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WASATCH COUNTY CORPORATION
For: HEBER CITY BUSINESS PARK

WHEN RECORDED, RETURN TO:

Heber City Business Park, LLC
Attn: Ryan Dowdle
1970 South Daniels Road, #150
Heber City, Utah 84032

Affecting Tax Parcel No. 00-0021-7743

CONDOMINIUM DECLARATION

FOR

HEBER CITY BUSINESS PARK

A Utah Condominium Project

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**CONDOMINIUM DECLARATION
FOR
HEBER CITY BUSINESS PARK**

This Condominium Declaration for Heber City Business Park, a Utah condominium project, is made this ___ day of _____, 2023, by Heber City Business Park, LLC, a Utah limited liability company, pursuant to the provisions of the Utah Condominium Ownership Act, Utah Code Annotated §§ 57-8-1 through 57-8-36 as amended, for itself, its successors, grantees and assigns.

RECITALS

A. Declarant owns certain real property located in Heber City, Wasatch County, Utah that is more particularly described on **Exhibit A** (the “**Property**”), attached hereto and made a part hereof by this reference.

B. Declarant desires to create a condominium project on the Property pursuant to the Act (as defined below). The condominium project shall be known as the “**Heber City Business Park**”.

C. Declarant deems it necessary and desirable to subject the Property, and all improvements now or hereafter constructed on the Property, to the covenants, conditions, restrictions, reservations, easements, assessments, charges, and liens set forth in this Declaration.

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

**ARTICLE 1
DEFINITIONS**

1.1 General Definitions.

Capitalized terms not otherwise defined in this Declaration, if any, shall have the meanings specified for such terms in the Act.

1.2 Defined Terms.

The following capitalized terms shall have the specific meanings set forth below:

1.2.1 “Act” means the Utah Condominium Ownership Act, Utah Code §§ 57-8-1, et seq., as the same may be amended from time to time

1.2.2 “Articles” means the Articles of Incorporation of the Association, as amended from time to time.

1.2.3 “Assessments” means the Common Expense Assessments and Special Assessments levied and assessed against each Unit pursuant to Article 7 of this Declaration.

1.2.4 “Assessment Lien” means the lien granted to the Association by the Act to secure the payment of Assessments, monetary penalties and other charges owed to the Association.

1.2.5 “Association” means [Heber City Business Park Association, Inc., a Utah non-profit corporation], and its successors and assigns.

1.2.6 “Building” means the single-story structure, without a basement, in which its eight (8) Units are located. The Building is constructed with the following principal materials: **[INSERT]**

1.2.7 “Bylaws” means the Bylaws of the Association, as amended from time to time.

1.2.8 “City” means the City of Heber, Wasatch County, Utah, a municipal corporation.

1.2.9 “Common Elements” means all portions of the Condominium other than the Units.

1.2.10 “Common Expenses” means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

1.2.11 “Common Expense Assessment” means the assessment levied against the Units pursuant to Section 7.2 of this Declaration.

1.2.12 “Common Expense Liability” means the liability for Common Expenses allocated to each Unit by this Declaration.

1.2.13 “Condominium” means the Property, together with all Improvements located thereon.

1.2.14 “Condominium Documents” means this Declaration, the Articles, Bylaws and Rules, as they may be amended from time to time.

1.2.15 “Declarant” means Heber City Business Park, LLC, a Utah limited liability company, and its successors and assigns or any person or entity to whom it may transfer any Special Declarant Rights in accordance with the Act.

1.2.16 “Declarant Party” or “Declarant Parties” means collectively Declarant, Declarant’s members, Declarant’s builders, general contractors or brokers, or their agents or employees.

1.2.17 “Declaration” means this Condominium Declaration for Heber City Business Park, a Utah condominium project, as amended from time to time.

1.2.18 “Development Rights” means any right or combination of rights reserved by or granted to the Declarant in this Declaration to do any of the following:

(i) Create easements, Units, Common Elements or Limited Common Elements within the Condominium;

(ii) Subdivide Units, convert Units into Common Elements, or convert Common Elements into Units;

(iii) Withdraw real estate from the Condominium;

(iv) Amend the Declaration during the Period of Declarant Control to comply with the Act or any other applicable law, or to correct any error or inconsistency in the Declaration if the amendment does not adversely affect the rights of any Unit Owner;

(v) Amend the Declaration during the Period of Declarant Control to comply with the rules or guidelines, in effect from time to time, of any governmental or quasi-governmental entity or federal corporation guaranteeing or insuring mortgage loans or governing transactions involving mortgage instruments.

1.2.19 “First Mortgage” means any mortgage, deed of trust, or other document pledging any Unit or interest therein as security for payment of a debt or obligation which is not subordinate to any other monetary lien or encumbrance, except liens for taxes or other liens which are given priority by statute.

1.2.20 “First Mortgagee” means the holder of any First Mortgage.

1.2.21 “Improvement” means any physical structure, fixture or facility existing or constructed, placed, erected or installed on the Property included in the Condominium, Including the Building, walkways, paving, fences, walls, signs and trash facilities, as applicable. [ARE THERE ANY OTHER SIGNIFICANT IMPROVEMENTS THAT NEED TO BE CALLED OUT?]

1.2.22 “Include” or “Including” means include or including, without limitation.

1.2.23 “Limited Common Elements” means a portion of the Common Elements specifically designated in this Declaration as a Limited Common Element and allocated by this Declaration or by operation of the Act for the exclusive use of one or more but fewer than all of the Units.

1.2.24 “Maintenance Standard” means the standard of maintenance of Improvements established from time to time by the Management Committee.

1.2.25 “Management Committee” means the “Board of Directors” of the Association, which shall also be and have all rights, duties, and authority provided to such management committees described by the Act.

1.2.26 “Member” means any Person who is or becomes a member of the Association.

1.2.27 “Period of Declarant Control” means the time period commencing on the date this Declaration is Recorded and ending on the earliest of: (i) the date on which more than threefourths (3/4ths) of the undivided interest in the Common Elements have been conveyed to a Person other than Declarant; (ii) such date as Declarant declares to be the termination of the Period of Declarant Control in a Recorded document, or (iii) three (3) years after the date of Recording of this Declaration.

1.2.28 “Person” means a natural person, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

1.2.29 “Plat” means the condominium plat for The 7900 Grayhawk Office Building, a condominium, which plat has been Recorded in Book 614 of Maps, page 35, and any amendments, supplements or corrections thereto.

1.2.30 “Purchaser” means any Person, other than the Declarant, who by means of a voluntary transfer becomes a Unit Owner.

1.2.31 “Recording” means placing an instrument of public record in the Official Records of Wasatch County Recorder, Wasatch County, Utah, and **“Recorded”** means having been so placed of public record.

1.2.32 “Rules” means the rules and regulations adopted by the Association, as amended from time to time.

1.2.33 “Special Assessment” means any assessment levied and assessed pursuant to Section 7.3 of this Declaration.

1.2.34 “Special Declarant Rights” means any right or combination of rights reserved by or granted to the Declarant in this Declaration or by the Act to do any of the following:

- (i) Construct Improvements provided for in this Declaration or shown on the Plat;
- (ii) Exercise any Development Right;
- (iii) Maintain sales offices, management offices, models, and signs advertising the Condominium;
- (iv) Use easements through the Common Elements for the purpose of making Improvements within the Condominium or within real estate which may be added to the Condominium; and
- (v) Appoint or remove any officer of the Association or any member of the Management Committee during the Period of Declarant Control.

1.2.35 “Unit” means a portion of the Condominium designated for separate ownership or occupancy, the boundaries of which are described in Section 2.5 of this Declaration.

1.2.36 “Unit Owner” means the record owner, whether one or more Persons, of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title) to the fee simple interest of a Unit. Unit Owner shall not include Persons having an interest in a Unit merely as security for the performance of an obligation, or a lessee or tenant of a Unit. Unit Owner shall not include a purchaser under a purchase contract and receipt, escrow instructions or similar executory contracts which are intended to control the rights and obligations of the parties to executory contracts pending the closing of a sale or purchase transaction. In the case of Units the fee simple title to which is vested in a trustee pursuant to a subdivision trust agreement or similar agreement, the beneficiary of any such trust who is entitled to possession of the Unit shall be deemed to be the Unit Owner.

ARTICLE 2

SUBMISSION OF PROPERTY; UNIT BOUNDARIES; ALLOCATION OF PERCENTAGE INTERESTS, VOTES AND COMMON EXPENSE LIABILITIES

2.1 Submission of Property.

Declarant is the owner of the Property, as described on Exhibit A attached hereto, and Declarant hereby submits the Property to this Declaration, together with all Improvements situated thereon and all easements, rights and appurtenances thereto, to the provisions of the Act for the purpose of creating a condominium in accordance with the provisions of the Act and hereby declares that the Property, together

with all Improvements situated thereon, and all easements, rights and appurtenances thereto, shall be held and conveyed subject to the terms, covenants, conditions and restrictions set forth in this Declaration.

2.2 Name of Condominium.

The name of the Condominium created by this Declaration is Heber City Business Park, a Utah condominium project.

2.3 Name of Association.

The name of the Association is the [Heber City Business Park Association].

2.4 Identifying Numbers of Units.

The identifying numbers of the Units are Units 1 through Units 8.

2.5 Unit Boundaries.

2.5.1 The boundaries of each Unit are the interior unfinished surfaces of the perimeter walls, floor, ceiling, doors and windows of the Unit. All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces of the walls, floor and ceiling are part of the Unit, and all other portions of the walls, floor and ceiling are part of the Common Elements.

2.5.2 All spaces, interior partitions and other fixtures and Improvements within the boundaries of a Unit are part of the Unit.

2.5.3 In the event of any inconsistency or conflict between the provisions of this Section and the Plat, this Section shall control.

2.5.4 The physical boundaries of a Unit shall be considered to be the proper boundaries regardless of the settling, rising or lateral movement of the Building and regardless of any variances between the boundaries shown on the Plat and the actual physical boundaries.

2.5.5 Subject to and in accordance with the Act, Declarant reserves the right to relocate the boundaries between adjoining Units owned by the Declarant and to reallocate each such Unit's Common Element interest, votes in the Association and Common Expense Liabilities.

