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JEFFERY SMITH  
UTAH COUNTY RECORDER  
2019 May 21 3:00 pm FEE 40.00 BY MG  
RECORDED FOR VINEYARD CITY

AFTER RECORDING PLEASE RETURN TO:  
Steve Caldwell  
1443 West 800 North #202  
Orem, Utah  
84057

**DECLARATION OF CONDOMINIUM  
(Including Owner Association Bylaws)**

**UVHBA CONDOMINIUMS AMENDED**

**(A Commercial Condominium Project)  
Vineyard, Utah**

THIS DECLARATION OF CONDOMINIUM is made as of this 17<sup>th</sup> day of May, 2019, by Steve Caldwell ("Declarant"), pursuant to the provisions of Title 57, Chapter 8 of the Utah Code, as amended, known as the Condominium Ownership Act (the "Act").

**4 PRESIDENT OF  
UTAH VALLEY HOME  
BUILDERS ASSOCIATION**

**RECITALS:**

A. Declarant is the developer and owner of record of that certain tract of land, more particularly described in ARTICLE II hereof, together with all improvements thereon.

B. By concurrently recording this Declaration and the Record of Survey Map in the Public Records Declarant will submit the Tract and all improvements thereon, or to be constructed thereon, to the provisions of the Act as a commercial condominium project to be known as **UVHBA CONDOMINIUMS AMENDED (A Commercial Condominium Project)**.

C. Declarant intends that fee title to the individual Units contained in the Project, together with an undivided percentage interest in and to the Common Areas and Facilities appurtenant to such Units, as set forth in **Exhibit A**, attached hereto and made a part hereof, be subject to the covenants, conditions, restrictions, limitations, and easements herein set forth.

**Article I**

**Definitions**

When used in this Declaration (including that portion hereof captioned RECITALS) each of the following terms used shall have the meaning indicated. Any term used herein which is defined by the Act shall, to the extent permitted by the context hereof, have the meaning ascribed by the Act:

**Act** shall mean and refer to the Condominium Ownership Act, Title 57, Chapter 8, Utah Code (1953), as the same may be amended from time to time, including any successor statutory provisions thereto.

**Assessment** shall mean the amount which is to be levied and assessed against each Owner and such Owner's Unit by the Association whether as Annual, or Special Specific Assessments as further set forth and described in the Bylaws in ARTICLE XIII.

**Association of Unit Owners** or "**Association**" shall mean the Unit Owners acting as a group in accordance with this Declaration and the Act.

**Building** shall mean and refer to a structure described on the Map of the Project containing multiple Units.

**Bylaws** shall mean, and refer to, the Bylaws of the Association as set forth and embodied in this Declaration in **ARTICLES XI, XII, and XIII** as authorized by Section 57-8-15 of the Act.

**Common Areas or Limited Common Areas and Facilities** shall mean, refer to and include:

(a) The real property and interests in real property which this Declaration submits to the provisions of the Act, including the entirety of the Tract and all plantings, lawns, landscaping, fences, outdoor lighting, sidewalks, walkways, parking areas and private ways located thereon, excluding all individual Condominium Units as are herein defined;

(b) All Common Areas and Facilities, as above defined, which may be designated as such on the Record of Survey Map, and all Common Areas and Facilities and all Limited Common Areas and Facilities as defined in the Act, whether or not expressly listed herein or on the Map;

(c) All foundations, columns, beams, girders, interior load-bearing walls, and supports of the Building;

(d) Any halls, corridors, stairs, stairways, entrances, exits, and landings within a Building which are designed for the use of more than one Unit and which are not contained within a Unit;

(e) Those portions of the exterior walls of a Building (excluding glass in windows) beyond the exposed face of the dry wall on the Unit side for such walls; those portions of all walls which enclose Units and divide them from corridors, stairs and other Common Areas and which are located beyond the unfinished surface on the Unit side of such walls; those portions of all walls located between the Units within the unfinished surfaces of such walls on either side thereof; the floors; and the roof;

(f) All installations and equipment designed and intended to provide utility services for common use, including (but not limited to) telephone, internet, electricity, gas, water, sewer, heat, ventilation and air conditioning (including all pipes, ducts, vents, wires, cables, and conduits designed and intended for common use in connection therewith), whether or not located within the horizontal and vertical boundaries of a Unit, but excluding from such installations and equipment all parts thereof, and all items affixed or connected thereto; located within the exterior boundaries of a Unit and designed and intended for the sole use of such Unit;

(g) All apparatus and equipment designed and intended for common use such as (but not necessarily limited to) pumps, motors, fans, clocks, compressors and control apparatus and equipment, whether or not located within the horizontal and vertical boundaries of a Unit, but excluding from such apparatus or equipment all parts thereof, and all items affixed or connected thereto, located within the exterior boundaries of a Unit and designed and intended for the sole use of such Unit;

(h) All cleaning and maintenance equipment and other personal property at any time leased, acquired, owned, or held by the Association for the common use of benefit of all Owners; and

(i) All other parts of the Project designed and intended for, or normally in, common use or necessary or convenient to the existence, maintenance, safety, or managements of the Project.

The term "common use", as used in the above definition of Common Areas includes, without limitation, use by or for any two or more Units.

**Common Expenses** shall mean all items and sums described in the Act which are lawfully assessed against the Unit Owners in accordance with the provisions of the Act, this Declaration, the Rules and Regulations, and other determinations and agreements pertaining to the Condominium Project as the Management Committee or the Association may from time to time adopt.

**Condominium Project or Project** shall mean, and refer to, **UVHBA CONDOMINIUMS AMENDED** (A Commercial Condominium Project) as the same shall exist from time to time.

**Condominium Unit or Unit** shall mean any of the individual spaces which is designated as a numbered Unit on the Record of Survey Map. Notwithstanding any information on the Record of Survey Map to the contrary, each Unit is, or shall be deemed to be, bounded by the interior surfaces of the walls, floors, and ceilings and the exterior surfaces of all window glass and doors on or along the perimeter boundaries of such individual space, as said boundaries are shown on the Map. All interior portions of walls and that portion of floors and ceilings under or over them on or along the perimeters of a Unit shall constitute a part of the common Areas and Facilities. A Unit shall also include any non-load bearing walls and partitions which are wholly confined within its vertical and horizontal perimeters; provided, however, that a Unit shall not include any part of portion of the Common Areas defined in [paragraphs (c), (d), (e), (f), or (g) contained in the above definition of Common Areas, but shall include all installations, equipment, apparatus, and items affixed or connected thereto of the character contemplated by said paragraphs (f) and (g) which are located within the exterior boundaries of such Unit and which are designed for the sole use of such Unit. A Unit shall also include all fixtures confined within its vertical and horizontal perimeters and intended for the sole use of such Unit. The exterior surface of a window glass or door shall mean the plane at which such surface is located when the window or door is closed.

**Declarant Control Period** shall mean the period of time established by the provisions of Section 11.03 during which Declarant will manage and control the Project.

**Declaration** shall mean and refer to this **Declaration of Condominium (Including Owner Association Bylaws)** the same may hereafter be amended in accordance with the Act and the provisions hereof. Any ambiguities, omissions or conflicts herein shall be construed to comply with the provisions of the Act.

**Limited Common Areas and Facilities or Limited Common Areas** shall mean and refer to those Common Areas designated in this Declaration, or the Act, or shown on the Map as reserved for the exclusive use of a certain Unit or Units to which the same shall thereby be made appurtenant to the exclusion of other Units. Certain types of Limited Common Areas are governed by the provisions of ARTICLE III.

**Management Committee or Committee** shall mean and refer to the Committee as provided in this Declaration charged with and having the responsibility and authority to administer the Project and to make and to enforce the Rules and Regulations covering the operation and maintenance thereof.

**Manger** shall mean as individual or entity to whom the Management Committee may delegate any of all of its duties relative to the Project.

