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**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
AND GRANT OF EASEMENTS
FOR
THE POST DISTRICT**

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**DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS AND GRANT OF EASEMENTS
FOR THE POST DISTRICT**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND GRANT OF EASEMENTS FOR THE POST DISTRICT (this "Declaration") is made as of May 22, 2020, by **BB NAC Apartments, LLC**, a Delaware limited liability company ("Declarant").

RECITALS

A. Declarant and Bridge BLOQ NAC, LLC, a Delaware limited liability company ("Other Owner"), which entity executes this Declaration for the purpose of consenting to and agreeing to be bound by this Declaration, collectively own the real property located in Salt Lake County, Utah, that is described on Exhibit A attached hereto and made a part hereof ("Property").

B. Declarant desires to develop a coordinated and compatible residential and commercial mixed use real estate development (the "Project") on a portion of the Property, and the Other Owner, by itself or through one or more subsidiary or affiliated entities, also desires to develop a portion of the Project upon the portion of the Property owned by Other Owner.

C. Declarant and Other Owner deem it necessary and desirable to subject the Property to the covenants, conditions, restrictions, reservations, easements, assessments, charges and liens set forth in this Declaration.

DECLARATION

In consideration of the foregoing, Declarant hereby declares as follows:

ARTICLE I
DECLARATION

1.01 Declaration.

Declarant hereby creates a coordinated and compatible mixed use real estate development project named the "Post District" on the Property (as such term is defined below) and declares that the Property shall be held, sold and conveyed subject to the covenants, conditions, restrictions, reservations, easements, assessments, charges, liens and other provisions of this Declaration.

1.02 Covenants Running With the Land.

All covenants, conditions, restrictions, reservations, easements, charges, liens and other provisions of this Declaration are covenants running with the land, or equitable servitudes, as the case may be. The obligations, burdens and benefits created by this Declaration shall bind and inure to the benefit of Declarant, the Owners (as such term is defined below), and all other parties having any right, title or interest in the Property or any portion thereof and their respective successors, assigns, heirs, devisees, executors, administrators and personal representatives.

1.03 Exemption from the Act.

The parties hereto acknowledge that this Declaration is not subject to the Act (as defined below), notwithstanding that the Project may be comprised of one or more individual condominium projects or developments which may independently be subject to the Act, developed on Sites within the Project.

ARTICLE II DEFINITIONS

2.01 Basic Definitions.

As used in this Declaration, the following terms shall have the meanings given to them in this Section 2.01, unless the context expressly requires otherwise.

(a) "Act" means the Utah Condominium Ownership Act, Utah Code Sections 57-8-1 through 57-8-37, as the same may be amended from time to time.

(b) "Assessments" means those amounts assessed by Managing Owner, on behalf of all of the Owners and in connection with Managing Owner's duties hereunder, against the Owners, as permitted in this Declaration, including but not limited to with respect to the management, operation, maintenance, repair and improvement by the Managing Owner, on behalf of the Owners, of the Easement Areas and Facilities.

(c) "Assessment Lien" means the lien created by reason of the delinquency described in and upon recordation of a Notice of Assessment Lien.

(d) "Building" means any enclosed structure designated for the exclusive use of an occupant or occupant(s), as the case may be, placed, constructed or located on a Site, which for purpose of this Declaration shall include any appurtenant supports, service areas and other outward extensions. "Building" does not include any ground-level, uncovered parking lot.

(e) "Building Square Footage" means the number of rentable square feet (or fraction of a square foot) of any Building within the Project (excluding any Easement Areas and Facilities and structured parking facilities), as determined based upon the building permit issued for such Building by the City, in accordance with the plans and specifications that are the basis for such building permit. The Building Square Footage may be adjusted by the Managing Owner in its reasonable discretion, in the event of manifest error.

(f) "City" means Salt Lake City.

(g) "Commercial Building" means any Building located on a Commercial Site, used either for office or for retail purposes, or a combination of both, and otherwise in accordance with the terms and provisions of this Declaration applicable to the use of Commercial Buildings, as more particularly set forth in Section 3.03 below.

(h) "Commercial Site" means such Site or Sites identified on the Project Map as a "Commercial Site," together with certain additional Sites which may be designated as "Commercial Sites" by Declarant at any time and from time to time pursuant to Section 12.02, upon which a Commercial Building or Commercial Buildings are or will be located. A "Commercial Site" shall mean any of such Sites, individually. In the event that a Commercial Site depicted on the Project Map is further subdivided into smaller lots by Declarant prior to Declarant's conveyance of such lot (s) to a third party, such smaller lot(s) shall each be deemed to be a separate "Commercial Site" for purposes of this Declaration.

(i) “Common Expenses” means:

(i) any and all costs, expenses and liabilities incurred by or on behalf of the Managing Owner, including costs, expenses and liabilities for (A) performing the obligations of Managing Owner as set forth herein with respect to the Easement Areas and Facilities, including but not limited to the Managing Owner’s expenses for services in connection with its obligations) associated with managing, operating, insuring, improving, repairing, replacing and maintaining of such Easement Areas and Facilities, but only to the extent that the foregoing is not performed with respect to such Easement Areas and Facilities by the City, an applicable services district, or other governmental or quasi-governmental agency or utility; (B) administering and enforcing the covenants, conditions, restrictions, reservations and easements created hereby, to the extent authorized to do so as set forth herein; (C) levying, collecting and enforcing the Assessments, charges and liens imposed pursuant hereto; and (D) taking any action it deems necessary or appropriate in its commercially reasonable judgment to protect the general welfare of Owners, Guests and the general public, and (E) reimbursements for commercially reasonable fees paid for the services provided by Managing Owner hereunder; and

(ii) a reasonable amount of reserves for any such costs, expenses and liabilities, which reserves shall be held by Managing Owner in a trust account designated for the exclusive purposes set forth herein.

(j) “Common Parking Areas” are those parking areas and structures within the Property which are identified on the Project Map (or otherwise designated at some future date by the Declarant in its commercially reasonable business judgment, provided that such future designation shall occur only with respect to portions of the Property that have not previously been conveyed to third parties) as intended for the use of all Owners of the Project.

(k) “Common Utilities” means any and all water, storm water, sewer, gas, telephone, electricity and cable communication infrastructure, service lines and systems within the Project to be maintained as Easement Areas and Facilities for the Project, as determined by Declarant in its sole discretion.

(l) “Salt Lake County Records” means the Office of the Recorder for Salt Lake County, Utah.

(m) “Declarant” means BB NAC Apartments, LLC, a Delaware limited liability company, and its successors and assigns (as documented pursuant to Section 16.04 below).

(n) “Declarant Affiliated Entities” means any entity, entities or Persons that directly or indirectly through one or more relationships influences or controls, is influenced or controlled by, or is under common influence or control with Declarant. This definition includes, but is not limited to, parents, subsidiaries, investors, joint ventures, or brother-sister entities of Declarant.

(o) “Declaration” means this Declaration of Covenants, Conditions and Restrictions and Grant of Easements for the Post District, as the same may be amended or supplemented from time to time, together with all Plats for the Project, as the same may be amended or supplemented from time to time.

(p) “First Mortgage” means any Mortgage which is not subordinate to any other lien or encumbrance, except liens for taxes or other liens which are given priority by statute.

(q) "First Mortgagee" means a Mortgagee with respect to a First Mortgage.

(r) "Guest" means any employee, agent, independent contractor, tenant, subtenant, lessee, customer, patron, vendor, service provider, contractor, subcontractor, invitee, licensee, family member, or guest of an Owner.

(s) "Majority," whether or not capitalized, means any percentage greater than 50 percent. When used with reference to Building Square Footage, unless otherwise specified, a majority shall be determined based on the total amount of Building Square Footage of Buildings subject to this Declaration. When used with reference to First Mortgagees, unless otherwise specified, a majority shall be determined based on the total amount of Building Square Footage allocable to the properties within the Project which are subject to first position liens held by such First Mortgagees.

(t) "Managing Owner" shall mean a Person designated to perform the obligations of "Managing Owner" under this Declaration, as more fully set forth in Article VII.

(u) "Managing Owner's Address" means the mailing address of the Managing Owner, which mailing address shall be identified by the initial Managing Owner and by any replacement Managing Owner pursuant to a notice of address delivered to each of the Owners of the Sites within the Project, at such Owner's address on file with the property tax records of Salt Lake County, promptly upon the appointment of such applicable Managing Owner, and upon the change of mailing address of such applicable Managing Owner.

(v) "Mixed Use Building" shall mean any Building located on a Mixed Use Site, used primarily for both residential and commercial retail purposes, and otherwise in accordance with the terms and provisions of this Declaration applicable to the use of Mixed Use Buildings, as more particularly set forth in Section 3.02 below.

(w) "Mixed Use Site" means such Site or Sites identified on the Project Map as a "Mixed Use Site," together with certain additional Sites which may be designated as "Mixed Use Sites" by Declarant at any time and from time to time pursuant to Section 12.02, upon which a Building or Buildings containing residential, office, retail and/or parking uses are or will be located. A "Mixed Use Site" shall mean any of such Sites, individually. In the event that a Mixed Use Site depicted on the Project Map is further subdivided into smaller lots by Declarant prior to Declarant's conveyance of such lot (s) to a third party, such smaller lot (s) shall each be deemed to be a separate "Mixed Use Site" for purposes of this Declaration.

(x) "Mortgage" means any mortgage, deed of trust or other document encumbering or pledging any Site or any interest in a Site as security for payment of a debt or obligation.

(y) "Mortgagee" means any Person named as a mortgagee or beneficiary in any Mortgage, or any successor to the interest of any such Person under a Mortgage.

(z) "Notice of Assessment Lien" means a notice recorded in the Salt Lake County Records by Managing Owner on behalf of all of the Owners, regarding any Assessment or other sum of money payable by any Owner pursuant to any provision of this Declaration stating that said assessment or sum has not been paid.

(aa) "Owner" means the record holder of legal title to the fee simple interest in any Site, or ground lessee of any Site (provided the Owner of such Site so designates such party, which designation must be set forth in a written statement recorded in the Salt Lake County Records). If there is

more than one record holder of legal title to a Site, such record holders shall designate one of them to act on behalf of all such Persons in the enforcement and of rights and the performance of the provisions of this Declaration. Any such designation shall be in writing, duly executed and acknowledged by each such Person and recorded in the Salt Lake County Records. A majority of such Persons shall have the right, from time to time, to change the designation made by executing, acknowledging, delivering and recording a new notice of designation in the same manner set forth above. The term "Owner" includes Declarant to the extent that Declarant is the record holder of legal title to the fee simple interest in any Site.

(bb) "Person" means any natural person, corporation, partnership, limited liability company, association, trust, trustee, governmental or quasi-governmental entity or any other person or entity recognized as being capable of owning real property under the laws of the State of Utah.

(cc) "Plat" means the plat or plats comprising the Project, as the same may be recorded, amended and supplemented from time to time.

