

**CONDOMINIUM DECLARATION
FOR
BALSAM CONDOMINIUMS II**

The Condominium Declaration for BALSAM CONDOMINIUMS II (the "Declaration") made this 1 day of March, 2025 by BALSAM CONDOMINIUMS II HOA, INC., TERMINOUS PROPERTIES VI LLC, a Utah limited liability company, and JOSEPH GRAHAM AND DANIEL W. GRAHAM (collectively the "Declarants" and "Owners").

WITNESSETH:

A. Whereas the Declarants and Owners are the owners of certain real property in Utah County, Utah, which is more particularly described as:

A PORTION OF BALSAM CONDOMINIUMS ON FILE AS MAP NO. 2697 IN THE UTAH COUNTY RECORDERS OFFICE. SAID PORTION BEING ALL AREA LYING WEST OF 50 EAST STREET. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT LOCATED NORTH 00°42'59" WEST ALONG THE SECTION LINE 849.29 FEET AND EAST 33.00 FEET FROM THE WEST QUARTER CORNER OF SECTION 26, TOWNSHIP 6 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN. THENCE NORTH 00°42'59" WEST 100.03 FEET; THENCE ALONG THE ARC OF A 10.00' RADIUS CURVE TO THE RIGHT 15.02 FEET (CHORD BEARS NORTH 42°18'17" EAST 13.65 FEET); THENCE ALONG THE ARC OF A 613.00' RADIUS CURVE TO THE LEFT 246.53 FEET (CHORD BEARS NORTH 73°48'17" EAST 244.87 FEET); THENCE NORTH 62°17'01" EAST 5.58 FEET TO THE WESTERLY LINE OF 50 EAST STREET; RUNNING THENCE ALONG SAID 50 EAST STREET THE FOLLOWING FOUR (4) COURSES; (1) ALONG A 10.00' RADIUS CURVE TO THE RIGHT 15.72 FEET (CHORD BEARS SOUTH 72°42'59" EAST 14.15 FEET); (2) SOUTH 27°42'59" EAST 17.73 FEET; (3) ALONG A 50.00' RADIUS CURVE TO THE RIGHT 24.75 FEET (CHORD BEARS SOUTH 13°32'29" EAST 24.50 FEET; (4) SOUTH 00°38'01" WEST 140.33 FEET; THENCE NORTH 89°21'59" WEST 274.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.89ACRES OR 38,750 SQFT. MORE OR LESS.

Such land and improvements thereon being hereafter collectively referred to as the "Project", and

B. Whereas the following Units and Common Area are included in this Declaration

See attached Exhibit A

C. Whereas the Declarants and Owners desire to provide for the preservation of the values and amenities in said Project and for the maintenance of open spaces; and to this end, desire to subject the real property described herein to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of the property and the subsequent owners thereof; and

D. Whereas the Declarants and Owners have deemed it desirable, for the efficient preservation of the values and amenities in said Project, to create an Association to which all will be delegated and assigned the powers and duties of maintaining and administering and enforcing the within covenants and disbursing the charges and assessments hereinafter created; and

E. Whereas the Declarants and Owners have formed the Balsam Condominiums II HOA, Inc.

NOW THEREFORE, the Declarants and Owners do hereby declare the Project to be a condominium project pursuant to the Utah Condominium Act, Chapter 57-8-1, et seq., Utah Code Annotated, which shall be known as BALSAM CONDOMINIUMS II.

The project shall hereafter be subject to the covenants, restrictions, limitations, conditions and uses of this Declaration, which shall run with the land, and which shall be enforceable equitable servitudes, where reasonable, and shall be binding upon Declarant, its successors and assigns, and any person or entity acquiring an interest in the Project, their grantees, heirs, devisees, personal representatives, successors and assigns.

ARTICLE I
DEFINITIONS

When used in this Declaration, each of the following terms shall have the meaning indicated. Any term used herein which is defined by the Utah Condominium Ownership Act shall, to the extent permitted by the context hereof, have the meaning ascribed by the Act.

1.1 **Association**. Shall mean and refer to Balsam Condominiums II HOA Inc., and its successors and assigns.

1.2 **Board of Trustees**. Shall mean the Governing Board of the Association.

1.3 **Building**. Shall mean a single building containing Units as shown on the Map.

1.4 **Common Areas**. Shall mean the entire Project, except for those portions thereof which lie within the boundaries of any Unit. Common Areas shall also include:

(a) All foundations and roofs constituting a portion of or included in the improvements which comprise a part of the Project.

(b) All installations for and all equipment connected with the furnishing of the Project with Utility Services, such as electricity, gas, water and sewer.

(c) The Project outdoor lighting, fences, landscaping, sidewalks, parking spaces and driveways.

1.5 Common Assessment. Shall mean an assessment levied to offset Common Expenses.

1.6 Common Expenses. Shall mean any of the following:

(a) The expenses of, or the reasonable reserves for, the maintenance, the management, operation, repair and replacement of the Common Areas, including the cost of taxes on the Common Areas and any unpaid special assessments.

(b) The cost of capital improvements to the Common Areas which the Association may from time to time authorize.

(c) The expenses of management and administration of the Association, including compensation paid by the Association to a manager, accountant, attorney or other employees or agents.

(d) Any other item or items designated by this Declaration or the Bylaws of the Association to be Common Expenses, and any other expenses reasonably incurred by the Association on behalf of all Owners.

1.7 Condominium. Shall mean an estate in real property consisting of the separate ownership of a Unit and the fee ownership of an undivided interest as a tenant in common of the Common Areas.

1.8 Limited Common Areas. Shall mean those portions of the Common Areas which are limited to and reserved for the exclusive use of individual owners, specifically the parking spaces.

1.9 Map. Shall mean the plat map of the Balsam Condominiums, recorded at the County Recorder's Office, County of Utah, State of Utah.

1.10 Member. Shall mean a member of the Association.

1.11 Owner. Shall mean and refer to the owner of record (in the Utah County Recorder's Office, County of Utah, State of Utah), whether one or more persons or entities, of a Condominium. The term "Owner" shall not mean or include mortgagee or beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclose or any arrangement or proceeding in lieu thereof.

1.12 Rules and Regulations. Shall mean the Rules and Regulations governing the use of the Common Areas (if any) and the recreational facilities thereon (if any), duly adopted by the Association.

1.13 Special Assessment. Shall mean an assessment for Special Expenses.

1.14 Special Expenses. Shall mean any of the following:

(a) The expenses incurred by the Association for the repair of damage or loss to the Common Areas or the property of other Owners caused by the act or neglect of an Owner which is not covered by insurance.

(b) The expenses of repair or reconstruction of a building damaged or destroyed by fire or other casualty for which there shall be no insurance coverage and the repair or reconstruction of which will directly benefit less than all of the Owners.

