



AFTER RECORDING, RETURN TO:
Copper Ridge Office Warehouses
P.O. Box 1539
Orem, Utah 84059

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JEFFERY SMITH
UTAH COUNTY RECORDER
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DECLARATION OF CONDOMINIUM FOR "COPPER RIDGE OFFICE WAREHOUSES"

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Exhibit A: Schedule of Units, Sizes, and Undivided Ownership Interests

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DECLARATION OF CONDOMINIUM OF THE XX CONDOMINIUM PROJECT

THIS DECLARATION OF CONDOMINIUM, dated the 18th day of January, 2017, is executed by Wade Payne, (herein referred to as “Declarant”), whose address is P.O. Box 1539 Orem, Utah 84059.

RECITALS:

- A. Certain terms used in this Declaration are defined in Article 1.
- B. Declarant is the owner of the real property, located in Utah County, Utah, that is described in Article II of this Declaration.
- C. A commercial real estate complex, including certain Building(s) and other improvements, has been and/or is to be constructed on such real property. All of such construction has been, or is to be, such that the Plat accurately depicts said commercial complex.
- D. Declarant desires, by filing this Declaration and the Plat, to submit such real property and all improvements now or hereafter existing thereon to the provisions of the Act as a Condominium Project to be known as “Copper Ridge Office Warehouses”

E. Declarant intends to sell and convey to various persons the fee title to the individual Units contained in the Project, together with the undivided ownership interests in the Common Areas respectively appurtenant to such Units, subject to the covenants, restrictions, and limitations set forth in this Declaration.

NOW, THEREFORE, for the foregoing purposes, Declarant hereby makes the following Declaration:

ARTICLE I. DEFINITIONS

When used in this Declaration (including in that portion hereof headed "Recitals") each of the following terms shall have the meaning indicated. Any term used in this Declaration which is defined by the Act but not in this Declaration shall, to the extent (but only to the extent) permitted by the context hereof, have the meaning ascribed by the Act.

1. "Act" shall mean and refer to the Utah Condominium Ownership Act, Sections 57-8-1, *et seq.*, *Utah Code Annotated*.

2. "Additional Land" shall mean and refer to the following-described real property, situated in Utah County, Utah:

"Not Applicable"

Declarant does not necessarily own the Additional Land (but if not, Declarant may wish to purchase the Additional Land). A description of the Additional Land is set forth in this Declaration solely for purposes of identification. This Declaration is not intended as and should not be deemed to constitute any lien, encumbrance, restriction, or limitation upon any portion of the Additional Land unless and until such portion is added to the Project in accordance with law and the provisions of this Declaration (and in particular, in accordance with the provisions of Article X hereof). If no description of the Additional Land is set forth above, then both (i) Article X of this Declaration, and (ii) all other references in this Declaration to the Additional Land, shall be treated as not being part of this Declaration, and shall be ignored.

3. "Articles" or "Articles of Incorporation" shall mean and refer to the Articles of Incorporation for the Association which are filed with the Utah State Department of Commerce, Division of Corporations and Commercial Code, at or about the time this Declaration is filed for record in the office of the Recorder of the County in which the Property is located. The Articles are in the form of those attached hereto as Exhibit B and incorporated herein by this reference.

4. "Association" shall mean and refer to the XX Condominium Owners Association, Inc., a Utah nonprofit corporation.

5. "Board of Directors" or "Board" shall mean and refer to the governing board of the Association, to be selected in accordance with this Declaration and the Articles.

6. "Building" shall mean and refer to a structure containing or to contain Units.

7. "City" shall mean and refer to the City of American Fork, which is the governmental subdivision within which the Property is located and which has jurisdiction over the Project.

8. "Common Areas" shall mean and refer to that part of the Property which is not included within the Units, other than utility lines which are owned by suppliers of utility services.

8a. "Parking Based Development Rights" shall be attached to each unit at the time of conveyance from the Declarant. City parking requirements are based on both usages and quantities of space. No unit shall be built out and used in such a manner that the number of parking stalls required by City exceeds the total of Limited Common Area Parking Stalls and "Parking Based Development Rights" attached to the unit. Said "Parking Based Development Rights" may only be possessed by an Owner or by the Declarant. All "Parking Based Development Rights" are possessed by the Declarant until such time as they are conveyed to owners of units.

9. "Common Expenses" shall mean and refer to those costs and expenses related to the Project which are incurred by the Association in accordance with this Declaration.

10. "Condominium Project" or "Project" shall mean and refer to the condominium project that is created and provided for by this Declaration and the Plat.

11. "Condominium Unit" shall mean and refer to a Unit, together with its appurtenant percentage of undivided ownership interest in the Common Areas.

12. "Control Period" shall mean and refer to the period that begins at the time of recordation of this Declaration and that ends on the first to arrive of the following:

(a) If this Declaration authorizes the Declarant to expand the Project through addition to the Project of some or all of the Additional Land, six years after the date on which this Declaration is filed for record, otherwise three years after such filing date;

(b) When Units to which at least three-fourths (3/4) of the undivided ownership interest in the Common Areas (determined on the basis of the undivided ownership interests as initially established by this Declaration) appertains have been conveyed by Declarant to other Unit Owners, or (if this Declaration gives Declarant the right to expand the Project) after all of the Additional Land has been added to the Project, whichever occurs later; or

(c) Declarant's voluntary relinquishment, in writing, of the special rights and benefits that are accorded to Declarant during the Control Period by this Declaration.

13. "Corporation Act" shall mean and refer to the Utah Revised Nonprofit Corporation Act, Sections 16-16a-101, et seq., Utah Code Annotated.

14. "Declaration" shall mean and refer to this Declaration of Condominium, as the same may hereafter be modified, amended, and supplemented in accordance with the Act and the provisions hereof.

15. "Declarant" shall mean and refer to the entity so identified at the beginning of this Declaration and/or to any successor of such entity which, either by operation of law or through a voluntary conveyance, transfer, or assignment, comes to stand in the same relation as did its predecessor to the Project (or a portion thereof) and/or to the Additional Land (or a portion thereof).

16. "Development Period" shall mean and refer to the period that begins at the time of recordation of this Declaration and that ends on the first to arrive of the following:

(a) Declarant ceases to be a Unit Owner or all of the Additional Land has been added to the Property and Project, whichever last occurs;

(b) The expiration of six years after the date on which this Declaration is filed for record in the office of the Recorder of the County in which the Property is located; or

(c) Declarant's voluntary relinquishment, in writing, of the special rights and benefits that are accorded to Declarant during the Development Period by this Declaration.

17. "Eligible Mortgage" shall mean and refer to a First Mortgage which has requested notice of certain matters from the Association in accordance with Section 1 of Article IX of this Declaration.

18. "FNMA" shall mean and refer to the Federal National Mortgage Association.

19. "First Mortgage" shall mean and refer to any Mortgage which is not subject to any prior lien or monetary encumbrance except liens for taxes or other liens which are given priority by statute.

20. "First Mortgagee" shall mean and refer to any person named as a Mortgagee under a First Mortgage, or any successor to the interest of any such person under a First Mortgage.

21. "Hazardous Substance" shall mean and refer to any pollutants, contaminants, chemicals, chemical compound, waste, substance, or material, whether solid, liquid, or gas, and including any quantity of asbestos in any form, urea, formaldehyde, PCB's, crude oil or any fraction thereof, all forms of natural gas, petroleum products, byproducts, or derivatives, or radioactive substances, that are subject to regulation, control, or remediation under any local, state, or federal laws or regulations which relate to health, to the protection, clean-up, or restoration of the environment, or to the use, treatment, storage, transportation, generation, manufacture, processing, distribution, handling, disposal, emission, discharge, or release of dangerous or potentially dangerous substances, wastes, or materials.

22. "Improvements Exterior" shall mean and refer to those portions of the improvements in the Condominium Project which are open to the elements, such as roofs, exterior walls, exterior doors, footings, and foundations.

23. "Limited Common Areas" shall mean and refer to those Common Areas, if any, that are designated in this Declaration, in the Plat, and/or in the Act as reserved for the use of a certain Unit or Units to the exclusion of the other Units.

24. "Manager" shall mean and refer to the person, if any, designated from time to time by the Association to manage, in whole or in part, the affairs of the Association and Project.

25. "Member" shall mean and refer to each person who holds membership in the Association.

26. "Mortgage" shall mean and refer to any mortgage, deed of trust, or other document pledging or encumbering a Condominium Unit or interest therein as security for the payment or performance of a debt or other obligation.

27. "Mortgagee" shall mean and refer to a beneficiary under a Mortgage as well as a mortgagee.

28. "Owner" or "Unit Owner" shall mean and refer to the person (including Declarant) who is the owner of record, in the office of the Recorder of the County in which the Property is located, of a fee or an undivided fee interest in a Condominium Unit. Notwithstanding any applicable theory relating to Mortgage, the term Owner or Unit Owner shall not mean or include a Mortgagee unless and until such Mortgagee has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

29. "Plat" shall mean and refer to the condominium plat or record of survey map filed for record at or about the time of recordation of this Declaration, as the same may hereafter be modified, amended, or supplemented in accordance with the Act and the provisions of this Declaration.

30. "Property" shall mean and refer to the real property described in Section I of Article II (including all improvements now or hereafter located thereon), together with each part of the Additional Land that is added to the Project pursuant to Article X.

31. "Size" shall mean and refer to the area of the floor space within the lateral boundaries of a Unit, expressed in square feet, rounded to the nearest whole number, and computed and determined as follows on the basis of dimensions shown on the Plat. If the Unit in question is shown on the Plat as being a single block of space, not interrupted by any floor/ceiling structure that comprises part of the Common Areas, then the Size of such Unit shall be determined by reference only to the area of the floor of the Unit as shown on the Plat, notwithstanding that the interior of the Unit may have been or may be divided by the construction of an additional floor/ceiling structure that provides such Unit with mezzanine space. If the Unit in question is shown on the Plat as comprising two or more blocks of space that are separated from one another by floor/ceiling structures comprising part of the Common Areas, then the Size of such Unit shall be determined by reference to the area of all the floor space (both lower and upper) within such Unit, and on the assumption that the upper floor/ceiling structure does not contain any stairway or other such opening allowing access between the upper and lower parts of such Unit. Notwithstanding any inconsistent provisions of Section 33 of this Article I (defining a Unit), the measurements used in determining Size: (a) shall, in the case of the boundary between two Units, be the line that separates the two Units, as shown on the Plat (and whether or not a wall has been placed along or near such line); and (b) shall, in the case of each other lateral boundary of the Unit, run from the interior surfaces of the walls surrounding the Unit concerned, as shown on the Plat. So long as it substantially complies with the provisions of this Section 31 and is not arbitrary, Declarant's determination of the Size of a Unit, as set forth in this Declaration, shall be conclusive.

32. "Unit" shall mean and refer to one of the commercial spaces which is designated as a Unit on the Plat and in Exhibit A attached hereto and incorporated herein by this reference. Any wall located at or along a lateral boundary between two Units shall be a party wall owned by the respective Owners of the Units involved, and shall not be part of the Common Areas. Each other wall on the perimeter of a Unit shall be part of the Common Areas. A Unit shall include any walls or partitions that are contained within its vertical and horizontal perimeters and the surfaces of any floors, ceilings, or walls which bound it. A Unit shall not include pipes, wires, conduits, or other utility lines running through it which are utilized for or which serve more than one Unit and, notwithstanding anything to the contrary contained herein, shall not include any load-bearing walls or floors that are constructed by Declarant and that comprise a part of the Building in which the Unit is contained. However, any load-bearing walls or floors that are constructed as part of an interior finish shall be part of the Unit.

