

E 3602268 B 8665 P 457-497  
KELLY A. SILVESTER  
DAVIS COUNTY, UTAH RECORDER  
1/14/2025 3:01 PM  
FEE 40.00 Pgs: 41  
DEP AJH REC'D FOR LAYTON  
CITY

**AFTER RECORDING, PLEASE RETURN TO:**

Wyndom Square, L.L.C.  
Attn: Quin Stephens  
610 N. 800 W.  
Centerville, Utah 84014

Tax Parcel Nos.:     ~~09-428-0001~~  
09-490-0001         ~~09-428-0002~~  
09-490-0002         ~~09-428-0003~~  
09-490-0003  
09-490-0004

**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR WYNDOM SQUARE OFFICE CONDOMINIUM**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR WYNDOM SQUARE OFFICE CONDOMINIUM (this "**Declaration**") is executed this 14<sup>th</sup> day of January, 2025, by WYNDOM SQUARE, L.L.C., a Utah limited liability company ("**Declarant**").

**RECITALS:**

A. Declarant owns certain real property located in Layton, Utah, more particularly described as Unit 1 and Unit 3 on the Plat (the "**Declarant Parcels**").

B. CatnBri, L.L.C., a Utah limited liability company ("**CatnBri**") owns that certain real property located in Layton, Utah, more particularly described as Unit 2 on the Plat (the "**CatnBri Parcel**"). By including its signature hereinafter on this Declaration, CatnBri acknowledges and agrees that the CatnBri Parcel is subject to this Declaration.

C. The Declarant Parcels and CatnBri Parcel are part of the shopping center commonly known as "Wyndom Square Shopping Center" located in Layton, Utah, more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "**Project**").

D. The Project is subject to that certain Easements with Covenants and Restrictions Affecting Land ("**ECR**") recorded in the Office of the Davis County Recorder ("**Recording Office**") as Entry No. 1881919, in Book 3318 at Page 1906.

E. Declarant previously caused to be recorded a Declaration of Covenants, Conditions and Restrictions for Wyndom Square Office Condominium (the "**Original Declaration**") in the Recording Office as Entry No. 3104990, in Book 7057, at Page 109.

F. This Declaration is made and recorded against the Project, intended to subject the Project to this Declaration and the provisions of the Utah Condominium Ownership Act, Title 57, Chapter 8, Utah Code Annotated, as amended (the "**Act**").

G. Declarant hereby amends, restates, and replaces in its entirety the Original Declaration with this Declaration, which Declaration shall be effective upon recording in the Recording Office.

NOW, THEREFORE, for the foregoing purposes, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby covenants, agrees, and declares that all of the Project shall be held, transferred, sold, conveyed, occupied, and used subject to the Restrictions hereinafter set forth.

1. **Definitions.** Certain capitalized terms used in this Declaration are previously defined in this Declaration. In addition, the following capitalized terms which are used in this Declaration shall have the meanings indicated below:

a. **"Affiliate"** means with respect to a specified Person, each of the following other Persons:

- (i) Any member, manager, partner, director, officer, employee or agent of such specified Person at any level removed;
- (ii) Any other Person which owns, directly or indirectly, any interest in the capital, profits or voting control of such specified Person at any level removed; and
- (iii) Any other Person in which such specified Person owns directly or indirectly at any level removed more than twenty percent (20%) of the capital, profits or voting interest.

b. **"Assessment(s)"** means the charges against Owners to defray the Common Expenses as well as miscellaneous Special Assessments (defined below), Special Assessments for capital improvements, and Special Assessments for the purpose of restoring and reconstructing the Project in the event of casualty, all as provided in this Declaration.

c. **"Association"** means the Wyndom Square Commercial Condominium Association, Inc., a Utah non-profit corporation, organized for the purposes set forth in this Declaration, as amended.

d. **"Benefitted Parties"** means, with respect to a Unit, the Owners and Occupants of the Unit, and their respective employees, customers, guests and invitees.

e. [Intentionally omitted].

f. **"Bylaws"** means the bylaws adopted by the Association for the purpose of regulating the affairs of the Association, attached hereto as Exhibit C, as the same may be amended from time to time.

g. **"Common Area(s)"** means and includes all portions of the Project not included as part of any Unit, including but not limited to landscape improvements, project lighting, storm water systems, culinary water systems, streets, drive aisles and parking areas, and project signage.

h. **"Common Expenses"** means the actual and estimated costs incurred or anticipated to be incurred by the Association for the general benefit of the Owners, including any

reasonable reserve, as the Management Committee finds reasonable and necessary pursuant to this Declaration and the Bylaws, including but not limited to: (i) Maintenance Costs, including maintenance, management, operation, repair, and replacement of the Common Areas, including those costs not paid by an Owner who is responsible for such payment; (ii) costs of management and administration of the Association including, but not limited to, compensation paid by the Association to any managers, accountants, attorneys, and other consultants and employees; (iii) the costs of all utilities, landscape maintenance expenses, and other services benefitting the Common Areas (including any fees, costs, or expenses associated with water rights or water shares allocated by any private water company to the Project and collectively billed by such water company to the Association); (iv) the costs of security services; (v) Insurance Costs, including the costs of fire, casualty and liability insurance, worker's compensation insurance, and other insurance covering the Common Areas; (vi) the costs of bonding the directors, officers, agents, employees, and managers of the Association; (vii) taxes paid by the Association; (viii) amounts paid by the Association for the discharge of any lien or encumbrance levied against the Common Areas or any portions thereof, including, without limitation, real estate taxes or assessments, if any, levied against the Common Areas; (ix) all reserves; and (x) the costs of any other item or items incurred by the Association in carrying out its obligations and authorized functions pursuant to this Declaration and the Bylaws, as determined in the reasonable exercise of discretion by the Management Committee and its managers and agents pursuant to this Declaration.

i. **"Stormwater Drainage and Detention Easement Areas"** means the area(s) so depicted and labeled on the Plat.

j. **"Stormwater Drainage and Detention Improvements"** means the improvements and facilities, if any, constructed by or at the direction of Declarant or the Association on the Project.

k. **"Effective Date"** means the date of recordation of this Declaration in the Recording Office.

l. **"Governmental Authorities"** means all governmental or quasi-governmental units, commissions, councils, boards, agencies, staffs or similar bodies having jurisdiction over the use, operation, maintenance or development of a specified matter.

m. **"Governmental Requirements"** means all laws, ordinances, rules, codes, requirements, resolutions, policy statements and regulations of Governmental Authorities in respect of a specified matter including, without limitation, such items relating to land use, subdivision, zoning, environmental, hazardous materials or other toxic substance, occupational health and safety, water, earthquake hazard reduction, and building and fire codes.

n. **"Insurance Costs"** means the costs and expenses incurred by the Declarant, Association, and/or Manager for the premiums for the insurance procured pursuant to Section 8(c).

o. **"Lateral Utility Improvements"** means lateral Utility Infrastructure extending from the Utility Infrastructure located in the Common Areas or Public Utility Easement Areas, as applicable, to locations where required on a Unit.

p. **"Lender"** means a holder of a mortgage or deed of trust on a Unit.

q. **“Limited Common Areas”** means a portion of the Common Areas designated by the Declaration or the Act, and as may be shown on the Plat, for the exclusive use of one or more, but fewer than all, of the Units as shown on the Plat or specified in this Declaration, including without limitation, the improvements appurtenant to a Unit (excluding the HVAC unit(s) servicing only a specific Unit, which HVAC unit(s) shall be considered part of the respective Unit), all extensions or projections of the Unit (including exterior walls), all structures or facilities accessory or integral the Unit, any drive through facilities and dedicated traffic lanes, and any garages, platforms or docks, storage tanks, roofs, canopies or overhangs, porches and similar constructed items.

r. **“Maintenance Costs”** means the costs and expenses incurred by the Association, or Manager for: (i) the operation, maintenance, repair and replacement of the Utility Infrastructure, the Common Areas, including without limitation the Limited Common Areas, and the Stormwater Drainage and Detention Improvements; (ii) real estate taxes and assessments, if any, that are separately assessed for the Common Areas; and (iii) Management Fees.

s. **“Management Agreement”** means the agreement, if any, pursuant to which a Manager performs the duties and services required of Manager under this Declaration which shall be approved and executed by the Association.

t. **“Management Committee”** means the committee defined in Section 4(d).

u. **“Management Fees”** means the fees and compensation paid to Manager pursuant to the Management Agreement which shall not exceed ten percent (10%) of Maintenance Costs and/or Insurance Costs.

v. **“Manager”** means a management company, if any, retained by the Association which has executed a Management Agreement. Manager may be an Affiliate of Declarant or the Association.

w. **“Mortgage”** means a mortgage, deed of trust or other security agreement recorded in the Recording Office creating a lien on a Unit or a portion of the Project as security for the payment of indebtedness.

x. **“Mortgagee”** means a Person constituting the mortgagee, beneficiary or other secured party under a Mortgage.

y. **“Occupant”** means any Person that, pursuant to a lease, a rental arrangement, a license or any other instrument, agreement, contract, document, understanding or arrangement is entitled to or does occupy, possess or use any Unit or any portion of a Unit.

z. **“Owner”** means the Person that, at a specified time, is the owner of a fee or an undivided fee interest in a Unit pursuant to the instruments recorded in the Recording Office. In the event that, at any time, there is more than one (1) Owner of a Unit or a portion of a Unit, the liability of each such Owner for performance or compliance with the applicable provisions of this Declaration shall be joint and several. Notwithstanding any applicable theory relating to a Mortgage, the term “Owner” shall not mean or include a Mortgagee unless and until such Person

has acquired fee title to the Unit, or a portion of the Unit, encumbered by a Mortgage pursuant to foreclosure, trustee's sale or any arrangement or proceeding in lieu thereof.

aa. **"Person"** means a natural person, a legal entity or a trust.

bb. **"Plat"** means the subdivision plat for the Project titled "Wyndom Square Commercial Subdivision Phase 2 – 2<sup>nd</sup> Amendment," and attached hereto as Exhibit B and incorporated by reference, which Plat will be recorded by Declarant in the Recording Office at or about the time this Declaration is recorded in the Recording Office, and which will divide the Project into multiple Units. Upon the recordation of any amendment to the Plat, such amended Plat shall thereafter constitute the "Plat" for all purposes of this Declaration.

cc. **"Public Utility Easement Areas"** means public utility easements depicted on the Plat.

dd. **"Recording Office"** means the office of the County Recorder of Davis County, State of Utah.

ee. [Intentionally omitted].

ff. **"Successor Declarant"** means the Owner of any Unit designated by Declarant in accordance with Section 15.

gg. **"Supplemental Declaration"** means each additional declaration or grant of covenants, conditions, easements and restrictions executed in accordance with Section 14(b) that, in addition to this Declaration, may govern all or some of the Units from time to time.

hh. **"Unit"** means a physical portion of the Project designated as a Unit on the Plat, or any amendment thereto, including the HVAC unit(s) servicing only such Unit. The number and square footage of each Unit is identified on the Plat.

ii. **"Unit Percentage"** is a term that is used to allocate specified costs and expenses among specified Units and means, for each specified Unit that is charged with paying such specified costs and expenses, a percentage determined by dividing the square footage of the Unit by the total square footage of all of the Units charged with paying such specified costs and expenses. For avoidance of doubt, Declarant may, pursuant to a Supplemental Declaration, provide that an Owner will maintain or cause to be maintained its Unit and/or provide insurance with respect to its Unit, in which event that Unit shall be excluded from the denominator of the fraction set forth above. The initial Unit Percentages are as follows:

Unit 1: 4.58%  
Unit 2: 5.21%  
Unit 3: 90.21%

jj. **"Utility Infrastructure"** means all above ground, surface underground utility lines, including poles, towers, boxes, transformers, wires, cables, conduits, pipes, mains, and terminals, repeaters, and such other appurtenances of every nature and description including, without limitation, all such improvements required or appropriate for water, electricity,

telecommunications, gas, sewage, septic, sanitary sewer, and storm drainage, and other public or private utilities or systems, all of which shall be located in the Public Utility Easement Areas. Utility Infrastructure will be located in the Common Areas and the Public Utility Easement Areas.