(dd) "Prohibited Uses" shall mean any use or operation which is inconsistent with the development or operation of the Project as a first class retail, commercial, entertainment, residential, office and/or community project, as so operated, as reasonably determined by Declarant and/or Managing Owner, as set forth herein. Included among the uses or operations which are objectionable are the following uses or operations, or any uses or operations which produce, are accompanied by or involve the following characteristics, which list is not intended to be all-inclusive:

(i) Any use which constitutes a public or private nuisance;

(ii) Any use which produces noise or sound which may be heard outside of any Building and is objectionable due to intermittence, beat, frequency, shrillness or loudness; provided, however, this restriction shall not preclude public performances (including concerts) or other public events in portions of the Project as approved by the Managing Owner;

(iii) Any use which produces any noxious odor or which may be smelled outside any Building other than such odors as are typically incidental to first class retail operations, including odors typically incidental to beauty and nail salons, restaurants, fast food restaurants or other food service establishments;

(iv) Any use which produces any excessive quantity of dust, dirt or ash; provided, however, this prohibition shall not preclude the sale of items typically sold as an incident to the operation of a home improvement or other similar store (provided such items are sold in containers);

(v) Any use involving unusual fire, explosive or other damaging or dangerous hazards (including the storage, display or sale of explosives or fireworks); provided, however, this restriction shall not prohibit annual or other periodic displays of fireworks in connection with national, regional or other holidays or events of significance in the area of the Project;

(vi) Any warehouse, assembly, manufacturing, distillation, refining, smelting, agriculture or mining operation;

(vii) Any mobile home or trailer court, mortuary, labor camp, junkyard, stock yard or use involving animal raising; provided, however, first class pet stores shall be permitted within the Project;

(viii) Any operation for drilling for and/or removal of subsurface substances, including but not limited to oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance of any kind;

(ix) Any operation involving dumping, disposal, incineration or reduction of garbage or refuse, other than in enclosed receptacles intended for such purposes;

(x) Any use involving the display or distribution of pornographic materials, adult books and magazines or X-rated videos or similar productions, and strip clubs and the like; provided, however, the following shall be permitted with the Project; (i) the sale of such adult magazines and books as may be carried by a convenience, supermarket, drug, record or full-line book store, and (ii) the sale and/or rental of X-rated videos and similar productions from full-line record and/or video stores, provided such X-rated videos are not shown on screen in any such store, but are kept behind a counter or in a reserved area and are not advertised or placed on display to minors; and

(xi) Any off-track betting facility.

Notwithstanding the foregoing, it is understood that use of the Commercial Sites may involve product testing or other commercial uses that may be objectionable to some Owners or occupants of the Project. In the event complaints are made by any Owner(s) or occupant(s) concerning the consequences of product testing or similar commercial uses, including, without limitation, smoke emissions, noise or other consequences thereof, on a Commercial Site, the Owner and/or occupant of such Commercial Site shall promptly take commercially reasonable steps to address such complaints, including, without limitation, coordinating future product testing or similar activities with Declarant and/or Managing Owner, in an effort to address such complaints and minimize any nuisance resulting from such product testing or similar activities. If such Owner takes the foregoing steps and properly coordinates such testing or similar uses with Declarant and/or Managing Owner, and provided such Owner's use complies with all applicable laws, ordinances and regulations, such use shall not constitute a Prohibited Use.

(ee) "Project" has the meaning set forth in the Recitals.

(ff) "Project Map" means the map of the Project attached hereto and made a part hereof as Exhibit B, as the same may be amended and supplemented from time to time by Declarant. The Project Map is a general representation of the Project, but is subject to change from time to time in the reasonable business judgment of Declarant.

(gg) "Property" means the Property as defined in Exhibit A to this Declaration.

(hh) "Residential Building" shall mean any residential Building located on a Residential Site, used primarily for residential purposes, and otherwise in accordance with the terms and provisions of this Declaration applicable to the use of Residential Buildings, as more particularly set forth in Section 3.02 below.

(ii) "Residential Site" means such Site or Sites identified on the Project Map as a "Residential Site," together with certain additional Sites which may be designated as "Residential Sites" by Declarant at any time and from time to time pursuant to Section 12.02, upon which a Residential Building or Residential Buildings are or will be located. A "Residential Site" shall mean any of such Sites, individually. In the event that a Residential Site depicted on the Project Map is further subdivided into smaller lots by Declarant prior to Declarant's conveyance of such lot(s) to a third party, such smaller lot(s) shall each be deemed to be a separate "Residential Site" for purposes of this Declaration.

(jj) "Easement Areas and Facilities" means any real estate more particularly identified as Easement Areas and Facilities in the Project Map, which real estate is located within the exterior boundaries of the Project and any improvements or fixtures located on such real estate, whether owned, leased, or otherwise used under legal authority by an Owner and/or the Managing Owner, that is made available for the general use, convenience and benefit of all Owners and/or Guests of the Project and/or the public; provided, however, that Easement Areas and Facilities shall not refer to any such real estate, improvements or fixtures which are intended to benefit only one or more Sites, but not all of the Sites, within the Project. Without limitation, Easement Areas and Facilities shall include the areas more particularly identified as Easement Areas and Facilities in the Project Map, which areas include the following areas within the exterior boundaries of the Project as more particularly depicted in the Project Map: (i) all Common Parking Areas, (ii) main roadways, driveways, sidewalks, walkways, trails and paths designated by the Declarant as Easement Areas and Facilities for the Project; (iii) all landscaped and planted areas in the Project, as well as landscaped and planted areas immediately adjacent to the Project such as, but not limited to, landscaped medians, designated by the Declarant as Easement Areas and Facilities for the Project, (iv) Common Utilities, and (v) monument and other signage for general use by the Project. Notwithstanding the foregoing, "Easement Areas and Facilities" shall not include the foregoing improvements (or portions thereof) which have been or are hereafter dedicated to the City, an applicable services district, or other governmental or quasi-governmental agency or utility.

(kk) "Site" means those several parcels of property located within the Project, which together comprise the Project and which are designated (either in this Declaration, a Plat, the Project Map, or by future modification of this Declaration, the Plat, the Project Map, or other instrument recorded in the Salt Lake County Records by Declarant, in accordance with Section 12.02 below) as a Residential Site or a Commercial Site.

(ll) "Special Declarant Rights" means the rights reserved by Declarant in Article XII below.

(mm) "Subdivided Site" means a Site comprised of two or more Sub-Units, which Site is subdivided following the initial conveyance by Declarant to a third party in accordance with the provisions of Section 3.08.

(nn) "Sub-Declaration" means a declaration of covenants, conditions and restrictions, or its functional equivalent, recorded against a Subdivided Site, if any, for the purpose of subdividing a Site into common elements and various smaller Sub-Units capable of separate ownership.

(oo) "Sub-Owner" means the record holder of legal title to the fee simple interest in any Sub-Unit within a Subdivided Site, or ground lessee of any full Sub-Unit (provided the Sub-Owner of such Sub-Unit so designates such party, which designation must be set forth in a written statement recorded in the Salt Lake County Records).

(pp) "Sub-Unit" means a residential or commercial condominium, townhome, or other unit or legally subdivided property located within a Subdivided Site.

(qq) "Supplemental Declaration" means additional covenants, conditions and restrictions which may be placed on the Property or any portion thereof by one or more instruments recorded in the Salt Lake County Records which further restrict the use, density or design of the applicable property, and which shall have been approved in writing by the Declarant.

2.02 Gender and Number.

Whenever the context of this Declaration so requires:

- genders; (a) words used in the masculine gender shall include the feminine and neuter genders;
- genders; (b) words used in the neuter gender shall include the masculine and feminine genders;
- (c) words used in the singular shall include the plural; and
- (d) words used in the plural shall include the singular.

2.03 Definitions that Reference Statutes.

If a capitalized term used in this Declaration is defined as having the meaning given to that term in a particular Utah statute, the meaning given to that term in this Declaration shall be the meaning given to that term in the particular Utah statute as of the date of this Declaration, regardless of any later amendments to that particular Utah statute.

ARTICLE III
USE; COVENANTS, CONDITIONS AND RESTRICTIONS

3.01 Lawful Use.

Except as otherwise limited pursuant to this Declaration, the Project may be used for any lawful retail, commercial, entertainment, office, cultural and/or community purpose not specifically prohibited herein. Notwithstanding anything to the contrary herein, no portion of the Project shall be used for a Prohibited Use.

3.02 Use of Residential Sites.

The Residential Sites shall be used only for multifamily residential purposes, and for no other use without the prior written consent of the Declarant, which shall not be unreasonably withheld; provided, however, the Declarant shall have the right, in its sole discretion, to refuse to consent to a change in use of any Residential Sites to a retail, commercial, office, industrial or entertainment use. No business operation shall be performed or carried out on any Residential Sites without the prior written consent of the Declarant, which consent may be withheld in Declarant's sole but good faith discretion; provided, however this restriction shall not prohibit the incidental use of individual residential units on Residential Sites for the operation of home offices or businesses so long as any such offices and businesses are not open or available to the general public.

3.03 Use of Commercial Sites.

The Commercial Sites shall be used only for (a) first class office purposes, (b) first class retail purposes (including entertainment and restaurant), service commercial purposes (meaning banking, travel agency, real estate, insurance, tax preparation and similar types of office users), or (c) a combination of such uses, and for no other purpose without the prior written consent of the Declarant, which shall not be unreasonably withheld; provided, however, the Declarant shall have the right, in its sole discretion, to refuse to consent to a change in use of any Commercial Site to a residential use.

3.04 Use of Mixed Use Sites.

The Mixed Use Sites shall be used only for (a) multifamily residential purposes, (b) first class office purposes, (c) first class retail purposes (including entertainment and restaurant), service commercial purposes (meaning banking, travel agency, real estate, insurance, tax preparation and similar types of office users), or (d) a combination of such uses, and for no other purpose without the prior written consent of the Declarant, which shall not be unreasonably withheld. Mixed Use Sites may also be used for parking purposes in connection with a podium-style parking structure anticipated to be constructed upon a portion of the Mixed Use Sites.

3.05 Zoning.

This Declaration shall be subject to applicable zoning laws.

3.06 Master Declaration.

Except as otherwise provided herein, each Owner for all projects within the Project shall require that its Sub-Owners and Guests comply with all provisions of this Declaration. Without limiting the generality of the foregoing, any Sub-Declaration recorded with respect to a Subdivided Site shall expressly state that the Sub-Owners and such Sub-Owners' Guests shall be bound by and subject to the terms and conditions of this Declaration.

3.07 Signs.

(a) No signs whatsoever shall be erected or maintained in the Project, without the prior written approval of Declarant and/or Managing Owner.

(b) The foregoing shall not prevent the use of event banners and other temporary signage erected in connection with promotional activities approved in advance by the Managing Owner.

(c) Each Owner's title to its Site subject to, and each Owner shall be bound to the terms and obligations of, that certain Perpetual Easement Agreement dated January 19, 2018 (the "Billboard Easement", by and between Gale Street Properties, LLC, Third West Properties, LLC, and Sixth South Properties, LLC, as grantors, and Gale Holdings, LLC, as grantee. Each Owner shall indemnify, defend and hold harmless the Declarant, Managing Owner, and each other Owner from and against any and all claims, losses, damages, liabilities, injuries, costs and expenses, including without limitation, reasonably attorneys' fees, resulting from such Owner's breach of the Billboard Easement as it pertains to such Owner's Site.

3.08 Compliance With Laws.

Nothing shall be done or kept within the Project in violation of any law, ordinance, rule or regulation of any governmental or quasi-governmental authority.

3.09 Restriction on Subdivision and Rezoning.

(a) Except for conveyances, subdivisions, projects and other developments by Declarant that Declarant records in the Salt Lake County Records, no portion of the Property shall be subdivided without the prior written consent of the Declarant (not to be unreasonably withheld, conditioned or delayed), which consent must be evidenced on the applicable Plat or other instrument creating the subdivision.

(b) No further covenants, conditions or restrictions shall be recorded by any Owner or other Person against any portion of the Property without the Declarant's prior written consent and consistent with Section 3.05 and any covenants, conditions or restrictions recorded without such consent evidenced thereon shall be null and void.