33. "Unit Number" shall mean and refer to the number, letter, or combination thereof which designates a Unit in the attached Exhibit A and on the Plat.

ARTICLE II. PROPERTY SUBMISSION, DESCRIPTION, AND COMPONENTS

1. Submission. There is hereby submitted to the provisions of the Act, as the Property initially associated with the Condominium Project, the following-described real property, situated in Utah County, Utah:

Lot 2, Platt "A", COPPER RIDGE AT NORTHSORE CORP. CENTER, according to the official plat thereof on file and of record in the office of the Utah County Recorder. (Serial Number 65:429:0002)

Reserving unto Declarant, however, such easements and rights of ingress and egress over, across, through, and under the above-described realty and any improvements (other than Buildings) now or hereafter situated thereon as may be reasonably necessary for Declarant (in a manner which is reasonable and not inconsistent with the provisions of this Declaration): (i) To construct and complete each of the Buildings and all of the other improvements referred to, contemplated by, and/or described in this Declaration or the Plat, and to do all things reasonably necessary or proper in connection therewith; (ii) To improve portions of the above-described realty with such other or additional improvements, facilities, or landscaping designed for the use and enjoyment of all the Owners as Declarant may determine to be appropriate; and (iii) To construct and complete each or any of the Buildings and/or other improvements associated with each or any portion of the Additional Land intended to be added to the Project, whether or not the portion concerned has actually been so added at the time of such construction and completion. If, pursuant to the foregoing reservations, the above-described realty or any improvement thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements, the reservations hereby effected shall, unless sooner terminated in accordance with their terms, expire 10 years after the date on which this Declaration is filed for record in the office of the Recorder of the County in which the Property is located.

All of the foregoing is subject to: All liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasigovernmental authorities; all Patent reservations and exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described realty or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible easements and rights-of-way; all easements and rights-of-way of record; any easements, rights-of-way, encroachments, or discrepancies shown on or revealed by the Plat or otherwise existing; an easement for each and every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the above-described realty at such time as construction of all Project improvements is complete; and all easements reasonably necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cables, wires, utility lines, and similar facilities.

2. Description of Improvements. The improvements included in the Project are now or will be located upon the Property. The significant improvements contained or to be contained in the Project (other than improvements located on or otherwise associated with the Additional Land) include two (2) Building(s), asphalt vehicular driving areas and open parking spaces, and concrete sidewalks or walkways. The location and configuration of the improvements referred to in the foregoing sentence is depicted on the Plat. The Project (excluding that part thereof located on or otherwise associated with the Additional Land) may also contain other improvements of a less significant nature, such as landscaping, all of which are to be of the type and in the location determined to be appropriate by Declarant. The Plat shows the number of Units which are or shall be contained in each Building that is included in the Project as initially constituted. Each such Building is or shall be composed of the following materials: Perimeter walls of masonry; floor of concrete; metal deck roof covered with insulation; roof surfaced with a single ply membrane.

The level of interior finish that is to be provided by Declarant with respect to each or any of the Units in the Project shall, except to the extent that Declarant may expressly agree otherwise in writing as regards a particular Unit, be limited to and by the following: concrete slab floor; walls of unpainted masonry (in the case of walls on the perimeter of a Building) and of unfinished sheetrock over studs (in the case of walls in the interior of a Building); no interior painting; roughed-in water and power lines; and no electrical or plumbing fixtures.

3. Completion Obligation. Declarant hereby covenants in favor of each person who contracts with Declarant for the purchase of a Condominium Unit (whether the Unit concerned is contained in the

Project as initially constituted or is located or to be located on any portion of the Additional Land) that no later than twelve (12) months after the date on which such contract is entered into: (i) The Unit which such person has contracted to purchase, the Building within which such Unit is contained or is to be contained, and each Limited Common Area (if any) for which Declarant is responsible and which is appurtenant to such Unit shall be fully constructed and ready for use or occupancy (as the case may be), subject, however, to the limitations provided for in the second paragraph of Section 2 of this Article II; and (ii) There shall be substantially completed and usable as part of the Common Areas all proposed or planned vehicular driving areas, parking spaces, sidewalks, landscaping, and utility lines and conduits necessary to enable full use and enjoyment of the Unit concerned.

4. Description and Legal Status of Units. The Plat shows the Unit Number of each Unit not within the boundaries of the Additional Land, its location, dimensions from which its Size may be determined, and the Common Areas to which it has immediate access. Each Unit shall be capable of being separately owned, encumbered, and conveyed.

5. Contents of Exhibit A. Exhibit A to this Declaration furnishes at least the following information with respect to each Unit contained or to be in the Project (other than within the boundaries of the Additional Land): (i) The Unit Number; (ii) The Size of the Unit; and (iii) The percentage of undivided ownership interest in the Common Areas which is appurtenant to the Unit.

6. Computation of Undivided Interests. The percentage of undivided ownership interest in the Common Areas which is appurtenant to a Unit shall be equal to the ratio between the Size of such Unit and the aggregate Size of all Units then included in the Project. The percentage of undivided ownership interest which is appurtenant to each Unit contained in the Project has been computed in the aforesaid manner and through use of the minor adjustments described at the end of this Section 6. From time to time in the future and under the circumstances described in Article X, the percentage of undivided ownership interest appurtenant to each Unit theretofore contained in the Project may be recomputed and redetermined, but always through use of the formula described at the outset of this Section 6. In utilizing the aforesaid formula, however, Declarant shall have the right to make (and may have made) minor adjustments in some or all of the percentage interests which result from a strict application thereof for the purpose, but only for the purpose, of assuring that the total undivided ownership interest respecting the Project equals 100.00%.

7. Limited Common Areas. Aside from those dealt with in the following provisions of this Section 7, there are no areas or facilities in the Project as initially constituted which, through this Declaration or the Plat, are made to constitute Limited Common Areas. As shown on the plat, there are appurtenant to each unit two parking stalls designated as Limited Common Areas.

8. Conveyancing. Any deed, lease, Mortgage, or other instrument conveying or encumbering a Condominium Unit shall describe the interest or estate involved substantially as follows:

“Unit No. ___ contained within the Condominium Project, together with Parking Based Development Rights in the number of ___ together with all improvements located thereon, as said Unit is identified in the Plat of said development and in the Declaration of Covenants, Conditions and Restrictions of the Condominium Project, both recorded in the Recorder’s Office. Together with a right and easement of use and enjoyment in and to the Common Areas described, and as provided for, in said Declaration of Covenants, Conditions and Restrictions.”

Or in the case of Parking Based Development Rights:

“Parking Based Development Rights in the number of ___ of the COPPER RIDGE OFFICE WAREHOUSES, as such is identified in the Plat recorded in the Recorder’s Office of Utah County, State of Utah.”

Whether or not the description employed in any such instrument is in the above-specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Unit. Neither the percentage of undivided ownership interest in the Common Areas nor any right of exclusive use of a Limited Common Area shall be separated from the Unit to which it appertains; and, even though not specifically mentioned in the instrument of transfer, such percentage of undivided ownership interest and any such right of exclusive use shall automatically accompany the transfer of the Unit to which they relate.

ARTICLE III. THE ASSOCIATION

1. **Membership.** Each Owner shall be entitled and required to be a Member of the Association. Membership shall begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner. If title to a Condominium Unit is held by more than one person, the membership appurtenant to that Unit shall be shared by all such persons in the same proportionate interest and by the same type of tenancy in which title to the Condominium Unit is held. An Owner shall be entitled to one membership for each Condominium Unit owned by him. Each membership shall be appurtenant to the Condominium Unit to which it relates and shall be transferred automatically by conveyance of that Unit. Ownership of a Condominium Unit within the Project cannot be separated from membership in the Association appurtenant thereto, and any devise, encumbrance, conveyance, or other disposition of such Unit shall automatically constitute a devise, encumbrance, conveyance, or other disposition of the Owner’s membership in the Association and rights appurtenant thereto. No person other than an Owner may be a Member of the Association and membership in the Association may not be transferred except in connection with the transfer of a Condominium Unit.

2. **General Powers of Board Directors.** The Property and the business and affairs of the Association shall be managed by its Board of Directors. The Board of Directors may exercise all of the powers of the Association, whether derived from law, this Declaration, or the Articles, except such powers as are by law, by this Declaration, or by the Articles vested in the Owners.

3. **Composition of Board.** The Board of Directors of the Association shall be composed of three members. Until the end of the Control Period, the Declarant shall have the right to appoint all of the members of the Board of Directors and to remove and replace any of such members as Declarant sees fit. Following the Control Period, each member of the Board shall be elected by the Owners. At the initial meeting of the Owners following the end of the Control Period, each member of the Board shall be elected for a term that runs until the first regular annual meeting of the Owners. Thereafter, each member of the Board shall be elected for a term of one year at each annual Owners meeting. Only Unit Owners and officers, agents, and representatives of Owners other than individuals shall be eligible for membership on the Board, unless the member is one appointed by Declarant, in which case this requirement shall not apply.

At the initial meeting of the Owners following the end of the Control Period, and at each regular annual meeting of the Owners, the votes appurtenant to a Unit may be voted in favor of as many candidates for Board membership as there are seats on the Board to be filled. Any Director, except a Director appointed by the Declarant, may be removed at any time, with or without cause, by the vote of at least three-fourths (3/4) of the total votes of the Association represented at a special meeting of the Owners duly called for such purpose. In the event a seat on the Board becomes vacant during the Control Period, Declarant shall

appoint a replacement Director. In the event a seat on the Board becomes vacant after the end of the Control Period:

(a) If the vacancy is the result of removal of a Director by the Owners, the vacancy may be filled by election at the same Owners meeting at which the Director is removed; and (b) In other cases, the remaining Board members shall elect a replacement to sit on the Board until the expiration of the term for which the member being replaced was elected. Each Director shall serve on the Board until his successor is elected (or, if applicable, appointed) and qualifies. Board members shall be reimbursed for all expenses reasonably incurred in connection with Association business. The Board may fix such compensation for any member as may be reasonable in light of the duties that member is required to perform.

4. Association Officers and Agents. The Association and the Board of Directors shall perform its functions through those members of the Board who are elected as officers by the Board and through such other agents or employees as the Board of Directors may appoint. Only members of the Board may serve as officers. Any Association officer, agent, or employee may at any time be removed with or without cause by the Board. The officers of the Association, and their respective powers and functions, shall be as follows:

(a) President. The President shall be the chief executive of the Association and shall exercise general supervision over the Property and the affairs of the Project. He shall preside over all meetings of the Board and of the Owners. He shall execute all instruments on behalf of the Association.

(b) Vice-President. The Vice-President shall have all the powers of the President in the event of the latter's absence or inability to act.

(c) Secretary. The Secretary shall keep minutes of meetings of the Board and of the Owners and shall keep all records which are required or made necessary by the Act, this Declaration, the Articles, or the Board of Directors.

(d) Treasurer. The Treasurer shall have custody and control of the funds available to the Association. Each officer of the Association must also be and remain a Director of the Association during his entire term as an officer. A person may hold two offices, except both those of President and Secretary.

5. Board Meetings. A regular meeting of the Board of Directors shall be held immediately after the adjournment of each annual Owners meeting. Other regular meetings shall be held at periodic intervals at such time and place as the Board may determine. No notice need be given of regular Board meetings. Special Board meetings shall be held whenever called by the President or by the other two members of the Board. Either oral or written notice of special meetings shall, unless a waiver of such notice is signed by all Directors, be given to each Board member at least 24 hours before the time fixed for the meeting. Any meeting attended by all Board members shall be valid for all purposes. A quorum for the transaction of business at any Board meeting shall consist of a majority of all the Directors then in office. The act of a majority of the Directors present at any meeting at which a quorum is present shall constitute the act of the Board. Any action that is required or permitted to be taken at a meeting of the Board may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the Directors.

