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JEFFERY SMITH  
UTAH COUNTY RECORDER  
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RECORDED FOR CHRISTENSEN, MIKE

VILLAGE GREEN COMMERCIAL CENTER

A Planned Development (Expandable)

AMENDED DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS

THIS INSTRUMENT, dated as of October 31, 2017, is made and entered into by the owners of The Village Green Commercial Center Property Owners Association, a Utah Nonprofit Corporation.

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PURPOSE AND EFFECTUATION

1. Purpose. The purpose of this instrument is to amend the original Declaration of Easements, Covenants, Conditions and Restrictions, dated August 29, 1985, and to provide for the preservation of the values of both Units and Common Areas within the Village Green Commercial Center, a Planned Development in Provo, Utah (the "Development"), and for the maintenance of the roadways, sidewalks, open spaces, landscaping, trees and all other Common Areas therein.

2. Effectiveness. From and after the effective date hereof: (a) Each part of the Property and each Unit and unit lying within the boundaries of the Property shall constitute but constituent parts of a single Planned Development; (b) The Development shall consist of the Units and of the Common Areas which are described and depicted on the Plats, together with such additional Units and Common Areas as may come into existence pursuant to the provisions relating to annexation or expansion of the Development; (c) The Declaration for the Development shall consist of this document as the same may be modified, amended, supplemented, or expanded in accordance with the provisions hereof; and (d) The Plat of the Development shall consist of the instrument which is identified as Plat "A", Village Green Commercial Center, A Planned Development, Provo, Utah, and filed for record concurrently herewith in the office of the Utah County Recorder, Provo, Utah, as the same may be amended, and any subsequent plats which may be filed for record pursuant to the provisions hereof relating to annexation or expansion of the Development.

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## DEFINITIONS

When used in this Declaration each of the following terms shall have the meaning indicated:

1. **Declaration** shall mean this "Declaration of Easements, Covenants, Conditions and Restrictions of Village Green Commercial Center, a Planned Development (Expandable)".
2. **Association** shall mean THE VILLAGE GREEN COMMERCIAL CENTER PROPERTY OWNERS ASSOCIATION, a Utah nonprofit corporation, and its successors and assigns.
3. **Articles** shall mean and refer to the Articles of Incorporation of the Association, which are or shall be filed in the Office of the Division of Corporations and Commercial Code, as amended from time to time.
4. **Floor Area** shall mean the square footage of floor space on each fully or partially enclosed floor within each Unit utilizing exterior measurements and including any floor/ceiling areas comprising stairwells or open spaces which shall be deemed to be bounded in such areas by a horizontal plane, as extended, which passes through the center of the floor/ceiling area in question; provided, however, that as to Unit 1, as set forth on the Plat, the following special provisions shall apply in calculating the Floor Area within the Unit presently located thereon or in any successor structure constructed or rebuilt in a manner intended to substantially duplicate the location and configuration of said Unit:
  - (a) The floor/ceiling open lobby area comprising approximately one-third of the main floor of the Unit on the south shall be counted only once, as ground Floor Area; and
  - (b) The dimensions of the covered drive-through area of Lot 1, shown on Plat as the cross-hatched area, shall be included and utilized in calculating the total Floor Area of Unit 1.
5. **Board of Directors** shall mean the board of duly elected Directors of the Association.
6. **Common Areas** shall mean all portions of the Development except the Units and Units, and shall include all property owned by the Association for the common use and enjoyment of the owners such as all undedicated roads or streets, open spaces, structural common areas, if any, and the like, together with all easements appurtenant thereto.
  - a. Common Areas shall further be defined as areas that are appurtenant to the sidewalk, parking lot and other common items attached or part of the ground of the complex, including columns supporting roofs.
  - b. These shall include Open and Enclosed Breezeways and walkways between Unit structures, excluding the roof and overhanging roofs.

- c. Should a question exist as to which portion the Development is responsible for, the Architectural Committee shall make the final determination for costs involved with repairs.

7. **Unit** shall mean a structure which is designed and intended for use or occupancy as a commercial establishment, business or professional office, together with all improvements located on the same Unit and used in conjunction with such establishment or office.

- a. Unit shall also include those structures that are appurtenant to the building to include overhangs, awnings and framing of these, this is to exclude columns.
- b. Additionally, Open and Enclosed Breezeways are not to be considered part of the Unit they are attached directly to for voting purposes only.
- c. Unit shall be synonymous and mean the same as the term Lot.

8. **Managing Agent** shall mean any person or entity appointed or employed as Managing Agent by the Association.

9. **Mortgage** shall mean any recorded mortgage, recorded deed of trust or trust deed or the act of encumbering any property by a mortgage, or deed of trust or trust deed: and **Mortgagee** shall mean any mortgagee of a recorded mortgage and any trustee or beneficiary of a recorded deed of trust or trust deed.

10. **Owner** shall mean any person who is the owner of record (as reflected by the records in the office of the County Recorder of Utah County, Utah) of a fee or undivided fee interest in any Unit, and any contract purchaser of any Unit. Notwithstanding any applicable theory relating to mortgages, no Mortgagee shall be an Owner unless such party acquires fee title pursuant to foreclosure or sale or conveyance in lieu thereof. Multiple owners of a particular Unit shall be jointly and severally liable as to all responsibilities of an Owner.

11. **Property** shall mean all land covered by this Declaration, including Common Areas and Units and other land annexed to the Property, as provided in this Declaration. The initial Property shall consist of the land described in Article III hereof.

12. **Lot** shall mean and refer to any of the separately numbered and individually described parcels of land shown on the Plat. Lot shall be synonymous and mean the same as the term Unit.

13. **Additional Land** shall, at any point in time, mean all of the land in Utah County, Utah, described as follows:

Lots 1, 2, 3A, 3B, 4, 9A, 9B and 9C, as identified in the plat recorded in the office of the

Utah County Recorder, as Entry No. 27759:1985, at Map Filing No. 3216, contained within Plat "A", Village Green Commercial Center, a Planned Development, subject to the Declaration of Easements, Covenants, Conditions, and Restrictions of Village Green Commercial Center, a Planned Development (Expandable), recorded in the office of the Utah County Recorder in Book 2248, at Page 397, as Entry No. 27760 (as said Declaration may have heretofore been amended or supplemented).

TOGETHER WITH a right and easement of use and enjoyment in and to the Common Area described, and as provided for, in said Declaration of Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

Lots 11A, 11B, 12A, 12B and 12C, Plat "B", Village Green Commercial Center, a Planned Unit Development, as the same is identified in the recorded survey map in Utah County, Utah on March 14, 1990 as Entry No. 7782, and Map Filing No. 3911-47 (as said Record of Survey Map may have heretofore been amended or supplemented), and in the Declaration of Covenants recorded in Utah County, Utah, on March 14, 1990 as Entry No. 7783, in Book 2762, at Page 674 (as said Declaration may have heretofore been amended or supplemented).

TOGETHER WITH a right and easement of use and enjoyment in and to the Common Area described, and as provided for, in said Declaration of Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

Lots 5A, 5B, 6A, 6B, 7A, 7B, 8A and 8B, Plat "C", of the Village Green Commercial Center, a Planned Unit Development (Expandable), as the same is identified in the recorded survey map in Utah County, Utah, as Entry No. 28224 and Map Filing No. 3826 (as said Record of Survey Map may have heretofore been amended or supplemented), and in the Declaration of Easements, Covenants, Conditions and Restrictions recorded in Utah County, Utah, as Entry No. 27760, in Book 2248, at Page 397 (as said Declaration may have heretofore been amended or supplemented).