(c) Except as may be permitted under a declaration for a project or other development within the Project that Declarant records in the Salt Lake County Records, no application for rezoning of any portion of the Property, and no applications for variances or use permits, shall be filed with any governmental authority, unless the proposed use of that portion of the Property has been approved by the Declarant and the proposed use otherwise complies with this Declaration.

(d) The covenants, conditions and restrictions set forth in Section 3.08(a) through (c) above shall not apply to Declarant's development of the Property.

3.10 Common Interest Ownership.

(a) Prior to the recording in the Salt Lake County Records of an instrument submitting any portion of the Property to the Act, or otherwise subdividing a Site into a Subdivided Site, the Owner of such property shall submit to the Declarant for its review and approval, copies of any proposed declaration of covenants, conditions and restrictions to regulate the affairs of such Subdivided Site. Within thirty (30) days after the submittal of such documents to the Declarant, the Declarant shall approve, approve with conditions, or disapprove such declaration by written notice to such Owner. If such declaration is disapproved by the Declarant, the Declarant shall set forth the reasons for such disapproval. If notice of approval or disapproval is not given by the Declarant on or before such thirty-day period, such declaration shall be deemed to be approved.

(b) The covenants, conditions and restrictions set forth in Section 3.08(a) above shall not apply to Declarant's development of the Property.

3.11 Vehicles and Equipment.

No automobile, truck, pickup, camper, motorbike, motorcycle, trailbike, trailer, mobile home, tractor, golf cart, snowmobile, boat or any other vehicle of any type shall be parked or operated within the Project in violation of any uniform, commercially reasonable rules and regulations which the Declarant and/or Managing Owner may implement with respect thereto from time to time.

3.12 Trash, Garbage and Other Waste Materials.

All trash, garbage and other waste materials shall be kept in sanitary containers enclosed and screened from public view and protected from disturbance in such places and manners as may be approved by the Managing Owner. Owners shall not, and shall ensure that Sub-Owners and their Guests do not, litter in the Project. No burning of trash, garbage or waste materials shall be permitted within the Project.

3.13 Deliveries.

No deliveries shall be made within the Project in violation of any uniform, commercially reasonable rules and regulations, if any, which the Declarant and/or Managing Owner may implement with respect thereto from time to time.

3.14 Exemption.

Nothing contained in this Declaration shall be construed to prevent or limit:

- (a) Declarant's exercise or enjoyment of any Special Declarant Right; or
- (b) the conduct by Declarant, or Declarant's respective employees or agents, of any activity, including, without limitation, the erection or maintenance of temporary structures, trailers, fences, improvements or signs, necessary or convenient to the development, construction, or marketing of the Project.

3.15 Construction and Alterations.

(a) No Person shall perform any construction, alterations, installations or other work within the Project, except in accordance with this Declaration.

(b) Without limiting the generality of Section 3.15(a), all construction activities within the Project shall be performed in a good and workmanlike manner, using first class materials, and in compliance with all laws, rules, regulations, orders, and ordinances of the City, county, state, and federal governments, or any department or agency thereof, having jurisdiction over the Project.

(c) All construction activities within the Sites shall be performed in accordance with the following provisions:

(i) so as not to unreasonably interfere with any construction work being performed on the remainder of the Sites, or parts thereof; and

(ii) so as not to unreasonably interfere with the use, occupancy or enjoyment of the remainder of the Project or part thereof of the business conducted by any other Owner or Guests.

(d) Each Owner shall diligently complete all construction activities within its Site as soon as is commercially reasonable.

(e) Each Owner shall regularly clean the roadways and driveways used by its construction vehicles of mud, dirt and construction debris, and upon completion of all construction activities shall promptly restore such affected roadways and driveways to a condition which is equal to or better than the condition which existed prior to the commencement of such work.

(f) Each Owner shall indemnify, defend and hold harmless the Declarant, Managing Owner, and each other Owner from and against any and all claims, losses, damages, liabilities, injuries, costs and expenses, including without limitation, reasonably attorneys' fees, because of personal injury or death of persons or destruction of property arising from or as a result of construction by such Owner on its Site, except for claims caused by the negligence or willful act or omission of the indemnified Declarant, Managing Owner, or Owner.

(g) Except as previously approved by the Managing Owner, no Person shall construct or allow the existence of any temporary structures of any sort, including, without limitation, sheds, shacks, tents or trailers, except in connection with normal construction activities, and then only in accordance with this Declaration. The Managing Owner shall not unreasonably withhold its approval of kiosks, banners and structures for temporary events and promotions, and food vending trailers or carts which are compatible with the Project.

3.16 Use of Sites as Sales or Leasing Offices.

Notwithstanding anything to the contrary herein, each of the Owners of the Sites shall have the right to maintain a standard sales and leasing office within any Site owned by such Owner, in connection with the sale and/or leasing of portions of such Owner's Site.

ARTICLE IV
DESIGN REVIEW

4.01 Buildings and Improvements Only in Designated Areas. No Building or other structure of any kind (including parking facilities) shall be erected, placed or maintained on any portion of a Site except upon those portions approved by Managing Owner. Notwithstanding anything to the contrary contained in this Declaration, following Managing Owner's approval, any areas used for surface parking may, pursuant to plans and specifications approved by Managing Owner, be demolished and replaced with a Building or other improvements in furtherance of the further development of the Project and the property adjacent thereto. In such event, any and all easements and other rights granted to Owners pursuant to this Declaration to use such area shall be deemed to be withdrawn, except to the extent of Easement Areas and Facilities remaining on such Site following completion of construction thereon.

4.02 Design Review Approval and Control.

- (a) No Person may:
- (i) perform any earth movement, vegetation removal, paving or drainage modification;
 - (ii) construct any Building, structure or other improvement;
 - (iii) subject to Section 4.02(c) below, make any physical or cosmetic alteration or modification to existing Buildings, structures or improvements;
 - (iv) install or alter on any Building, structure or other improvement any exterior signage or any interior signage that is visible from outside the Building, structure or improvement;
 - (v) install or alter any landscaping or exterior furniture, fixtures, equipment or art;
 - (vi) change the exterior appearance of any land or any Building, structure or improvement located thereon;
 - (vii) take any action which changes or affects the Easement Areas and Facilities, the access easements, the flow of vehicular and pedestrian traffic, or the overall design concept for the Project,

without the prior written consent of the Managing Owner, which consent shall not be arbitrarily or capriciously withheld or delayed. Notwithstanding anything in this Declaration to the contrary, and without limitation, it shall be reasonable for the Managing Owner to withhold such approval if such improvements are not architecturally, functionally and/or aesthetically harmonious with the other Buildings and improvements then located or approved for construction within the Project.

The foregoing shall not affect the rights of Declarant and/or Managing Owner to perform any of the foregoing with respect to the Property.

(b) If the Managing Owner fails to respond to a request for its consent within thirty (30) days after its receipt of such request, the Managing Owner shall be deemed to have granted its consent to the actions described in such request. The decisions of the Managing Owner shall be conclusive and binding on all interested parties.

(c) Notwithstanding anything to the contrary contained herein, improvements, alterations, modifications, installations, furniture and fixtures that:

(i) are completely within a Building, structure or improvement;

(ii) do not change the exterior appearance of a Building, structure or improvement and are not visible from the outside of a Building, structure or improvement; and

(iii) do not change the number of Sites, may be undertaken without Managing Owner consent, but are subject to all other covenants, conditions and restrictions contained in this Declaration.

(d) The Managing Owner or its designated representative may monitor any approved project to the extent required to ensure that the construction or work on such project complies with any and all approved plans and construction procedures. The Managing Owner or its designated representatives may enter upon any Site at any reasonable time or times to inspect the progress, work status or completion of any project. In addition to the remedies described in Section 4.03 below, the Managing Owner may withdraw approval of any project and require all activity at such project to be stopped, if deviations from the approved plan or approved construction practices are not corrected or reconciled within twenty-four (24) hours after written notification to the Owner specifying such deviations.

(e) The Managing Owner may, as a condition to any consent or approval, require an Owner to enter into a written agreement with the Managing Owner containing such covenants, conditions and restrictions as the Managing Owner deems necessary or appropriate, including penalties for failures to comply.

(f) Nothing in this Section 4.02 shall restrict or otherwise limit the Declarant from adopting standardized construction guidelines for the Project ("Construction Guidelines"), which such Construction Guidelines may include detailed design, engineering and specification requirements, construction rules and designated staging areas. The Declarant and/or the Managing Owner shall have the right to change the Construction Guidelines from time to time, in Declarant and/or Managing Owner's sole and absolute but good faith discretion.

4.03 Enforcement of Restrictions.

(a) If an Owner violates any term or condition set forth in this Article IV, the Managing Owner shall have the following rights and remedies:

(i) The Managing Owner may, by written notice to the Owner, revoke any approval previously granted to the Owner by the Managing Owner, in which event the Owner shall, upon receipt of such notice, immediately cease any construction, alteration or landscaping covered by the

approval so revoked.

(ii) The Managing Owner may, but is not obligated to, enter upon the Owner's Site and cure such violation at the Owner's sole cost and expense. If the Managing Owner cures any such violation, the Owner shall pay to the Managing Owner the amount of all costs and expenses incurred by the Managing Owner in connection therewith within thirty (30) days after the Owner receives written notice from the Managing Owner documenting such costs and expenses.

(iii) The Declarant, Managing Owner, or any other Owner may sue the Owner to enjoin such violation.

(iv) The Declarant, Managing Owner, or any other Owner shall have all other rights and remedies available to it under this Declaration, at law or in equity. All rights and remedies of such Persons shall be cumulative and the exercise of one right or remedy shall not preclude the exercise of any other right or remedy.

4.04 Lapse of Approval.

Any approval issued by the Managing Owner shall lapse and become void in accordance with the terms and conditions of any consents, approvals or permits issued by the Managing Owner. In addition, an approval issued by the Managing Owner for a project will lapse and become void if any building permit or approval issued by a governmental or quasi-governmental entity for the same project lapses or is revoked or suspended, provided, however, that any such revocation or suspension shall be disregarded for purposes of this Section in the event that such building permit or approval issued by a governmental or quasi-governmental entity is reinstated.

4.05 Liability.

Neither the Board, Managing Owner, Declarant, nor any of its respective members, officers, directors, employees or agents shall be responsible or liable for any defects, errors or omissions in any plans or specifications submitted, revised or approved under this Article IV, nor for any defects, errors or omissions in construction pursuant to such plans and specifications. A consent or approval issued by the Managing Owner means only that the Managing Owner believes that the construction, alteration, installation or other work for which the consent or approval was requested complies with this Declaration. No such consent or approval shall be interpreted to mean that the construction, alteration, installation or other work covered thereby (a) complies with laws, rules, regulations, ordinances or other requirements of any governmental or quasi-governmental authority, (b) is free from defects, errors or omissions or (c) lies within the boundaries of the Site. No consent, approval or permit issued by the Managing Owner shall relieve Owners or other Persons of their obligations to comply with laws, rules, regulations, ordinances and other requirements of governmental or quasi-governmental authorities.

ARTICLE V COMMON EXPENSES, ASSESSMENTS AND LIENS

5.01 Obligations for Assessments and Other Charges.

(a) Each Owner, by accepting a deed to a Site (whether or not it shall be expressly

stated in such deed), shall be deemed to have covenanted and agreed, to pay to the Managing Owner, in trust for the benefit of the Project, as set forth herein, all Assessments and other charges required or permitted to be levied or imposed on such Owner or such Owner's Site pursuant to this Declaration. The obligation of the Owners to pay Assessments with respect to a Site shall commence upon the issuance of a building permit for improvements upon such Site.