6. Owners' Votes. The membership associated with each Unit shall be entitled to the number of votes appurtenant to that Unit, as set forth on Exhibit A. The number of votes appurtenant to any given Unit is the same as the percentage of undivided ownership interest which is appurtenant to that Unit. Except as otherwise provided in Article VII as regards Condemnation, the number of votes appurtenant to each Unit shall be permanent, and shall not change in the event a Unit is increased or decreased in size relative to

other Units. In the event that there is more than one Owner of a particular Unit, the vote relating to such Unit shall be exercised as such Owners may determine among themselves. No Unit shall have more than the number of votes shown on Exhibit A, regardless of the number of persons having an ownership interest in the Unit. The vote cast at any Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the vote of all the Owners of the Unit concerned unless an objection is immediately made by another Owner of such Unit. In the event such an objection is made, the vote involved shall not be counted for any purpose other than to determine whether a quorum exists. The Declarant shall have full voting rights with respect to each Unit it owns.

7. Owners Meetings. An initial meeting of the Owners shall be held within 30 days after the end of the Control Period. Thereafter, an annual meeting of the Owners shall be held at 3:00 p.m. on the third Thursday in March. Whenever such day is a legal holiday, the meeting shall occur on the first business day thereafter. The place of meeting shall be at a location, specified in the notice of meeting, in the County where the Property is situated. At least 10 (or five, in the case of the initial meeting) but not more than 60 (or 20, in the case of the initial meeting) days before the date of the annual (or the initial) meeting, a written notice thereof shall be personally delivered or mailed postage prepaid to each person who appears as an Owner, at the latest address for such person appearing, in the records of the Association at the time of delivery or mailing. Such notice shall state the time, place, and general purpose of the meeting.

Special meetings of the Owners may be called by the President, by the other two members of the Board of Directors, or by Owners collectively holding at least one-fourth (1/4) of the undivided ownership interest in the Common Areas. At least 10 but not more than 60 days before the date set for a special meeting, written notice thereof containing the information and given in the manner described in the immediately preceding paragraph shall be provided to the Owners.

No notice of any Owners meeting shall be required if a waiver of such notice is signed by all of the Owners. Whenever all the Owners meet in person or by proxy such meeting shall be valid for all purposes. The presence of Owners entitled to vote a majority of all the undivided ownership interest in the Common Areas shall constitute a quorum for the transaction of business at any Owners meeting. In the event a quorum is not present at any Owners meeting, whether regular or special, the meeting may be adjourned and rescheduled for a time no earlier than 48 hours, and no later than 30 days, after the time set for the original meeting. No notice of such rescheduled meeting shall be required, other than an announcement made at the adjourned meeting. The presence of Owners entitled to vote one-fourth (1/4) of all the undivided ownership interest in the Common Areas shall constitute a quorum at the rescheduled meeting.

Notwithstanding the foregoing provisions, however, in any case in which the Act, this Declaration, or the Articles requires the affirmative vote of at least a specified percentage of the Project's undivided ownership interest for authorization or approval of a matter, the presence of Owners entitled to vote such percentage shall be necessary to constitute a quorum at any meeting (whether original or rescheduled) at which action on such matter is taken.

8. Proxies. At any meeting of the Owners, each Owner shall be entitled to vote either in person or by proxy, but the right to vote by proxy shall apply only where a written instrument authorizing such proxy to act has been executed by the Owner or by the Owner's duly authorized attorney in fact (and, if a Unit is owned by more than one person, the instrument authorizing a proxy to act must be executed by all such persons or their duly authorized attorneys in fact). Any instrument authorizing a proxy to act shall be delivered at the beginning of the Owners meeting to the Secretary of the Association or to such other officer or person as may be acting as secretary of the meeting. The secretary of the meeting shall enter a record of all such proxies in the minutes of the meeting.

9. **Consent in Lieu of Vote.** In any case in which the Act, this Declaration, or the Articles requires the vote of a stated percentage of the Project's undivided ownership interest for authorization or approval of a matter, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such matter from Owners who collectively hold at least the stated percentage of undivided ownership interest. The following additional provisions shall govern any application of the foregoing provisions:

- (a) All necessary consents must be obtained prior to the expiration of 180 days after the first consent is given by any Owner.
- (b) Any change in ownership of a Condominium Unit that occurs after consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose.
- (c) Unless the consent of all Owners having an interest in the same Condominium Unit are obtained, the consent of none of such Owners shall be effective.

The above-described method of obtaining authorization or approval by the Owners without a meeting shall be in addition to, not in lieu of, the methods provided for in Sections 16-6a-707 and 16-6a-709 of the Corporation Act.

10. **Professional Management.** The Association may carry out through a Manager those of its functions which are properly the subject of delegation. The Manager so engaged shall be an independent contractor and not an agent or employee of the Association, shall be responsible for managing the Project for the benefit of the Association and the Owners, and shall, to the extent permitted by law and by the terms of the agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Association itself. Any such management agreement executed before the end of the Control Period may be terminated by the Association without cause at any time after the end of the Control Period. The above termination right shall not apply to any other types of service contracts, except as may be otherwise provided by the Act.

11. **Indemnification of Directors, Etc.** The provisions of Part 9 (i.e., Sections 16-6a-901 through 16-6a-910) of the Corporation Act (regarding indemnification of directors and officers, advances for litigation expenses, and related matters) shall apply as regards the Association.

ARTICLE IV. PROPERTY RIGHTS IN COMMON AREAS AND UNITS

1. **Easement of Enjoyment.** Each Owner shall have an undivided interest, right, and easement of use and enjoyment in and to the Common Areas. Each Owner shall have an unrestricted right of ingress and egress to and from his Unit over and across the Common Areas. Each Owner shall also have the exclusive right, subject to any easements, to use and enjoy any Limited Common Area that may be appurtenant to the Unit owned by such Owner. Such rights and easements shall be appurtenant to and shall pass with title to each Unit and in no event shall be separated therefrom. Any Owner may delegate the right and easement of use and enjoyment described herein to any guest, tenant, lessee, contract purchaser, or other person who occupies or utilizes such Owner's Unit.

2. **Easements for Encroachments.** In the event the construction, reconstruction, repair, shifting, settlement, or any other movement of any portion of the improvements causes any part of a Unit built substantially in accordance with the boundaries for such Unit as depicted on the Plat to encroach upon the Common Areas, or upon an adjoining Unit, or if any part of the Common Areas encroaches or shall encroach upon a Unit for any of such reasons, an easement for such encroachment and for the

maintenance of the same shall and does exist. There is also hereby created an easement for any encroachment by any roof overhang upon an adjoining Unit or upon any part of the Common Areas.

3. Limitation on Easement. An Owner's rights under this Declaration and right, interest, and easement of use and enjoyment concerning the Common Areas shall be subject to the following:

(a) The right of the Association to suspend an Owner's voting rights in the Association: (i) for any period during which a payment due from such Owner under this Declaration remains delinquent; (ii) for a period not exceeding 60 days for any infraction by such Owner of the provisions of this Declaration or of any rule or regulation promulgated by the Association; and (iii) for successive 60-day periods if any such infraction is not corrected during any prior 60-day suspension period.

(b) The right of the Association to: (i) impose reasonable limitations on the number of guests per Unit who at any given time are permitted to use the Common Areas; and (ii) allocate and/or assign specific parking spaces or a number of specific parking spaces to each Owner based on the amount of interior finished space allowed and the remaining warehouse space in each unit, as these spaces relate to city parking codes.

(c) The right of any governmental or quasi-governmental body having jurisdiction over the Property to access, and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Property, for purposes of providing police, fire protection, and other governmental or municipal service.

(d) Any easements or rights-of-way provided for in this Declaration or the Plat or that are a matter of public record.

4. Party Walls. Each wall that is built on a dividing line between Units shall constitute a party wall and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to each party wall in the Project. The cost of installation, repair, and maintenance of a party wall (including any utility lines in the wall) shall be shared equally by the Owners who make use of the party wall (or the utility lines therein) in question. However, if only one Owner makes use of a utility line in a party wall, that Owner shall bear all of the costs associated with the line. If a party wall is destroyed or damaged by fire or other casualty, the provisions of Article VII of this Declaration shall not apply to the reconstruction of the wall; rather, the Owners who make use of the party wall shall be responsible for repairing or replacing it. Notwithstanding any other provision of this Section, an Owner who by his negligent or willful act causes a party wall (or a utility line therein) to be damaged shall bear the entire cost of furnishing repairs to the party wall (or utility line). The right or obligation of an Owner to receive or give contribution from any other Owner under this Section shall run with the land and shall pass to and be binding upon and enforceable by or against any subsequent Owner of either Unit.

5. No Further Subdividing. No Unit and no part of the Common Areas may be further divided or subdivided, nor may any easement or other interest affecting less than the entirety of a Unit be transferred or conveyed by the Owner thereof without the prior written approval of the Board; provided, however, that nothing shall prevent, or require the approval of the Board for, the transfer or sale of any Unit to more than one person to be held by them as tenants in common, joint tenants, or otherwise.

6. Approval by Board of Interior Improvements. No build-out or finishing of any kind shall be accomplished, and no improvements of any kind shall be made, in any Unit without the prior written approval of the Board of Directors. Procedures regarding such approval of the Board shall be as follows:

(a) Plans to be Submitted. Two complete sets of plans for the proposed construction shall be submitted to the Board for review. The plans must be professionally prepared and sufficiently detailed to accurately depict (i) the location, size, nature, and appearance of all proposed improvements, and (ii) the use planned to be made of each part of the Unit.

(b) Review Fee. The applicant shall pay a review fee in an amount, established from time to time by the Board, necessary to cover the cost of review and administration of the review program. Until changed by the Board, the review fee shall be \$250.00.

(c) Review. Within 30 days after receipt of a complete submission, including the payment of the required review fee, the Board shall review the plans and make a determination as to whether or not the plans describe improvements and uses that comply with the requirements imposed by this Declaration. If they do not, the plans shall be rejected. If they are in compliance, the Board shall approve the plans. The Board may also approve the plans subject to specific modifications or conditions. If an Owner submits preliminary plans for review, the Board shall review such plans and make its comments known to the submitting Owner. However, no preliminary approval is to be considered a final approval, and no final approval shall be granted on less than a complete submission. Upon approval, the Board and the Owner shall each sign a copy of the plans, one of which shall be retained by the Board.

(d) Construction. Construction of the improvements involved shall be in strict compliance with the approved plans. In addition, all construction shall be done in a good and workmanlike manner and in compliance with all applicable law.

(e) Board's Failure to Act. If the Board has not approved or rejected a complete plan submission within 45 days after receiving it, the submission shall be deemed to have been disapproved. If the plans are disapproved as a result of the Board's failure to act, then the applicant-Owner may send by certified mail, return receipt requested, a notice to the Association and to each member of the Board stating that if the plans are not either approved or disapproved, as previously submitted, within 15 days after the date the notice is mailed, then the plans will be deemed to be approved. If within such 15-day period the Board fails to respond to the notice by either approving or disapproving the plans, then the plans will be deemed to have been approved.

(f) Consistent Standards of Review. The Board shall use reasonable efforts to provide a consistent process of plan review and to use reasonable and consistent standards in the review process.

