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Keith W. Meade

P.O. Box 11008

Salt Lake City, Utah 84147-0008

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GARY W. OTT

RECORDER, SALT LAKE COUNTY, UTAH

METRO NATIONAL TITLE

345 E BROADWAY

SLC UT 84111

BY: ZJM, DEPUTY - W1 74 P.

**DECLARATION**

**FOR**

**THE PLAZA AT STATE STREET**

**A MIXED USE CONDOMINIUM DEVELOPMENT**

245-265 South State Street  
241 Floral Street  
Salt Lake City, Utah

74-3

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**TABLE OF CONTENTS**

1 Definitions.....1

2 Purpose, Submission to Act .....7

3 Condominiums.....8

4 Easements .....13

5 Board of Trustees .....14

6 Meetings of Owners.....23

7 Common Areas and Limited Common and Limited Common Areas .....25

8 Common Expenses.....25

9 Insurance .....28

10 Destruction and Condemnation.....30

11 Mortgage Protection.....33

12 Amendment.....34

13 General Provisions .....37

Exhibit A List of Units and Interests ..... 43

Exhibit B Commercial Association By-Laws ..... 44

Association of Owners By-Laws ..... 45

Exhibit C Rules and Regulations..... 70

**DECLARATION OF CONDOMINIUM  
The Plaza at State Street**

~~2011~~ <sup>2012</sup> THIS DECLARATION (the "Declaration") is executed as of the 30 day of March, ~~2011~~ by, **Tannach Properties, L.L.C.**, a Utah limited liability company ("**Declarant**"), whose address is 313 South Maryfield Drive, Salt Lake City, Utah 84108.

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are acknowledged, Declarant agrees and declares as follows:

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

1.1. "Act" means the Utah Condominium Ownership Act, Section 57-8-1, et.seq., Utah Code Annotated ("U.C.A."), as amended on or after the date of this Declaration, and any successor or substitute statute.

1.2. "Association of Owners" means the The Plaza at State Street Owners Association, Inc. The Association of Owners shall consist of all Unit Owners, commercial and residential.

1.3. "Board of Trustees" means the Board of Trustees of the Association of Owners of The Plaza at State Street, as described in Paragraph 5.1. The Board of Trustees shall include two representatives of the owner of Unit 1, and an elected representative of the Commercial Association. There shall also be a separate Board of Trustees for the Commercial Association as described in Paragraph 5.8.

1.4. "Building" means each of the buildings containing the Units, both Commercial and Residential comprising the Project, portions of which have ten (10) stories above ground and two parking levels below grade, and the historic free standing flower shop to the east of Floral Avenue known as the Cramer House. The principal materials of which the Buildings will be constructed are steel, concrete, brick, and stucco, with aluminum and timber partitions.

1.5. "Commercial Association" means the The Plaza at State Street Commercial Owners Association, Inc., a Utah non-profit corporation which shall include the owners of the two commercial units, Unit A and Unit B, in the Property

1.6. "Commercial Units" means the two (2) commercial units comprising a portion of the Project, designated as Units A and B, inclusive (including the historic Cramer House on Floral Street property which is a part of Unit B), and shown on the Record of Survey Map. Prior to the sale of the first commercial unit, and thereafter so long as it does not impact any previously conveyed commercial unit or owner thereof, the Declarant may change the boundaries between the commercial units or their configuration, to be reflected in an amendment to this Declaration, which can be signed by the Declarant above.

1.7. "Common Areas" means the following:

(a) the Land, together with all rights, titles, interests and obligations appurtenant to the Land, upon which the Project is located;

(b) the foundations, columns, girders, beams, supports, all bearing walls and all exterior walls, bearing columns, roofs, framing and support systems for floors and ceilings, flues, chases;

(c) the sidewalks around the perimeter of the building, the driveways into the parking ramps, any and all access of every type that lies within Floral Street, and the ground level plaza (which is shown on the Plat as a limited common area, and a portion of which is subject to an Easement for pedestrian use in favor of the Redevelopment Agency of Salt Lake City), except for the area, if any, shown as a street café seating area, stairs and fire escapes (some of which may be designated as limited common areas);

(d) feed lines into, out of and throughout the buildings of utilities and other common services such as electricity, gas, telephone, electronic information, water, sewer, and other utilities, and the meters and controls for such lines;

(e) pipes, vents, ducts, shafts, chutes, conduits, wires and, in general, all apparatus and installations existing for common use, but not including flues or shafts that are a part of a single unit; provided, however, that the areas through which these items pass shall be deemed to be common areas;

(f) the trash staging area(s), and the utilities common area;

(g) those portions of the Units which become Common Areas pursuant to Paragraph 10.6; and

(h) all other parts of the Project necessary or convenient to its existence, maintenance, and to its safety or normally in common use or shown on the Record of Survey Map as Common Areas, including all parts of the Project other than the Units and the Limited Common Areas.

1.8. "Common Expenses". Common expenses shall exist at two levels. The Commercial Unit Owners shall be separately responsible for the maintenance of the limited common areas shown on the Plat as "Commercial Limited Common" or located on the ground level (apart from these areas shown as associated with "residential units"). The Commercial Unit Owners shall be responsible for the cost of administration of their separate Association, see Paragraph 5.8, together with their pro rata share of the Association for the entire building.

All Unit Owners will be responsible for their share of the overall costs of maintenance as discussed hereinafter.

The Association of Owners referred to in Paragraph 5.1 shall, among other obligations described herein, be responsible for maintenance of the roofs, as well as:

(a) all exterior and other Common (and in some cases as specified, Limited Common) Areas;

(b) the establishment of reasonable reserves and (subsequent to the period of Declarant management, the performance of reserve analyses) in accordance with U.C.A. Section 57-8-7.5 for the periodic maintenance, repair and replacement of the Common Areas and Limited Common Areas;

(c) the cost of culinary water, sewer and other utilities provided to the Units, if not separately metered;

(d) premiums for insurance obtained by the Board of Trustees pursuant to Paragraph 9;

(e) any other cost, expense or fee properly incurred by the Board of Trustees in connection with the performance of its obligations under the Governing Documents including, without limitation, accountants', attorneys' and other professionals' fees and costs incurred by the Board of Trustees in connection with the enforcement of or the performance of its obligations under this Declaration;

(f) other expenses agreed on as common expenses by a majority of the Undivided Interests;

(g) other expenses declared Common Expenses by the Act or this Declaration; and

(h) Common Expenses due but not paid to the Board of Trustees which are determined by the Board of Trustees not to be legally or practicably recoverable (after reasonable effort) from the responsible Owner, together with all interest on, and costs and attorneys' fees incurred in connection with, such unpaid Common Expenses, the costs of which shall all be treated as "Common Expenses."

1.9. "Condominium" means a single Unit, residential or commercial, together with an undivided interest in the Limited and other Common Areas, if any.

1.10. "Convertible Space" means a portion of the Building that may be converted into one or more Units, Common Areas and/or Limited Common Areas in accordance with Paragraph 12.3 of this Declaration. Each Commercial Unit is a Convertible Space.

1.11. "Eligible Insurer or Guarantor" means an insurer or governmental guarantor of a Mortgage that has requested notice of certain matters from the Board of Trustees in accordance with Paragraph 11.

1.12. "Eligible Mortgagee" means a Mortgagee that has requested notice of certain matters from the Board of Trustees in accordance with Paragraph 11.

1.13. "Eligible Non-Managing Member" means a Non-Managing Member that has requested notice of certain matters of the Board of Trustees in accordance with Paragraph 11.

1.14. "Governing Documents" means the Act, this Declaration, the Record of Survey Map, the Rules and Regulations, as applicable.

1.15. "Investor Member", for so long as Declarant owns any Unit, means the Investor Member of the Declarant, which is Stratford State Street Investors Limited Partnership, a Massachusetts limited partnership, and its affiliates, successors and assigns.

1.16. "Land" means the real property located generally on State Street in Salt Lake County, Utah, described as follows:

10 parcels located within Block 56, Plat "A" Salt Lake City Survey, on file within the Salt Lake City's, Engineers office, Utah. Tax I.D. #s 16-06-154-002, 003, 004, 005, 006, 009, 040, 047, 053, and 054, More particularly described as follows:

Beginning at a point that is 50.34 feet North 00°02'30" East of the Southwest corner of Lot 5 block 56, Plat "A", Salt Lake City Survey, said point is also located North 00°01'43" West, along Street monument line a distance of 445.15 feet and North 89°58'19" East, a distance of 67.66 feet from a Salt Lake City Street Monument located in the intersection of 300 South and State street.

Thence North 89°58'19" East, a distance of 240.00 feet to a point that lies within Floral Street (vacated); thence South 00°02'30" West, along said Floral Street a distance of 50.39 feet; thence leaving Floral Street North 89°58'33" East, a distance of 60.33 feet; thence South 00°02'30" West, a distance of 34.00 feet; thence South 89°58'33" West, a distance of 58.33 feet to into said Floral Street; thence South 00°02'30" West, along said Floral Street a distance of 67.00 feet; thence North 89°58'33" East a distance of 8.00 feet to the Easterly R.O.W. of said vacated Floral Street; thence South 00°02'30" West, along said Floral Street R.O.W. a distance of 33.00 feet; thence South 89°58'33" West, a distance of 8.00 feet to point within said Floral Street (vacated); thence South 00°02'30" West, along said Floral Street a distance of 8.02 feet; thence South 89°58'38" West, a distance of 242.00 feet to the easterly R.O.W. line of State Street; thence North 00°02'30" East, along R.O.W. a distance of 192.39 feet to the Point of Beginning.

Subject to easements and rights of way.

Containing 48,700 square feet or 1.118 acres, more or less.

1.17. "Limited Common Areas" means, for the Commercial Units, the area shown on the Record of Survey Map as "Commercial Limited Common".

For all other Units, including Commercial Units, the Limited Common Areas include, without limitation, the following:

(a) each area shown as Limited Common Areas on the Record of Survey Map; and

(b) The window openings and casings on the ground level shall be treated as limited common areas of the Commercial Association. The Owner of any Residential Unit shall be separately responsible for expenses related to the Limited Common Areas allocated solely to their Residential Unit, including without limitation, the window openings and casings of the second and all higher stories of the building, together with any decks, balconies, and railings used by the apartments within that Unit. The Commercial Association shall be separately responsible to maintain the Limited Common Areas falling within the ownership of their Association Members, or designated as Commercial Common or Commercial Limited Common. Regardless of designation on the Plat, the Commercial Association and the Owner of the Residential Unit shall have access to any and all meters and connections for utilities located within the boundary of the Residential Unit.

1.18. Low-Income Housing Tax Credits" means the low income housing tax credit described in Section 42 of the Internal Revenue Code of 1986, as amended.

1.19. "Mortgage" means a mortgage, a deed of trust and any indenture secured by a security interest in any Condominium.

1.20. "Mortgagee" means a mortgagee under a mortgage, a beneficiary under a deed of trust and a beneficiary under any indenture secured by a security interest in any Condominium.

1.21. "Non-Managing Members" means, collectively, the Investor Member and the Special Member of the Declarant.

1.22. "Official Records" means the official records of the Salt Lake County Recorder, State of Utah.

1.23. "Owner" means the Person(s) owning each Unit in fee simple, as shown in the Official Records.

1.24. "Parking Units". Except for utilities and garbage collection and access, the two levels of underground parking are limited common areas of Unit 1. Three spaces within this area shall at all times be made available for use by the Commercial Units. The assignment of parking spaces shall be administered by the owners of the Residential Unit.

**There are only three on-site parking spaces for the Commercial Units.**

1.25. "Person" means an individual, corporation, partnership, limited liability company, association, trustee or other legal entity.

1.26. "Project" means the Land, the Buildings and all other structures together with any improvements constructed on the Land before or after the date of this Declaration and all easements, rights and appurtenances belonging to, and all articles of personal property (other than personal property owned by individual Owners) intended for use in connection with, the Land, the Buildings or any other structures or improvements on the Land. The Project is comprised of the Units, the Common Areas and the Limited Common Areas. The buildings within the Project will consist of two connected towers, one 10 stories tall and another 7 stories tall, a ground level commercial plaza, 2 levels of underground parking for the residential units, and the Cramer House located at 241 Floral Street.

1.27. "Record of Survey Map" means the Condominium Plat, recorded in the Official Records concurrently with the recordation this Declaration, entitled "The Plaza at State Street Condominium Plat," as the same may be amended on or after the date of this Declaration.

1.28. "Residential Unit" shall refer to the one residential unit (Unit 1) shown on the Plat, to wit, floors 2 through 7 in both towers; and the 8<sup>th</sup>, 9<sup>th</sup>, and 10<sup>th</sup> floor in the north tower, all as shown on the Record of Survey Map. The Residential Unit may be broken into as many apartments and separate dwellings as the Owner of such Unit shall determine with the consent of the Special Member and in accordance with Section 42 Requirements. The Residential Unit shall also include the Residential Lobby, elevator shaft(s) and staircase(s), and the area(s) shown in the parking areas depicted on the Plat.

1.29. "Rules and Regulations" means the rules and regulations for the Project adopted by the Board of Trustees from time to time in accordance with this Declaration, including, without limitation, those rules and regulations set forth on the attached Exhibit C, incorporated by this reference, as such rules and regulations may be amended after the date of this Declaration.

1.30. "Section 42 Requirements" means and refers to all requirements under Section 42 of the Internal Revenue Code of 1986, as amended from time to time and any successor thereto, and all regulations (permanent and temporary) issued thereunder.

1.31. "Size" means the number of square feet of floor space within each Unit as computed by reference to the Record of Survey Map and rounded off to a whole number. The Size of each Unit is set forth in Exhibit A, (the square footages are estimates based on preconstruction drawings).

1.32. "Special Member", for so long as Declarant owns any Unit, means the Special Member of the Declarant, Stratford SLP, Inc., a Delaware corporation, and its affiliates, successors and assigns.

1.33. "Undivided Interest" means an undivided interest, expressed as a percentage, in the Common Areas made appurtenant to each Unit by the provisions of this Declaration, as set forth in Paragraph 3.1 and Exhibit A. Where reference is made to a Majority or a Majority of Owners, the "Majority" shall be determined by the Undivided Interests held by those entitled to vote or decide.



1.34. "Unit" means each of the three units (Unit 1, Unit A, and Unit B) intended for any type of independent use, including one or more spaces located in one or more floors or parts of floors in the Building. Initially, the Units are as depicted on the Record of Survey Map. Each Commercial Unit and the Residential Unit is comprised of an individual air space unit, consisting of enclosed rooms or spaces occupying part of the Building and bounded by the framed surfaces of the walls, floors, ceilings, windows and doors along the perimeter boundaries of such air space, together with all fixtures and improvements contained within such air space. Drywall, plaster, and underlayment for floors, paint and other wall, ceiling and floor coverings on interior surfaces shall be deemed to be a part of the Unit concerned. Glass in windows, but not the casing of exterior windows or their openings, are part of the Unit. Entry doors and door frames are part of the Unit, but if replaced or repaired, they must meet the standards adopted by the Board of Trustees (and if there are none, be consistent with the then existing doors). Notwithstanding the fact that they may be within the boundaries of such air space, the following are not part of a Unit insofar as they are necessary for the support or the use and enjoyment of another Unit, and shall be part of the Common Areas: bearing walls, framing for floors and ceilings and shared walls, roofs, foundations, pipes, vents, ducts, shafts, flues, chutes, conduits, wires and other utility installations that serve both the Residential Unit and the Commercial Units. Each Unit includes all wiring and plumbing which serves only that Unit, but not those portions of wiring and plumbing that serve more than one Unit, which are deemed part of the Common Areas.

1.35. "Unit Number" means the number, letter or combination of numbers and letters designating each Unit in this Declaration and in the Record of Survey Map. The Unit Number of each Unit is set forth in Exhibit "A".

2. Purpose; Submission to Act.

2.1. Purpose. Declarant is the owner of the Land and the Building. Various improvements have been and will be made to the Land and the Building so as to enable its use and operation as a mixed use condominium project. The construction and alteration of all of such improvements has been or will be performed in accordance with this Declaration and the Record of Survey Map. Declarant desires, by recording this Declaration and the Record of Survey Map, to submit the Land, the Buildings and all other improvements constructed on the Land on or after the date of this Declaration to the provisions of the Act as a condominium project to be known as the "The Plaza at State Street". Declarant intends to sell and convey fee title to certain Condominiums, subject to the provisions of the Governing Documents.

2.2. Submission to Act. It is intended that the Act apply to the Project and, therefore, the Project is submitted to the Act. In accordance with U.C.A. Section 57-8-10 (2)(e), and solely for the purpose thereof, the Declarant identifies Keith W. Meade, an attorney in the state of Utah, as a trustee, and ..."conveys and warrants pursuant to U.C.A. Sections 57-1-20 and 57-8-45 to said trustee, with power of sale, the units and all improvements to the units for the purpose of securing payment of assessments under the terms of the Declaration." Notwithstanding such submission, Declarant reserves for Declarant and the Board of Trustees such transferable, perpetual easements and rights of ingress and egress over, across, through and

under the Project for the purpose of completing construction of the Units, making improvements and alterations to the Project, doing all things reasonably necessary and proper in connection with such improvements and alterations and performing all acts necessary or appropriate under the Governing Documents. In addition, Declarant and its duly authorized agents, representatives and employees may maintain one or more sales offices, model units, or rental offices within the Project, which may be of such size, and may be located, relocated or removed, as Declarant shall reasonably determine. Declarant also reserves the right to grant to one or more third parties rights-of-way, easements or similar rights which will, in the opinion of the Declarant, facilitate the use and development of the Property.

Furthermore, by submitting the Project to the Act, it is not intended that any part of the Property shall become public property or dedicated to public use. All of the Property shall be owned by the Unit Owners as described in this Declaration, and the general public shall not have any rights to use the Property except as may be expressly permitted by the Owners and the Association of Owners, or by other written agreements affecting title.

### 3. Condominiums.

3.1. Division of Project. The Project is divided into three Condominiums, each Condominium being described as a Unit, together with appurtenant Limited Common Areas, if any, and an Undivided Interest in Common Areas related to either the Commercial Units or the Residential Unit, as follows: See Exhibit "A".

3.2. Nature of Condominiums. Each Unit shall, for all purposes, constitute real property, shall have the same incidents as real property, may be individually conveyed, leased, encumbered, inherited or devised by will and shall be subject to all types of juridic acts, *inter vivos* or *mortis causa* as if it was sole and entirely independent of all other Units, and the corresponding individual titles and interests in each Condominium shall be recordable. Any Unit may be held and owned by more than one Person as joint tenants, as tenants in common or in any other real property tenancy relationship recognized under the laws of the State of Utah. Each Owner shall be entitled to the exclusive ownership and possession of its Unit and, to the extent applicable, to any Limited Common Areas appurtenant to its Unit. Each Owner may separately mortgage or otherwise encumber its Unit, provided that each Mortgage of any Unit shall be subordinate to this Declaration. No Owner may mortgage or otherwise encumber the Common Areas, except to the extent of the Undivided Interest appurtenant to its Unit, which shall nevertheless remain subject to this Declaration.