(b) Notwithstanding the definition of the term "Owner":

(i) a Person who acquires a Site in a foreclosure sale shall be personally liable for all Assessments and other charges levied or imposed on that Site or on the Owner of that Site commencing on the date of the foreclosure sale; and

(ii) a Person who acquires a Site by deed-in-lieu of foreclosure shall be personally liable for all Assessments and other charges levied or imposed on that Site or on the Owner of that Site commencing on the date on which the Owner of the Site executes and delivers the deed-in-lieu of foreclosure.

(c) No Owner shall be exempt from liability for any Assessment or other charges by waiving the use or enjoyment of any Easement Area and Facility or by abandoning a Site against which such Assessments or other charges are made.

(d) Each Owner shall be personally liable for all Assessments and other charges levied on such Owner or such Owner's Site during the period of such Owner's ownership of the Site. If there is more than one Owner of a Site, each Owner shall be jointly and severally liable with the other Owners of the Site or for all Assessments and other charges levied on the Site or any Owner of the Site. Notwithstanding the foregoing, in the event that a Site is subdivided into two (2) or more Subdivided Sites, then the Sub-Owners of the Sub-Units located within a Subdivided Site to which Assessments have been directly levied shall only be liable for the Assessments and other charges levied upon such Sub-Owner or such Sub-Owner's Sub-Unit.

(e) Each Assessment or other charge, together with interest thereon and all costs and expenses incurred by the Managing Owner in its reasonable business judgment to collect such Assessment or other charge for the benefit of the Project, including all fees and disbursements of attorneys, accountants, appraisers, receivers and other professionals engaged by the Managing Owner in connection therewith, may be recovered by a suit for a money judgment by the Managing Owner without foreclosing or waiving any Assessment Lien securing the same.

(f) Each Owner shall pay directly to the taxing authority, and prior to delinquency, all real property taxes and assessments ("Real Property Taxes") which accrue in connection with its Site. Upon request, an Owner shall furnish Declarant and/or Managing Owner with satisfactory evidence that all Real Property Taxes are paid and current. If any Owner shall fail to pay prior to delinquency any Real Property Taxes owed in connection with such Owner's Site, Managing Owner shall have the right to pay the same upon ten (10) days written notice to such Owner, and assess such payment as a Special Assessment against such Owner, which Special Assessment shall include interest and penalties as determined by Managing Owner.

5.02 Annual Real Estate Assessments. Annual Real Estate Assessments shall be computed and assessed by Managing Owner against all Sites, in proportion to the total amount of Building Square Footage located within each Site as it relates to the total amount of Building Square Footage within all Sites.

(a) Annual assessments shall begin to be assessed against a Site upon issuance of a building permit for Building(s) to be constructed upon that Site.

(b) Annual assessments shall be based upon advance estimates of the Common Expenses, as estimated by the Managing Owner in its commercially reasonable business judgment. Common Expenses shall be apportioned among and assessed against all Sites in accordance with the manner set forth above.

(c) Annual assessments shall be determined on the basis of a fiscal year beginning January 1 and ending December 31 next following, provided the first fiscal year shall begin on the date of the conveyance of the first Site by Declarant. On or before December 1 of each year thereafter, the Managing Owner shall prepare and furnish to each Owner, or cause to be prepared and furnished to each Owner, an operating budget for the upcoming fiscal year. The budget shall itemize the estimated Common Expenses for such fiscal year, anticipated receipts (if any) and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the annual assessment for the upcoming fiscal year and as the major guideline under which the Project shall be operated during such annual period. Notwithstanding the foregoing, the Managing Owner shall not be liable in the event that the operating budget in any given year is insufficient to meet the needs of the Project.

(d) Except with respect to the first fiscal year, the Managing Owner shall notify each Owner in writing as to the amount of the Annual Real Estate Assessment against such Owner's Site on or before December 1 each year for the fiscal year beginning on January 1 next following. Except as otherwise provided by the Managing Owner in its reasonable business judgment, each Annual Real Estate Assessment shall be payable in twelve (12) equal monthly installments, one such installment due on the first day of each calendar month during the fiscal year to which the assessment relates; provided, however, the Annual Real Estate Assessment for the first fiscal year shall be based upon such portion of the first fiscal year. In the event that any installment of the Annual Real Estate Assessment is not paid within fifteen (15) days of the date such installment becomes due, the Managing Owner may, at its option, and upon fifteen (15) days' prior written notice to the Owner, accelerate the due date for all remaining unpaid installments of the Annual Real Estate Assessment for the remainder of the fiscal year and all accrued but unpaid interest thereon. Payment of the Annual Real Estate Assessment installments so accelerated shall be due at the expiration of said fifteen (15) day notice period and interest shall accrue on the entire sum at the rate established by the Managing Owner not to exceed twelve percent (12%) per annum from such date until paid in full. The failure of the Managing Owner to give timely notice of any Annual Real Estate Assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay such assessment or any other assessment.

5.03 Special Assessments.

(a) The Assessments that the Managing Owner may levy and collect pursuant to this Section 5.03 are referred to in this Declaration as "Special Assessments."

(b) If, at any time, the Managing Owner believes in its reasonable business judgment that Common Expenses for a calendar year will exceed the amounts to be collected by the Managing Owner pursuant to the Annual Real Estate Assessments, then the Managing Owner may levy and collect a Special Assessment in an amount equal to the amount of such excess.

(c) If the Managing Owner levies a Special Assessment, the Owners of each Site shall pay to the Managing Owner, when and in such installments as the Managing Owner deems necessary or appropriate, an amount equal to the product obtained by multiplying:

(i) the amount of the Special Assessment, by

(ii) a fraction, the numerator of which shall be the amount of the Annual Real Estate Assessment levied against such Owners' Site during that calendar year, and the denominator of which shall be the amount of all Annual Real Estate Assessments levied against all Sites during that calendar year.

5.04 Default Assessments.

(a) Notwithstanding anything to the contrary contained herein, if any Common Expense, not otherwise covered by insurance, is caused by:

(i) the negligence or misconduct of an Owner; or

(ii) a violation of any covenant or condition of this Declaration by an Owner or such Owner's Guest,

the Managing Owner shall levy an Assessment against such Owner's Site, equal to the amount of the Common Expense incurred. Any such Assessment levied is referred to herein as a "Default Assessment."

(b) With respect to any Default Assessment, or portion thereof, levied other than as a late charge, the Owner of the Site against which the Managing Owner seeks to levy the Default Assessment shall be provided notice and an opportunity to be heard by the Managing Owner. Owners of Sites against which Default Assessments have been levied shall pay such Default Assessments within ten (10) days following receipt of notice that such Default Assessment has been levied.

5.05 Assessment Liens.

(a) The Managing Owner, on behalf of all other Owners, shall have a lien on each Site for any Assessment levied against that Site and any late charges, penalties, interest, attorneys' fees, disbursements and costs of collection imposed against its Owner(s) under this Declaration. The Assessment Lien shall secure all of the foregoing obligations of an Owner from the time such obligations become due. If an Assessment is payable in installments, the Assessment Lien secures each installment from the time it becomes due, including the due date set by any valid acceleration of installment obligations.

(b) An Assessment Lien is prior to all other liens and encumbrances on a Site except:

(i) liens and encumbrances recorded prior to the recordation of this Declaration;

(ii) a First Mortgage which was recorded before the date on which a written notice of lien is recorded in the Salt Lake County Records pursuant to subsection 5.05(c) below; and

(iii) liens for real estate taxes and other governmental assessments or charges against the Site.

(c) To evidence the Assessment Lien for sums assessed pursuant to this Article V, the Managing Owner may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the applicable Site and a description of

the applicable Site. Such a notice shall be recorded in the Salt Lake County Records. No notice of lien shall be recorded until there is a delinquency in payment of any assessment made pursuant to this Declaration.

(d) An Assessment Lien is extinguished unless proceedings to enforce the Assessment Lien are instituted within six years after the full amount of the Assessment secured thereby becomes due.

(e) In any action by the Managing Owner (on behalf of all other Owners) to collect Assessments or to foreclose an Assessment Lien for unpaid Assessments, the court may appoint a receiver of the Owner to collect all sums alleged to be due from the Owner prior to or during the pendency of the action. A court may order the receiver to pay any sums held by the receiver to the Managing Owner during the pendency of the action to the extent of the Assessments.

(f) To the extent permitted by law, an Assessment Lien may be foreclosed in like manner as a mortgage on real estate, or by power of sale in the same manner as deeds of trust in the State of Utah, or may be foreclosed in any other manner permitted by law. By taking title to property within the Project each Owner shall be deemed to have appointed Integrated Title Services as trustee for the purposes of exercising the power of sale in connection with the non-judicial foreclosure pursuant to this subsection.

5.06 Waiver of Homestead Exemption.

By acceptance of the deed or other instrument of transfer of a Site, an Owner irrevocably waives the homestead exemption provided by Utah Code Sections 78-23-1 through 78-23-15.

5.07 Estoppel Certificates; Notices to Mortgagees.

(a) The Managing Owner shall furnish to an Owner or its designee or to a Mortgagee or its designee, upon written request, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the Managing Owner's Recorded Address, a statement setting forth the amount of unpaid Assessments currently levied against such Owner's Site. The statement shall be furnished within fifteen (15) calendar days after the Managing Owner's receipt of the request.

(b) The Managing Owner shall report to any First Mortgagee any unpaid Assessments remaining unpaid for more than ninety (90) days after the same shall have become due, if such First Mortgagee first shall have delivered to the Managing Owner a written request for notice of unpaid Assessments. Any First Mortgagee holding a lien on a Site may pay any unpaid Assessment with respect to such Site, together with any and all costs and expenses incurred with respect to the Assessment Lien securing such unpaid Assessment, and upon such payment, such First Mortgagee shall have a lien on the Site for the amounts paid with the same priority as a lien of the First Mortgage held by such First Mortgagee.

5.08 Collection of Assessments; Audit.

(a) All amounts collected by the Managing Owner from any Owner in Assessments or other charges pursuant to this Article V or any other provision of this Declaration, and any other amounts received by Managing Owner pursuant to the terms of this Declaration (including but not limited to insurance proceeds received by Managing Owner under Article IX, or condemnation proceeds under Article X) shall be held by the Managing Owner in trust, for use strictly and exclusively as authorized pursuant to this Declaration. Managing Owner shall maintain a separate bank account with a federally

insured financial institution with offices in Salt Lake County, Utah, for the purpose of depositing all Assessments and other charges collected by Managing Owner pursuant hereto, and any Common Expenses paid by Managing Owner shall be paid from such account. Managing Owner shall not, without the consent of the Owner(s) owning a majority of the Building Square Footage of all of the Sites, pledge, encumber, hypothecate, or otherwise assign for collateral purposes any collected Assessments (or any rights to collect such Assessments).

(b) Each Owner, or its designated employees or agents, shall have the right, upon ten (10) days prior written notice to Managing Owner, to call for an inspection and audit of the books and records of the Managing Owner concerning collected Assessments, Common Expenses, and related items pertaining to the Managing Owner's performance of its duties hereunder. Managing Owner shall cooperate with any such audit and shall maintain complete books and records in accordance with generally accepted accounting principles, consistently applied, for the same period as required for federal income tax reporting purposes. Such audit(s) shall take place within thirty (30) days of such Owner's request. If it shall be determined as a result of such audit(s) that an Owner has overpaid any of such charges, Managing Owner shall promptly refund to Owner the amount of such overpayment, and shall thereafter make a Special Assessment, if necessary and appropriate, regarding such overpaid amount against the underpaying Owner(s), if any.