7. Effect of and Limitation on Liability Regarding Plan Review. Notwithstanding the Board's approval or disapproval of any plans pursuant to the foregoing Section 6, no improvement or work in any Unit shall, whether or not described in approved plans, in any way violate any of the provisions of this Declaration. In connection with the Board's review of plans, it shall have no responsibility over compliance with or enforcement of building codes, zoning ordinances, or other statutes, laws, or ordinances, and neither the Declarant, the Association, nor any Board member shall have any liability to any Owner whose plans are approved even though the improvements or use(s) described therein violate any such codes, statutes, ordinances, or laws. Corrections or changes in plans, whether to bring them into conformity with applicable law or for other reasons, must be approved by the Board prior to construction.

Neither the Declarant, the Association, nor any member of the Board shall be liable for any damages (or for any other money judgment) to any applicant or to any Unit Owner for any of the Board's actions or inactions in connection with the plan review process or for approval or disapproval concerning any plans submitted to the Board for review, unless it is established that the person in question has acted both willfully and wrongfully.

8. Failure to Obtain Plan Approval. The Association is authorized, but not required, to initiate legal proceedings against any Owner, contractor, or other person who proceeds with construction in any Unit without first applying for and receiving the approval of the Board contemplated by Section 6 above. The Board is authorized to charge all reasonable legal and associated costs of obtaining compliance with said Section 6 against the Unit and the Owner concerned.

ARTICLE V. ASSESSMENTS

1. Obligation to Pay Assessments. The Association shall have the right to levy against the Condominium Units in the Project, and the Owners shall be obligated to pay, assessments for the purposes provided in this Declaration. Such assessments shall be fixed, established, and collected from time to time as provided in this Article V.

2. Annual Assessments – Commencement and Maximum Amounts. From and after the date on which Declarant conveys the first Unit to a purchaser, the Condominium Units in the Project shall be subject to the following assessments:

(a) During and from and after the part of the calendar year 2017 following such date of first conveyance, the maximum assessment rate shall be \$3000 per year, payable \$250 per month, for a Unit to which an undivided ownership interest of 5% appertains. The maximum assessment rate for a Unit to which any other undivided interest appertains shall bear the same ratio to the assessment rate stated in the preceding sentence as the other Unit's undivided ownership interest bears to the undivided ownership interest stated in the preceding sentence.

(b) From and after January 1 of 2018 the maximum annual assessment for any year may be increased by the Board of Directors, without a vote of the Owners, by up to fifteen percent (15%) per year for each year since 2017 above the maximum assessment that applied for 2017.

(c) From and after January 1 of 2018 the maximum annual assessment may be increased by more than the fifteen percent (15%) authorized by Paragraph (b) above only by a vote of at least two-thirds (2/3) of the votes cast by Owners who vote in person or by proxy at a meeting duly called for that purpose.

(d) The Board may fix the annual assessment at any amount not in excess of the maximum that then applies.

3. Annual Assessments – Computation and Billing. From and after the time that assessments first become payable, annual assessments shall be computed and assessed against the Condominium Units in the Project as follows:

(a) Common Expenses. Annual assessments shall be based upon advance estimates of the Association's cash requirements to provide for payment of all expenses arising out of or connected with the maintenance and operation of the Common Areas or of the Improvements Exteriors, and furnishing utility and other services to the Project. Such estimated expenses may include, without limitation, the following: expenses of management; premiums for all insurance that the Association is required or permitted to maintain hereunder; repairs, maintenance, and cleaning of the Common Areas and Improvements Exteriors; landscaping; snow removal; wages of Association employees; fees for a Manager; trash removal; utility charges, including charges for utility services to the Units to the extent not separately metered or billed; legal and accounting fees; any deficit remaining from a previous period; creation of an adequate contingency reserve, maintenance

reserve, and/or sinking fund; creation of an adequate reserve fund for maintenance, repair, and replacement of those Common Areas and Improvements Exteriors that must be replaced on a periodic basis; and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under this Declaration. The aggregate of all such items shall be included in the Common Expenses.

(b) Annual Budget. Annual assessments shall be determined on the basis of a full calendar year, except in the case of the partial year that follows Declarant's conveyance of the first Unit to a purchaser. At or before the initial meeting of the Owners, and at or before each annual meeting of the Owners, or as soon thereafter as is reasonably practical, the Board of Directors shall prepare and furnish to each Owner an operating budget for the year or partial year concerned. The budget shall itemize the estimated Common Expenses for such year or partial year, anticipated receipts, and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the annual assessments for the year or partial year concerned and as the major guideline under which the Project shall be operated during such period.

(c) Notice and Payment. The Board of Directors shall, at the initial meeting of the Owners and at each annual meeting of the Owners, or as soon thereafter as is reasonably practical, notify each Owner in writing as to the amount of the annual assessment against his Condominium Unit. Except as otherwise provided by the Board, each annual assessment shall be payable in equal monthly installments to be made over the course of the year or partial year to which the assessment relates. Any unpaid installment of an annual assessment shall bear interest at the rate of eighteen percent (18%) per annum, from 15 days after the date such installment becomes due until it is paid. The Board of Directors shall also have the right to assess a late fee of up to five percent (5%) of any assessment installment not paid within 15 days following the due date thereof. The failure of the Board of Directors to give timely notice of any annual assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay that or any other assessment.

(d) Inadequate Funds. In the event that the funds available to the Association prove inadequate to pay the Common Expenses at any time or for any reason, including nonpayment of any Owner's assessment, the Board of Directors may, on behalf of the Association, levy additional assessments in accordance with the procedure set forth in Section 4 below, except that the vote therein specified shall be unnecessary.

4. Special Assessments. In addition to the annual assessments authorized by this Article, the Board of Directors may, on behalf of the Association, levy, at any time and from time to time, upon the affirmative vote of at least two-thirds (2/3) of the votes cast in person or by proxy at a meeting of the Owners called for such purpose, special assessments, payable over such period as the Board of Directors may determine, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, or unexpected repair or replacement of the Property or any part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration. This Section shall not be construed as an independent source of authority for the Association to incur expenses but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections or Articles hereof. Notice in writing of the amount of each such special assessment and the time for payment thereof shall be given promptly to the Owners; no payment shall be due less than 15 days after such notice is given. Any unpaid portion of a special assessment shall bear interest at the rate of eighteen percent (18%) per annum, from 15 days after the date such portion becomes due until it is paid.

5. Apportionment of Assessments. The amount of any annual or special assessment that is to be levied against each Unit shall be based upon and in direct proportion to the percentage of undivided ownership interest that is appurtenant to the Unit in question. Notwithstanding the foregoing, however, until the end of the Development Period the following shall be the case:

(a) Condominium Units owned by the Declarant shall not be subject to either annual or special assessments;

(b) A Condominium Unit that is conveyed by the Declarant to a third-party purchaser during any given year or partial year shall, following such conveyance, be subject to a prorated portion of the same annual and special assessments as would have applied to that Condominium Unit had it not been owned by the Declarant at the beginning of the year or partial year involved (with the prorated portion to be determined based on the number of days during the year or partial year that the third-party purchaser has owned the Condominium Unit);

(c) If and as the Association lacks funds with which to pay the Common Expenses, it shall so advise the Declarant and shall specify to the Declarant the amount of the then applicable shortfall in funds (for purposes hereof, amounts in the working capital fund dealt with in Section 10 of this Article V shall not be considered available to the Association for payment of the Common Expenses); and

(d) Within 45 days after receiving the Association's advice pursuant to the preceding Paragraph (c), the Declarant shall pay to the Association the then-applicable shortfall in funds.

6. Lien for Assessments. All sums assessed to the Owner of any Condominium Unit pursuant to the provisions of this Article V, together with late charges and interest thereon as provided herein, shall be secured by a lien on such Unit in favor of the Association. To evidence a lien for sums assessed pursuant to this Article V, the Board of Directors may 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 of the Condominium Unit, and information adequate to identify the Unit. Such a notice shall be executed by a duly authorized officer of the Association and may be recorded in the office of the Recorder of the County in which the Property is located. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by foreclosure and sale conducted in accordance with the provisions of law applicable to judicial foreclosure of mortgages or in any other manner permitted by law. In any such foreclosure proceeding the Owner shall be required to pay the costs and expenses of the proceeding (including reasonable attorneys' fees), and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessment against the Unit which may become due during the period of foreclosure, and all such assessments shall be secured by the lien being foreclosed. The Board of Directors shall have the right and power on behalf of the Association to bid in at any foreclosure sale and to hold, lease, Mortgage, or convey the subject Unit in the name of the Association.

7. Personal Obligation of Owner. The amount of any annual or special assessment against any Condominium Unit shall be the personal obligation of the Owner of such Unit to the Association. 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. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his Condominium Unit or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment for an unpaid assessment, the Owner involved shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorneys' fees.

8. **Liability of Purchaser.** The personal obligation of an Owner to pay unpaid assessments against his Condominium Unit as described in the foregoing Section 7 shall not pass to successors in title unless assumed by them. However, a lien to secure unpaid assessments shall not be affected by conveyance of the Condominium Unit, unless such conveyance occurs as a result of foreclosure of a First Mortgage, in which case the foreclosure shall extinguish the lien for any assessments that were payable before the foreclosure sale, but not after it.

9. **Reserve Fund.** The Association may in its discretion establish and maintain a reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Areas and to the Improvements Exteriors. The reserve fund shall be funded out of annual assessments for the Common Expenses.

10. **Working Capital Fund.** The Association shall establish and maintain for the Project a working capital fund at least equal to twenty percent (20%) of the maximum annual assessment against all Units that is described in Paragraph (a) of Section 2 of this Article V. If not previously paid, each Unit's share of the working capital fund shall be collected by the Declarant (and remitted to the Association) at the time of the closing of the Declarant's sale of that Unit to a purchaser. However, the Declarant shall in any event make the required contribution to the working capital fund for each unsold Unit no later than seven years after the date of the Declarant's conveyance of the first Unit in the Project to a purchaser. With respect to each Unit for which the Declarant has paid the contribution to the working capital fund, Declarant shall be reimbursed for such contribution by the purchaser of such Unit at the time of the closing of Declarant's sale of the Unit to such purchaser. The purpose of the working capital fund is to ensure that the Association will have cash available to meet initial operating expenses and unforeseen expenditures, to acquire additional equipment or services deemed necessary or desirable by the Board, and to provide any needed funds during the first few months of each year while the Association awaits receipt of annual assessment payments from the Owners. Amounts paid into the working capital fund are not to be considered advance payments toward any annual or other assessment.

11. **Evidence of Payment of Annual and Special Assessments.** Upon receipt of a written request by an Owner or any other person, the Association within a reasonable period of time thereafter shall issue to the requesting party a written certificate, stating (a) that all annual and special assessments (including interest, late charges, costs, and attorneys' fees, if any) have been paid with respect to a specified Unit as of the date of such certificate, or (b) if all annual and special assessments have not been paid, the amount of such annual and special assessments (including interest, late charges, costs, and attorneys' fees, if any) due and payable as of such date. The Association may make a reasonable charge for the issuance of such a certificate, which charge must be paid at the time the request for the certificate is made. Any such certificate, when duly issued as herein provided, shall, with respect to any matter therein stated, be conclusive and binding upon the Association as against any bona fide purchaser or Mortgagee of the Unit in question.