3.3. Nature of Undivided Interests. Each Owner shall be entitled to an Undivided Interest in the percentages expressed in Exhibit A, which Undivided Interests are allocated proportionate to the size of each Unit. Each Owner may use the Common Areas on a nonexclusive basis, but only in accordance with the purposes for which they were intended without hindering or encroaching on the lawful rights of the other Owners, and only in a manner which is consistent with their community nature and with the use and other covenants, conditions and restrictions applicable to the Units under the Governing Documents. Except as otherwise provided in this Declaration, each Owner shall have the right to use and enjoy any Limited Common Areas appurtenant to its Unit exclusive of other Owners to whose Units such Limited

Common Areas are not appurtenant. Neither the Undivided Interest nor the right of exclusive use of any Limited Common Areas may be separated from the Unit to which they are appurtenant. Except as otherwise expressly provided by the Act or Paragraph 12.3 pertaining to the conversion of Convertible Spaces, the Undivided Interest of each Owner as described in this Paragraph 3 shall have a permanent character and shall not be altered without the unanimous consent of the Owners. The Common Areas and Limited Common Areas shall remain undivided and no Owner or other Person shall bring any action for partition or division of any part of the Common Areas or Limited Common Areas, unless the Project has been removed from the provisions of the Act in accordance with Paragraph 13.3 or as otherwise provided in the Act. Any covenants to the contrary shall be null and void. The common profits, if any, of the Project shall be distributed among, the Common Expenses shall be charged to, and the voting rights shall be available to the Owners according to their respective Undivided Interests.

#### 3.4. Use Restrictions.

(a) The Commercial Units are intended exclusively for office, retail, food service, or other commercial uses commonly found in first-class commercial developments, and may be used only for purposes which qualify for treatment under the tax codes of the United States so as to not affect the availability of Low-Income Housing Tax Credits or New Market Tax Credits for the Declarant.

(b) The Residential Unit will be divided into apartments initially intended to be subject to certain use restrictions and Section 42 Requirements as set forth in separate declarations and land use restrictions recorded in connection therewith. The apartments in the Residential Unit may only be rented or leased in accordance with those restrictions and Section 42 Requirements. No hazardous substances, except as incident to normal cleaning or similar activities, or hazardous wastes, pollutants or contaminants may be placed in any Unit at any time. The Project is also subject to all use restrictions previously recorded.

(c) No Owner shall do or permit anything to be done in its Unit which may do any of the following: (i) increase the existing rate or violate the provisions of any insurance carried with respect to the Project; (ii) create a public or private nuisance, commit waste or unreasonably interfere with, annoy or disturb any other Owner or occupant of the Building; (iii) overload the floors or otherwise damage the structure of the Building; (iv) violate any present or future law, ordinance, regulation or requirement, including, without limitation, those relating to hazardous substances, hazardous wastes, pollutants or contaminants, those relating to access by disabled Persons and the requirements of any board of fire underwriters or other similar body relating to the Project; (v) lower the character of the Project; (vi) otherwise detract from the appearance or value of the Project; or (vii) violate Section 42 Requirements.

(d) No portion of the Project shall be used for any of the following uses: (i) a dry cleaners with on-premises cleaning; (ii) a coin operated laundry, except that coin operated laundry equipment may be installed in the Residential Units for the exclusive use of the residents of the Units; (iii) a hot tub facility, suntan facility, or country club; (iv) an establishment having nude or semi-nude dancing, entertainment or service providers or any other sexually oriented business; (v) a bowling alley; (vi) a flea market; (vii) a massage parlor; (viii) a

funeral home; (ix) a facility for the sale of paraphernalia for use with illicit drugs; (x) a facility for the sale or display of pornographic or sexually explicit material, such as adult theaters or adult bookstores, as determined by community standards for the area in which the Project is located; (xi) an off-track betting or internet gambling parlor, or any other facility used for gambling; (xii) any store or business where the principal business is the sale of alcoholic beverages for consumption off premises; (xiii) a facility for any use which is illegal; or (xiv) any use that would violate Section 42 Requirements.

(e) Each Owner shall indemnify, defend and hold harmless the Board of Trustees and each other Owner from and against any claim, liability, loss, damage, cost or expense (including attorneys' fees) caused by the failure to timely comply with any requirement of the Governing Documents by, or otherwise caused by any act or omission of, the indemnifying Owner, any tenant, employee, agent, licensee, guest or invitee of the indemnifying Owner, any employee, agent, licensee, guest or invitee of any tenant of the indemnifying Owner or any other Person using, occupying or visiting the Unit owned by the indemnifying Owner.

3.5. Conveyance of Units. Each deed, lease, Mortgage or other instrument may legally describe a Unit by its identifying number as designated in this Declaration or as shown on the Record of Survey Map. Every such description shall be good and sufficient for all purposes and shall be deemed to convey, transfer, encumber, release from liens or otherwise affect the Unit's Undivided Interest and the right of exclusive use of any Limited Common Areas even though the same are not expressly mentioned or described. Subject to the immediately preceding sentence, any deed, lease, mortgage or other instrument may legally describe a Unit as follows:

Unit \_\_\_\_, THE PLAZA AT STATE STREET, a Utah Mixed Use Condominium Project, as the same is identified in the Declaration dated \_\_\_\_\_, 2012 and recorded on \_\_\_\_\_, 2012 as Entry No. \_\_\_\_\_, in Book \_\_\_\_\_ at Page \_\_\_\_\_ of the official records of the Salt Lake County Recorder (as said Declaration may heretofore have been amended or supplemented), and in the Record of Survey Map, dated \_\_\_\_\_, 2012 and recorded on \_\_\_\_\_, 2012 as Entry No. \_\_\_\_\_ of the official records of the Salt Lake County Recorder (as said Record of Survey Map may heretofore have been amended or supplemented); TOGETHER WITH the Limited Common Areas, if any, and the undivided interest in the Common Areas appurtenant to such Unit, as more particularly described in said Declaration. Said Declaration covers, among other things, certain real property located in Salt Lake County, Utah, described as follows:  
Tax Parcel No.:

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 on, and shall inure to the benefit of, any Person who acquires any interest in a Unit.

3.6. Improvement of Units. Subject to the provisions of this Paragraph, each Owner shall have the exclusive right to paint, repaint, tile, paper, carpet and otherwise decorate the interior surfaces of the walls, ceilings, floors and doors forming the interior perimeter

boundaries of its Unit and the surfaces of all walls, ceilings, and floors within its boundaries. Each Owner may also construct partition walls, fixtures and improvements within such boundaries; provided, however, that such walls, fixtures and improvements shall: (a) comply with all applicable laws, ordinances, codes, rules and regulations; (b) not interfere with facilities necessary for the support, use or enjoyment of any other part of the Project; (c) not impair the structural integrity of the Building; and (d) not encroach on or interfere with any Common Areas or Limited Common Areas, (e) impact any historical aspect of the Project; or (f) jeopardize the receipt of or require the recapture of any Historic or New Market tax credits pursuant to Sec. 45D or Sec. 47 of the Internal Revenue Code of 1986 (the "Code"), as amended, taken by an Owner or the Declarant prior to the date of such action, or any of the Low Income Housing Tax Credits available under the Code to the Declarant in connection with any of the Residential Units. In particular, but without limitation, no Owner shall modify any exterior surfaces, windows, balconies, window casings or surrounds, facades, doors and doorways unless the Board of Trustees consents in writing to such modification. No Owner shall do any work or make any alterations or changes which would jeopardize the soundness or safety of the Project, reduce its value or impair any easement or hereditament. No Owner shall do any work on or make any alterations or changes to the Common Areas or Limited Common Areas without the prior written consent of the Board of Trustees.

3.7. Maintenance of Units. Each Owner shall keep the interior of its Unit, including, without limitation, interior walls, window glass, ceilings, floors, plumbing and electrical systems, fixtures and other improvements in good condition and repair and in a clean and sanitary condition. In addition, each Owner shall maintain in good condition and repair the window glass and doors forming or situated at the exterior boundary of its Unit and shall immediately repair or replace any such window glass or door on removal, breakage or other damage in a manner consistent with the guidelines established for the Project. If any Unit develops an unsanitary or unclean condition or falls into a state of disrepair and the Owner of such Unit fails to correct such condition promptly following written notice from the Board of Trustees, or if any removed, broken or damaged window glass or door referred to in the preceding sentence is not immediately repaired or replaced by the Owner obligated to do so, the Board of Trustees may (but is not obligated to), at the expense of such Owner and without liability to such Owner for trespass or otherwise, enter the Unit concerned and correct or eliminate such unsanitary or unclean condition or such state of disrepair or repair or replace such window, glass or door, as the case may be. Any funds expended by the Board of Trustees pursuant to this Paragraph 3.7, together with interest at the rate of eighteen percent (18%) per annum, both before and after judgment, and all costs of collection, including, without limitation, reasonable attorneys' fees, shall constitute a lien upon completion of the work and after the filing of a notice of lien with respect thereto on the Unit concerned pursuant to Paragraph 8.3, which lien may be foreclosed by the Board of Trustees in accordance with such Paragraph.

3.8. Separate Taxation. Each Condominium shall be considered to be a separate parcel and shall be subject to separate assessment and taxation by each assessing unit and special district for all types of taxes authorized by law, including but not limited to, *ad valorem* levies and special assessments. For purposes of such assessment and taxation, the valuation of the Common Areas (including the Limited Common Areas) shall be apportioned among the Residential Units and the Commercial Units in proportion to their respective Undivided Interests

(Exhibit A). Neither the Project, the Building, nor any of the Common Areas or Limited Common Areas may be considered as a separate parcel for purposes of assessment or taxation. All taxes, assessments and other governmental charges on each Unit shall be separately levied against the Owner of such Unit, and no forfeiture or sale of any Unit for delinquent taxes, assessments or other governmental charges shall divest or in any way affect the title to any other Condominium. In addition, no forfeiture or sale of the improvements or the Project as a whole for delinquent taxes, assessments or other governmental charges shall divest or in any way affect the title to an individual Unit if all taxes and duly levied shares of any assessments and charges on the individual Unit are currently paid. Any exemption from taxes that may exist on real property or the ownership of the Project may not be denied by virtue of the submission of the Project to the Act.

3.9. Certain Compliance; Rules and Regulations. Each Owner shall comply strictly with the covenants, conditions and restrictions set forth in this Declaration and in the deed to its Unit and with the Rules and Regulations, as the same may be amended from time to time. Failure to so comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Board of Trustees on behalf of the Owners, or in a proper case, by an aggrieved Owner. The Board of Trustees shall be authorized to adopt and approve reasonable Rules and Regulations, which may be amended from time to time by the Board of Trustees.

3.10. Right to Combine Units. After obtaining the prior written consent of the Board of Trustees and Non-Managing Members, which consent shall not be unreasonably withheld and subject to Section 42 Requirements, and subject to any of the limitations in this Declaration, including those related to applicable tax credits, Units may be combined. To the extent permitted and set forth in the consent given by the Board of Trustees, any walls, ceilings, floors or other structural separations between any such Units, or any space which would be occupied by such structural separations but for the utilization of such Units as one Unit may, for as long as such Units are utilized as one Unit, be utilized by the Owner(s) of the adjoining Units as Limited Common Areas, except to the extent that any such structural separations are necessary or contain facilities necessary for the support, use or enjoyment of other Units. After such Units cease to be used jointly, any opening between such Units which, but for joint utilization of such Units, would have been occupied by structural separation shall be closed at the equal expense of the Owner(s) of such Units and the structural separations between such Units shall thereupon become part of the Common Areas. Combining Units shall not in any way affect voting rights or Undivided Interests under this Declaration.

3.11. General Provisions. Apart from the Residential Unit, if separately financed, at the time of the first conveyance of each Commercial Unit, every Mortgage and other lien affecting such Commercial Unit shall have been paid and satisfied of record, or the Condominium being conveyed shall have been released there from by a partial release duly recorded. The right of any Owner to sell, transfer or otherwise convey its Unit shall not be subject to any right of first refusal or similar restriction, unless validly created after the date of this Declaration. In interpreting the Record of Survey Map or any deed or other instrument affecting the Building or a Unit, the boundaries of the Building or such Unit constructed or reconstructed in substantial accordance with the Record of Survey Map shall be conclusively

presumed to be the actual boundaries rather than the description expressed in the Record of Survey Map, regardless of the settling or lateral movement of the Building and regardless of any minor variance between the boundaries shown on the Record of Survey Map and those of the Building or such Unit.

4. Easements.

4.1. Easements for Encroachments. If on or after the date of this Declaration:

(a) any part of the Common Areas or Limited Common Areas encroaches on any part of a Unit;

(b) any part of a Unit encroaches on any part of the Common Areas or Limited Common Areas, or another Unit; or

(c) any part of the Common Areas, the Limited Common Areas or a Unit encroaches on other real property owned by Declarant as of the date of this Declaration and located outside the boundaries of the Land, an easement for each such encroachment and for the maintenance of the same shall exist. Such encroachments shall not be considered to be encumbrances on any Unit, the Common Areas, the Limited Common Areas or such other real property. Such encroachments may include, without limitation, encroachments caused by error in the original construction of the Building or any other improvements constructed or to be constructed on the Land, error in the Record of Survey Map, settling, rising or shifting of the earth or changes in position caused by repair or reconstruction of the Project.

4.2. Easements for Maintenance, Utilities, Etc. Some of the Common Areas or Limited Common Areas may be located within the Units or may be conveniently accessible only through the Units. The Board of Trustees and those whom it authorizes in writing shall have the right to have access to each Unit (a) from time to time during reasonable hours and after reasonable notice to the owner of the Unit being entered, as may be necessary for the maintenance, repair or replacement of any of the Common Areas or Limited Common Areas, and (b) for making emergency repairs necessary to prevent damage to the Common Areas, the Limited Common Areas or a Unit, provided that a reasonable effort is made to provide notice to the occupant of the Unit prior to entry. As used in this Paragraph 4.2 and elsewhere in this Declaration, "emergency repairs" means any repairs which if not made in a timely manner will likely result in immediate and substantial damage to the Common Areas, the Limited Common Areas, or a Unit, and "reasonable notice" means written notice which is hand delivered to the Unit at least twenty-four (24) hours prior to the proposed entry, except for "emergency repairs" where reasonable notice shall be deemed to be any reasonable effort to contact the Owner and/or occupant. In addition, each Unit shall be deemed to have an easement for the installation, use and maintenance of any utility connections and lines reasonably useful in the use of their unit through the Common and Limited Common areas, as well as through any Unit to the extent such an easement does not negatively impact the Unit so affected.

4.3. Easements for Units. Each Owner shall have the right of ingress and egress on, over and across the Land, Common Areas and Limited Common areas as necessary for

access to and from their Unit and to any Limited Common Areas appurtenant to such Unit and/or the Commercial Limited Common Area and shall have the right to horizontal, vertical and lateral support of such Unit. Each Unit shall have easements in common with all other Units for pipes, sprinklers, wires, ducts, flues, chases, cables, conduits, public utility lines, transformer and switch gear vaults, trash collection areas, and other Common Areas from time to time and at any time located in any other Units and serving its Unit. Each Unit shall be subject to easements in favor of all other Units for pipes, sprinklers, wires, ducts, flues, cables, conduits, public utility lines, transformer and switch gear vaults and other Common Areas from time to time and at any time located in such Unit and serving any other Unit. All of such pipes, sprinklers, wires, ducts, flues, cables, conduits, public utility lines, transformer and switch gear vaults and other Common Areas may be installed or moved as may be reasonably necessary for use by the benefited Unit, so long as such movement does not unreasonably interfere with the burdened Unit and is approved in advance by the Board of Trustees, and so long as any construction activities are performed in a good and workmanlike manner and are prosecuted diligently to completion. On completion of any such construction activities, the benefited Owner shall immediately restore any portion of the burdened Unit affected to the same condition as existed prior to the commencement of such construction activities, using the same (or better) type and quality of materials previously used. In the event that demising walls and the utilities within them are not located exactly as shown on the plat, an easement shall exist for any resulting encroachment.

4.4. Easements for Signage. An easement for signage on the first floor of the Building and as may otherwise be approved by the Board of Trustees is reserved in favor of the Owners of the Commercial Units of the Building; provided, however, that no sign, advertisement, notice or other lettering shall be exhibited, inscribed, painted or fixed at any location on the exterior of the Building, within the other Common Areas or at any location within any Unit visible from the Common Areas without the prior written consent of the Board of Trustees. The Board of Trustees shall, acting reasonably and in good faith, and in compliance with state and local laws and so as to not impact the historical status of , or historic tax credits applicable to, the Property, approve the location, type, quality, style, size, color and other characteristics of all signs, advertisements, notices and other lettering described in the immediately preceding sentence.

4.5. General Provisions. Each easement and right created by this Paragraph 4 is an appurtenance to the real property benefited thereby and is a burden on the real property burdened thereby, and may not be transferred, assigned or encumbered except as an appurtenance to the benefited real property. For the purposes of each such easement and right, the benefited real property shall constitute the dominant estate and the burdened real property shall constitute the subservient estate. All conveyances of Units shall be deemed to be made together with and subject to the easements set forth in this Paragraph 4.

5. Board of Trustees.

5.1. Establishment. The Project shall be operated, managed and maintained by the Board of Trustees on behalf of all of the Owners, the cost of which (including, without limitation, the cost of the performance by the Board of Trustees of all obligations contemplated by this Paragraph 5 and other provisions of the Governing Documents) shall be part of the



Common Expenses. (All references to the Board of Trustees in this Declaration, except as provided in Paragraph 5.8 and its subparts, or unless otherwise specifically stated, are to the Board of Trustees of the Association of Owners.) The Board of Trustees shall be established at such time as the Declarant conveys fee title to any Unit to anyone other than the Declarant. The Board of Trustees shall be vested with, and shall have the right, power and authority to exercise, all rights, powers and authority given to a manager or the Association of Owners under the Act including, without limitation, the responsibility and authority to make and enforce all rules covering the operation and maintenance of the Project. The Board of Trustees shall, in connection with its exercise of any of the powers delineated in the Act or this Declaration, constitute a legal entity capable of dealing in its name. The Board of Trustees shall have, and is granted, the following irrevocable rights, authority and powers, in addition to all, other rights, authority and powers existing or created on or after the date of this Declaration under the Governing Documents:

- (a) to have access to each Unit in accordance with Paragraph 4.2;
- (b) with the consent of the Special Member as to Unit 1 and Unit A, to acquire and hold real and personal property of all types for the use and benefit of all of the Owners and to dispose of such property by sale or other method;
- (c) to obtain and pay for the services of such personnel as are necessary or appropriate for the proper operation, management, maintenance, repair and replacement of the Project;
- (d) to pay for utility and municipal services, insurance and other goods and services common to the Units;
- (e) without the vote or consent of the Owners, Mortgagees, insurers or guarantors of Mortgages or of any other Person, to grant or create, on such terms as it deems advisable, reasonable permits, licenses, rights-of-way and easements over, under, across and through the Common Areas for utilities, easements and other purposes reasonably necessary or useful for the proper operation and maintenance of the Project;
- (f) to execute and record, on behalf of the Owners, any amendment to this Declaration or the Record of Survey Map that has been approved by the vote or consent necessary to authorize such amendment;
- (g) to sue and be sued;
- (h) to enter into contracts that in any way concern the Project, to convey or transfer any interest in real property, to purchase, acquire and accept title to any interest in real property and to add any interest in real property so obtained to the Project, so long as any vote or consent necessitated by the subject matter of the agreement has been obtained;
- (i) to promulgate the Rules and Regulations set forth on the attached Exhibit C and other reasonable Rules and Regulations (whether similar or dissimilar to those set

forth on the attached Exhibit C) as may be necessary or desirable to aid the Board of Trustees in carrying out any of its functions or to insure that the Project is maintained and used in a manner consistent with the interests of the Owners and this Declaration;

(j) to levy and collect general and special assessments for the payment of Common Expenses as provided in Paragraph 8;

(k) to make such use of the Common Areas and Limited Common Areas as may be necessary or convenient to perform the duties and functions that the Board of Trustees is obligated to perform pursuant to this Declaration;

(l) to administer all easements that lie within the Common Areas, including without limitation, those identified in the Record of Survey Plat, which include without limitation the pedestrian easement through the street level plaza (Recorded as Entry No. 11368182), and the Cross Easement (Recorded as Entry No. 11368179) lying within Floral Street, and any other easements of record; and

(m) to perform any other acts and to enter into any other transactions which may be reasonably necessary for the Board of Trustees to perform its functions on behalf of the Owners so long as any consent necessitated to perform such acts or enter into such transactions has been obtained.