2.6 Allocation of Common Element Interest and Common Expense Liabilities.

The undivided interests in the Common Elements and in the Common Expenses of the Association shall be allocated among the Units on the basis of a fractional interest for each Unit, which has been calculated by dividing the total number of square feet of each Unit by the total number of square feet of all Units subject to this Declaration (as determined by the dimensions of each Unit as set forth on the Plat), rounding of said fractional interest to the nearest one hundredth of a percent and adjusted so that the sum of the fractional interests shall equal 1.00. The square feet contained in each Unit and the fractional interest of each Unit is set forth on Exhibit B attached hereto. In the event that the Declarant modifies the size of a Unit owned by Declarant, Declarant shall amend Exhibit B, without the consent of the Association or any other Unit Owner, to reflect the new fractional interest of each Unit. In the event that the size of a Unit is modified by a Unit Owner, as approved by the Management Committee, no adjustment of the fractional interests of the Units shall occur.

2.7 Allocation of Votes in the Association.

The total votes in the Association shall be one hundred (100), which shall be divided among the Unit Owners in accordance with their respective fractional interest in the Common Elements and Common Expense Liabilities multiplied by one hundred (100).

2.8 Allocation of Limited Common Elements.

2.8.1 The following portions of the Common Elements are Limited Common Elements and are allocated to the exclusive use of one or more Units as follows:

(i) Any chute, flue, pipe, duct, wire, conduit, bearing wall, bearing column or other fixtures (Including heating and air conditioning units and related equipment and gas, cable television, water and electric pipes, lines or meters), whether located within or outside of the boundaries of a Unit, which serve only one Unit are a Limited Common Element allocated solely to the Unit served;

(ii) If a chute, flue, pipe, duct, wire, conduit, bearing wall, bearing column or other fixtures (Including heating and air conditioning units and related equipment) lies partially within and partially outside the designated boundaries of a Unit, the portion serving only the Unit is a Limited Common Element allocated solely to the Unit, the use of which is limited to that Unit, and any portion serving more than one Unit or a portion of the Common Elements is a part of the Common Elements;

(iii) Any shutters, awnings, window boxes, doorsteps, stoops, porches and exterior doors and windows or other fixtures designed to serve a single Unit, located outside the boundaries of the Unit, are Limited Common Elements allocated exclusively to the Unit served;

(iv) Any entryways designed to serve less than all Units, located outside the boundaries of such Units, are Limited Common Elements allocated exclusively to the Units served;

(v) Any electric or other utility meter which serves less than all Units is allocated to the Unit or Units it serves as a Limited Common Element; and

(vi) Any patio area adjacent to and contiguous with a Unit, if any, shall be allocated to that Unit as a Limited Common Element. Where one (1) patio area is adjacent to and contiguous with two (2) Units, such patio area shall be allocated as a Limited Common Element to both Units.

2.8.2 A Limited Common Element may be reallocated by an amendment to this Declaration made in accordance with the provisions of this Declaration or the Act.

2.8.3 The Management Committee shall have the right, without a vote of the Members, to allocate as a Limited Common Element any portion of the Common Elements not previously allocated as a Limited Common Element. Any such allocation by the Management Committee shall be made by an amendment to this Declaration and an amendment to the Plat if required by the Act.

2.9 Allocation of Parking Spaces.

Declarant may designate certain parking spaces for a Unit as limited common elements allocated to the Condominium (the "**Designated Parking Spaces**"). The Designated Parking Spaces, if any, are allocated to the exclusive use of Units as set forth on **Exhibit C** attached hereto. One or more of the Designated Parking Spaces may be reallocated by an amendment to this Declaration. The amendment

shall be executed by the Unit Owners between or among whose Units the reallocation is made, shall state the manner in which the Designated Parking Spaces are to be reallocated and, before Recording the amendment, shall be submitted to the Management Committee. Unless the Management Committee determines within thirty (30) days that the proposed amendment is unreasonable, which determination shall be in writing and specifically state the reasons for disapproval, the Association shall execute its approval and Record the amendment.

ARTICLE 3 EASEMENTS

3.1 Utility Easement.

There is hereby created an easement upon, across, over and under the Common Elements for reasonable ingress, egress, installation, replacing, repairing or maintaining of all utilities, Including gas, water, sewer, telephone, cable television, electricity and storm drains. By virtue of this easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment and lines on, across, over, through and under the Common Elements, but no sewers, electrical lines, water lines, or other utility or service lines may be installed or located on the Common Elements except as initially designed, approved and constructed by the Declarant or as approved by the Management Committee. This easement shall in no way affect any other Recorded easements on the Common Elements.

3.2 Easements for Ingress and Egress.

There is hereby created an easement for ingress and egress for pedestrian traffic over, through and across sidewalks, paths, walks, and lanes that from time to time may exist upon the Common Elements. Such easements shall run in favor of and be for the benefit of the Unit Owners and occupants of the Units and their tenants and invitees.

3.3 Unit Owners' Easements of Enjoyment.

3.3.1 Every Unit Owner shall have a right and easement of enjoyment in and to the Common Elements, which right and easement shall be appurtenant to and shall pass with the title to every Unit, subject to the following provisions:

(i) The right of the Association to adopt reasonable rules and regulations governing the use of the Common Elements;

(ii) The right of the Association to convey the Common Elements or subject the Common Elements to a mortgage, deed of trust, or other security interest, in the manner and subject to the limitations set forth in the Act;

(iii) All rights and easements set forth in this Declaration Including the rights and easements granted to the Declarant by Sections 3.4 and 3.5 of this Declaration;

(iv) The right of the Association to suspend the right of a Unit Owner and any occupant of such Unit Owner's Unit to use the Common Elements (other than the right of a Unit Owner and any occupant to use the sidewalks or other pedestrian walkways which are part of the Common Elements for ingress and egress to the Unit Owner's Unit) for any period during which the Unit Owner is in violation of any provision of the Condominium Documents.

3.3.2 If a Unit is leased or rented, the lessee and the occupants of the lessee's Unit shall have the right to use the Common Elements during the term of such lease, and the Unit Owner shall have no right to use the Common Elements (other than the right of a Unit Owner to use the sidewalks or other pedestrian walkways which are part of the Common Elements for ingress and egress to the Unit Owner's Unit) until the termination or expiration of the lease.

3.3.3 The invitees of any Unit Owner or other person entitled to use the Common Elements pursuant to Subsection 3.3.1 of this Declaration or of any lessee who is entitled to use the Common Elements pursuant to Subsection 3.3.2 of this Declaration may use the Common Elements provided that they are doing so with the permission of or by invitation of a Unit Owner, lessee or other person entitled to use the Common Elements pursuant to Subsection 3.3.1 or Subsection 3.3.2 of this Declaration. The Management Committee shall have the right to limit the number of invitees who may use the Common Elements at any one time and may restrict the use of the Common Elements by invitees to certain specified times.

3.3.4 A Unit Owner's right and easement of enjoyment in and to the Common Elements shall not be conveyed, transferred, alienated or encumbered separate and apart from a Unit. Such right and easement of enjoyment in and to the Common Elements shall be deemed to be conveyed, transferred, alienated or encumbered upon the sale of any Unit, notwithstanding that the description in the instrument of conveyance, transfer, alienation or encumbrance may not refer to such right and easement.

3.3.5 The provisions of this Section 3.3 shall not apply to any of the Limited Common Elements, if any, that are allocated to one or more but less than all of the Units.

3.4 Declarant's Rights and Easements for Sales and Leasing Purposes.

3.4.1 Declarant reserves the right to place models, management offices, and sales and leasing offices on any Units owned by Declarant and on any portion of the Common Elements in such number, of such size and in such locations as Declarant deems appropriate.

3.4.2 Declarant may from time to time relocate models, management offices, and sales and leasing offices to different locations within the Condominium. Upon the relocation of a model, management office or sales and leasing office constituting a Common Element, Declarant may remove all personal property and fixtures therefrom.

3.4.3 The Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction and maintenance of the Condominium that has not been represented to the Association as property of the Association. The Declarant reserves the right to remove from the Condominium any and all goods and improvements used in development, marketing and construction, whether or not they have become fixtures.

3.4.4 In the event of any conflict or inconsistency between this Section 3.4 and any other provision of the Condominium Documents, this Section 3.4 shall control and prevail over such other provisions.

3.5 Declarant's Development Rights and Easements.

3.5.1 Declarant shall have the right and an easement on and over the Common Elements and Units to construct the Units, Common Elements and all other Improvements the Declarant may deem necessary, and to use the Common Elements and any Units owned by Declarant for

construction or renovation related purposes, including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work in the Condominium.

3.5.2 Declarant shall have the right and an easement on, over and under those portions of the Common Elements necessary for the purpose of maintaining and correcting drainage of surface, roof or storm water; provided, however, nothing herein shall obligate Declarant to maintain or correct any such drainage conditions. The easement created by this subsection expressly includes the right to cut any trees, bushes, or shrubbery, to grade the soil or to take any other action reasonably necessary.

3.5.3 The Declarant shall have an easement through the Units for any access necessary to complete any construction, renovations, warranty work or modifications to be performed by Declarant.

3.5.4 The Declarant shall have the right and an easement on, over, and through the Common Elements as may be reasonably necessary for the purpose of discharging its obligations and exercising its Special Declarant Rights whether arising under the Act or reserved in this Declaration.

3.5.5 In the event of any conflict or inconsistency between this Section 3.5 and any other provision of the Condominium Documents, this Section 3.5 shall control and prevail over such other provisions.

3.6 Easement for Support.

To the extent necessary, each Unit shall have an easement for structural support over every other Unit in the Building, Common Elements, and Limited Common Elements, and each Unit and Common Elements shall be subject to an easement for structural support in favor of every other Unit in the Building, Common Elements, and Limited Common Elements.

3.7 Easement in Favor of the Association.

3.7.1 The Common Elements shall be subject to an easement in favor of the Association and the agents, employees and independent contractors of the Association for the purpose of the inspection, maintenance, repair and replacement of the Common Elements and for the purpose of exercising all rights of the Association and discharging all obligations of the Association.