2. **Submission to the Act; Name and Location; Existing Restrictions; Conveyance to Trustee.**

a. **Submission.** Declarant hereby submits the Project, the Units, and all other improvements now or hereafter made therein or thereon to the provisions of the Act. All of the Project is and shall be held, conveyed, hypothecated, encumbered, leased, subleased, rented, used and improved as a commercial condominium project. All of the Project is and shall be subject to the covenants, conditions, restrictions, uses, limitations, and obligations set forth herein, each and all of which are declared and agreed to be for the benefit of the Project and in furtherance of a plan for improvement of the Project and division thereof into Units; further, each and all of the provisions hereof shall be deemed to run with the Project and shall be a burden and a benefit to Declarant, the successors and assigns of Declarant, and any person acquiring, leasing, subleasing, or owning an interest in the real property and improvements comprising the Project, their assigns, lessees, sublessees, heirs, executors, administrators, devisees, and successors.

b. **Condominium.** The Project is hereby divided into a condominium, said condominium consisting of Units and an appurtenant undivided interest in the Common Areas.

c. **Name and Location.** The Project shall be named and known as Wyndom Square Office Condominium. The Project is located in Davis County, Utah, and the legal description of the real property included in the Project is set forth on Exhibits A and A-1.

d. **Existing Restrictions.** The Project is subject to, and this Declaration is subordinate to, the ECR, which is recorded against the Project. In the event of any inconsistency between this Declaration and the ECR, the ECR shall control.

e. **Conveyance to Trustee.** Declarant hereby conveys and warrants pursuant to Utah Code Annotated Sections 57-1-20 and 57-8-45 to Quinton Stephens, with power of sale, the Units and all Improvements to the Units for the purpose of securing payment of assessments under the terms of this Declaration.

3. **Description of the Units; Improvements; Parking.**

a. **Description of the Boundaries of Each Unit and Unit Number.** The total number of Units, square footage of Units, and Unit number of each of the Units within the Project are set forth on the Plat. Each Unit shall be bounded by the interior surfaces of its perimeter and bearing walls, floors, ceilings, windows and window frames, exterior doors and door frames, and trim. The Unit shall include all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of its finished surfaces and the exterior surfaces so described. All other portions of the walls, floors, or ceilings shall be a part of the Common Areas. In addition, each Unit shall include the following: (i) all spaces, non-bearing interior partitions, interior doors and door frames, and all other fixtures and improvements within the boundaries of the Unit; (ii) all outlets of utility and communications service lines, including, but not limited to power, light, gas, hot and cold water, heating,

refrigeration, cable television and telephone, within the boundaries of the Unit, but shall not include any part of such lines or ducts themselves; and (iii) all fixtures and appliances found within the boundary hues of the Unit and servicing only that Unit, including without limitation, any HVAC unit(s).

b. Improvements. The Project contains three (3) Units. The principal materials from which the Units are or will be constructed are any materials allowed by current applicable building codes. The Units are supplied with electricity, natural gas, water, and sewer service. The Project and surrounding area also consists of Common Areas including, but not limited to, roadways, parking, walkways, landscaping, and Limited Common Areas.

c. Parking. Declarant reserves the right to designate and assign portions of the Common Area parking for the exclusive use of any Owner of a Unit. Any parking spaces not specifically designated by the Declarant for the exclusive use of an Owner of a Unit will be under the exclusive control and administration of the Association at such time as the Declarant no longer owns any Unit within the Project. Any designation and assignment of Common Area as parking will be memorialized by a written "Assignment of Parking" executed by an authorized representative of the Declaration (or Association if Declarant no longer owns any Units within the Project) which shall identify the parking space(s) and the Unit assigned thereto. Subject to the foregoing, no Owner shall be denied use of a parking space within the Project so long as such parking is in accordance with the ECR.

#### 4. Management.

a. Association. The Association will be organized no later than the date the first Unit in the Project is conveyed to an Owner other than Declarant to serve as the governing body for all Owners and shall make provisions for the maintenance, repair, replacement, administration and operation of the Common Areas, assessment of expenses, payment of losses, division of profits, acquisition of insurance and disposition of such insurance proceeds as may be provided herein, and other matters as provided in this Declaration and the Bylaws. The Association shall have all rights and powers granted to it under the Act, this Declaration, the Articles, and Bylaws. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Owners in accordance with the Declaration, the Articles, and the Bylaws.

b. Membership. Membership in the Association shall at all times consist exclusively of the Unit Owners, and each Owner shall be a member of the Association so long as it shall be an Owner, and such membership shall automatically terminate when such Owner ceases to be an Owner. Upon the transfer of an ownership interest in a Unit, the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association.

c. Voting. The Association shall have one (1) class of voting membership. Members shall be all Owners (including Declarant). Members shall be entitled to vote based on their Unit Percentage.

d. Management Committee. The governing body of the Association shall be a Management Committee (the "Management Committee"). The Management Committee shall

consist of three (3) members (each, a "**Trustee**"). Except as otherwise provided in this Declaration, the Bylaws, or Association Rules (defined below), the Management Committee may act in all instances on behalf of the Association. The Management Committee shall act to adopt Bylaws at the time the Association is organized, and the Management Committee may, as it deems appropriate, adopt, amend, and repeal Association Rules. Unless otherwise expressly stated herein, the Management Committee shall act by the majority vote of the Trustees. The Management Committee shall have the right to initiate, prosecute, and defend any and all legal actions, litigation, or arbitration for and on behalf of the Association, except for initiating or making a counterclaim or cross claim in any action, litigation, or arbitration claiming any negligence, intentional misconduct, or fault on behalf of Declarant and/or Declarant's owners, directors, officers, employees, agents, attorneys, representatives, or contractors with respect to the design, materials, renovation, or construction of the Project, which will require (i) the Management Committee's recommendation to the members of the Association to initiate such action, and (ii) the approval of at least fifty-one percent (51%) of the percentage votes at a meeting duly called and held for such purpose. The members of the Association may remove or replace a Trustee at any time by a majority vote at a meeting duly called and held for such purpose.

e. Term and Qualification of Trustees. The term of each Trustee shall continue until such Trustee's resignation or removal (as provided in subsection d. above). Except for Trustees elected or appointed by Declarant, each Trustee shall be an Owner or the spouse of an Owner (or if an Owner is a corporation, partnership, limited liability company, or trust, a Trustee may be an officer, partner, member, manager, trustee, or beneficiary of such Owner). If a Trustee shall cease to meet such qualifications, such Trustee will thereupon cease to be a Trustee and the members of the Association may choose to elect a replacement Trustee. The initial members of the Management Committee shall be appointed by the Declarant.

f. Action by Owners. Except as specifically provided herein, the Management Committee may not act on behalf of the Association to amend or terminate this Declaration, to elect members of the Management Committee, or to determine the qualifications, powers, duties, or term(s) of the Management Committee.

g. Annual Meeting. The Association shall conduct an annual meeting as provided in the Bylaws.

h. Right of Association to Enter Units. The Association, acting through the Management Committee or its authorized agent, shall have the right at all times upon reasonable notice (and at any time in case of an emergency) to enter upon or in any Unit to abate any infraction, to make repairs, or correct any violation of any of the restrictions set forth herein, and in connection therewith, the Association shall have the right to assess all costs incurred against the Owner, such assessment to be secured by the lien provided in Section 5.1.

i. Association Rules. The Management Committee may adopt and administer Association rules in furtherance of the Bylaws for the regulation and operation of the Project ("**Association Rules**").

j. Availability of Documents. The Association shall maintain current copies of this Declaration, the Articles, Bylaws, and Association Rules for the Project, and the



Association's own books, records, and financial statements, available for inspection, upon request, during normal business hours by any Owner. The inspecting Owner may pay to have copies made of this Declaration, the Articles, Bylaws, or Association Rules although no copies of the Association's books, records, or financial statements may be made without prior written consent of the Management Committee, which consent may be given or withheld in the Management Committee's sole discretion.

k. Manager. The Management Committee may contract with a Manager to assist the Management Committee, on behalf of the Association, in the management and operation of the Project, and may delegate such of its powers and duties to the Manager as the Management Committee deems appropriate; provided, however, that only the Management Committee shall have the right to approve Association budgets, to impose a Special Assessment (defined below), or to authorize foreclosure of an Assessment (defined below) lien.