ARTICLE VI. OPERATION, MAINTENANCE, AND INSURANCE

1. **Maintenance of Units and Certain Limited Common Areas.** Each Unit shall be maintained by the Owner thereof so as not to detract from the appearance of the Property and so as not to affect adversely the value or use of any other Unit or other portions of the Project. Each Unit shall be sufficiently heated by the Owner thereof to keep water pipes from freezing. The Owner of a Unit shall also be obligated to maintain, and to replace when and as needed, the door(s) to such Unit, all glass and other window-related materials that are contained in or affixed to any window(s) in the walls surrounding such Unit, and any Limited Common Areas, of the type contemplated by Section 57-8-7.2(5) of the Act, appurtenant to such Unit. The Owner of a Unit shall also be responsible for repairing the floor, walls, and roof surrounding such Unit, and the utility lines (and utility line routes or locations) serving such Unit, if the need for the

repair concerned was caused by penetrations, connections, and the like made in connection with such Unit or the use thereof. The Owners having an interest in a party wall of the type contemplated by Section 4 of Article IV shall be responsible for the maintenance of such wall. The Association shall have no obligation regarding maintenance or care which is required to be accomplished by the individual Owners.

2. Operation and Maintenance by Association. Except to the extent that maintenance is the responsibility of Unit Owner(s) under the foregoing Section 1, the Association shall provide for such maintenance and operation of the Common Areas as may be necessary or desirable to make them appropriately usable in conjunction with the Units and to keep them clean, functional, attractive, and generally in good condition and repair.

The Association shall maintain all Improvements Exteriors as follows: painting, repairing, replacing, and caring for roofs, roof joists, gutters, downspouts, foundations, exterior building surfaces, exterior doors (other than to Units), and other exterior improvements, as well as all paved or asphalt areas, trees, shrubs, grass, walks, and steps located within the Property. Such exterior maintenance shall not extend to roof leaks around penetrations in the roofing field or to glass panes included with any Unit. It is recommended that Owners needing to make roof penetrations utilize the original roofing contractor to properly seal any such penetrations. The Association shall have the right of entry to any Unit to perform emergency repairs or do other work necessary for maintenance of the Common Areas or Improvements Exteriors.

In the event that the need for any maintenance or repair by the Association is caused through the willful or negligent act of an Owner, or through the willful or negligent act of the agents, guests, tenants, or invitees of an Owner, the cost of any resulting maintenance or repair shall be immediately due and payable from the Owner and added to and become a part of the assessment to which such Owner's Unit is subject.

3. Utilities. The Owner shall pay for all utility services furnished to his Unit; except utility services which are not separately billed or metered to individual Units by the utility or other party furnishing such service. The Association shall pay, as part of the Common Expenses, for utility services which are not separately metered.

4. Hazard Insurance. The Association shall at all times maintain in force hazard insurance meeting the following requirements:

(a) A multi-peril type policy covering the entire Project (both Units and Common Areas) shall be maintained. Such policy shall provide coverage against loss or damage by fire and other hazards covered by the standard extended coverage endorsement and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, water damage, and such other risks as customarily are covered with respect to condominium projects similar to the Project in construction, location, and use. As a minimum, such policy shall provide coverage on a replacement cost basis in an amount not less than that necessary to comply with any co-insurance percentage specified in the policy, but not less than one hundred percent (100%) of the current full insurable value (based upon replacement cost, exclusive of land, foundations, excavation, and other items normally excluded from coverage). Such policy shall, if required either by prudence or by any First Mortgagee, and if available, include an "Agreed Amount Endorsement" or its equivalent, or an "Inflation Guard Endorsement" or its equivalent, and, in addition, a "Demolition Endorsement" or its equivalent, a "Contingent Liability from Operation of Building Laws Endorsement" or its equivalent, and an "Increased Cost of Construction Endorsement" or its equivalent. The deductible under such insurance policy shall not be more than \$1000. [Note to Unit Owners: Coverage of the insurance policy contemplated by this Paragraph (a) probably will not include or extend to (i) party walls of the type dealt with in Section 4 of Article IV, (ii) any

walls or partitions that are contained within the vertical and horizontal perimeters of a Unit, or (iii) finishing materials on the floors, ceilings, or walls that bound a Unit.]

(b) The named insured under the policy required to be maintained by the foregoing Paragraph (a) shall be in form and substance essentially as follows: "Copper Ridge Office Warehouses Owners Association, or its authorized representative, as Trustee for and for the use and benefit of the individual Owners of Units in the Copper Ridge Office Warehouses Project." Said Owners shall be designated by name, if required.

(c) Such policy shall include the standard mortgagee clause (without contribution) customarily accepted by institutional mortgage investors in the area in which the Property is located, which clause either shall be endorsed to provide that any proceeds shall be paid to the Association for the use and benefit of Mortgagees as their interests may appear or shall be otherwise endorsed to fully protect the interests of Mortgagees. In addition, the mortgagee clause shall provide that the insurance carrier shall notify each Eligible Mortgagee at least 30 days in advance of the effective date of any reduction in or substantial modification or cancellation (including cancellation for nonpayment of premium) of the policy.

5. **Liability Insurance.** The Association shall at all times maintain in force a comprehensive policy of public liability insurance covering all of the Common Areas. Such insurance shall include a "Severability of Interest Endorsement" or its equivalent which shall preclude the insurer from denying the claim of an Owner because of negligent acts of other Owners, the Board, or the Association. The coverage afforded by such public liability insurance shall include protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others, such other risks as customarily are covered with respect to condominium projects similar to the Project in construction, location, and use, and such other risks as typically are required to be covered by institutional Mortgage investors for condominium projects similar in construction, location, and use. The limits of liability under such insurance shall not be less than \$5000 for all claims for personal injury and/or property damage arising out of a single occurrence, and the deductible shall not be more than \$5000.

6. **General Requirements Concerning Insurance.** Each insurance policy maintained pursuant to the foregoing Section 4 or 5 shall be written by an insurance carrier which is licensed to transact business in the State of Utah and which has a financial rating at least equivalent to Best's Insurance Reports Class A. No such policy shall be maintained where: (i) under the terms of the carrier's charter, bylaws, or policy, contributions may be required from, or assessments may be made against, a Unit Owner, a Mortgagee, the Association, a Unit, the Common Areas, or the Property; (ii) by the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members; (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent the party entitled from collecting insurance proceeds; or (iv) the policy provides that the insurance thereunder may be brought into contribution with insurance purchased by the individual Owners or their Mortgagees. Each policy shall be such that: (a) coverage shall not be prejudiced by any act or neglect of the Unit Owners when such act or neglect is not within the control of the Association; (b) coverage shall not be prejudiced by any failure by the Association to comply with any warranty or condition with regard to any portion of the Property over which the Association has no control; (c) coverage may not be reduced, substantially modified, or cancelled (including cancellation for nonpayment of premium) without at least 30 days prior written notice to any and all insureds and Mortgagees named therein, including each Mortgagee named as an insured or afforded protection under a mortgagee clause; and (d) the insurer waives any right of subrogation it might have as to any and all claims against the Association, any Unit Owner, and/or their respective agents, employees, or tenants, and waives any defense it might have based upon co-insurance or upon invalidity arising from acts of the insured. If due to changed circumstances, excessive cost, or any other reason, any of the insurance coverage required to

be obtained and maintained under this Section 6 and/or under the preceding Sections 4 and 5 cannot reasonably be obtained, with respect to such coverage the Association shall obtain and maintain such substitute, different, or other coverage as may be reasonable and prudent under the circumstances as they then exist.

ARTICLE VII. DESTRUCTION, CONDEMNATION, AND OBSOLESCENCE

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

(a) Destruction. "Substantial Destruction" shall exist whenever, as a result of any damage or destruction to the Property or any part thereof, the excess of Estimated Costs of Restoration over Available Funds is twenty-five percent (25%) or more of the estimated Restored Value of the Project. "Partial Destruction" shall mean any other damage or destruction to the Property or any part thereof.

(b) Condemnation. "Substantial Condemnation" shall exist whenever a complete taking of the Property or a taking of part of the Property has occurred under eminent domain or by grant or conveyance in lieu of condemnation, and the excess of the Estimated Costs of Restoration over Available Funds is twenty-five percent (25%) or more of the estimated Restored Value of the Project. "Partial Condemnation" shall mean any other such taking by eminent domain or grant or conveyance in lieu thereof.

(c) Obsolescence. "Substantial Obsolescence" shall exist whenever the Property or any part thereof has reached such a state of obsolescence or disrepair that the excess of Estimated Costs of Restoration over Available Funds is twenty-five percent (25%) or more of the estimated Restored Value of the Property. "Partial Obsolescence" shall mean any state of obsolescence or disrepair which does not constitute Substantial Obsolescence.

(d) Restoration. "Restoration," in the case of any damage or destruction, shall mean restoration of the Property to a condition the same or substantially the same as the condition which existed prior to the damage or destruction concerned; in the case of condemnation, shall mean restoration of the remaining portion of the Property to an attractive, sound, and desirable condition; and, in the case of obsolescence, shall mean restoration of the Property to an attractive, sound, and desirable condition. In any of such cases "Restoration" shall not extend to any party wall contemplated by Section 4 of Article IV or to anything that constitutes part of a Unit, rather than part of the Common Areas.

(e) Restored Value. "Restored Value" shall mean the value of the Property after Restoration.

(f) Estimated Costs of Restoration. "Estimated Costs of Restoration" shall mean the estimated costs of Restoration.

(g) Available Funds. "Available Funds" shall mean any proceeds of insurance, condemnation awards, payments in lieu of condemnation, and 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, including a Mortgagee, or that portion of any condemnation award or payment in lieu of condemnation payable to the Owner or Mortgagee of a Condominium Unit for the condemnation or taking of the Unit in which they are interested.

2. Determination by Board. Upon the occurrence of any damage to or destruction of the Property or any part thereof, or upon a complete or partial taking of the Property under eminent domain or by grant or conveyance in lieu thereof, the Board of Directors shall make a determination as to whether the excess of Estimated Costs of Restoration over Available Funds is twenty-five percent (25%) or more of the estimated Restored Value of the Property. In addition, the Board shall, from time to time, review the condition of the Property to determine whether substantial Obsolescence exists. In making such determinations the Board may retain and rely upon one or more qualified appraisers or other professionals.

3. Restoration. Restoration of the Property shall be undertaken by the Association promptly, and without the need for a vote of the Owners, in the event of Partial Destruction, Partial Condemnation, or Partial Obsolescence, but shall be undertaken in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence only with the consent of Owners collectively holding at least seventy-five percent (75%) of the Project's undivided ownership interest and with the consent of at least seventy-five percent (75%) of the First Mortgagees (based upon one vote for each Mortgage). Within 30 days after the Board of Directors has determined that Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence exists, it shall send to each Owner and First Mortgagee a written description of the destruction, condemnation, or state of obsolescence involved, shall take appropriate steps to ascertain the preferences of the First Mortgagees concerning Restoration, and shall, with or without a meeting of the Owners (but in any event in accordance with the applicable provisions of this Declaration), take appropriate steps to determine the preferences of the Owners regarding Restoration. In the event insurance proceeds, condemnation awards, or payments in lieu of condemnation actually received by the Association exceed the cost of Restoration when Restoration is undertaken, the excess shall be paid and distributed to the Owners in proportion to their respective percentages of undivided interest in the Common Areas. Payment to any Owner whose Condominium Unit is subject to a First Mortgage shall be made jointly to such Owner and the interested First Mortgagee. In the event the cost of Restoration exceeds Available Funds, all of the Units shall be assessed for the deficiency on the basis of their respective percentages of undivided ownership interest in the Common Areas.

4. Sale of Property. The Property shall be sold in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence unless the consents required by Section 3 above have been obtained within 180 days after the Board of Directors sends the written description contemplated by said Section 3. In the event of such sale, condominium ownership under this Declaration and the Plat shall terminate and the proceeds of sale and any Available Funds shall be distributed by the Association to the Owners in proportion to their respective percentages of undivided interest in the Common Areas. Payment to any Owner whose Condominium Unit is then subject to a First Mortgage shall be made jointly to such Owner and the interested First Mortgagee.