3.7.2 Each Unit shall be subject to an easement in favor of the Association and the agents, employees and contractors of the Association for the purpose of performing such pest control activities as the Association may deem necessary to control or prevent the infestation of the Condominium by insects, rodents or other pests or to eradicate insects, rodents or other pests from the Condominium.

3.8 Common Elements Easement in Favor of Unit Owners.

The Common Elements shall be subject to the following easements in favor of the Units benefited:

3.8.1 For the installation, repair, maintenance, use, removal or replacement of pipes, ducts, heating and air conditioning systems, electrical, telephone and other communication wiring and cables and all other utility lines and conduits which are a part of or serve any Unit and which pass across or through a portion of the Common Elements;

3.8.2 For the installation, repair, maintenance, use, removal or replacement of lighting fixtures, electrical receptacles, panel boards and other electrical installations which are a part of or serve any Unit but which encroach into a part of a Common Element adjacent to such Unit; provided, however, that the installation, repair, maintenance, use, removal or replacement of any such item does not unreasonably interfere with the common use of any part of the Common Elements, adversely affect either the thermal or acoustical character of the Building or impair or structurally weaken the Building;

3.8.3 For driving and removing nails, screws, bolts and other attachment devices into the Unit side surface of the stone, block, brick or other masonry walls bounding the Unit and the Unit side surface of the studs which support the dry wall or plaster perimeter walls bounding the Unit, the bottom surface of roof joists or trusses or the top of the ceiling grid, whichever is lower, above the Unit and the top surface of the floor joists below the Unit to the extent such nails, screws, bolts and other attachment devices may encroach into a part of a Common Element adjacent to such Unit; provided, however, that any such action will not unreasonably interfere with the common use of any part of the Common Elements, adversely affect either the thermal or acoustical character of the Building or impair or structurally weaken the Building;

3.8.4 For the maintenance of any lighting devices, outlets, medicine cabinets, exhaust fans, ventilation ducts, registers, grilles and similar fixtures which serve only one Unit but which encroach into any part of the Common Elements; and

3.8.5 For the performance of the Unit Owners' obligation to maintain, repair, replace and restore those portions of the Limited Common Elements that the Unit Owner is obligated to maintain under Section 5.2 of this Declaration.

3.9 Units and Limited Common Elements Easement in Favor of Association.

The Units and the Limited Common Elements are hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees and independent contractors:

3.9.1 For inspection of the Units and Limited Common Elements in order to verify the performance by Unit Owners of all items of maintenance and repair for which they are responsible;

3.9.2 For inspection, maintenance, repair and replacement of the Common Elements or the Limited Common Elements situated in or accessible from such Units or Limited Common Elements;

3.9.3 For correction of emergency conditions in one or more units or Limited Common Elements or casualties to the Common Elements, the Limited Common Elements or the Units;

3.9.4 For the purpose of enabling the Association, the Management Committee or any other committees appointed by the Management Committee to exercise and discharge their respective rights, powers and duties under the Condominium Documents; and

3.9.5 For inspection, at reasonable times and upon reasonable notice to the Unit Owner, of the Units and the Limited Common Elements in order to verify that the provisions of the Condominium Documents are being complied with by the Unit Owners, their guests, tenants, invitees and the other occupants of the Unit.

3.10 Easement for Unintended Encroachments.

To the extent that any Unit or Common Element encroaches on any other Unit or Common Element as a result of original construction, shifting or settling, or alteration or restoration authorized by this Declaration or any reason other than the intentional encroachment on the Common Elements or any Unit by a Unit Owner, a valid easement for the encroachment, and for the maintenance thereof, exists.

**ARTICLE 4
USE AND OCCUPANCY RESTRICTIONS**

4.1 Utility Service.

Except for lines, wires and devices existing on the Condominium as of the date of this Declaration or to be constructed by or on behalf of Declarant, and the maintenance and replacement of the same, no lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television and radio signals, shall be erected, placed or maintained anywhere in or upon the Condominium unless they are installed and maintained underground or concealed in, under, or on the Building. No provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of the Units permitted under this Declaration or to preclude communications devices that may not be prohibited by applicable law.

4.2 Improvements and Alterations.

4.2.1 Except as provided below, any Unit Owner may make nonstructural additions, alterations and improvements within such Unit Owner's Unit without the prior written approval of the Management Committee, but such Unit Owner shall, to the extent permitted under Utah law, be responsible for any damage to other Units and the Common Elements which results from any such alterations, additions or improvements. No Unit Owner shall make (i) any structural additions, alterations or improvements within a Unit, or (ii) any nonstructural alterations, additions or improvements within a Unit that may affect the performance of the fire sprinkler system, if any, for the other Units unless prior to the commencement of each addition, alteration or improvement, the Unit Owner receives the prior written approval of the Management Committee and delivers to the Management Committee a certification by (a) an architect or engineer, licensed in Utah, that such addition, alteration or improvement will not impair the structural integrity of the Building and/or (b) the contractor or manufacturer of the fire sprinkler system, if any, that such addition, alteration or improvement will not impair the performance of the fire sprinkler system for other Units, as applicable. The Unit Owner shall, to the extent permitted by Utah law, be responsible for any damage to other Units and to the Common Elements which results from any such additions, alterations, or improvements. Notwithstanding the foregoing, no addition, alteration or improvement within a Unit or within any Limited Common Element allocated to the exclusive use of a Unit, whether structural or not, which would be visible from the exterior of the Building or from the exterior of the Limited Common Element, including a change to the exterior color scheme, shall be made without the prior written approval of the Management Committee, which approval shall only be granted if the Management Committee affirmatively finds that the proposed addition, alteration or improvement is aesthetically pleasing and in harmony with the surrounding Improvements. No Unit Owner shall make any addition, alteration or improvement to the Common Elements without the prior written approval of the Management Committee.

4.2.2 Any Unit Owner who is required to obtain approval of the Management Committee for the construction, installation, addition, alteration, repair, change or replacement of any Improvement shall submit to the Management Committee (i) a written request for approval specifying in detail the nature and extent of the addition, alteration, repair, change or other work which the Unit Owner desires to perform, including the distance of such work from neighboring properties, if applicable; (ii) plans and specifications, if applicable; (iii) any other information which the Management Committee may

request; and (iv) any fee payable pursuant to Subsection 4.2.5 of this Declaration. If the Management Committee fails to approve or disapprove an application for approval within sixty (60) days after the submittal of the completed application and all supporting information, plans and specifications requested by the Management Committee have been submitted to the Management Committee, approval will not be required and this section will be deemed to have been complied with by the Unit Owner who had requested approval of such plans. The approval by the Management Committee of any construction, installation, addition, alteration, repair, change or other work pursuant to this section shall not be deemed a waiver of the Board of Director's right to withhold approval of any similar construction, installation, addition, alteration, repair, change or other work subsequently submitted for approval.

4.2.3 Upon receipt of approval from the Management Committee for any construction, installation, addition, alteration, repair, change or other work, the Unit Owner who had requested such approval shall proceed to perform, construct or make the addition, alteration, repair, change or other work approved by the Management Committee as soon as practicable and shall diligently pursue such work so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Management Committee.

4.2.4 Any change, deletion or addition to the plans and specifications approved by the Management Committee must be approved in writing by the Management Committee.

4.2.5 The Management Committee shall have the right to charge a fee for reviewing requests for approval of any construction, installation, alteration, addition, repair, change or other work pursuant to this Section 4.2, which fee shall be payable at the time the application for approval is submitted to the Management Committee.

4.2.6 All Improvements constructed on Units shall be of new construction, and no buildings or other structures shall be removed from other locations onto any Unit.

4.2.7 The approval by the Management Committee of any construction, installation, addition, alteration, repair, change or other work pursuant to this Section 4.2 shall not be deemed a warranty or representation by the Management Committee as to the quality of such construction, installation, addition, alteration, repair, change or other work or that such construction, installation, addition, alteration, repair, change or other work conforms to any applicable building codes or other federal, state or local law, statute, ordinance, rule or regulation.

4.2.8 The provisions of this section do not apply to, and approval of the Management Committee shall not be required for, the construction, erection, installation, addition, alteration, repair, change or replacement of any Improvements made by, or on behalf of, the Declarant.

4.2.9 The approval required of the Management Committee pursuant to this Section 4.2 shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation.

4.3 Motor Vehicles.

No Unit Owner or other occupant of a Unit may park any automobile, motorcycle, motorbike or other motor vehicle in any of the Designated Parking Spaces except in those Designated Parking Spaces assigned to such Unit Owner or occupant in this Declaration.

4.4 Towing of Vehicles.

The Management Committee shall have the right to have any automobile, motorcycle, motorbike, or other motor vehicle parked, kept, maintained, constructed, reconstructed or repaired in violation of the Condominium Documents towed away at the sole cost and expense of the owner of the vehicle or equipment. Any expense incurred by the Association in connection with the towing of any vehicle or equipment shall be paid to the Association upon demand by the owner of the vehicle or equipment.

4.5 Leases.

Any agreement for the leasing or rental of a Unit executed on or after the date this Declaration is Recorded (hereinafter in this Section referred to as a “**Lease**”) shall provide that the terms of such Lease shall be subject in all respects to the provisions of the Condominium Documents. Said Lease shall further provide that any failure by the lessee thereunder to comply with the terms of the Condominium Documents shall be a default under the Lease. All Leases shall be in writing. The Unit Owner of said leased Unit has the duty and obligation to furnish the Management Committee with the name or names of the Person currently leasing said Unit and to maintain with the Association a record of the current mailing address of said Unit Owner. Any Unit Owner who shall lease his Unit shall be responsible for assuring compliance by such Unit Owner’s lessee with the Condominium Documents.

4.6 Variances.

The Management Committee may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this Article 4 if the Management Committee determines in its discretion that: (a) a restriction would create an unreasonable hardship or burden on a Unit Owner or occupant or a change of circumstances since the Recordation of this Declaration had rendered such restriction obsolete; and (b) the activity permitted under the variance will not have any substantial adverse effect on other Unit Owners and occupants and is consistent with the high standards intended for occupants of the Condominium.