TOGETHER WITH a right and easement of use and enjoyment in and to the Common Area described, and as provided for, in said Declaration of Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

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 Development in accordance with the provisions of this Declaration.

14. **Plat** shall be defined as a plat or plats or survey of land and units prepared in accordance with Section 57-8-13 of the Utah State Code. And shall mean and refer to the subdivision plat of the Village Green Commercial Center, a Planned Development, Provo, Utah, initially creating Common Areas and nine (9) Lots (specifically Lots 1, 2, 3A, 3B, 4, 9A, 9B, 9C, and 10) previously recorded with the Articles, as the same may be amended or supplemented from time to time pursuant to the provisions of this Declaration.

16. **Development** shall mean the Property as it exists at any given time.

17. **Reimbursement Assessment** shall mean a charge against a particular owner or their Unit for the purpose of reimbursing the Association for costs incurred in bringing the Owner or his Unit into compliance with the provisions of this Declaration, the Articles, or rules and regulations of the Association, or any other charge designated as a Reimbursement Assessment in this Declaration, the Articles, or rules and regulations of the Association, together with costs, interest, attorney's fees and other charges payable by such Owner, pursuant to the provisions of this Declaration.

18. **Member** shall mean and refer to every person who holds membership in the Association.

### III

#### PROPERTY DESCRIPTION AND ANNEXATION

1. **Submission.** The Property which initially is and shall be held, transferred, sold, conveyed, and occupied subject to the provisions of this Declaration consists of the following described real property in Utah County, State of Utah:

Lots 1, 2, 3A, 3B, 4, 9A, 9B and 9C, as identified in the plat recorded in the office of the Utah County Recorder, as Entry No. 27759:1985, at Map Filing No. 3216, contained within Plat "A", Village Green Commercial Center, a Planned Development, subject to the Declaration of Easements, Covenants, Conditions, and Restrictions of Village Green Commercial Center, a Planned Development (Expandable), recorded in the office of the Utah County Recorder in Book 2248, at Page 397, as Entry No. 27760 (as said Declaration may have heretofore been amended or supplemented).

TOGETHER WITH a right and easement of use and enjoyment in and to the Common Area described, and as provided for, in said Declaration of Easements, Covenants,

Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

Lots 11A, 11B, 12A, 12B and 12C, Plat "B", Village Green Commercial Center, a Planned Unit Development, as the same is identified in the recorded survey map in Utah County, Utah on March 14, 1990 as Entry No. 7782, and Map Filing No. 3911-47 (as said Record of Survey Map may have heretofore been amended or supplemented), and in the Declaration of Covenants recorded in Utah County, Utah, on March 14, 1990 as Entry No. 7783, in Book 2762, at Page 674 (as said Declaration may have heretofore been amended or supplemented).

TOGETHER WITH a right and easement of use and enjoyment in and to the Common Area described, and as provided for, in said Declaration of Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

Lots 5A, 5B, 6A, 6B, 7A, 7B, 8A and 8B, Plat "C", of the Village Green Commercial Center, a Planned Unit Development (Expandable), as the same is identified in the recorded survey map in Utah County, Utah, as Entry No. 28224 and Map Filing No. 3826 (as said Record of Survey Map may have heretofore been amended or supplemented), and in the Declaration of Easements, Covenants, Conditions and Restrictions recorded in Utah County, Utah, as Entry No. 27760, in Book 2248, at Page 397 (as said Declaration may have heretofore been amended or supplemented).

TOGETHER WITH a right and easement of use and enjoyment in and to the Common Area described, and as provided for, in said Declaration of Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

#### IV

##### MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

1. **Membership.** Every owner upon acquiring title to a Unit shall automatically become a member of the Association and shall remain a member thereof until such time as his ownership of such Unit ceases for any reason, at which time his membership in the Association with respect to such Unit shall automatically cease and the successor owner shall become a member. Membership in the Association shall be mandatory and shall be appurtenant to and may not be separated from the ownership of a Unit.
2. **Voting Rights.** The total number of votes in the Association shall be 10,000. The number of

votes appurtenant to each Unit at any given time is equal to the ratio between the Floor Area of the Unit constructed thereon and the total aggregate Floor Area of all Units, multiplied by the number 100. The number of votes in the Association which is appurtenant to each Unit initially contained in the Development has been computed in the manner set forth in this Section 2 and is set forth in Exhibit "A", attached hereto and made a part hereof. In utilizing the foregoing formula for determining the number of votes in the Association appurtenant to a Unit, minor adjustments may have been made in some or all of the numbers of votes which result from a strict application thereof for the purposes, but only for the purposes, of assuring that the total votes in the Association equal 10,000 and that no vote in the Association is divided into fractional parts. Open and Enclosed Breezeways that are not deeded directly to any specific owner shall not be counted as voting square footage.

3. **Adjustment of Voting Rights.** At such time as any of the Additional Land is annexed into the Development pursuant to the appropriate provisions of Article III, the number of votes in the Association which is appurtenant to each Unit in the Development following such annexation shall be recomputed in the manner provided in Section 2 of this Article IV. Such recomputation shall be reflected in an amendment to Exhibit "A" hereto which amendment shall be attached to the Supplemental Declaration recorded in connection with such annexation and which shall be effective as of such annexation. No adjustment to voting rights shall be made by reason of the partial or total destruction of any Unit unless upon the reconstruction of such Unit the total Floor Area thereof shall be greater than that set forth in Exhibit "A".

4. **Multiple Ownership Interests.** In the event 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, but in no event shall more than the total number of votes appurtenant to such Unit be cast with respect to any issue. A vote cast at any Association meeting or by written consent by any of such owners, whether in person, electronically, by phone or by proxy, shall be conclusively presumed to be the entire vote attributable to the Unit concerned unless an objection is made at the meeting or in writing by another Owner of the same Unit, in which event no vote will be counted with respect to such Unit except to determine the presence or absence of a quorum.

5. **Records of Ownership.** Every owner shall promptly cause to be duly filed of record the conveyance document (or in the case of contract buyer, a copy of the sales contract or notice of interest) to him of his Unit and shall file a copy of such conveyance document with the Secretary of the Association, who shall maintain a record of ownership of the Units. Any owner who mortgages his Unit or any interest therein shall notify the Secretary of the Association of the name and address of the Mortgagee and also of the release of such Mortgage; and the

Secretary of the Association shall maintain all such information in the records of ownership, The Association may at any time obtain and rely on information from the Utah County Recorder regarding the owners and Mortgagees of Units.

6. Multiple Ownership Interests. In the event 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. A vote cast at any Association meeting by any of such owners, whether in person, by phone, electronically or by proxy, shall be conclusively presumed to be the entire vote attributable to the Unit concerned unless an objection is immediately made by another Owner of the same Unit. In the event such an objection is made, no votes with respect to such Unit shall be counted for any purpose whatsoever other than to determine whether a quorum exists.

7. Membership List. The Association shall maintain up-to-date records showing the name of each person who is a Member, the mailing and physical address, email, text and any other pertinent electronic address of such person, and the Unit to which the membership of such person is appurtenant. In the event of any transfer of a fee or undivided fee interest in a Unit, or the transfer of an equitable interest in a Unit pursuant to a contract of sale, either the transferor or transferee shall furnish the Association with evidence establishing that the transfer has occurred and that the Deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Utah County, Utah. The Association may for all purposes act and rely on the information concerning Members and Unit ownership which is thus acquired by it or, at its option, the Association may act and rely on current ownership information respecting any Unit or Units which is obtained from the office of the County Recorder of Utah County, Utah. The address of a Member shall be deemed to be the address of the Unit situated on such Member's Lot unless the Association is otherwise advised.