(c) Any other item or items designed by other provisions of the Declaration or the Bylaws of the Association to be Special Expenses.

1.15 Unit. Shall mean and refer to the elements of the Project which are not used in common with Owners of other Units. The boundaries of a Unit shall be the interior surfaces of its perimeter walls, floors, ceilings, and the exterior surfaces of the balconies and/or terraces appurtenant to the Unit. The Unit shall include both portions of the Building so described and the airspace so encompassed.

ARTICLE II PROPERTY RIGHTS

2.1 Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Unit, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against Owner's Unit remains unpaid; and for a period not to exceed 60 days for any infraction of its Rules and Regulations;

(c) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds of the Owners has been recorded.

2.2 Delegation of Use. Any Owner may delegate the Owner's right of enjoyment to the Common Areas to the members of Owner's family who reside with Owner in Owner's Condominium, or to Owner's tenants or contract purchasers who reside in Owner's Condominium. The rights and privileges of such delatee shall be subject to suspension in the same manner and to the same extent as those of the Owner.

2.3 Owners' Rights Within Unit. An Owner shall have the right to change coverings (including carpeting, tile, wallpaper, paint and so forth) of the floors, walls, and ceilings of Owner's Unit without the permission of the Association. Such coverings shall be the property of an Owner and may be removed from Owner's Unit by such Owner, provided that such removal does not cause damage to the Common Areas.

2.4 Fixtures and Appliances. An Owner shall be the Owner of the light fixtures, plumbing fixtures, washing machine, clothes dryer, refrigerator, stove, oven, dishwasher and cabinets located within Owner's Unit. Such fixtures ,and appliances may be removed by the Owner, provided that such removal does not cause damage to the Common Areas.

ARTICLE III PROJECT ADMINISTRATION

3.1 Administration of Project. The Project shall be administered by the Association, acting by and through its Board of Trustees, who shall be elected in accordance with the Bylaws of the Association, and whose duties will be governed by the terms of the Act, this Declaration, and the Articles of Incorporation and Bylaws of the Association. The Association may employ a professional management agent to perform, subject to the supervision of the Board of Trustees, such duties and services as the Board of Trustees shall direct, including, but not limited to, management of the Common Areas and the collection of and accounting for assessments made by the Association. A true and correct copy of the Bylaws of the Association is attached hereto as Exhibit B.

3.2 Rules and Regulations. The Association shall have the power to establish and enforce compliance with the Rules and Regulations and to amend same from time to time. A copy of such Rules and Regulations shall be delivered, mailed, or emailed to each Member promptly upon the adoption thereof.

3.3 Common Utilities. The Association shall be responsible for the monthly payment of the common utility services that are provided by Public Utilities, specifically the sewer and water assessments. The Association shall prorate those costs to the Unit Owners on an equitable basis. Non-payment of utility bills by the Association may result in loss of utility service. Non-payment of utility bills shall result in a lien against the Unit at issue as more specifically set forth in paragraph 6.6 hereafter.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS

4.1 **Membership.** Each Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of a Condominium. Ownership of a Condominium shall be the sole qualification for membership. The membership held by an Owner shall not be transferred, pledged or alienated in any way, except upon the sale or encumbrance of such Condominium, and then only to the purchaser or Mortgagee of such Condominium.

4.2 **Class of Voters.** The Association shall have one class of voting membership: Class A. Class A members shall all be Owners and shall be entitled to one vote for each Unit owned.

4.3 **Voting - Multiple Ownership.** The vote attributable to and exercisable in connection with a Unit shall be the percentage of undivided ownership interest in the Common Areas and Facilities which is appurtenant to each Unit. In the event there is more than one Owner of a particular Unit, the vote relating to such Unit shall be exercised as such Owners may determine among themselves.

4.4 **Suspension of Voting Rights.** The voting rights of any Member shall automatically be suspended during any period in which the Member shall be delinquent in the payment of assessments due the Association and for any period during which Owner's right to use the recreational facilities upon the Common Areas shall have been suspended by the Board of Trustees.

ARTICLE V

MAINTENANCE OF PROJECT

5.1 **Duties of Association.** The Association shall have the responsibility of maintaining, repairing, replacing and otherwise keeping in a first-class condition all portions of the Project not required in this Article to be maintained by the Owners, specifically the Common Areas and Building facades.

(a) ***Access to Units.*** The Association's agents and employees shall have the right to enter each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Areas therein or accessible therefrom; provided, however, that such right of access shall be immediate for making emergency repairs therein in order to prevent damage to the Common Areas or to another Unit.

(b) ***Damage to Units.*** Damage to the interior or any part of a Unit resulting from the maintenance, repair, emergency repair or replacement of any of the Common Areas or as a result of emergency repairs within another Unit shall be Common Expenses; provided, however, that if such damage is caused by the negligent or tortious acts of an Owner, member of Owner's family, Owner's agent, employees, invitees,

licensees or tenants, then such Owner shall be responsible and liable for all of such damage, which shall be considered a Special Expense.

5.2 Duties of Owners. An Owner shall be obligated to repair, replace and maintain in good repair and condition (a) the Fixtures (as hereinafter defined) within Owner's Unit; (b) the finished interior surfaces of the perimeter walls, ceilings, floors, doors and windows within Owner's Unit; (c) the Limited Common Areas of Owner's Unit to the exterior surfaces of same. An owner has a responsibility to pay the real estate taxes on their individual unit while the Association has the responsibility to pay the taxes on the Common Area. An Owner shall also have the responsibility of replacing all broken windows and repairing and replacing (and painting the exterior surfaces of) all doors in the perimeter wall of Owner's Unit. Provided, however, the repair, replacement and maintenance required by this Section of those areas which are exposed to public view shall be done in a manner consistent with the decor of the Project and shall be subject to the control and direction of the Association. No Owner shall disturb or relocate any Utilities (as hereinafter defined) running through Owner's Unit nor shall any Owner do any act which will impair the structural soundness of the Building or impair any easement herein granted or reserved.

(a) *Definition of Utilities.* By the term "Utilities" as used in this Article is meant the lines, wires, conduits or systems located within the walls of a building, which are a part of the Common Areas.

(b) *Definition of Fixtures.* By the term "Fixtures" as used in this Article is meant the fixtures and equipment within a Unit commencing at a point where they connect with the Utilities.

ARTICLE VI ASSESSMENTS

6.1 Annual Budget. Not less than thirty (30) days prior to the commencement of each fiscal year (which shall commence on the first day of the month in which the sale of the first Condominium by Declarant is closed), the Board of Trustees (or those named herein as constituting the original Board of Trustees in the event the Association has not been formed at such time) shall establish an annual budget for such fiscal year, including therein all anticipated items of Common Expense together with a reasonable reserve for contingencies.