**ARTICLE 5
MAINTENANCE AND REPAIR OF COMMON ELEMENTS AND UNITS**

5.1 Duties of the Association.

5.1.1 Except as set forth in Subsection 5.1.2 below, the Association shall inspect, maintain, repair and replace all Common Elements and Limited Common Elements, whether located inside or outside the Units. The cost of all such inspection, maintenance, repairs and replacements shall be a Common Expense and shall be paid for by the Association; provided, however, that the Association may assess the cost of any maintenance, repair or replacement of a Limited Common Element that is allocated exclusively to the use of less than all Unit Owners to the Unit Owners benefiting from the Limited Common Element.

5.1.2 Any interior entryway, lobby or corridor that serves less than all the Units may be, at the sole discretion of the Management Committee, designated as Limited Common Element, and, if so elected, shall be inspected, maintained, repaired and replaced either by the Association or by the Unit Owners benefiting from such designated Limited Common Element. If the Management Committee elects to cause the Association to inspect, maintain, repair and replace such Limited Common Element, the Association shall assess the cost thereof to the Unit Owners benefiting from such Limited Common Element. If the Management Committee elects to assign the inspection, maintenance, repair and

replacement of such Limited Common Element to the Unit Owners benefiting from such Limited Common Element, then such Unit Owners shall maintain, repair and replace the Limited Common Element in accordance with the Maintenance Standard set forth in this Declaration, and the cost of the maintenance, repair and replacement shall be shared equally by the Unit Owners benefiting from such Limited Common Element.

5.2 Duties of Unit Owners.

5.2.1 Each Unit Owner shall maintain, repair and replace, at such Unit Owner's own expense, all portions of such Unit Owner's Unit and all Improvements thereon in accordance with the Maintenance Standard. Any Limited Common Element allocated to one or more Unit Owners for which the Association has assigned the maintenance responsibilities to the applicable Unit Owners pursuant to Subsection 5.1.2 of this Declaration shall be maintained, repaired and replaced by such Unit Owners in accordance with the Maintenance Standard. The allocation of costs of such maintenance, repair and replacement shall be determined by such Unit Owners based on the usage by each applicable Unit Owner of the Limited Common Element, provided that the Management Committee shall be entitled to allocate such costs if the Unit Owners are unable to agree on such allocation.

5.2.2 Each Unit Owner shall be responsible for the cost of electrical, water, and sewer services for such Unit Owner's Unit. Any Unit that is not separately metered so that its Unit Owner receives electric, water, and sewer bills directly from the City shall be separately metered by the Association (such Association meters being hereinafter referred to as the "**Sub-Meters**"). The Association shall bill each Unit Owner, at the same time as the monthly installment of the Common Expense Assessment is billed, for each such Unit Owner's share of water used for the previous month as measured through the Sub-Meter. The cost of electrical and sewer services billed to the Association for those Units that utilize Sub-Meters will be billed monthly to each such Unit Owner on the same basis as water usage is allocated. By way of illustration, if a Unit Owner's water usage, as measured by the Sub-Meter for such Unit, indicates that the Unit Owner used one-fourth (1/4) of all water delivered to all Units that utilize Sub-Meters during any particular month, then the same Unit Owner would be billed for one-fourth (1/4) of the sewer bill for the same month.

5.2.3 Each Unit Owner acknowledges that the Condominium is subject to a Shared Maintenance Agreement between Declarant and Shadow Mountain IV, Ltd., a Utah limited partnership, dated March __, 2023, and Recorded on March 17, 2023, as Entry No. 530601 (the "**Maintenance Agreement**"). The obligations of the Declarant, as set forth in the Maintenance Agreement, shall be allocated among each of the Units and Unit Owners under this Declaration on the same basis as the Common Element interest and Common Expense Liability are allocated as set forth on Exhibit B of this Declaration (the "**Pro-Rata Share**").

5.3 Repair or Restoration Necessitated by Unit Owner.

Each Unit Owner shall be liable to the Association, to the extent permitted by Utah law, for any damage to the Common Elements or the Improvements thereon, or to any portion of the Units for which the Association has the responsibility to maintain, which results from the negligence or willful misconduct of the Unit Owner or its invitees, employees and licensees. The cost to the Association of any such repair, maintenance or replacements required by such act of a Unit Owner, its invitees, employees or licensees shall be paid by the Unit Owner, upon demand, to the Association. The Association may enforce collection of any such amounts in the same manner and to the same extent as provided for in this Declaration for the collection of Assessments.

5.4 Unit Owner's Failure to Maintain.

If a Unit Owner fails to maintain in accordance with the Maintenance Standard the Unit or any Limited Common Element which such Unit Owner is obligated to maintain under this Declaration or any other Recorded document and the required maintenance, repair or replacement is not performed within fifteen (15) days after written notice has been given to the Unit Owner by the Association, the Association shall have the right, but not the obligation, to perform the required maintenance, repair or replacement. The cost of any such maintenance, repair or replacement shall be assessed against the nonperforming Unit Owner pursuant to Subsection 7.2.4 of this Declaration.

5.5 Fire Sprinkler System.

In required by the City, the Building will be equipped with a fire sprinkler system. If installed in accordance with this Section 5.5, the heads of the fire sprinkler system will intrude into each Unit. All pipes, heads and other parts of the fire sprinkler system (whether located within or outside of the Unit) shall be part of the Common Elements and shall be maintained, repaired and replaced by the Association. If a Unit Owner or a guest, tenant, invitee or other occupant of the Unit causes the fire sprinkler system to be activated, except in the case of a fire, or damages or destroys any part of the fire sprinkler system, such Unit Owner shall be responsible for all expense, liability and damage resulting from such actions. No Unit Owner shall make any modifications or adjustments to the fire sprinkler system without (i) the prior written approval of the Management Committee and (ii) a certification from the contractor or manufacturer of the fire sprinkler system that such modifications or adjustments will not have any detrimental affect on any other Unit. Any Unit Owner that performs the initial construction of the perimeter walls of a Unit, or that performs any modifications or adjustments to a Unit that may affect the performance of the fire sprinkler system in other Units, also shall obtain a certification from the contractor or manufacturer of the fire sprinkler system that such construction, modification or adjustment to the Unit will not have any detrimental affect on any other Unit prior to requesting approval of the construction, modification or adjustment from the Management Committee.

ARTICLE 6 THE ASSOCIATION; RIGHTS AND DUTIES, MEMBERSHIP

6.1 Rights, Powers and Duties of the Association.

No later than the date on which the first Unit is conveyed to a Purchaser, the Association shall be organized as a non-profit Utah corporation. The Association shall be the entity through which the Unit Owners shall act. The Association shall have such rights, powers and duties as are prescribed by law and as are set forth in the Condominium Documents together with such rights, powers and duties as may be reasonably necessary in order to effectuate the objectives and purposes of the Association as set forth in this Declaration and the Act. The Association shall have the right to finance capital improvements to the Common Elements by encumbering future Assessments if such action is approved by the written consent or affirmative vote of Unit Owners representing more than fifty percent (50%) of the votes in the Association. Unless the Condominium Documents or the Act specifically require a vote of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Management Committee. The Association has the specific duty to make available to the Declarant and Unit Owners and their authorized agents current copies of the Declaration, Bylaws, Articles, Rules and other books, records and financial statements of the Association as may be requested from time to time by such parties, except those books, records and financial statements which by law may be withheld from disclosure. Such requests shall be in writing, and the Association shall have the right to charge for copying expenses.

6.2 Directors and Officers.

6.2.1 During the Period of Declarant Control, the Declarant shall have the right to appoint and remove the members of the Management Committee and the officers of the Association, who do not have to be Unit Owners.

6.2.2 Upon the termination of the Period of Declarant Control, the Unit Owners shall elect the Management Committee which must consist of at least three members, all of whom must be Unit Owners. The Management Committee elected by the Unit Owners shall then elect the officers of the Association.

6.2.3 The Declarant may voluntarily surrender the right to appoint and remove the members of the Management Committee and the officers of the Association before termination of the Period of Declarant Control, and in that event the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or the Management Committee, as described in a Recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

6.3 Rules.

The Management Committee, from time to time and subject to the provisions of this Declaration and the Act, may adopt, amend, and repeal rules and regulations. The Rules may, among other things, restrict and govern the use of any area by any Unit Owner or by any invitee, licensee or lessee of such Unit Owner; provided, however, that the Rules may not unreasonably discriminate among Unit Owners and shall not be inconsistent with the Act, this Declaration, the Articles, or Bylaws. A copy of the Rules as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Unit Owner and may be Recorded.

6.4 Composition of Members.

Each Unit Owner shall be a Member of the Association. The membership of the Association at all times shall consist exclusively of all the Unit Owners. A Unit Owner (including Declarant) of a Unit shall automatically, upon becoming the Unit Owner thereof, be a Member of the Association and shall remain a Member of the Association until such time as such Unit Owner's ownership ceases for any reason, at which time, such Unit Owner's membership in the Association shall automatically cease.

6.5 Personal Liability.

Neither Declarant nor any member of the Management Committee or of any committee of the Association, any officer of the Association nor any manager or other employee of the Association shall be personally liable to any Member, or to any other person or entity, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Declarant, the Association, the Management Committee, the manager, any representative or employee of the Association, or any committee, committee member or officer of the Association; provided, however, the limitations set forth in this section shall not apply to any person who has failed to act in good faith or has engaged in willful or intentional misconduct.

6.6 Implied Rights.

The Association may exercise any right or privilege given to the Association expressly by the Condominium Documents and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association by the Condominium Documents or reasonably necessary to effectuate any such right or privilege.

6.7 Voting Rights.

Subject to Section 6.8 below, each Unit Owner, including Declarant, shall be entitled to cast the number of votes for each Unit owned by such Unit Owner in accordance with the allocation set forth in Section 2.7 of this Declaration on any Association matter which is put to a vote of the membership in accordance with this Declaration, the Articles and/or Bylaws.

6.8 Voting Procedures.

No change in the ownership of a Unit shall be effective for voting purposes unless and until the Management Committee is given actual written notice of such change and is provided satisfactory proof thereof. The votes for each such Unit must be cast as a unit, and division of the votes shall not be allowed. In the event that a Unit is owned by more than one (1) Person and such Unit Owners are unable to agree among themselves as to how their votes shall be cast, they shall lose their right to vote on the matter in question. If any Member casts votes representing a certain Unit, it will thereafter be conclusively presumed for all purposes that such Unit Owner was acting with the authority and consent of all other Unit Owners of the same Unit unless objection thereto is made at the time the votes are cast. In the event more than the permitted votes are cast by a Member for a particular Unit, none of the votes shall be counted and all of the votes shall be deemed void.