Any instrument executed by the Board of Trustees that recites facts which, if true, would establish the Board of Trustees' right, power and authority to accomplish through such instrument what is purported to be accomplished by such instrument, shall conclusively establish such right, power and authority in favor of any Person who in good faith and for value relies on such instrument.

5.2. Composition. The Board of Trustees shall be composed of three (3) members. Two of the Members shall be designated by the Owner of the Residential Unit. The third Member shall be elected by the Commercial Owners Association. Each Trustee shall serve a three year term, with the terms staggered so that only one new Trustee is elected or designated each year. In the first year, the electee from the Commercial Owners Association shall serve a three year term, one designee of the Owner of Residential Unit shall serve a one (1) year term and the other shall serve a two year term. If any Member resigns, that Member shall be replaced by the Association or Owner that initially elected or appointed him. The initial Board of Trustees may consist solely of Benjamin Logue, and two persons appointed by him as representatives of particular Units. Unless he forfeits or otherwise loses his seat as provided in this Declaration, a member shall serve on the Board of Trustees until his successor is elected and qualifies. Board of Trustees members shall be reimbursed for all expenses reasonably incurred in connection with Board of Trustees business provided that such expenses are first approved by the Board of Trustees. The Board of Trustees may fix such compensation for any member as may be reasonable in light of the Board of Trustees duties which that member is required to perform, subject to the approval of a Majority of Owners. Notwithstanding the foregoing, Declarant may appoint and remove some or all of the members of the Board of Trustees, or exercise powers and responsibilities otherwise assigned by the Act or this Declaration to the Board of Trustees or the

Association of Owners so long as Declarant owns at least three fourths of the Undivided Interests. No amendment to this Declaration not consented to by all Owners shall increase the scope of the authorization set forth in the immediately preceding sentence, and no such authorization solely by the Declarant (apart from its status as an Owner of a Unit) shall be valid after the expiration of three (3) years after the date on which this Declaration is recorded in the Official Records. If entered into during the period of control contemplated by the immediately preceding sentence, no management contract, or facilities or any other contract or lease designed to benefit Declarant which was executed by or on behalf of the Association of Owners shall be binding after such period of control unless then renewed or ratified by the consent of a majority of the Trustees.

5.3. Officers and Agents. The Board of Trustees shall perform its functions through those members who are elected as officers by the Board of Trustees and through such agents or employees as the Board of Trustees may appoint or employ. Any Board of Trustees officer, agent or employee may at any time be removed with or without cause by the vote of a majority of the Board of Trustees members. The officers of the Board of Trustees and their respective powers and functions shall be as follows:

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

(b) The Secretary-Treasurer shall keep minutes of the meetings of the Board of Trustees and of the Owners and shall keep all records which are required or made necessary by the Act, this Declaration or the Board of Trustees. The Secretary-Treasurer shall also have custody and control of the funds available to the Board of Trustees. On request of the Board of Trustees, he shall furnish the Board of Trustees with a bond, the cost of which shall be a Common Expense, in the amount specified by the Board of Trustees, conditioned on the faithful performance of his duties.

5.4. Meetings. A regular meeting of the Board of Trustees 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 of Trustees may decide. Either oral or written notice shall be given to each Board of Trustees member of the time and place of each regular Board of Trustees meeting at least three (3) days prior to such meeting. Special Board of Trustees meetings shall be held whenever called by the President or any other member of the Board of Trustees. Reasonable effort shall be made to give either oral or written notice of a special meeting to each Board of Trustees member at least three (3) days (but on an emergency, twenty-four (24) hours) before the time fixed for the meeting. Adequate notice of a special meeting shall be deemed to have been given to a member if such effort is made, even though the member concerned does not actually receive notice. The propriety of holding any meeting that is attended by all Board of Trustees members may not be challenged on grounds of inadequate notice. A quorum for the transaction of business at any Board of Trustees meeting shall consist of a majority of all of the members then in office.

5.5. Records. The Board of Trustees shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Common Areas and Limited Common Areas, specifying and itemizing the maintenance and repair expenses of the Common Areas and Limited Common Areas and any other expenses incurred. Such records and the vouchers authorizing the payments involved shall be available for examination by the Owners at convenient hours on weekdays. The Board of Trustees shall maintain up-to-date records showing the following:

(a) the name of each Person who is an Owner, the address of such Person and the Unit that is owned by such Person;

(b) the name of each Person who is an Eligible Mortgagee, the address of such Person and the Unit that is encumbered by the Mortgage held by such Person;

(c) the name of each Person who is an Eligible Insurer or Guarantor, the address of such Person and the Unit that is encumbered by the Mortgage insured or guaranteed by such Person; and

(d) the name of each Non-Managing Member, and addresses of the Non-Managing Members and the Units in which the Non-Managing Members have an ownership interest.

On any transfer of a fee or undivided fee interest in a Unit, either the transferor or the transferee shall furnish the Board of Trustees with evidence establishing that the transfer has occurred and that the deed or other instrument accomplishing the transfer is of record in the Official Records. The Board of Trustees may for all purposes act and rely on the information concerning Owners and Unit ownership that is thus acquired by it or, at its option, the Board of Trustees may act and rely on current ownership information respecting any Unit that is obtained from the Official Records. The address of an Owner shall be deemed to be the address of the Unit owned by such Owner unless the Board of Trustees is otherwise advised.

5.6. Professional Management. The Board of Trustees may (but is not obligated to) carry out through a professional manager any of its functions that are properly the subject of delegation. The professional manager shall be responsible for managing the Project for the benefit of the Board of Trustees and the Owners and shall, to the extent permitted by law and by the terms of the agreement with the Board of Trustees, be authorized to perform any of the functions or acts required or permitted to be performed by the Board of Trustees itself. Any such management agreement shall run for a reasonable period not to exceed to three (3) years, but shall be terminable upon 60 days written notice by either party and shall be subject to the consent of the Special Member.

5.7. Liability. No member of the Board of Trustees shall be liable to the Owners for any mistake of judgment, for negligence or on other grounds, except for such member's own willful misconduct or bad faith. Without limiting the generality of the immediately preceding sentence, and notwithstanding any provision of the Governing Documents to the contrary, neither the Board of Trustees, the Association of Owners nor any

member of the Board of Trustees shall be liable for any loss, injury, death or damage (including any consequential damage) to Persons, property or business resulting from any theft, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition, order of governmental body or authority, fire, explosion, falling object, steam, water, rain, snow, ice, breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, construction, repair or alteration of the Project or other cause beyond such Person's reasonable control. The Owners shall indemnify, defend and hold harmless each member of the Board of Trustees from and against all liability to all Persons and third parties arising out of any contract made by the Board of Trustees on behalf of the Owners, unless such contract was made in bad faith. The liability of any Owner arising out of any contract made by the Board of Trustees or out of the indemnification provision set forth in the immediately preceding sentence shall be limited to the total liability concerned multiplied by such Owner's Undivided Interest.

5.8. Commercial Unit Owners Association. The Commercial Unit Owners Association, which is The Plaza at State Street Commercial Owners Association, Inc., (sometimes referred to as the "Commercial Association") shall consist of all owners of Commercial Units (Units A and B inclusive) in the Project. (All references in this Paragraph 5.8 and its subparts are to the Commercial Association and to the Board of Trustees of the Commercial Association.) The purpose of the Commercial Association shall be to administer the common and limited common areas located on the first (ground) level of the Project that are not under the immediate supervision of the Board of Trustees. Specifically, the Commercial Association shall be responsible for the exterior finishes of the Project located below the floor level of the lowest Residential Unit (but not the parking floors), the sidewalks around the building, and the ground level court yards, walkways, entrances, stairways, and passageways (except those available solely to occupants of Unit 1), including the obligation to maintain their historical characteristics. The Commercial Association shall be responsible to maintain all store fronts and entries as they shall determine without contribution from Unit 1. The Commercial Association shall be a separately formed and organized non-profit corporation that will have meetings, elect officers, elect a representative to the Board of Trustees, and shall be authorized to adopt and enforce assessments to cover the costs of its administration and Association Rules to govern the operation of businesses being operated in the Commercial Units.

The Commercial Association shall in connection with its exercise of any of the powers delineated in the Act or this Declaration, constitute a legal entity capable of dealing in its name. The Commercial Association shall have, and is granted, the following irrevocable rights, authority and powers. in addition to all, other rights, authority and powers existing or created on or after the date of this Declaration under the Governing Documents:

(a) to have access to each Commercial Unit in accordance with Paragraph 4.2 for maintenance;

(b) to acquire and hold real and personal property of all types for the use and benefit of all of the Commercial Unit Owners and to dispose of such property by sale or other method, with consent of the Special Member as to Unit A;

(c) to obtain and pay for the services of such personnel as are necessary or appropriate for the proper operation, management, maintenance, repair and replacement of the Common Areas and Limited Common Areas located in and on the levels of the Project allocated to commercial use, and to assess Commercial Unit Owners to cover these costs and all other costs incurred in its administration, in accordance with the budget prepared pursuant to paragraph 5.8.6;

(d) to pay for utility and municipal services, insurance and other goods and services common to the Commercial Units;

(e) to sue and be sued;

(f) to promulgate the Rules and Regulations, including those set forth on the attached Exhibit C, and other reasonable Rules and Regulations (whether similar or dissimilar to those set forth on the attached Exhibit C) as may be necessary or desirable to aid the Commercial Association in carrying out any of its functions or to insure that the Commercial Units are maintained and used in a manner consistent with the interests of the Owners and this Declaration, so long as those Rules and Regulations are not less restrictive than those set forth herein for the building as a whole;

(g) to levy and collect general and special assessments for the payment all Common Area expenses and Limited Common Area expenses related solely to the Commercial Units, and those assessments made by the Board of Trustees and in accordance with the budget prepared pursuant to paragraph 5.8.6;

(h) to make such use of the Common Areas and Limited Common Areas located on the commercial level of the project as may be necessary or convenient to perform the duties and functions the Commercial Association is obligated to perform pursuant to this Declaration, so long as any consent necessitated to perform such acts or enter into such transactions has been obtained; and

(i) to perform any other acts and to enter into any other transactions which may be reasonably necessary for the Commercial Association to perform its functions on behalf of the Owners.

Any instrument executed by the Board of Trustees that recites facts which, if true, would establish the Board of Trustees' right, power and authority to accomplish through such instrument what is purported to be accomplished by such instrument, shall conclusively establish such right, power and authority in favor of any Person who in good faith and for value relies on such instrument.

5.8.1 Composition. The Commercial Association shall consist of each of the owners of a Commercial Unit in the Project. A Trustee shall be appointed by each owner of a Commercial Unit. Every second year, each owner shall be entitled to appoint a second representative, so that control of the Commercial Association Board of Trustees shall shift every other year. At the first regular meeting, the Owner of Unit A shall appoint two Trustees each for

a term of two years, and the Owner of Unit B shall appoint one Trustee for a term of three years. At the end of the second year, the Owner of Unit B shall be entitled to appoint a second Trustee, and the Owner of Unit A shall appoint a single trustee. This process shall be repeated so that there are always three Trustees. Notwithstanding the foregoing provisions, so long as the Declarant owns both Commercial Units, the Declarant may appoint each of the members of the Board of Trustees. As soon as one of the Commercial Units is sold, a Board of Trustees shall be established as set forth above. On a vacancy prior to the expiration of the relevant term, the Owner of the Unit from which the Trustee has resigned or departed shall appoint a replacement to sit on the Board of Trustees until the expiration of the term for which the member being replaced was appointed. Unless he forfeits or otherwise loses his seat as provided in this Declaration, a member shall serve on the Commercial Association Board of Trustees until his successor is elected and qualifies. Board of Trustees members shall be reimbursed for all expenses reasonably incurred in connection with Board of Trustees business provided that such expenses are first approved by the Board of Trustees. The Board of Trustees may fix such compensation for any member as may be reasonable in light of the Board of Trustees duties which that member is required to perform. No amendment to this Declaration regarding the Commercial Unit Owners Association and the Commercial Unit Owners Board of Trustees not consented to by all of the Commercial Unit Owners shall increase the scope of the authorization set forth in the immediately preceding sentence, and no such authorization shall be valid after the date on which one of the two Commercial Units has been conveyed to a Person other than Declarant, Tannach Commercial Properties, L.L.C., or a member of Declarant. If entered into during the period of control contemplated by the immediately preceding sentence, no management contract, lease of recreational areas or facilities or any other contract or lease designed to benefit Declarant which was executed by or on behalf of the Association of Owners shall be binding for more than 60 days after such period of control unless then renewed or ratified by the consent of a Majority of the Owners or by the Board of Trustees.

5.8.2. Officers and Agents. The Commercial Unit Owners Association Board of Trustees shall perform its functions through those members who are elected as officers by the Board of Trustees and through such agents or employees as the Board of Trustees may appoint or employ. The officers of the Board of Trustees and their respective powers and functions shall be as follows:

(a) The President shall be the chief executive officer of the Commercial Unit Owners Association and of its Board of Trustees, and shall exercise general supervision over the affairs related to the Commercial Units in the Project. The President shall preside over all meetings of the Commercial Unit Owners Association and of its Board of Trustees and shall execute all instruments on their behalf. The President shall also be the representative of the Commercial Unit Owners Association on the Board of Trustees of the Project.

(b) The Secretary-Treasurer shall keep minutes of the meetings of the Board of Trustees and of the Commercial Unit Owners and shall keep all financial and other records which are required or made necessary by the Act, this Declaration or the Board of Trustees. The Secretary-Treasurer shall act on behalf of the President when he is unavailable and shall have custody and control of the funds available to the Board of Trustees. On request of the Board of Trustees, the Secretary-Treasurer shall furnish the Board of Trustees with a bond,

the cost of which shall be a Common Expense, in the amount specified by the Board of Trustees, conditioned on the faithful performance of his duties.

5.8.3. Meetings. A regular meeting of the Commercial Association Board of Trustees shall be held immediately after the adjournment of each annual Commercial Unit Owners' Association meeting. The annual meeting of the Commercial Unit Owners Association shall be conducted on the first Wednesday in November. Other regular meetings of the Trustees or the Owners Association shall be held at periodic intervals at such time and place as the Board of Trustees may decide. Either oral or written notice shall be given to each Board of Trustees member of the time and place of each regular Board of Trustees meeting at least three (3) days prior to such meeting. Special Board of Trustees meetings shall be held whenever called by the President or any two members of the Board of Trustees. Reasonable effort shall be made to give either oral or written notice of a special meeting to each Board of Trustees member at least three (3) days (but on an emergency, twenty-four (24) hours) before the time fixed for the meeting. Adequate notice of a special meeting shall be deemed to have been given to a member if such effort is made, even though the member concerned does not actually receive notice. The propriety of holding any meeting that is attended by all Board of Trustees members may not be challenged on grounds of inadequate notice. A quorum for the transaction of business at any Board of Trustees meeting shall consist of a majority of all of the members then in office.

5.8.4. Records. The Commercial Association Board of Trustees shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Common Areas and Limited Common Areas, specifying and itemizing the maintenance and repair expenses of the Common Areas and Limited Common Areas in the basement and first level of the Project, and any other expenses incurred. Such records and the vouchers authorizing the payments involved shall be available for examination by the Owners at convenient hours on weekdays. The Board of Trustees shall maintain up-to-date records showing the following:

- (a) the name of each Person who is a Commercial Unit Owner, the address of such Person and the Unit that is owned by such Person;
- (b) the name of each Person who is an Eligible Mortgagee, the address of such Person and the Commercial Unit that is encumbered by the Mortgage held by such Person;
- (c) the name of each Person who is an Eligible Insurer or Guarantor, the address of such Person and the Commercial Unit that is encumbered by the Mortgage insured or guaranteed by such Person; and
- (d) the name of the Non-Managing Members (so long as they are members of a Commercial Unit Owner), the address of such Non-Managing Members, and the Commercial Unit for which the Non-Managing Members are members.

On any transfer of a fee or undivided fee interest in a Commercial Unit, either the transferor or the transferee shall furnish the Board of Trustees with evidence establishing that the transfer has occurred and that the deed or other instrument accomplishing the transfer is of



record in the Official Records. The Board of Trustees may for all purposes act and rely on the information concerning Commercial Owners and Commercial Unit ownership that is thus acquired by it or, at its option, the Board of Trustees may act and rely on current ownership information respecting any Commercial Unit that is obtained from the Official Records. The address of an Owner of a Commercial Unit shall be deemed to be the address of the Commercial Unit owned by such Owner unless the Board of Trustees is otherwise advised.

5.8.5 Liability. No member of the Board of Trustees shall be liable to the Commercial Unit Owners for any mistake of judgment, for negligence or on other grounds, except for such member's own willful misconduct or bad faith. Without limiting the generality of the immediately preceding sentence, and notwithstanding any provision of the Governing Documents to the contrary, neither the Board of Trustees, the Commercial Unit Owners Association, nor any member of the Board of Trustees shall be liable for any loss, injury, death or damage (including any consequential damage) to Persons, property or business resulting from any theft, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition, order of governmental body or authority, fire, explosion, falling object, steam, water, rain, snow, ice, breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, construction, repair or alteration of the Project or other cause beyond such Person's reasonable control. The Commercial Unit Owners Association shall indemnify, defend and hold harmless each member of their Board of Trustees from and against all liability to Owners and third parties arising out of any contract made by the Board of Trustees on behalf of the Commercial Unit Owners, unless such contract was made in bad faith. The liability of any Commercial Unit Owner arising out of any contract made by the Board of Trustees or out of the indemnification provision set forth in the immediately preceding sentence shall be limited to the total liability of all of the Commercial Unit Owners multiplied by that Unit Owner's Undivided Interest in the Commercial Units.