5. Authority of Association to Restore or Sell. The Association, as attorney-in-fact for each Owner, shall have and is hereby granted full power and authority to restore or to sell the Property whenever Restoration or sale, as the case may be, is undertaken as provided for above. Such authority shall include the right and power to enter into any contracts, deeds, or other instruments which may be necessary or appropriate for Restoration or sale, as the case may be.

6. Inapplicability of Act Provisions. The provisions of the foregoing Sections 1 through 5 shall in all respects apply to the Property in lieu of, and shall be deemed to supersede and replace, Sections 57-8-30 and 57-8-31 of the Act.

ARTICLE VIII. USE RESTRICTIONS

1. Rules and Regulations. The Association shall have authority to promulgate and enforce such reasonable rules, regulations, and procedures as are consistent with this Declaration, the Act, and the Articles and as may be necessary or desirable to aid the Association in carrying out any of its functions or to ensure that the Property is maintained and used in a manner consistent with the interests of the Owners.

2. Use of Common Areas. The Common Areas shall be used only in a manner consistent with their community nature and with the rules, regulations, and use restrictions applicable to Units. No admission fees, charges for use, leases, or other income generating arrangement of any type shall be employed or entered into with respect to any portion of the Common Areas.

3. Use of Units. Each Unit shall be used only in a way consistent with zoning regulations of the City and with the provisions of this Declaration and the Act. City code requires a certain number of parking stalls for each commercial development. The number of stalls required is based on usage and size. Parking in the project is provided in the common and limited common areas. The interior of the units shall be built out and used only in such a manner that the parking requirements of the City shall be complied with as if each unit were a free standing building. To facilitate this, transfer of title to each unit shall include limited common area parking stalls and "Parking Based Development Rights" which together equal the maximum number of City required parking stalls that the unit shall be permitted to require based on its size and usage including interior improvements. No unit shall have interior improvements constructed therein or be put to any use(s) that would require parking in excess of the total of the limited common area parking stalls and the "Parking Based Development Rights attached to that unit (the application of this restriction will prevent any unit from being primarily used as a warehouse retail facility). No Unit shall be used, occupied, or altered in violation of law, in a way which jeopardizes the structural integrity of any Building or other Unit, or in a way that creates a nuisance or interferes with the rights of any of the Owners. No Unit may be used for any purpose which would render the Property uninsurable. Unless consented to in writing by the Board, no Unit shall be used for any of the following:

- (a) The sale or repair of motor vehicles
- (b) A movie theater or restaurant;
- (c) A bowling alley, miniature golf course, video arcade, or retail outlet for the rental or sale of videos, CDs, DVDs, or other mediums for music, motion pictures, or games;
- (d) The sale, distribution, rental, or viewing of sexually explicit materials or sexually explicit performances;
- (e) The sale of paraphernalia related to illegal drugs;
- (f) Escort services;
- (g) Any establishment utilizing an outdoor speaker;
- (h) Any establishment producing noxious, offensive, or harmful odors; or
- (i) Any establishment that utilizes more than 10 on-site employees per Unit.

5. Declarant's Sales Program. Notwithstanding the other provisions of this Declaration, until the end of the Development Period Declarant shall have the rights provided for in this Section 5.

Declarant shall have the following rights in furtherance of any sales, promotional, or other activities designed to accomplish or facilitate the sale of all Units owned or to be owned (upon the addition to the Project of some or all of the Additional Land) by Declarant:

(a) Declarant shall have the right to maintain two or less sales offices and/or model Units. Such offices and/or model Units may be Units owned by Declarant.

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

Declarant shall also have the right from time to time to locate or relocate any of its sales offices, model Units, and/or signs, banners, or similar devices, but in connection with each such location or relocation shall observe the limitations imposed by the preceding portion of this Section. Within a reasonable period of time after the end of the Development Period Declarant shall have the right to remove from the Property any signs, banners, or similar devices and any separate structure or facility which may have been placed on the Property for the purpose of aiding Declarant's sales effort.

6. Leases. Any lease agreement between an Owner and a lessee respecting a Unit shall be subject in all respects to the provisions of this Declaration, the Articles, and the Act, and any failure by the lessee to comply with such provisions shall be a default under the lease. All such lease agreements shall be in writing. Other than the foregoing, there is no restriction on the right of any Owner to lease his Unit. An Owner shall be responsible and liable for any damage to the Property caused by his lessee.

7. Utility Easements. No structure, planting, or other material shall be placed or permitted to remain within the lines of any utility easement if doing so might damage or interfere with the installation and maintenance of the utility lines involved. If access to any utility line serving a particular Unit requires entry into another Unit, the Association, the Owner whose Unit is served by the utility line, and the utility company or supplier shall have a right of entry to the other Unit.

8. Inadequate Heat in Unit. In the event an Owner fails to maintain enough heat in his Unit to keep water pipes from freezing or any other utility lines from functioning properly, the Association shall have the right to do whatever is reasonably needed to adequately heat such Unit, and any costs thereby incurred by the Association shall be repaid to the Association on demand by the Owner of the Unit in question. If such costs are not timely paid, the amount thereof may be enforced by a lien against the Unit pursuant to Article V.

9. Odors and Sounds. No odors shall be permitted which render any part of the Property unsanitary. No noise or odor shall be permitted on any part of the Property or from within any Unit if the noise or odor is offensive or detrimental to any other part of the Property or to the occupants thereof. Without limiting the generality of any of the foregoing, no exterior speakers, horns, whistles, bells, or other sound devices (other than security devices used exclusively for security purposes) shall be located, used, or placed on the Property without the prior written approval of the Board.

10. Unsightly Articles. No rubbish, debris, or other unsightly articles shall be permitted to remain anywhere within the Common Areas, Limited Common Areas, or within a Unit at any location that is visible from the Common Areas or Limited Common Areas through any window in the Unit. Without limiting the generality of the foregoing, the Common Areas shall not be used for: (a) non-emergency vehicular repair; (b) recreational vehicle (including boats, campers, RVs, snowmobiles or trailers) storage; (c) vehicle parking for longer than 72 consecutive hours; or (d) parking for any vehicle not in running order. The Association shall have the right to tow away or remove any of the above which are in

violation of this Section 10, as determined by the Association. The cost of such removal shall be charged against the Owner responsible for the violation and may be enforced by a lien on such Owner's Unit in favor of the Association, in accordance with Article V. If an Owner wishes to use a part of his Unit that is visible from the Common Areas for the placement or storage of any unsightly item(s) or as a storage area, then the Owner shall install a visual barrier on the inside of each window in the Unit through which that part of his Unit may be seen from the Common Areas.

11. Temporary and Other Structures. Except as allowed by Section 5 of this Article VIII, no structure of a temporary nature and no trailer, tent, shack, shed, or other outbuilding shall be allowed on the Property, either temporarily or permanently, at any time.

12. Trash Removal. No trash or refuse containers of any kind shall be permitted to remain within the Common Areas without the prior written consent of the Association. Each Owner shall utilize the common trash container(s) provided by the Association that are located on the Common Areas. If any Owner shall abuse any common trash container provided in the Common Areas, the Association may (a) require such Owner to maintain at his own expense a separate garbage removal system in an area designated by the Association, or (b) charge the Owner such additional amount for garbage removal as the Association deems necessary or proper to defray the added cost of garbage removal resulting from such abuse. The term "abuse" as used in this Section shall mean any overuse of the garbage removal system (in the judgment of the Association) or the dumping of anything prohibited (or resulting in an increased charge) by the garbage removal service.

13. Signs. The following provisions, restrictions, and controls shall apply to signs within the Property:

(a) During the Development Period, Declarant shall have the right to maintain the signs, banners, and similar devices referred to in such Section 5.

(b) A Unit owner has the right to advertise his Unit for sale or lease by placing a sign on the inside of a window in the Unit, provided that the sign does not exceed 2 ft. x 3 ft. In Size.

(c) Each Unit may have signage ("Unit Business Sign") for use in identifying the business conducted in the Unit. Each Unit Business Sign and the location thereof shall be approved in writing by the Board before being installed. Each Unit Business Sign shall be maintained by the Owner of the Unit served by the sign. The size, location, design, and content of each Unit Business Sign shall not be changed without approval of the Board.

(d) No other signs of any kind shall be displayed on the Improvements Exterior or on the Common Areas without approval of all the Owners. Except for the signs allowed by the preceding Paragraph (b), decals or any other type of sign attached to the inside of a Unit's window shall not be permitted without approval by the Board.

(e) All signage shall conform to all applicable municipal and other governmental ordinances. No signs shall be installed prior to obtaining any and all governmental required permits.

14. No Hazardous Activities. No activities shall be conducted on the Property which are or might be unsafe or hazardous to any person or property.

15. No Hazardous Substances. No Owner shall cause or permit any Hazardous Substance to be sold, used, stored, generated, or disposed of on or in his Unit, except that small quantities of customary cleaning and other such compounds may be stored in and used in Units so long as such compounds are properly used. If any Hazardous Substance is sold, used, stored, generated, or disposed of on or in any

Owner's Unit, or if an Owner's Unit becomes contaminated in any manner by a Hazardous Substance by the Owner or his lessee, such Owner shall indemnify and hold harmless the Association and all other Owners from any and all resulting claims, damages, fines, judgments, penalties, costs, expenses (including attorney's fees and consultant and expert fees), liabilities, or losses, including, without limitation, any decrease in the value of the non-contaminated Units, any damages caused by loss of or restrictions on usable space, or any damages caused by an adverse impact on the marketing of the noncontaminated Units.

16. Increased Insurance Costs. If any activity engaged in by any Owner or any material stored or used on the Property by any Owner results in an increase in the cost of insurance for the Property, the Owner responsible shall pay the increase in cost. Such increased cost shall be paid by such Owner on demand by the Association and, if not timely paid, the amount thereof may be enforced by a lien against such Owner's Unit pursuant to Article V.

17. Repair of Improvements. No improvement on the Property shall be permitted to fall into disrepair, and each improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the party responsible for maintenance.

18. Rooftop Antennas. No television, ham radio, citizens band or radio antenna, satellite receiving, or other similar electronic receiving or sending device shall be permitted on the rooftop or outside wall of any Unit or Building, or elsewhere if exposed to view from any other Unit or from any outside area, without written permission from the Board. In no case will any such receiving or sending antenna or other device be allowed to interfere with the peace and quiet enjoyment of any other Unit Owner's premises or equipment. Notwithstanding the foregoing provisions, in connection with development of the Project Declarant and the Association shall have the right and option to install cable and/or satellite TV service lines and antennas as in their judgment may be needed in the Property.

ARTICLE IX. MORTGAGEE PROTECTION

1. Notice of Certain Matters. From and after written request is made to the Association by a First Mortgagee or by an insurer or governmental guarantor of a First Mortgage, which written request furnishes the name and address of such First Mortgagee, insurer, or governmental guarantor and the Unit number or address of the Unit in which the requesting party is interested, the Association, within 30 days after it learns or becomes aware of any of the following, shall give any such First Mortgagee, insurer, or governmental guarantor written notice of:

- (a) Any condemnation loss or casualty loss which affects a material portion of the Property or of any Unit on which there is a First Mortgage held, insured, or guaranteed by such First Mortgagee, insurer, or governmental guarantor;
- (b) Any delinquency in the payment of assessments or charges owed by the Owner whose Unit is subject to a First Mortgage held, insured, or guaranteed by such First Mortgagee, insurer, or governmental guarantor, if the delinquency remains uncured for a period of 60 days;
- (c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and
- (d) Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in Section 2 below or elsewhere in this Declaration.