(a) The reserve fund shall include such amounts as the Association, by its Officers may deem proper for general working capital, for a general operating reserve, and for a reserve fund for replacements and major maintenance or capital replacement, and will be funded and maintained from monthly assessments. The Association may increase or decrease the reserve fund or replace funds withdrawn from the reserve fund with funds collected through monthly assessments.

(b) The Association shall perform or obtain not less frequently every five (5) years a reserve analysis (herein a "Reserve Analysis") to determine (a) the need for a reserve fund to accumulate money to cover the cost of repairing, replacing, and restoring

common areas and facilities that have a useful life of three years or more, but excluding any cost that can reasonably be funded from the monthly assessments, and (b) the appropriate amount of any reserve fund to meet such items. The Association shall review and if necessary update the most recently obtained Reserve Analysis no less frequently than every two years to determine the need for any modifications thereto.

(c) Reserve funds shall be maintained by the Association in a separate account from other funds. The reserve funds may not be used for daily maintenance expenses, unless a majority of the Owners of the Association vote to approve the use of such reserve funds for such purpose.

6.2 Annual Common Assessment. By the adoption of the annual budget by the Board of Trustees there shall be established an annual Common Assessment for the payment of which each Owner (including Declarant) shall be personally liable in the same percentage as Owner's percentage ownership in the Common Areas. Each Owner shall pay Owner's percentage share in even monthly installments of one-twelfth (1/12) thereof on the first day of each month during the fiscal year. The first monthly installment, or pro rata portion thereof, of such annual Common Assessment shall be due and payable by an Owner upon delivery of Owner's deed to a Condominium. In addition, each Owner may be required to deposit and to maintain up to three (3) monthly installments of Owner's share of the annual Common Assessment, for purchase of equipment or supplies and-for working capital. Such advance payment shall not relieve an Owner from making the regular monthly payment. Upon the sale of Owner's Condominium an Owner shall be entitled to a credit from Owner's grantee for any unused portion thereof. If the annual budget is not adopted as herein required, the previous fiscal year monthly payment shall continue to be due until such time as the annual budget for the current year is established, at which time the annual Common Assessment shall become retroactive to the commencement of such current fiscal year.

6.3 Maximum Annual Assessment. Until January 1, 2026, the maximum annual assessment shall be Two Thousand Four Hundred dollars (\$2,400) per Unit (i.e., \$200 per month).

(a) From and after January 1, 2026, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a majority vote of the membership.

(b) From and after January 1, 2026, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of the Members who are voting in person or by proxy, at a meeting duly called for that purpose.

(c) The Board of Trustees may fix the annual assessment at an amount not in excess of the maximum.

6.4 Additional Common Assessments. Should the Board of Trustees at any time determine, in their sole discretion, that the annual Common Assessment is insufficient to pay the Common Expenses for the current fiscal year, the Board of Trustees may at any time and from

time to time levy such Additional Common Assessments as they shall deem necessary for such purposes. Each Owner (including Declarant) shall be personally liable for the payment of such Additional Common Assessments in the same proportionate share as Owner shall have personal liability for the payment of the annual Common Assessment. Such Additional Common Assessments shall be due and payable at such time and in the manner as the Board of Trustees, in their sole discretion, shall determine. Provided, however, in the event of an Additional Common Assessment shall be for the purpose of making additions, alterations or capital improvements to the Common Areas costing more than Five Thousand Dollars (\$5,000.00), such additional Common Assessment shall require the approval by two-thirds (2/3) of the votes the Members present and entitled to vote at an annual or special meeting of the Members called for such purpose at which a quorum is present.

6.5 Special Assessments. Special Assessments may be levied by the Board of Trustees against particular Owners for the payment of Special Expenses. Such Special Assessments shall be due and payable to the Association upon demand. Provided, however, no Special Assessments shall be levied against an Owner until Owner shall have been given the opportunity to present evidence on Owner's behalf at a hearing, and no such hearing shall be held until such Owner shall have received at least ten (10) days written notice specifying the reason for the proposed Special Assessment and the exact time and place of the hearing.

6.6 Remedies For Non-payment. All Assessment and Special Assessment amounts shall be, constitute, and remain: (a) a charge and continuing lien upon the Unit with respect to which such assessment is made; and (b) the personal obligation of the person who is the Owner of such Unit at the time the assessment falls due. No Owner may exempt himself or herself or themselves or Owner's Unit from liability for payment of assessments by waiver of Owner's rights concerning the Common Areas or by abandonment of Owner's Unit. Should a Unit Owner fail to pay when due Owner's share of the Common Expenses, the delinquent payment shall bear interest at the rate of fifteen (15) percent per annum and the Association may enforce any remedy provided in the Act or otherwise available for collection of delinquent Common Assessments, including foreclosure of any lien, together with interest and attorneys' fees incurred in collection of the amount(s) due. Regardless of the terms of any agreement to the contrary, liability for the collection of Common Assessments shall be joint and several, and any remedy for the collection of such assessments may be enforced against an Owner.

ARTICLE VII INSURANCE

7.1 Property Insurance. The Association shall obtain and pay the premiums upon, as a Common Expense, a policy of insurance on all improvements in the Project and all personal property within the Common Areas (except the personal property individually owned by one or more Owners and improvements to Units added by the Owners thereof) in an amount equal to the maximum insurable replacement value thereof, affording protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and such other risks as may from time to time be customarily insured against with respect to improvements similar in construction, location and use, including by way of example, vandalism and malicious mischief. Such policy shall be issued in the name of the Association, as insured, with loss

payable in favor of the Association, as Trustee for each Owner and Owner's Mortgagee, if any, who shall be beneficiaries thereof (even though not named therein) in the percentages of Common Area Ownership established as to each Unit. Certificates of insurance shall be issued to each Owner and Mortgagee upon request. Such policy shall not be cancellable until after thirty (30) days' notice to each Owner and Mortgagee. The proceeds of such policy shall be received by the Association and held in a separate account for distribution to the Owners and their Mortgagees (subject to the provisions of the Act, this Declaration and the Association Bylaws) as their interests may appear; provided, however, when repair or reconstruction of the Project shall be required as provided in Article VIII hereof, such proceeds shall be applied to such repair or reconstruction. The Association shall comply with Utah Code Ann. §57-8-43 in connection with all insurance policies obtained for the Condominium Project.

7.2 Public Liability and Property Damage. The Association shall purchase broad form Comprehensive Liability coverage in such amounts and in such forms deemed appropriate by it. This coverage shall be issued in the name of the Association and shall include Owners in their capacity as Members of the Association as additional insureds and evidence thereof shall include, but not be limited to, legal liability of the Association for bodily and personal injuries, property damage, operation of automobiles on behalf of the Association and activities of the Association in connection with the operation, maintenance or use of the Common Areas.