5.8.6. Expenses of Commercial Association. The Board of Trustees shall prepare and adopt a budget for its operation in the same manner as described in Paragraph 8 below, and shall have the same powers of collection and enforcement. **Commercial Unit Owners will be subject to two separate assessments, one from the Commercial Association, and one from the overall project Association of Owners.**

6. Meetings of All Owners.

The following rules shall apply both to the Commercial Association and the Association of Owners.

6.1. Annual Meetings. Beginning in the year that any Unit comes to be owned by anyone other than the Declarant, the annual meeting of the Association of Owners shall be held on the first Wednesday in November of each year or at such other time and place as the Board of Trustees shall select for the purpose of approving the budget for the upcoming calendar year and for transacting such other Project business as may be necessary or appropriate. The place of any such meeting shall be at a location in Salt Lake County, Utah. A written notice of such meeting, setting forth the time, place and general purpose of the meeting shall be given to each Owner by the Board of Trustees in accordance with Paragraph 14.8.

6.2. Special Meetings. Special meetings of the Owners may be called by the President, by any members of the Board of Trustees or by any two Owners. At least two (2) but not more than thirty (30) days before the date set for a special meeting, written notice shall be given by the Board of Trustees to the Owners as set forth in Paragraph 6.3.

6.3. Notice: Quorum. No notice of any Owners' meeting shall be required if a waiver of such notice is signed by all of the Owners. Whenever all of the Owners meet in person or by proxy, such meeting may not be challenged on grounds of inadequate notice. The presence of a Majority of the Owners shall constitute a quorum for the transaction of business at any Owners' meeting. If 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 forty-eight (48) hours, and no later than thirty (30) days, after the time set for the original meeting. Notice of such rescheduled meeting shall be delivered as set forth in Paragraph 6.1 at least forty-eight (48) hours prior to such rescheduled meeting. Notwithstanding the foregoing provisions of this Paragraph 6.3, however, in any case in which the Act or this Declaration requires the affirmative vote of at least a specified percentage of the Undivided Interests for authorization or approval of a matter, the presence of Owners entitled to east such percentage shall be necessary to constitute a quorum at any meeting (whether original or rescheduled) at which action on such matter is taken.

6.4. Voting. The vote attributable to and exercisable in connection with a Unit shall be the Undivided Interest that is then appurtenant to such Unit(s). If 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 meeting by any of such Owners shall be conclusively presumed to be the vote attributable to the Unit concerned unless an objection is immediately made by another Owner of the same Unit. If such an objection is made, the vote of such Owners shall not be counted for any purpose other than to determine whether a quorum exists. Any Owner may vote by a duly executed written proxy.

6.5. Consent in Lieu of Vote. In any case in which the Act or this Declaration requires the vote of a stated percentage of Undivided Interests for authorization or approval of an act or a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners who collectively hold at least the stated percentage of Undivided Interest, provided that:

- (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) any change in ownership of a Unit which occurs after consent has been obtained from the prior Owner of such Unit shall not be considered or taken into account for any purpose; and
- (c) unless the consent of all of the Owners having an interest in the same Unit is secured, the consent of none of such Owners shall be effective.

7. Common Areas and Limited Common Areas. The necessary work of operation, management, maintenance, repair and replacement of the Common Areas and Limited Common Areas and the making of any additions or improvements to the Common Areas or Limited Common Areas shall be overseen, and to the extent necessary, carried out only by the Board of Trustees. The Board of Trustees shall coordinate exterior repairs and maintenance to protect the historical nature of the property and to protect the overall integrity of the Property. Any work on the exterior of the building proposed by the Commercial Association must be approved in advance by the Board of Trustees and must satisfy all existing criteria and restrictions related to the historical nature of the property. The Board of Trustees shall provide for such operation, management, maintenance, repair and replacement of the Common Areas and Limited Common Areas as may be reasonably necessary to make them appropriately usable in conjunction with the Units and to keep them clean, safe, functional, attractive and generally in good condition and repair. With respect to the Limited Common Area in the Commercial Portion of the Project, the Board shall oversee maintenance and may step in if it is being inadequately performed, and pass the cost on solely to the Commercial Unit Owners. If there are utility expenses not attributable solely to the Residential or Commercial Units, the Board of Trustees shall pay for those utility services and apportion them according to the Undivided Interests. Additions or capital improvements to the Project prior to being constructed or accomplished, be authorized by at least a majority of the Undivided Interests. Any addition or capital improvement proposed to be made by the Board of Trustees that would materially alter the nature of the Project must, regardless of its cost and prior to being constructed or accomplished, be authorized by the unanimous vote of the Owners. No such altering improvement may be made if it will impact tax credits (including, without limitation, Low-Income Housing Tax Credits) previously received by or allocated to the Declarant or Tannach Commercial Properties, L.L.C. The cost of compliance with this Paragraph 7 shall be part of the Common Expenses.

8. Common Expenses.

The following rules shall apply both to the Association of Owners and the Commercial Association.

8.1. Budget. Before November 1st of each year, the Board of Trustees of each of the two Associations shall prepare a budget that sets forth an itemization of the anticipated Common Expenses for the next following calendar year. Such budget shall take into account any deficit or surplus anticipated to be realized during the then-current calendar year. The total of such expenses shall be apportioned among the Units on the basis of their respective Undivided Interests. Copies of both budgets will be sent by the Association of Owners and Commercial Association to the Special Member for delivery by November 10<sup>th</sup> of each year.

8.2. Assessment. Prior to January 1st of each calendar year, the Board of Trustees shall notify each Owner of the estimated amount of its share of the Common Expenses for that calendar year as set forth in the relevant budget. Prior to the first day of each calendar month during such calendar year, each Owner shall pay to the Board of Trustees as its share of the Common Expenses one-twelfth (1/12) of the estimated amount apportioned to its Unit. In no event may assessments increase in any year by more than three percent (3%) of the assessments from the prior year without the prior approval of a Majority in Interest of the Members. The

Board of Trustees may at any time or from time to time during any calendar year revise such budget or make a special assessment (which revision or special assessment shall be subject to the approval of a Majority of the Owners) and then alter the amount of the monthly payments or mandate a special payment to be made by the Owners. The Board of Trustees may establish and assess reasonable charges for delinquent payments of such monthly or special payments. The foregoing method of assessing the Common Expenses to the Units shall commence when Declarant conveys the first Unit to a Person other than Declarant or Tannach Commercial Properties, L.L.C., and may thereafter be altered by the Board of Trustees in a manner consistent with good accounting practice and requiring allocation of Common Expenses based on each Owner's Undivided Interest. No Owner may exempt itself from liability for its contribution towards the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or Limited Common Areas or abandonment of its Unit. The failure of the Board of Trustees to give timely notice of any assessment shall not be deemed a waiver, modification or release of the obligation of any Owner to pay any assessment; but the date when payment for the assessment(s) concerned shall become due in such case shall be deferred to a date which is fifteen (15) days after notice of such assessment is given to the Owner concerned; provided, however, that such deferral shall not have the effect of deferring any subsequent installment. No diminution or abatement of any assessments under this Declaration shall be claimed or allowed for inconvenience or discomfort arising from the making of any repairs or improvements to or maintaining the Project or from any action taken to comply with the Governing Documents or any applicable law, ordinance, rule, regulation or order.

8.3. As set forth in Paragraph 8.2, every Owner shall pay its proportionate share of the Common Expenses (applicable to each of the two Associations) in the amounts and at the times determined by the Board of Trustees in accordance with such Paragraph, subject to compliance with the Act. The amount of Common Expenses assessed against each Unit is a personal debt and obligation of the Owner at the time the assessment is made and is collectible as such and, if not paid when due, shall (together with a late charge of five percent (5%) of the unpaid amount) accrue interest at the rate of eighteen percent (18%) per annum, both before and after judgment, until paid in full. Suit to recover a money judgment for unpaid Common Expenses is maintainable without foreclosing or waiving the lien securing it, as described in this paragraph. The prevailing party in such action is entitled to recover its costs of suit and reasonable attorneys' fees. If any Owner fails or refuses to make any payment of the Common Expenses when due, the amount then or thereafter due (together with any applicable late charges and interest) shall also (without any requirement of election) constitute a lien on such Owner's Unit in accordance with U.C.A. Section 57-8-44, and on the recording of a notice of lien by the Board of Trustees in the Official Records, shall be a lien on such Owner's Unit prior to all other liens and encumbrances, recorded or unrecorded, except the following:

(a) tax and special assessment liens on such Unit in favor of any assessing unit or special improvement district; and

(b) encumbrances on such Unit recorded prior to or on the same date this Declaration is recorded, a first or second security interest on the Unit secured by a mortgage or trust deed recorded before the notice of lien, or a lien for real estate taxes or other governmental assessments or charges against the unit.

Such notice of lien shall set forth the amount of the unpaid assessment, the date due, the name of the Owner and a description of the Condominium concerned, shall be executed and acknowledged by the Board of Trustees and may be recorded in the Official Records. The lien for nonpayment of Common Expenses may be enforced by sale or foreclosure of the Condominium concerned by the Board of Trustees, or in any other manner established by law in the state of Utah. Notice shall be given to the Owner as may be required by U.C.A. Section 57-8-46. In any such sale or foreclosure, the Owner concerned shall pay the costs and expenses of such proceedings and reasonable attorneys' fees.

Prior to foreclosure, the Association of Owners and the Commercial Association shall have the rights provided in U.C.A. Section 57-8-53 to require any tenants to pay rent to the foreclosing Association if the Owner of a Unit fails to pay any assessment.

In the event of and subsequent to foreclosure, the Owner shall pay a reasonable rental for the Unit, and the plaintiff in the foreclosure action may require the appointment of a receiver to collect the rental. The Board of Trustees may bid on such Unit at foreclosure or other sale and, if successful, hold, lease, mortgage or convey such Unit.

In accordance with U.C.A. Section 57-8-48, the one action rule shall not be applicable to such a foreclosure.

8.4. Estoppel Statement. The Association of Owners and the Commercial Association (if applicable) shall each, on the written request of any Owner or any Non-Managing Member, Mortgagee, prospective Mortgagee or purchaser of a Condominium, and on payment of a reasonable fee not to exceed a reasonable amount (currently limited by the U.C.A. Section 57-8-54 to \$25), issue to the requesting Person(s) a written statement setting forth the unpaid Common Expenses for the Unit covered by such request. Such written statement shall be conclusive on the remaining Owners and on the Board of Trustees in favor of all Persons who rely on such written statement in good faith. Unless the Board of Trustees and the Commercial Association comply with the request for such statement within ten (10) days, all unpaid Common Expenses which became due prior to the date such request was made shall be subordinate to the lien held by the Person requesting such statement. Any Non-Managing Member (at its sole option) and any Mortgagee holding a Mortgage on any Unit may pay any unpaid Common Expenses payable with respect to such Unit, and on payment such Mortgagee shall have a lien on such Unit for the amounts paid of the same rank as the lien of its Mortgage.

8.5. Audit. Any Owner may at any reasonable time, on appointment and at its own expense, cause an audit or inspection to be made of the books and records maintained by the Board of Trustees, and any Owner of a Commercial Unit may make similar requests upon the Commercial Association.

8.6. Commercial Association. The Commercial Association may also make general and special assessments of the Commercial Unit Owners (only) in accordance with the Commercial Association By-Laws, and in the same manner and for the same purposes described in Paragraph 8. However, any lien for nonpayment of any such assessments in favor of the

Commercial Association shall at all times be subject and subordinate to any lien described in Paragraph 8.3 in favor of the Association of Owners.

9. Insurance. The Board of Trustees shall at all times maintain in force, and pay the premiums for, insurance meeting the requirements set forth in this Paragraph 9, the cost of which shall be part of the Common Expenses. To the extent possible, the Board of Trustees of the Owners Association shall endeavor to obtain policies of insurance that comply with U.C.A. Section 57-8-43. So long as Declarant is an owner of any Unit, all policies of insurance must also meet any insurance requirements in Declarant's operating agreement.

9.1. Property Insurance. A "master" or "blanket" type policy of casualty and property insurance shall be purchased by the Board of Trustees and maintained covering the Project (excluding the Land, foundations and other items normally not covered by such policies). References in this Declaration to a "master" or "blanket" type policy of property insurance are intended to denote single entity condominium insurance coverage. At a minimum, such "master" or "blanket" policy shall afford protection against loss or damage by fire, by other perils normally covered by the standard extended coverage endorsement and by all other perils which are customarily covered with respect to condominium projects similar to the Project in construction, location and use, including, without limitation, all perils normally covered by the standard "all risk" endorsement where such endorsement is available, together with coverage required in the loan documents of any Eligible Mortgagee. Such "master" or "blanket" policy shall be in an amount not less than one hundred percent (100%) of the then-current replacement cost of all elements of the Project covered by such policy at the time the policy is purchased. To the extent obtainable, the policy shall include coverage for any fixture, improvement, or betterment installed by a unit owner to a Unit. The Board of Trustees may pass on to individual Unit Owners premium costs which are unequally impacted by these improvements in any particular Unit, casualty risks resulting from such Units, or coverage required by their Eligible Mortgagee. The Board of Trustees shall, when available, obtain coverage on improvements and betterments in the Units. It shall be the Unit Owners' responsibility to determine whether this coverage is in place for their Unit. **UNIT OWNERS ARE URGED TO OBTAIN THEIR OWN COVERAGE ON IMPROVEMENTS WITHIN THEIR UNITS, AND ANY CLAIM AGAINST THE BOARD OF TRUSTEES OR EITHER ASSOCIATION THAT INSURANCE WAS NOT PROVIDED IN ACCORDANCE WITH THE REQUIREMENTS OF U.C.A. SECTION 57-8-43, WHERE GOOD FAITH EFFORTS HAVE BEEN MADE TO OBTAIN THE SAME, ARE DEEMED WAIVED.** The maximum deductible amount for such policy shall be the lesser of Ten Thousand Dollars (\$10,000) or one percent (1%) of the policy face amount, and the Association shall establish an insurance reserve for this amount. The name of the insured under such policy shall be "The Board of Trustees of The Plaza at State Street, for the use and benefit of the individual Owners." Said Owners shall be designated by name, if required. Any loss payable clause shall be in favor of the Board of Trustees, as a trustee for each Owner and its Mortgagee. Each Owner and its Mortgagee shall be beneficiaries of such policy in the percentage of such Owner's Undivided Interest. Evidence of insurance shall be issued to each Owner and its Mortgagee on request. Such policy shall contain the standard mortgagee clause or equivalent endorsement (without contribution), and shall include a provision that such policy shall not be cancelled or materially changed without compliance with the standards established in U.C.A. Section 31A-21-303, and at least thirty (30) days' prior written

notice to the Board of Trustees and to each Mortgagee that is listed as a scheduled holder of a Mortgage in such policy. Such policy shall also provide a waiver of the right of subrogation against Owners individually, that the insurance shall not be prejudiced by any act or omission of any Owner that is not in the control of the Owners collectively, and that the policy shall be primary if any Owner has other insurance covering the same loss.

Each Unit Owner may, and is advised to, maintain their own insurance for all of its personal property and improvements at their own expense, and for business interruption insurance, if any be desired. To the fullest extent possible, each Unit Owner shall hold the Board of Trustees harmless from any claim related to the loss of that Unit Owners personal property, improvements, or business interruption.

9.2. Liability Insurance. The Board of Trustees shall maintain in force and pay the premium for a policy providing commercial general liability insurance coverage for all of the Common Areas and Limited Common Areas and any other areas of the Project that are under the Board of Trustees' supervision. The coverage limits under such policy shall be in amounts generally required by private institutional Mortgagees for condominium projects similar to the Project in construction, location and use. Nevertheless, such coverage shall be for at least Three Million Dollars (\$3,000,000.00) for each incident of property damage and Five Million Dollars (\$5,000,000.00) in the aggregate, bodily injury and death arising out of a single occurrence. Coverage under such policy shall include, without limitation, legal liability of the Unit Owners, the Commercial Association, and the Board of Trustees for property damage, bodily injury and death in connection with the operation, maintenance and use of the Common Areas and Limited Common Areas, and legal liability arising out of lawsuits related to employment contracts of the Board of Trustees and the Commercial Association. Additional coverages under such policy shall include protection against such other risks as are customarily covered with respect to condominium projects similar to the Project in construction, location and use, including, without limitation, host liquor liability, employer's liability insurance, worker's compensation insurance and comprehensive automobile liability insurance. If such policy does not include "severability of interest" in its terms, the policy shall include a special endorsement to preclude an insurer's denial of any Owner's claim because of negligent acts of the Board of Trustees, either Association, or any other Owner. If possible, such policy shall provide that it may not be cancelled or materially changed except in accordance with U.C.A. Section 31A-21-303 or as otherwise required by U.C.A. Section 57-8-43.

9.3. Flood Insurance. If any part of the Project is or comes to be located in an area identified by the Federal Emergency Management Agency as having special flood hazards, a "master" or "blanket" policy of flood insurance shall be maintained covering the Building, any machinery and equipment that are not part of the Building but which are owned by the Board of Trustees or the Commercial Association, and any other Limited Common and Common Areas within the Project in an amount reasonably determined to be appropriate by the Board of Trustees.

9.4. General Requirements. Each insurance policy maintained pursuant to this Paragraph shall be written by an insurance carrier that is licensed to transact business in the State of Utah. No such policy shall be maintained where (a) under the terms of the carrier's charter,

By-Laws or policy, contributions may be required from, or assessments may be made against, an Owner, a borrower, a Mortgagee, the Board of Trustees or any Association of Owners, (b) under the terms of the carrier's charter, By-Laws or policy, loss payments are contingent on action by the carrier's board of directors, policyholders or members, or (c) the policy includes any limiting clauses (other than insurance conditions) which could prevent the Person entitled (including, without limitation, the Board of Trustees, the Association of Owners or an Owner) from collecting insurance proceeds. The provisions of this Paragraph shall not be construed to limit the power or authority of the Board of Trustees to obtain and maintain insurance coverage in addition to any insurance coverage required under this Declaration in such amounts and in such forms as the Board of Trustees may deem appropriate from time to time. In addition, such provision for insurance shall be without prejudice to the right of each Owner to insure its own Unit for its own benefit. The exclusive authority to adjust losses under all policies obtained by the Board of Trustees shall be vested in the Board of Trustees. In no event shall the insurance coverage obtained and maintained by the Board of Trustees be brought into contribution with insurance purchased by individual Owners or their Mortgagees.

