

WHEN RECORDED, RETURN TO:

SNELL & WILMER L.L.P.
15 West South Temple, Suite 1200
Salt Lake City, UT 84101
Attn: Wade Budge

14055779 B: 11392 P: 4896 Total Pages: 5
12/22/2022 12:18 PM By: aallen Fees: \$40.00
Rashelle Hobbs, Recorder, Salt Lake County, Utah
Return To: FIRST AMERICAN TITLE INSURANCE COMPANY - NCS SA
215 S STATE ST STE 380SALT LAKE CITY, UT 841112371

APN(s): 22-29-202-065-0000

RESTRICTIVE COVENANT AGREEMENT

THIS RESTRICTIVE COVENANT AGREEMENT ("**Agreement**") is made and entered into as of the 22nd day of December, 2022 by and among UW APARTMENTS LLC, a Delaware limited liability company ("**UW**") and WAL-MART STORES, INC., a Delaware corporation ("**Walmart**"). UW and Walmart are collectively referred to herein as the "**Parties**".

RECITALS

A. Union Woods Associates, Ltd., a Colorado limited partnership, executed that certain Declaration of Covenants, Conditions, Easements and Restrictions of the Union Woods Office Park recorded on October 20, 1986 as Entry No. 4334320 in Book 5829 at Page 1686, with the Salt Lake County Recorder, as affected by that certain Supplemental Declaration to the Declaration of Covenants, Conditions, Easements and Restrictions recorded on February 11, 2019 as Entry No 12931958 in Book 10751 at Page 7546 with the Salt Lake County Recorder (the "**Declaration**"), affecting certain real property owned by UW and more particularly described on Exhibit A attached thereto (the "**UW Property**");

B. UW, along with all other Owners (as defined under the Declaration) under the Declaration, desire to amend the Declaration as set forth in that certain First Amendment to the Declaration of Covenants, Conditions, Easements and Restrictions of the Union Woods Office Park, dated on or about the date hereof by and among UW, Fort Union Shopping Center, LLC ("**FUSC**"), Griffin SL South Union Park 7090 Property, LLC, Tanklage Family Limited Partnership II and Cypress Credit Union, Inc. (the "**Amendment**");

C. Walmart leases certain retail property (the "**Walmart Property**") pursuant to that certain Lease Agreement dated as of December 27, 1993 between Walmart and a predecessor-in-interest to FUSC (the "**Walmart Lease**") pursuant to which the lessor agrees not to amend the Declaration without Walmart's written consent; and

D. Walmart has consented to the Amendment subject to the covenants set forth herein.

COVENANTS

NOW THEREFORE, for good and sufficient consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Incorporation of Recitals. The recitals set forth above are hereby incorporated into this Agreement and the matters therein are acknowledged by the parties hereto to be true and correct in all material respects.

2. Notice to Residents. Any leases or conveyances of any residential property on the UW Property shall include a clause substantially similar to the following:

Notices of Neighboring Uses. By virtue of its ownership or occupancy of the [NAME], all owners or occupants (including but not limited to, any tenants or lessees) are deemed to acknowledge and agree that the Walmart Property is an operating retail store, including without limitation, loading areas, parking lot, common area, and store lighting, delivery traffic, together with accompanying and associated sounds, noises, odors, and light which may occur at any time and from time to time as associated with a retail store of similar size, stature, and level of operation (collectively, “Retail Operational Activities”). Such Retail Operational Activities shall be presumed to be at all times within the law, including compliance with all applicable local ordinances regarding sound and light and other such transmissions that may emanate from the Walmart Property to any portion of the [NAME] from time to time. Each owner and occupant, by virtue of its ownership or occupancy of any portion of the [NAME] hereby acknowledges and agrees that the Retail Operational Activities shall not be deemed to be (or rise to the level of) a nuisance, annoyance, or other actionable disturbance of residential or commercial activity as such terms (or similar terms or concepts) are understood colloquially, at law or in equity, and further shall not allege any objection or complaint to any governmental entity related to the Retail Operational Activities. Should any owner or occupant challenge this presumption in a judicial or quasi-judicial form, they shall be required to prove such fact pursuant to this Agreement, subject to the highest standard of proof. Regardless of the foregoing, no costs and expenses incurred or associated with any owner or occupant, judicial or quasi-judicial decision to reduce or otherwise mitigate light, odor or sound levels caused by Retail Operational Activities or emanating from the Walmart Property, shall be paid or otherwise charged against Walmart.