5. **Covenant for Assessments.**

a. Creation of Lien and Personal Obligation for Assessment. Each Owner, including Declarant to the extent Declarant is an Owner as defined herein, of any Unit, by acceptance of a deed or other instrument creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other instrument, is deemed to covenant and agree to pay to the Association such Assessments to be fixed, established, and collected from time to time as provided in this Declaration. The Assessments, together with interest thereon, collection charges, attorneys' fees, court costs, and other costs of collection as hereinafter provided shall be secured by a continuing lien upon the Unit against which each such Assessment is made in favor of the Association. Each such Assessment, together with such interest, collection charges, costs, and attorneys' fees, shall also be the personal obligation of the Owner of such Unit at the time the Assessment becomes due. The personal obligation shall not pass to the successor in title of an Owner unless expressly assumed by such successor.

b. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purposes of promoting the health, safety, and welfare of the Owners, the management, maintenance, care, preservation, and protection of the Project, enhancing the quality of life in the Project and the value of the Project including, without limitation, the improvement and maintenance of the services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, or in furtherance of any other duty or power of the Association.

c. Regular Assessment. Each Unit Owner is required to pay for its share of Common Area Expenses charged and due under the ECR. No regular assessment will be charged for the Association other than the foregoing obligation.

d. Capital Improvement Assessments. The Management Committee, on behalf of the Association, may levy in any fiscal year a capital improvement Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction or replacement (other than due to destruction) of a described capital improvement upon the Common Area, including the fixtures and personal property related thereto. All amounts collected as capital improvement Assessments may only be used for capital improvements and shall be deposited by

the Management Committee in a separate bank account or the Association's account for reserve funds, to be held in trust for such purposes and said funds shall not be commingled with any other funds (other than reserve funds) of the Association.

e. Percentage Assessments. Except as otherwise provided herein, all Assessments (other than Special Assessments) shall be an amount based on the Unit Percentage for each Unit.

f. Rules Regarding Billing and Collection Procedures. The Management Committee shall have the right and responsibility to adopt rules and regulations setting forth procedures for the purpose of making the Assessments provided herein and for the billing and collection of regular Assessments and Special Assessments, provided that said procedures are not inconsistent with the provisions hereof. The failure of the Association to send a bill to an Owner shall not relieve any Owner of its liability for any Assessment or charge under this Declaration, but the Assessment lien therefore shall not be foreclosed or otherwise enforced until the Owner has been given not less than thirty (30) days' written notice prior to such foreclosure or enforcement, at the address of the Owner on the records of the Association, that the Assessment or any installment thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after delinquency of such payment.

g. Certificate of Payment. The Association shall, within twenty (20) business days after written demand, furnish to any Owner liable for Assessments a recordable written statement or certificate signed by an officer or authorized Agent of the Association setting forth whether the Assessments relating to a specified Unit have been paid and the amount of delinquency, if any. A reasonable charge may be collected by the Management Committee on behalf of the Association for the issuance of each such certificate. Each certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

h. Special Assessments. "**Special Assessments**" shall be levied by the Management Committee against a Unit and its Owner to reimburse the Association for:

(i) costs incurred in bringing an Owner and its Unit into compliance with the provisions of this Declaration, the Articles, the Bylaws, or Association Rules;

(ii) costs associated with the maintenance, repair or replacement of Limited Common Areas;

(iii) any other charge designated as a Special Assessment in this Declaration, the Articles, the Bylaws, or Association Rules; and

(iv) attorneys' fees, interest, and other charges related thereto as provided in this Declaration.

In the event the Association undertakes to provide materials or services which benefit individual Units and which can be accepted or not by individual Owners, such Owners, in accepting such materials or services, agree that the costs thereof shall be a Special Assessment.

i. Date of Commencement of Assessments. Regular and other Assessments as to Units within the Project for which construction has been substantially completed (as determined in the Management Committee's sole discretion) shall commence as to all such substantially completed Units on the first day of the month following the conveyance of the first Unit by Declarant to an Owner. Thereafter, regular and other Assessments shall commence as to newly completed Units on the first day of the month following the substantial completion of construction for each respective building. Until the Association makes an Assessment, Declarant shall pay all Common Expenses of the Association. No Assessments shall be payable on Units for which construction has not been substantially completed, provided, however, that Declarant shall be obligated to pay to the Association any deficiencies in monies available to pay Common Expenses due to Declarant not having paid an Assessment on uncompleted Units and which are necessary for the Association to be able to pay all Common Expenses in a timely manner. Notwithstanding the above, all Units, including uncompleted Units, shall be allocated full Assessments no later than ninety (90) days after the first Unit is conveyed from Declarant to an Owner.

j. Application of Excess Assessments. In the event the amount budgeted to meet Common Expenses for a particular fiscal year proves to be excessive in light of the actual Common Expenses, the Management Committee in its sole discretion may apply the excess to reserves, credit the excess against future Assessments, or pay the excess to the Owners in proportion to the Unit Percentage of each Unit in the Common Expenses of the Project, as the Management Committee deems appropriate. The decision of the Management Committee shall be binding and conclusive. In addition, the Association shall not be obligated to reduce the amount of Assessments in succeeding years if an excess exists for a prior year.

k. No Offsets. All Assessments shall be payable in the amount specified by the Assessment and no offsets against such amount shall be permitted for any reason, including without limitation, a claim by an Owner or other person that the Association is not properly exercising its duties and powers as provided in this Declaration.

6. Grant of Easements for Pedestrians and Vehicles, Utilities, Temporary Construction, and Stormwater Drainage and Detention Area. Benefitted Parties. Declarant hereby creates and grants the following perpetual easements and rights with respect to each Unit for the benefit of the Benefitted Parties of the Units, which easements and rights shall be appurtenant to each of the Units: Vehicular Access Easements. Reciprocal, perpetual, non-exclusive rights and easements across the Common Areas for vehicular egress and ingress, as applicable, to and from the Units and for access to and from the public roadways located adjacent to the Project for the benefit of the Benefitted Parties of the Units. No Owner or Occupant may obstruct or interfere with the free flow of vehicular traffic over the Common Areas.

(ii) Utility Easements. Reciprocal, perpetual, non-exclusive rights and easements are established over the Common Areas and Public Utility Easement Areas on and appurtenant to each Unit in order to construct, maintain, repair, replace, relocate, remove and operate the Utility Infrastructure in the Common Areas and Public Utility Easement Areas. With the prior written consent of Declarant, any Owner may also install telecommunication lines or facilities in the Common Areas and Public Utility Easement Areas at its own cost and expense, and shall cause all work to be completed in a good and workmanlike manner as quickly as possible

and in a manner to minimize interference with use of the burdened Unit and the burdened Public Utility Easement Areas.

(iii) Temporary Construction Easements. Reciprocal, temporary, nonexclusive easements over and across the Common Areas on a Unit for the benefit of all of the Units for the construction, from time to time, of the Utility Infrastructure on such Units and for incidental encroachments as a result of staging or storage in connection with any construction, reconstruction, repair or maintenance of the Utility Infrastructure on such Unit; provided, such encroachments shall be allowed only during periods when actual construction or maintenance of the Utility Infrastructure is being performed, and further provided that such encroachments do not unreasonably interfere with the use by the Owners and Occupants of the Units or their Benefitted Parties. All staging and storage areas of construction materials and the parking of construction vehicles, including vehicles of workers, shall occur only on the portion of the Common Area or Unit where the construction is being performed.

b. Association. Declarant hereby creates and grants to the Association a reciprocal, perpetual, non-exclusive right to operate, construct, maintain, repair and operate the Stormwater Drainage and Detention Improvements over, on and across the Stormwater Drainage and Detention Easement Areas for the benefit of the Benefitted Parties of the Units, which easements and rights shall be appurtenant to the Stormwater Drainage and Detention Easement Areas. No Owner of a Unit shall alter, or permit to be altered, the surface of its Unit if such alteration would materially increase the flow of surface water onto another Unit either in the aggregate or by directing the surface water flow to a limited area on the other Unit. Any alteration in the natural water flow which may occur as a natural consequence of normal construction activities and the existence of improvements on the Units shall be permitted so long as it complies with any applicable provisions regarding storm water management set forth in this Declaration, on the Plat or under applicable Governmental Requirements.

7. **Construction Obligations and Alteration Rights of Owners**. Declarant or an Affiliate of Declarant has constructed or will cause to be constructed the Utility Infrastructure and the Stormwater Drainage and Detention Improvements. The Owner of each Unit, at its sole cost and expense, shall cause the Lateral Utility Improvements to be constructed, and may locate, alter, relocate or change the configuration of the Lateral Utility Improvements at any time and from time to time as follows:

a. Notice of Proposed Improvements. The Owner of a Unit shall provide to the Association or Manager, as applicable written notice of, and conceptual plans for, the proposed improvements in its Unit, and the related Lateral Utility Improvements and Common Areas not less than thirty (30) days before any work commences. The conceptual plans shall be subject to the written approval of the Association or Manager, as applicable, and such approval, conditional approval, or disapproval shall be within the reasonable discretion of the Association or Manager.

b. Compliance with Requirements. All plans for and work performed on a Unit shall comply with all applicable Governmental Requirements, the requirements of this Declaration, and the requirements of all other declarations, instruments or agreements which affect the Unit. All improvements on a Unit, including Limited Common Areas and any improvements to the

Common Areas must be approved by all Governmental Authorities and by the Association or Manager, as applicable, in writing prior to commencement of construction or reconstruction.

c. No Impairment of Traffic Flow. Except for temporary closures or interruptions to facilitate construction or relocation, such alteration, relocation or change shall not materially and adversely impair the flow of traffic or materially affect the vehicular or pedestrian traffic flow into or from the other Units.

d. Owner Signage. The following provisions shall govern the right of each Owner to place or maintain signs on its Unit; provided, in each event the Owner shall comply with this Declaration and other applicable Governmental Requirements. No flashing signage, audible signage, or signage with exposed raceways or exposed neon tubes will be permitted in the Project without the prior written consent of the Association.

(i) With the prior written consent of the Association, each Owner is permitted to erect a monument sign on its Unit with respect to the business being conducted in its Unit.

(ii) With the prior written consent of the Association, each Owner shall be permitted to install signs on the exterior of its Unit; provided, all such signs shall comply with the terms and conditions of this Declaration and other Governmental Requirements and the requirements of all other declarations, instruments or agreements which affect the Unit.

(iii) With the prior written review and consent of the Association, each Owner may, during initial construction, erect temporary signs on a Unit identifying the building project under construction on a Unit, the future Occupants of such Unit, any contractors, construction Lenders and other similar relevant information.

(iv) With the prior written review and consent of the Association, temporary signs may also be erected concerning the leasing or sale of a Unit and related financing information.

e. Building Restrictions for Common Areas. Any change, alteration or modification relating to the location and size of Units and Limited Common Areas, and any other improvements constructed in the Common Areas shall not: (a) adversely interfere with the passage of vehicular and pedestrian traffic over and across the Common Areas; or (b) adversely interfere with the use of the Utility Infrastructure by any Owner, Occupant or Benefitted Parties.

f. Standard of Construction. Any Person performing construction activities within the Project shall do so in compliance with all Governmental Requirements and this Declaration. All construction work shall be performed with reasonable diligence and by skilled laborers in a professional and workmanlike manner. Any Person performing construction activities further agrees that its construction activities shall not:

(i) cause any unreasonable increase in the cost of constructing improvements upon another Unit;

(ii) unreasonably interfere with any other construction work being performed on the Project;

(iii) unreasonably interfere with the use, occupancy or enjoyment of any other Unit or the Common Areas by any Owner, Occupant or Permittee;

(iv) cause any other Unit to be in violation of any Governmental Requirements; or

(v) cause any change or damage to the Common Areas or Utility Infrastructure or, if the Common Areas or Utility Infrastructure are changed or damaged, the Owner causing the change or damage shall repair or replace, at its sole cost and expense, such Common Areas and Utility Infrastructure to the condition prior to the change or damage in compliance with this Declaration.

g. **Safety.** Any Person performing construction work shall take all reasonable safety measures required to protect each Owner, Occupant or their respective Benefitted Parties and their property from injury or damage caused by the performance of the construction.

h. **Indemnification.** Each Owner agrees to defend, indemnify and hold Declarant, the Association, and each Owner and Occupant harmless from all claims, actions, liabilities, proceedings and costs, including reasonable attorneys' fees and costs of suit, resulting from any accident, injury, loss or damage whatsoever occasioned to any Person or to the property of any Person arising out of or resulting from the performance of any construction activities performed by such indemnifying Owner, or its contractors, agents or representatives on such indemnifying Owner's Unit.

i. **Liens.** In the event any mechanic's or materialmen's lien is filed against any part of the Project, the Owner permitting or causing such lien to be so filed shall cause the lien to be discharged within fifteen (15) days after entry of final judgment (after all appeals) for the foreclosure of the lien. Upon request of any Owner whose Unit is subject to a filed mechanic's or materialmen's lien, the Owner permitting or causing such lien to be so filed shall cause the lien to be released and discharged of record, either by paying the indebtedness which gave rise to the lien or by posting a bond or other security as required by law to obtain such release and discharge. The Owner of the Unit permitting or causing the lien shall have the right to contest the validity, amount or applicability of any such lien by appropriate proceedings so long as it diligently prosecutes the contest in good faith to conclusion. The Owner of the Unit permitting or causing the lien agrees to defend, indemnify and hold each Owner and their Unit harmless from and against all claims, costs, liabilities and expenses, including reasonable attorneys' fees, arising out of or resulting from such lien.

j. **Construction of Improvements.** Except for the Utility Infrastructure and the Stormwater Drainage and Detention Improvements, each Owner shall be responsible, at its sole cost and expense, for the construction of improvements on its Unit including, without limitation, improvements in the Common Areas, including, without limitation, all parking areas, roadways, sidewalks, curbing, lighting facilities, landscaping and irrigation.