10. Destruction and Condemnation.

10. 1. Definitions. As used in this Paragraph 10, each of the following terms shall have the meaning indicated:

(a) "Available Funds" means any proceeds of insurance, condemnation awards, payments in lieu of condemnation and other uncommitted funds held by the Board of Trustees, 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 Person other than the Board of Trustees, including a Mortgagee, or that portion of any Condemnation award or payment in lieu of Condemnation payable to an Owner or its Mortgagee for the Unit in which it is interested.

(b) "Condemnation" means any action or proceeding in which any interest in the Project is taken for any public or quasi-public purpose by any lawful authority through exercise of the power of eminent domain or by purchase or other means in lieu of such exercise.

(c) "Estimated Costs of Restoration" means the estimated costs of Restoration as determined by the Board of Trustees in its sole discretion.

(d) "Partial Condemnation" means the occurrence of any Condemnation which is not a Substantial Condemnation.

(e) "Partial Destruction" means the occurrence of any damage or destruction to the Project which is not a Substantial Destruction.

(f) "Restoration" means restoration of the Project to the extent reasonably possible in accordance with this Declaration, the Record of Survey Map and the original plans and specifications for the Project and to substantially the same condition in which



the Project existed prior to the damage or destruction concerned, with each Unit and the Common Areas and Limited Common Areas having the same vertical and horizontal boundaries as before to the extent so possible. "Restoration" means restoration of the Project to an attractive, sound and desirable condition. Any Restoration not in accordance with this Declaration, the Record of Survey Map and the original plans and specifications for the Project shall require the consent of the Non-Managing Members and of Eligible Mortgagees holding Mortgages on Units which have appurtenant at least fifty-one percent (51%) of the Undivided Interests which are then subject to Mortgages held by Eligible Mortgagees. Any restoration or failure to restore the Project that impacts historic, Low-Income Housing Tax Credits or other tax credits received or to be received by Declarant or any subsequent owner of any Unit must be approved by them and, with respect to Low-Income Tax Credits, the Non-Managing Members.

(g) "Restored Value" means the value of the Project after Restoration.

(h) "Substantial Condemnation" means the occurrence of (i) the Condemnation of all of the Project, or (ii) the Condemnation of part of the Project where 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.

(i) "Substantial Destruction" means the occurrence of any damage or destruction of the Project where 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.

10.2. Board of Trustees Determinations. On the occurrence of any Condemnation of, or damage or destruction to, the Project, the Board of Trustees shall make a determination as to whether 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. In making such determinations the Board of Trustees may (but is not obligated to) retain and rely on one or more qualified appraisers or other professionals.

10.3. Restoration. Restoration of the Project shall be undertaken by the Board of Trustees promptly without a vote of the Owners on the occurrence of Partial Condemnation or Partial Destruction, and shall also be undertaken on the occurrence of Substantial Condemnation or Substantial Destruction unless the election to not undertake Restoration is consented to by Owners holding in the aggregate at least seventy five percent (75%) of the Undivided Interests and is further consented to by the Non-Managing Members and by Eligible Mortgagees holding Mortgages on Units which have appurtenant at least fifty-one percent (51%) of the Undivided Interests which are then subject to Mortgages held by Eligible Mortgagees. Within thirty (30) days after the Board of Trustees has determined that Substantial Condemnation or Substantial Destruction has occurred, it shall send to each Owner, Non-Managing Member and Eligible Mortgagee a written description of the Condemnation or the damage or destruction involved, shall take appropriate steps to ascertain the preferences of the Non-Managing Members and by Eligible 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. If

Condemnation awards, payments in lieu of Condemnation or insurance proceeds actually received by the Board of Trustees exceed the cost of Restoration when Restoration is undertaken, the excess shall be paid and distributed to the Owners in proportion to their respective Undivided Interests. Payment to any Owner whose Unit is then the subject of a Mortgage shall be made jointly to such Owner and the interested Mortgagee. If the cost of Restoration exceeds Available Funds, all of the Units shall be assessed for the deficiency on the basis of their respective Undivided Interests. If all or any portion of one or more Units is damaged or destroyed and is not the subject of Restoration (even though the Project will continue as a condominium project) or is taken in a Condemnation, the Undivided Interest of such Unit(s) shall immediately be reallocated to the remaining Units in accordance with the method set forth in Paragraph 10.6.

10.4. Sale of Project. Unless Restoration is accomplished pursuant to Paragraph 10.3, the Project shall be sold following the occurrence of Substantial Condemnation or Substantial Destruction. On such sale, condominium ownership under this Declaration and the Record of Survey Map shall terminate and the proceeds of sale and any Available Funds shall be distributed by the Board of Trustees to the Owners in proportion to their respective Undivided Interests. Payment to any Owner whose Unit is then the subject of a Mortgage shall be made jointly to such Owner and the interested Mortgagee.

10.5. Authority to Represent Owners. The Board of Trustees, as attorney-in-fact for each Owner, shall represent all of the Owners in any Condemnation or in negotiations, settlements and agreements with the condemning authority for the acquisition of all or any part of the Project. The award in any Condemnation and the proceeds of any settlement related thereto shall be payable to the Board of Trustees for the use and benefit of the Owners and their Mortgagees as their respective interests may appear. The Board of Trustees, as attorney-in-fact for each Owner, shall have and is granted full power and authority to restore or to sell the Project and each Unit therein wherever Restoration or sale, as the case may be, is undertaken as hereinabove provided. 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.

10.6. Reallocation of Interests on Condemnation. If any Unit is taken by Condemnation, the Undivided Interest appurtenant to such Unit shall thereafter be allocated among and become appurtenant to the remaining Units, said allocation to be in proportion to their respective Undivided Interests of the remaining Units. The court shall, upon request, enter a decree reflecting the reallocation of the Undivided Interests so produced, and the award shall include, without limitation, just compensation to the Owner of any Unit taken for its Undivided Interest as well as for its Unit. If any portion of any Unit is taken by Condemnation, the court shall determine the fair market value of the portion of the Unit not taken, and the Undivided Interest appurtenant to such Unit shall be reduced in proportion to the diminution in the fair market value of such Unit resulting from such Condemnation. The Undivided Interest thus divested from the Owner of such Unit shall be reallocated among such Unit and the other Units in proportion to their respective Undivided Interests, with any Unit partially taken in Condemnation participating in the reallocation on the basis of its Undivided Interest as reduced in accordance with the preceding sentence, The court shall enter a decree reflecting the reallocation of the Undivided Interest so produced, and the award shall include, without

limitation, just compensation to the Owner of any Unit partially taken for that portion of its Undivided Interest divested from it and not revested in it as well as for that portion of its Unit taken by Condemnation. If, however, the Condemnation of a portion of any Unit makes it impractical to use the remaining portion of such Unit for any lawful purpose permitted by this Declaration, then the entire Undivided Interest appurtenant to such Unit shall thereafter be allocated among and become appurtenant to the remaining Units, being allocated in proportion to their respective Undivided Interests, and the remaining portion of such Unit shall thereafter be part of the Common Areas. The court shall enter a decree reflecting the reallocation of Undivided Interests so produced, and the award shall include, without limitation, just compensation to the Owner of such Unit for its entire Undivided Interest and for its entire Unit.

11. Mortgagee Protection. The lien or claim against a Unit for unpaid assessments or charges levied either by the Board of Trustees pursuant to the Act or pursuant to the Declaration shall be subordinate to any Mortgage recorded on or before the date such assessments or charges become due, and shall not be affected by any sale or transfer of such Unit, except that a sale or transfer pursuant to a foreclosure of the Mortgage affecting such Unit or the exercise of a power of sale available there under shall extinguish a subordinate lien for such assessments or charges which became payable prior to such sale or transfer. Nevertheless, any such unpaid assessments or charges which are extinguished in accordance with the immediately preceding sentence may be reallocated and assessed to all Units as Common Expenses, including the Unit that is the subject of such sale or transfer. Any such sale or transfer pursuant to a foreclosure or power of sale shall not relieve the purchaser or transferee of such Unit from liability for, nor such Unit from the lien of; any assessments or charges becoming due thereafter or reallocated pursuant to the immediately preceding sentence.

The Board of Trustees and the Commercial Association shall make available for inspection on request during normal business hours or under other reasonable circumstances to Owners, the Non-Managing Members, Mortgagees and insurers and governmental guarantors of any Mortgage, current copies of this Declaration, the Record of Survey Map, the Rules and Regulations and the books, records and financial statements of the Board of Trustees or Association.

On written request to the Board of Trustees or Commercial Association by any Non-Managing Member, Mortgagee or insurer or governmental guarantor of a Mortgage (which request identifies the name and address of such Mortgagee, insurer or guarantor and the Unit Number or address of the Unit encumbered by the Mortgage concerned), such Mortgagee, insurer or guarantor shall thereafter be deemed to be an Eligible Non-Managing Member, Eligible Mortgagee or Eligible Insurer or Guarantor, as the case may be, shall be included on the appropriate lists maintained by the Board of Trustees, and shall be entitled to timely written notice of any of the following:

11.1. any Condemnation or casualty loss that affects a material portion of the Project or any Unit on which there is a Mortgage held, insured or guaranteed by such Eligible Mortgagee or such Eligible Insurer or Guarantor;

11.2. any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to a Mortgage held, insured or guaranteed by such Eligible Mortgagee or such Eligible Insurer or Guarantor, which delinquency remains uncured for a period of sixty (60) days;

11.3. any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Board of Trustees; and

11.4. any proposed action that would require the consent of a specified percentage of Eligible Mortgagees as specified in Paragraphs 10.1, 10.3., or otherwise in this Declaration.

12. Amendment. Except as provided elsewhere in this Declaration, the vote of Owners holding in the aggregate at least sixty-seven percent (67%) of the Undivided Interests shall be required and shall be sufficient to amend this Declaration or the Record of Survey Map. Any amendment so authorized shall be accomplished through the recordation of an instrument executed (solely) by the Board of Trustees. In such instrument, the Board of Trustees shall certify that the vote required by this Paragraph 12 for amendment has occurred and, if approval of a Non-Managing Member or a specified percentage of Eligible Mortgagees is required for such amendment, that such approval has been obtained. The foregoing right of amendment is subject to the following:

12.1. Rights of Declarant. No amendment to this Declaration or the Record of Survey Map which has the effect of diminishing or impairing any right, power, authority, privilege, protection or control accorded to Declarant (including Tannach Commercial Properties, L.L.C.) in its capacity as Declarant shall be effective unless consented to in writing by Declarant after Declarant receives the consent of the Special Member to such amendment.

12.2. Rights of Eligible Mortgagees. The consent of each Eligible Mortgagee holding Mortgages on Units which have appurtenant at least sixty-seven percent (67%) of the Undivided Interests then subject to Mortgages held by Eligible Mortgagees shall be required to amend any material provision of this Declaration or the Record of Survey Map that provides for any of the following, unless made in accordance with Paragraph 10:

- (a) voting;
- (b) assessments, assessment liens, or subordination of assessment liens;
- (c) reserves for maintenance, repair and replacement of the Common Areas, or the provisions regarding the use of insurance or condemnation proceeds for anything other than the repair of the Condominium or distribution to the Unit Owners;
- (d) material modifications to the insurance requirements;

- (e) rights to use the Common Areas;
- (f) responsibility for maintenance and repair of the Project;
- (g) expansion, termination or contraction of the Project or the addition, annexation or withdrawal of property to or from the Project;
- (h) the perimeter boundaries of any Unit;
- (i) the interests in the Common Areas or Limited Common Areas;
- (j) convertibility of Units into Common Areas or of Common Areas into Units, excepting Convertible Spaces (the conversion of which shall only be subject to the requirements set forth in Paragraph 12.3)
- (k) leasing of Units;
- (l) imposition of or changing any restrictions on the right of an Owner to use, sell, transfer or otherwise convey a Unit; and
- (m) express benefits or rights of Mortgagees, Eligible Mortgagees or Eligible Insurers or Guarantors,
- (n) changing the priority of liens for assessments;
- (o) encumbering the common elements

An addition or amendment shall not be considered material for purposes of this Paragraph 12.2 if it is for the purpose of correcting technical errors, is for clarification or is otherwise immaterial.

Notwithstanding the foregoing, no amendment described above in this Paragraph 12.2 which results in a disproportionate (considering the relative undivided interests or any matter determined or affected by the relative undivided interests), inequitable, or discriminatory impact on any Unit relative to the other Units shall be effective unless consented to by all Eligible Mortgagees holding Mortgages on the affected Units.

### 12.3. Conversion or reallocation of Space.

(a) After obtaining the prior written consent of the Board of Trustees, and, so long as they are members of the owner of a Commercial Unit, the Non-Managing Members, which consent shall not be unreasonably withheld, conditioned or delayed, all or any portion of any Commercial Unit (the "Convertible Space") may be converted into or divided into one or more Commercial Units, Common Areas or Limited Common Areas in accordance with this Paragraph 12.3. Any such conversion shall be deemed to have occurred at the time of the

recording in the Official Records of the instruments described in Paragraphs 12.3(b) and (a). No portion of the Residential Units may be converted into a Commercial Unit.

(b) When converting all or any portion of any Convertible Space into one or more Commercial Units, Common Areas or Limited Common Areas, the Owner(s) of the Convertible Space concerned shall record in the Official Records, with regard to the structure or portion of the structure constituting such Convertible Space, a supplemental Record of Survey Map showing the following: (i) the location and dimensions of the vertical and horizontal boundaries of each Unit formed out of such space; (ii) an identifying number or other designation and the square footage of each such Unit; (iii) the location and dimensions of all Common Areas formed out of such space; and (iv) the location and dimensions of all Limited Common Areas formed out of such space and the Unit(s) to which exclusive use of such Limited Common Areas are appurtenant. Such supplemental map shall be certified as to its accuracy and compliance with the Act by the land surveyor who prepared or supervised the preparation of such map.

(c) Simultaneously with the recording of such supplemental Record of Survey Map, the Owner(s) of the Convertible Space concerned shall prepare, execute and record an amendment to the Declaration describing the conversion. Such amendment shall assign an identifying number or other designation to, and shall set forth the square footage of, each Unit formed out of such space and shall allocate to each Unit a portion of the Undivided Interest appurtenant to such space. The Undivided Interests of the new Units shall be allocated proportionately between or among the new Units, based on the respective square footage of the new Units. Such amendment shall also describe or delineate any Common Areas or Limited Common Areas formed out of such space, showing or designating the Unit(s) to which any such Limited Common Areas are assigned. If all or any portion of any Convertible Space is converted into Common Areas or Limited Common Areas, then the Undivided Interest and the votes appurtenant to such space or portion so converted (determined on the basis of the number of square feet of floor space so converted to Common Areas or Limited Common Areas) shall be reallocated among, and shall thereafter be appurtenant to, the remaining Units (including Units formed out of such space) in proportion to their respective Undivided Interests. Such reallocation shall be set forth in such amendment. Such amendment only needs to be executed by the Board of Trustees, the Owner(s) of such space and any Mortgagee holding a Mortgage encumbering such space.

(d) Following such division, any additional structural separations constructed or installed between the new Units shall become Common Areas. Dividing Units shall not, taken in the aggregate between or among the new Units created, increase or decrease the original voting rights or Undivided Interests set forth in this Declaration. Each Unit formed out of a Convertible Space shall be capable of independent use and shall have direct access to Common Areas and Limited Common Areas intended and sufficient for ingress and egress to and from such Unit.

(e) Any Convertible Space not converted in accordance with this Paragraph 12.3, or any portion of any Convertible Space not so converted, shall be treated for all

purposes as a single Unit unless and until it is so converted, and the Act and this Declaration shall be applicable to any such space or portion of such space as though the same were a Unit.

12.4. Limit on Conversion. No space may be converted or reallocated without the prior written consent of the Declarant, and its Non-Managing Members which consent may be withheld if it impacts any tax credits or other benefit related to the Project or triggers a recapture of any tax credits, including, without limitation, the Low-Income Housing Tax Credits. The Declarant, as a condition to Conversion or Reallocation, may require the legal opinion of counsel for the party requesting such or subjects related thereto, inter alia, tax credits received or to be received in the restoration of the Project.

12.5. Amendment Affecting Only Commercial Association. The Commercial Association, through its Unit Owners acting alone and in like manner, make amendments to the provisions of this Declaration, but only insofar as they affect the internal operation of the Commercial Association.

12.6. Additional Restrictions on Certain Amendments. Any amendment that affects (a) the undivided interest of each Unit owner in the common areas and facilities, as expressed in the Declaration; (b) unit boundaries; or (c) member's voting rights, shall require unanimous approval of any affected Owners.

### 13. General Provisions.

13.1. Liens Against Units. Subsequent to the recording of this Declaration in the Official Records and while the Project remains subject to the Act, no new lien or encumbrance shall thereafter arise or be created against the Project as a whole. During such period, liens or encumbrances shall arise or be created only against each Condominium in the same manner and under the same conditions in every respect as liens or encumbrances may arise or be created on or against any other separate parcel of real property subject to individual ownership. No labor performed or material furnished with the consent or at the request of an Owner or its agent, contractor or subcontractor shall be the basis for the filing of a lien against the Unit of any other Owner not expressly consenting to or requesting the same (except that such express consent shall be deemed to be given by an Owner in the case of emergency repairs) or against any interest in the Common Areas or Limited Common Areas, except the Undivided Interest appurtenant to the Unit of the Owner for whom such labor shall have been performed or material shall have been furnished. Labor performed or material furnished for the Common Areas, if authorized by the Owners or the Board of Trustees in accordance with the Governing Documents, shall be deemed to be performed or furnished with the express consent of each Owner and shall be the basis for the filing of a lien against each of the Condominiums. If a lien against two or more Units becomes effective, any Owner of any Unit may remove its Unit from such lien by payment of the proportional amount attributable to such Unit. Such individual payment shall be computed by reference to the ratio between the Undivided Interest appurtenant to such Owner's Unit and the total Undivided Interests of the Units concerned. Subsequent to any payment, discharge or other satisfaction, the Unit concerned shall be free and clear of the lien so paid, satisfied or discharged. Partial payment, satisfaction or discharge of the proportional amount attributable to any Unit

shall not prevent the lienor from proceeding to enforce its rights against any other Unit to the extent the entire amount outstanding is not so paid, satisfied or discharged.

13.2. Covenants Run with Land. This Declaration and all of the provisions of this Declaration shall constitute enforceable equitable servitudes, shall run with the land and may be enforced by the Board of Trustees and any Owner and its successors in interest. If any Person acquires through foreclosure, exercise of the power of sale or other enforcement of any lien or by tax deed the interest of any Owner, the interest acquired shall be subject to all of the provisions of the Governing Documents. In a voluntary conveyance, the grantee of a Condominium shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for its share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee. However, any such grantee shall be entitled to a statement from the Board of Trustees setting forth the amount of the unpaid assessments against the grantor, and such grantee shall not be liable for, nor shall the Condominium conveyed be subject to a lien for, any unpaid assessments against such grantor in excess of the amount set forth in such statement (although the grantor shall remain liable therefore). All Owners and their employees and tenants, all employees of such tenants and any other Person who may in any manner use or occupy the Project shall be subject to the Governing Documents. All agreements, decisions and determinations made by the Board of Trustees or the Association of Owners in accordance with the Governing Documents shall be binding on the Owners.