## V

### DUTIES AND POWERS OF THE ASSOCIATION

1. **Duties of the Association.** Without limiting any other duties which may be imposed upon the Association by its Articles of Incorporation or this Declaration, the Association shall have the obligation and duty to do and perform each and every one of the following for the benefit of the owners and the maintenance and improvement of the Property:

- (a) The Association shall accept all owners as members of the Association.
- (b) The Association shall accept title to all Common Areas conveyed to it.



(c) The Association shall maintain, repair, replace and landscape the Common Areas and that part of any Lot not occupied by a Unit.

(d) If any owner shall fail to maintain the exterior of his Unit and other improvements in a manner that meets the standards of this Declaration, the Association, after a majority vote of the full Board, shall have the right, through its agents, employees or independent contractors, to enter upon such Lot and to maintain and repair the exterior of such Owner's Unit and other improvements erected thereon. The cost of such maintenance and repair shall be added to and become part of the Reimbursement Assessment to which such Unit is subject under this Declaration.

(e) To the extent not assessed to or paid by the Owners directly, the Association shall pay all real property taxes and assessments levied upon any portion of the Common Areas, provided that the Association shall have the right to contest or compromise any such taxes or assessments.

(f) The Association shall obtain and maintain in force the policies of insurance required by the provisions of this Declaration.

(g) The Association may employ a responsible corporation, partnership, firm, person or other entity as the Managing Agent to manage and control the Common Areas, subject at all times to direction by the Board, with such administrative functions and powers as shall be delegated to the Managing Agent by the Board. The compensation of the Managing Agent shall be reasonable as specified by the Board. Any agreement appointing a Managing Agent shall be terminable by either party, with or without cause and without payment of any termination fee, upon thirty (30) days' written notice thereof: and the term of any such agreement may not exceed one (1) year, renewable by agreement of the parties for successive periods of one (1) year each. Any Managing Agent may be an agent or employee of the Association or an independent contractor, as the Board deems appropriate.

2. **Powers and Authority of the Association.** The Association shall have all the powers set forth in its Articles of Incorporation, together with its general powers as a nonprofit corporation, and the power to do any and all things which may be authorized, required or permitted to be done by the Association under and by virtue of this Declaration, including the power to levy and collect assessments as hereinafter provided. Without in any way limiting the generality of the foregoing, the Association shall have the following powers:

(a) At any time and from time to time and without liability to any owner for trespass, damage or otherwise, to enter upon any Unit for the purpose of maintaining and repairing such Unit or any improvement thereon if for any reason the Owner fails to

maintain and repair such Unit or improvement. The Association shall also have the power and authority from time to time in its own name, on its own behalf, or in the name and behalf of any owner or owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or any rules and regulations promulgated by the Board, or to enforce by mandatory injunction or otherwise all of the provisions of this Declaration and such rules and regulations.

(b) In fulfilling any of its duties under this Declaration, including its duties for the maintenance, repair, operation or administration of the Common Areas and Units (to the extent necessitated by the failure of the owners of such Units) or in exercising any of its rights to construct improvements or other work upon any of the Common Areas, the Association shall have the power and authority (a) to pay and discharge any and all liens placed upon any common Areas on account of any work done or performed for the Association in the fulfillment of any of its obligations and duties of maintenance, repair, operation or administration and (b) to obtain, contract and pay for, or otherwise provide for:

(1) Construction, maintenance, repair and landscaping of the common Areas on such terms and conditions as the Board shall deem appropriate;

(2) Such insurance policies or bonds as the Board may deem appropriate for the protection or benefit of the Association, the members of the Board and the owners;

(3) Such common Area related utility services as the Board may from time to time deem desirable;

(4) The services of architects, engineers, attorneys and certified public accountants and such other professional or nonprofessional services as the Board may deem desirable;

(5) Fire, police and such other protection services as the Board may deem desirable for the benefit of the Owners or any of the Property; and

(6) Such materials, supplies, furniture, equipment, services and labor as the Board may deem necessary.

3. **Association Rules.** The Board from time to time, subject to and not inconsistent with the provisions of this Declaration, may adopt, amend, repeal and enforce reasonable rules and regulations governing, among other things: (a) the use of the common Areas; (b) the use of any

roads or utility facilities owned by the Association; (c) the collection and disposal of refuse; and (d) other matters concerning the use and enjoyment of the common Areas and the conduct of Owners and their invitees within the common Areas. Any such changes, alterations, repeals and enforcements will require the Officers to notify all Association members within 7 days of such change(s) to the rules and regulations.

4. **Limitation of Liability.** No member of the Board acting in good faith shall be personally liable to any owner, guest, lessee or any other person for any error or omission of the Association, its representatives and employees, the Board, any committee or the Managing Agent.

## VI

### DUTIES AND OBLIGATIONS OF OWNERS

1. **Maintenance and Repairs.** Each owner shall at his own cost maintain his Unit and maintain any improvements constructed thereon in good repair at all times, including Unit exteriors. In the event of the damage or destruction of any Unit, the owner of the Lot on which such Unit is situated shall either rebuild the same within a reasonable time or shall raze the remains thereof so as to prevent the unsightly appearance and dangerous condition of a partially destroyed Unit in the Development.

2. **Insurance.** Owners shall obtain fire and extended coverage insurance to the full insurable value of any Unit constructed on such owner's Lot. All Owners shall be required to provide adequate evidence of this insurance coverage to the Association Board on an annual basis on the anniversary or change of coverage.

- I. Failure of the owner to provide proof of insurance to the Association shall enact a penalty of \$50 per month after 60 days of non-provision of Proof of Insurance.

3. **Assessments and Rules Observance.** Each owner shall be responsible for the prompt payment of all assessments provided for in this Declaration and for the observance of the rules and regulations promulgated by the Association from time to time.

4. **Transfer of Interests.** Except for obligations already accrued, an Owner who, for other than purposes of security, transfers all of his interests in his Unit to another, either voluntarily or by operation of law, shall be relieved of all obligations under this Declaration.

## VII

### ASSESSMENTS

1. **Personal Obligation and Lien.** Each owner shall, by acquiring or in any way becoming vested with his interest in a Unit, be deemed to covenant and agree to pay to the Association

the annual, special assessments and Reimbursement Assessments described in this Article, together with late payment fees, interest and costs of collection, if and when applicable. All such amounts shall be, constitute, and remain: (a) a charge and continuing lien upon the Unit with respect to which such assessment is made until fully paid; and (b) the personal, joint and several obligation of the Owner or Owners of such Unit at the time the assessment falls due. No Owner may exempt himself or his Unit from liability for payment of assessments by waiver of his rights in the Common Areas or by abandonment of his Unit. In a voluntary conveyance of a Unit, the grantee shall be jointly and severally liable with the grantor for all such unpaid assessments, late payment fees, interest and costs of collection, including reasonable attorney's fees, which shall be a charge on the Unit at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

2. **Purpose of Assessments.** Assessments levied by the Association shall be used exclusively for the purpose of promoting the Development, the interests of the owners therein, paying costs properly incurred by the Association, and the maintenance, operation and carrying of the Common Areas. The use made by the Association of funds obtained from assessments may include payment of the cost of: taxes and insurance on the Common Areas; maintenance, repair, and improvement of the Common Areas; establishment and funding of a reserve to cover major repair or replacement of improvements within the Common Areas; and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions or purposes under this Declaration or its Articles of Incorporation.