8. **Maintenance; Insurance.**

a. Maintenance of Common Areas, Utility Infrastructure and Stormwater Drainage and Detention Improvements. The Association, or its representative shall maintain, repair, replace, and manage the Common Areas, Utility Infrastructure and the Stormwater Drainage and Detention Improvements of the Project in a first class manner and in good order, condition, operation and repair in accordance with all applicable Governmental Requirements. The Association and/or Manager shall have the right, power and authority to enter into contracts and agreements with third parties to provide for such maintenance, operation, repair, replacement and upgrades. The obligation of the Association and/or Manager in this Section 8(a) includes, without limitation, the cleaning, sweeping, restriping, repairing and resurfacing of the roadways and parking areas in the Common Areas and the periodic pick-up and removal of dirt, filth, debris and refuse from the Common Areas, as well as the removal of snow and ice and salting of the Common Areas.

b. Maintenance of Units and Limited Common Areas. Each Owner shall maintain, at its sole cost and expense, its Unit and Limited Common Areas appurtenant to its Unit, if any, except to the extent maintained by Manager pursuant to this Declaration. Notwithstanding anything in this Declaration to the contrary, the Association, or its representative shall maintain, repair, replace, and manage the roofs and exterior walls of the Units, and the cost of such maintenance, repair, replacement, and management shall be considered a Maintenance Cost. The Owner shall, at its sole cost and expense, perform any additional maintenance required for its specific use of the Unit that is not provided by the Association or Manager pursuant to Section 8(a). All Units and Limited Common Areas shall be maintained in a first class manner and in good order, condition, operation and repair, ordinary wear and tear excepted, in accordance with this Declaration and all applicable Governmental Requirements. Each Owner shall, at its sole cost and expense, arrange for the regular removal of refuse and garbage from its Unit. Notwithstanding anything to the contrary contained in this Declaration, each Owner constructing any exterior shipping/receiving dock area, any truck ramp or truck parking area, and/or any refuse, compactor or dumpster area on its Unit shall maintain, repair and replace, at its sole cost and expense, such improvement(s) in good order, condition and repair, in accordance with the standards set forth in this Section 8(b). An Owner may make non-structural alterations within its Unit, but no Owner shall make any structural or exterior alterations, including of the Limited Common Areas or Common Area, without the prior written approval of the Association.

c. Insurance for Utility Infrastructure, Common Areas and Stormwater Drainage and Detention Improvements. The Association or Manager shall maintain, or cause to be maintained, in full force and effect, at the cost and expense of the Owners pursuant to Section 8(d), with good and solvent insurance companies authorized to do business in the State of Utah and having an adequate rating by Best's Insurance Reports or a similar rating service or agency reasonably required by the Association or Manager or any Mortgagee of Declarant, a policy or policies of commercial general liability, bodily injury, personal injury and property damage liability insurance with combined single limits of at least Five Million Dollars (\$5,000,000) per occurrence for the Common Areas. Each Owner shall be named as an additional insured on such policy or policies. Each Owner hereby waives any claim that it might have against any other Owner for damages which would be covered by any of the insurance required to be carried under this Section 8(c). 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 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 shall give to each insurance company which has issued to it any policies of liability or casualty 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 coverage by reason of said waiver.

d. Maintenance Costs and Insurance Costs. The Association or Manager may invoice an Owner of such Unit, on a periodic basis, but not less frequently than annually nor more frequently than monthly, for the Maintenance Costs and the Insurance Costs based on the Unit Percentage. Each Owner shall be obligated to pay its Unit Percentage of the Maintenance Costs and Insurance Costs within fifteen (15) days after such Owner's receipt of an invoice. Prior to the issuance of a building or similar construction permit for a Unit, the Owner shall pay all Maintenance Costs and Insurance Costs payable by the Owner pursuant to this Section 8(d).

e. Owner Insurance. Each Owner shall maintain commercial general liability insurance affording protection to itself and the other party on its own Unit, naming the other Owners, Declarant, and the Association as an "additional insured" under the policy or policies, for a combined bodily injury and property damage limit of liability of not less than Five Million Dollars (\$5,000,000) per occurrence. The insurance company providing such insurance shall be approved by the Association. Such insurance may be a part of blanket liability coverage carried by a party so long as such blanket policy does not reduce the limits or diminish the coverage required herein.

f. Payment of Insurance Proceeds. With respect to any loss to the Common Area covered by property insurance obtained by the Association, the loss shall be adjusted with the Association, and the insurance proceeds shall be payable to the Association and not to any Owner or Lender. Subject to the provisions of Section 8(g), the proceeds shall be disbursed for the repair or restoration of the damage to the Common Area.

g. Repair and Replacement of Damaged or Destroyed Property. Any portion of the Common Area which is damaged or destroyed shall be repaired or replaced promptly by the Association unless repair or replacement would be illegal under any state or local health or safety statute or ordinance. If the entire Common Area is not repaired or replaced, insurance proceeds attributable to the damaged Common Area shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall be retained by the Association.

9. Real Estate Taxes. Other than real estate taxes and assessments, if any, that are separately assessed for the Common Areas or Project, each Owner shall pay all real estate taxes and assessments levied upon its Unit before delinquency; provided, subject to compliance with Governmental Requirements, each Owner shall have the right to pay its real estate taxes and assessments under protest and challenge its real estate tax valuation and assessment in good faith. If an Owner fails to comply with this Section 9, then the Association or Manager or any other Owner may pay the delinquent Owner's real estate taxes and assessments and shall be entitled to immediate reimbursement of the amount advanced plus interest at the rate specified in Section 11(d) from the delinquent Owner upon written notice.



10. **Subdivision of Units.** With the prior written approval of the Association, which shall be recorded with the Recording Office, and otherwise in compliance with all Governmental Requirements, any Unit may be further subdivided, Units may be combined or the boundary lines between Units may be adjusted.

11. **Default and Remedies.**

a. **Default; Failure to Pay Amounts Due.** If an Owner fails to make any payment when due under this Declaration, and such failure continues for a period of ten (10) days after written notice by the Association or Manager, then the Owner failing to make such payment shall be in default of this Declaration.

b. **Default; Failure to Perform; Self-Help Remedy.** If an Owner fails to perform or comply with any term, condition or, obligation of this Declaration (other than payment as described in Section 11(a), for which only the notice set forth in Section 11(a) shall be required), and such failure continues for thirty (30) days after receipt of a written notice of such breach from the Association or Manager (or for such longer period as the Association determines to be reasonable under the circumstances if the failure cannot be cured within thirty (30) days and the Owner commences to cure within such time period and diligently and continuously prosecutes such cure to completion), then the Owner failing to perform shall be in default of this Declaration. Upon such default, the Association or Manager may proceed to cure the default by payment or performance. The defaulting Owner shall immediately reimburse the Association or Manager, as applicable, for all commercially reasonable costs and expenses incurred to cure the default. The Association and Manager shall not be required to give thirty (30) day notice with respect to a failure of an Owner to perform any obligation or remedy and breach in the event of an emergency that could result in a violation of Governmental Requirements, damage to property or injury to persons. Nothing contained in this Section 11(b) shall create any obligation on the part of Declarant, the Association, or Manager to exercise the rights granted herein and the failure to promptly exercise the rights shall not constitute a waiver by Declarant, the Association or Manager.

c. **Reimbursement; Lien Rights.** Declarant, the Association, or Manager, as applicable, shall have a lien in its favor upon the Unit of an Owner who is in default of this Declaration to secure all amounts incurred under Sections 11(a) and 11(b). The lien shall attach to the Unit of the Owner in default and take effect from the date of default and may be foreclosed as a mortgage on real estate pursuant to Utah law. A lien under this Section 11(c) is prior to all other liens and encumbrances on a Unit except: (a) liens and encumbrances recorded with the Recording Office before this Declaration; (b) any Mortgage on the Unit recorded before the date that the lien attaches and takes effect; and (c) liens for real estate taxes and other governmental assessments or charges against the Unit by Governmental Authorities.

d. **Interest; Late Charge.** If an Owner fails to pay when due any amount payable under this Declaration to the Association or Manager within thirty (30) days of the due date, the delinquent Owner shall pay interest on such amount from the due date until the date such payment is received by the Association or Manager, at a rate which is the lesser of: (a) eighteen percent (18%) per annum; or (b) the highest percent permitted by law. In addition, if an Owner fails to timely pay a regular payment required by Section 8(d), such Owner shall be obligated to

pay a late charge of five percent (5%) of any such payment if such payment is not paid within ten (10) days after written notice by the Association or Manager to such delinquent Owner pursuant to Section 11(a).

e. Costs and Attorneys' Fees. Awards of costs, expenses, and attorneys' fees related to default are set forth in Section 18.

f. Remedies. All remedies of Declarant, the Association, and Manager pursuant to this Section 11 are cumulative and shall be deemed additional to any and all other remedies to which Declarant, the Association or Manager may be entitled to at law or in equity. Declarant, the Association and Manager shall also have the right to restrain by injunction any violation or threatened violation by another of the terms, covenants or conditions of this Declaration, or to obtain a decree to compel performance of any such term, covenant or condition, it being agreed that the remedy at law for a breach of any such term, covenant or condition (except those, if any, requiring the payment of a liquidated sum) is not adequate. No default under this Declaration shall: (a) entitle any Person to cancel, rescind, or otherwise terminate this Declaration; or (b) defeat or render invalid the lien of any Mortgage made in good faith and for value as to any Unit. Notwithstanding anything to the contrary contained herein, in the event Declarant, the Association or Manager recovers a money judgment against a defaulting Owner under this Declaration, the judgment shall be satisfied only out of the right, title and interest of the defaulting Owner in a Unit which it owns; provided that the foregoing shall not limit any right that Declarant, the Association or Manager might have to obtain injunctive relief or to maintain any suit or action in connection with the enforcement or collection of damages to the extent that such damages are payable under policies of liability insurance maintained by an Owner or Manager, as applicable. Each Owner agrees that there shall be no individual liability of any partners, officers, directors, shareholders or employees of Declarant, the Association, Manager or any Owner with respect to any claims under this Declaration and expressly waives any and all rights to proceed against such parties.