13.3. Removal of Project from Act. All (but not less than all) of the Owners may remove the Project from the provisions of the Act by an instrument duly recorded in the Official Records to that effect, provided that the holders of all liens affecting the Condominiums consent or agree by instruments duly recorded that their liens may be transferred to the Undivided Interest of the Owner concerned in the Project. On removal of the Project from the provisions of the Act, the Project shall be deemed to be owned in common by the Owners. The Undivided Interest in the Project owned in common by each Owner shall be equal to the Undivided Interest previously owned by such Owner. The removal provided for in this Paragraph 13.3 shall not bar the subsequent resubmission of the Project to the provisions of the Act.

13.4. Initial Agent for Service of Process. Tannach Properties, L.L.C., c/o Benjamin Logue in his capacity as Manager of Tannach Management Group, LLC, whose address is 313 South Maryfield Drive, Salt Lake City, Utah 84108 shall be the initial agent to receive service of process on behalf of the Project, the Board of Trustees, and the Commercial Association. The Board of Trustees and the Commercial Association shall have the right to appoint a successor or substitute process agent at any time and from time to time. The name and address of any such successor or substitute agent shall be specified by an appropriate instrument recorded in the Official Records or with the Utah Department of Commerce, a copy of which shall be delivered to each Owner.

13.5. Certain Actions. Without limiting the rights of any Owner, actions may be brought by the Board of Trustees, in its discretion, on behalf of two or more of the Owners, as their respective interests may appear, with respect to any cause of action relating to the Common Areas, the Limited Common Areas or more than one Unit. Service of process on two or more



Owners in any action relating to the Common Areas, the Limited Common Areas or more than one Unit may be made on the Person designated in this Declaration to receive service of process.

13.6. Declarant's Rights Assignable. All of the rights of Declarant under this Declaration may be assigned or transferred either by operation of law or through a voluntary conveyance, transfer or assignment.

13.7. Attorneys' Fees. If either the Board of Trustees or any Owner brings suit against the other or if any Owner brings suit against another Owner to enforce or interpret this Declaration, the prevailing party shall be entitled to recover from the other party the prevailing party's reasonable attorneys' fees and costs incurred in any such action and in any appeal from such action, in addition to the other relief to which the prevailing party is entitled.

13.8. Notices. The Board of Trustees shall maintain records setting forth the names and mailing addresses of each Owner, as set forth in Paragraph 5.5, and it shall be the responsibility of each Owner (and not the Board of Trustees) to insure that such records are current as to its Unit. Any notice or demand to be given under this Declaration shall be given in writing by personal service, mail, Federal Express, DHL or any other similar form of courier or delivery service, or mailing in the United States mail, postage prepaid (certified if required by the Act), and addressed to (a) any Owner, Non-Managing Member, or Mortgagee in accordance with such records, and (b) the Board of Trustees in accordance with Paragraph 13.4. Any such notice shall (except as otherwise required for notice to an Eligible Mortgagee as specified in Paragraph 12.2) be deemed to have been given, and shall be effective, on delivery to the notice address then applicable for the Person to which the notice is directed, or three days after postmarked; provided, however, that refusal to accept delivery of a notice or the inability to deliver a notice because of an address change which was not properly communicated shall not defeat or delay the giving of a notice.

13.9. Priority Over Act. In the event of any conflict between the provisions of this Declaration and the provisions of the Act, including, without limitation, §57-8-36 of the Act (or any successor or substitute provision), the provisions of the Act shall control to the extent permitted by applicable law.

13.10. Construction. This Declaration shall inure to the benefit of, and be binding on the Declarant, each Board of Trustees, each Association of Owners, and each Owner and their respective heirs, personal representatives, successors and assigns. This Declaration shall be governed by, and construed and interpreted in accordance with, the laws (excluding the choice of laws rules) of the State of Utah. Titles and headings of Paragraphs of this Declaration are for convenience of reference only and shall not affect the construction of any provision of this Declaration. All pronouns shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the Person to whom reference is made may require. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be valid under applicable law; but, if any provision of this Declaration shall be invalid or prohibited under applicable law, such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remainder of such provision or the remaining provisions of this Declaration. The rules of property known as the rule against perpetuities and the rule restricting

unreasonable restraints on alienation shall not be applied to defeat any of the provisions of this Declaration.

13.11. Limitations on Rental Units. It is contemplated that each of the apartments in the Residential Unit shall be rented. Commercial Units are also contemplated to be rented, at times to multiple tenants. No limitation may be imposed upon these rentals except those required by law, and it shall be the responsibility of those Owners to enforce compliance among their Tenants with the Rules and Regulations of the Association of Owners and the Commercial Association as the case may be. All Tenants, by signing any lease, agree to be subject to the Declaration.

With respect to the Commercial Units, the following additional limitations shall exist:

The Commercial Association may require that all lease agreements be reviewed and approved by the Commercial Association or the management company, that any tenants be screened by the Commercial Association or the management company prior to renting the condominium, and that the approval of the Commercial Association or the management company not be unreasonably withheld.

(c) Prior to renting any Commercial Unit, the Unit owner and tenant shall execute a written lease agreement which shall include the following provisions:

(i) Tenants agree to comply with all of the terms and conditions of this Declaration and the Bylaws and Rules and Regulations of the Association of Owners and of the Commercial Association.

(ii) Tenants shall agree not to allow or commit any nuisance, waste, unlawful or illegal act on the premises.

(iii) Owner and tenant shall acknowledge that both Associations are an intended third-party beneficiary of the lease agreement, that each Association shall have the right to enforce compliance with the condominium declaration and by-laws and to abate any nuisance, waste, unlawful or illegal activity on the premises; and that each Association shall be entitled to exercise all of the owner's rights and remedies under the lease agreement to do so.

(d) Prior to a tenant's occupancy of a Commercial Unit, the Unit owner must provide the Commercial Association with the name, address and telephone number of the tenant and a copy of the written lease agreement.

(e) The Commercial Association and the Association of Owners shall have the right and the obligation to enforce compliance with the Declaration and their respective Bylaws and Rules and Regulations against any owner and/or occupant of any Unit, and shall have all rights and remedies available under state or local laws, in addition to its rights and remedies as a third-party beneficiary under any lease agreement, to enforce such compliance.

13.12 Drafting. This Declaration was prepared solely for and at the request of the Declarant. The drafters of this Declaration have assumed no duties toward any other person or entity in connection with the drafting hereof, and any purchaser, owner or occupant of a Unit is advised to seek their own legal counsel regarding this and any related agreements, if desired.

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signatures follow on next page

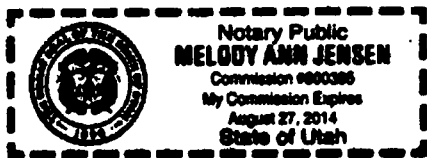
DATED: 3/30/12

Tannach Properties, L.L.C  
A Utah Limited Liability Company

By: [Signature]  
Benjamin Logue, Manager of Tannach  
Management Group, LLC, which entity is  
the Managing Member of Tannach  
Properties, LLC

STATE OF UTAH )  
 : ss.  
COUNTY OF SALT LAKE )

On the 30 day of March, 2012, personally appeared before me Benjamin Logue, who being by me duly sworn did say that he is the Manager of Tannach Management Group, L.L.C., Which entity is in turn the Managing Member of Tannach Properties, L.L.C. (the "Company"), a Utah limited Liability Company, and that the within and the forgoing instrument was signed on behalf of the Company by its authority and said Benjamin Logue duly acknowledged to me that said limited liability company executed the same.



[Signature]  
NOTARY PUBLIC  
Residing in Salt Lake County, Utah  
My Commission Expires: August 27, 2014

## EXHIBIT A

(Solely for allocation of Undivided Interests)

UNIT	APPROX. SQUARE FOOTAGE (with unit + limited common)	UNDIVIDED % INTEREST
Unit A	$9,456 + 1,050 = 10,506$	4%
Unit B	$16,428 + 1,823 = 18,251$	7%
Unit 1	$192,592 + 70,347 = 262,939$	89%
<b>TOTALS</b>	$\sim 291,696$	100%

## **EXHIBIT B**

The Association By-Laws for both Associations referred to in the foregoing instrument are attached.

**BY-LAWS OF  
THE PLAZA AT STATE STREET COMMERCIAL  
OWNER'S ASSOCIATION, INC.**

**a Utah non-profit corporation**

\*\*\*\*\*

ARTICLE I

**OFFICES**

The initial offices of The Plaza at State Street Commercial Owner's Association, Inc. (the "Commercial Association") in the State of Utah shall be located at 313 South Maryfield Drive, Salt Lake City, Utah 84108.

ARTICLE II

**DEFINITIONS**

SECTION 1. "Association" or "Commercial Association" shall mean and refer to The Plaza at State Street Commercial Owner's Association, Inc., its successor and assigns.

SECTION 2. "Declarant" shall mean and refer to Tannach Properties, L.L.C. .

SECTION 3. "Declaration" shall mean and refer to the Declaration for "The Plaza at State Street" (as it may be amended) applicable to the Properties recorded in the Office of the Salt Lake County Recorder, State of Utah.

SECTION 4. "Limited Common Area" shall mean all of the space defined as such in the Declaration.

SECTION 5. "Member" shall mean each owner of a Commercial Unit as defined in the Declaration. Any reference to voting or "majorities in interest" shall be determined by the percentage of Undivided Interests held by the Members, which percentages shall be added to determine the number of votes.

SECTION 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Commercial Unit which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 7. "Properties" shall mean and refer to all of the commercial condominium units described in the Declaration of Covenants, Conditions and Restrictions, for The Plaza at State Street Condominiums, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

SECTION 8. "Unit" shall mean and refer to Unit A and Unit B as shown on any recorded subdivision map of the Property with the exception of the Common Area.

### ARTICLE III

#### PURPOSE

The purpose of the Commercial Association shall be to manage those matters that directly affect the owners of Commercial Units in The Plaza at State Street condominiums, subject to the control of the Association of Owners for the project. Among other things, the Commercial Association may adopt and approve matters regarding the use of limited common areas associated with the Commercial Units, set standards for window lighting, displays and advertising, for use of the commercial plaza, for cleanliness and maintenance. They may also adopt programs that provide for common insurance and other common benefits, as approved by its members. These purposes are in addition to those set forth in Article 5.8 of the Declaration.

### ARTICLE IV

#### MEETINGS

SECTION 1. Annual Meeting. The annual meeting of the Members shall be held on the first Wednesday in the month of November of each year beginning in the year in which a Commercial Unit comes to be owned by someone other than the Declarant, for the purpose of electing trustees and for the transaction of such other business as may come before the meeting. In the event that such annual meeting is omitted by oversight or otherwise during the month provided for, the trustees shall cause a meeting in lieu thereof to be held as soon thereafter as may be convenient, and any business transacted or elections held at such meeting shall be as valid as if transacted or held during the month in which the annual meeting was to be called. If the election of trustees shall not be held during the month designated herein for the holding of the annual meeting of Members or at any adjournment of any meeting so called, such subsequent meetings shall be called in the same manner as is provided for the calling of the annual meeting of the Members. Such meeting may also be called without the required advance notice if all of the Members consent to the meeting and a quorum are present at such a meeting. Written waiver of notice of such meeting shall be attached to the minutes of the annual Members' meeting so called, in the corporate minute book.

SECTION 2. Special Meetings. Special meetings may be called as provided for in the Declaration.

SECTION 3. Place of Meeting. The Board of Trustees may designate any place, within Salt Lake City, Utah, unless otherwise prescribed by statute, as the place of meeting for any



annual meeting or for any special meeting called by the Board of Trustees. A waiver of notice signed by all Members entitled to vote at a meeting may designate any place within the State of Utah, unless otherwise prescribed by statute, as the place for the holding of such meeting. If no designation is made, or if a special meeting be otherwise called, the place of meeting shall be the registered office of the Commercial Association in the State of Utah.

SECTION 4. Notice of Members' Meeting. Notice of all Members' meetings stating the time and the place and the objects for which such meeting(s) shall be given as provided in the Declaration. The Notice shall specify the place, day and hour of the meeting, and in the case of a special meeting, the purpose of the meeting.

Any meeting of which all Members shall, at any time, waive or have waived notice in writing shall be a legal meeting for the transaction of business notwithstanding that notice has not been given as hereinbefore provided.

SECTION 5. Waiver of Notice. Whenever any notice whatever is required to be given by these By-Laws, or by the Certificate of Incorporation of this Association, or by any of the Association laws of the State of Utah, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated herein, shall be deemed equivalent thereto.

SECTION 6. Quorum of Members. Except as herein provided and as otherwise provided by law, at any meeting of Members a majority in interest of all Members of record in person or by proxy shall constitute a quorum, but a less interest may adjourn any meeting, and the meeting may be held as adjourned without further notice; provided. If a meeting has been adjourned because a quorum is not present, the rescheduled and re-noticed meeting on the same subject (except the election of trustees) may proceed if twenty five percent of the interests eligible to vote are present, which one fourth shall constitute a quorum. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than the announcement at the meeting, until a quorum (25%) shall be present or represented. When a quorum is present at any meeting, a majority in interest of the interests represented thereat shall decide any question brought before such meeting (except the election of trustees), unless the question is one upon which by express provision of law or of the Certificate of Incorporation or of these By-Laws or by the Declaration, a larger or different vote is required, in which case such express provision shall govern and control the decision of such question. In all events, the minority attendance standards set forth in the Declaration of Condominium shall control on matters addressed in the Declaration, so that if there is any conflict between the Declaration and these By-Laws, the Declaration shall control.

SECTION 7. Closing of Transfer Books or Fixing Record Date. For the purpose of determining Members entitled to notice or vote at any meeting of Members or at any adjournment thereof, or in order to make a determination of Members for any other proper purpose, the Board of Trustees of the Commercial Association may provide that the membership books shall be closed for a period not to exceed, in any case, fifteen (15) business days prior to the date that Notice of the meeting is to be given. If the membership books shall be closed for

the purpose of determining Members entitled to notice or to vote at a meeting of Members, such books shall be closed for at least ten (10) business days immediately preceding the date determined to be the date of record. If no shorter date of record is determined, it shall be the date that is thirty days prior to the annual meeting, or the scheduled meeting. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this section, such determination shall apply to any adjournment thereof.

**SECTION 8. Proxy and Voting.** Members of record may vote at any meeting, either in person or by proxy in writing. All proxies shall be in writing and filed with the Secretary-Treasurer of the meeting before being voted. Such proxy shall entitle the holders thereof to vote at any adjournment of such meeting but shall not be valid after the final adjournment thereof. No proxy shall be valid after the expiration of eleven (11) months from the date of execution unless the Member executing it shall have specified therein the length of time said proxy is to continue in force, which shall be for some limited period of time. Each proxy shall be revocable and shall automatically cease upon conveyance by the member of his Unit. Each Member, except as otherwise provided, shall be entitled to vote based upon the percentage ownership allocated to his unit.

## ARTICLE V

### BOARD OF TRUSTEES

**SECTION 1. General Powers.** The business and the affairs of the Commercial Association shall be managed by its Board of Trustees.

**SECTION 2. Number, Tenure and Qualifications.** The number of trustees shall be three (3). A Trustee shall be appointed by each owner of a Commercial Unit. Every second year, each owner shall be entitled to appoint a second representative, so that control of the Board of Trustees shall shift every other year. At the first regular meeting, the Owner of Unit A shall appoint two Trustees each for a term of two years, and the Owner of Unit B shall appoint one Trustee for a term of three years. At the end of the second year, the Owner of Unit B shall be entitled to appoint a second Trustee, and the Owner of Unit A shall appoint a single trustee. This process shall be repeated so that there are always three Trustees. Notwithstanding the foregoing provisions, so long as the Declarant owns both Commercial Units, the Declarant may appoint each of the members of the Board of Trustees. As soon as one of the Commercial Units is sold, a Board of Trustees shall be established as set forth above. On a vacancy prior to the expiration of the relevant term, the Owner of the Unit from which the Trustee has resigned or departed shall appoint a replacement to sit on the Board of Trustees until the expiration of the term for which the member being replaced was appointed. Unless he forfeits or otherwise loses his seat as provided in this Declaration, a member shall serve on the Commercial Association Board of Trustees until his successor is elected and qualifies.

**SECTION 3. Election of Board of Trustees.** The Board of Trustees shall be elected as set forth in Section 2 above.

**SECTION 4. Powers of Trustees.** The Board of Trustees shall have the responsibility for the entire management of the business of this Commercial Association as described herein and in the Declaration. The Board of Trustees shall have power to: adopt and publish rules and regulations governing the use of the Commercial Units and the adjacent Limited Common Areas, so long as those rules and regulations are not inconsistent with those adopted or approved by the overall association or the Declaration; address the personal conduct of the members and their guests thereon, and to establish penalties and fines for the infraction thereof; suspend the voting rights and right to use of the common facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association (such rights may also be suspended after notice and hearing, for a period of not to exceed 60 days for infraction of published rules and regulations); exercise for the Association all power duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration; declare the office of a member of the Board of Trustees to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Trustees; and employ a manager, an independent contractor or such other employees as they deem necessary and to prescribe their duties. In the management and control of the property, business and affairs of the Association, the Board of Trustees is vested with all of the powers possessed by the Association itself insofar as this delegation of authority is not inconsistent with the laws of the State of Utah and with the Certificate of Incorporation or with these By-Laws. The Board of Trustees shall have the power to determine what constitutes net earnings, profit and surplus, respectively, and what amounts shall be reserved for working capital and of any other purpose. Such determination by the Board of Trustees shall be final and conclusive.

**SECTION 5. Duties of Trustees.** It shall be the duty of the Board of Trustees to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the members who are entitled to vote;

(b) elect or employ and supervise all officers, agents and employees of this Association, and to see that their duties are properly performed. After their election, the Trustees shall, among themselves, designate one of their number to be the President, one to be the Secretary, and one to be the Treasurer;

(c) unless otherwise required by the Declaration, to:

(1) fix the amount of the annual assessment for the Commercial Association against each Commercial Unit at least thirty (30) days in advance of each annual assessment period. This assessment shall be in addition to any assessment of the Association of Owners and shall be included in the budget prepared pursuant to paragraph 8.1 of the Declaration. In no event may the annual assessment for any Commercial Unit owned by the Declarant exceed \$ \_\_\_\_\_ absent the approval of a majority interest of the Members;

(2) send written notice of each such assessment to every Owner and Non-Managing Member (as defined in the Declaration) subject thereto at least thirty (30) days in advance of each annual assessment period (provided, however, that failure to do so shall not affect the validity of the assessment after it is made); and

(3) foreclose the lien against any property for which assessments are not paid within sixty (60) days after due date or to bring an action at law against the owner obligated to pay the same as permitted by the Declaration.