6.9 Transfer of Membership.

The rights and obligations of any Member other than the Declarant shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of a Unit Owner's Unit, and then only to the transferee of ownership to the Unit. A transfer of ownership to a Unit may be effected by deed, intestate succession, testamentary disposition, foreclosure of a mortgage of record, or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Utah. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Unit shall operate to transfer the membership appurtenant to said Unit to the new Unit Owner thereof. Each Purchaser of a Unit shall notify the Association of its purchase within ten (10) days after becoming the Unit Owner of a Unit.

6.10 Suspension of Voting Rights.

If any Unit Owner fails to pay any Assessments or other amounts due to the Association under the Condominium Documents within fifteen (15) days after such payment is due or if any Unit Owner violates any other provision of the Condominium Documents and such violation is not cured within fifteen (15) days after the Association notifies the Unit Owner of the violation, the Management Committee shall have the right to suspend such Unit Owner's right to vote until such time as all payments, including interest and attorneys' fees, are brought current, and until any other infractions or violations of the Condominium Documents are corrected.

6.11 Conveyance or Encumbrance of Common Elements.

The Common Elements shall not be conveyed or subjected to a mortgage, deed of trust or security interest without the prior written consent or affirmative vote of Unit Owners representing more than fifty percent (50%) of the votes allocated to Unit Owners other than the Declarant. In addition, any conveyance, encumbrance, judicial sale or other transfer (whether voluntary or involuntary) of an individual interest in the Common Elements shall be void unless the Unit to which that interest is allocated also is transferred.

**ARTICLE 7
ASSESSMENTS**

7.1 Preparation of Budget.

7.1.1 At least sixty (60) days before the beginning of each fiscal year of the Association commencing with the fiscal year in which the first Unit is conveyed to a Purchaser, the Management Committee shall adopt a budget for the Association containing an estimate of the total amount of funds which the Management Committee believes will be required during the ensuing fiscal year to pay all Common Expenses, including: (i) the cost of inspection, maintenance, management, operation, repair and replacement of the Common Elements and all Improvements thereon, to the extent not maintained by a Unit Owner as required under this Declaration; (ii) the cost of sewer, utilities and trash removal which serve the Units and/or the Common Elements, except to the extent such utilities and services are separately metered or billed to specific Units by either the service provider or the Association; (iii) the cost of insurance premiums for fire, liability, workers' compensation, errors and omissions and directors, officers and agents liability, and any other insurance that may be required for the Association or the Condominium or that the Management Committee determines advisable to obtain, the costs of bonding the members of the Management Committee, and the cost of compensation, wages, materials, services, supplies and other expenses required for the administration, operation, maintenance and repair of the Condominium; (iv) the costs of rendering to the Unit Owners all services required to be rendered by the Association under the Condominium Documents; (v) such other funds as may be necessary to provide general operating reserves and reserves for contingencies and replacements deemed appropriate by the Management Committee; and (vi) the cost of any other item or items incurred by the Association, for any reason whatsoever in connection with the Condominium, for the common benefit of the Unit Owners. The budget shall separately reflect any Common Expenses to be assessed against less than all of the Units pursuant to Sections 5.1 and 5.2 and Subsections 7.2.4 and 7.2.5 of this Declaration.

7.1.2 Within thirty (30) days after the adoption of a budget, the Management Committee shall send to each Unit Owner a summary of the budget and a statement of the amount of the Common Expense Assessment assessed against each Unit in accordance with Section 7.2 of this Declaration. The failure or delay of the Management Committee to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay such Unit Owner's allocable share of the Common Expenses as provided in Section 7.2 of this Declaration, and each Unit Owner shall continue to pay the Common Expense Assessment against his Unit as established for the previous fiscal year until notice of the Common Expense Assessment for the new fiscal year has been established by the Management Committee.

7.1.3 The Management Committee is expressly authorized to adopt and amend budgets for the Association, and no ratification of any budget or amended budget by the Unit Owners shall be required.

7.2 Common Expense Assessment.

7.2.1 For each fiscal year of the Association commencing with the fiscal year in which the first Unit is conveyed to a Purchaser, the total amount of the estimated Common Expenses set forth in the budget adopted by the Management Committee (except for the Common Expenses which are to be assessed against less than all of the Units pursuant to Sections 5.1 and 5.2 and Subsections 7.2.4 and 7.2.5 of this Declaration) shall be assessed against each Unit in proportion to the Unit's Common Expense Liability as set forth in Section 2.6 of this Declaration. The amount of the Common Expense Assessment assessed pursuant to this Subsection 7.2.1 shall be in the sole discretion of the Management Committee. If the Management Committee determines during any fiscal year that its funds budgeted or

available for that fiscal year are, or will, become inadequate to meet all Common Expenses for any reason, including nonpayment of Assessments by Members, it may increase the Common Expense Assessment for that fiscal year and the revised Common Expense Assessment shall commence on the date designated by the Management Committee.

7.2.2 The Common Expense Assessments shall commence as to all Units on the first day of the month following the conveyance of the first Unit to a Purchaser. The first Common Expense Assessment shall be adjusted according to the number of months remaining in the fiscal year of the Association. The Management Committee may require that the Common Expense Assessments or Special Assessments be paid in installments.

7.2.3 Except as otherwise expressly provided for in this Declaration, all Common Expenses shall be assessed against all of the Units in accordance with Subsection 7.2.1 of this Declaration.

7.2.4 If any Common Expense is caused by the misconduct of any Unit Owner or by the misconduct of any occupant of a Unit, the Association shall assess that Common Expense exclusively against such Unit.

7.2.5 Assessments to pay a judgment against the Association may be made only against the Units in the Condominium at the time the judgment was entered, in proportion to their Common Expense Liabilities.

7.2.6 The Common Expense Assessment for any Unit owned by Declarant on which construction has not been substantially completed shall be an amount equal to twenty five percent (25%) of the Common Expense Assessment for Units which have been substantially completed. So long as any Unit owned by the Declarant qualifies for the reduced Common Expense Assessment provided for in this Subsection, the Declarant shall be obligated to pay to the Association any deficiency which may occur as a result of the Declarant having paid a reduced Common Expense Assessment and necessary for the Association to be able to timely pay all Common Expenses.

7.2.7 All Assessments, monetary penalties and other fees and charges levied against a Unit shall be the personal obligation of the Unit Owner of the Unit at the time the Assessments, monetary penalties or other fees and charges became due. The personal obligation of a Unit Owner for Assessments, monetary penalties and other fees and charges levied against his Unit shall not pass to the Unit Owner's successors in title unless expressly assumed by them.

7.3 Special Assessments.

In addition to Common Expense Assessments, the Association may levy, in any fiscal year of the Association, a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement of the Common Elements, including fixtures and personal property related thereto, or for any other lawful Association purpose, provided that any Special Assessment (other than a Special Assessment levied pursuant to Section 9.1 of this Declaration as a result of the damage or destruction of all or part of the Common Elements) shall have first been approved by Unit Owners representing more than fifty percent (50%) of the votes in the Association who are voting in person or by proxy at a meeting duly called for such purpose. Unless otherwise specified by the Management Committee, Special Assessments shall be due thirty (30) days after they are levied by the Association and notice of the Special Assessment is given to the Unit Owners.

7.4 Effect of Nonpayment of Assessments; Remedies of the Association.

7.4.1 Any Assessment, or any installment of an Assessment, which is not paid within five (5) days after the Assessment first became due shall be deemed delinquent and shall bear interest from the date of delinquency at the rate of interest established from time to time by the Management Committee.

7.4.2 All Assessments, monetary penalties and other fees and charges imposed or levied against any Unit or Unit Owner shall be secured by the Assessment Lien as provided for in the Act. The Recording of this Declaration constitutes record notice and perfection of the Assessment Lien, and no further Recordation of any claim of lien shall be required. Although not required in order to perfect the Assessment Lien, the Association shall have the right but not the obligation, to Record a notice setting forth the amount of any delinquent assessments, monetary penalties or other fees or charges imposed or levied against a Unit or the Unit Owner which are secured by the Assessment Lien.

7.4.3 The Association shall have the right, at its option, to enforce collection of any delinquent Assessments, monetary penalties and all other fees and charges owed to the Association in any manner allowed by law Including: (i) bringing an action at law against the Unit Owner personally obligated to pay the delinquent amounts and such action may be brought without waiving the Assessment Lien securing any such delinquent amounts; (ii) bringing an action to foreclose its Assessment Lien against the Unit in the manner provided by law for the foreclosure of a realty mortgage; or (iii) an Assessment Lien may be foreclosed in like manner as a deed of trust or mortgage on real estate or in any other manner permitted by law. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Units purchased at such sale.

7.4.4 Declarant, the Association, and each Owner hereby appoint [REDACTED] (the "Trustee") as trustee for the purpose of exercising the power of sale in connection with any non-judicial foreclosures as provided in the Act; provided, however, the Association reserves the right to substitute and appoint a successor trustee as provided for in the Act. Declarant hereby conveys and warrants pursuant to U.C.A. Sections 57-1-20 and 57-8-45 to Trustee, with power of sale, the Units and all improvements to the Units for the purpose of securing payment of assessments under the terms of the Declaration. Further, each Owner hereby conveys all of its right, title and interest in its Unit to Trustee, in trust, with a power of sale, for the sole purpose of securing each Owner's obligations under the Declaration, including but not limited to the obligation to pay all assessments.

7.5 Subordination of Assessment Lien to Mortgages.

The Assessment Lien shall be subordinate to the lien of any First Mortgage. Any First Mortgagee or any other party acquiring title or coming into possession of a Unit through foreclosure of a First Mortgage, purchase at a foreclosure sale or trustee sale, or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure, shall acquire title free and clear of any claims for unpaid Assessments, monetary penalties and other fees and charges against the Unit which became payable prior to such sale or transfer. Any Assessments, monetary penalties and other fees and charges against the Unit which accrue prior to such sale or transfer shall remain the obligation of the defaulting Unit Owner. Any delinquent Assessments, monetary penalties and other fees and charges which are extinguished pursuant to this section may be reallocated and assessed to all Units as at Common Expense.