## 12. Title and Mortgage Protection.

a. Mortgagee Rights Not Affected by Amendment to Declaration. No amendment to this Declaration shall in any manner affect the rights of any Mortgagee pursuant to a Mortgage that is recorded with the Recording Office at the time of the recordation of the amendment with the Recording Office, or the rights of any successor in interest or title to such Mortgagee, either before or after such Mortgagee or its successor enters into possession or acquires title pursuant to foreclosure, trustee's sale or any arrangement or proceeding in lieu thereof, unless such Mortgagee consents in writing to such amendment.

b. Default/Priority of Liens. A breach of any of the covenants, provisions, or requirements of this Declaration shall not result in any forfeiture or reversion of title or of any other interest in a Unit. A breach of any of the covenants, provisions, or requirements of this Declaration shall not defeat, impair or render invalid the lien of or other rights under any Mortgage; provided, a lien arising under this Declaration shall have priority over the Mortgage if a notice of such lien is recorded with the Recording Office prior to the date of recordation of a Mortgage with the Recording Office. Unless and until it enters into possession or acquires title pursuant to foreclosure, trustee's sale or any arrangement or proceeding in lieu thereof, a Mortgagee shall have

no obligation to take any action to comply with, and may not be compelled to take any action to comply with, any of the covenants, provisions, or requirements of this Declaration except the obligation to subordinate its lien or security interest to this Declaration.

13. **Restrictions on Use.**

a. **Shopping Center Declaration.** All Owners are subject to the use restrictions and other limitations set forth in the ECR.

b. The Units and Common Areas, except as otherwise permitted in writing by the Association, shall be used in accordance with the following restrictions:

(i) Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would result in cancellation of the insurance on the Project or any part thereof, nor shall anything be done or kept in any Unit which would increase the rate of insurance on the Project or any part thereof over what the Association but for such activity, would pay, without the prior written consent of the Association. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would be in violation of the Governmental Requirements. No noxious or offensive activity, including, without limitation, loud noise, shall be carried on or in the Project, nor shall any activity which might be or become an annoyance or nuisance to Owners or Occupants be permitted to interfere with their rights of quiet enjoyment or decrease the value of the Units. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or guest, lessee, licensee or invitee of any Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by him, her or it or his, her or its guests, lessees, licensees or invitees. Nothing in this Declaration shall be deemed to prevent Declarant or its agents from engaging in any and all forms of construction and sales activities until all Units have been sold by Declarant, and to the extent necessary, Declarant's or its successors' and agents' work to develop, renovate, lease, and sell the surrounding properties near the Project. In addition, notwithstanding anything else contained herein, Declarant, its successors and assigns, shall be permitted to place and replace any signage, flags, and markers that it deems appropriate in its sole discretion for any rental and/or leasing activity Declarant conducts on the Project.

(ii) No Owner shall violate the Association Rules as adopted from time to time pursuant to Section 16.

(iii) Any lease agreement between an Owner and a lessee respecting a Unit shall be subject in all respects to the provisions of this Declaration and any rules and regulations adopted by the Association, and any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All such lease agreements shall be in writing. Other than the foregoing, there is no restriction on the right of any Owner to lease or rent his, her or its Unit. An Owner shall be responsible and liable for any damage to the Project caused by its tenants.

c. **Architectural Control.** No exterior changes whatsoever shall be commenced, erected, maintained, made, or done without prior written approval of the Management Committee or any committee established by the Management Committee for that purpose. By

way of illustration but not of limitation, the following are considered exterior changes: painting, landscaping, repairs, excavation, patio covers, screens, doors, evaporative coolers, fireplaces, skylights, storage buildings, solar collectors, shade screens, awnings, window coating or tinting, decorative alterations, or other work which in any way alters the exterior appearance of the Project. The Management Committee, or a committee established by the Management Committee for that purpose, may designate the design, style, model, and manufacturer of any exterior improvement or alteration that is acceptable to the Management Committee. Such designations shall be for the purpose of achieving uniformity of appearance and preservation of property values. No interior structural changes whatsoever shall be commenced, erected, maintained, made, or done without the prior written approval of the Management Committee, or any committee established by the Management Committee for that purpose. By way of illustration but not of limitation, the following are considered interior structural changes: moving, removing, adding, or altering walls, doorways, and the like.

d. Lighting. Exterior lighting fixtures and walkway and landscaping lights shall be allowed only to the extent approved by the Management Committee.

e. Variances. The Management Committee, at its option and in the face of proven, extenuating circumstances, may in its sole discretion grant variances from the restrictions set forth in this Section 13 if the Management Committee determines in its sole discretion (a) either (i) that a restriction would create an unreasonable hardship or burden on an Owner or Occupant, or (ii) that a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete, and (b) that the activity permitted under the variance will not have any substantial adverse effect on the Owners or Occupants of the Project.

14. Amendment or Termination; Supplemental Declarations; Duration of Declaration. This Declaration may be amended as follows:

a. Declarant, at its sole discretion and without the consent of any Owner, may designate a Successor Declarant in accordance with Section 15.

b. Declarant may execute Supplemental Declarations creating benefits and burdens with respect to, or otherwise governing all or only some of the Units; provided, except as set forth in Section 14(a), the Owners of all Units bound by such Supplemental Declaration must execute such Supplemental Declaration in order for such Supplemental Declaration to affect their Units. By way of clarification, an Owner of a Unit is not required to be a party to a Supplemental Declaration if the Supplemental Declaration does not impose a burden on such Owner's Unit which physically adversely affects the use and enjoyment of such Owner's Unit.

c. Except as set forth previously in this Section 14, this Declaration may be amended or terminated only by an instrument filed with the Recording Office that is executed by a majority of the Owners of the Units.

d. The term of this Declaration is perpetual; this Declaration shall be and remain in force and effect until terminated pursuant to this Section 14 by written approval of a majority of Owners.

15. **Declarant**. Declarant shall continue as Declarant as long as it or any of its Affiliates owns any Unit. At such time as neither Declarant nor its Affiliate owns a Unit, Declarant may name a Successor Declarant by recording a notice of appointment of Successor Declarant with the Recording Office; provided a Successor Declarant must be the Owner of a Unit. Such notice shall refer to this Declaration and state that the appointment is being made pursuant to this Section 15 and state the Unit owned by the Successor Declarant. Upon recordation of such notice, the Person appointed as Successor Declarant shall act in the stead of Declarant pursuant to this Declaration and may appoint a further Successor Declarant pursuant to this Section 15 if such appointed Person ceases to own any Unit.

16. **Rules and Regulations**. Declarant and/or the Association may promulgate from time to time, and the Owners, Occupants and their Benefitted Parties shall abide by, the Association Rules regarding the use, maintenance, and repair of the Project, the Units, and the Common Areas.

17. **Covenants to Run with Land**. This Declaration and the easements, restrictions and covenants created by this Declaration are intended by Declarant to be and shall constitute covenants running with the land as to each of the Units, and shall be binding upon and shall inure to the benefit of each Owner or any Person who acquires or comes to have any interest in any Unit, and their respective grantees, transferees, lessees, heirs, devisees, personal representatives, successors, and assigns. This Declaration and all of the easements, restrictions, covenants, provisions, and requirements hereof shall also inure to the benefit of each Person owning any interest in or occupying any portion of a Unit. Each Owner shall comply with, and all interests in all Units shall be subject to, the terms of this Declaration. By acquiring, in any way coming to have an interest in, or occupying a Unit, the Person so acquiring, coming to have such interest in, or occupying a Unit, shall be deemed to have consented and agreed to, and shall be bound by, each and every provision of this Declaration.

18. **Enforcement**. In addition to, and not in limitation of, the provisions set forth in Section 12 of this Declaration, the Owner of a Unit or any portion of a Unit shall have the right to enforce, through any permitted proceeding at law or in equity, the terms, provisions, restrictions and requirements of this Declaration. Any failure to insist upon the strict performance of or compliance with any of the terms, provisions, covenants and requirements of this Declaration shall not result in or be construed to be an abandonment or termination of this Declaration or any waiver of the right to insist upon such performance or compliance with the terms of this Declaration in the future. If any action or proceeding is brought because of a default under, or to enforce or interpret any of the covenants, provisions, or requirements of this Declaration, the Owner prevailing in such action shall be entitled to recover from the unsuccessful Owner reasonable attorneys' fees (including those incurred in connection with any appeal), the amount of which shall be fixed by the court or the arbitrator and made a part of any judgment rendered.

19. **Effective Date**. This Declaration shall take effect on the Effective Date. Each Supplemental Declaration or other amendment to this Declaration shall be effective upon recording of the same with the Recording Office.

20. **Titles, Captions and References**. All Section titles or captions in this Declaration are for convenience only, shall not be deemed part of this Declaration and in no way define, limit,

extend or describe the scope or intent of any provisions of this Declaration. When this Declaration refers to a Section by number or other designation, such reference shall be deemed to be to the correspondingly numbered Section of this Declaration unless the context refers to another agreement, document or instrument.

21. **Pronouns and Plurals.** Whenever the contest may require, any pronoun used in this Declaration shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa.

22. **Applicable Law.** This Declaration shall be construed in accordance with and governed by the laws of the State of Utah, without reference to its choice of law rules that would apply the law of another jurisdiction.

23. **Counterparts.** This Declaration may be executed in any number of counterparts. Each such counterpart of this Declaration shall be deemed to be an original instrument, and all such counterparts together shall constitute but one agreement and may be recorded as one document.

24. **Exhibits.** All exhibits annexed to this Declaration are expressly made a part of and incorporated in this Declaration as fully as though completely set forth in this Declaration.

25. **Notices.** Any notice or other communication required or permitted under this Declaration must be in writing and may be given by personal delivery or by mail, registered or certified, return receipt requested and postage prepaid, or by overnight delivery service. Notice shall be deemed to be given (a) on the date actually delivered as evidenced by a written receipt or other written proof of delivery, or (b) if rejection or other refusal of a party to accept, or the inability to deliver because of changed address of an Owner of which no notice was given, the date of such rejection, refusal or inability to deliver. Notices shall be in writing and shall be delivered or addressed to Declarant at the following address:

**If to Declarant:** Wyndom Square, L.L.C.  
Attn: Quin Stephens  
610 N. 800 W.  
Centerville, Utah 84014

If any third Person becomes an Owner of any Unit, it shall record in the Recording Office a notice referring to this Declaration and setting forth such Owner's name, address and other contact information for purposes of this Section 25. If an Owner fails to record such notice, Declarant or Manager may satisfy any notice requirements by posting on the Unit the required notice and without providing actual notice to the Owner of the Unit.