2. Matters Requiring Approval of Eligible Mortgagees. Except as may be otherwise provided elsewhere in this Declaration, the prior written consent of at least seventy-five percent (75%) of the Eligible Mortgagees (based upon one vote for each First Mortgage held by each Eligible Mortgagee) shall be required to do any of the following:

- (a) Abandon or terminate the legal status of the Project as a condominium project (except as provided in Article VII in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence).
- (b) Partition or subdivide any Condominium Unit.
- (c) Abandon, partition, subdivide, encumber, sell, or transfer all or any part of the Common Areas (except for the granting of easements for utilities and similar purposes consistent with the intended use of the Common Areas, except as provided in Article VII in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence), and except as such matters (arguably) might result from Declarant's addition to the Project of some or all of the Additional Land.
- (d) Use hazard insurance proceeds resulting from damage to any part of the Property (whether to Units or to the Common Areas) for purposes other than the repair, replacement, or reconstruction of such improvements, except as provided in Article VII in the event of Substantial Destruction.
- (e) Change the pro rata interests or obligations of any Unit which apply for purposes of (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, and (ii) determining the share of ownership of each Unit in the Common Areas, except as such change may occur as a result of Declarant's addition to the Project of some or all of the Additional Land.
- (f) Alter the provisions of Article VI in such a way as to diminish the insurance protection required to be afforded to the parties designed to be protected thereby, or to fail to maintain the insurance coverage described therein.
- (g) Add, delete, or amend any material provision of this Declaration, the Plat, or the Articles which establishes, provides for, governs, or regulates any of the following matters, except as provided for in Article X in connection with expansion of the Project through the addition of some or all of the Additional Land (an addition, deletion, or amendment shall not be considered material if it is only for the purpose of correcting technical errors or for clarification):
 - (i) voting rights;
 - (ii) the priority of assessment liens;
 - (iii) reserves for maintenance, repair, and replacement of Common Areas;
 - (iv) responsibility for maintenance and repairs;
 - (v) determination of percentage ownership interests in the Common Areas;
 - (vi) Unit boundaries;

- (vii) expansion or contraction of the Project or the addition or annexation of property to, or the withdrawal of property from, the Project (except for expansion of the Project pursuant to Article X);
- (viii) hazard or fidelity insurance requirements;
- (ix) the leasing of Units;
- (x) an Owner's right to sell or transfer his Unit;
- (xi) management of the Project, if professional management had been required previously by this Declaration or by an Eligible Mortgagee;
- (xii) Restoration of the Property as dealt with in Article VII; or
- (xiii) any provision or provisions that expressly benefit Mortgagees or insurers or guarantors of Mortgages.

3. Availability of Project Documents and Financial Statements. The Association shall maintain current copies of this Declaration, the Plat, the Articles, and other documents concerning the Project, as well as its own books, records, and financial statements, and shall have such materials available for inspection by Owners and by holders, insurers, and governmental guarantors of First Mortgages. The documents shall be made available during normal business hours.

The Association shall make the Association's financial statements for the preceding fiscal year (if the Project has then been established for a full fiscal year) available to the holder, insurer, or governmental guarantor of any First Mortgage upon the submission of a written request for the material in question.

4. Subordination of Assessment Lien. The lien or claim against a Condominium Unit for unpaid assessments or charges levied by the Association pursuant to this Declaration or the Act shall be subordinate to the First Mortgage affecting such Condominium Unit if the First Mortgage was recorded before the assessment or charge was due, and a First Mortgagee thereunder which comes into possession of or which obtains title to the Condominium Unit shall take the same free of such lien or claim for unpaid assessment or charges, but only to the extent of assessments or charges which accrue prior to foreclosure of the First Mortgage, exercise of a power of sale available thereunder, or taking of a deed or assignment in lieu of foreclosure (except for claims for a pro rata share of such prior assessments or charges resulting from a pro rata reallocation thereof to all Condominium Units including the Condominium Unit in which the First Mortgagee is interested). No assessment, charge, lien, or claim which is described in the preceding sentence as being subordinate to a First Mortgage or as not to burden a First Mortgagee which comes into possession or which obtains title shall be collected or enforced by the Association from or against the First Mortgagee, the successor in title to the First Mortgagee, or the Condominium Unit affected or previously affected by the First Mortgage concerned.

5. Payment of Taxes and Insurance Premiums. In the event any taxes or other charges which may have become a lien on part or all of the Common Areas are not timely paid, or in the event the required hazard insurance described in Article VI lapses, is not maintained, or the premiums therefore are not paid when due, any Mortgagee or any combination of Mortgagees may, jointly or singly, pay such taxes or premiums or obtain such insurance. Any Mortgagee which expends funds for any of such purposes shall be entitled to immediate reimbursement therefore from the Association.

6. **Priority.** No provision of this Declaration or of the Articles gives or may give an Owner or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards (or payments in lieu of condemnation awards) for loss to or taking of all or any part of the Units or the Common Areas.
7. **Other Provisions.** In the event another provision or clause of this Declaration deals with the same subject matter as is dealt with in any provision or clause of this Article IX, the provision or clause which results in the greatest protection and security for a Mortgagee shall control the rights, obligations, or limits of authority, as the case may be, applicable to the Association with respect to the subject concerned.
8. **Amendments to Article IX.** No amendment to this Article IX which has the effect of diminishing the rights, protection, or security afforded to Mortgagees shall be accomplished or effective unless at least seventy-five percent (75%) of the Eligible Mortgagees (based upon one vote for each First Mortgage held by each Eligible Mortgagee) of the individual Units have given their prior written approval to such amendment. Any amendment to this Article IX shall be accomplished by an instrument executed by the Association and filed for record in the office of the Recorder of the County in which the Property is located. In any such instrument an officer of the Association shall certify that any prior written approval of Eligible Mortgagees required by this Section 8 as a condition to amendment has been obtained.
9. **Effect of Non-Response by Mortgagee.** Any Mortgagee or insurer or governmental guarantor of a Mortgagee which receives a written request from the Association to approve of or consent to a matter with respect to which this Declaration provides for the need for such approval or consent, and which fails for 30 days after such request to respond negatively to the Association, shall be deemed to have approved such request, provided the written request was delivered by certified or registered mail, with a "return receipt" requested.

ARTICLE X. DECLARANT'S RIGHT TO EXPAND PROJECT

1. **Possible Inapplicability of this Article X.** If no description of the Additional Land is set forth as part of the definition of "Additional Land" in Article I, then both (i) this Article X, and (ii) all other references in this Declaration to the Additional Land, shall be treated as not being part of this Declaration, and shall be ignored.
2. **Right to Expand Project.** Declarant shall have and hereby reserves the absolute right and option to expand the Property and Project at any time (within the limits herein prescribed) and from time to time by adding to the Property and Project the Additional Land or a portion or portions thereof. Notwithstanding any provision of the Act or this Declaration which might be construed to the contrary, such right and option may be exercised without obtaining the vote or consent of any other person (including the Association, any Mortgagee, or any Unit Owner) and shall be limited only as specifically provided in the Act and this Declaration. Any given portion of the Additional Land shall be deemed added to the Project at such time as both of the following have occurred: (i) Supplements to this Declaration and the Plat containing the information required by the Act and by Section 5 below have been recorded with respect to the portion of the Additional Land concerned; and (ii) Each Building and other significant improvement planned for such portion of the Additional Land has been substantially constructed and completed.
3. **State of Title to New Units.** After both of the matters referred to in items (i) and (ii) of the foregoing Section 2 have occurred, title to each Unit thereby created within the portion of the Additional Land concerned and its appurtenant undivided ownership interest in the Common Areas shall be vested in and held by Declarant, and none of the other Unit Owners shall have any claim or title to or interest in such Unit or its appurtenant percentage of undivided ownership interest. If at the time a particular portion of

the Additional Land is added to the Property and Project there is of record a mortgage or deed of trust which by its terms describes the real property thereby encumbered by a metes and bounds description or other description describing the lateral boundaries of such real property (as distinguished from the description of a condominium unit), and if the parcel of real property defined by the description set forth in such mortgage or deed of trust includes the portion of the Additional Land then being added to the Property and Project, and irrespective of whether or not any partial release or reconveyance pertaining to such mortgage or deed of trust has theretofore been recorded with respect to any other Condominium Unit in the Project, then and in that event such mortgage or deed of trust shall, upon the addition to the Property and Project of that portion of the Additional Land concerned and whether or not such mortgage or deed of trust does so by its terms, automatically cover, encumber, and include each Unit thereby created within such portion of the Additional Land and such Unit's appurtenant undivided ownership interest in the Common Areas. Nothing herein shall prevent the granting of a Mortgage on any Condominium Unit produced by the addition to the Property and Project of a portion of the Additional Land, but any such Mortgage shall be subject and inferior to the lien on or interests in such Condominium Unit which arise by operation of the immediately preceding sentence.

4. Rights and Statements Respecting Additional Land. Declarant hereby furnishes the following information and statements respecting the Additional Land and Declarant's right and option concerning expansion of the Property and Project by the addition thereto of the Additional Land or a portion or portions thereof:

- (a) All of the Additional Land need not be added to the Property and Project if any of such Land is added. Rather, a portion or portions of the Additional Land may be added to the Property and Project at any time (within the limits herein prescribed) and from time to time.
- (b) Except for the limitations and requirements set forth in the following Paragraphs (c) and (e), there are no limitations or requirements relative to the size, location, or configuration of any given portion of the Additional Land which can be added to the Property and Project or relative to the order in which particular portions of the Additional Land can be added to the Property and Project.
- (c) Any given portion of the Additional Land which is added to the Property and Project must, except for intervening public or private streets, roadways, or rights-of-way, be contiguous with the Property as it existed immediately prior to the addition concerned.
- (d) There are no limitations or requirements relative to the location of improvements that may be made on any portion of the Additional Land which is added to the Property and Project.
- (e) Assuming that the entirety of the Additional Land is added to the Property and Project, the maximum number of Units that may be created on the Additional Land is n/a (n/a). At any given time the total number of Units created on such portion(s) of the Additional Land as has (have) theretofore been added to the Property and Project divided by the total acreage of such portion(s) shall be no greater than ten percent (10.0%) more than the aforesaid maximum number of Units divided by the total acreage of the entirety of the Additional Land.
- (f) Each Unit created on any portion of the Additional Land which is added to the Property and Project shall be subject to the same use provisions and restrictions as are contained in this Declaration.

(g) Up to, but not more than, n/a (n/a) Units may be contained in any given Building which is created on a portion of the Additional Land added to the Property and Project. Any Building or other structure erected on any such portion of the Additional Land shall be of a style which is architecturally compatible with structures within the preexisting Property and Project. Any Building or other structure erected on any portion of the Additional Land which is added to the Property and Project shall be constructed in a good and workmanlike manner. The principal materials used in the construction of any Building on any such portion shall, in general, be the same as the principal materials composing the Buildings described in Section 2 of Article II.

(h) In addition to the Building or Buildings, if any, created on a portion of the Additional Land added to the Property and Project, the significant improvements made to such portion: (i) shall include paved vehicular parking areas that contain approximately the same number of parking spaces per Unit (situated within such portion) as the paved vehicular parking areas initially included in the Property contain per Unit (situated within the Property as initially constituted); and (ii) may (but need not) include asphalt roadways, additional open parking spaces, concrete sidewalks or walkways, wooden, brick, chain-link, and/or block fences and/or walls, outdoor lighting, landscaping, and/or other related improvements. Any of the mentioned improvements may be of the type and in the location determined to be appropriate by Declarant, so long as such determination is not inconsistent with any limitation or requirement imposed by this Declaration.