7.3 Owner's Insurance. Each Owner, and not the Association, shall have responsibility of obtaining and keeping in full force and effect, at Owner's sole expense, (a) standard fire and extended risk insurance on the personal property and furnishings contained in Owner's Unit or located on Owner's respective Limited Common Areas, and on any improvements added to Owner's Unit by an Owner thereof; (b) broad form Comprehensive Liability coverage for Owner's Unit and Limited Common Areas (which shall be in addition to and not in lieu of the Comprehensive Liability coverage required to be purchased by the Association); and (c) such other insurance as Owner may elect to purchase in addition to the insurance coverage purchased by the Association; provided, however, that in no event is the insurance coverage purchased by the Association to be brought into contribution with insurance purchased by Owners.

7.4 Waiver of Subrogation. In the event of loss or damage to the Common Areas or the property of an Owner which shall be covered by insurance, the insurance company paying such claim shall have no right of subrogation against the Association, its agents and employees, nor the Owners, their tenants, or members of their respective households.

7.5 Power of Attorney. Each Owner hereby irrevocably names, constitutes and appoints the Association as Owner's true and lawful attorney-in-fact and for the purposes of maintaining such insurance policies. Without limiting and generality of the foregoing, the Association, as said attorney-in-fact, shall have full power and authority, in the name, place and stead of each Owner, to purchase and maintain such insurance, to collect and remit the premiums thereof (which shall be considered Common Expenses) to collect the proceeds thereof, and to distribute the same to the Association, the Owners and their respective Mortgagees (subject to the provisions of the Act and this Declaration) as their interests may appear, to execute releases of liability and to execute all documents and to do all things on behalf of the Association and such Owners as shall be necessary or convenient to accomplish the powers herein granted, and

any insurer may deal exclusively with the Association in regard to such matters. The Association shall not be responsible for procurement or maintenance of any insurance covering the contents or the interior of any Unit nor the liability of any Owner for occurrences therein not caused by or connected with the Association's operation, maintenance or use of the Condominium Project.

ARTICLE VIII

RECONSTRUCTION OR REPAIR OF IMPROVEMENTS

8.1 When Reconstruction is Required. If less than two-thirds (2/3) of the Buildings and the other Common Area improvements in the Project shall be damaged by fire or other casualty, then the Project shall be repaired or reconstructed. If more than two-thirds (2/3) of such improvements shall be destroyed, then reconstruction or repair shall be effected only with the unanimous consent of all Owners. The extent of damage shall be determined solely by the Board of Trustees, and its decision in this regard shall be final and conclusive.

8.2 Restoration of Common Areas. When reconstruction or repair of the Common Areas shall be required, the same shall be accomplished by the Association, and each Owner does hereby irrevocably name, con-statute and appoint the Association as Owner's true and lawful attorney-in-fact for the purpose of accomplishing such reconstruction or repair, hereby granting to such Association, acting by and through its duly authorized officers and agents, full and complete authorization, right and power to make, execute and deliver, in Owner's name, place and stead, any contract, and any other instrument with respect to the interest of such Owner which is necessary and appropriate to accomplish the powers herein granted. Such reconstruction or repair shall be substantially in accordance with this Declaration and the original plans and specifications of the Project unless the Owners shall unanimously decide otherwise.

8.3 Repair of Units. Each Owner shall be responsible for the re-construction, repair, or replacement of the interior of Owner's Unit and Limited Common Areas, including, but not limited to, the floor coverings, wall coverings, window shades, draperies, interior walls, furniture, furnishings, decorative light fixtures, and all appliances located therein. Each Owner shall also be responsible for the costs, not otherwise covered by insurance carried by the Association, of any reconstruction, repair or replacement of any portion of the Project necessitated by Owner's negligence or misuse or the negligence or misuse of Owner's guests, agents, employees or contractors, which shall be considered Special Expenses. In the event damage to all or any part of the interior of a Unit is covered by insurance held by the Association for the benefit of such Owner, then such Owner shall begin construction, repair or replacement of Owner's Unit upon receipt of the insurance proceeds, or any portion thereof, from the Association. In the event of such damage is not covered by insurance held by the Association for the benefit of such Owner, then such Owner shall begin reconstruction, repair or replacement of Owner's Unit within sixty (60) days after the date of such damage. All reconstruction, repair or replacement of the interior of a Unit required under this paragraph shall be subject to the control and supervision of the Association during the course thereof.

8.4 Cost of Repairs.

(a) *Estimate of Repairs.* As soon as possible after the occurrence of a casualty which causes damage to any part of the Project for which the Association has insurance coverage (hereinafter referred to as the "Casualty"), the Association shall obtain reliable and detailed cost estimates of (1) the cost of restoring all damage caused by the Casualty to the Common Areas (hereinafter referred to as the "Common Area Costs") and (2) the cost of restoring that part of the damage caused by the Casualty to each Unit or Limited Common Area which is or would be covered by insurance held by the Association without regard to the policy limits of such insurance (hereinafter referred to as the "Unit Costs").

(b) *Application of Insurance Proceeds.* All insurance proceeds available to the Association with respect to the Casualty shall first be applied to the payment of the actual Unit Costs. However, if such insurance proceeds are not sufficient to cover such estimated costs, then an assessment shall be made against the Owners by the Association in the following manner:

(1) All Owners shall be assessed on the basis of their percentage of ownership in the Common Areas for the payment of the estimated Common Area Costs not otherwise paid for by insurance held by the Association, which shall be considered Common Expenses.

(2) Each Owner of a damaged Unit shall be assessed an amount equal to the difference between Owner's estimated Unit Cost and a sum calculated by multiplying the amount, if any, of the remaining by a fraction, the numerator of which is Owner's estimated Unit Costs and the denominator of which is the total of all the estimated Unit Costs, which shall be considered Special Expenses.

8.5 Eminent Domain. In the event of a taking by eminent domain of part or all of the Common Area, the award for such taking shall be payable to the Association, which shall represent the Owners named in the condemnation proceedings. Said award shall be utilized to the extent possible for the repair, restoration, replacement and/or improvement of the remaining Common Areas. Any funds not so utilized shall be applied in payment of Common Expenses otherwise assessable to the Members of the Association. In the event of a taking by eminent domain of all or a part of a Unit, the award made for such taking shall be payable to the Owner and Owner's Mortgagee if any, as their interests may appear.

ARTICLE IX MORTGAGES

9.1 Notices. Any Owner who mortgages Owner's Condominium shall furnish the Association the name and address of such Mortgagee, and the Association shall maintain such information in a book or electronic database entitled "Mortgages of Condominium." The Association shall report to such Mortgagee any unpaid assessments due from the Owner of such Condominium at the same time as the Association makes demand on the Owner thereof for the payment of such assessment. Each Mortgagee shall also be entitled to written notification from

the Association of any other default by its Owner-Mortgagor in the performance of such Owner's obligations under the terms and provisions of this Declaration which shall not have been cured within thirty (30) days after written notice to such Owner-Mortgagor by the Association specifying such default.