26. **Time of Essence.** Time is of the essence of this Declaration.

*(Signature Pages Follow)*

IN WITNESS WHEREOF, the Declarant and CatnBri have executed this Declaration as of the day first above written.

**DECLARANT:**

WYNDOM SQUARE, L.L.C.,  
a Utah limited liability company

By: Cole West Entity Services, LLC  
a Utah limited liability company  
Its: Manager

By: Cole West, LLC  
a Utah limited liability company  
Its: Manager

By: [Signature]  
Name: Colin H. Wright  
Title: Manager

STATE OF Utah )  
 ) :ss.  
COUNTY OF Davis )

On this 14 day of January, 2025, before me, the undersigned, a notary public, personally appeared Colin H. Wright, as Manager of Wyndom Square, L.L.C., proved on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that he executed the same.

Witness my hand and official seal.

[Signature]  
Notary Public

My Commission Expires: 01-23-27



The undersigned is executing this Declaration as the fee owner of the CatnBri Parcel and hereby confirms that the CatnBri Parcel is subject to this Declaration.

**CATNBRI:**

CATNBRI, L.L.C.,  
a Utah limited liability company

By: Brian Tolman  
Name: [Signature]  
Its: Partner

STATE OF UTAH )  
 )  
 ) :ss.  
COUNTY OF Davis )

On this 13 day of January, 2025, before me, the undersigned, a notary public, personally appeared Brian Tolman, the partner of CatnBri, L.L.C., proved on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to this instrument, and acknowledged that he/she/they executed the same.

Witness my hand and official seal.



[Signature]  
Notary Public

My Commission Expires: 01.23.2027



**EXHIBIT A  
TO  
AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND  
RESTRICTIONS FOR WYNDOM SQUARE OFFICE CONDOMINIUM**

**Legal Description of the Project**

BEGINNING AT THE SOUTHEAST CORNER OF LOT 316, WYNDOM HIGHLANDS, PHASE 3, A SUBDIVISION THAT IS PART OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 4 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, LAYTON CITY, DAVIS COUNTY, UTAH, WHICH POINT IS S00°07'20"W ALONG THE SECTION LINE AND EAST 1777.71 FEET FROM THE NORTHWEST CORNER OF SAID SECTION 10, THENCE N00°21'30"E 705.77 FEET TO THE SOUTHERLY LINE OF HIGHWAY 193; THENCE S80°10'30"E 245.74 FEET ALONG SAID LINE TO A POINT OF CURVATURE; THENCE ALONG THE ARC OF A CURVE TO THE LEFT WITH A RADIUS OF 5,804.65 FEET A DISTANCE OF 96.02 FEET THROUGH A CENTRAL ANGLE OF 00°56'52" CHORD: S80°38'56"E 96.02 FEET; THENCE ALONG A LINE NON-TANGENT TO SAID CURVE, SOUTH, A DISTANCE OF 221.97 FEET; THENCE S73°10'10"E 45.18 FEET; THENCE S86°24'27"E 49.41 FEET; THENCE S89°05'06"E 60.42 FEET TO THE WESTERLY LINE OF WYNDOM SQUARE SHOPPING CENTER; THENCE S00°54'38"W 246.95 FEET; THENCE N89°05'07"W 55.00 FEET; THENCE S00°54'38"W 170.00 FEET TO THE NORTHERLY LINE OF WYNDOM HIGHLANDS NO. 2; THENCE N89°05'07"W 432.70 FEET ALONG SAID NORTHERLY LINE TO THE POINT OF BEGINNING.

**EXHIBIT B  
TO  
AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND  
RESTRICTIONS FOR WYNDOM SQUARE OFFICE CONDOMINIUM**

**Condominium Plat**

(See Attached)

**EXHIBIT C  
TO  
AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND  
RESTRICTIONS FOR WYNDOM SQUARE OFFICE CONDOMINIUM**

**Bylaws**

(See Attached)

## BYLAWS

### WYNDOM SQUARE COMMERCIAL CONDOMINIUM ASSOCIATION, INC.

The administration of Wyndom Square Commercial Condominium Association, Inc., a Utah nonprofit corporation ("Association"), shall be governed by the Utah Revised Nonprofit Corporation Act (Title 16, Chapter 6a, Utah Code Annotated) ("Act"), the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Wyndom Square Office Condominium recorded in the Office of the Davis County Recorder, State of Utah ("Declaration"), the Articles of Incorporation for Wyndom Square Commercial Condominium Association, Inc., ("Articles") and these Bylaws (as the Declaration, Articles and these Bylaws may from time to time be amended). Terms which are capitalized in these Bylaws and which are not otherwise defined herein shall have the meaning set forth in the Declaration.

#### **ARTICLE 1 Bylaws Application.**

All present and future Owners, Mortgagees, lessees and occupants of Units and their employees and guests, and any other persons who may use the facilities of the Project in any manner are subject to the Declaration, these Bylaws and all rules and regulations made pursuant hereto and any amendments hereof. The acceptance of a deed or conveyance of a Unit, or the occupancy of any Unit, shall constitute an agreement that the provisions of the Declaration and these Bylaws and any rules and regulations made pursuant hereto, as they may be amended from time to time, are accepted, ratified and will be complied with.

#### **ARTICLE 2 Management Committee.**

2.1. The management and maintenance of the Project and the administration of the affairs of the Association shall be conducted by the Management Committee consisting of three (3) members (each, a "Trustee"). The initial Management Committee shall be appointed by the Declarant.

2.2. The Owners shall elect a Management Committee of three (3) members. The members and officers of the Management Committee shall take office upon election. Thereafter, at every annual meeting, the Association shall elect the members of the Management Committee to fill those positions becoming vacant at such meeting, pursuant to the terms of this Section 2.

2.3. At least thirty (30) days prior to each annual meeting of the Association, the Management Committee shall elect from the Owners a nominating committee of not less than three (3) members. The Management Committee may, but shall not be obligated to, inquire of the Owners to identify those having an interest in serving on the Management Committee. The nominating committee shall recommend to the Association at least one (1) nominee for each position on the Management Committee to be filled at that particular annual meeting. Nominations for positions on the Management Committee may also be made by petition filed with the Secretary of the Association at least seven (7) days prior to the annual meeting of the Association, which petition shall be signed by one (1) or more Owners and the nominee named therein indicating his or her willingness to serve as a member of the Management Committee, if elected.

2.4. Voting for the Management Committee shall be by secret ballot (which may be delivered electronically as directed by the Management Committee). At any meeting of the Association, each Owner, either in person or by proxy, shall be entitled to the number of votes set forth in the Declaration for each Unit owned. The positions on the Management Committee shall be as follows: President, Vice President, and Secretary-Treasurer. The initial members of the Management Committee shall be the following persons and each shall hold the office indicated:

Quinton Stephens	President
McKenna Christensen	Vice President
Lauren Hiller	Secretary-Treasurer

2.5. Members of the Management Committee shall serve as follows:

2.5.1. Trustees shall serve for terms of two (2) years beginning immediately upon their election by the Association. The members of the Management Committee shall serve until their respective successors are elected, or until death, resignation, or removal, whichever occurs first.

2.5.2. Any member of the Management Committee who fails to attend three (3) consecutive Management Committee meetings or fails to attend at least twenty-five percent (25%) of the Management Committee meetings held during any fiscal year shall be deemed to have tendered his or her resignation, and upon acceptance by the Management Committee his or her position shall be vacant.

2.6. Any member of the Management Committee may resign at any time by giving written notice to the President of the Association or to the remaining Management Committee members. The Owners, by a two-thirds (2/3) vote, either at a meeting of such Owners, or by written consent, may remove any Trustee with or without cause.

2.7. If vacancies shall occur in the Management Committee by reason of the death or resignation of a Management Committee member, the Management Committee members then in office shall continue to act, and such vacancies shall be filled by a vote of the Management Committee members then in office, though less than a quorum; provided, however, that the Management Committee acting to fill such vacancy. Any vacancy in the Management Committee occurring by reason of removal of a Management Committee member by the Association may be filled by election at the meeting at which such Management Committee member is removed or any subsequent regular or special meeting of the Association. A vacancy resulting from a removal shall only be filled by the vote or written consent of a majority of the votes of the Association entitled to vote for that Trustee.

2.8. The members of the Management Committee shall receive no compensation for their services unless expressly approved by the vote or written assent of a majority vote of the members of the Association; provided, however, that members of the Management Committee shall be reimbursed by the Association for transportation expenses actually incurred and a reasonable per diem payment for attendance at regular and special meetings of the Management

Committee. Any member of the Management Committee may be employed by the Association in another capacity and receive compensation for such employment; provided further, that such employment shall be approved by vote or in writing by all members of the Management Committee not including the member to be employed.

2.9. The Management Committee, for the benefit of the Project and the Association, shall manage the business, property and affairs of the Project and the Association and enforce the provisions of the Declaration, these Bylaws and the rules and regulations governing the Project. The Management Committee is authorized to adopt rules and regulations governing the use and operation of the Project, which shall become effective ten (10) days after adoption by the Management Committee. The Management Committee shall have the powers, duties and responsibilities with respect to the Project as contained in the Declaration, the Articles and these Bylaws.

2.10. The meetings of the Management Committee shall be held annually at such times and places within the Project, or some other reasonable and suitable location in Davis County, unless a meeting at another location would significantly reduce the cost to the Association and/or the inconvenience to Management Committee members, as the Management Committee shall determine. A majority of the Management Committee shall constitute a quorum, and if a quorum is present, the decision of a majority of those present shall be the act of the Management Committee. The Management Committee shall annually elect all of the officers of the Association. The election of officers shall be conducted at the first meeting of the Management Committee held subsequent to the annual meeting of the Association.

2.11. Written notice of the time and place of Management Committee meetings shall be posted at a prominent place or places within the Project not less than ten (10) days prior to the meeting.

2.12. Special meetings of the Management Committee may be called by written notice signed by any two (2) members of the Management Committee. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. Special meetings shall be held within the Project or some other reasonable location in Davis County unless a meeting at another location would significantly reduce the cost to the Association and/or inconvenience to the members of the Management Committee. Written notice of any special meeting shall be posted in a manner prescribed for notice of regular meetings of the Management Committee and shall be sent to all members of the Management Committee not less than seventy-two (72) hours prior to the scheduled time of the meeting; provided, however, that notice of such meeting need not be given to any member signing a waiver of notice or a written consent to the holding of such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the U.S. mail, with first-class postage thereon prepaid. If an agenda is prepared for a special meeting, the meeting need not be restricted to discussions of those items listed on the agenda.