3. **Annual Assessments.** Annual assessments shall be computed and assessed against all Units in the Development based upon advance estimates of the Association's cash requirements to provide for payment of the cost of those items set forth in section 2, above. Annual assessments shall be apportioned among and assessed to all Units in proportion to the voting rights appurtenant to such Units as set forth in Exhibit "A" and as Exhibit "A" may be amended from time to time pursuant to the provisions of Article III.

4. **Annual Budget.** Annual assessments shall be determined on the basis of a fiscal year beginning January 1 and ending December 31 next following. The Association shall prepare and furnish to each Owner an operating budget for the upcoming fiscal year. The proposed fiscal budget shall be provided via mail, electronically and/or via email to all members at least 10 days prior to the annual meeting. The budget shall itemize the estimated cash requirements for such fiscal year, anticipated receipts, and any deficit or surplus from the prior operating period. Included in any anticipated receipts shall be the obligations of any owners of adjoining property to pay for proportionate costs of maintenance and upkeep of any roads or rights of way or other Common Areas jointly used by the Development and such adjoining property owners. The

budget shall serve as the supporting document for the annual assessments for the upcoming fiscal year and as the major guideline under which the Development shall be operated during such annual period.

**5. Notice and Payment of Annual Assessments.** The Association shall notify each owner as to the amount of the annual assessment against his Unit on or before December 15 of the year preceding the year for which such annual assessment is made. Each annual assessment shall be payable in four (4) equal quarterly installments, each such installment due on the first day of the months of January, April, July and October during the fiscal year to which the assessment relates. Members may choose to pay the annual assessment in one yearly fee, this will be due by the 15<sup>th</sup> of January during the fiscal year to which the assessment relates. Payment must be made by check, wire transfer, or electronically by ACH or card payment if the Board approves the acceptance of assessment payments by these methods. The failure of the Association 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 such assessment or any other assessment; but the date when the payment shall become due in such case shall be deferred to a date fifteen (15) days after notice of such assessment shall have been given to the owner in the manner provided in this Declaration.

**6. Special Assessments.** The Association may levy special assessments for the purpose of defraying, in whole or in part: (a) any expense or expenses not reasonably capable of being paid from the general budget or reserve for the construction, reconstruction, or unexpectedly required addition to or replacement of the Common Areas. Any such special assessment shall be apportioned among and assessed to all Units in the same manner as annual assessments. Such special assessments must be assented to by a simple majority (51%) of the quorum present at a meeting duly called for such a purpose. Mailed or emailed notice setting forth the purpose of such meeting shall be sent to all Members at least ten (10) but not more than sixty (60) days prior to the meeting date. Such notice shall be deemed to have been properly furnished if electronically sent or mailed postage prepaid within the required time period to the person who appears as a Member, at the latest email or physical address for such person appearing, in the records of the Association at the time of emailing or mailing.

**7. Quorum Requirements.** The quorum at any meeting required for any action authorized by Section 6, above, shall be as follows: At the first meeting called, the presence of owners in person, by phone or by joining the meeting electronically, or proxies entitled to cast sixty percent (60%) of the total votes of the membership shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirements set forth in section 6, above) at which a quorum shall be

one-half of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting.

8. **Reimbursement Assessment on Specific Unit.** In addition to the annual assessment and any special assessment authorized pursuant to Section 6, above, the Board may levy at any time Reimbursement Assessments (a) on every Unit especially benefited (i.e., benefited to a substantially greater degree than any other areas or other portions of the Common Areas made on the written request of the Owner of the Unit to be charged; (b) on every Unit the Owner or occupant of which shall cause any damage to the Common Areas necessitating repairs; and (c) on every Unit as to which the Association shall incur any expense for maintenance or repair work performed, or enforcement action taken, pursuant to Section 1 (d) of Article V or other provisions of this Declaration. The aggregate amount of any such Reimbursement Assessment shall be determined by the cost of such improvements, repairs, maintenance or enforcement action, including all overhead and administrative costs, and all attorney's fees and costs, and shall be allocated among the affected Units according to the magnitude of special benefit or cause of damage or maintenance or repair work or enforcement action, as the case may be, and such assessment may be made in advance of the performance of work. If a special benefit arises from any improvement which is part of the general maintenance or operation obligations of the Association, it shall not give rise to a Reimbursement Assessment against the Units benefited.

9. **Certificate Regarding Payment.** Upon the request of any Owner or prospective purchaser or encumbrancer of a Unit and upon the payment of a reasonable fee not to exceed \$10 to the Association to cover administrative costs, the Association shall issue a certificate stating whether or not payments of all assessments respecting such Unit are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who rely thereon in good faith.

10. **Effect of Nonpayment -- Remedies.** Any assessment (whether annual, special or Reimbursement Assessment) not received within thirty (30) days of the date on which it becomes due shall be subject to a late charge equal to 5% of the outstanding payment amount due, which together with interest and costs of collection shall be, constitute, and remain a continuing lien on the affected Unit. If any assessment is not received within ten (10) days after the date on which it becomes due, the amount thereof shall also bear interest from the due date at the rate of eighteen percent (18%) per annum; and the Association may bring an action against the owner who is personally liable therefor or may foreclose its lien against the Unit, or both. Any judgment obtained by the Association in connection with the collection of delinquent assessments and related charges shall include reasonable attorney's fees, court costs and every

other expense incurred by the Association in enforcing its rights.

11. **Subordination of Lien to First Mortgages.** The lien of the assessments provided herein shall be subordinate to the lien of any first Mortgage given in the first instance to a bank, savings and loan association, insurance company or other institutional lender; and the holder of any such Mortgage or purchaser who comes into possession of or becomes the Owner of a Unit by virtue of the foreclosure of such first Mortgage or the exercise of a power of sale under such first Mortgage, or by deed in lieu of foreclosure, shall take free of such assessment lien as to any assessment instalment which accrues or becomes due prior to the time such holder or purchaser comes into possession or ownership of such Unit; provided, that to the extent there are any proceeds of the sale on foreclosure of such first Mortgage or by exercise of such power of sale in excess of all amounts necessary to satisfy all indebtedness secured by and owed to the holder or such first Mortgage, the lien shall apply to such excess. No sale or transfer of a Unit in connection with any foreclosure of a first Mortgage shall relieve any Unit from the lien of any assessment instalment thereafter becoming due.

12. **No Abatement.** No diminution or abatement of any assessments under this Declaration shall be claimed or allowed for inconvenience or discomfort arising from any construction within the Development, the making of any repairs or improvements to or maintaining of the Development, or any part thereof, or from any action taken to comply with the provision of this Declaration or with the laws, ordinances, regulations, rules, or orders of any governmental authority.

## VIII

### PROPERTY RIGHTS AND CONVEYANCES

1. **Easement Concerning Common Areas.** Each Unit shall have appurtenant thereto a nonexclusive right and easement of use and enjoyment in and to the Common Areas for their intended purposes. Such right and easement shall be appurtenant to and shall pass with title to each Unit and shall in no event be separated therefrom.