ARTICLE VI
MAINTENANCE OF EASEMENT AREAS AND FACILITIES AND SITES

6.01 Maintenance of Easement Areas and Facilities.

Except as otherwise provided in this Declaration, the Managing Owner, or its duly designated agent, shall maintain, through the use of collected Assessments, all Easement Areas and Facilities and the improvements and landscaping located thereon, in good order and repair and shall otherwise manage and operate all Easement Areas and Facilities as it deems necessary or appropriate. In this regard the Managing Owner may in its sole but reasonable discretion:

- (a) construct, modify, add to, remove, replace, repair or renovate any improvements that are located on, or constitute a part of, any Easement Area and Facility;
- (b) plant and replace trees, shrubs and other vegetation on any Easement Areas and Facilities;
- (c) place, maintain and replace signs upon any Easement Areas and Facilities;
- (d) impose and collect fees for the use of any Easement Areas and Facilities; and
- (e) take any other actions that the Managing Owner deems necessary or appropriate in its reasonable business judgment to protect, maintain, operate, manage or regulate the use of Easement Areas and Facilities, including without limitation, snow removal and garbage and waste removal.

6.02 Maintenance of Sites.

(a) Each Owner shall, at such Owner's sole cost and expense, maintain such Owner's Site (other than the Easement Areas and Facilities located on such Site, which shall be maintained by Managing Owner pursuant to Section 6.01 above) and the improvements and fixtures located thereon, or constituting a part thereof, in good order and repair and consistent with a first class

mixed use development project.

(b) If, in the reasonable judgment of the Managing Owner, an Owner fails to maintain its Site or the improvements or landscaping located thereon, and such failure remains uncured for more than thirty (30) days after the Managing Owner's delivery of written notice thereof to such Owner, the Managing Owner may enter upon such Site and perform such maintenance or repair as the Managing Owner deems necessary or appropriate and charge all costs and expenses incurred by the Managing Owner in connection therewith to such Owner as a Default Assessment.

(c) The Managing Owner may, without notice, make emergency repairs to and maintain any Site or improvement located thereon, as may, in its judgment, be necessary for the safety of any Person or to prevent damage to any other property. The cost of such maintenance and repair shall be charged to the Owner of the Site as a Default Assessment.

ARTICLE VII BOARD OF OWNERS; MANAGING OWNER

7.01 Board of Owners.

To the extent specifically set forth in this Declaration, certain activities pertaining to the Property shall be managed through a Board of Owners (the "Board"). The Board shall consist of natural persons ("Board Members") to be designated by the Owners of the Property. The initial Board shall be composed of at least three (3) but not more than five (5) natural persons, designated by Declarant. Upon the transfer of any parcel(s) of land subject to this Declaration, the new Owner of such parcel(s) shall be entitled to designate an additional Board Member. Each Board Member shall be entitled to vote in proportion to the Building Square Footage owned by the Owner designating such Board Member.

7.02 Board Vacancies.

Any Board Member appointed pursuant to this Section 7.02 shall hold office until his or her removal, resignation, or death. Each Board Member may be removed, with or without cause, by the Owner who initially designated such Board Member (or, if such Owner has transferred ownership of its land subject to this Declaration, by the subsequent Owner of such land). A vacancy on the Board created by the removal, resignation, or death of a Board Member shall be filled as soon as is practicable by the Owner who designated such Board Member (or by such Owner's subsequent transferee, as applicable). Any Board Member may resign at any time by giving written notice to the other Board Members. Such resignation shall take effect at the time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

7.03 Appointment of Managing Owner.

The role of the Board and its primary function shall be to select and oversee the Managing Owner. The initial Managing Owner appointed by Declarant shall be BB NAC Apartments, LLC, a Delaware limited liability company. The initial Managing Owner shall serve as Managing Owner beginning on the date of this Declaration and shall continue to serve until its resignation or removal, in accordance with Sections 7.05 and 7.06 below. Successor Managing Owners shall be appointed by the Board by a vote of a majority of the Board Members, such vote to be in proportion to the Building Square Footage as set forth in Section 7.01 above.

7.04 Managing Owner's Purposes and Powers.

The Managing Owner shall perform all of its duties and responsibilities set forth in this Declaration relating to the Easement Areas and Facilities, including but not limited to the management and maintenance of the Easement Areas and Facilities, in good faith and in a commercially reasonable manner. In the performance of its duties and responsibilities, the Managing Owner may provide services itself, or it may contract with private, governmental and quasi-governmental Persons to provide facilities or services. Without limiting the generality of the foregoing, the Managing Owner may carry out through a property management contract those of its functions which are properly the subject of delegation. Any property Managing Owner so engaged by the Managing Owner shall be an independent contractor and not an agent or employee of the Managing Owner, shall be responsible for managing the Project for the benefit of the Managing Owner and the Owners, and shall, to the extent permitted by law and by the terms of the agreement with the Managing Owner, be authorized to perform any of the functions or acts required or permitted to be performed by the Managing Owner itself. By acceptance of the deed or other instrument of transfer of a Site, an Owner shall be deemed to authorize and appoint the Managing Owner to perform the duties and responsibilities set forth herein.

7.05 Resignation.

Managing Owner may resign at any time by giving written notice to the Board Members. The resignation of the Managing Owner shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice and, unless otherwise specified therein, the acceptance by the Owners of such resignation shall not be necessary to make it effective. In the event of the resignation of the Managing Owner, a replacement Managing Owner shall be appointed pursuant to the procedure set forth in Section 7.03 above.

7.06 Removal.

Except for a Managing Owner appointed by the Declarant, a Managing Owner may be removed at any time for any reason, with or without cause, by vote of the Board Members designated by Owner(s) owning a majority of the Building Square Footage of all of the Sites. A Managing Owner appointed by the Declarant may be removed by vote of the Owner(s) owning a majority of the Building Square Footage of the Sites only for "Cause." For purposes of the preceding sentence, removal of the Managing Owner for "Cause" means (i) a default by the Managing Owner of any of its obligations hereunder, which default materially and adversely affects the operation of the Project as a first class mixed use development project, which default remains uncured for sixty (60) days after written notice thereof executed by Owner(s) owning a majority of the Building Square Footage of the Sites, (ii) the gross negligence, willful misconduct or fraud in performance by the Managing Owner of its obligations hereunder, or (iii) the commission of a felony or misdemeanor involving embezzlement, theft or other act of moral turpitude by Managing Owner and/or its principal(s). A vacancy created by the removal, resignation, or death of a Managing Owner shall be filled as soon as is practicable by the Board. Except with respect to a Managing Owner appointed by the Declarant, any Board Member may call for a vote to appoint or replace a Managing Owner upon the giving of at least three (3) days' prior notice of the time and place thereof to each other Board Member; provided, however, that votes may in all circumstances be cast via telephone, email, or other electronic means, and provided that no Board Member may call for a vote to replace the Managing Owner more than twice per calendar year.

7.07 Dealings with Affiliates.

In performance of its responsibilities hereunder, a Managing Owner may enter into business and contractual relationships of any kind with affiliated entities, provided that the terms of such relationships are commercially reasonable and satisfy arm's length standards.

7.08 Limitation of Liability of Managing Owner.

The Managing Owner shall exercise reasonable business judgment in performing all of its duties and responsibilities set forth in this Declaration relating to the Easement Areas and Facilities. Unless fraud, gross negligence or willful misconduct shall be proven by a court order, judgment, decree or decision which has become final, the Managing Owner shall not be liable or obligated to the Owners or other Person for any mistake of fact or judgment or for the doing or failure to do of any act in conducting and performing its obligations herein, which causes or results in any loss or damage to any Owner or any other such Person.

ARTICLE VIII
EASEMENTS AND RESERVATIONS

8.01 Easements Over Easement Areas and Facilities.

The Declarant hereby establishes and grants to, and each other Person who becomes an Owner shall, immediately upon becoming such an Owner and without further act, be deemed to have established and granted to all other Owners, Sub-Owners, the Managing Owner, Declarant, and all of their respective Guests, irrevocable, non-exclusive easements over, across, upon and beneath the Easement Areas and Facilities located on such Owner's Site. In addition, in Managing Owner's sole but reasonable discretion, Managing Owner shall have the right to institute rules and regulations pertaining to the parking facilities within the Easement Areas and Facilities as set forth in Section 8.04, below. Furthermore, Managing Owner may, by written notice to the Owners, elect in its sole discretion to increase, decrease, or change the configuration of all or any portion of the Easement Areas and Facilities from time to time, so long as Managing Owner does not unreasonably interfere with ingress to or egress from any Building. Additionally, the Managing Owner may, in its discretion, temporarily or permanently close portions of the Easement Areas and Facilities for commercial events, festivals, concerts, sidewalk sales, and other events with general public appeal, and/or on a limited basis, events primarily intended to benefit one or more specific Owners or their respective Guests. Nothing in this Section or elsewhere in this Declaration shall be deemed to be or constitute a gift or dedication of any portion of the Project to the general public or for any public use or purpose whatsoever. All users of roadways within the Project shall use such roadways at their own risk and peril, and shall obey all applicable traffic laws and regulations.

8.02 Permitted Easement Area and Facility Uses. The Easement Areas and Facilities shall be used for the purposes set forth in this Section:

(a) The parking of passenger vehicles and the pedestrian and vehicular traffic of any Guests.

(b) The ingress and egress of any Owner, Sub-Owner and/or Guests and the vehicles thereof to and from any portion of the Easement Areas and Facilities and the public streets adjacent to the Easement Areas and Facilities.

(c) Pedestrian and vehicular movement by Guests to and from adjacent streets and between businesses and occupants located or to be located within the Project.

(d) Temporary use in connection with the construction, replacement and reconstruction of parking sites or stalls, flag poles, sidewalks, ramps (excluding loading ramps), driveways, lanes, curbs, directional and other signs, gutters, traffic control areas, traffic islands, traffic

and parking lighting facilities, perimeter walls, pedestrian walkway or landscaped areas, including planters, planting boxes, edgers, fountains, valves and customer conveniences, such as mail boxes and benches for the comfort and convenience of Guests; provided, however, that the Managing Owner shall first approve of all such facilities and that such facilities do not materially affect the access, visibility or parking of the property or Building of any Owner.

(e) The maintenance and repair of any of the items referred to in Section 8.02(d) above.

(f) Recycling centers for cans, bottles or other materials.

(g) The ingress and egress of delivery and service trucks and vehicles to and from any Building or any portion thereof and the public streets adjacent to the Project, for the delivery of goods, wares, merchandise and the rendering of services to all Persons or other entities who may lease portions of any Building. Each tenant or other occupant of the Project shall use commercially reasonable efforts to have deliveries made within the areas designated pursuant to uniform, commercially reasonable rules and regulations which the Declarant and/or Managing Owner may implement with respect thereto from time to time. In the event it is necessary that deliveries be made other than in the designated areas by Managing Owner, such deliveries shall be made so as to cause the least amount of interference with the use of adjacent portions of the Easement Areas and Facilities.

(h) Trash, refuse and garbage container storage areas if indicated as Easement Area and Facility and areas for the parking of the automobiles of employees of an Owner or occupant of any Building and other incidental and related facilities.