2.13. Notices of all regular Management Committee meetings shall be given in writing or electronically to each member of the Management Committee not less than thirty (30) days nor more than sixty (60) days prior to the meeting, provided that this requirement shall not apply to any member of the Management Committee who has signed a waiver of notice or a written consent to the holding of a meeting.

2.14. The Management Committee members shall act only as a Management Committee, and individual Management Committee members shall have no powers as such. Regular and special meetings of the Management Committee shall be open to all members of the Association; provided, however, that the Association members who are not on the Management Committee may not participate in any deliberation or discussion unless expressly so authorized by the vote of a majority of a quorum of the Management Committee. The Management Committee may, with the approval of a majority of a quorum of its members, adjourn the meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

2.15. Any or all of the members of the Management Committee may participate in an annual, regular, or special meeting by, or the meeting may be conducted through the use of, any means of communication by which all persons participating in the meeting may hear each other during the meeting.

2.16. Any action that is required or permitted to be taken at a meeting of the Management Committee may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the Management Committee members, and an explanation of the action so taken is either circulated electronically or posted at a prominent place or places within the Project within three (3) days after the written consent of all Management Committee members has been obtained.

2.17. The fiscal year shall be determined by the Management Committee.

2.18. When a member of the Management Committee is sued for liability for actions undertaken in his or her role as a member of the Management Committee, the Association shall indemnify him or her for his or her losses or claims, and undertake all costs of defense, until and unless it is proven that he or she acted with willful or wanton misfeasance or with gross negligence. After such proof the Association is no longer liable for the cost of defense, and may recover costs already expended from the member of the Management Committee who so acted. Members of the Management Committee are not personally liable to the victims of crimes occurring at the Project. Punitive damages may not be recovered against the Association, but may be recovered from persons whose activity gave rise to the damages.

2.19. An officer, employee, agent or director of a corporate Owner of a Unit, a trustee or designated beneficiary of a trust that owns a Unit, a partner of a partnership that owns a Unit, a member of a limited liability company that owns a Unit, and a fiduciary of an estate that owns a Unit may be considered an Owner for the purpose of determining eligibility for membership of the Management Committee. In all events where the person serving or offering to serve as an officer or member of the Management Committee is not the record Owner, they shall file proof of authority in the records of the Association.

2.20. The Management Committee or the officers appointed thereby may delegate to the Manager, or such other persons as it so determines, all of the duties and obligations of the Management Committee set forth herein and in the Declaration to the extent such duties and obligations are properly delegable.

2.21. The Management Committee or the officers appointed thereby reserve the right to make whatever tax and other elections which they deem necessary, including but not limited to, filing as a tax exempt entity under Section 528 of the Internal Revenue Code.

**ARTICLE 3 Meetings of the Association.**

3.1. The first meeting of the Association shall be held within one (1) year after the closing of the sale of the first Unit sold in the Project. Thereafter, there shall be an annual meeting of the Association held at the Project or at a meeting place reasonably close thereto, at the date and time selected by the Management Committee.

3.2. Special meetings of the Association may be called by the Declarant, the President, a majority of the Management Committee, or Owners representing at least twenty-five percent (25%) or more of the total votes of the members of the Association and may be held at the Project or at a meeting place reasonably close thereto, to consider matters which, by the terms of the Declaration, require the approval of all or some of the Owners or for any other reasonable purpose. Special meetings shall be called by written notice signed by the Declarant, a majority of the Management Committee or by Owners representing at least twenty-five percent (25%) or more of the total votes of the members of the Association, which shall be delivered not less than fifteen (15) days prior to the date fixed for said meeting, to each Owner in the manner described in Section 3.3 below.

3.3. Notice of the annual meeting of the Association and of any special meetings of the Association shall be hand delivered, electronic (e-mail) transmission, or sent by first-class or certified mail, no fewer than ten (10) nor more than sixty (60) days prior to the date fixed for said meeting to each Owner of record at such Owner's address as shown in the records of the Association or to any other mailing address designated in writing by the Owner. Consent to electronic notice is deemed granted in the event an Owner provides an e-mail address to the Association. Such notice shall specify the place, date and hour of the meeting and a description of any matters that must be approved by the Owners for which the Owners' approval is sought at such meeting. The notice of a special meeting shall also include a description of the purposes for which the meeting is called. If any annual or special meeting of the Owners is adjourned to a different date, time or place, notice need not be given of the new date, time and place if the new date, time and place are announced at the meeting before adjournment. Notwithstanding the foregoing sentence, if the adjournment is for more than thirty (30) days, or if after the adjournment a new record date for the adjourned meeting is or must be fixed pursuant to these Bylaws or applicable law, notice of the adjourned meeting must be given pursuant to the requirements of this Section 3.3 to Owners entitled to vote at the meeting.

3.4. The presence in person or by proxy of Owners holding twenty-five percent (25%) or more of the total votes of the members of the Association at any meeting of the Association held in response to notice to all Owners of record properly given shall constitute a quorum. In the absence of a quorum at an Association meeting, a majority of those present in person or by proxy may adjourn the meeting to another time, but may not transact any other business. An adjournment for lack of a quorum by those in attendance shall be to a date not less than five (5) nor more than thirty (30) days from the original meeting date. The quorum for an adjourned meeting shall be ten percent (10%) of the total votes of the members of the Association. If the time and place for an



adjourned meeting is not fixed by those in attendance at the original meeting, or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to members in the manner prescribed for regular meetings of the Association. At any special meeting of the Association, only those matters of business, the general nature of which was given in the notice of the special meeting, may be voted upon by the Owners. Unless otherwise expressly provided in the Act, the Declaration and these Bylaws, any action may be taken at any meeting of the Owners upon a majority vote of the Owners who are present in person or by proxy.

3.5. Any or all of the Owners may participate in an annual, regular, or special meeting by, or the meeting may be conducted through the use of, any means of communication by which all persons participating in the meeting may hear each other during the meeting.

3.6. In the event of a procedural dispute, Robert's Rules of order (latest edition) shall govern the conduct of the Association's meeting when not in conflict with the Declaration or these Bylaws.

3.7. Any action that may be taken at any regular or special meeting of the Association may be taken without a meeting if the following requirements are met:

3.7.1. A written or electronic ballot is distributed to every Owner entitled to vote setting forth the proposed action, providing an opportunity to signify approval or disapproval of the proposal and providing a reasonable time for the Owner to return the ballot to the Association.

3.7.2. The number of votes cast by ballot within the specified time under Section 3.7.1 equals or exceeds the quorum required to be present at a meeting authorizing the action.

3.7.3. The number of approvals of the action equals or exceeds the number of votes required to approve the action at a meeting at which the total number of votes cast was the same as the number of votes cast by written ballot.

3.7.4. The written ballot distributed to Owners affords an opportunity for the Owner to specify a choice between approval and disapproval of each order of business proposed to be acted upon by the Association and further provides that the vote of the Owners shall be cast in accordance with the choice specified.

3.8. At each meeting of the Owners, each Owner entitled to vote shall be entitled to vote in person or by proxy. For any Unit owned by more than one Owner, all of the Owners of such Unit may sign a certificate designating one of the co-Owners as the Owner authorized to cast the votes appurtenant to such Unit. In such event, the Management Committee may rely on such certificate as being sufficient evidence of the authority of the Owner casting the votes appurtenant to such Unit. In the absence of such a certificate, if only one of several Owners of a Unit is present at a meeting of the Association, that Owner is entitled to cast all the votes allocated to that Unit. If more than one of the Owners of a Unit is present, the votes allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of such Owners. Absent a certificate of authorization, there shall be deemed to be majority agreement if any one of the

Owners casts the votes allocated to the Unit owned without protest made promptly to the person presiding over the meeting by any of the other Owners of such Unit. The right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the Owner (or all of the Owners of a Unit if there is more than one Owner) or by its attorney (or all of the Owner's attorneys if there is more than one Owner) thereunto duly authorized in writing. The instrument authorizing the proxy to act shall be delivered, at the beginning of the meeting, to the Secretary of the Association, or such other officer or person who may be acting as the Secretary at the meeting. The Secretary of the meeting shall enter a record of all such proxies in the minutes of the meeting. An Owner may revoke a proxy given pursuant to this Section only by actual notice of revocation to the Association. A proxy is void if it is not dated or purports to be revocable without notice.

3.9. Minutes of the annual and special meetings of the Association shall be distributed to each member within a reasonable time after the meeting.

3.10. The rights and obligations of any Owner shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Unit, and then only to the transferee of ownership of the Unit. A transfer of ownership of a Unit may be effected by deed, intestate succession, testamentary disposition, foreclosure or such other legal process as is now in effect or as may hereafter be established under or pursuant to applicable law. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership of a Unit shall operate to transfer the membership in the Association appurtenant to said Unit to the new Owner thereof. Each transferee shall notify the Association of his, her or its purchase of a Unit. A change in the ownership of a Unit shall be effective for voting purposes from the time the deed or other instrument effecting such change is recorded; the Management Committee shall thereafter be given written notice of such change and provided satisfactory evidence thereof.

#### **ARTICLE 4 Officers.**

4.1. All officers and employees of the Association shall serve at the will of the Management Committee. So long as there are three (3) members of the Management Committee, the officers shall be a President, a Vice Presidents, and a Secretary-Treasurer. The Management Committee may appoint additional Vice Presidents and such other assistant officers as the Management Committee may deem necessary. No officer shall be required to be an Owner. No officer shall receive compensation for serving as such. Officers shall be annually elected by the Management Committee and may be removed and replaced by the Management Committee. The Management Committee shall require that officers (and other employees of the Association) be subject to fidelity bond coverage.

4.2. The President shall be the chief executive of the Management Committee and shall preside at all meetings of the Association and of the Management Committee and may exercise the power ordinarily allowable to the presiding officer of an association, including the appointment of committees. The President shall exercise general supervision over the Project and its affairs. He or she shall sign, and the Secretary shall witness, on behalf of the Association, all conveyances, mortgages and contracts of material importance to its business. He or she shall do and perform all acts which the Management Committee may require.

4.3. The Vice President, if any, shall perform the functions of the President in his or her absence or inability to serve.

4.4. The Secretary shall keep minutes of all proceedings of the Management Committee and of the meetings of the Association and shall keep such books and records as may be necessary and appropriate for the records of the Owners and the Management Committee.

4.5. The Treasurer shall be responsible for the fiscal affairs of the Association, but may delegate the daily handling of funds and the keeping of records to the Manager.

4.6. Any officer may prepare, execute, certify and record amendments to the Declaration on behalf of the Association.

**ARTICLE 5 Common Expenses; Assessments.**

5.1. All Common Expenses shall be assessed in accordance with the Declaration.

5.2. No Owner shall be exempt from liability for Common Expenses by waiver of the use or enjoyment of any of the Project or by abandonment of his or her Unit.

5.3. The Treasurer shall keep detailed records of all receipts and expenditures, including expenditures affecting the Project, specifying and itemizing the maintenance, repair and replacement expenses of the Project and any other expenses incurred. Such records shall be available for examination by the Owners during regular business hours. In accordance with the actions of the Management Committee in assessing Common Expenses against the Units, the Treasurer shall keep an accurate record of such Assessments and of the payments thereof by each Owner.