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge not to exceed \$25.00 may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) procure and maintain insurance as required by the Declaration and by U.C.A. Section 57-8-43 on property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, consistent with the Declaration or in addition thereto as it may deem appropriate;

(g) cause the Limited Common and Common Area to be maintained;

(h) levy and collect general and special assessments for common expenses in accordance with the budget prepared pursuant to paragraph 5.8.6 of the Declaration;

(i) by majority vote, establish and amend administrative rules governing the details of the operation and use of common areas and facilities, which rules shall not be inconsistent with the Declaration;

(j) to give notice as required by the Declaration, and to perform the tasks set forth in the Declaration for the Trustees;

(k) to elect one of their number to serve as a Trustee on the Board of Trustees for the Project, the other Members of that Committee being the owner (or his designee) of each of the two Residential Units in the Project.

**SECTION 6. Meeting of Trustees.** A regular meeting of the Commercial Association Board of Trustees shall be held immediately after the adjournment of each annual Commercial Association meeting. The annual meeting of the Commercial Association shall be conducted on the first Wednesday in November. Other regular meetings of the Trustees or the Owners Association shall be held at periodic intervals at such time and place as the Board of Trustees may decide. Either oral or written notice shall be given to each Board of Trustees member of the time and place of each regular Board of Trustees meeting at least three (3) days prior to such meeting. Special Board of Trustees meetings shall be held whenever called by the President or any two members of the Board of Trustees. Reasonable effort shall be made to give either oral or

written notice of a special meeting to each Board of Trustees member at least three (3) days (but on an emergency, twenty-four (24) hours) before the time fixed for the meeting. Adequate notice of a special meeting shall be deemed to have been given to a member if such effort is made, even though the member concerned does not actually receive notice. The propriety of holding any meeting that is attended by all Board of Trustees members may not be challenged on grounds of inadequate notice. A quorum for the transaction of business at any Board of Trustees meeting shall consist of a majority of all of the members then in office.

SECTION 7. Quorum of Trustees. A majority of the members of the Board of Trustees as constituted for the time being shall constitute a quorum for the transaction of business, but a lesser number not less than one (1) may adjourn any meeting and the meeting may be held as adjourned without further notice. When a quorum is present at any meeting, the majority of the members present thereat shall decide any questions brought before such meeting except as otherwise provided by law or by these By-laws.

SECTION 8. Vacancies. Any vacancy occurring in the board of Trustees may be filled by an appointment by the Unit Owner that had appointed the departing Trustee.

SECTION 9. Compensation. By resolution of the Board of Trustees, trustees may be paid their expenses, if any, for attendance at each meeting of the Board of Trustees, but shall not be paid a fixed sum for attendance at each meeting of the Board of Trustees or a stated salary as trustee. A trustee may serve the Association in any other capacity and receive compensation therefor if approved by the Association.

SECTION 10. Presumption of Assent. A trustee of the Association who is present at a meeting of the Board of Trustees at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent of such action with the person acting as secretary of the meeting or the adjournment thereof, or shall forward such dissent by registered mail to the Secretary-Treasurer of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a trustee who voted in favor of such action.

SECTION 11. Formal Action by Trustees. Unless otherwise provided by law, any action required to be taken at a meeting of the Board of Trustees or any other action which may be taken at a meeting of the Board of Trustees may be taken without a meeting if a consent in writing, setting forth the action so taken shall be signed by all the trustees entitled to vote with respect to the subject matter thereof.

## ARTICLE VI

### OFFICERS

SECTION 1. Officers of the Association. The officers of this Commercial Association shall each be an elected Trustee, and shall include a President, and a Secretary-Treasurer. The President, when present, shall preside at all meetings of the Board of Trustees, shall have other such powers as the Board of Trustees may, from time to time, prescribe. All of the officers shall be elected by the Board of Trustees.

SECTION 2. Eligibility of Officers. When it becomes operational, the officers of the Association shall be the President and Secretary-Treasurer, each of whom shall be Unit Owners, or designees of Unit Owners. Prior to that time, the officers may include partners in or persons nominated by the Declarant.

SECTION 3. Additional Officers and Agents. The Board of Trustees at its discretion, may appoint a property manager who shall report directly to them.

SECTION 4. Election and Term of Office. The officers of the Association to be elected by the Board of Trustees shall be elected annually by the Board of Trustees at the first meeting of the Board of Trustees held after each annual meeting of the Members. If the election of officers is not held at such meeting, such election shall be held as soon thereafter as may be convenient. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall resign or have been removed in the manner hereafter provided.

SECTION 5. President. The President shall be the chief executive officer of the Association and, when present, shall preside at all meetings of the Members and shall preside at meetings of the Board of Trustees. The President, unless some other person is specifically authorized by vote of the Board of Trustees, shall sign all certificates and contracts of the Association. He shall perform all the duties commonly incident to his office and shall perform such other duties as the board of Trustees shall designate from time to time.

SECTION 6. Secretary-Treasurer. Except as specifically limited by vote of the Board of Trustees, the Secretary-Treasurer shall keep accurate minutes of all meetings of the Members and of the Board of Trustees and shall perform such other duties and have such other powers as the Board of Trustees shall, from time to time, so designate. The Secretary-Treasurer shall also perform the duties and have the powers of the President during the absence or disability of the President and shall have the power to sign all certificates, instruments, bonds, deeds and contracts of the Association. He shall perform such other duties and have other powers as the Board of Trustees shall, from time to time, designate.

The Secretary-Treasurer, subject to the order of the Board of Trustees, shall have the care and custody of the money, funds, valuable papers, records, and documents of the Association (other than his own bond, if any, which shall be in the custody of the President), and shall have and exercise, under the supervision of the Board of Trustees, all the powers and duties

commonly incident to his office and shall give bond in such form and with such sureties as shall be required by the Board of Trustees. He shall deposit all funds of the Association in such bank or banks, trust company or trust companies, or with such firm or firms doing a banking business as the trustees shall, from time to time, so designate. The Secretary-Treasurer may endorse for deposit for collection all checks and notes payable to the Association or to its order, may accept drafts on behalf of the Association and, together with the President or Secretary, may sign certificates of stock. He shall keep accurate books of account of the Association's transactions which shall be the property of the Association and, together with all property in his possessions, shall be subject at all times to the inspection and control of the Board of Trustees.

All checks, drafts, notes or other obligations for the payment of money shall be signed by such officer or officers or agent or agents as the Board of Trustees shall, by general or special resolution, direct. The Board of Trustees may also in its discretion, require by general or special resolutions, that checks, drafts, notes and other obligations for the payment of money shall be countersigned or registered as a condition to their validity by such officer or officers or agent or agents as shall be directed in such resolution.

SECTION 7. Resignations and Removals. Any Trustee or officer of the Association may resign at any time by giving written notice to the Association, to the Board of Trustees, or to the President or Secretary of the Association. Any such resignation shall take effect at the time specified therein or, if the time be not specified therein, upon its acceptance by the Board of Trustees.

The Member appointing a Trustee may remove that Trustee at any time. The Board of Trustees, by vote of not less than a majority of the entire board, may remove from office any officer or agent elected or appointed by it with or without cause.

SECTION 8. Vacancies. If the office of an officer or agent becomes vacant by reason of death, resignation, removal, disqualification or otherwise, the Trustees may, by vote of a majority of a quorum, choose a successor or successors who shall hold office for the unexpired term. Vacancies may also be filled for the unexpired term by the Members at a meeting called for that purpose, unless such vacancy shall have been filled by the trustees prior to the meeting.

SECTION 19. Salaries. No salaries shall be paid to any officer or Trustee.

## ARTICLE VII

### CONTRACTS, LOANS, CHECKS AND DEPOSITS

SECTION 1. Contracts. The Board of Trustees may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument which is not inconsistent with the Declaration in the name and on behalf of the Association, and such authority may be general or confined to specific instances.

SECTION 2. Loans. No loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by a unanimous

resolution of the Board of Trustees, and if required by the Declaration, by vote of the Members. Such authority may be general or confined to specific instances.

SECTION 3. Checks, Drafts, Etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association shall be signed by such officer or officers, agent or agents of the Association, and in such manner as shall, from time to time, be determined by a resolution of the Board of Trustees.

SECTION 4. Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board of Trustees may, in its sole discretion, select.

SECTION 5. Nothing contained in this Article VII shall, in any way conflict, or in any way otherwise, hamper the duties and obligations as set forth for the Secretary-Treasurer of the Association, as provided in Article VI, Section 6 hereof.

## ARTICLE VIII

### MEMBERSHIP

SECTION 1. Certificates of Stock. Every Commercial Unit Owner in The Plaza at State Street Condominiums shall be entitled to be a Member as provided in the Declaration. No Certificate of Membership or shares shall be issued but such membership shall be appurtenant to the Condominium Unit owned by the Member. Membership shall automatically transfer in conjunction with conveyance of a Commercial Unit.

If a Unit is owned by more than one person or entity, those owners shall be entitled to only the number of votes allocated to that Unit in the Declaration, and shall designate among themselves the person entitled to vote on behalf of the Unit. If the owners of a single Unit cannot agree on who is entitled to vote, no vote may be cast on behalf of the Unit.

It shall be the buyer's obligation to notify the Association of any assignment or sale of a Unit and to request that the membership be transferred on the books of the Association promptly after the closing.

It shall be the duty of each Member to notify the Association of his current mailing address. It is also the duty of each Member to notify the Association of the holders of any mortgage secured by the Members unit, and of the purchaser of his unit if and when the unit is sold.



## ARTICLE IX

### MISCELLANEOUS

SECTION 1. The Board of Trustees shall have the power to fix, and from time to time, to change the fiscal year of the Association. Unless otherwise fixed by the Board of Trustees, the calendar year shall be the fiscal year.

SECTION 2. The Board of Trustees shall, at all times, keep themselves informed and take such steps and necessary actions as a reasonable, prudent man would do to serve the best interest of the Association.

SECTION 3. The Association may appoint an Architectural Control Committee. The Architectural Committee shall be governed by and be made aware of the fact that portions of the Property have been designated as a Historic Building, and is subject to relevant provisions of federal, state and local law related to historic structures. In addition, the Board of Trustees shall appoint other committees as deemed appropriate in carrying out its purpose. If no Architectural Control Committee is created, the Board of Trustees shall fill that function.

SECTION 4. The books, records (including all financial reports and statements), rules and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member, holder, insurer or guarantor of any first mortgages secured by a Unit in the Project. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall also be available for inspection by the same persons and entities at the principal office of the Association during normal business hours. Copies may be purchased at reasonable cost.

SECTION 5. As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. The Association may enforce the lien in the manner provided in the Declaration or as permitted by the Act. No Owner may waive or otherwise escape liability for the assessments by nonuse of the Common Area or abandonment of his Unit.

## ARTICLE X

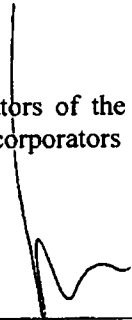
### AMENDMENTS

SECTION 1: Unless otherwise provided herein or in the Declaration, the By-Laws of the Association, regardless of whether made by the Members or by the Board of Trustees, may be amended, added to or replaced by a vote of a majority of a quorum of members present in person or by proxy. The number of votes allocated to a Unit shall be considered in determining whether a quorum exists.

SECTION 2: In the case of any conflict between the Articles of Incorporation and these By-Laws, the By-Laws shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

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The foregoing By-Laws were adopted by the Incorporators of the The Plaza at State Street Commercial Owners Association at a meeting of the Incorporators of said Association held on the 30 day of March, 2012.



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Benjamin C. Logue

**CERTIFICATE**

I, the undersigned, do hereby certify:

THAT I am the duly elected and acting secretary of the The Plaza at State Street Commercial Owners Association, Inc., a Utah non-profit corporation, and,

THAT the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Trustees thereof, held on the 30 day of March 2012.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 30 day of March, 2012.



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Secretary

**BY-LAWS OF**  
**THE PLAZA AT STATE STREET OWNER'S ASSOCIATION, INC.**  
**a Utah non-profit corporation**

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**ARTICLE I**

**OFFICES**

The initial offices of The Plaza at State Street Owner's Association, Inc. (the "Association") in the State of Utah shall be located at 313 South Maryfield Drive, Salt Lake City, Utah 84108.

**ARTICLE II**

**DEFINITIONS**

SECTION 1. "Association" shall mean and refer to The Plaza at State Street Owners Association, Inc, its successor and assigns.

SECTION 2. "Declaration" shall mean and refer to the Declaration for The Plaza at State Street (as it may be amended) applicable to the Properties recorded in the Office of the Salt Lake County Recorder, State of Utah.

SECTION 3. "Declarant" shall mean and refer to Tannach Properties, L.L.C.

SECTION 4. "Limited Common Area" shall mean all of the space shown on the plat for The Plaza at State Street as such.

SECTION 5. "Member" shall mean the owners of and of the Units provided in the Declaration. Any reference to voting or "majorities in interest" shall be determined by the percentage of Undivided Interests held by the Members, which percentages shall be added to determine the number of votes.

SECTION 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Unit which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 7. "Properties" shall mean and refer to all of the condominium units described in the Declaration for The Plaza at State Street, a mixed use development, and

such additions thereto as may hereafter be brought within the jurisdiction of the Association.

SECTION 8. "Unit" shall mean and refer to each Unit, Commercial and Residential, shown upon any recorded subdivision map of the Property with the associated undivided interest in the Common Areas.

### ARTICLE III

#### PURPOSE

The purpose of the Association shall be manage and establish procedures for the entire project, both commercial and residential, and to act as provided in the Declaration for the project. The members of this Association shall include all of the unit owners, both residential and commercial.

### ARTICLE IV

#### MEETINGS

SECTION 1. Annual Meeting. So long as Tannach Properties, L.L.C. and Tannach Commercial Properties, L.L.C. own all of the units, the annual meeting need not be held, and so long as La Porte Management, Inc. is the property manager, it shall be entitled to act on behalf of the Association in all things. Thereafter, the annual meeting of the Members shall be held on the first Wednesday in the month of November of each year. Such meeting may also be called without the required advance notice if all of the Members consent to the meeting and a quorum are present at such a meeting. Written waiver of notice of such meeting shall be attached to the minutes of the annual Members' meeting so called, in the corporate minute book. Meetings of Members must be held at least annually, and not more frequently than every other month.

SECTION 2. Special Meetings. Except as otherwise provided by law, special meetings of the stockholders of this Association shall be held whenever called by a majority of the Board of Trustees, or whenever one or more members who are entitled to vote and who shall make written application therefore to the Board of Trustees stating the time, the place and the purpose of the meeting called. Special Meetings may consider only issues identified in the Notice for the meeting.

SECTION 3. Place of Meeting. The Board of Trustees may designate any place, within Salt Lake City, Utah, unless otherwise prescribed by statute, as the place of meeting for any annual meeting or for any special meeting called by the Board of Trustees. A waiver of notice signed by all Members entitled to vote at a meeting may designate any place within the State of Utah, unless otherwise prescribed by statute, as the place for the holding of such meeting. If no designation is made, or if a special

meeting be otherwise called, the place of meeting shall be the registered office of the Association in the State of Utah.

SECTION 4. Notice of Members' Meeting. Notice of all Members' meetings shall be given as provided in the Declaration of Condominium. The Notice shall specify the place, day and hour of the meeting, and in the case of a special meeting, the purpose of the meeting.

Any meeting of which all Members shall, at any time, waive or have waived notice in writing shall be a legal meeting for the transaction of business notwithstanding that notice has not been given as hereinbefore provided.

SECTION 5. Waiver of Notice. Whenever any notice whatsoever is required to be given by these By-Laws, or by the Certificate of Incorporation of this Association, or by any of the Association laws of the State of Utah, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated herein, shall be deemed equivalent thereto.

SECTION 6. Quorum of Members. Except as herein provided and as otherwise provided by law, at any meeting of Members a majority in interest of all Members of record in person or by proxy shall constitute a quorum, but a less interest may adjourn any meeting, and the meeting may be held as adjourned without further notice; provided if a meeting has been adjourned because a quorum is not present, the rescheduled and re-noticed meeting on the same subject (except the election of trustees) may proceed if twenty five percent of the interests eligible to vote are present, which one fourth shall constitute a quorum. If, however, this quorum shall not be present or represented at any meeting, the members entitled to vote there at shall have the power to adjourn the meeting from time to time, without notice other than the announcement at the meeting, until a quorum (25%) shall be present or represented. When a quorum is present at any meeting, a majority in interest of the interests represented thereat shall decide any question brought before such meeting (except the election of trustees), unless the question is one upon which by express provision of law or of the Certificate of Incorporation or of these By-Laws or by the Declaration, a larger or different vote is required, in which case such express provision shall govern and control the decision of such question. In all events, the minority attendance standards set forth in the Declaration of Condominium shall control on matters addressed in the Declaration, so that if there is any conflict between the Declaration and these By-Laws, the Declaration shall control.

SECTION 7. Closing of Transfer Books or Fixing Record Date. For the purpose of determining Members entitled to notice or vote at any meeting of Members or at any adjournment thereof, or in order to make a determination of Members for any other proper purpose, the Board of Trustees of the Association may provide that the membership books shall be closed for a period not to exceed, in any case, fifteen (15) business days prior to the date that Notice of the meeting is to be given. If the membership books shall be closed for the purpose of determining Members entitled to

notice or to vote at a meeting of Members, such books shall be closed for at least ten (10) business days immediately preceding the date determined to be the date of record. If no shorter date of record is determined, it shall be the date that is thirty days prior to the annual meeting, or the scheduled meeting. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this section, such determination shall apply to any adjournment thereof.

**SECTION 8. Proxy and Voting.** Members of record may vote at any meeting, either in person or by proxy in writing. All proxies shall be in writing and filed with the Secretary-Treasurer of the meeting before being voted. Such proxy shall entitle the holders thereof to vote at any adjournment of such meeting but shall not be valid after the final adjournment thereof. No proxy shall be valid after the expiration of eleven (11) months from the date of execution unless the Member executing it shall have specified therein the length of time said proxy is to continue in force, which shall be for some limited period of time. Each proxy shall be revocable and shall automatically cease upon conveyance by the member of his Unit. Each Member, except as otherwise provided, shall be entitled to vote based upon the percentage ownership allocated to his Unit.

## ARTICLE V

### BOARD OF TRUSTEES

**SECTION 1. General Powers.** The business and the affairs of the Association shall be managed by its Board of Trustees.

**SECTION 2. Number, Tenure and Qualifications.** The number of trustees shall be three. Two of Trustees shall be designated by the owner of Residential Unit 1. The third Trustee shall be elected by the Commercial Unit Owners Association as set forth in the Declaration, or as they shall otherwise determine. The term of the Trustee elected by the Commercial Association shall for three years. The Trustees appointed by the owner of the Residential Unit shall initially serve a one and two year term, and thereafter, a three year term so that one no Trustee is appointed each year. Each trustee elected after December 31, 2014 must be an Owner of a Unit (or after the Declarant no longer owns all of the Units, whichever occurs later). If an owner sells his Unit, he or his appointed trustee must resign as a trustee not later than the closing of the sale of his Unit. So long as the Commercial Units and the Residential Unit are owned by the Declarant, Benjamin Logue shall act as the sole Trustee.