(i) Subject to the prior written approval of the Managing Owner, which will not be unreasonably withheld, the temporary use (including erection of ladders, scaffolding and store front barricades) during periods of construction, remodeling or repair, and ingress and egress for vehicles transporting construction materials and equipment and use thereof by construction equipment, upon the condition, however, that all construction, remodeling or repair of Buildings, other improvements and appurtenances is diligently performed and such ladders, scaffolding and barricades are promptly removed upon completion of such work.

(j) The construction, maintenance, repair, replacement and reconstruction of sign pylons and/or monument signs (with appropriate underground electrical connections in locations reasonably designated by the Managing Owner); provided, however, the location, construction, design and replacement of any such signage shall be subject to the prior written approval of the Managing Owner (which approval may be given in such Managing Owner's sole but reasonable discretion).

(k) The installation, maintenance, repair, and replacement of landscaping.

8.03 Easement Area and Facility Alteration.

No Owner or other Person shall alter any improvements located upon the Easement Areas and Facilities without the prior written consent of the Managing Owner. Notwithstanding the foregoing: (i) an Owner (or the Managing Owner or Declarant) shall have the right to excavate or conduct construction activities upon the Easement Areas and Facilities, if necessary, in connection with the installation, operation, maintenance, repair, replacement, relocation and removal of any utility or service facilities, so long as such excavation or construction activities shall be prosecuted diligently to completion; and further provided that the consent of the Owner on whose Site such activity is to take place shall also be obtained, which consent shall not be unreasonably withheld. The Person causing such excavation or construction

activities to be made shall forthwith, upon completion thereof, restore any portion of the Easement Areas and Facilities affected thereby to the same condition as existed prior to the commencement of such installation or construction activities using the same type and quality of materials as previously used; and (ii) Declarant and/or Managing Owner may make or authorize alterations to the Easement Areas and Facilities as it shall deem appropriate or necessary. Any work performed in the Project pursuant to this subparagraph shall be performed so as to minimize the disruption of business operations conducted anywhere within the Project.

8.04 Parking.

(a) The Common Parking Areas and all other parking facilities shall be operated in a first class manner, in accordance with the customary standards for parking facilities in mixed use projects similar to the Project located within the vicinity of the Project. No Guest shall use or permit the use of the parking area portions of the Easement Areas and Facilities for any purpose other than parking, loading/unloading (in the areas designated for same by Declarant or Managing Owner) and passage of pedestrians and motor vehicles unless specifically provided otherwise in this Declaration. Each Owner agrees to use reasonable efforts to enforce the provisions hereof.

(b) The Managing Owner may (i) adopt and promulgate rules and regulations governing parking in the Common Parking Areas and Easement Areas and Facilities, and/or (ii) enter into written agreements with any Owner(s) pertaining to parking in the Common Parking Areas and Easement Areas and Facilities, in its sole discretion, to provide for, among other things, exclusive and/or shared uses of Common Parking Areas and other parking areas by or among Owners and their Guests. In no event shall Declarant or Managing Owner be responsible or in any way liable for the unauthorized use of any parking spaces or Easement Areas and Facilities, or for any violation of, or failure to observe, any rules and regulations adopted by Managing Owner, or any written agreements entered into by Managing Owner.

8.05 Utility Easement.

(a) Subject to the terms and conditions of this Declaration, Declarant hereby creates an easement for ingress to, egress from, and installation, replacement, repair and maintenance of, all utility and service lines and systems, including, without limitation, water, sewer, gas, telephone, electricity and cable communication that service the Project or any portion thereof, over, across, through and under (i) the Easement Areas and Facilities, and (ii) such other portions of the Property as Declarant may determine in its reasonable business judgment during the planning and development of the Project are reasonably necessary to facilitate the efficient planning, development and construction of the Project, provided however, that any easement relating to such other portions of the Property shall not result in the impairment of Owner's use of (including the business operations contemplated by the Owner upon) such Property. The Declarant may, but is not obligated to, authorize the release of portions of the general easement created by this Section 8.05 upon the request of any Owner showing good cause therefor.

(b) Pursuant to this easement, the City, and/or a utility or service district or company may install and maintain facilities and equipment on the Property to provide service to any portion of the Property. Notwithstanding anything to the contrary contained in this Section 8.05, no sewers, electrical lines, water lines, telephone lines or other utility or service lines may be installed or relocated on any portion of the Property, except as approved by the Managing Owner. Any utility or service company using this general easement shall use its best efforts to install, repair, replace and maintain its lines and systems without unreasonably disturbing the uses of Owners, Declarant, the City, and/or other utility or service districts or companies.

(c) If any utility or service company furnishing utilities or services to the Project or any portion thereof requests a specific easement by a separate recordable document, the Owners shall cooperate in the granting of such easements.

8.06 Emergency Access Easement.

Declarant hereby reserves the right to grant a general easement to all police, sheriff, fire protection, ambulance and all other similar emergency agencies or Persons operated by the City, service districts, or other Persons to enter upon the Property in the proper and lawful performance of their duties.

8.07 Easement for Encroachments.

Should any Building or improvement constructed within a Site inadvertently encroach on any adjacent Site and said encroachment does not materially, adversely affect the use of the Site being encroached upon, the Owner of the adjacent Site shall be deemed to have granted an easement effective as of the recording date hereof for such encroachment for so long as such encroachment shall exist, and shall execute such instruments as may reasonably be required by the encroaching party, or its assignees, title insurer or Mortgagees confirming such easement.

ARTICLE IX
INSURANCE

9.01 Insurance for Sites.

(a) Each Owner shall, except as otherwise expressly set forth herein, maintain, or cause to be maintained, at its sole expense, in full force and effect, with good and solvent insurance companies authorized to do business in the State of Utah and having a rating by Best's Insurance Reports of not less than A-/X, on all Site(s) within the Project owned or leased by such Owner and all Buildings and other improvements owned or leased by such Owner, a policy or policies of commercial general liability, bodily injury, personal injury and property damage liability insurance with limits of at least One Million Dollars (\$1,000,000) per occurrence, Two Million Dollars (\$2,000,000) aggregate, which limits Managing Owner may allow or require to be adjusted from time to time in its reasonable business judgment, based on the limits of insurance policies generally carried by owners of other similarly situated improved real estate in the Salt Lake County, Utah area. Such policies shall name all other Owners, the Managing Owner, Declarant, and any property Managing Owner contracted by Managing Owner as additional insureds, insuring against any and all liability arising out of the maintenance, use and occupancy of the Building(s) and other improvements located on the property within the Project owned or leased by such Owner.

(b) Each Owner shall also maintain all-risk / property policy with special form insurance coverage on all Buildings and improvements located upon all Site(s) leased or owned by such Owner including loss or damage by fire and such other risks as are from time to time included in the all-risk / property policy with special form coverage insurance policies customarily issued in Utah in an amount not less than one hundred percent (100%) of the full replacement cost of such Buildings and improvements. Such insurance policies shall be maintained with good and solvent insurance companies authorized to do business in the State of Utah and having a rating by Best's Insurance Reports of not less than A-/X.

9.02 Certificates.

The Managing Owner and each Owner shall, upon request thereof from any of the Owners or Managing Owner, furnish to the party making such request certificates of insurance evidencing the existence of the insurance required to be carried pursuant to Section 9.01 above. To the extent that the same shall not invalidate any insurance coverage obtained by an Owner or Managing Owner, each Owner hereby waives any claim that it might have against any other Owners for damages which would be covered by any of the insurance required to be carried under this Article. Said mutual waivers shall be in addition to, and not in limitation or derogation of, any other waiver or release regarding any loss of, or any damage to the said property of any Owner. Inasmuch as the said mutual waivers will preclude the assignment of any such claim by way of subrogation (or otherwise) to an insurance company (or any other person, firm or corporation) each Owner and the Managing Owner shall give to each insurance company which has issued to it policies of all-risk insurance, written notice of the terms of said mutual waivers, and shall have said insurance policies properly endorsed, if necessary, to prevent invalidation of said insurance coverages by reason of said waiver. All such insurance maintained pursuant to this Article shall provide that such insurance shall not be canceled or amended without thirty (30) days prior written notice to Managing Owner.

If any Owner shall fail to maintain any of the insurance required to be maintained by such Persons pursuant to this Declaration, then the Managing Owner shall have the right to give the defaulting Owner written notice of such default specifying the particulars thereof. The Owner receiving such a notice shall have a period of ten (10) days in which to cure such default. If the defaulting Owner does not cure such default within said ten (10) day period, then the Managing Owner may do so and then assess the defaulting Owner for the expense incurred as a Default Assessment.

ARTICLE X CASUALTY

10.01 Damage to Buildings and Other Improvements.

In the event any Building or other improvement (excluding Easement Areas and Facilities) on a Site is damaged or destroyed by any casualty, the Owner upon whose Site such Building and/or improvement is/was located shall promptly (i) repair and/or reconstruct such Building or improvement in accordance with the applicable provisions of this Declaration, or (ii) remove the debris from the Site and keep the affected portions of the Site neat, orderly, and well maintained and covered with material reasonably required by Declarant, until subsequently improved or constructed upon.

10.02 Damage to Easement Areas and Facilities.

In the event any of the Easement Areas and Facilities are damaged or destroyed by any casualty, the each Owner, under the guidance and supervision of the Managing Owner, shall promptly restore, repair or rebuild such damaged or destroyed Easement Areas and Facilities (or any portion thereof) on such Owner's Site, provided that, if such damage or destruction results from any cause that is not insured under an the all-risk / property policy required to be maintained the Owner pursuant to Section 9.01(b) above, or if so insured, the cost of repair of exceeds the amount of insurance proceeds available, then the Owner shall repair the Easement Areas and Facilities on such Owner's Site, and the excess costs not covered by the policy required to be maintain by such Owner shall be treated as a Common Expense.

ARTICLE XI CONDEMNATION

11.01 Condemnation of Sites.

If all Sites within the Project are taken by condemnation or similar proceeding, the Project and this Declaration shall terminate as of the date of the taking and any condemnation award payable in connection therewith shall be paid to the Owners of such Sites.

11.02 Condemnation of Fewer Than All Sites.

If all or a portion of one or more Sites, but fewer than all Sites, are taken by condemnation or similar proceeding, any condemnation award payable in connection therewith shall be paid to the Owner(s) of such Sites.

11.03 Condemnation of Easement Areas and Facilities.

If any Easement Areas and Facilities are taken by condemnation or similar proceeding, any condemnation award payable in connection therewith shall be paid to the Managing Owner and used by the Managing Owner:

- (a) first, to repair any damage to Easement Areas and Facilities resulting from the condemnation or similar taking; and
- (b) second, for any other Common Expenses, including reserves.

ARTICLE XII
SPECIAL DECLARANT RIGHTS

12.01 Improvements.

Declarant hereby reserves for itself, its successors and assigns the right to construct any improvements that it deems necessary or appropriate on the Easement Areas and Facilities and on any Sites owned by Declarant.

12.02 Development Rights.

- (a) Declarant hereby reserves for itself, its successors and assigns:
 - (i) the right to amend this Declaration, the Plat, or the Project Map to (1) create and establish additional Sites and certain additional Easement Areas and Facilities on all or any portion of the Project, as well as on all or any portion of any real estate that the Declarant may add to the Project pursuant to subsection 12.02(a)(i) or (2) designate or re-designate any Site to be a Residential Site, Commercial Site, or Mixed Use Site;
 - (ii) the right to subdivide any Site owned by Declarant;
 - (iii) the right to combine any Sites owned by Declarant;
 - (iv) the right to convert any Site owned by Declarant into Easement Areas and Facilities; and

(b) In exercising any development right reserved hereunder, Declarant shall execute and record an amendment to this Declaration.