2. **Form of conveyancing; Leases.** Any deed, lease, mortgage, deed of trust, purchase contract or other instrument conveying or encumbering title to a Unit shall describe the interest or estate involved substantially as follows:

Lot No. \_\_\_\_\_ as identified in the Plat recorded in the office of the Utah County Recorder in Book \_\_\_\_\_ Page \_\_\_\_\_, as Entry No. \_\_\_\_\_, contained within Plat " \_\_\_\_\_ " of the Village Green commercial center, A Planned Development, SUBJECT TO the "Declaration of Easements, Covenants, Conditions, and Restrictions of

Village Green Commercial Center, A Planned Development (Expandable)," recorded in the office of the Utah County Recorder in Book \_\_\_\_\_, at page \_\_\_\_\_, as Entry No. \_\_\_\_\_ (as said Declaration may have heretofore been amended or supplemented), 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 Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

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.

3. **Limitation on Easement.** Each Unit's appurtenant right and easement of use and enjoyment concerning the Common Areas shall be subject to the following:

(a) The right of the Association to govern by reasonable rules and regulations the use of the Common Areas so as to provide for the enjoyment of the Common Areas in a manner consistent with the collective rights of all of the Owners.

(b) The right of the City or Provo, Utah, and any other governmental or quasi-governmental body having jurisdiction over the Property to enjoy access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the common Areas for the purpose of providing police and Fire protection and providing any other governmental or municipal service; and

(c) The right of the Association to dedicate or transfer any part of the Common Areas to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association; provided that such dedication or transfer must first be assented to in writing by (a) the holder of each and every Mortgage that encumbers any Unit and (b) the Owners of Units to which at least sixty percent (60%) of the total votes in the Association appertain.

4. **Utility Easements.** Each Unit has appurtenant easements for underground lines for utility purposes under and through such portions of the Common Areas as are comprised of roads, walkways and landscaped areas. If any owner utilizes such easement rights with respect to his Unit, he shall be responsible for the restoration to its former state of any portion of the Common Areas which may have been disturbed or damaged as a result.

5. **Easements for Encroachments.** If any structure (including without limitation, roof



overhangs) heretofore constructed on any Unit or hereafter constructed on any Lot in replacement of the structure previously located thereon (so long as such structure is in substantially the same configuration and location as such prior structure) now or hereafter encroaches upon any other Lot or upon any portion of the Common Areas, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall exist. If any structure (including without limitation, roof overhangs) on any Lot shall be partially or totally destroyed and then rebuilt in a manner intended to substantially duplicate the location and configuration of the structure so destroyed, minor encroachments of such structure upon any other Unit or upon any portion of the Common Areas due to the reconstructed structure's being in a slightly different location than its predecessor shall be permitted; and valid easements for such encroachments and the maintenance thereof, so long as they continue, shall exist.

## IX

### USE RESTRICTIONS

1. **Use of Common Area.** The Common Areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to Lots and Units.

2. **Use of Lots and Units.** All Lots are intended to be improved with Units and are restricted to such use or to being vacant and not used for any purpose, in which event the Lot shall be improved by the Owner thereof with suitable landscaping until such time as there may be a Unit constructed thereon. Each Unit shall be used only as a commercial establishment, business or professional office. No Lot or Unit shall be used, occupied, or altered in violation of law, so as to jeopardize the support of any other units, so as to create a nuisance or interfere with the rights of any owner, or in a way which would result in an increase in the cost of any insurance covering the Common Areas.

3. **Special Restrictions: Lot 1.** Use of that portion of Lot 1 shown on the Plat as the cross-hatched area, shall be restricted to use as a covered drive through area. No portion of said cross-hatched area shall be enclosed.

## X

### ARCHITECTURAL CONTROL

1. **Architectural Control Committee.** The Board of Directors of the Association shall appoint a three-member Architectural Control Committee (the "Committee"), which shall be a Subcommittee of the Board of the Association, the function of which shall be to insure that all improvements and landscaping within the Property harmonize with existing surroundings and

structures.

1. The Committee must be composed of owners or those eligible to represent the owners to the Association.

2. The Committee must work in consultation with the Board of the Association with final approvals and decisions coming from the joint group of the Committee and the Board.

3. If such a Committee is not appointed or active the Board itself shall perform the duties required of the Committee.

4. **Submission to Committee.** No Unit, accessory or addition to a Unit which is visible from the Common Areas shall be constructed or maintained, and no alteration, repainting, or refurbishing of the exterior of any Unit shall be performed, unless complete plans and specifications therefor have first been submitted to and approved by the Committee.

5. **Standard.** In deciding whether to approve or disapprove plans and specifications submitted to it the Committee shall use its best judgment to insure that all improvements, construction, landscaping, and alterations on Units within the Property conform to and harmonize with existing surroundings and structures. Any structure hereafter constructed on any Unit in replacement of the structure previously located thereon shall be constructed in substantially the same configuration, location and architectural style and be approximately the same size as the prior structure and if the plans and specifications therefor meet such criteria, the Committee must approve the same.

- I. Standards to be approved shall include but not be limited to: color of the exterior Unit, roofing style and color, exterior signage, exterior lighting, attachments, exterior materials used.
- II. The expectation is that all colors will meet the current "earth tone" color configuration, unless specifically approved by the Architectural Committee and the Board.

6. **Approval Procedure.** Any plans and specifications submitted to the Committee shall be approved or disapproved by it in writing within fifteen (15) days after submission; provided, however, that plans and specifications for any replacement structure to be constructed in substantially the same configuration, location and architectural style and to be of substantially the same size as its predecessor shall be approved or disapproved within ten (10) days after submission. In the event the Committee fails to take any action within such specified periods, it shall be deemed to have approved the material submitted except in those respects that such material is not in conformity with the provisions of this Declaration, as to which respects it shall be deemed disapproved.

**7. Construction.** Once begun, any improvements, construction, landscaping, or alterations approved by the Committee shall be diligently prosecuted to completion. If reasonably necessary to enable such improvement, construction, landscaping, or alteration, the person or persons carrying out the same shall be entitled to temporarily use and occupy portions of the Common Areas in the vicinity of the activity provided that they shall restore such areas to their prior condition when the use thereof is no longer required..

**8. Liability for Damages.** Neither the Committee nor any member thereof shall be held liable for damages by reason of any action, inaction, approval, or disapproval taken or given without malice by such member or the Committee with respect to any request made pursuant to this Article X.

## XI

### PARTY WALLS AND ADJOINING UNITS

1. **General Rules of Law to Apply.** Each wall which was built as a part of the original construction of the units and placed substantially on a dividing line between Units shall constitute a party wall and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for damage due to negligence or willful acts or omissions shall apply thereto.

2. **Sharing of Repair and Maintenance.** The cost of reasonable repair and maintenance of a party wall, joint roof, overhang or other jointly attached areas shall be shared by the owners who make use of said area in proportion to such use.

- I. Should a dispute over the repairs needed on adjoining Unit areas occur and the owners are not able to resolve such dispute the Architectural Committee and the Board will determine the need for such repairs and require repairs to be made as determined.

3. **Destruction by Fire or Other Casualty.** If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the owner of another Unit thereafter makes use of the wall, such other Owner shall contribute to the cost of restoration thereof in proportion to such use; the foregoing provision shall not prejudice, however, the right of any owner to call for a larger contribution from another owner under any rule of law regarding liability for negligent or willful acts or omissions.