9.2 **Delinquent Assessments.** A Mortgagee may, but shall not be required to, pay any delinquent assessments due upon the mortgaged Condominium, and the amount of such payment shall be added to the mortgage indebtedness. Failure to pay any assessment when due and payable by an Owner-Mortgagor shall constitute a default under the terms and provisions of the Mortgage instrument, authorizing foreclosure of the lien created therein, at the option of the Mortgagee.

9.3 **Right to Examine.** The mortgagee shall have the right to examine the books and records of the Association upon request and to require annual reports of the financial status of the Association.

ARTICLE X ARCHITECTURAL CONTROL

10.1 **Creation of Committee.** No building, fence, wall or other structure shall be commenced, erected or maintained upon the Project, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Trustees of the Association, or by an Architectural Committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE XI RESTRICTIONS

11.1 **Residential Use.** Each unit may be occupied and used by its Owner only as a single-family residence as defined by Orem City Ordinances for the Owner, Owner's family, tenants and social guests, or for such commercial purposes as may be allowed by the respective zoning laws then in effect which govern the property upon which the Project is located.

11.2 **Alterations.** Notwithstanding the above, no Owner shall make structure alterations or modifications to Owner's Unit or to any of the Common Areas or Limited Common Areas, including, but not limited to, the erection of antennas, aerials, awnings, the placement of any reflective or other materials in the windows of Owner's Unit or other exterior attachments and signs or other advertising devices without the written approval of the Association. The Association shall not approve any alterations, decorations or modifications which would jeopardize or impair the soundness, safety or appearance of the Project.

11.3 Improper Activities. No immoral, improper, unlawful or offensive activities shall be carried on in any Unit or upon the Common Areas, nor shall anything be done which may be or become an annoyance or nuisance to the Owners. No Owner shall store any dangerous explosives or inflammable materials either in Owner's Unit or upon the Common Areas, or permit anything to be done or keep or permit to be kept in Owner's Unit or on the Common Areas anything that will increase the rate of insurance on the Project.

11.4 Signs. No signs or other advertising devices shall be displayed, which are visible from the exterior of any Unit or on the Common Areas, including "For Sale" signs, except in conformity with the Rules and Regulations promulgated by the Board of Trustees.

11.5 Use of Common Areas. The Common Areas shall not be used for storage of supplies, personal property or trash or refuse of any kind except common trash receptacles placed at the discretion of the Association, nor shall the Common Areas be used in any way for the drying, shaking or airing of clothes or other fabrics. Stairs, entrances, sidewalks, yards, driveways or parking areas shall not be obstructed in any way nor shall unauthorized persons use them for other than their intended purposes. in general, no activities shall be carried on nor condition maintained by any Owner either in Owner's Unit or upon the Common Areas which despoils the appearance of the Project. The single-story residence located at 36 East 1450 South, Orem, Utah 84058, does not have a separate tax identification number. The Association rents the residence to a tenant, although it is technically part of the Common Area. The Association reserves the right to determine whether to continue leasing the residence or to make some other use of the unit in the future.

11.6 Pets. No animals shall be kept in the Project except household pets. Such pets may not be kept or bred for any commercial purpose and shall have such care and restraint so as not to be obnoxious or offensive on account of noise, odor or unsanitary conditions. Owners shall immediately clean up after their pets in all areas of the Project. The Association may impose a fine on any Owner who fails to clean up after their pet. No savage or dangerous animals shall be kept. No more than one household pet may be kept in any Unit without the written permission of the Association. No pets shall be permitted to run loose upon the Common Areas, and any Owner who causes any animal to be brought upon the Project shall indemnify and hold harmless the Association and/or the Owners from and against any loss, damage or liability which they may sustain as the result of the presence of such animal on the premises, whether or not the Association has given its permission therefore.

11.7 Parking. One parking space shall be assigned by the Board of Trustees of the Association for each Unit. These parking spaces shall be considered Limited Common Area. Any remaining stalls shall be considered a part of the Common Area. There will be no parking of recreational vehicles or boats in the Project and such preclusion shall be strictly enforced by the management.

ARTICLE XII

DEFAULT

12.1 Definition. Failure to comply with any of the terms of this Declaration, the Articles of Incorporation or Bylaws of the Association or the duly adopted Rules and Regulations of the Association, shall constitute an event of default and shall be grounds for relief, which may include without limitation an action to recover sums due for damages and injunctive relief, or any combination thereof.

12.2 Remedies. In addition to all other remedies herein contained or as may be provided by law, the Association may discontinue the furnishing of any utilities or other services to an Owner who is in default of Owner's obligations to the Association or other Owners as set forth herein upon thirty (30) days' written notice to such Owner and to any Mortgagee of such Owner's Unit of its intent to do so. Notwithstanding the foregoing, the Association shall comply with the provisions of Utah Code Ann. § 57-8-37 in connection with the imposition of any fines against any Owner.

12.3 Costs. In any proceeding arising because of any alleged default by any Owner, the Association, if successful, shall be entitled to recover the costs of the proceedings and reasonable attorneys' fees from such Owner.

12.4 No Waiver. The failure of the Association of any Owner to enforce any right, provision, covenant or condition which may be granted by the Act, this Declaration, the Articles of Incorporation or Bylaws of the Association, or the Rules and Regulations, shall not constitute a waiver of the right of the Association or of any such Owner to enforce such right, provision, covenant or condition in the future.

12.5 Rights Cumulative. All rights, remedies and privileges granted to the Association or any Owner pursuant to the provisions of the Act, this Declaration, the Articles of Incorporation or Bylaws of the Association, or the Rules and Regulations, shall be deemed to be cumulative and the exercise of any one or more of such rights, remedies and privileges shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other additional rights, remedies or privileges, as may be available to such party at law or in equity.

ARTICLE XIII

GENERAL PROVISIONS

13.1 Acceptance of Governing Rules. The Association, all present or future Owners, tenants or future tenants, or any other person using the facilities of the Project are subject to and shall comply with the Act, this Declaration, the Articles of Incorporation and Bylaws of the Association, and the Rules and Regulations, and the acquisition, occupancy or rental of a Unit shall signify that all such documents are accepted and ratified. In the event of a conflict in any of the provisions of any such documents, the documents shall govern or control in the following order or preference: (a) the Act; (b) this Declaration; (c) the Articles of Incorporation of the Association; (d) the Bylaws of the Association; and (e) the Rules and Regulations.

