incurred by the Association, including attorneys' fees and costs of suit, shall be repaid to it by such Owner.

IN WITNESS WHEREOF, the undersigned Declarant, being the sole Member of the Association, has caused this Declaration to be executed by its duly authorized officer the day and year first above written.

ALLRED SUMMIT, LLC

By *Michael Allred*
Its Manager

STATE OF UTAH)
COUNTY OF Salt Lake : ss.

On this 29th day of October, 2007, personally appeared before me Michael Allred, whose identity is personally known to me (or proved to me on the basis of satisfactory evidence) and who by me duly sworn, did say that he is the Manager of Allred Summit, LLC, and that said document was signed by him in behalf of said company by authority of its operating agreement, and said acknowledged to me that said company executed the same.

Diane Romero
Notary Public

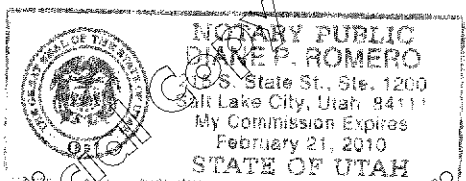


EXHIBIT A

Legal Description

A parcel of land lying and situate in the Southwest Quarter of Section 12, Township 1 South, Range 3 East, Salt Lake Base and Meridian, Park City, Summit County, Utah, being more particularly described as follows:

BEGINNING at a point which is South 89°39'47" East 839.78 feet along the Quarter Section Line from the West Quarter Corner of Section 12, Township 1 South, Range 3 East, Salt Lake Base and Meridian, Summit County, Utah, and running thence South 89°39'47" East 1787.11 feet along said Quarter Section Line to the center of Section 12; thence South 00°42'54" West 1208.93 feet along the Quarter Section Line, thence North 48°35'21" West 543.96 feet; thence North 10°35'57" West 516.35 feet; thence South 63°17'06" West 342.63 feet; thence North 38°48'14" West 97.30 feet; thence South 51°00'51" West 102.84 feet; thence North 38°48'14" West 134.82 feet; thence South 56°30'51" West 337.62 feet to the easterly right-of-way line of Cassmussen Road; thence North 85°44'48" West 932.11 feet along said right-of-way line to the Point of Beginning.

Contains 25.469 acres, 7 Lots

ND: 4852-8229-9394, Ver 1

Parcel ID Nos.