(i) Each Building which is created on a portion of the Additional Land added to the Project may or may not have a basement, may include one or two above-ground stories, but shall be of the same general type and configuration as one of the Buildings initially included on the Property and Project. The Size of any Unit contained in such a Building may range from a minimum of approximately n/a square feet to a maximum of approximately n/a square feet. Any such Unit may include space located on one, two, or three levels. The overall configuration of any such Unit shall be reasonable in light of the total floor area thereof and the configuration of the Building within which it is contained.

(j) In conjunction with the addition to the Property and Project of a portion of the Additional Land, Declarant shall have the right to create Limited Common Areas within such portion. Each of said Limited Common Areas shall be appurtenant to a Unit located within such portion of the Additional Land. Such Limited Common Areas may include facilities the same or similar to Limited Common Areas included in the Property as initially constituted. The size, type, and total number of Limited Common Areas created within each portion of the Additional Land which is added to the Property and Project shall be reasonable in light of the number and nature of Units created within the portion of Additional Land concerned and those Limited Common Areas which are located on other portions of the Property.

(k) In conjunction with the addition to the Property and the Project of a portion of the Additional Land Declarant shall have the right to reserve, in the instruments through which the addition is accomplished, easements and rights of ingress and egress comparable to those reserved by Declarant in Article II of this Declaration.

5. Procedure for Expansion. The supplements to this Declaration and the Plat by which addition to the Property and Project of any portion of the Additional Land is accomplished shall be executed by Declarant, shall be in recordable form, must be filed for record in the office of the Recorder of the County within which the Property is located on or before seven years from the date that this Declaration is recorded, and when taken together shall contain the following information for that portion of the Additional Land being added to the Property and Project:

- (a) Data sufficient to identify this Declaration and the Plat as recorded.
- (b) The legal description of the portion of the Additional Land being added to the Property and Project.
- (c) A description of the Building(s), if any, located or to be located on the portion of the Additional Land concerned and of all other significant improvements located or to be located on such portion. Such description shall provide essentially the same type of information as is provided in this Declaration with respect to the Building(s) and improvements initially included in the Project.
- (d) The Unit Number of each Unit being created within the portion of the Additional Land concerned and any other data necessary for the proper identification thereof.
- (e) The Size of each Unit being created within the portion of the Additional Land concerned.
- (f) A description of any Limited Common Areas being created within the portion of the Additional Land concerned, together with a designation of the Unit to which each is appurtenant.
- (g) The Plat information required to be furnished by Section 57-8-13(2) of the Act.
- (h) Such easements and rights of ingress and egress as are being reserved by Declarant pursuant to Paragraph (k) of the foregoing Section 4.
- (i) An amended Exhibit A to this Declaration, setting forth the percentage of undivided ownership interest which, after addition of that portion of the Additional Land concerned, shall appertain to each Unit in the Property and Project, computed and derived as described in Section 6 of Article II.
- (j) Such other matters as may be necessary, desirable, or appropriate and as are not inconsistent with any limitation imposed by this Declaration.

After the supplements contemplated above have been recorded and after each Building and other significant improvement planned for that portion of the Additional Land concerned has been substantially constructed and completed, the revised schedule of undivided interests contained in the supplement to this Declaration shall automatically become effective for all purposes and shall completely supersede any similar schedule which was contained in this Declaration or in any supplement previously recorded in connection with the Property, the Project, or any portion of the Additional Land. And upon the recordation of such supplements they shall automatically supplement this Declaration, the Plat, and any supplements previously recorded. At any point in time, the Declaration and Plat for the Project shall consist of this Declaration and the Plat initially effective, as modified, amended, and supplemented by all supplements theretofore recorded pursuant to the terms hereof.

6. Additional Land – Miscellaneous. Such parts of or interests in a portion of the Additional Land which is added to the Property and Project as do not become Units shall be and remain Common Areas. Until such time as any given portion of the Additional Land added to the Property and Project has been fully developed and improved in the manner contemplated by the instruments through which such portion was added, unless Declarant gives its prior written consent thereto, no easement, right-of-way, or similar matter affecting any part of such portion shall be granted or created, no improvement to or work on any part of such portion shall occur, and no other action shall be taken with respect to such portion that would or might impair Declarant's ability to exercise any of its rights concerning the same.

7. No Obligation to Expand. Except to the extent specifically indicated herein, this Declaration is not intended, and shall not be construed so as, to impose upon Declarant any obligation respecting, or to restrict Declarant in any way with regard to: (i) The addition to the Property and Project of any or all of the Additional Land; (ii) The creation or construction of any Unit, Building, or other improvement; (iii) The carrying out in any particular way or within an particular time of any development or addition to the Property and Project that may be undertaken; or (iv) The taking of any particular action with respect to the Property, the Project, or any portion of the Additional Land. Except to the extent specifically indicated herein, no covenant, restriction, limitation, representation, or commitment in this Declaration concerning anything that is or is not to occur, apply, or be done on or relative to the Additional Land or any portion thereof shall be binding as to such of the Additional Land as is never added to the Property and Project.

ARTICLE XI. MISCELLANEOUS

1. Notices to Owners. Any notice required or permitted to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly furnished if mailed postage prepaid to the person who appears as an Owner, at the latest address for such person appearing, in the records of the Association at the time of mailing.

2. Lists of Owners, Eligible Mortgagees, Etc. The Association shall maintain up-to-date records showing: (i) the name of each person who is an Owner, the address of such person, and the Unit which is owned by him; (ii) the name of each person who is an Eligible Mortgagee, the address of such person, and the Condominium Unit that is encumbered by the Mortgage held by such person; and (iii) the name of each person that the Association has been notified is an insurer or governmental guarantor of an Eligible Mortgage, the address of such person, and the Condominium Unit which is encumbered by the Mortgage insured or guaranteed by such person. In the event of any transfer of a fee or undivided fee interest in a Condominium Unit, 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 Recorder of the County in which the Property is located. The Association may for all purposes act and rely on the information concerning Owners, Unit ownership, Eligible Mortgagees, and insurers or governmental guarantors which is thus acquired by it or, at its option, the Association may act and rely on current ownership and/or Mortgage information respecting any Unit or Units which is obtained from the office of the Recorder of the County in which the Property is located. The address of an Owner shall be deemed to be the address of the Unit owned by such person unless the Association is otherwise advised in writing.

3. Rights of Action. The Association and any aggrieved Owner (including Declarant) shall have a right of action against any Owner who fails to comply with the provisions of this Declaration or with rules or regulations promulgated by the Association in accordance with this Declaration. Any aggrieved Owner shall have a right of action against the Association if it fails to comply with the provisions of this Declaration. Declarant shall, in any event, have the right to enforce the provisions of this Declaration until the end of the Development Period.

4. Declarant's Rights Assignable. The rights of Declarant under this Declaration regarding the Project and/or part or all of the Additional Land may be assigned or transferred either by operation of law or through a voluntary conveyance, transfer, or assignment. Any assignee or transferee of Declarant shall have all of the rights and obligations of Declarant that pertain to the subject matter of the assignment or transfer.

5. Limitation on Improvements by Association. Until the end of the Development Period, the Association shall not, without the written consent of Declarant, make any improvement to or alteration in

any of the Common Areas other than such repairs, replacements, or similar matters as may be necessary to properly maintain the Common Areas as originally provided, created, and/or constructed by Declarant.

6. Amendment. Except as otherwise provided in and/or subject to the terms of the following Paragraphs (a) through (d) of this Section 6 and the other provisions of this Declaration, the vote of at least two-thirds (2/3) of the undivided ownership interest in the Common Areas shall be required to amend this Declaration or the Plat. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the Association. In such instrument an officer of the Association shall certify that the vote required by this Section for amendment has occurred. The foregoing right of amendment shall, however, be subject to the following:

(a) The provisions of Article IX "Mortgagee Protection" (and any amendment to such Article IX shall be subject to the requirements of Section 8 thereof).

(b) Declarant shall have the right unilaterally to amend and supplement this Declaration and the Plat in conjunction with its addition to the Property and Project of each portion of the Additional Land, all in the manner provided for in Article X.

(c) Until the end of the Development Period, no amendment to the Plat or to any provision of this Declaration which has or may have the effect of diminishing or impairing any right, power, authority, privilege, protection, or control accorded to Declarant (in its capacity as Declarant) by this Declaration shall be accomplished or effective unless the instrument through which such amendment is purported to be accomplished is consented to in writing by Declarant (which consent may be given or withheld in the absolute discretion of Declarant).

(d) Declarant reserves and shall have the right unilaterally to amend this Declaration to such extent and with such language as may be required by FNMA, by any other federal, state, or local governmental or quasi-governmental agency, or by any bank or other institutional lender, as a condition to approving this Declaration and/or to lending funds on the security of any Condominium Unit in the Project. Any amendment authorized by this Paragraph (d) shall be effected by the recordation by Declarant of an amendment duly signed by Declarant.

7. Interpretation. To the extent the provisions of the Act are consistent with this Declaration, such provisions shall supplement the terms hereof and are incorporated herein. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context or circumstances so require, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, any gender shall include each other gender, and the word "person" shall include both an individual and an entity. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder thereof. This Declaration shall be liberally construed to effect all of its purposes.

8. Covenants to Run with Land. This Declaration and all of the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Declarant, all parties who hereafter acquire any interest in a Condominium Unit or in the Property, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Unit shall comply with, and all interests in all Condominium Units shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, supplements, amendments, and determinations contemplated by this Declaration. By acquiring any interest in a Condominium Unit or in the Property, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

9. Agent for Service of Process. Wade Payne, whose address is 357 East 600 North, Lindon, Utah 84042 (P.O. Box 1539, Orem, Utah 84059), is the person to receive service of process in the cases authorized by the Act. The Board or Association shall, however, have the right to appoint a successor substitute process agent. Such successor or substitute agent and his address shall be specified by an appropriate instrument filed in the office of the Recorder of the County in which the Property is located.

10. Effective Date. This Declaration, any amendment or supplement hereto, the Plat, and any amendment or supplement thereto shall take effect upon its being filed for record in the office of the Recorder of the County in which the Property is located.

IN WITNESS WHEREOF, Declarant has executed this Declaration on or as of the date first above written.

By: *Wade Payne*
WADE PAYNE, Declarant

STATE OF UTAH)
 : ss.
COUNTY OF UTAH)

On the 18th day of January, 2017, personally appear before me Wade Payne, the Declarant, who acknowledged the foregoing Declaration of Condominium.

My Commission Expires:
August 30, 2020

Ashley Bolt
Notary Public
Residing at: Orem UT

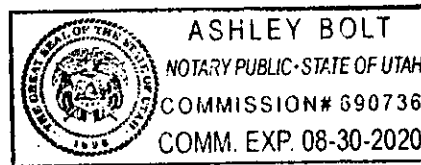


EXHIBIT A
to
Declaration of Condominium

<u>Unit No.</u>	<u>Address</u>	<u>"Size"</u> In Square Feet	<u>% Undivided Ownership in Common Areas and Number of Votes</u>
10	824 South Auto Mall Drive American Fork, Utah	2500	10%

EXHIBIT B
to
Declaration of Condominium

Articles of Incorporation in the form of the attached Articles are the Articles of Incorporation of the Association that is related to the Condominium Project created by the recordation of the Declaration of Condominium and associated Plat. Such Articles of Incorporation are being filed with the Utah Department of Commerce, Division of Corporations and Commercial Code, at or about the same time as the Declaration of Condominium and Plat are recorded in the County in which the Property is located.