**Mortgage** shall mean a recorded mortgage, deed of trust encumbering a Unit; and a Mortgagee shall mean the mortgagee or beneficiary named in Mortgage.

**Owner or Unit Owner** shall mean and refer to the person or persons owning a fee simple interest in a Condominium Unit. In the event a Unit is the subject of an executory contract of sale, the buyer shall, unless the seller and the buyer have otherwise agreed and have informed the Committee in writing of such agreement, be considered the Unit Owner for all purposes.

**Public Records** shall mean and refer to the Office of the County Recorder of Utah County, Provo, Utah.

**Record of Survey Map or Map** shall mean and refer to the Record of Survey Map (a) executed and acknowledged by Declarant and filed concurrently with this Declaration in the Public Records entitled **UVHBA CONDOMINIUMS AMENDED** (A Commercial Condominium Project), City of Vineyard, Utah County, Utah, prepared by Roger Dudley, a Utah registered land surveyor holding Certificate No.147089.

**Rules and Regulations** shall mean and refer to those Rules and Regulations authorized, adopted and promulgated to the Owners by the Management Committee pursuant to Section 11.10.

**Tract** shall mean and refer to the real property described in Section 2.01 which ARTICLE II of this Declaration submits to the Act.

**Units** shall mean and refer to that real property, together with all improvements constructed thereon, situated in the City of Vineyard, Utah County, State of Utah, more particularly described in Exhibit B, attached hereto and incorporated herein by this reference.

**Unit Number** shall mean and refer to the number, letter or combinations thereof which designates a Unit on the Map.

**ARTICLE II**

**Submission of the Project**

**2.01 Submission, Description, and Reservations.** Declarant hereby submits to the provisions of the Act the following described real property and improvements situated in the City of Vineyard, Utah County, Utah:

**PROPERTY DESCRIPTION**

All of Lot 5, Geneva Gateway Subdivision as shown in the office of the Utah County Recorder, Utah County, Utah. said Lot also being described as: Commencing at a point located North 00°03'08" West along the Section line 56.28 feet and West 611.98 feet from the East quarter corner of Section 17, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence South 32°53'08" West 218.57 feet; thence along the arc of a 931.08 foot radius curve to the right 307.20 feet (chord bears North 48°01'18" West 305.81 feet); thence North 36°35'41" West 120.24 feet; thence North 53°24'27" East 236.91 feet; thence South 30°04'07" East 58.58 feet; thence along the arc of a 614.00 foot radius curve to the left 290.00 feet (chord bears South 43°35'57" East 287.31 feet) to the point of beginning.

Area = 86,962 sq.ft. or 2.00 Acres

**TOGETHER WITH** all easements, rights-of-way, and other appurtenances and rights incident to, apparatus to, or accompanying the above- described parcel of real property.

**RESERVING UNTO DECLARANT**, however such easements and rights of ingress and egress over, across, through and under the above-described Tract, and any improvements ( including any structure) now or hereafter constructed thereon as may be reasonably necessary for Declarant: (i) to construct and complete the Building and Units and all of the other improvements described in this Declaration or in the Survey Map recorded concurrently herewith, and to do all things reasonably necessary or proper in connection there with; (ii) to construct and complete the Units or any portion thereof such improvements as Declarant shall determine to build in its sole discretion and (iii) to improve portions of the said property with such other or additional improvements, facilities, or landscaping designed for the use and enjoyment of all the Owners and Declarant may reasonably determine to be improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements,

the reservations hereby effected shall, unless sooner terminated in accordance with their terms, expire ten (10) years after the date on which this Declaration is filed for record in the Public Records.

**ALL OF THE FOREGOING IS SUBJECT TO** all liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all Patent reservations and exclusions; all mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described Tract or any portion thereof, including, any mortgage (and nothing in this paragraph shall be deemed to modify or amend such mortgage); all visible easements and rights-of-way; all easements and rights-of-way, encroachments, or discrepancies shown on or revealed by the Record of Survey Map or otherwise existing; an easement for each and every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the above-described Tract at such time as construction of all Project improvements is complete; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cables, wires, utility lines, and similar facilities; **AND TO EACH OF THE COVENANTS, EASEMENTS, CONDITIONS, AND RESTRICTIONS CONTAINED IN THIS DECLARATION.**

**2.02 Division of Project into Condominium Units; Ownership Interests.** The Project is hereby divided into eight (8) Commercial Condominium Units each such Unit having an appurtenant and undivided ownership interest in and to the Common Areas and Facilities as set forth in Exhibit A, attached hereto and incorporated herein by this reference.

### ARTICLE III

#### Limited Common Areas/Storage and Parking

**3.01 Maintenance.** Care and maintenance of the Limited Common Areas referred to in this ARTICLE III shall follow the standards and provisions set forth in Section 5.10.

### ARTICLE IV

#### Improvements

**4.01 Improvements.** The improvements included in the Project are now or will be located on the Tract and all of such improvements are described on the Map, including the Building, the number of Units, their respective dimensions, and other significant facts relation thereto.

**4.02 Descriptions of Building and Units.** The Project is a single Three-Story Commercial Building containing eight (8) Commercial Units on three floors as reflected on the Map; Common Area parking; electrical, equipment and HVAC systems. Construction is of wood frame. The structure's exterior is made up of glass and aluminum colored metal panels with various architectural features. The roof structure is flat and covered by a PVC membrane.

**4.03 Description and Legal Status of Units.** The Map reflects the Unit Number of each Unit, its location and dimensions from which area may be determined; Limited Common Areas; and the Common Areas and Facilities of the Project. Each Unit is legally designated and described by a Unit Number.

**4.04 Common Areas.** Common Areas and any Limited Common Areas contained in the Project are described and identified in ARTICLE I hereof, and on the Map. Neither the ownership of undivided interests in and to the Common Areas nor the right of exclusive use of a Limited Common Area shall be separated from the Unit or Units to which they appertain, or to which they are a part, and even though not specifically mentioned in the instrument of conveyance, such percentage of undivided interest and such right of exclusive use shall automatically accompany the conveyance of the Unit to which they relate as will any separated obligations or assessments pertaining thereto.

**4.05 Conveyance Description of a Unit.** Each conveyance or contract for the sale of a Unit and every other instrument affecting title to a Unit may describe that Unit by the Unit Number shown on the Map with the appropriate reference to the Map and to the Declaration, as each shall appear in the Public Records and in substantially the following form:

Unit \_\_\_\_\_ contained within **UVHBA CONDOMINIUMS AMENDED** (A Commercial Condominium Project) as the same is identified in the Record of Survey Map there for recorded in Utah County, Utah as Entry \_\_\_\_\_ Map # \_\_\_\_\_ (as said Record of Survey Map may have heretofore been amended or supplemented) and in the **Declaration of Condominium, UVHBA CONDOMINIUMS AMENDED** (A Commercial Condominium Project) (**Including Owner Association Bylaws**) recorded in Utah County, Utah as Entry \_\_\_\_\_ as said Declaration may have heretofore been amended, **TOGETHER WITH** the undivided ownership interest in and to the Common Areas and Facilities which is appurtenant to said Unit as more particularly described in said Declaration (as said Declaration may have heretofore been amended).

Such description will be construed to describe the Unit, together with the appurtenant undivided ownership interest in and to the Common Areas and Facilities as the same are established and identified in the Declaration and/or on the Map, and to incorporate all the rights incident to ownership of a Unit and all the limitations of such ownership as described in the Declaration. Each such conveyance shall be subject to all of the provisions of this Declaration.

#### **ARTICLE V Nature and Incidence of Ownership**

**5.01 Holding Title.** Title to a Unit shall be in fee simple and may be held or owned by any person or entity and in any manner in which title to any other real property may be held or owned in the state of Utah, including, but without limitation, joint tenancy or tenancy in common.