12.03 Declarant Offices.

Declarant hereby reserves for itself, its successors and assigns the right to maintain sales, leasing, management and general administration offices within any Site owned by Declarant. Declarant also reserves for itself, its successors and assigns the right to construct and maintain signs advertising the Project on any and all Easement Areas and Facilities.

12.04 Merger.

Declarant reserves the right to merge or consolidate the Project with any other planned community.

12.05 Exercising Special Declarant Rights.

Declarant may exercise its Special Declarant Rights at any time. Declarant may exercise its Special Declarant Rights in any order and no assurance is given as to the order in which Declarant will exercise its Special Declarant Rights. If Declarant exercises any Special Declarant Right with respect to any portion of the Property, Declarant may, but is not obligated to, exercise that Special Declarant Right with respect to any other portion of the Property. Notwithstanding anything to the contrary contained in this Declaration, Declarant may exercise any Special Declarant Right described in this Article and any other right reserved to Declarant in this Declaration, without the consent of any of the Owners.

12.06 Interference with Special Declarant Rights.

Neither the Managing Owner nor any Owner may take any action or adopt any Rule or Regulation that interferes with or diminishes any Special Declarant Right, without Declarant's prior written consent.

12.07 Rights Transferable.

Declarant may transfer, in whole or in part, any Special Declarant Right reserved to it under this Article or under any other provision of this Declaration.

ARTICLE XIII
ENFORCEMENT AND REMEDIES

13.01 Enforcement.

(a) Except as set forth in Section 16.02(b), each provision of this Declaration shall be enforceable by Declarant, the Managing Owner, or any Owner by

- (i) a proceeding for injunctive relief; and/or
- (ii) a suit or action to recover damages.

(b) In addition to the rights and remedies described in Section 13.01(a) above, if an Owner fails to perform or observe any covenant or condition on such Owner's part to be performed or

observed under this Declaration, the Managing Owner shall have the following rights and remedies:

(i) The Managing Owner may, but is not obligated to, cure such failure to comply at the Owner's sole cost and expense. If the Managing Owner cures any such failure to comply, the Owner shall pay to the Managing Owner the amount of all costs incurred by the Managing Owner in connection therewith within thirty (30) days after the Owner receives written notice of a Default Assessment therefor from the Managing Owner.

(ii) The Managing Owner may fine the Owner, as a Default Assessment, a uniform, commercially reasonable amount, which may be established by Managing Owner in its reasonable business judgment from time to time. The Owner shall pay any such fine to the Managing Owner within thirty days after the Owner receives written notice of a Default Assessment therefor from the Managing Owner.

(iii) The Managing Owner, acting for and on behalf of Declarant and/or all other Owners, shall have all other rights and remedies available to it under this Declaration, at law or in equity.

(c) All rights and remedies of the Declarant, any Owner or Managing Owner shall be cumulative and the exercise of one right or remedy shall not preclude the exercise of any other right or remedy.

13.02 Attorneys' Fees.

In the event of any dispute under or with respect to this Declaration, the prevailing party shall be entitled to recover from the nonprevailing party all of its costs and expenses in connection therewith, including, without limitation, the fees and disbursements of any attorneys, accountants, engineers, appraisers or other professionals engaged by the prevailing party.

13.03 Interest.

If an Owner fails to pay to the Managing Owner any Assessment or other amount due as and when the same becomes due, the Owner shall pay to the Managing Owner interest on such unpaid amount at the rate of 12 percent per annum from the due date of such unpaid amount until the date paid. The Owner shall also pay to the Managing Owner a late fee of five percent (5%) of any assessment installment not paid within fifteen (15) days following the due date thereof.

ARTICLE XIV TERM AND AMENDMENTS

14.01 Term.

The covenants, conditions, restrictions, reservations, easements, assessments, charges and liens set forth in this Declaration shall run with and bind the Property until the Declaration is terminated pursuant to Section 14.02 below.

14.02 Termination.

The Owners may terminate the Project and this Declaration by unanimous written consent of the Owners and a Majority of First Mortgagees. If the necessary votes are obtained, the agreement of the

Owners to terminate the Project and this Declaration shall be evidenced by a termination agreement or ratification thereof, executed by all of the Owners in accordance with the terms and conditions of this Declaration. Upon recordation of the termination agreement in the Salt Lake County Records, the Project shall be terminated and this Declaration shall have no further force or effect. Furthermore, in the event that the Declaration is terminated pursuant to this Section, such termination shall not serve to terminate any of the easements described in Sections 8.05 and 8.06, unless such termination is also approved in writing by the City, and/or a utility or service district or company benefiting from such easement(s).

14.03 Amendments.

(a) Except for provisions of this Declaration regarding the rights and obligations of Declarant, which may not be amended without Declarant's prior written consent, and except as otherwise set forth herein, Owners of the Sites owning ninety percent (90%) or greater of the Building Square Footage of all of the Sites may amend any provision of this Declaration at any time. If the necessary votes are obtained, the Managing Owner shall be and hereby is authorized to cause to be recorded in the Salt Lake County Records an amendment to the Declaration. Notwithstanding the foregoing, the unanimous written consent of all of the Owners and a Majority of First Mortgagees shall be required to amend any provisions in this Declaration in a manner which would negatively impact access and/or utilities to or from one or more Sites.

(b) Notwithstanding the terms and conditions of Section 14.03(a) above, the Declarant may amend this Declaration without the approval of the Owners, provided however, that if such amendment (1) directly and materially affects the access to, visibility of or parking on a Site; or (2) would result in a material increase in financial obligations for an Owner, then the Owner of any such affected Site, together with a First Mortgagee holding an interest in such Site, must also consent to such modification.

ARTICLE XV ADDITIONAL FIRST MORTGAGEE PROTECTIONS

15.01 Written Consent.

For so long as any First Mortgagee holds an interest in the Property, or any portion thereof, by virtue of a deed of trust (as beneficiary under such deed of trust and/or as owner of all or a portion of the Property through judicial or non-judicial foreclosure, or deed in lieu thereof), and prior to taking any of the following actions which Declarant is permitted to take under this Declaration, Declarant shall be required to obtain the written consent of a Majority of all First Mortgagees whose interests in the Property would be substantially affected by such action, which consent shall not be unreasonably withheld, conditioned, or delayed:

- (a) Amendments or supplements to the Project Map, as described in Section 2.01(ff);
- (b) Changes or other modifications in the uses of Residential Sites, Commercial Sites or Mixed Use Sites, as described in Sections 3.02 and 3.03 respectively; and
- (c) Exercise of any development right set forth in Section 12.02 of this Declaration.

To the extent a Declarant action as set forth in subsections (a)–(c) above primarily relates to portions of the Property which are not the collateral of a certain First Mortgagee and such action does not negatively impact such collateral, such First Mortgagee's consent shall not be required, and the Buildable Square

Footage included in such First Mortgagee's collateral shall not be included in the calculation used to determine a "Majority."

15.02 Termination of Interest.

Upon termination of any First Mortgagee's interest in the Property, or any portion thereof, by virtue of a deed of trust, this Article XV shall automatically terminate as to that First Mortgagee and shall be of no further force or effect as to that First Mortgagee.

ARTICLE XVI
MISCELLANEOUS

16.01 Severability.

Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity and enforceability of any other provisions hereof.

16.02 Disclaimer of Representations and Warranties.

Notwithstanding anything to the contrary contained in this Declaration, Declarant makes no warranties or representations whatsoever that the plan presently envisioned for the complete development of the Project can or will be carried out or that any land now owned or hereafter acquired by Declarant is or will be subjected to this Declaration, or that any such land, whether or not it has been subjected to this Declaration, is or will be committed to or developed for a particular use, or that, if such land is once used for a particular use, such use will continue in effect. Furthermore, Declarant makes no warranties or representations regarding the soil and/or subsurface condition of the Property, nor warranties or representations involving latent defects, settling, cracking, sliding, heaving, flooding, mold, other fungal, biological, or environmental contaminant or potential contaminant, and disclaims all warranties of merchantability or fitness for a particular purpose relating to the Sites. The Declarant's liability, whether in contract, statute, tort or otherwise is limited to the remedy of repair or replacement, and under no circumstances shall the Declarant or any Declarant Affiliate Entity, or any officers, directors, Managing Owner or owner of Declarant or any Declarant Affiliate Entity be liable for (i) any special, indirect, exemplary or consequential damages, or (ii) any damages resulting from or related to work performed by Declarant which, as of the date of such work, met applicable industry standards for Projects of like size and location. Owner acknowledges, that by accepting a deed with respect to an individual Site, Owner has caused such independent studies (including without limitation engineering studies), as such Owner deems necessary to be rendered by qualified engineering and other consultants and third parties.

16.03 Reference to Declaration and Deeds.

Deeds to and instruments affecting any Site or any other part of the Project may contain the provisions set forth herein by reference to this Declaration, but regardless of whether any such reference is made in any deed or instrument, each and all of the covenants, conditions, restrictions, reservations, easements, assessments, charges and liens set forth herein shall be binding upon the grantee-Owner or other Person claiming through any deed or other instrument and his or her heirs, executors, administrators, successors and assigns.

16.04 Successors and Assigns of Declarant.

Any reference in this Declaration to Declarant shall include any successors or assignees of

Declarant's rights and powers hereunder, on the condition that Declarant's rights and powers may only be assigned by a written recorded instrument expressly assigning such rights and powers.

16.05 Captions and Titles.

All captions and titles of headings of Articles and Sections in this Declaration are for the purpose of reference and convenience and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.

16.06 Notices.

All Owners of each Site shall have one and the same registered mailing address to be used by the Managing Owner or other Owners for notices, demands, and all other communications regarding the Project matters. The Owner or the representative of the Owners of a Site shall furnish such registered address to the Managing Owner within ten days after (a) transfer of title to the Site to such Owner or Owners, and (b) a change in such registered address. Such registration shall be in written form and signed by all of the Owners of the Site or by such Persons as are authorized to represent the interests of all Owners of the Site. If no address is registered or if all of the Owners cannot agree, then the address of the Site shall be deemed their registered address of the Owner(s), and any notice shall be deemed duly given if delivered to the Site. All notices and demands intended to be served upon the Managing Owner shall be sent to the Managing Owner's Recorded Address, and if to Declarant, to the address that Declarant may designate from time to time by written notice to all of the Owner(s).

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, BB NAC Apartments, LLC has hereunto caused its name to be signed by the signature of its duly authorized officer as of the day and year first written above.

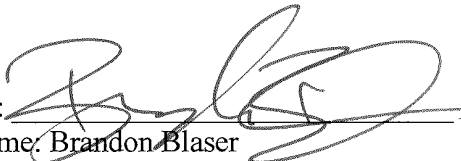
BB NAC APARTMENTS, LLC, a Delaware limited liability company

By: Bridge BLOQ Qualified Opportunity Zone Business, LLC, a Delaware limited liability company, its Member

By: BLOQ Opportunity Zone Fund I, LLC, a Delaware limited liability company, its Operating Member

By: BLOQ Development Partners, LLC, a Delaware limited liability company, its Manager

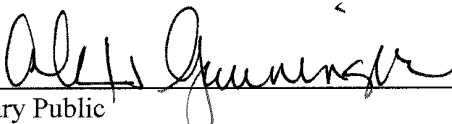
By: BCG BLOQ Management LLC, a Utah limited liability company, its Manager

By: 
Name: Brandon Blaser
Title: Manager

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

On the 21st day of May, 2020, the foregoing Declaration of Covenants, Conditions and Restrictions and Grant of Easements for the Post District was acknowledged before me by Brandon Blaser, in his capacity as Manager of BCG BLOQ Management LLC, in its capacity as Manager of BLOQ Development Partners, LLC, in its capacity as Manager of BLOQ Opportunity Zone Fund I, LLC, in its capacity as Operating Member of Bridge BLOQ Qualified Opportunity Zone Business, LLC, in its capacity as the sole member of BB NAC Apartments, LLC, a Delaware limited liability company, on behalf of such company.