13.2 Delivery of Notices. All notices or other documents require herein to be delivered by the Association to Owners may be delivered either personally or by mail or email. If delivered personally, the same shall be deemed to have been delivered when actually received by the Owner or when left at the front door of Owner's Unit. If mailed, the same shall be deemed delivered when deposited in the United States Mail addressed to the Owner at Owner's address as it appears on the records of the Association with postage thereon prepaid. If emailed, the same shall be deemed delivered when sent by the Association to the email address on record with the Association.

13.3 Severability. If any of the provisions of the Declaration or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstances be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any provisions, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

13.4 Paragraph Titles. Paragraph titles are used in this Declaration for convenience of reference and are not intended to limit, enlarge or change the meaning of the contents of the various paragraphs.

IN WITNESS WHEREOF, Declarants and Owners have duly executed this Declaration on the day and year herein first above written.

ATTEST:

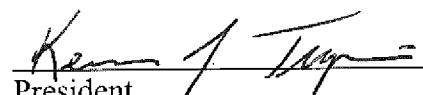

Secretary
James D. Brick

DECLARANT/ OWNER:
Terminus Properties VI LLC,
a Utah Limited Liability Company

By: 
Name: T. D. Brick
Title: Manager

BALASM CONDOMINUMS

**BY: BALSAM CONDOMINIUMS II
HOA, INC.**


President
Kevin Turpin

DECLARANT/OWNER:


Joseph Graham

DECLARANT/OWNER:


Daniel W. Graham

13.2 Delivery of Notices. All notices or other documents require herein to be delivered by the Association to Owners may be delivered either personally or by mail or email. If delivered personally, the same shall be deemed to have been delivered when actually received by the Owner or when left at the front door of Owner's Unit. If mailed, the same shall be deemed delivered when deposited in the United States Mail addressed to the Owner at Owner's address as it appears on the records of the Association with postage thereon prepaid. If emailed, the same shall be deemed delivered when sent by the Association to the email address on record with the Association.

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13.4 Paragraph Titles. Paragraph titles are used in this Declaration for convenience of reference and are not intended to limit, enlarge or change the meaning of the contents of the various paragraphs.

IN WITNESS WHEREOF, Declarants and Owners have duly executed this Declaration on the day and year herein first above written.

~~ATTEST:~~

Secretary

~~James D Brick~~

~~DECLARANT/ OWNER:~~

Terminus Properties VI LLC,
a Utah Limited Liability Company

By: _____

Name:

Title:

BALASM CONDOMINUMS

**BY: BALSAM CONDOMINIUMS II
HOA, INC.**

President

~~Kevin Turpin~~

~~DECLARANT/OWNER:~~



Joseph Graham

DECLARANT/OWNER:

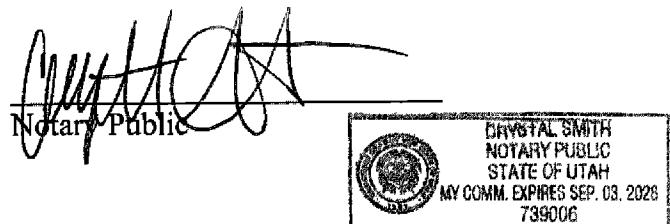


Daniel W. Graham

STATE OF UTAH)
:ss
COUNTY OF UTAH)

Subscribed and sworn to before me, a Notary Public, in and for Utah County, State of Utah, personally appeared Kevin Turpin, President of **Balsam Condominium II HOA, Inc.**, a corporation, known to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said Balsam Condominiums II HOA, Inc., a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed and in the capacity therein stated.

WITNESS my hand and official seal this 9 day of December, 2024.



~~STATE OF UTAH~~)
~~COUNTY OF UTAH~~)
:ss

Subscribed and sworn to before me, a Notary Public, in and for Utah County, State of Utah, personally appeared Terminus Properties VI LLC, the the of **Terminus Properties VI LLC**, a Utah limited liability company, known to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said Terminus Properties VI LLC, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed and in the capacity therein stated.

WITNESS my hand and official seal this day of , 2024.

Notary Public

STATE OF UTAH)
COUNTY OF UTAH) :ss
)

Subscribed and sworn to before me, a Notary Public, in and for Utah County, State of Utah, personally appeared , President of **Balsam Condominium II HOA, Inc.**, a corporation, known to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said Balsam Condominiums II HOA, Inc., a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed and in the capacity therein stated.

WITNESS my hand and official seal this ____ day of _____, 2024.

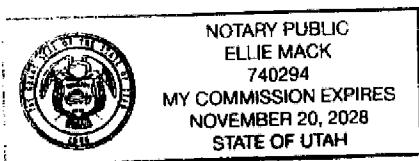
Notary Public

STATE OF UTAH)
 :
COUNTY OF UTAH) :ss
)

Subscribed and sworn to before me, a Notary Public, in and for Utah County, State of Utah, personally appeared James Dean Brink, the Manager of **Terminus Properties VI LLC**, a Utah limited liability company, known to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said Terminus Properties VI LLC, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed and in the capacity therein stated.

WITNESS my hand and official seal this 4th day of March 2025, 2024.

Notary Public

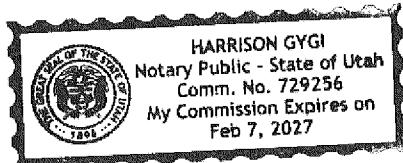


STATE OF UTAH)
:ss
COUNTY OF UTAH)

Subscribed and sworn to before me, a Notary Public, in and for Utah County, State of Utah, personally appeared **Daniel W. Graham**, known to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

WITNESS my hand and official seal this 10th day of December, 2024.


Notary Public



STATE OF UTAH)
COUNTY OF UTAH)

Subscribed and sworn to before me, a Notary Public, in and for Utah County, State of Utah, personally appeared **Joseph Graham**, known to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

WITNESS my hand and official seal this 20th day of December, 2024.

Notary Public

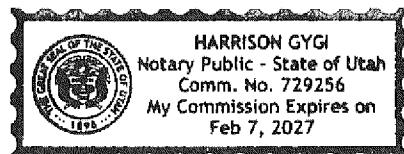


EXHIBIT A
Legal Description

Units A, B, C, and D, Building 1, BALSAM CONDOMINIUMS, a revision of Balsam Acres Subdivision, as the same is identified in the Record of Survey Map, recorded August 14, 1981, as Entry No. 23512, Map Filing 2697 (as said Record of Survey Map may have heretofore been amended or supplemented) and further defined and described in the Declaration of Condominium, recorded August 14, 1981 as Entry No. 23513 in Book 1931 at Page 31 of Official Records (as said Declaration may have heretofore been supplemented).