**5.02 No Separation.** No part of a Unit, nor any part of the legal rights comprising ownership of a Unit, may be separated from any other part thereof during the period of condominium ownership described herein, so that each Unit, the undivided interest in and to the Common Areas appurtenant to such Unit, and the exclusive right to use and occupy any Limited Common Areas appurtenant to any Unit, shall always be conveyed, devised, encumbered, and otherwise effected only together and may never be separated from one another. Every gift, devise, bequest, transfer, encumbrance or other disposition of a Unit or any part thereof, shall constitute a gift, devise, bequest, transfer, encumbrance, or conveyance, respectively, of the entire Unit, together with all appurtenant rights created by law, the Act or this Declaration.

**5.03 Membership in Association.** Each Unit Owner, including Declarant, shall be a Member of the Association of Unit Owners. Membership in the Association shall be mandatory, shall be appurtenant to, and shall not be separated from the Unit to which it appertains.

**5.04 Undivided Interest in Common Areas and Facilities.** Each Unit Owner, including Declarant, shall have, for each Unit owned, an appurtenant undivided ownership interest in and to the common Areas and Facilities as set forth described in **Exhibit A**.

**5.05 No Partition.** The Common Areas and Facilities shall be owned in common by all the Owners of Units in the ratio of their undivided appurtenant interest as reflected in **Exhibit A** and no Unit Owner may bring action for partition thereof.

**5.06 Use of Common Areas and Limited Common Areas.** Subject to the limitations contained in this Declaration, each Unit Owner shall have the non-exclusive right to use and enjoy the Common Areas and shall have

the exclusive right to use and enjoy any Limited Common Areas designated or provided for herein or on the Map or inferred by the Act which appertains to such Owner's unit.

**5.07 Duty of Owner to Pay Taxes on Unit Owned.** It is understood that under the Act each Unit (and its percentage of undivided ownership interest as reflected in **Exhibit A**) in the Project is subject to separate assessment and taxation of each taxing authority and special district which has such jurisdiction over the Project for all types of taxes and assessments authorized by law; and, that as a result thereof, no taxes will be assessed or levied against the Project, as such. Accordingly, each Unit Owner, including Declarant, will pay and discharge any and all taxes and assessments which may be assessed against such Owner relative to his Condominium Unit.

**5.08 Duty to Pay Association Assessments.** Each Unit Owner is obligated to pay and discharge all Assessments and charges levied by the Association as set forth herein.

**5.09 Unit Maintenance.** Each Owner shall at its own cost and expense maintain, repair, paint, re-paint, tile, paper or otherwise finish and decorate the interior walls and trim the interior surfaces of ceilings, floors, windows and doors within such boundaries of its Unit and all walls, ceilings, floors, windows and doors within such boundaries. In additions to decorating and keeping the interior of its' Unit in good repair and in a clean and sanitary condition,(s) he shall be responsible for the maintenance, repair or replacement of any plumbing or lighting fixtures, or other appliances, equipment or fixtures that may be in, or connected with its Unit.

**5.10 Maintenance of Limited Common Areas.** Each owner shall make every effort to keep any Limited Common Areas designed for use in connection with its Unit in a clean, sanitary and attractive condition at all times, notwithstanding any duty or obligation of the Committee to, on behalf of the Association, to maintain and repair Common Areas and Limited Common Areas pursuant to the provisions of ARTICLE XI.

**5.11 Division of Utility Costs.** The cost of all utility or municipal services (including, without limitation, telephone, electrical, internet, and gas) which are separately metered (if metering is applicable to the service in question) and billed by the suppliers involved to the individual Units including limited common space assigned to that unit, shall be paid by the Owner of the respective Unit. The cost of all such services, not separately metered, which benefit of all Units and the Project as a whole (including water, sewer and solid waste), shall be paid by the Association as a Common Expense. Notwithstanding anything to the contrary contained within the preceding portion of this Section 5.11, in the event that any utility or municipal service metered (if metering is applicable to the service in question) and billed to one or more Units and a portion of such services are determined by the association to benefit in whole or part the Common Areas, **the Association shall reimburse or credit the Owner of the Unit so billed for the cost of such portion; the determination of such portion, and** the cost related thereto which shall be borne by the Association as a Common Expense, shall be made by the Association in a fair and reasonable manner on the basis of the best information reasonably available at the time, and shall be final and binding upon Unit Owners.

## ARTICLE VI

### Easements

**6.01 Encroachment.** If any part of the Common Areas encroaches, or shall hereafter encroach, upon a Unit or Units, an easement for such encroachment and for the maintenance for the same, shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas, or upon adjoining Unit or Units, an easement for such encroachment and for its maintenance shall and does exist. Such encroachments shall not be considered to be encumbrances either in the Common Areas or the Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of Buildings within the Project, by errors in the Map, by settling, raising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

**6.02 Repair of Common Areas.** If any of the Common Areas are or may be located within any of the Units or may be conveniently accessible only through such Unit, the Owners of the other Units shall have the irrevocable right, to be exercised by the Committee or their agent, to have access to such Unit and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Areas located therein or accessible there from or for making emergency repairs therein necessary to prevent damage to the Common Areas or another Unit or Units. The Committee shall also have such rights independent of the agency relationship. Damage to the interior of any part of the Unit or Units resulting from the maintenance, repair, emergency repair, or replacement of any of the Common Areas or as a result of emergency repairs within another Unit at the instance of the Committee or of Unit Owners, shall be an expense of all the affected Unit Owners and assessed proportionately, except that if such damage is the result of negligence of the Owner of the Unit, his guests or invitees, then such Owner shall be financially responsible for all such damage. Amounts owing by Owners pursuant hereto shall be collected by the Committee by Specific Assessment pursuant to this Declaration.

**6.03 Management Committee.** The Management Committee shall have non-exclusive easements to make such use of the Common Areas as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration.

**6.04 Utility Services.** As reflected on the Map, there is a utility easement upon, across, over and under the Common Areas for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to, water, sewer, natural gas, telephone, electricity, communications, and other utility services.

**6.05 Right of Ingress, Egress, and Support.** Each Owner shall have the right to ingress and egress over, upon and across the Common Areas necessary for access to his Unit, and to any Common Area designated for use in connection with his Unit, and each Owner shall have the right to the horizontal, vertical and lateral support of his and any adjoining Unit, and such rights shall be appurtenant to and pass with the title to each Unit.

**6.06 Cross Easement.** A recorded cross easement exists for the purpose of access with adjacent property to the West. Tenants and their guests will respect terms of the agreement

## ARTICLE VII

### Restrictions

**7.01 Commercial Use.** The Tract is zoned or permitted for commercial usage pursuant to Vineyard City Ordinances and all Units and Unit Owners are subject to the uses and restrictions imposed thereby, including, but not limited to, occupancy and parking restrictions.

**7.02 Leasing.** A Unit Owner may lease his Unit for any term evidenced by a writing executed by the Owner and the lessee/tenant and containing a specific statement that such lease is subject to the provisions of this Declaration.

**7.03 Restrictions Concerning Common Areas.** There shall be no obstructions of the Common Areas by the Owners, their tenants, guests or invitees without the prior written consent of the Management Committee. The Management Committee may, by Rules and Regulations, prohibit or limit the use of the Common Areas and Facilities as may be reasonably necessary for protecting the interests of all the Owners or protecting the Units or the Common Areas. Nothing shall be kept or stored on any part of the Common Areas without the prior written consent of the Management Committee, except as may specifically provided herein. Nothing shall be altered on, constructed on, or removed from the Common Areas except upon the prior written consent of the Management Committee.