3. Duration, Amendment and Termination. This Agreement shall be effective as of the date first above written and shall continue in full force and effect until the earlier to occur of (i) the termination of Walmart’s occupation of the Walmart Property, either by termination of the Walmart Lease, and any extensions or assignments thereto, or should Walmart acquire title to the Walmart Property, by Walmart selling the Walmart Property to an unaffiliated third-party, and (ii) the date neither Walmart nor any of its affiliates operates a retail store at the Walmart Property materially similar to Walmart’s operations as of the date hereof (the “**Term**”). Upon the termination of this Agreement, all rights and privileges derived from and all duties and obligations created and imposed by the provisions of this Agreement shall automatically terminate without the need for any further action on the part of UW, Walmart or their respective successors or assigns. This Agreement may not be amended, supplemented or terminated without mutual execution by Walmart and UW or their respective successors and assigns.

4. Runs with the Land. This Agreement and the covenants contained herein are binding and run with the land during the Term, such that any subsequent owners of fee title or third parties holding an interest in and to all or some portion of the UW Property shall be deemed to have acquired such interest with notice and knowledge of the covenants set forth herein.

5. Governing Law. This Agreement is intended to be performed in the State of Utah, and the laws of Utah shall govern the validity, construction, enforcement, and interpretation of this Agreement.

6. Further Acts. In addition to the acts and deeds recited herein and contemplated to be performed, the Parties agree to perform, execute and deliver or cause to be performed, executed and delivered any and all such further acts, deeds and assurance as may be necessary to consummate the transactions contemplated hereby.

[Signature Pages Follow]

IN WITNESS WHEREOF the parties have executed this Agreement as of the date set forth above.

UW:

UW APARTMENTS LLC,
a Delaware limited liability company

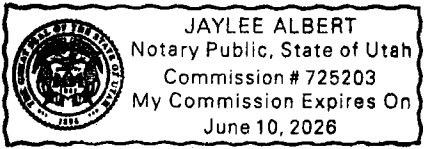
EL Name: _____
By: Dusty Harris
Its: Senior Managing Director

STATE OF Utah)
) ss.
COUNTY OF Salt Lake)

The foregoing instrument was acknowledged before me this 13 day of December, 2022, by Dusty Harris the SMD of UW APARTMENTS LLC, a Delaware limited liability company, on behalf of said company.

Jaylee Albert
Notary Public

[Seal]



[Signatures Continue on Next Page]

WALMART:

WAL-MART STORES, INC.,
a Delaware corporation

Name: [Signature]
By: Matt Dean
Its: SR. Manager IV

STATE OF Arkansas)
) ss.
COUNTY OF Benton)

The foregoing instrument was acknowledged before me this 13th day of December, 2022, by Matt Dean, the SR. Manager IV of WAL-MART STORES, INC., a Delaware corporation, on behalf of said company.

LINDA STELLJES
NOTARY PUBLIC
BENTON COUNTY, ARKANSAS
COMM. EXP. 12/01/27
COMMISSION NO. 12703323

[Signature]
Notary Public

[Signatures Continue on Next Page]

EXHIBIT A

UW PROPERTY

Real property in the County of Salt Lake, State of UT, described as follows:

LOT 2, UNION WOODS SUBDIVISION NO. 3, ACCORDING TO THE OFFICIAL PLAT THEREOF,
RECORDED JUNE 08, 2017, AS ENTRY NO. 12551789 IN BOOK 2017P AT PAGE 135 OF OFFICIAL
RECORDS.

*Exhibit A to
Restrictive Covenant Agreement*