4. **Weatherproofing.** Notwithstanding any other provision of this Article, an owner who by his negligent or willful act causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

5. **Right to Contribution Runs with Land.** The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

## XII

### INSURANCE

1. **Hazard Insurance.** The Board shall procure and maintain from a company or companies holding a financial rating of Class VI or better from Best's Key Rating Guide, a policy or policies of hazard insurance in an amount or amounts equal to or exceeding the full replacement value (exclusive of the value of land, foundations, excavation and other items normally excluded from coverage) of the Common Areas owned by the Association (including all building service equipment, if any, and the like) with an Agreed Amount Endorsement or its equivalent, if available, or an Inflation Guard Endorsement and such other endorsements as any first Mortgagee of a Unit shall reasonably require. Such insurance policy or policies shall name the Association as insured for the benefit of the Owners and shall afford protection, to the extent applicable, against at least the following:

(a) loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and by vandalism, malicious mischief, windstorm, and water damage; and

(b) such other risks as shall customarily be covered with respect to facilities similar in construction, location and use.

2. **Liability Insurance.** The Board shall procure and maintain from a company or companies holding a financial rating of Class VI or better from Best's Key Rating Guide a policy or policies (herein called the "Policy") of Public Liability Insurance to insure the Association, the Board, the Managing Agent and employees of the Association and the Owners against claims for bodily injury and property damage arising out of the conditions of the Common Areas or activities thereon under a Comprehensive General Liability form. Such insurance shall be for such limits as the Board may decide, but not less than those limits customarily carried in connection with properties of comparable character and usage in the county of Utah nor less than \$1,000,000 for personal injury and property damage arising out of a single occurrence, such coverage to include protection against water damage liability, liability for non-owned and hired automobile, liability for the property of others and such other risks as shall customarily be covered with respect to property similar in construction, location and use. The Policy shall contain a "Severability of Interest" endorsement which shall preclude the insurer from denying the claim of any Owner because of negligent acts of the Association or other owners and a cross-liability endorsement pursuant to which the rights of the named insureds as between

themselves are not prejudiced. The Policy shall provide that the Policy may not be cancelled or substantially modified by the insurer unless it gives at least thirty (30) days' prior written notice thereof to each insured. Any such overage procured by the Board shall be without prejudice to the right of the owners to insure their personal liability for their own benefit at their own expense.

3. **Additional Insurance: Further General Requirements.** The Board may also procure insurance which shall insure the Common Areas and the Association or the Owners and others against such additional risks as the Board may deem advisable. Insurance procured and maintained by the Board shall not require contribution from insurance held by any of the Owners or their Mortgagees. Each policy of insurance obtained by the Board shall, if reasonably possible, provide:(a) a waiver of the insurer's right of subrogation against the Association, the owners and their respective directors, officers, agents, employees, invitees and tenants;

(b) that it cannot be cancelled, suspended or invalidated due to the conduct of any particular Owner or Owners;

(c) that it cannot be cancelled, suspended or invalidated due to the conduct of the Association without a prior written demand that the defect be cured; and

(d) that any "no other insurance" clause therein shall not apply with respect to insurance maintained individually by any of the Owners.

4. **Fidelity Coverage.** The Association may elect to maintain fidelity coverage to protect against dishonest acts on the part of officers, managing agents, directors and employees of the Association and all others (including volunteers) who handle, or are responsible for handling, funds of the Association. In that event, such fidelity bonds shall:

(a) name the Association as an obligee;

(b) be written in an amount based upon the best business judgment of the Association and shall not be less than the estimated maximum of funds (including reserve funds) in the custody of the Association or the Managing Agent at any given time during the term of each bond, but in no event be less than a sum equal to three months assessment on all Units plus reserve funds;

(c) contain waivers of any defense based upon the exclusion of volunteers or persons who serve without compensation from any definition of "employee" or similar expression; and

(d) provide that they may not be cancelled or substantially modified (including

cancellation for nonpayment of premium) without at least thirty (30) days' prior written notice to the insured.

5. **Review of Insurance.** The Board shall periodically, and whenever requested by Owners entitled to exercise at least twenty percent (20%) of the outstanding votes in the Association, review the adequacy of the Association's insurance program and shall report in writing the conclusions and action taken on such review to the Owner of each Unit and to the holder of any Mortgage on any Unit who shall have requested a copy of such report. Copies of every policy of insurance procured by the Board shall be available for inspection by any Owner and any Mortgagee.

a. The Board shall at the annual Association meeting notify the membership of current insurance policies, cost incurred and if applicable any changes in coverage, insurance provider(s) and past year's claims involving said insurance coverage(s).

6. **Units Not Insured by Association.** The Association shall have no duty or responsibility to produce or maintain any fire, liability, extended coverage or other insurance covering any Unit and acts and events thereon.

7. **Other Insurance Provisions.** All insurance required pursuant to this Article shall be written by insurers licensed in the State of Utah. Notwithstanding anything in this Article to the contrary, any insurance required to be obtained by the Association pursuant to Section 1, 2, 3 or 4 of this Article shall be required only to the extent that such coverage is reasonably obtainable at reasonable rates and is customarily obtained with respect to improvements or facilities having the same or similar characteristics of the Common Areas.

XIII

**CONDEMNATION**

If at any time or times an insubstantial or minor part of the Common Areas or any part thereof shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be payable to the Association and shall be used by the Association to the extent necessary for restoring or replacing any improvements on the remainder of the Common Areas. In the event of any other taking or condemnation, the interests of the Association, the owners and Mortgagees shall be as they may appear.

XIV

**RIGHTS OF MORTGAGEES**

Notwithstanding any other provisions of this Declaration, the following provisions

concerning the rights of Mortgagees shall be in effect:

1. **Title and Mortgage Protection.** A breach of any of the covenants, revisions, or requirements of this Declaration shall not result in any forfeiture or reversion of title or of any other interest in a Unit or any other portion of the Property. A breach of any of the covenants; provisions, or requirements of this Declaration shall not defeat, impair, or render invalid the lien of or other rights under any Mortgage. Unless and until it enters into possession or acquires title pursuant to foreclosure or any arrangement or proceeding in lieu thereof, any Mortgagee interested under any Mortgage affecting a Unit or any other portion of the Property (including any such Mortgagee which is a signatory to this Declaration or which consents thereto) shall have no obligation to take any action to comply with, and may not be compelled to take any action to comply with, any of the covenants, provisions, or requirements of this Declaration (other than those, if any, concerning a consent or approval to be given by a Mortgagee, in the event a Mortgagee's failure to give same is wrongful). No amendment to this Declaration shall in any way affect the rights of any Mortgagee interested under a Mortgage which is in effect at the time of the amendment concerned or the rights of any successor in interest or title to such Mortgagee, either before or after such Mortgagee or its successor enters into possession or acquires title pursuant to foreclosure or any arrangement or proceeding in lieu thereof, unless such Mortgagee has consented in writing to such amendment.

2. **Preservation of Common Area.** The Common Areas shall remain substantially of the same character, type and configuration as when such Common Areas became part of the Development. Unless the Association shall receive the prior written approval of (a) all first Mortgagees of Units and (b) the owners of all Units, the Association shall not be entitled by act or omission to abandon, partition, subdivide, encumber, sell, transfer or materially modify the Common Areas, except to grant reasonable easements for utilities and similar or related purposes.