**7.04 Miscellaneous Restrictions.** Nothing shall be done or kept in any Unit in the Common Areas or any part thereof which would result in the cancellation of the insurance on the Project or any part thereof or increase the rate of the insurance on the Project or any part thereof over what the Management Committee, but for such activity,



would pay, without the prior written consent of the Management Committee. Nothing shall be done or kept in any Unit or in the Common or Limited Common Areas or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body. No damage to, or waste of, the Common or Limited Common Areas or any part thereof shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Management Committee and the other Owners harmless against all loss resulting from any such damage or waste caused by him or his invitees. No noxious, destructive or offensive activity shall be carried on in any Unit or in the Common or limited Common Areas or any part thereof, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any person at any time lawfully occupying a Unit.

**7.05 No Pets or Animals.** No pets or animals of any kind or nature whatsoever (excepting fish in aquariums) shall be permitted in any Unit, in the Common, or Limited Common Areas, or in any other part of the Project without first obtaining written approval from the Committee. This restriction does not apply to medically required service animals.

**7.06 No Violation of Rules and Regulations.** No Owner shall violate the Rules and Regulations as adopted and promulgated to the Owners from time to time by the Management Committee as provided in Section 11.10.

**7.07 Restrictions on Alterations.** No structural alterations to any Unit shall be made by any Owner without the prior written consent of the Management Committee or an architectural or design review committee established by it.

**7.08 Declarant's Right to Sell Units.** Notwithstanding anything contained herein to the contrary, until the Declarant has completed and sold all of the Units, the Unit Owners who have purchased Units from the Declarant shall not interfere with the completion of the contemplated construction and sale of the remaining Units. The Declarant may make such use of the unsold Units and the Common Areas *as may facilitate* such completion and sale, including but not limited to, the maintenance of a sales office, the showing of the Units, and the display of signs.

**7.09 Restrictions on Signs.** No signs, flags, or advertising devices of any nature, including without limitation commercial, political, real estate, informational, or directional signs or devices shall be erected or maintained at any place on the exterior of a Building, Unit, or on any other part of the Project without the prior inspection and written approval of the Management Committee, except as may be necessary temporarily to caution or warn of danger. All signage, whether original or replacement, shall be professionally made and shall be of the style and theme established by the Declarant or the Committee for the Project as a whole. Any sign, banner, or similar devices located in the Project shall comply with applicable zoning or sign ordinances of Vineyard City, Utah. Any signage so approved shall be manufactured and installed at the expense of the Unit Owner or his tenant.

## ARTICLE VIII

### Insurance

**8.01 Insurance and Bonds.** The Management Committee shall secure or caused to be secured and maintained at all times the following insurance and bond coverage with respect to the Project:

- (a) A policy or policies of fire and casualty insurance with extended coverage endorsement, for the full insurable replacement value of the entire Project, **including the Building and Units but excluding contents of Units**. Such policy or policies shall be made payable to the Committee and all persons holding an interest in the Project or any of the Units, as their interests may appear.

(b) An appropriate fidelity bond coverage for any person or entity (other than Declarant during the Declarant Control Period) handling funds of the Management Committee, including, but not limited to, employees of a professional manager; if any, the amount of such coverage to be not less than the estimated maximum of funds, including reserves, in the custody of such person or entity at any given time during the bond term, all as determined by the Management Committee, but in no event less than a sum equal to three months' aggregate of Annual Assessment installment on all Units, plus any reserve funds.

(c) A policy or policies insuring the Committee, the Manager, and the Unit Owners against any liability incident to the ownership, use or operation of the Project, or of any Unit, which may arise among themselves, to the public, and to any invitees or tenants of the Project or of the Unit Owners. Limits of liability under such insurance shall not be less than \$1,000,000 for any person injured, \$2,000,000 for all persons injured in any one accident, and \$500,000 for property damage resulting from one occurrence. Such policies shall be issued on a comprehensive liability basis and shall provide a cross liability endorsement pursuant to which the rights of the named insured's as between themselves are not prejudiced. This section shall not be construed to require the association to provide insurance normally required for the operation of a business, nor insurance required for a profession.

**8.02 Additional Insurance Provisions.** The following additional provisions may apply with respect to insurance:

(a) In addition to the insurance described above, the Committee may secure and at all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with commercial condominium projects similar to the Project in construction, nature and use.

(b) The Committee shall have the authority to adjust losses and, upon good cause appearing therefore, to increase coverage's from any then existing levels.

(c) Insurance secured and maintained by the Committee shall not be brought into contribution with insurance held by the individual Unit Owners or their Mortgagees.

(d) Each policy of insurance obtained by the Committee shall, if possible, provide: a waiver of the insurer's subrogation rights with respect to the Committee, the Manager, and the Unit Owners, and their respective agents and guests; that it cannot be canceled, suspended, or invalidated due to the conduct of any member, officer, or employee of the Committee or of the Manager without prior written demand that the defect be cured; and that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Unit Owners.

(e) Each Unit Owner shall, at his own expense, obtain and maintain in force at all times policies of hazard and casualty insurance relative to his Unit's contents, and liability insurance relative to such Owner's business operations conducted within his Unit.

(f) The cost for the insurance required under Section 8.01 (a) to cover Units shall be allocated and assessed to Unit Owners in proportion to their respective undivided ownership interests as set forth in Exhibit A.

**ARTICLE IX**

**Damage, Destruction and Restoration**

In the event of damage to or destruction of part or all of the improvements in the Condominium Project, the following procedures shall apply:

(a) If proceeds of the insurance maintained by the Management Committee are alone sufficient to repair or reconstruct the damaged or destroyed improvement, such repair or reconstruction shall be carried out as quickly as possible.

(b) If less than seventy-five percent (75%) of the Project's improvements are destroyed or substantially damaged, and if proceeds of the insurance maintained by the Committee are not alone sufficient to accomplish repair or reconstruction, restoration shall be carried out upon approval of 60% of the Unit Owners, and all Owners shall be assessed for any deficiency in proportion to their respective undivided ownership interests pursuant to Exhibit A.

(c) If seventy-five percent (75%) or more of the Project's improvements are destroyed or substantially damaged, and if proceeds of insurance maintained by the Management Committee are not alone sufficient to accomplish restoration, and if 60% of the Unit Owners, within 100 days after the destruction or damage, vote to repair or reconstruct the affected improvements restoration and assessment therefore shall be accomplished in the manner directed under subsection (b), above.

(d) If seventy-five percent (75%) or more of the Project's improvements are destroyed or substantially damaged, and if proceeds of the insurance maintained by the Committee are insufficient to accomplish restoration, and if 60% of the Unit Owners do not, within 100 days after the destruction or damage, vote to repair or reconstruct the affected improvements, the Management Committee shall promptly record a notice in the Public Records setting forth such facts. Upon the recording of such notice, the provisions of Section 57-8-31 (1) through (4) of the Act shall apply and govern the rights of all parties having an Interest in the Project or any of the Units.

(e) Any reconstruction or repair which is required to be carried out by this ARTICLE IX shall be accomplished at the instance and direction of the Management Committee. Any determination which is required to be made by this ARTICLE IX regarding the extent of the damage to or destruction of Project improvements shall be made by three qualified appraisers selected by the Management Committee. The concurring decision of any two such appraisers shall be conclusive.

## ARTICLE X

### Mortgages and Mortgagee Protection

**10.01 Notice of Mortgage.** Any Owner who mortgages his Unit shall furnish the Committee the name and address of such Mortgagee and the Committee shall maintain such information in a book entitled "Mortgages of Units." The Committee may report to such Mortgagee any unpaid Assessments due from the Owner of such Unit at the same time as the Committee makes demand on the Owner thereof for payment of such unpaid Assessments. Each Mortgagee may also be entitled to written notification from the Committee of any other default by its Owner/Mortgagor in the performance of such Owner's obligations under the terms and provisions of this Declaration which shall not have been cured within 30 days after written notice to such Owner/Mortgagor by the Committee specifying such default.

**10.02 Right to Examine.** A Mortgagee shall have the right to examine the books and records of the Association and Committee upon request and to require annual reports of the financial status of the Association.

**10.03 Notice of Damage.** In the event of substantial damage to or destruction of any Unit or any part of the Common Areas, the Mortgagee of such Unit shall be entitled to timely written notice thereof.