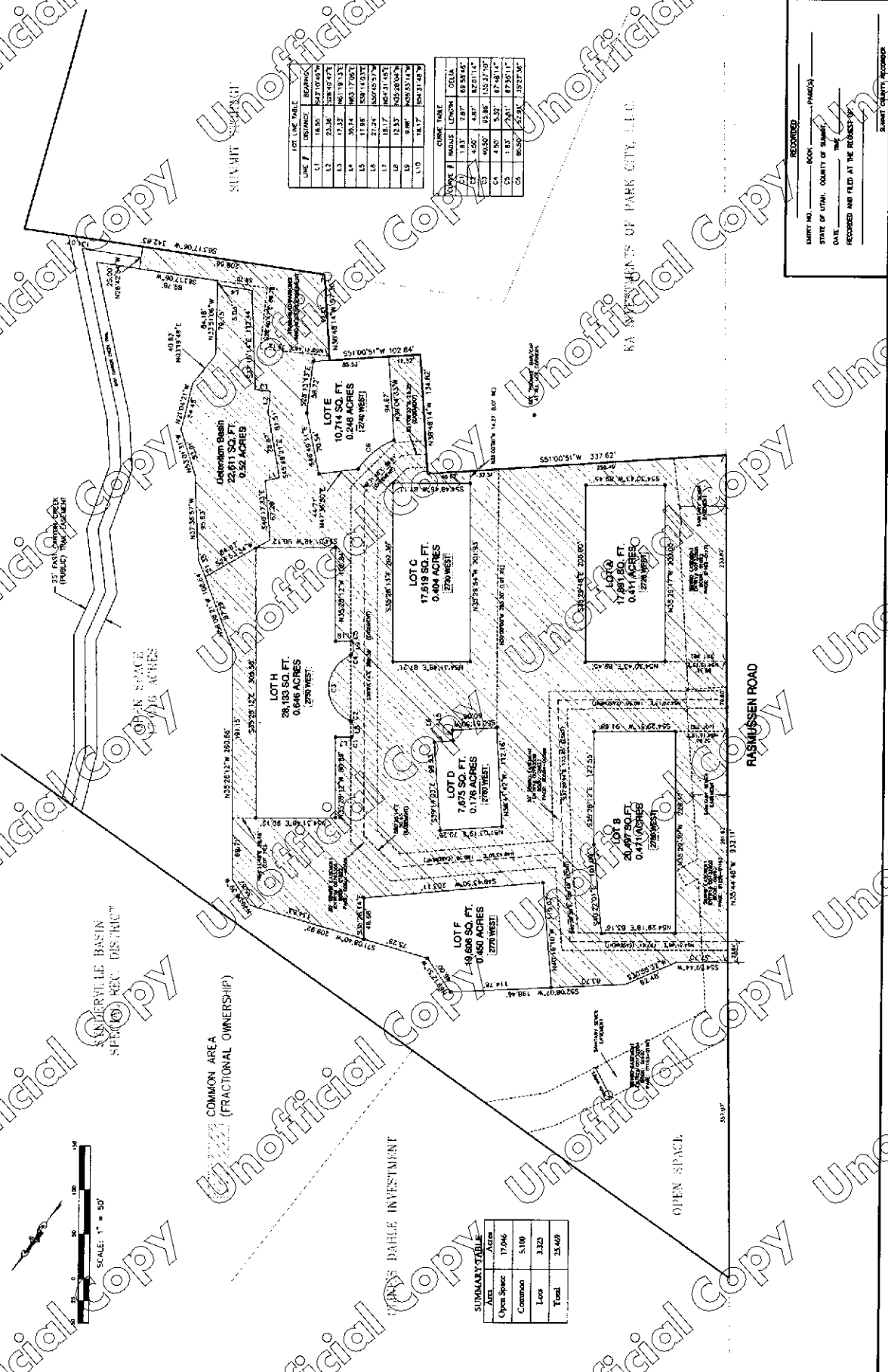
PP-49-A

PP-49-A-2

PP-49-A-4

PP-49-A-6

**SUMMIT CENTER COMMERCE PARK SUBDIVISION
A SUBDIVISION OF SUMMIT CENTER SPA PLAT**
LOCATED IN THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 1 SOUTH,
RANGE 3 EAST, SALT LAKE BASIN AND MOUNTAIN
PARK CITY, SUMMIT COUNTY, UTAH



LOT #	DISTANCE	BEARING	CHORD	AREA
L1	18.55	S84.00°E	18.55	0.0000
L2	24.38	S28.00°E	24.38	0.0000
L3	17.15	S61.00°E	17.15	0.0000
L4	30.74	S63.17°E	30.74	0.0000
L5	17.88	S58.14°E	17.88	0.0000
L6	21.24	S50.45°E	21.24	0.0000
L7	18.17	S62.31°E	18.17	0.0000
L8	12.53	S25.20°E	12.53	0.0000
L9	9.86	S68.53°E	9.86	0.0000
L10	18.17	S64.31°E	18.17	0.0000

CHORD	AREA
18.55	0.0000
24.38	0.0000
17.15	0.0000
30.74	0.0000
17.88	0.0000
21.24	0.0000
18.17	0.0000
12.53	0.0000
9.86	0.0000
18.17	0.0000

SUMMARY TABLE

AREA	ACRES
Open Space	17.046
Common	5.108
Lot	3.322
Total	25.469

RECORDED

ENTRY NO. _____ BOOK _____ PAGE(S) _____
STATE OF UTAH, COUNTY OF SUMMIT,
DATE: _____ TIME: _____
RECORDED AND FILED AT THE REGISTER'S OFFICE
SUMMIT COUNTY, UTAH

Exhibit B
Plat