3. **Notice of Matters Affecting Security.** The Association shall give written notice to any Mortgagee of a Unit requesting such notice whenever:

(a) there is any material default by the owner of the Unit subject to the Mortgage in performance of any obligation under this Declaration or the Articles of the Association which is not cured within sixty (60) days after default occurs; or

(b) damage to the Common Areas from any one occurrence exceeds \$10,000.00;  
or

(c) there is any condemnation or taking by eminent domain of any material portion of the Common Areas.

4. **Notice of Meetings.** The Board shall give to any Mortgagee of a Unit requesting the same, notice of all meetings of the Association; and such Mortgagee shall have the right to designate in writing a representative to attend all such meetings.

5. **Right to Examine Association Records.** Any Mortgagee shall, upon request, have the same right to inspect the books and records of the Association and receive financial statements as the Owner of the Unit securing the Mortgage.

6. **Right to Pay Taxes and Charges.** Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any portion of the Common Areas and may pay overdue premiums on insurance policies pertaining to the Common Areas, or secure new insurance coverage pertaining to the Common Areas on the lapse of a policy; and Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

7. **No Priority Accorded.** No provision of this Declaration gives or may give a Unit Owner or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards for loss to or taking of Units and/or the Common Areas.

8. **Construction.** 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 XIV, 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.

## XVI

### MEMBERS MEETINGS

1. **Annual Meeting.** The Association shall hold an annual meeting of its membership. The President of the Association shall assign the time and day of the meeting.
  - a. The purpose of the annual meeting shall be:
    - i. The election of three individuals to serve on the Board of Directors of the Association for the following year.
    - ii. The transaction of other business that comes before the Members.
    - iii. The approval of the following year's budget.
    - iv. The approval of assessments and dues and/or adjustments needed for the following year.
    - v. Review of Association insurance policies, limits and claims.
  - b. The annual meeting of the Members shall be held in October of each year.



Should extenuating circumstances exist that prevent the Annual Meeting from being held in October the meeting shall take place within a two-week period surrounding October.

2. Special Meetings. A special meeting of the Members for any purpose or purposes may be called by the President, by the Board of Directors, or by the Members who, absent any objection, would collectively be entitled to cast not less than thirty percent (30%) of the outstanding votes in the Association.
3. Place of Meeting. The Board of Directors may designate any place within Utah County, Utah as the place for any annual meeting or for any special meeting called by the President. If no designation is made, the place of meeting shall be the principal office of the Association in Utah County.
4. Notice. Written or printed notice stating the place, day, and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be given to all members at least ten (10) but not more than sixty (60) days prior to the meeting date. Such notice shall be deemed to have been properly furnished if electronically sent or mailed postage prepaid within the required time period to the person who appears as a Member, at the latest email or mailing address for such person appearing, in the records of the Association at the time of emailing or mailing.
5. Quorum. Except as otherwise provided in these Articles or by law, those Members present in person, electronically or by proxy who are entitled to cast votes totaling at least thirty-five percent (35%) of the outstanding votes in the Association shall constitute a quorum at the first meeting of members duly called, or any subsequent meeting duly called, another meeting may be called (subject to the notice requirements set forth in Section 4 of Article IV), at which a quorum shall be one-half of the quorum which was required at the immediately preceding meeting.
6. Proxies. At any meeting of the Members a member may vote by proxy executed in writing by the Member or by his duly authorized attorney-in-fact. All proxies shall be filed with any Officer of the Association prior to or at the time of the meeting. Unless otherwise provided therein no proxy shall be valid after eleven (11) months from the date of its execution.
7. Director's Election. At each election for Member of the Association Board of Directors the votes attributable to a Unit may be voted by the Member of Members entitled to cast the same for as many persons as there are Directors to be elected. A plurality shall be sufficient for the election of a candidate. Cumulative voting shall not be allowed in the election of Directors or for any other purpose.
8. Necessary Vote. Except as concerns the election of Directors and except with respect

to those proposals which under the Articles, this Declaration, or by law require a greater proportion for adoption, the affirmative vote of a majority of all votes which Members present in person or represented by proxy are entitled to cast at a meeting shall be sufficient for the adoption of any matter voted in by the Members, so long as the necessary quorum requirement was reached.

XVII  
BOARD OF DIRECTORS

1. Number, Tenure, and Qualifications. The affairs of the Association shall be managed by a Board of Directors composed of three (3) individuals. Any change in the number of Directors may be made only by amendment to the Articles. Directors need not be Members of the Association. Each Director shall hold office until the next annual meeting of the Members and until his successor has been duly elected and qualifies.
2. Regular Meetings. A regular meeting of the Board of Directors shall be held without notice other than this Section immediately after, and at the same place as, the annual meeting of its Members. The Board of Directors may provide by resolution the time and any place within Utah County, Utah for the holding of additional regular meetings without notice other than such resolution.
3. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or any two (2) Directors. The person or persons calling a special meeting of the Board may fix any place within Utah County, Utah as the place for holding such meeting.
4. Notice. Written or printed notice stating the place, day, and hour of any special meeting of the Board shall be given to all Trustees at least three (3) days prior to the meeting date. Such notice shall be deemed to have been properly furnished if emailed or mailed postage prepaid at least three (3) business days before the meeting date to each Director at the address provided to the Association. Attendance of a Director at any meeting shall constitute a waiver of notice of such meeting unless the Director attends for the express purpose of objecting to the transaction of any business because the meeting is not properly called or convened. Neither the business to be transacted at nor the purpose of any meeting need be specified in the notice thereof.
5. Quorum. A majority of the Directors then in office shall constitute a quorum for the transaction of business at any meeting of the Board. The act of a majority of the Directors at a meeting at which a quorum is present shall constitute the act of the Board of Directors unless the act of a greater number is required by law.

6. Vacancies. Any vacancy on the Board of Directors may be filled by the affirmative vote of a majority of the remaining Directors, even though such remaining Directors constitute less than a quorum. A Director thus selected to fill a vacancy shall serve for the unexpired term of his predecessor in office.
7. Compensation. The Board may provide by resolution (but nothing herein shall be deemed to mandate) that the Directors shall be paid their expenses, if any, of attendance at each meeting of the Board, shall be paid a reasonable fixed sum for attendance at each meeting, shall be paid specified and reasonable salaries for their services as Directors, or shall be paid any combination of all of the foregoing.
8. Limitation of Liability. No member of the Board of Directors acting in good faith shall be personally liable to any Member or other person for an error or omission of the Association, its representatives and employees, the Board of Directors or any committee thereof, or the Managing Agent.

XVIII  
OFFICERS

1. Number and Qualifications. The Officers of the Association shall be a President, a Vice-President, a Secretary, and a Treasurer. Any two (2) or more offices, other than the office of a President and Secretary, may be held by the same person. Officers need not be Members of the Association.
2. Tenure. The Officers of the Association shall be elected by the Board of Directors annually at the first meeting of the Board held after the annual meeting of the Members. If election of Officers does not occur at such meeting it shall be held as soon thereafter as is convenient. Each Officer shall hold office until his successor has been duly elected and qualifies or until he is removed. Any Officer may be removed by the Board whenever in its judgment the best interests of the Association would be served thereby.
3. Vacancies. A vacancy in office resulting from death, resignation, removal, or any other cause shall be filled by the Board of Directors for the unexpired portion of the term of the person previously in office.
4. President. The President shall be the principal executive Officer of the Association and, subject to the control of the Board of Directors, shall exercise general supervision and

control over all the property and affairs of the Association. The President shall, when present, preside at all meetings of the Members and of the Board of Directors. If the President is not present then the Vice-President shall preside. Except in cases where the signing and execution thereof is expressly delegated by the Board of Directors, by the Articles or this Declaration to some other Officer or agent of the Association or where required by law to be otherwise signed and executed, the President, together with the Secretary or any other Officer of the Association authorized by the Board of Director, may sign any deeds, mortgages, contracts, or other instruments which the Board of Directors has properly authorized to be executed. The President shall, in general, perform all duties incident to the office of President and such other duties as may from time to time be prescribed by the Board of Directors.