Together with: (a) the undivided ownership interest in said Condominium Project's Common Areas and Facilities which is appurtenant to said Unit, (the referenced Declaration of Condominium providing for periodic alteration both in the magnitude of said undivided ownership interest and in the composition of the Common Areas and Facilities to which said interest relates); (b) the exclusive right to use and enjoy each of the Limited Common Areas which is appurtenant to said Unit, and (c) The non-exclusive right to use and enjoy the Common Areas and Facilities included in said Condominium Project (as said Project may hereafter be expanded) in accordance with the aforesaid Declaration and Survey Map (as said Declaration and Map may hereafter be amended or supplemented) and the Utah Condominium Ownership Act.

APN: 35-090-0001

APN: 35-090-0002

APN: 35-090-0003

APN: 35-090-0004

Units A, B, C, and D, Building 2, BALSAM CONDOMINIUMS, a revision of Balsam Acres Subdivision, as the same is identified in the Record of Survey Map, recorded August 14, 1981, as Entry No. 23512, Map Filing 2697 (as said Record of Survey Map may have heretofore been amended or supplemented) and further defined and described in the Declaration of Condominium, recorded August 14, 1981 as Entry No. 23513 in Book 1931 at Page 31 of Official Records (as said Declaration may have heretofore been supplemented).

Together with: (a) the undivided ownership interest in said Condominium Project's Common Areas and Facilities which is appurtenant to said Unit, (the referenced Declaration of Condominium providing for periodic alteration both in the magnitude of said undivided ownership interest and in the composition of the Common Areas and Facilities to which said interest relates); (b) the exclusive right to use and enjoy each of the Limited Common Areas which is appurtenant to said Unit, and (c) The non-exclusive right to use and enjoy the Common Areas and Facilities included in said Condominium Project (as said Project may hereafter be expanded) in accordance with the aforesaid Declaration and Survey Map (as said Declaration and Map may hereafter be amended or supplemented) and the Utah Condominium Ownership Act.

APN: 35-090-0005

APN: 35-090-0006

APN: 35-090-0007
APN: 35-090-0008

Units A, B, C, and D, Building 3, BALSAM CONDOMINIUMS, a revision of Balsam Acres Subdivision, as the same is identified in the Record of Survey Map, recorded August 14, 1981, as Entry No. 23512, Map Filing 2697 (as said Record of Survey Map may have heretofore been amended or supplemented) and further defined and described in the Declaration of Condominium, recorded August 14, 1981 as Entry No. 23513 in Book 1931 at Page 31 of Official Records (as said Declaration may have heretofore been supplemented).

Together with: (a) the undivided ownership interest in said Condominium Project's Common Areas and Facilities which is appurtenant to said Unit, (the referenced Declaration of Condominium providing for periodic alteration both in the magnitude of said undivided ownership interest and in the composition of the Common Areas and Facilities to which said interest relates); (b) the exclusive right to use and enjoy each of the Limited Common Areas which is appurtenant to said Unit, and (c) The non-exclusive right to use and enjoy the Common Areas and Facilities included in said Condominium Project (as said Project may hereafter be expanded) in accordance with the aforesaid Declaration and Survey Map (as said Declaration and Map may hereafter be amended or supplemented) and the Utah Condominium Ownership Act.

APN: 35-090-0009
APN: 35-090-0010
APN: 35-090-0011
APN: 35-090-0012

Together with that portion of the Common Area lying west of 50 East Street, which is a portion of APN: 35-090-0022

EXHIBIT A

INITIAL TRUSTEE AND INITIAL OFFICERS OF BALSAM CONDOMINIUMS II, HOA, INC.

1. The initial Trustee of the Association is Terminus Properties VI, LLC.
2. The initial officers of the Association are as follows:

President: Kevin Turpin

Vice President: vacant

Secretary/Treasurer: James D. Brisk

EXHIBIT B
Bylaws

**BYLAWS
OF
BALSAM CONDOMINIUMS II HOA, INC.
a Utah Nonprofit Corporation**

Pursuant to the provisions of the Utah Revised Nonprofit Corporation Act, § 16-6a-101, *et seq.*, Utah Code Ann. (the “Act”), the undersigned incorporator of the BALSAM CONDOMINIUMS II HOA, INC., hereby adopts the following Bylaws of the BALSAM CONDOMINIUMS II HOA, INC.:

**ARTICLE I
NAME AND LOCATION**

The name of the corporation is BALSAM CONDOMINIUMS HOA, INC., hereinafter referred to as the “Association”. The principal office of the Corporation in the State of Utah shall be located at 1 E Center St # 310, Provo, UT 84606, but meetings of Members and Trustees may be held at such places within the State of Utah, County of Utah, as may be designated by the Board of Trustees.

**ARTICLE II
DEFINITIONS**

Section 2.1 “Association” shall mean and refer to the BALSAM CONDOMINIUMS II HOA, INC., its successors and assigns.

Section 2.2 “Property” shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions of Balsam Condominiums II, as amended, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 2.3 “Common Areas” shall mean and refer to that part of the Property which is not included with the Lots, which is owned by the Association for the common use and enjoyment of the Owners, or the limited use of certain Owners as to limited common areas, together with all improvements thereon, and all easements appurtenant thereto, including, but not limited to, private utility lines and personal property owned by the Association, when the context so requires.

Section 2.4 “Declarants” shall mean and refer to Terminus Properties VI LLC, a Utah limited liability company, its successors and assigns, and Joseph Graham and Daniel W. Graham, who are all of the Owners of the Living Units within the development as of the date of the signing of these Bylaws.

Section 2.5 “Declaration” shall mean and refer to the Declaration of Covenants, Conditions and Restrictions of Balsam Condominiums II applicable to the Property recorded in the Office of the Recorder of Utah County, State of Utah, and amendments thereto.

Section 2.6 “Living Unit” shall mean and refer to any one of the separately numbered and self-contained living spaces located upon a Lot as designated in the Declaration of Balsam Condominiums II, which Living Unit is intended to be owned individually, rather than in common by Owners of different Lots and Living Units. The term Living Unit shall also include the single-story residence with an address of 36 East 1450 South, Orem, Utah 84058, which residence is not located on a Lot and does not have a separate tax parcel identification number.

Section 2.7 “Lot” shall mean and refer to any one of the separately numbered and individually described plots of land described on a Plat: (a) which is intended to be owned individually,

rather than in common by Owners of different lots; and (b) which is intended to be used as the site of a single residence.