**10.04 Notice of Default.** Any Mortgagee may be given written notification from the Management Committee of any default by the Owner of such Unit in the performance of any obligation required under the Declaration which is not cured within 30 days.

**10.05 Effect of Foreclosure on Liens.** A Mortgagee who comes into possession of a Unit through foreclosure of a first Mortgage, as set forth and provided in Section 13.14, or the purchaser at a foreclosure sale of such a first Mortgage, shall take the Unit subject to of any unpaid claims or Assessments and charges against the Unit which accrued prior to the time such holder comes into possession of the Unit, except for claims for a pro-rata share of such Assessments or charges resulting from a pro-rata reallocation by the Committee of such Assessments or charges to all Units in the Project, including the mortgaged Unit.

**10.06 General Mortgagee Protections.** Unless all of the Mortgagees of Units have given their prior written approval, neither the Management Committee nor the Association of Unit Owners shall:

(a) By act or omission, seek to abandon or terminate the Project, except for abandonment or termination provided by the Act in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;

(b) Except as provided in Section 2.05, change the pro-rata interest or obligations of any Unit for (1) purposes of levying Assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards or (2) determining the percentage share of undivided ownership interest of each Unit in the Common Areas;

(c) Make any material amendment to the Declaration or to the Bylaws of the Association, including but not limited to, any amendment which, but for the provisions of Section 2.05, would change the percentage of undivided ownership interest of the Unit Owners in the Common Areas;

(d) By act or omission, seek to amend, partition, subdivide, encumber, sell, or transfer the Common Area, except as set forth in section 2.05. The granting of easements for public utilities or for other purposes consistent with the intended use of the Common Areas of the Project shall not be deemed a transfer within the meaning of this Section 10.06; or

(e) Use hazard insurance proceeds for losses to any Project property (whether to Units or to the Common Areas) for other than the repair, replacement or reconstruction of such improvements, except as provided in ARTICLE IX or pursuant to the Act in cases of substantial loss to the Units or the Common Areas of the Project.

## ASSOCIATION BYLAWS

**PURSUANT TO SECTION 57-8-15 OF THE ACT, THE ASSOCIATION'S BYLAWS ARE HEREBY EMBODIED IN THIS DECLARATION AS ARTICLES XI, XII AND XIII, THE GENERAL PROVISIONS OF ARTICLE XIV OF THIS DECLARATION SHALL BE APPLICABLE TO BOTH THE BYLAW PROVISIONS AND THE OTHER PROVISIONS IN THIS DECLARATION.**

### ARTICLE XI

#### Bylaws - Management Committee

**11.01 Status and General Authority.** Except as otherwise herein provided, the Condominium Project shall be managed, operated, and maintained by the Management Committee as agent for the Association of Unit Owners. The Committee shall, in connection with its exercise of any of the powers hereinafter provided, constitute a legal entity, responsible and capable, to deal in the Association's name. The Management Committee shall have, and is hereby granted, the following authority, responsibility and powers:

- (a) Without the vote or consent of the Unit Owners or of any other person, except for Mortgagees if required by the terms of their Mortgage (and upon notice from the mortgagee) , to grant or create on such reasonable terms as it deems advisable, utility and similar easements over, under, across, and through the Common Areas and Facilities;
- (b) To execute and record, on behalf of all Unit Owners, any amendments to the Declaration or the Map which have been approved by the vote or consent of Unit Owners necessary to authorize such amendments as set forth in Section 14.03 of the Declaration;
- (c) To sue and be sued;
- (d) To enter into contracts relating to the Common Areas and other matters over which it has jurisdiction, so long as any vote or consent of the Unit Owners necessitated by the subject matter of the agreement has been obtained;
- (e) To convey or transfer any interest in real property, so long as the vote or consent Necessary under the circumstances has been obtained, including that of any Mortgagee if required by the terms of its Mortgage, notice of such to be provided by mortgagee;
- (f) To purchase, or otherwise acquire, and accept title to any interest in real property so long as such action has been authorized by any vote or consent which is necessary under the circumstances;
- (g) To promulgate such reasonable Rules and Regulations pursuant to Section 11.10 as may be necessary or desirable to aid the Committee in carrying out its functions or to insure that the Project is maintained and used in a manner consistent with the interests of the Unit Owners;

- (h) To engage the services of a Manager pursuant to Section 11.07;
- (i) To establish and incorporate at any time a Utah nonprofit entity pursuant to, then, current statutes, with a board of directors or trustees, as permitted, and to transfer to such entity and board, all of the Committee's powers and authority as are set forth and established pursuant to the provisions of the Declaration, these Bylaws and the Act; and
- (j) To perform any other acts and to enter into any other transactions, subject to the rights of the Committee, that may be reasonably necessary for the Committee to perform its functions as agent for the Unit Owners. Any instrument executed by the Committee relating to the Common Areas of the Project that recites facts which, if true, would establish the Committee's power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument.

**11.02 Indemnification of Management Committee.** Each member of the Management Committee shall be indemnified and held harmless by the Unit Owners against all costs, expenses, and liabilities whatsoever (excluding fraudulent or criminal actions) including, without limitation, attorney's fees reasonably incurred by him/her in connection with any proceeding to which he/she may become involved by reason of his/her being or having been a member of said Committee.

**11.03 Declarant Control Period.** Until the happening of the first of the following two events, the Declarant may appoint and remove some or all of the members of the Management Committee (who need not be Owners) or some or all of the officers of the Association, or may exercise the powers and responsibilities otherwise assigned by the Declaration and the Act to the Association, its officers, or the Management Committee:

- (a) the expiration of ten years after conveyance of title to the first Unit purchaser; or
- (b) the expiration of 120 days following (i) the conveyance of Units to which at least seventy-five percent (75%) of the undivided ownership interest in the Common Areas and Facilities appertain.

Provided, however, that Declarant may waive such rights, in whole or in part at any time prior to the occurrence of either or both of the aforesaid events by (i) giving notice to Unit Owners of such waiver in written recordable form and (ii) filing said written notice of waiver for record in the Public Records, whereupon Unit Owners shall promptly hold a meeting to elect a new Management Committee pursuant to Section 11.04, it being established hereby that the control of the Unit Owners in the Management Committee shall automatically vest 30 days following the date such waiver is recorded.

**11.04 Management Committee: Owner Control, Composition, Election, Vacancies.** Subject to the provisions of Section 11.03, above, the Committee shall be composed of three members, one to be elected to a three-year term, one to a two-year term and one to a one-year term. As members' terms expire, new members shall be elected for three-year terms. Members shall serve on the Committee until their successors are elected. Committee members must be Owners or officers, directors, agents or employees of non-individual Owners. Vacancies in the Committee membership may be filled by appointment by the remaining members or member of the Committee and said appointees shall serve until the next annual meeting of Owners when their successors shall be elected for the unexpired term of the member they were appointed to replace. The Association, upon approval by the Owners, may increase the number of members on the Committee to five.

**11.05 Rights and Duties.** On behalf of the Association, the Management Committee, subject to the rights and duties of the Unit Owners, the provisions of the Declaration, and the Bylaws, shall be responsible for the general management and administration of the Project, including the obligation to provide for maintenance of the Common Areas. Members of the Committee shall serve without remuneration unless agreed to by Owners holding at least sixty nine percent (69%) of the outstanding voting power of the Owners.

**11.06 Interior and Exterior Maintenance.** In connection with its duty to maintain Common Areas, the Committee will provide maintenance upon the interior and exterior of Buildings as follows: Paint, repair, replace, or otherwise care for as needed Building lobbies, Building roofs, gutters, down spouts, exterior surfaces, trees, shrubs, grass, walks, driveways, parking areas, and other exterior improvements except glass surfaces unless such surfaces are part of Common Areas. Costs of such maintenance items shall be Common Expenses.