Notary Public

CONSENT BY OWNER

The undersigned hereby consents to the recording of this Declaration upon all of the property owned by such undersigned owner, and agrees to be bound by and subject to such Declaration.


BRIDGE BLOQ NAC LLC, a Delaware limited liability company

By: Bridge BLOQ Qualified Opportunity Zone Business, LLC, its sole member

By: BLOQ Opportunity Zone Fund I, LLC, its operating member

By: BLOQ Development Partners, LLC, its Managing Owner

By: BCG BLOQ Management LLC, its Managing Owner

By: 
Name: Brandon Blaser
Title: Manager

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

On the 21st day of May, 2020, the foregoing Declaration of Covenants, Conditions and Restrictions and Grant of Easements for the Post District was acknowledged before me by Brandon Blaser, in his capacity as Manager of BCG BLOQ Management LLC, in its capacity as Manager of BLOQ Development Partners, LLC, in its capacity as Manager of BLOQ Opportunity Zone Fund I, LLC, in its capacity as Operating Member of Bridge BLOQ Qualified Opportunity Zone Business, LLC, in its capacity as the sole member of Bridge BLOQ NAC, LLC, a Delaware limited liability company, on behalf of such company.





Notary Public

EXHIBIT A

(Attached to and forming a part of the Declaration of Covenants,
Conditions and Restrictions and Grant of Easements
for the Post District)

LEGAL DESCRIPTION OF THE
PROPERTY

PARCEL 1

BEGINNING AT THE SOUTHEAST CORNER OF BLOCK 30, PLAT "A", SALT LAKE CITY SURVEY;
THENCE SOUTH 89°59'18" WEST ALONG THE SOUTH LINE OF SAID BLOCK 30 A DISTANCE OF
331.28 FEET; THENCE NORTH 660.42 FEET TO A POINT ON THE NORTH LINE OF SAID BLOCK 30;
THENCE NORTH 89°58'14" EAST ALONG SAID NORTH LINE 331.37 FEET TO THE NORTHEAST
CORNER OF SAID BLOCK 30; THENCE SOUTH 00°00'30" WEST ALONG THE EAST OF SAID BLOCK
30 A DISTANCE OF 660.52 FEET TO THE POINT OF BEGINNING.

CONTAINS 218,829 SQ. FT. 5.024 ACRES

PARCEL 2

BEGINNING AT A POINT ON THE WEST LINE OF BLOCK 30, PLAT "A", SALT LAKE CITY SURVEY,
SAID POINT BEING SOUTH 89°59'18" WEST ALONG THE SOUTH LINE OF SAID BLOCK 30 A
DISTANCE OF 660.13 FEET TO THE SOUTHWEST CORNER OF SAID BLOCK 30 AND NORTH
0°00'59" WEST ALONG THE WEST LINE OF SAID BLOCK 30 A DISTANCE OF 247.62 FEET FROM
THE SOUTHEAST CORNER OF SAID BLOCK 30, AND RUNNING THENCE NORTH 0°00'59" WEST
ALONG SAID WEST LINE 412.69 FEET TO THE NORTHWEST CORNER OF SAID BLOCK 30; THENCE
NORTH 89°58'14" EAST ALONG THE NORTH LINE OF SAID BLOCK 30 A DISTANCE OF 329.06 FEET;
THENCE SOUTH 412.70 FEET; THENCE SOUTH 89°58'20" WEST 328.94 FEET TO THE POINT OF
BEGINNING.

CONTAINS 135,777 SQ.FT. OR 3.117 ACRES

PARCEL 3

BEGINNING AT A POINT SOUTH 89°59'18" WEST ALONG THE SOUTH LINE OF BLOCK 30, PLAT "A",
SALT LAKE CITY SURVEY, A DISTANCE OF 331.26 FEET AND NORTH 125.10 FEET FROM THE
SOUTHEAST CORNER OF SAID BLOCK 30, AND RUNNING THENCE SOUTH 89°58'57" WEST 171.28
FEET, THENCE NORTH 122.59 FEET, THENCE NORTH 89°58'20" EAST 171.28 FEET; THENCE
SOUTH 122.62 FEET TO THE POINT OF BEGINNING.

CONTAINS 20,999 SQ. FT. OR 0.482 ACRES

PARCEL 4

BEGINNING AT A POINT ON THE SOUTH LINE OF BLOCK 30, PLAT "A", SALT LAKE CITY SURVEY, SAID POINT BEING SOUTH 89°59'18" WEST ALONG SAID SOUTH LINE 331.28 FEET FROM THE SOUTHEAST CORNER OF SAID BLOCK 30, AND RUNNING THENCE SOUTH 89°59'18" WEST ALONG SAID SOUTH LINE 147.18 FEET; THENCE NORTH 0°00'51" WEST 125.08 FEET; THENCE NORTH 89°58'57" EAST 147.21 FEET; THENCE SOUTH 125.10 FEET TO THE POINT OF BEGINNING.

CONTAINS 18,412 SQ. FT. OR 0.423 ACRES

PARCEL 5

BEGINNING AT A POINT ON THE WEST LINE OF BLOCK 30, PLAT "A", SALT LAKE CITY SURVEY, SAID POINT BEING SOUTH 89°59'18" WEST ALONG THE SOUTH LINE OF SAID BLOCK 30 A DISTANCE OF 660.13 FEET TO THE SOUTHWEST CORNER OF SAID BLOCK 30 AND NORTH 0°00'59" WEST ALONG THE WEST LINE OF SAID BLOCK 30 A DISTANCE OF 125.06 FEET FROM THE SOUTHEAST CORNER OF SAID BLOCK 30, AND RUNNING THENCE NORTH 0°00'59" WEST ALONG SAID WEST LINE 122.56 FEET; THENCE NORTH 89°58'20" EAST 157.66 FEET; THENCE SOUTH 122.59 FEET; THENCE SOUTH 89°58'57" WEST 157.63 FEET TO THE POINT OF BEGINNING.

CONTAINS 19,324 SQ. FT. OR 0.444 ACRES

PARCEL 6

BEGINNING AT A POINT ON THE SOUTH LINE OF BLOCK 30, PLAT "A", SALT LAKE CITY SURVEY, SAID POINT BEING NORTH 89°59'18" EAST ALONG SAID SOUTH LINE 55.03 FEET FROM THE SOUTHWEST CORNER OF SAID BLOCK 30, AND RUNNING THENCE NORTH 00°00'51" WEST 115.06 FEET; THENCE NORTH 89°58'58" EAST 75.00 FEET; THENCE NORTH 00°00'51" WEST 10.01 FEET; THENCE NORTH 89°58'57" EAST 51.66 FEET; THENCE SOUTH 00°00'51" EAST 125.08 FEET; THENCE SOUTH 89°59'18" WEST 126.66 FEET TO THE POINT OF BEGINNING.

CONTAINS 15,092 SQ. FT. OR 0.346 ACRES

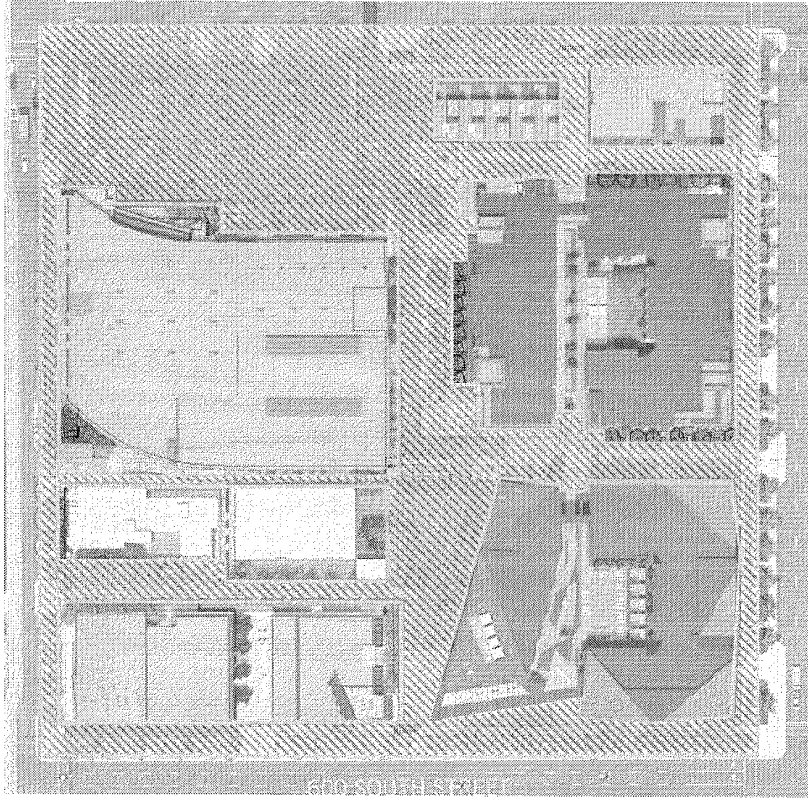
EXHIBIT B

(Attached to and forming a part of the Declaration of Covenants,
Conditions and Restrictions and Grant of Easements
for the Post District)

PROJECT MAP

(See Attached)

Exhibit B
Easement Areas and Facilities (Hatched)



(Exhibit B Cont.)
Project

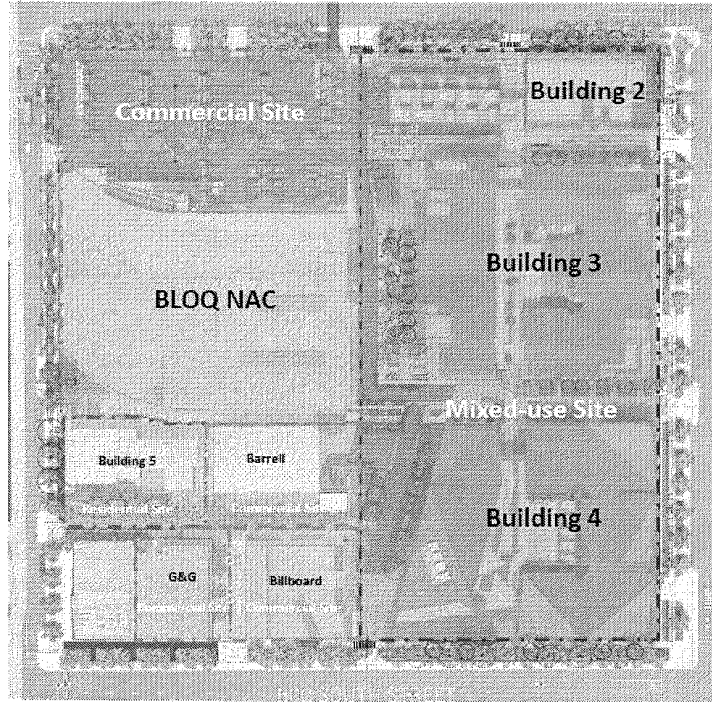


Exhibit B Cont.
Common Parking Areas



= Applies to all areas highlighted below