Section 2.8 "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

Section 2.9 "Owner", or "Owners" when referring to all or more than one Owner as the context requires, shall mean and refer to the person who is the Owner of record (in the office of the County Recorder of Utah County, Utah) of a fee or an undivided interest in any Lot and/or any Living Unit. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term "Owner" shall not mean or include a mortgagee or a beneficiary or trustee under a deed of trust, unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

ARTICLE III **MEETING OF MEMBERS**

Section 3.1 **Annual Meetings.** Annual meetings of the members shall be held on the second Tuesday in October of each year commencing 2024, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of 7:00 o'clock, p.m. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 3.2 **Special Meetings.** Special meetings of the members may be called by or at the request of the president or by the Board of Trustees, or upon written request of one-third (1/3) of the members entitled to vote delivered not less than 15 days prior to the date fixed for said meeting. Such meeting shall be held within the premises of the subdivision and the notice therefor shall state the date, time, place and matters to be considered.

Section 3.3 **Notice of Meetings.** Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 15 days before such meeting, to each member entitled to vote thereon, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 3.4 **Quorum.** The quorum required for any action by the Members hereunder, unless otherwise specifically set forth in the Declaration, shall be as follows: At the first meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all outstanding votes shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called at which a quorum shall be one-half of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting.

Section 3.5 **Proxies.** At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot or Living Unit.

ARTICLE IV
BOARD OF TRUSTEES: SELECTION AND TERM OF OFFICE

Section 4.1 Number. The affairs of the Association shall be managed by a Board of Trustees consisting of not less than three (3) individuals, the majority of whom must be members of the Association; provided, however, that for one year following the adoption of these Bylaws, there shall be only one (1) Trustee, unless the Declarants otherwise agrees in writing. The initial trustee is listed on the attached Exhibit A.

Section 4.2 Term of Office. At the first annual meeting, the Members shall elect one (1) of the Trustees for a term of one year, one (1) of the Trustees for a term of two years, and one (1) of the Trustees for a term of three years, and at each annual meeting thereafter the members shall elect the number of Trustees, whose terms are to expire, for a term of three years.

Section 4.3 Removal. Any Trustee may be removed from the Board, with or without cause, by a simple majority vote of the members of the Association. In the event of death, resignation or removal of a Trustee, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4.4 Compensation. No Trustee shall receive compensation for any service he may render to the Association. However, any Trustee may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 4.5 Action Taken Without a Meeting. The Trustees shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Trustees. Any action so approved shall have the same effect as though taken at a meeting of the Trustees.

ARTICLE V
NOMINATION AND ELECTION OF TRUSTEES

Section 5.1 Nomination. Nomination for election to the Board of Trustees shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Trustees, and two or more members of the Association or, if such members do not exist or decline appointment, the Declarants. The Nominating Committee shall be appointed by the Board of Trustees prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Trustees as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made among members or non-members.

Section 5.2 Election. Election to the Board of Trustees shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI MEETINGS OF TRUSTEES

Section 6.1 Regular Meetings. Regular meetings of the Board of Trustees shall be held annually without notice, at such place and hour as may be fixed from time to time by resolution of the Trustees. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 6.2 Special Meetings. Special meetings of the Board of Trustees shall be held when called by the president of the Association, or by any two Trustees, after not less than three (3) days notice to each Trustee.

Section 6.3 Quorum. A majority of the number of Trustees shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Trustees present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VII POWERS AND DUTIES OF THE BOARD OF TRUSTEES

Section 7.1 Powers. The Board of Trustees shall have power to:

- (a) adopt and publish rules and regulations governing the use of the Common Areas and facilities, if any, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;
- (b) suspend the voting rights and right to use of the recreational facilities, if any, of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;
- (c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration;
- (d) declare the office of a member of the Board of Trustees to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Trustees; and
- (e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

Section 7.2 Duties. It shall be the duty of the Board of Trustees to:

- (a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the members who are entitled to vote;
- (b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(1) fix the amount of the annual assessment against each Lot and Living Unit at least fifteen (15) days in advance of each annual assessment period;

(2) send written notice of each assessment to every Owner subject thereto at least fifteen (15) days in advance of each annual assessment period; and

(3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same.

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

(e) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Common Areas to be maintained.

ARTICLE VIII **OFFICERS AND THEIR DUTIES**

Section 8.1 Enumeration of Offices. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Trustees, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create. The initial officers of the Association are listed on the attached Exhibit A.

Section 8.2 Election of Officers. The election of officers shall take place at the first meeting of the Board of Trustees following each annual meeting of the members.

Section 8.3 Term. The officers of this Association shall be elected annually by the Board and each shall hold office for three (3) years unless he shall sooner resign, or shall be removed, or otherwise be disqualified to serve.

Section 8.4 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 8.5 Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president, or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 8.6 Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 8.7 Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices, except in the case of special offices created pursuant to Section 8.4 of this Article, and neither the president nor the vice-president may hold the office of either secretary or treasurer.

Section 8.8 Duties. The duties of the officers are as follows:

President

The president shall preside at all meetings of the Board of Trustees; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Vice-President

The vice-president shall act in the place and stead of the president in the event of his absence, inability, or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; keep appropriate current records showing the members of the Association together with their addresses and shall perform such other duties as required by the Board.

Treasurer

The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Trustees; shall sign all checks and promissory notes of the Association; keep proper books of account; if the Board deems appropriate, cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

**ARTICLE IX
COMMITTEES**

The Association shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided in these Bylaws. In addition, the Board of Trustees shall appoint other committees as deemed appropriate in carrying out its purposes.

**ARTICLE XI
ASSESSMENTS**

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are and will be secured by a continuing lien upon the property

against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date of delinquency, interest shall accrue thereon at the rate of one and one-half percent (1-1/2%) per month. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. All interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of the assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot or Living Unit.

ARTICLE XII CORPORATE SEAL

The Association may obtain a seal in circular form having within its circumference the name of the corporation, the year of incorporation, and the words "Corporate Seal".

ARTICLE XIII AMENDMENTS

Section 13.1 These Bylaws may be amended at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy.

Section 13.2 In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

ARTICLE XIV MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, we, being all of the Owners and the initial Trustee of the BALSAM CONDOMINIUMS II, HOA, INC., have hereunto set our hands this 20th day of December, 2024.

INCORPORATOR/OWNER:

Terminus Properties VI LLC,
a Utah Limited Liability Company

By: _____
Name: _____
Title: _____

TRUSTEE:

Terminus Properties VI LLC,
a Utah Limited Liability Company

By: _____
Name: _____
Title: _____

OWNER:

Joseph Graham



OWNER:

Daniel W. Graham



against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date of delinquency, interest shall accrue thereon at the rate of one and one-half percent (1-1/2%) per month. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. All interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of the assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot or Living Unit.

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INCORPORATOR/OWNER:

Terminus Properties VI LLC,
a Utah Limited Liability Company

By: James D. Breslin
Name: James D. Breslin
Title: Manager

TRUSTEE:

Terminus Properties VI LLC,
a Utah Limited Liability Company

By: James D. Breslin
Name: James D. Breslin
Title: Manager

OWNER:

Joseph Graham

OWNER:

Daniel W. Graham