7.6 Exemption of Unit Owner.

No Unit Owner may exempt himself or herself from liability for payment of Assessments, monetary penalties and other fees and charges levied pursuant to the Condominium Documents by waiver

and nonuse of any of the Common Elements and Limited Common Elements by the abandonment of his or her Unit.

7.7 Certificate of Payment.

The Association on written request shall furnish to a lienholder, Unit Owner, or person designated by a Unit Owner a statement setting forth the amount of unpaid Assessments, if any, against his or her Unit. The statement shall be furnished within fifteen (15) business days after receipt of the request (or such shorter time period as may be required by applicable law) and is binding on the Association, the Management Committee, and every Unit Owner. The Association may charge a reasonable fee in an amount established by the Management Committee for each such statement, not to exceed the amount set forth in Utah Code Ann. § 57-8-54.

7.8 No Offsets.

All Assessments, monetary penalties and other fees and charges shall be payable in accordance with the provisions of this Declaration, and no offsets against such Assessments, monetary penalties and other fees and charges shall be permitted for any reason, including a claim that the Association is not properly exercising its duties and powers as provided in the Condominium Documents or the Act.

7.9 Reserve Fund.

7.9.1 To ensure that the Association shall have adequate funds reserved for repair and replacement of all or a portion of the Common Elements and all other Improvements to be maintained by the Association pursuant to this Declaration, each Purchaser of a Unit from the Declarant shall pay to the Association immediately upon becoming the Unit Owner of a Unit a sum to be determined by the Management Committee prior to the conveyance of the first Unit to a Purchaser. Until the expiration of the Period of Declarant Control, funds paid to the Association pursuant to this Section shall be deposited into a separate reserve account and may be used by the Association only for the repair and replacement of Common Elements and all other Improvements to be maintained by the Association pursuant to this Declaration. Payments made pursuant to this Section shall be nonrefundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration.

7.9.2 In addition to any reserve fund for Common Expenses established pursuant to Section 7.9.1, each Assessment may include a portion for reserves in such amount as the Management Committee, in its discretion and in accordance with Section 57-8-7.5 of the Act, considers appropriate to meet the cost of the future repair, maintenance, restoration, and replacement of Improvements to those portions of the Common Elements that the Association is required to maintain. At least once every six years, the Management Committee will cause a reserve analysis to be conducted in accordance with Section 57-8-7.5 of the Act. At least once every three years, in accordance with Section 57-8-7.5 of the Act, the Management Committee shall cause a review and, if necessary, update a previously conducted reserve analysis. The Management Committee shall also review the reserve analysis annually and shall consider and implement necessary adjustments to the Management Committee's analysis of the reserve account requirements for the Heber City Business Park as a result of such review. Each reserve analysis shall include:

(i) Identification of those portions of the Common Elements that the Association is required to maintain that have a remaining useful life of less than thirty (30) years;

(ii) Identification of the probable remaining useful life of those portions of the Common Elements identified pursuant to Section 7.9.2(i);

(iii) An estimate of the cost of repair, replacement, restoration, of each portion of the Common Elements identified in Section 7.9.2(i) during and at the end of its useful life;

(iv) A list of the components identified in the reserve analysis that will reasonably require reserve funds;

(v) An estimate of the total annual contribution to the reserve fund necessary to meet the cost to repair, replace or restore, each portion of the Common Elements identified in Section 7.9.2(i) during and at the end of its useful life; and

(vi) A reserve funding plan that recommends how the Association may fund the annual contribution described in Section 7.9.2(v).

7.9.3 The Management Committee shall, from and after the end of the Declarant Control Period:

(i) On an annual basis, provide the Owners with a summary of the most recent reserve analysis and an update thereto;

(ii) Upon the request of any Owner, provide such Owner with a copy of the current complete reserve analysis and any updates thereto; and

(iii) In formulating each annual budget, include a reserve fund line item in an amount the Management Committee determines, based upon the reserve analysis, to be prudent.

7.9.4 Without the prior written consent of the majority of the Owners of the Units, the Management Committee shall not use money in a reserve fund for daily maintenance expenses or for any purpose other than the purpose for which the reserve fund was established.

7.9.5 During the Declarant Control Period, Declarant shall give to any third-party purchaser of a Unit, a copy of the Association Documents, together with a copy of the Association's most recent financial statements identifying any reserve funds held by the Association or any subsidiary of the Association.

7.10 Surplus Funds.

Surplus funds of the Association remaining after payment of or provisions for Common Expenses and any prepayment of reserves may in the discretion of the Management Committee either be returned to the Unit Owners pro rata in accordance with each Unit Owner's Common Expense Liability or be credited on a pro rata basis to the Unit Owners to reduce each Unit Owner's future Common Expense Assessments.

7.11 Monetary Penalties.

In accordance with the procedures set forth in the Bylaws, the Management Committee shall have the right to levy reasonable monetary penalties against a Unit Owner or any occupant of a Unit for violations of the Condominium Documents.

7.12 Transfer Fee.

The Management Committee reserves the right to establish, in accordance with Utah law, that each Purchaser of a Unit pay to the Association immediately upon becoming the Unit Owner of the Unit a transfer fee in the amount set from time to time by the Management Committee to compensate the Association for the administrative cost resulting from the transfer of a Unit.

**ARTICLE 8
INSURANCE**

8.1 Scope of Coverage.

8.1.1 Commencing not later than the date of the first conveyance of a Unit to a Purchaser, the Association shall maintain, to the extent reasonably available, the following insurance coverage:

(i) Property insurance on the Common Elements and Units, exclusive of improvements and betterments installed in Units by Unit Owners and exclusive of the personal property of Unit Owners, issued under a form which provides "All Risk of Direct Physical Loss" coverage, in an amount equal to the maximum insurable replacement value of the Common Elements and Units, as determined by the Management Committee; provided, however that the total amount of insurance after application of any deductibles shall not be less than one hundred percent (100%) of the current replacement cost of the insured property, exclusive of land, excavations, foundations and other items normally excluded from a property insurance policy. The Association will not be obligated to obtain or maintain insurance coverage with respect to the contents of any Unit.

(ii) Broad form commercial general liability insurance, for a limit to be determined by the Management Committee, but not less than \$2,000,000.00 for any single occurrence. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements. Such policy shall include (i) a cross liability clause to cover liabilities of the Unit Owners as a group to a Unit Owner, (ii) medical payments insurance and contingent liability coverage arising out of the use of hired and nonowned automobiles, and (iii) coverage for any legal liability that results from lawsuits related to employment contracts in which the Association is a party.

(iii) Directors' and officers' liability insurance covering all the directors and officers of the Association in such limits as the Management Committee may determine from time to time.

(iv) Such other insurance as the Association shall determine from time to time to be appropriate to protect the Association, the members of the Management Committee, the Management Committee, or the Unit Owners.

(v) The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions:

(a) Each Unit Owner shall be an insured under the policy with respect to liability arising out of his or her ownership of an undivided interest in the Common Elements or his membership in the Association.

(b) There shall be no subrogation with respect to the Association, its agents, servants, and employees against Unit Owners.

(c) No act or omission by any Unit Owner, unless acting within the scope of his authority on behalf of the Association, shall void the policy or be a condition to recovery on the policy.

(d) The coverage afforded by such policy shall be primary and shall not be brought into contribution or proration with any insurance which may be purchased by Unit Owners or their mortgagees or beneficiaries under deeds of trust.

(e) A "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of the negligent acts of the Association or other Unit Owners.

(f) The Association shall be the insured for use and benefit of the individual Unit Owners (designated by name if required by the insurer).

(g) For policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify the Association and each First Mortgagee named in the policy at least thirty (30) days in advance of the effective date of any substantial change in coverage or cancellation of the policy.

(h) Any insurance trust agreement will be recognized by the insurer.

(vi) If the Condominium is located in an area identified by the Secretary of Housing & Urban Development as an area having special flood hazards, a "blanket policy" of flood insurance on the Condominium in the lesser of one hundred percent (100%) of the current replacement cost of the buildings and any other property covered on the required form of policy or the maximum limit of coverage available under the National Insurance Act of 1968, as amended.

(vii) "Agreed Amount" and "Inflation Guard" endorsements.

8.1.2 If, at the time of a loss insured under an insurance policy purchased by the Association, the loss is also insured under an insurance policy purchased by a Unit Owner, the Association's policy shall provide primary coverage.

8.2 Payment of Premiums.

Premiums for all insurance obtained by the Association pursuant to Section 8.1 shall be Common Expenses and shall be paid for by the Association.

8.3 Payment of Insurance Proceeds.

Any loss covered by property insurance obtained by the Association in accordance with this Article shall be adjusted with the Association and the insurance proceeds shall be payable to the Association and not to any mortgagee or beneficiary under a deed of trust. The Association shall hold

any insurance proceeds in trust for Unit Owners and lienholders as their interests may appear, and the proceeds shall be disbursed and applied as provided for in Utah Code Ann. §§ 57-8-43(9)(k)(iv).

8.4 Certificate of Insurance.

An insurer that has issued an insurance policy pursuant to this Article shall issue certificates or memoranda of insurance to the Association and, on written request, to any Unit Owner or First Mortgagee. The insurer issuing the policy shall not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, each Unit Owner, and each First Mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

8.5 Insurance Obtained by Unit Owners.

Unless otherwise approved by the Management Committee, each Unit Owner shall obtain insurance at the Unit Owner's own expense covering the Unit Owner's Unit and all Improvements thereon in an amount equal to the maximum insurable replacement value of the Unit, the Unit Owner's personal property and providing personal liability coverage in an amount not less than \$1,000,000.00 for any single occurrence. The insurer issuing the policy shall not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Unit Owner. Each Unit Owner shall provide evidence to the Association that all such insurance required by this Section has been obtained, and if any Unit Owner fails to comply with the provisions of this Section, the Management Committee shall be entitled to obtain, but shall not be obligated to obtain, the insurance for such Unit required by this Section. The cost of such insurance shall be paid by the Unit Owner, upon demand, to the Association. The Association may enforce collection of any such amounts in the same manner and to the same extent as provided for in this Declaration for the collection of Assessments. If any insurer of liability or the Common Elements of the Association shall require that each Unit Owner obtain and carry any additional insurance coverage for the Unit or personal property, then each Unit Owner shall comply with said requirements.