**11.07 Right of Delegation to Manager.** The Management Committee may carry out any of its functions which are capable of delegation through a Manager. The Manager so engaged shall be responsible for managing the Common Areas and shall, to the extent permitted by law and the terms of the Manager's agreement with the Management Committee, be authorized to perform any of the functions or acts required or permitted to be performed by the Management Committee itself.

**11.08 Third Party Services.** The Management Committee may obtain and pay for the services of such professional or nonprofessional personnel as the Management Committee shall determine to be necessary or desirable for the proper operation and function of the Project, including the enforcement of this Declaration, persons to furnish snow removal, ground maintenance and other common services to the Project.

**11.09 Personal Property Ownership and Use.** The Management Committee may acquire and hold for the use and the benefit of all of the Unit Owners tangible or intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners in undivided interests in the same proportion as their respective interests in and to the Common Areas and transferable only with the transfer of a Unit.

**11.10 Rules and Regulations.** The Management Committee may make reasonable Rules and Regulations governing the operation and use of the Common Areas and of other matters over which it has jurisdiction, which Rules and Regulations shall be consistent with the rights and duties established in this Declaration. The Management Committee may suspend any Owner's voting rights at any meeting of Unit Owners or for periods during which such Owner fails to comply with such Rules and Regulations, or with any other obligations under this Declaration, including failure to pay assessments. The Management Committee may also take judicial action against any Owner to enforce compliance with such Rules and Regulations or other obligations or to obtain damages for noncompliance, all to the extent provided by law.

**11.11 Capital Improvements.** There shall be no structural alterations, capital additions to, or capital improvements of Buildings or of the Common Areas by the Management Committee without the prior approval of the Unit Owners holding at least sixty nine percent (69%) of the total votes of the Association.

**11.12 Extended Rights.** The Management Committee may exercise any other right or privilege given to it expressly by this Declaration or by the Act and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

**11.13 Architectural or Design Control.** Except for original construction, the Committee shall act in all matters pertaining to architectural or design review and control of the Project and shall establish rules and procedures for submitting plans for approval of any proposed construction, alteration, remodeling, etc., involving the exterior of any Unit. The Management Committee may establish a committee of Owners to act pursuant to the provisions of this Section 11.13.

**11.14 Committee Meetings, Quorum, Committee.** The Committee may establish its rules for meetings, whether regular or special. A majority of current Committee members shall constitute a quorum and the action of a majority of those attending a meeting at which a quorum is present shall be sufficient to constitute the action of the Committee. Action by consent shall require the unanimous consent of all current Committee members.

## ARTICLE XII

### Bylaws - Association Voting, Meetings and Officers

**12.01 Voting.** The Association shall have a total of 29,874 votes. The number of votes appurtenant to each Unit is set forth in Exhibit A hereto, as it may from time to time be amended. As used throughout this Declaration, unless otherwise qualified, the phrases "vote of the Owners", "approval of the Owners", "Owners vote", "consent of the Owners", "by the Owners", or words of similar import, shall be deemed to require a majority of the total voting power of all Owners, including Declarant.

**12.02 Multiple Ownership.** In the event there is more than one Owner of a particular Unit, the vote relating to such Unit shall be exercised as such Owners may determine between or among themselves, but in no event shall more than the number of appurtenant votes, as reflected on Exhibit A, be cast for such Unit with respect to any issue. Votes cast at any Association meeting or by written consent by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the entire vote attributable to the applicable Unit unless an objection is made at the meeting or in writing by another Owner of the same Unit, in which event no vote will be counted with respect to such Unit except to determine the presence or absence of a quorum.

**12.03 Place of Meeting.** Meetings of the Association shall be held at such suitable place convenient to the Owners as may be designated by the Management Committee in its notice therefore.

**12.04 Annual Meetings.** Annual meetings of Members of the Association shall be held each year beginning in the year 2015 on such day and time as is set forth in the notice therefore; provided, that after the first such annual meeting, a month other than that in which the first annual meeting is held may be chosen if it is deemed by the Owners to be more convenient. At such annual meetings there shall be elected members of the Management Committee, as needed, pursuant to the provisions of this Declaration. Financial and budget reports shall also be presented at such meetings as well as other business of the Association properly placed before such meeting.

**12.05 Special Meetings.** The President shall call a special meeting of the Association as directed by a resolution of the Management Committee or upon the request of Owners holding at least twenty-five percent (25%) of the total votes of the Association having been presented to the Committee. No business shall be transacted at a special meeting except as stated in the notice therefore unless consented to by the Owners present at such meeting, either in person or by proxy.

**12.06 Notice of Meetings.** The Secretary shall mail a notice of each annual or special meeting stating the purpose thereof as well as the time and place of the meeting to each Owner of record at least 10, but not more than 20, days prior to such meeting. The mailing of notice by prepaid U.S. Mail or by delivery in person shall be considered notice served.

**12.07 Quorum.** Owners present at any meeting of Members duly called pursuant to notice shall constitute a quorum at all meetings, both annual and special; provided, however, that such Members collectively be entitled to cast in person or by proxy at least forty percent (40%) of the total Association votes eligible to be voted.

**12.08 Adjourned Meetings.** If any meeting of Members cannot be organized because a quorum is not present, the Members who are present either in person or by proxy may adjourn the meeting to a time not less than 48 hours from the time the original (or a previously adjourned) meeting was called, at which time the requirements for a quorum shall be reduced by one-half that required for the previously called (or adjourned) meeting.



**12.09 Officers.** The Association shall have a President, a Vice President and a Secretary/Treasurer each of whom shall be elected by the Management Committee. Only the offices of Secretary and Treasurer may be filled by the same person. The officers, subject to the power of Declarant as set forth in Section 11.03, shall be elected by the Management Committee in an organizational meeting of the Committee immediately following each annual meeting of Members at which the new Management Committee or any of its members has been elected.

(a) **President.** The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Management Committee. He shall have all of the general powers and duties that are usually vested in the office of president of a similar type association.

(b) **Vice President.** The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. The Vice President shall also perform such other duties as shall from time to time be imposed on him by the Committee.

(c) **Secretary/Treasurer.** The Secretary/Treasurer shall keep the minutes of all meetings of the Management Committee and the minutes of all meetings of the Association. He shall have charge of such books and records as the Management Committee may direct and he shall, in general, perform all duties incident to the office of secretary of a similar type association. He shall have responsibility for Association funds and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all money and any other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Management Committee.

## ARTICLE XIII

### Bylaws - Assessments

**13.01 Agreement to Pay Assessments.** Each Unit Owner, by the acceptance of a deed or contract therefore, whether or not it be so expressed in the deed or contract, shall be deemed to covenant and agree with all other Unit Owners and with the Association and the Management Committee to pay to the Association the Annual Assessments and any Special Assessments and Specific Assessments described in this ARTICLE XIII; together with late payment fees, interest and costs of collection if and when applicable, as the same may apply to such Owner and his Unit. All such amounts shall be, constitute, and remain: (a) a charge and continuing lien upon the Unit with respect to which the Assessment is made until fully paid; and (b) the personal, joint and several obligations of the Owner or Owners of such Unit at the time the Assessment falls due. No Unit Owner may exempt himself or his Unit from liability for payment of Assessments by waiver of his rights in the Common Areas or by abandonment of his Unit. In a voluntary conveyance of a Unit; the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments, late payment fees, interests and costs of collection, including reasonable attorneys' fees, which shall be a charge on the Unit at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore.