**SECTION 3. Powers of Trustees.** The Board of Trustees shall have the responsibility for the entire management of the business of this Association as described herein and in the Declaration. The Board of Trustees shall have power to adopt and publish rules and regulations governing the use of the Common Area and Facilities, and the personal conduct of the members and their guests thereon, and to establish penalties and fines for the infraction thereof; suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association (such rights may also

be suspended after notice and hearing, for a period of not to exceed 60 days for infraction of published rules and regulations); exercise for the Association all power duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration; declare the office of a member of the Board of Trustees to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Trustees and employ a manager, an independent contractor or such other employees as they deem necessary and to prescribe their duties. In the management and control of the property, business and affairs of the Association, the Board of Trustees is vested with all of the powers possessed by the Association itself insofar as this delegation of authority is not inconsistent with the laws of the State of Utah, the Certificate of Incorporation or with these By-Laws, or with the Declaration. The Board of Trustees shall have the power to determine what constitutes net earnings, profit and surplus, respectively, and what amounts shall be reserved for working capital and of any other purpose. Such determination by the Board of Trustees shall be final and conclusive.

SECTION 4. Duties of Trustees. It shall be the duty of the Board of Trustees to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the members who are entitled to vote;

(b) elect or employ and supervise all officers, agents and employees of this Association, and to see that their duties are properly performed. After their election, the Trustees shall, among themselves, designate one of their number to be the President and one to be the Secretary-Treasurer;

(c) unless otherwise provided in the Declaration as required by the Declaration, to:

(1) fix the amount of the annual assessment for the Association against each Unit at least thirty (30) days in advance of each annual assessment period and in accordance with the budget prepared pursuant to paragraph 8.1 of the Declaration;

(2) send written notice of each such assessment to every Owner and Non-Managing Member (as defined in the Declaration) subject thereto at least thirty (30) days in advance of each annual assessment period (provided, however, that failure to do so shall not affect the validity of the assessment after it is made); and

(3) foreclose the lien against any property for which assessments are not paid as provided for in the Declaration;



(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge not to exceed \$25.00 may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) procure and maintain insurance as required by the Declaration on property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, consistent with the Declaration or in addition thereto as it may deem appropriate;

(g) cause the Limited Common and Common Areas to be maintained, and to the extent the Commercial Association fails to maintain the Limited Common areas associated with their Units, to maintain those areas at the expense of the Commercial Association;

(h) levy and collect general and special assessments for common expenses in accordance with the budget prepared pursuant to paragraph 8.1 of the Declaration;

(i) establish and amend administrative rules governing the details of the operation and use of common areas and facilities, which rules shall not be inconsistent with the Declaration;

(j) to give notice as required by the Declaration, and to perform the tasks set forth in the Declaration for the Trustees;

**SECTION 6. Meeting of Trustees.** Regular meetings of the Board of Trustees shall be held as required by the Declaration at such places and at such time as the Board of Trustees by vote may determine, and if so determined, no notice thereof need be given. Notice shall be given as required by the Declaration.

**SECTION 7. Quorum of Trustees.** A majority of the members of the Board of Trustees as constituted for the time being shall constitute a quorum for the transaction of business, but a lesser number not less than one (1) may adjourn any meeting and the meeting may be held as adjourned without further notice. When a quorum is present at any meeting, the majority of the members present thereat shall decide any questions brought before such meeting except as otherwise provided by law or by these By-laws.

**SECTION 8. Vacancies.** Any vacancy occurring in the board of Trustees may be filled by appointment of the appropriate Unit Owner (in the case Residential Unit) or by the Commercial Association. A trustee appointed to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

SECTION 9. Compensation. By resolution of the Board of Trustees, trustees may be paid their expenses, if any, for attendance at each meeting of the Board of Trustees, but shall not be paid a fixed sum for attendance at each meeting of the Board of Trustees or a stated salary as trustee. A trustee may serve the Association in any other capacity and receive compensation therefore if approved by the Association.

SECTION 10. Presumption of Assent. A trustee of the Association who is present at a meeting of the Board of Trustees at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent of such action with the person acting as secretary of the meeting or the adjournment thereof, or shall forward such dissent by registered mail to the Secretary-Treasurer of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a trustee who voted in favor of such action.

SECTION 11. Formal Action by Trustees. Unless otherwise provided by law, any action required to be taken at a meeting of the Board of Trustees or any other action which may be taken at a meeting of the Board of Trustees may be taken without a meeting if a consent in writing, setting forth the action so taken shall be signed by all the trustees entitled to vote with respect to the subject matter thereof.

## ARTICLE VI

### OFFICERS

SECTION 1. Officers of the Association. The officers of this Association shall each be an elected Trustee, and shall include a President and a Secretary-Treasurer. The President, when present, shall preside at all meetings of the Board of Trustees, shall have other such powers as the Board of Trustees may, from time to time, prescribe. All of the officers shall be elected by the Board of Trustees.

SECTION 2. Eligibility of Officers. After January 1, 2015 or such date as the Declarant is not longer the owner of all of the Units, whichever occurs later, the President and of the Board of Trustees shall be a Unit Owner or a designee of a Unit Owner. Prior to that time, the officers may include partners in or persons nominated by the Declarant. The Secretary-Treasurer and such other officers as may be elected or appointed, need not be Members of the Association. Any person may hold more than one office provided the duties thereof can be consistently performed by the same person; provided, however, that no person shall, at any time, hold the both offices of President and Secretary-Treasurer.

SECTION 3. Additional Officers and Agents. The Board of Trustees, in its discretion, may appoint a property manager who shall report directly to them.

SECTION 4. Election and Term of Office. The officers of the Association to be elected by the Board of Trustees shall be elected annually by the Board of Trustees at the first meeting of the Board of Trustees held after each annual meeting of the Members. If

the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as may be convenient. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall resign or have been removed in the manner hereafter provided.

SECTION 5. President. The President shall be the chief executive officer of the Association and, when present, shall preside at all meetings of the Members and shall preside at meetings of the Board of Trustees. The President shall sign all certificates, instruments, and contracts of the Association. He shall perform all the duties commonly incident to his office and shall perform such other duties as the board of Trustees shall designate from time to time.

SECTION 6. Secretary-Treasurer. The Secretary-Treasurer shall keep accurate minutes of all meetings of the Members and of the Board of Trustees and shall perform such other duties and have such other powers as the Board of Trustees shall, from time to time, so designate. In his absence at any meeting, an Assistant Secretary-Treasurer or a Secretary-Treasurer Pro Tempore may be designated to perform his duties thereat. The Secretary-Treasurer and any Secretary-Treasurer Pro Tempore shall be sworn to the faithful discharge of their duties.

The Secretary-Treasurer, subject to the order of the Board of Trustees, shall also have the care and custody of the money, funds, valuable papers, records, and documents of the Association (other than his own bond, if any, which shall be in the custody of the President), and shall have and exercise, under the supervision of the Board of Trustees, all the powers and duties commonly incident to his office and shall give bond in such form and with such sureties as shall be required by the Board of Trustees. He shall deposit all funds of the Association in such bank or banks, trust company or trust companies, or with such firm or firms doing a banking business as the trustees shall, from time to time, so designate. The treasurer may endorse for deposit for collection all checks and notes payable to the Association or to its order, may accept drafts on behalf of the Association and, together with the President or Vice-President, may sign certificates of stock. He shall keep accurate books of account of the Association's transactions which shall be the property of the Association and, together with all property in his possessions, shall be subject at all times to the inspection and control of the Board of Trustees.

All checks, drafts, notes or other obligations for the payment of money shall be signed by such officer or officers or agent or agents as the Board of Trustees shall, by general or special resolution, direct. The Board of Trustees may also in its discretion, require by general or special resolutions, that checks, drafts, notes and other obligations for the payment of money shall be countersigned or registered as a condition to their validity by such officer or officers or agent or agents as shall be directed in such resolution.

SECTION 7. Resignations and Removals. Any trustee or officer of the Association may resign at any time by giving written notice to the Association, to the Board of Trustees, or to the Chairman of the Board, or to the President or Secretary-

Treasurer of the Association. Any such resignation shall take effect at the time specified therein or, if the time be not specified therein, upon its acceptance by the Board of Trustees.

The Board of Trustees, by vote of not less than a majority of the entire board, may remove from office any officer or agent elected or appointed by it with or without cause; provided however, that so long as Benjamin Logue is an officer or trustee, so long as he is an owner of any Unit, he may not be removed from either position without his consent.

SECTION 8. Vacancies. If the office of an officer or trustee becomes vacant by reason of death, resignation, removal, disqualification or otherwise, the Unit owner appointing that Trustee may choose a successor who shall hold office for the unexpired term. If the remaining trustee is the representative elected by the Commercial Association the replacement trustee must be a representative, in some legal capacity, of the owners of the Commercial Units.

SECTION 9. Salaries. No salaries shall be paid to any officer or Trustee.

## ARTICLE VII

### CONTRACTS, LOANS, CHECKS AND DEPOSITS

SECTION 1. Contracts. The Board of Trustees may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument which is not inconsistent with the Declaration in the name and on behalf of the Association, and such authority may be general or confined to specific instances.

SECTION 2. Loans. No loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by a unanimous resolution of the Board of Trustees, and if required by the Declaration, by vote of the Members. Such authority may be general or confined to specific instances.

SECTION 3. Checks, Drafts, Etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association shall be signed by such officer or officers, agent or agents of the Association, and in such manner as shall, from time to time, be determined by a resolution of the Board of Trustees.

SECTION 4. Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board of Trustees may, in its sole discretion, select.

SECTION 5. Nothing contained in this Article VII shall, in any way conflict, or in any way otherwise, hamper the duties and obligations as set forth for the Secretary-Treasurer of the Association, as provided in Article VI, Section 6 hereof.

## ARTICLE VIII

### CERTIFICATES FOR SHARES AND THEIR TRANSFER

SECTION 1. Certificates of Stock. Every Unit Owner in The Plaza at State Street Condominiums shall be entitled to be a Member of the Association as provided in the Declaration of Condominiums. No Certificate of Membership or shares shall be issued but such membership shall be appurtenant to the Condominium Unit owned by the Member. Membership shall automatically transfer in conjunction with conveyance of the Condominium Unit.

If a Unit is owned by more than one person or entity, those owners shall be entitled to only the number of votes allocated to that Unit in the Declaration, and shall designate among themselves the person entitled to vote on behalf of the Unit. If the owners of a single Unit cannot agree on who is entitled to vote, no vote may be cast on behalf of the Unit.

It shall be the buyer's obligation to notify the Association of any assignment or sale of a Unit and to request that the membership be transferred on the books of the Association promptly after the closing.

It shall be the duty of each Member to notify the Association of his current mailing address. It is also the duty of each Member to notify the Association of the holders of any mortgage secured by the Members unit, and of the purchaser of his unit if and when the unit is sold.

## ARTICLE IX

### MISCELLANEOUS

SECTION 1. The Board of Trustees shall have the power to fix, and from time to time, to change the fiscal year of the Association. Unless otherwise fixed by the Board of Trustees, the calendar year shall be the fiscal year.

SECTION 2. The Board of Trustees shall, at all times, keep themselves informed and take such steps and necessary actions as a reasonable, prudent man would do to serve the best interest of the Association.

SECTION 3. The Association may appoint an Architectural Control Committee. The Architectural Committee shall be governed by and be made aware of the fact portions of the Property has been designated as a Historic Building, that portions of the property include low income housing, that Low Income Housing Tax Credits, Historic Tax Credits and New Market Tax Credits are at issue and must be protected, and are subject to relevant provisions of federal, state and local law related thereto. In addition, the Board of Trustees shall appoint other committees as deemed appropriate in carrying

out its purpose. If no Architectural Control Committee is created, the Board of Trustees shall fill that function.

SECTION 4. The books, records (including all financial reports and statements), rules and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member, Unit Owner, holder, insurer or guarantor of any first mortgages secured by a Unit in the Project. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall also be available for inspection by the same persons and entities at the principal office of the Association during normal business hours. Copies may be purchased at reasonable cost.

SECTION 5. As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent, and the Association may proceed as described in the Declaration. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Unit.

#### ARTICLE X

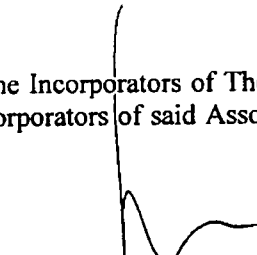
#### AMENDMENTS

SECTION 1: Unless otherwise provided herein or in the Declaration, the By-Laws of the Association, regardless of whether made by the Members or by the Board of Trustees, may be amended, added to or replaced by a vote of a majority of a quorum of members present in person or by proxy. The number of votes allocated to a Unit shall be considered in determining whether a quorum exists.

SECTION 2: In the case of any conflict between the Articles of Incorporation and these By-Laws, the By-Laws shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

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The foregoing By-Laws were adopted by the Incorporators of The Plaza at State Street Owners Association at a meeting of the Incorporators of said Association held on the 30 day of March, 2012.

  
\_\_\_\_\_  
Benjamin C. Logue

**CERTIFICATE**

I, the undersigned, do hereby certify:

THAT I am the duly elected and acting secretary of the State Street Plaza Condominium Owners Association, Inc., a Utah non-profit corporation, and,

THAT the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Trustees thereof, held on the 30 of March, 2012.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 30 day of March, 2012.

  
\_\_\_\_\_  
Secretary

## EXHIBIT C

### RULES AND REGULATIONS

The rules and regulations set forth in this Exhibit are a part of the Declaration of Condominium and By-Laws (the "Declaration") of the Association of Owners of the Plaza at State Street Condominiums, located in Salt Lake City, Utah, and constitute the initial "Rules and Regulations," as defined in the Declaration and adopted by the Board of Trustees of the Association of Owners. The terms capitalized in this Exhibit shall have the same meaning as set forth in the Declaration.

1. Obstruction. No sidewalks, entries, exits, passages, corridors, halls, lobbies, stairways, elevators or other similar Common Areas shall be obstructed or used for any purpose other than for ingress or egress to and from the Units. No Owner shall place any item in any of such locations, whether or not such item constitutes an obstruction, without the prior written consent of the Board of Trustees. The Board of Trustees may remove any obstruction or any such item without notice to any Owner and at the sole cost of the Owner concerned. No sidewalks, entries, exits, passages, corridors, halls, lobbies, stairways, elevators or other Common Areas are for the general public, and the Board of Trustees shall in all cases retain the right to control and prevent access to them by all Persons whose presence, in the judgment of the Board of Trustees, would be prejudicial to the safety, character, reputation or interests of the Project or the Owners. No Owner shall go onto the roof (directly or through a representative) of the Residential Units without the permission of the Board of Trustees.

2. Deliveries. All deliveries and pickups of merchandise, supplies, materials, garbage and refuse to or from the Units shall be made only through such access as may be designated by the Board of Trustees for deliveries and only during hours designated. No Owner shall obstruct or permit the obstruction of any such access. Each Owner shall be liable for the acts and omissions of any Persons making such deliveries or pickups to or from its Unit.

3. Moving. Furniture and equipment shall be moved in and out of the Building only through such access as may be designated by the Board of Trustees for deliveries and then only during such hours and in such manner as may be prescribed by the Board of Trustees. If any Owner's movers damage any part of the Project, the Owner concerned shall pay to the Board of Trustees on demand the amount required to repair such damage.

4. Heavy Articles. No safe or article, the weight of which may, in the reasonable opinion of the Board of Trustees, constitute a hazard of damage to the Building, shall be moved into the Building. Other safes and heavy articles shall be moved into, from or about the Building only during such hours and in such manner as shall be prescribed by the Board of Trustees, and the Board of Trustees may designate the location of such safes and articles.



5. Use of Water Fixtures. Water closets and other water fixtures shall not be used for any purpose other than that for which the same are intended. No foreign objects of any kind shall be placed in them, and any damage resulting to the same from use on the part of any Owner shall be paid for by the Owner concerned.

6. Excessive Noise. No Person shall disturb the occupants of the Building by the use of any electronic equipment or musical instrument or the making of loud or improper noises. In the Residential Unit, quiet hours shall be from 10:00 pm until 7:00 am, unless otherwise established by the Board of Trustees.

7. Animals. No pets or animals shall be allowed in the Building other than guide dogs for hearing or vision impaired Persons, or licensed service dogs needed by a resident of the improvements.

8. Bicycles. Bicycles and other vehicles shall not be permitted anywhere inside or on the sidewalks outside of the Building, except in those areas designated by the Board of Trustees.

9. Trash. No Owner or Occupant of a Unit shall allow any trash or refuse to be placed on the outside of the Building or of a Unit, nor shall anything be thrown by any Owner out of the windows or doors or down the corridors or ventilating ducts or shafts of the Building. All trash and refuse shall be placed in receptacles provided by the Board of Trustees.

10. Exterior Areas. The Owner of the Residential Unit shall maintain uniform window coverings approved by the Board of Trustees. If window coverings are used by the Commercial Units, they shall also be approved by the Board of Trustees. No radio or television antenna or any wiring for any purpose may be installed on the exterior of the Building without the prior written approval of the Board of Trustees. All doors forming or situated at an exterior boundary of a Unit or visible from any part of the Common Areas shall be of a type, quality, style and color as determined by the Board of Trustees.

11. Hazardous Operations and Items. No Owner shall install or operate any steam or gas engine or boiler, or carry on any mechanical business in the Building without the Board of Trustees' prior written consent. No Owner shall use or keep in the Building any kerosene, gasoline or other inflammable or combustible fluid or material. Explosives or other articles deemed extra hazardous shall not be brought into the Building.

12. Hours for Repairs, Maintenance and Alteration. Any repairs, maintenance and alterations required or permitted to be done by any Owner under the Declaration shall be done only during the ordinary business hours of the Building unless the Board of Trustees shall have first consented in writing to such work being done at other times.

13. Solicitation. The Board of Trustees reserves the right to restrict, control or prohibit canvassing, soliciting and peddling within the Building.

14. Directory. Any bulletin board or directory of the Building shall be provided exclusively for the display of the name and location of each Owner only or its tenant and the Board of Trustees reserves the right to exclude any other names. Each Owner shall pay the Board of Trustees' reasonable charges for changing any directory listing at any Owner's request.

15. Smoking. Smoking shall not be allowed in any Unit or in any Common Areas. The building shall be smoke free.

16. Painting and Decorating Visible From the Building Exterior. The building is a historic structure, and it is important to maintain its outward appearance in a uniform manner. No painting or color changes shall be done or made to areas visible from the street without the prior written approval of the Board of Trustees. Similarly, any window coverings must be approved in advance by the Board of Trustees.

17. Business Activities. No business activities shall be permitted in any portion of the Project which adversely affects tax or other credits which have been awarded to the Declarant. Without limitation, the following business activities shall not be engaged in in any part of the Project: a) any activity contrary to law, b) live entertainment, c) gambling of any type, or d) a billiards hall or any business space containing a billiards table or tables