ARTICLE 9 DESTRUCTION OF IMPROVEMENTS

9.1 Automatic Reconstruction.

Any portion of the Condominium for which insurance is maintained by the Association which is damaged or destroyed shall be repaired or replaced promptly by the Association unless (i) the Condominium is terminated, (ii) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (iii) all of the Unit Owners vote not to rebuild. The cost of repair or replacement of the damaged or destroyed portion of the Condominium in excess of insurance proceeds and reserves shall be a Common Expense and shall be assessed to the Members as a Special Assessment pursuant to Section 7.3 of this Declaration.

9.2 Determination Not to Reconstruct Without Termination.

If all Unit Owners vote not to rebuild, and the Condominium is not terminated in accordance with the Act, the insurance proceeds shall be distributed in proportion to their interests in the Common Elements to the Unit Owners of those Units not rebuilt and the Unit Owners to which the Limited Common Elements not rebuilt were allocated, or to lienholders as their interests may appear. The remainder of the proceeds shall be distributed to all Unit Owners or lienholders as their interests may appear in proportion to Common Element interests of all the Units. If the Unit Owners vote not to rebuild

any Unit, that Unit's allocated interests in the Common Elements and in the Common Expenses shall be automatically reallocated as if the Unit had been condemned, and the Association shall prepare, execute and record an amendment to this Declaration reflecting the reallocation.

9.3 Distribution of Insurance Proceeds in the Event of Termination of the Condominium.

Notwithstanding any provisions of this Article 9 to the contrary, the distribution of insurance proceeds resulting from the damage or destruction of all or any part of the Common Elements shall be distributed as provided in the Act in the event of a termination of the Condominium.

9.4 Negotiations with Insurer.

The Association shall have full authority to negotiate in good faith with representatives of the insurer of any totally or partially destroyed portion of the Building or Common Elements, and to make settlements with the insurer for less than full insurance coverage on the damage to such portion of Building or the Common Elements. Any settlement made by the Association in good faith shall be binding upon all Unit Owners and First Mortgagees. Insurance proceeds for any damage or destruction of any part of the Condominium covered by property insurance maintained by the Association shall be paid to the Association and not to any First Mortgagee or other lienholder. The Association shall hold any proceeds in trust for the Unit Owners and lienholders as their interests may appear. Except as otherwise provided in Sections 9.1 and 9.2 of this Declaration, all insurance proceeds shall be disbursed first for the repair or restoration of the damaged Common Elements, and Unit Owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged or destroyed Common Elements have been completely repaired or restored or the Condominium is terminated.

9.5 Destruction of Units.

Installation of Improvements to, and repair of any damage to, the interior of a Unit not covered by property insurance maintained by the Association shall be made by and at the individual expense of the Unit Owner of that Unit and shall be completed as promptly as practicable and in a lawful and workmanlike manner.

9.6 Priority.

Nothing contained in this Article shall entitle a Unit Owner to priority over any lender under a lien encumbering his Unit as to any portion of insurance proceeds allocated to such Unit.

**ARTICLE 10
EMINENT DOMAIN**

10.1 Total Taking of a Unit.

If a Unit is acquired by eminent domain, or if part of a Unit is acquired by eminent domain leaving the Unit Owner with a remnant which may not be practically or lawfully used for any purpose permitted by this Declaration, the award must compensate the Unit Owner for his Unit and interest in the Common Elements, regardless of whether any Common Elements are taken. Upon such a taking, unless the decree otherwise provides, that Unit's allocated interests in the Common Elements and in the Common Expenses shall automatically be reallocated to the remaining Units in proportion to their respective allocated interests immediately before the taking. Upon such a taking, the Association shall

prepare, execute and Record an amendment to the Declaration in compliance with the Act. Any remnant of a Unit remaining after part of a Unit is taken becomes a Common Element.

10.2 Partial Taking of a Unit.

Except as provided in Section 10.1, if part of a Unit is acquired by eminent domain, the award must compensate the Unit Owner for the reduction in the value of his Unit and interest in the Common Elements, regardless of whether any Common Elements are taken. On acquisition, unless the decree otherwise provides, that Unit's allocated interests in the Common Elements and in the Common Expenses shall be reduced in proportion to the reduction in size of the Unit and the portion of the allocated interests divested from the partially acquired Unit shall automatically be reallocated to that Unit and the remaining Units in proportion to their respective interests immediately before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced interest.

10.3 Taking of Common Elements.

If part of the Common Elements is acquired by eminent domain, the portion of the award attributable to the Common Elements taken shall be paid to the Association for the benefit of the Unit Owners, and any portion of the award attributable to the acquisition of a Limited Common Element shall be equally divided among the Unit Owners of the Units to which that Limited Common Element was allocated at the time of the acquisition.

10.4 Taking of Entire Condominium.

In the event the Condominium in its entirety is acquired by eminent domain, the Condominium is terminated and the award for such taking shall be divided among the Unit Owners of the Units in proportion to their share of the Condominium.

10.5 Priority and Power of Attorney.

Nothing contained in this Article shall entitle a Unit Owner to priority over any First Mortgagee under a lien encumbering his Unit as to any portion of any condemnation award allocated to such Unit. Each Unit Owner hereby appoints the Association as attorney-in-fact for the purpose of negotiations and settlement with the condemning authority for the acquisition of the Common Elements, or any part thereof. This power of attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors or assigns or a Unit Owner.

**ARTICLE 11
RESERVATION OF DEVELOPMENT AND
SPECIAL DECLARANT RIGHTS**

Pursuant to the Act, Declarant reserves all of the following development and special declarant rights in the Condominium, including, without limitation:

11.1 Development Rights.

Declarant hereby reserves, during the Period of Declarant Control, the right to exercise all Development Rights hereunder, or otherwise permitted by the Act.

11.2 Right to Complete Improvements and Construction Easement.

Declarant hereby reserves the right to complete the construction of Improvements on the Condominium, and an easement over the Condominium for the purpose of doing so.

11.3 Offices, Model Offices and Promotional Signs.

Declarant reserves the right to maintain offices for sales and management and models as provided in Section 3.4 above, and to maintain signs on the Common Elements for so long as Declarant owns any portion of the Condominium.

11.4 Use of Easements.

Declarant reserves the right to use easements through the Common Elements for the purpose of making Improvements within the Condominium.

11.5 Merger or Consolidation.

Declarant reserves the right to merge or consolidate the Association with another common-interest community of the same form of ownership.

11.6 Appointment and Removal of Directors and Officers.

Declarant reserves the right to appoint and remove any officer of the Association or any member of the Management Committee as set forth in Section 6.2 above, for the time period set forth therein.

**ARTICLE 12
GENERAL PROVISIONS**

12.1 Enforcement.

The Association, or any Unit Owner, shall have the right (but not the obligation) to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Condominium Documents. Failure by the Association or by any Unit Owner to enforce any covenant or restriction contained in the Condominium Documents shall in no event be deemed a waiver of the right to do so thereafter.

12.2 Severability.

Invalidation of any one of the terms, covenants, conditions or restrictions shall in no way affect any other provisions herein, which shall remain in full force and effect. However, if any term, covenant, condition or restriction is deemed unenforceable to its full extent, then such term, covenant, condition or restriction shall be enforced to the maximum extent permitted by law and may be modified by the trier of law to enable it to be enforced to the fullest extent permitted at law.

12.3 Duration.

The covenants and restrictions of this Declaration, as amended from time to time, shall run with and bind the Condominium in perpetuity unless the Condominium is terminated as provided in Section 12.4 of this Declaration.

12.4 Termination of Condominium.

Subject to the rights of Mortgagees under this Declaration, the Owners may terminate the Heber City Business Park and this Declaration, by the vote of one hundred percent (100%) of the votes allocated to all Units. If the necessary votes are obtained, the agreement of the Owners to terminate the Heber City Business Park and this Declaration shall be evidenced by a termination agreement or ratification thereof, executed by the required number of Owners in accordance with the Act. Upon Recording of the termination agreement, the Heber City Business Park shall be terminated, this Declaration shall have no further force or effect, and the Association shall be dissolved. Notwithstanding the foregoing, the Owners may not terminate the Heber City Business Park during the Period of Declarant Control without Declarant's prior written consent, which consent Declarant may withhold in its sole discretion.

12.5 Amendment.

12.5.1 Except as otherwise expressly provided in this Declaration or the Act, and except for provisions of this Declaration regarding the rights and obligations of Declarant, which may not be amended without Declarant's prior written consent, and subject to the rights of Mortgagees under this Declaration, Owners may amend any provision of this Declaration at any time by a vote of at least sixty-seven percent (67%) of the votes allocated to all Units. If the necessary votes and consent are obtained, the Association shall cause an amendment to the Declaration to be Recorded. Notwithstanding the foregoing, the Owners may not amend this Declaration during the Declarant Control Period without Declarant's prior written consent, which consent Declarant may withhold in its sole discretion.

12.5.2 Notwithstanding any provision in this Declaration to the contrary, Declarant, acting alone, and without the necessity for the consent of any Owners, the Association or the Management Committee, reserves to itself the right and power to modify and amend this Declaration to correct clerical, typographical or technical errors, or to modify and amend this Declaration to comply with the requirements, standards, or guidelines of any department of real estate or real estate commission or any governmental authority having jurisdiction over the Heber City Business Park.

12.5.3 Notwithstanding any provision in this Declaration to the contrary, Declarant, acting alone, and without necessity for the consent of any Owners, the Association or the Management Committee, reserves to itself the right and power to modify and amend this Declaration to comply with the requirements, standards or guidelines of any applicable laws, recognized secondary mortgage markets, the department of housing and urban development, the federal housing administration, the veterans administration, the federal home loan mortgage corporation, the government national mortgage association or the federal national mortgage association.