**13.02 Purpose of Assessments.** Assessments levied by the Management Committee for the Association shall be used exclusively for the purpose of promoting the Project, the interests of the Management Committee in the maintenance, operation and carrying of the Common Areas. The use made of Owners or tenants therein, paying Common Expenses properly incurred by the Association or funds obtained from Assessments may include, but shall not be limited to, payment of the cost of: insurance premiums on policies required of the Association hereunder; maintenance, repair, and improvement of the Common Areas; taxes or special assessments, if any, levied by governmental authorities; legal and accounting fees; any deficit from a previous period; establishment and funding of a reserve to cover major repair or replacement of improvements within (or deemed to be) Common Areas; and any expense necessary or desirable to enable the Management Committee to perform or fulfill its obligations, functions or purposes pursuant to the Declaration, the Act, these Bylaws or the Rules and Regulations.

**13.03 Annual Assessments.** Annual Assessments shall be computed and assessed against all Units in the Project based upon advance estimates of the Committee's cash requirements to provide for payment of Common Expenses as set forth in Section 13.02, which costs shall be apportioned among the Units in proportion to their respective undivided interests in and to the Common Areas as set forth in Exhibit A. However, for purposes of such apportionment, Declarant shall be deemed to own the undivided interest in the Common Areas based only upon Units which have been completed and used by Declarant for rental purposes or as models for marketing purposes, or fully completed ready for move-in (carpeted and painted) but not yet conveyed by Declarant to third party grantees. During the Declarant Control Period, if Assessments collected fail to adequately meet the Common Expenses, Declarant shall pay any shortfall.

**13.04 Annual Budget.** Annual Assessments shall be determined on the basis of a fiscal year ending December 31; provided the first fiscal year shall begin on the date of recordation of this Declaration in the Public Records. On or before December 15 of each fiscal year, the Committee shall prepare and furnish to each Owner an operating budget for the upcoming fiscal year. The operating budget for the first fiscal year shall be prepared and furnished to each Owner within 30 days of such Owner's initial purchase. Each budget shall itemize the estimated cash requirements for such fiscal year, anticipated receipts, reserves, and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the Annual Assessments for the upcoming fiscal year and as the major guideline under which the Project shall be operated during such fiscal period.

**13.05 Notice and Payment of Annual Assessments.** Except with respect to the fiscal period ending December 31, 2019, the Association shall notify each Owner as to the amount of the Annual Assessment against his Unit on or before December 15 of the year proceeding the year for which such Annual Assessment is made. Each Annual Assessment shall be payable in 12 equal monthly installments, one such installment due on the first day of each calendar month during the fiscal year to which the Assessment relates; provided, however, the Annual Assessments for the first fiscal period ending December 31, 2019, shall be based upon such portion of the calendar year 2019 as follows the date of recordation of the Declaration in the Public Records and shall be payable in such installments and at such times as the Management Committee, in its sole discretion may determine. The failure of the Committee to give timely notice of any Annual Assessment as provided herein shall not be deemed a waiver of or modification in any respect of the provisions of the Declaration, or a release of any Owner from the obligation to pay such Annual Assessment or any other Assessment; but the date when the payment shall become due in such case shall be deferred to a date 15 days after notice of such Assessment shall have been given to the Owner in the manner provided in Section 14.01.

**13.06 Initial and Transfer Fees.** Each Owner (other than Declarant), shall be required to prepay at the time of purchase of his Unit, whether as a first time or subsequent Owner, the sum of \$500.00, which sum shall be in addition to any proration of Assessment which may be due for the month in which such purchase takes place. Such fees shall become part of the Association's general fund to be utilized as necessary and to compensate the Committee for administrative start up or records changing costs.

**13.07 Maximum Annual Assessment.** Until January 1 of the calendar year immediately following the conveyance of the first Unit to an Owner, the maximum Annual Assessment shall not exceed the amount per Unit that is determined by the Committee pursuant to Section 13.05. From and after January 1 of the calendar year immediately following the conveyance of the first Unit to an Owner, the maximum Annual Assessment may be increased each calendar year thereafter by not more than twenty percent (20%) above the maximum Annual Assessment for the previous year without the vote of Owners entitled to cast a majority of the Association votes.

**13.08 Special Assessments.** The Association may levy Special Assessments for the purpose of defraying, in whole or in part: (a) any expense or expenses not reasonably capable of being fully paid with funds generated by Annual Assessments; or (b) the cost of any construction, reconstruction, or unexpectedly required addition to or replacement of amenities, infrastructure or improvements within the Common Areas. Any such Special Assessment shall be apportioned among and assessed to all Units in the same manner as Annual Assessments. Special

Assessments must be assented to by at least sixty nine percent (69%) of the total Association votes which Owners present in person or represented by proxy are entitled to cast at a meeting duly called for such purpose. Written notice setting forth the purpose of such meeting shall be sent to all Owners at least 10 but not more than 30 days prior to the meeting date.

**13.09 Uniform Rate of Assessment.** Except as provided in Section 13.03, all Annual and Special Assessments authorized by this ARTICLE XIII shall be fixed at a uniform rate for all Units.

**13.10 Quorum Requirements.** The quorum at any Member meeting required for any action authorized by Section 13.08, above, shall be as follows: At the first meeting called, the presence of Owners or proxies entitled to cast sixty nine percent (69%) of the total Association votes eligible to vote shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting maybe called (subject to the notice requirements set forth in Section 13.08, above) at which the requirements for a quorum shall be one-half (1/2) of that which was required at the immediately preceding meeting.

**13.11 Specific Assessment.** In addition to the Annual Assessment and any Special Assessment authorized pursuant to this ARTICLE XIII, the Committee may levy at any time Specific Assessments (a) on every Unit especially benefited by any improvement made by the Committee on the written request of the Owner of the Unit to be charged; (b) on every Unit the Owner or occupant of which shall cause any damage to the Common Areas necessitating repairs; and (c) on every Unit to which the Committee shall incur any expense for maintenance or repair work performed, or enforcement action taken, pursuant to any of the provisions of the Declaration. The aggregate amount of any such Specific Assessment shall be determined by the cost of such improvements, repairs, maintenance or enforcement action, including all overhead and administrative costs, and all applicable attorneys' fees and costs, and shall be allocated among the affected Units according to the magnitude of special benefit or cause of damage or maintenance or repair work or enforcement action, as the case may be, and such Assessment may be made in advance of the performance of work when applicable. If a special benefit arises from any improvement which is part of the general maintenance or operation obligations of the Committee, it shall not give rise to a Specific Assessment against the Units benefited.

**13.12 Certificate Regarding Payment.** Upon the request of any Owner or prospective purchaser or encumbrancer of a Unit and upon the payment of a reasonable fee to the Committee to cover administrative costs, the Committee shall issue a certificate stating whether or not payments of all Assessments respecting such Unit are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who rely thereon in good faith.

**13.13 Effect of Nonpayment; Remedies.** Any Assessment (whether Annual, Special or Specific) not received within 15 days of the date on which it or any installment thereof becomes due shall be subject to a late charge not to exceed five percent (5%) thereof, which, together with interest and costs of collection shall be, constitute, and remain a continuing lien on the affected Unit. If any Assessment is not received within 15 days after the date on which it becomes, the amount thereof shall also bear interest from the due date at the rate of one percent (1%) per month; and the Committee, on behalf of the Association, may bring an action against the Owner who is personally liable therefore, or may foreclose its lien against the Unit pursuant to the provisions of the Utah Code, 1953, as amended, applicable to the exercise of powers of sale in deeds of trust, by foreclosure as a mortgage or in any other manner permitted by law. Any judgment obtained in connection with the collection of delinquent Assessments and related charges shall include reasonable attorneys' fees, collect costs and every other expense incurred by the Committee in enforcing the Association's rights. Failure of the Committee to promptly enforce any remedy granted pursuant to this Section 13.13 shall not be deemed a waiver of any such rights.