5.4. All Assessments shall be a separate, distinct and personal liability of the Owners at the time each Assessment is made. The Management Committee shall have the rights and remedies contained in the Act and in the Declaration to enforce the collection of Assessments.

5.5. Any person who shall have entered into a written agreement to purchase a Unit, by written request directed to the Management Committee, shall be entitled to obtain a written statement from the Treasurer setting forth the amount of the monthly, quarterly, annual or other periodic Assessments and the amount of unpaid Assessments charged against such Unit and its Owner(s), and if such statement does not reveal the full amount of the unpaid Assessments as of the date it is rendered, neither the purchaser nor the Unit shall be liable for the payment of an amount in excess of the unpaid Assessments shown thereon, provided that the former Owner shall remain so liable. Any such excess which cannot be promptly collected from the former Owner-grantor shall be reassessed by the Management Committee as a Common Expense to be collected from all Owners, including without limitation the purchaser of such Unit, his or her successors and assigns. The new Owner shall, and the former Owner shall not, be liable for any Assessments made after the date of transfer of title, even though the expenses incurred or the advances made by the Management Committee for which the Assessment is made relate in whole or in part to any period prior to that date. The Management Committee is authorized to require a reasonable fee for furnishing such statements.

5.6. In addition to the statements issuable to purchasers, the Management Committee shall, upon ten (10) days' prior written request therefore, provide to any Owner, to any person who shall have entered into a binding agreement to purchase a Unit and to any Mortgagee, on request at reasonable intervals a current statement of unpaid Assessments for Common Expenses with respect to a Unit. The Management Committee is authorized to require a reasonable fee for furnishing such statements.

5.7. In all cases where all or part of any Assessments for Common Expenses and capital contributions and for any expenses of and advances by the Management Committee cannot be promptly collected from the persons or entities liable therefore under the Declaration or these Bylaws, the Management Committee shall reassess the same as a Common Expense without prejudice to its right of collection against such persons or entities, or without prejudice to its lien for such Assessments.

#### **ARTICLE 6 Litigation.**

6.1. If any action is brought by a member of the Management Committee on behalf of the Association, the expenses of suit, including reasonable attorneys' fees, shall be a Common Expense. Except as otherwise provided, if any action is brought against the Owners or against the Management Committee or the officers, employees or agents thereof in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all the Owners, the expenses of suit, including attorneys' fees, shall be a Common Expense. If any action is brought against one or more, but less than all Owners, with the result that the ultimate liability would, if proved, be borne solely by such Owners, the expenses of suit, including attorneys' fees, shall not be charged to or borne by the other Owners, as a Common Expense or otherwise.

6.2. Except as otherwise provided by the Act, any action brought against the Association, the Management Committee or the officers, employees or agents thereof, in their respective capacities as such, or the Project as a whole, shall be directed to the Management Committee, and shall be defended by the Management Committee; and the Owners and Mortgagees shall have no right to participate in such defense other than through the Management Committee. Actions against one or more, but less than all Owners, shall be directed to such Owners, who shall promptly give written notice thereof to the Management Committee, and shall be defended by such Owners.

#### **ARTICLE 7 Abatement and Enjoinment of Violations by Owners.**

7.1. The violation of any rules or regulations adopted by the Management Committee, the breach of any provision contained herein or the breach of any provision of the Declaration shall give the Management Committee the right, in addition to any other rights set forth in these Bylaws:

7.1.1. To enter the Unit in which or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner or Owners, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Management Committee shall not thereby be deemed guilty in any manner of trespass provided that items of construction may not be altered or demolished without proper judicial proceedings; and/or

7.1.2. To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

7.2. These remedies are cumulative to other remedies provided in the Declaration and these Bylaws, any rules or regulations adopted by the Management Committee, or in any other applicable laws.

**ARTICLE 8 Accounting.**

8.1. The books and accounts of the Association shall be kept in accordance with generally accepted accounting procedures under the direction of the Treasurer.

8.2. A budget for each fiscal year shall be adopted by the Management Committee and distributed to all members of the Association prior to the beginning of the fiscal year to which the budget applies.

8.3. The Management Committee shall distribute to the Owners an unaudited financial statement, prepared by an independent public accountant approved by the Association, within one hundred twenty (120) days after the close of each fiscal year.

8.4. The membership register, including mailing addresses and telephone numbers, books of account and minutes of meetings of the Association, of the Management Committee and of committees of the Management Committee and all other records of the Project maintained by the Association, Manager or managing company shall be made available for inspection and copying by any member of the Association or his or her duly appointed representative at any reasonable time and for a purpose reasonably related to his or her interest as an Owner, at the office where the records are maintained. Upon receipt of an authenticated written request from an Owner along with the fee prescribed by the Management Committee to defray the costs of reproduction, the Manager or other custodian of records of the Association shall prepare and transmit to the Owner a copy of any and all records requested. The Association may, as a condition to permitting an Owner to inspect the membership register or to its furnishing information from the register, require that the Owner agree in writing not to use, or allow the use, of information from the membership register for commercial or other purposes not reasonably related to the regular business of the Association and the Owner's interest in the Association. The Management Committee shall establish reasonable rules with respect to:

8.4.1. Notice to be given to the custodian of the records by the Owner desiring to make the inspection or obtain copies;

8.4.2. Hours and days of the week when such an inspection may be made; and

8.4.3. Payment of the cost of reproducing copies of documents requested by an Owner.

Every member of the Management Committee shall have the absolute right at any time to inspect all books, records and documents of the Association and to inspect all real and personal properties owned or controlled by the Association. This right of inspection shall include the right to make extracts and copies of records, subject

only to the right of the Association to require that the Management Committee member agree in writing not to use, or allow the use of, the information from the membership register for commercial or other purposes not reasonably related to the business of the Association and the Management Committee member's interest in such Association.

**ARTICLE 9 Special Committees.**

The Management Committee by resolution may designate one or more special committees, each committee to consist of three (3) or more Owners, which to the extent provided in said resolution shall have and may exercise the powers set forth in said resolution. Such special committee or committees shall have such name or names as may be determined from time to time by the Management Committee. All special committees shall keep regular minutes of their proceedings and report the same to the Management Committee when required. The members of such special committee or committees designated shall be appointed by the Management Committee or the President. The Management Committee or the President may appoint Owners to fill vacancies on each of said special committees occasioned by death, resignation, removal or inability to act for any extended period of time.

**ARTICLE 10 Rental or Lease of Units by Owners.**

10.1. Any Owner who rents or leases his or her Unit for thirty (30) days or more in duration shall advise the Management Committee or Manager in writing that the Unit has been leased or rented. The provisions of Section 7 of these Bylaws shall apply with equal force to renters or lessees of Units.

10.2. Any Owner who rents or leases or otherwise permits any other person to utilize his or her Unit shall be responsible for the conduct of his or her tenants or occupants, and upon written notice from the Management Committee or the Manager, said Owner shall be responsible for correcting violations of the Declaration, Bylaws or rules and regulations committed by such tenants or occupants.

10.3. If an Owner fails to correct violations by tenants within seventy-two (72) hours of such notice, the Management Committee or Manager shall be deemed to be the agent of the Owner and empowered to take any enforcement action the Owner would be entitled to take, the reasonable costs of such action, including but not limited to fees and costs paid to third parties, to be assessed to the Owner and payable within thirty (30) days of Assessment. Such costs shall be collected and enforced in the same manner as Common Expenses under the Declaration.

10.4. The power of the Management Committee or Manager hereunder shall include but not be limited to any and all legal remedies available under the laws of the State of Utah. Any Owner by the act of renting, leasing or otherwise permitting any other person to utilize his or her Unit shall be deemed to have consented to these procedures and shall indemnify and save harmless the Management Committee and the Manager from and against any and all liability therefor. It is expressly understood that the remedies available to the Management Committee or Manager shall include but not be limited to the right to seek eviction of the tenant without any liability to the Owner.

10.5. If an Owner shall at any time lease his or her Unit and shall default in the payment of Assessments, the Management Committee may, at its option, so long as such default shall continue, demand and receive from any tenant of the Owner the rent due or becoming due, and the payment of such rent to the Management Committee shall be sufficient payment and discharge of such tenant and the Owner for such assessments to the extent of the amount so paid. This Section 10 shall be incorporated by reference into every lease agreement entered into by and between an Owner and his or her tenant, whether or not this Section is expressly referenced therein.

**ARTICLE 11 Amendment of Bylaws.**

Except as otherwise provided in the Act, the Declaration or these Bylaws, the Bylaws may be amended by the vote of Owners holding a majority of the total votes of the members of the Association present in person or by proxy at a meeting duly called for such purpose, or by written ballot without a meeting. Provided, however, the percentage of the voting power necessary to amend a specific clause or provision shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause. Upon such an affirmative vote, the Management Committee shall acknowledge the amended Bylaws and notify the Owners, writing, of such amendment, setting forth the fact of the required affirmative vote of the Owners and the amendment shall be effective upon recording in the Office of the Davis County Recorder. Notwithstanding anything to the contrary contained or implied herein, Declarant reserves the right, without the consent of any other Owners, to amend any provisions of these Bylaws to comply with the then existing statutes, regulations or other requirements of any federal, state or local regulatory authority affecting the Project.

**ARTICLE 12 Severability.**

The provisions hereof shall be deemed independent and severable, and the invalid or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

**ARTICLE 13 Waiver.**

The failure of the Management Committee to insist upon strict performance of any provisions hereof shall not be construed as a waiver for future purposes with respect to any such provision or option. No provision of these Bylaws shall be deemed to have been waived unless such waiver is in writing and signed by the Management Committee.

**ARTICLE 14 Captions.**

The captions herein are inserted only as a matter of convenience and for reference and in no way to define, limit or describe the scope of these Bylaws nor the intent of any provision hereof.

**ARTICLE 15 Effective Date.**

These Bylaws shall take effect as of the date of the Declaration, having been duly adopted by the Management Committee.

**ARTICLE 16 Counterparts.**

These Bylaws may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**ARTICLE 17 Seal.**

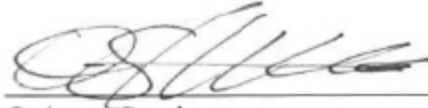
The Management Committee may by resolution provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the Association, the state of incorporation and the words "Corporate Seal."

*[Intentionally Left Blank; Signature Page Follows]*



EXECUTED this 14<sup>th</sup> day of January, 2025.

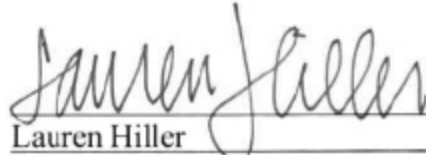
**MANAGEMENT COMMITTEE**



Quinton Stephens  
President



McKenna Christensen  
Vice President



Lauren Hiller  
Secretary-Treasurer