5. Vice-President. In the absence of the President or in the event of his death, inability, or refusal to act, the Vice-President shall perform all of the duties of the President. When so acting he shall have all the powers of, and be subject to all the restrictions upon, the President. The Vice-President shall perform such duties as may from time to time be assigned to him by the President or by the Board of Directors.
6. Secretary. The Secretary shall keep minutes of meetings of the Members and of the Board of Directors in one or more books provided for that purpose, or in an acceptable electronic format, shall see that all notices are given in accordance with the provisions of the Articles, this Declaration, and law, shall maintain the membership list required by the Articles and this Declaration, and, in general, shall perform all duties incident to the office of Secretary and such other duties as may from time to time be assigned to him by the President or by the Board of Directors.
7. Treasurer. If required by the Board of Directors the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Board shall determine. The Treasurer shall have the custody of and shall be responsible for all funds of the Association, shall receive and give receipts for money due and payable to the Association, shall deposit all such money in the name of the Association in such banks, trust companies, or other depositories as are selected by the Board, shall perform all accounting, financial record-keeping, and similar services which may be necessary or desirable in connection with the Association's affairs, and, in general, perform all duties incident to the office of Treasurer and such other duties as may from time to time be assigned to him by the President or by the Board of Directors.
8. Payment of Association Expenses. All expenses payable by the Association for which the Treasurer submits payment are to be first reviewed and approved by a second Officer of the Association.

9. **Compensation.** The Board of Directors may provide by resolution (but nothing herein shall be deemed to mandate) that Officers shall be paid specified and reasonable compensation for their services as such.

XV

MISCELLANEOUS

1. **Notices.** Any notice required or permitted to be given to any Owner or Mortgagee under the provisions of this Declaration shall be deemed to have been properly furnished if delivered or mailed, postage prepaid, to the latest address as reflected in the records of the Association at the time of delivery or mailing. Notices may also be considered properly furnished if they are sent electronically (including via electronic mail or text) to the email address or phone number on record with the Association at the time of delivery. Any notice required or permitted to be given to the Association may be given via electronic means, including email or text, or by delivering or mailing the same to the Managing Agent or any director of the Association. Any notice required or permitted to be given to the Architectural Control committee may be given by delivering by mail or electronically (i.e. email) to the same to the Managing Agent or the Association or any member of the Architectural Control Committee.

2. **Amendment.** Except as provided below, this Declaration may be amended by, but only by, an instrument recorded in Utah County, Utah, which is executed by: (a) owners who collectively hold at least sixty-seven (67) percent of the total outstanding votes in the Association; and (b) the consent of Mortgagee's holding more than 67% of the first position security interests secured by a mortgage or trust deed in the association as required by Section 57-8a-104 of the Utah State Code.

3. **Consent in Lieu of Vote.** In any case in which this Declaration requires for authorization or approval of a transaction the assent or affirmative vote of a stated percentage or number of votes outstanding in the Association or of the owners, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners entitled to cast at least the stated percentage or number of all membership votes then outstanding in the Association, unless a higher percentage or a greater number is required by law. The following additional provisions shall govern any application of this section 3:

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

(b) The total number of votes required for the applicable authorization or approval shall be determined as of the date on which the last consent is signed.

(c) Any change in ownership of a Unit which occurs after a consent has been obtained from the owner thereof shall not be considered or taken into account for any purpose.

(d) Unless the consent of all Owners whose memberships are appurtenant to the same Unit are secured, the consent of none of such owners shall be effective.

5. **Interpretation.** The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, and any gender shall include both other genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof, which shall remain in full force and effect. The laws of the State of Utah shall govern the validity, construction and enforcement of this Declaration.

6. **Covenants to Run with Land.** This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of the Association, all parties who heretofore acquired or hereafter acquire any interest in a Unit or in the Common Areas, 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 Unit or in the Common Areas shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration.

By acquiring any interest in a Unit or in the Common Areas, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

7. **Enforcement of Restrictions.** The following persons shall have the right to exercise or seek any remedy at law or in equity to interpret, to enforce compliance with or to obtain redress for violation of this Declaration:

- (a) Any owner;
- (b) The Association; or
- (c) Any Mortgagee.


The prevailing party in an action for the interpretation of, the enforcement of or to obtain redress for violation of any provisions of this Declaration shall be entitled to collect court costs and reasonable attorney's fees.


8. **Duration.** This Declaration shall remain in effect until such time as there is recorded in Utah County, Utah, an instrument of termination which is executed by all of the parties called for by section 2 of Article XV hereof.

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

EXECUTED by the initial Board of Directors on the day and year first above written.

Association Address:  
1675 N. 200 W., Ste. 9B  
Provo, UT 84604

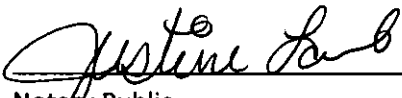
By:   
Michael D. Christensen, President

By:   
Kirk Mittelman, Vice President

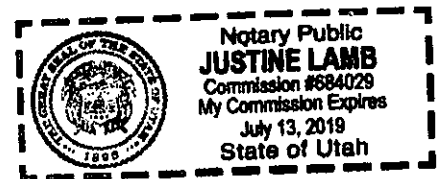
By:   
Ronald W. Vigoren, Secretary/Treasurer

STATE OF UTAH     )  
COUNTY OF UTAH    )

On this 31<sup>st</sup> day of October, 2017, personally appeared before me Michael D. Christensen, Kirk Mittelman and Ronald W. Vigoren, who duly acknowledged to me that they are the Board Members in The Village Green Commercial Center Property Owners Association, a Utah nonprofit corporation, and that they executed the foregoing Declaration on behalf of, said Association.

  
Notary Public  
Residing at: Provo, Utah

My Commission Expires:  
7-13-19



**EXHIBIT "A"**

TO

DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS  
OF THE VILLAGE GREEN COMMERCIAL CENTER PROPERTY OWNERS ASSOCIATION

A Planned Development (Expandable)

<b>Lot No.</b>	<b>Floor Area</b>	<b>Floor Area Ratios</b>	<b>Number of Votes</b>
1	10,907	15.15	1,515
2	6,334	8.80	880
3A	2,300	3.20	320
3B			
4	1,840	2.56	256
5A	1,062	1.48	148
5B	1,386	1.93	193
6A	1,260	1.75	175
6B	2,499	3.47	347
7A	1,232	1.71	171
7B	1,232	1.71	171
8A	1,200	1.67	167
8B	1,200	1.67	167
9A	6,400	8.89	889
9B	3,200	4.45	445
9C	2,100	2.92	292
10	12,108	16.82	1,682
11A	2,400	3.33	333
11B			
11C	6,598	9.17	917
11E			
12A	2,642	3.67	367
12B	800	1.11	111
12C	3,280	4.56	456
	<b>71,980</b>	<b>100.00</b>	<b>10,000</b>