**13.14 Subordination of Lien to First Mortgages.** The lien of the Assessments provided herein shall be subordinate to the lien of any first Mortgage given in the first instance to a bank, savings and loan association, insurance company or other institutional lender. The holder of any such Mortgage or purchaser who comes into possession of or becomes the Owner of a Unit by virtue of the foreclosure of such first Mortgage or the exercise of a power of sale under such first Mortgage, or by deed in lieu of foreclosure, shall take free of such Assessment lien as

to any Assessment installment which accrues or becomes due prior to the time such holder or purchaser comes into possession or ownership of such Unit. However, to the extent there are any proceeds of the sale on foreclosure of such first Mortgage or by exercise of such power of sale in excess of all amounts necessary to satisfy all indebtedness secured by and owed to the holder of such first Mortgage, the lien shall apply to such excess. No sale or transfer of a Unit in connection with any foreclosure of a first Mortgage shall relieve any Unit from the lien of any Assessment installment thereafter becoming due.

**13.15 No Abatement.** No diminution or abatement of any Assessments under the Declaration shall be claimed or allowed for inconvenience, annoyance or discomfort arising from (a) any construction (or lack of construction) within the Project; (b) the making of (or failure to make) any repairs or improvements to or the maintenance of any Common Areas of the Project, or any part thereof; or (c) from any action taken to comply with the provision of the Declaration or with the laws, ordinances, regulations, rules, or order of any governmental authority.

## ARTICLE XIV

### General Provisions

**14.01 Notices.** Any notice required or permitted to be given to any Owner under the provisions of this declaration shall be deemed to have been properly furnished if delivered or mailed, postage prepaid, to the person named as the Owner at the latest address for such person, as reflected in the records of the Management Committee at the time of delivery or mailing. Any notice required or permitted to be given to the Association or the Committee may be given by delivering or mailing the same to the Manager or any member of the Committee.

**14.02 Agent for Service of Process.** Steve Caldwell, is designated initially as the person to receive service of process in cases authorized by the Act; provided, however, that the Management Committee shall have the right to appoint a successor agent for service of process who shall be a resident of Utah. The name and address of such successor shall be specified by an appropriate notice filed in the Public Records.

**14.03 Amendment.** This Declaration may be amended (as opposed to terminated) by an instrument recorded in the Public Records which is executed either (a) by Owners who collectively hold at least sixty nine percent (69%) of the total votes in the Association, or (b) by the Management Committee, on behalf of the Association, which shall certify that the required sixty nine percent (69%) vote was obtained in a meeting of members or by consent and is so documented in the records of the Association. No amendment to any provision of this Declaration which has the effect of diminishing or impairing any right, power, authority, privilege, protection, or control accorded to Declarant in its capacity as Declarant, shall be accomplished or effective unless the instrument through which such amendment is purported to be accomplished is specifically consented to in writing by Declarant.

**14.04 Party Walls.** Each wall which is built as a part of the original construction of the Units within the Project and placed on the dividing line between Units shall constitute a party wall, and the following provisions regarding such party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto:

(a) The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

(b) If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the Owner of another Unit thereafter makes use of the wall, such other Owner shall contribute to the cost of restoration thereof in proportion to such use. The foregoing provision

shall not prejudice, however, the right of any Owner to call for a larger contribution from another Owner under any rule of law regarding liability for negligent or willful acts or omissions.

(c) The right of any Owner to contribution from any other Owner under this Section 14.03 shall be appurtenant to the land and Unit and shall pass to such Owner's successors in title.

**14.05 Consent in Lieu of Vote.** In any case in which this Declaration requires for authorization or approval of a transaction the assent or affirmative vote of a stated percentage or number of votes of the Association or of the Owners, such requirement maybe fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners entitled to cast at least the stated percentage or number of votes in the Association, unless a higher percentage or a greater number is required by the Act. The following additional provisions shall govern any application of this Section 14.05:

(a) All necessary consents must be obtained prior to the expiration of 90 days after the first consent is given by any Owner;

(b) The total number of votes required for the applicable authorization or approval shall be determined as of the date on which the last consent is signed;

(b) Any change in ownership of a Unit which occurs after a consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose; and

(d) Unless the consent of all Owners whose ownership rights are appurtenant to the same Unit is secured, the consent of none of such Owners shall be effective.

**14.06 Declarant's Rights Assignable.** All or any portion of the rights of Declarant under this Declaration or in any way relating to the Tract or Project may be assigned.

**14.07 Interpretation.** The captions pertaining to the ARTICLE and Section numbers of this Declaration are for convenience only and shall in no way effect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, and any gender shall include all genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof, which shall remain in full force and effect. The laws of Utah shall govern the validity, construction and enforcement of this Declaration.

**14.08 Covenants to Run with Land.** This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Declarant, all parties who hereafter acquire any interest in a Unit, their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Unit shall comply with, and all interests in all Units or in the Common Areas shall be subject to, the terms and provisions of this Declaration and of any Rules and Regulations, agreements, instruments, and determinations contemplated by this Declaration. By acquiring any interest in a Unit, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

**14.09 Enforcement.** The Association, any Owner or any Mortgagee shall have the right to exercise or seek any remedy at law or in equity to interpret, to enforce compliance with or to obtain redress for violation of this Declaration. The prevailing party in an action for the interpretation of, the enforcement of, or to obtain redress for the violation of any provisions of this Declaration shall be entitled to collect court costs and reasonable attorneys' fees.

**14.10 Waiver.** No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of time lapse or the number of violations or breaches which may occur.

**14.11 Duration/Termination.** This Declaration shall remain in effect until such time as there is recorded in the Public Records following the approval of the City of Vineyard, Utah, authorizing such action, the appropriate instruments to remove the Project from the provisions of the Act as provided by Section 57-8-22 of the Act or a successor provision thereto.

**14.12 Effective Date.** This Declaration and any amendment or Supplemental Declaration hereto shall take effect upon its being filed for record in the Public Records.

Dated as of the day and year first above set forth.

DECLARANT:

*Steve Caldwell*

Steve Caldwell

PRES.

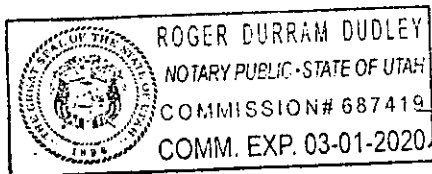
Utah Valley HOME BUILDERS  
ASSOCIATION

STATE OF UTAH

: ss.

COUNTY OF UTAH)

The foregoing instrument was acknowledged before me this 17<sup>th</sup> of May, 2019 by Steve Caldwell, in the capacity indicated.



*[Handwritten signature]*

**EXHIBIT A**  
**DECLARATION OF CONDOMINIUM**  
(Including Owner Association Bylaws)

PLAT CONDOMINIUM  
**UVHBA CONDOMINIUMS AMENDED**  
A Commercial Condominium Project  
Vineyard, Utah

**THIS DESCRIPTION OF THE UNITS IS SET FORTH AND ATTACHED IN THIS EXHIBIT A TO THE  
DECLARATION SOLELY FOR PURPOSES OF IDENTIFICATION.**

Real property located in the City of Vineyard, Utah County, Utah, described as follows:

UVHBA CONDOMINIUMS AMENDED  
(A Commercial Condominium)  
Vineyard, Utah

<u>Unit No.</u>	<u>Size (Useable Square Feet)*</u>	<u>Size (Including share of common area)</u>	<u>Interest in Common Area (Percentage)*</u>	<u>Votes</u>
101	2,446	3,052	10.22	3,052
102	2,501	3,120	10.45	3,120
103	2,531	3,158	10.58	3,158
201	5,505	6,868	22.99	6,868
202	2,473	3,085	10.33	3,085
301	2,673	3,335	11.19	3,335
302	2,997	3,739	12.52	3,739
303	2,818	3,516	11.72	3,516
TOTAL	23,944	29,874	100.00	29,874


- (1) Size based on the approximate number of square feet of floor space within each respective Unit as shown on the Map and rounded off, including under interior and exterior walls, as determined by Dudley Engineering, Orem, Utah.
- (2) Percentages have been adjusted by up to one hundredth of a percentage point in order to provide for a total of one hundredth percent (100%).