12.6 Notices.

All notices, demands, statements or other communications required to be given to or served on a Unit Owner under this Declaration shall be in writing and shall be deemed to have been duly given and served if delivered personally or sent by United States mail, postage prepaid, return receipt requested, addressed to the Unit Owner, at the address which the Unit Owner shall designate in writing and file with the Association or, if no such address is designated, at the address of the Unit of such Unit Owner. A Unit Owner may change his or her address on file with the Association for receipt of notices by delivering

a written notice of change of address to the Association pursuant to this section. A notice given by mail, whether regular, certified, or registered, shall be deemed to have been received by the person to whom the notice was addressed on the earlier of the date the notice is actually received or three (3) days after the notice is mailed. If a Unit is owned by more than one person, notice to one of the Unit Owners shall constitute notice to all Unit Owners of the same Unit. Each Unit Owner shall file his or her correct mailing address with the Association, and shall promptly notify the Association in writing of any subsequent change of address.

12.7 Binding Effect.

By acceptance of a deed or by acquiring any ownership interest in any portion of the Condominium, each Person, for himself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules, and regulations now or hereafter imposed by the Condominium Documents and any amendments thereof. In addition, each such person by so doing thereby acknowledges that the Condominium Documents set forth a general scheme for the improvement and development of the real property covered thereby and hereby evidences his interest that all the restrictions, conditions, covenants, rules and regulations contained in the Condominium Documents shall run with the land and be binding on all subsequent and future Unit Owners, grantees, purchasers, assignees, and transferees thereof. Furthermore, each such person fully understands and acknowledges that the Condominium Documents shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future Unit Owners. Declarant, its successors, assigns and grantees, covenants and agrees that the Units and the membership in the Association and the other rights created by the Condominium Documents shall not be separated or separately conveyed, and each shall be deemed to be conveyed or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the Unit.

12.8 Gender.

The singular, wherever used in this Declaration, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions of this Declaration apply either to corporations or individuals, or men or women, shall in all cases be assumed as though in each case fully expressed.

12.9 Topic Headings.

The marginal or topical headings of the sections contained in this Declaration are for convenience only and do not define, limit or construe the contents of the sections or of this Declaration.

12.10 Survival of Liability.

The termination of membership in the Association shall not relieve or release any such former Unit Owner or Member from any liability or obligation incurred under, or in any way connected with, the Association during the period of such ownership or membership, or impair any rights or remedies which the Association may have against such former Unit Owner or Member arising out of, or in any way connected with, such ownership or membership and the covenants and obligations incident thereto.

12.11 Construction.

In the event of any discrepancies, inconsistencies or conflicts between the provisions of this Declaration and the Articles, Bylaws or the Rules, the provisions of this Declaration shall prevail.

12.12 Joint and Several Liability.

In the case of joint ownership of a Unit, the liabilities and obligations of each of the joint Unit Owners set forth in, or imposed by, the Condominium Documents shall be joint and several.

12.13 Tenants.

Each Unit Owner shall be responsible for compliance by such Owner's agents, tenants, invitees, licensees and their respective servants, agents, and employees with the provisions of the Condominium Documents. A Unit Owner's failure to insure compliance by such Persons shall be grounds for the same action available to the Association or any other Unit Owner by reason of such Unit Owner's own noncompliance.

12.14 Attorneys' Fees.

In the event the Declarant, the Association or any Unit Owner employs an attorney or attorneys to enforce a lien or to collect any amounts due from a Unit Owner or to enforce compliance with or recover damages for any violation or noncompliance with the Condominium Documents, the prevailing party in any such action shall be entitled to recover from the other party reasonable attorneys' fees incurred in the action.

12.15 Number of Days.

In computing the number of days for purposes of any provision of the Condominium Documents, all days shall be counted including Saturdays, Sundays and federally recognized holidays; provided, however, that if the final day of any time period falls on a Saturday, Sunday or federally recognized holiday, then the next day shall be deemed to be the next day which is not a Saturday, Sunday or federally recognized holiday.

12.16 Declarant's Right to Use Similar Name.

The Association hereby irrevocably consents to the use by any other nonprofit corporation which may be formed or incorporated by Declarant or its members of a corporate name which is the same or deceptively similar to the name of the Association provided one or more words are added to the name of such other corporation to make the name of the Association distinguishable from the name of such other corporation. Within five (5) days after being requested to do so by the Declarant, the Association shall sign such letters, documents or other writings as may be required for any other nonprofit corporation formed or incorporated by the Declarant to use a corporate name which is the same or deceptively similar to the name of the Association.

12.17 Notice of Violation.

The Association shall have the right to Record a written notice of a violation by any Unit Owner of any restriction or provision of the Condominium Documents. The notice shall be executed and acknowledged by an officer of the Association and shall contain substantially the following information: (i) the name of the Unit Owner; (ii) the legal description of the Unit against which the notice is being Recorded; (iii) a brief description of the nature of the violation; (iv) a statement that the notice is being Recorded by the Association pursuant to this Declaration; and (v) a statement of the specific steps which must be taken by the Unit Owner to cure the violation. Recordation of a Notice of Violation shall serve as a notice to the Unit Owner and to any subsequent purchaser of the Unit that there is a violation of the provisions of the Condominium Documents. If, after the Recordation of such notice, it is determined by

the Association that the violation referred to in the notice does not exist or that the actual violation referred to in the notice has been cured, the Association shall Record a notice of compliance which shall state the legal description of the Unit against which the Notice of Violation was Recorded, the Recording data of the Notice of Violation, and shall state that the violation referred to in the notice of violation has been cured, or if such be the case, that it did not exist.

12.18 Dispute Notification and Resolution Procedure.

All actions or claims (i) by the Association against any one or more of the Declarant Parties, (ii) by any Unit Owner(s) against any one or more of the Declarant Parties, or (iii) by both the Association and any Unit Owner(s) against any one or more of the Declarant Parties, relating to or arising out of the Condominium, Including the Declaration or any other Condominium Documents, the use or condition of the Condominium or the design or construction of or any condition on or affecting the Condominium, Including construction defects, surveys, soils conditions, grading, specifications, installation of Improvements (Including Units) or disputes which allege negligence or other tortious conduct, fraud, misrepresentation, breach of contract or breach of implied or express warranties as to the condition of the Condominium or any Improvements (collectively, "**Dispute(s)**") shall be subject to the provisions of this Section 12.18. Declarant and each Unit Owner acknowledge that the provisions set forth in this Section 12.18 shall be binding upon current and future Unit Owners of the Condominium and upon the Association, whether acting for itself or on behalf of any Unit Owner(s). Nothing in this Declaration is intended to limit, expand or otherwise modify the terms of any limited warranty provided by Declarant to Unit Owners pursuant to a purchase agreement.

12.18.1 Notice. Any Person (Including the Association) with a Dispute claim shall notify the Declarant in writing of the claim, which writing shall describe the nature of the claim and any proposed remedy (the "**Claim Notice**").

12.18.2 Right to Inspect and Right to Corrective Action. Within a reasonable period after receipt of the Claim Notice, which period shall not exceed sixty (60) days, Declarant and the claimant shall meet at a mutually acceptable place within the Condominium to discuss the Dispute claim. At such meeting or at such other mutually agreeable time, Declarant and the Declarant's representatives shall have full access to the property that is the subject of the Dispute claim and shall have the right to conduct inspections, testing and/or destructive or invasive testing in a manner deemed appropriate by Declarant (provided Declarant shall repair or replace any property damaged or destroyed during such inspection or testing), which rights shall continue until such time as the Dispute is resolved as provided in this Subsection 12.18.2. The parties shall negotiate in good faith in an attempt to resolve the Dispute(s). If the Declarant elects to take any corrective action, Declarant and Declarant's representatives and agents shall be provided full access to the Condominium and the property which is the subject of the claim to take and complete corrective action.

12.18.3 No Additional Obligations; Irrevocability and Waiver of Right. Nothing set forth in Subsection 12.18.2 shall be construed to impose any obligation on Declarant to inspect, test, repair or replace any item of the Condominium for which Declarant is not otherwise obligated under applicable law or any limited warranty provided by Declarant to a Unit Owner in connection with the sale of the Condominium and/or the Improvements constructed thereon. The right of Declarant to enter, inspect, test, repair and/or replace reserved hereby shall be irrevocable and may not be waived or otherwise terminated except by a writing, in Recordable form executed and Recorded by Declarant.

12.18.4 Mediation. If the parties to the Dispute cannot resolve the claim pursuant to the procedures described in Subsection 12.18.2 above, the matter shall be submitted to mediation pursuant to the mediation procedures adopted by the American Arbitration Association (except as such procedures

are modified by the provisions of this Subsection 12.18.4) or any successor thereto or to any other entity offering mediation services that is acceptable to the parties. No person shall serve as a mediator in any dispute in which the person has any financial or personal interest in the result of the mediation, except by the written consent of all parties. Prior to accepting any appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or to prevent a prompt commencement of the mediation process. No litigation or other action shall be commenced against Declarant or any Declarant Party without complying with the procedures described in this Subsection 12.18.4.

(i) Position Memoranda; Pre-Mediation Conference. Within ten (10) days of the selection of the mediator, each party shall submit a brief memorandum setting forth its position with regard to the issues that need to be resolved. The mediator shall have the right to schedule a premediation conference and all parties shall attend unless otherwise agreed. The mediation shall be commenced within ten (10) days following the submittal of the memoranda and shall be concluded within fifteen (15) days from the commencement of the mediation unless the parties mutually agree to extend the mediation period. The mediation shall be held in the county in which the Condominium is located or such other place as is mutually acceptable by the parties.

(ii) Conduct of Mediation. The mediator has discretion to conduct the mediation in the manner in which the mediator believes is most appropriate for reaching a settlement of the Dispute. The mediator is authorized to conduct joint and separate meetings with the parties and to make oral and written recommendations for settlement. Whenever necessary, the mediator may also obtain expert advice concerning technical aspects of the Dispute, provided the parties agree and assume the expenses of obtaining such advice. The mediator does not have the authority to impose a settlement on the parties.

(iii) Exclusion Agreement. Any admissions, offers of compromise or settlement negotiations or communications at the mediation shall be excluded in any subsequent dispute resolution forum.

(iv) Parties Permitted at Sessions. Persons other than the parties, the representatives and the mediator may attend mediation sessions only with the permission of both parties and the consent of the mediator. Notwithstanding the foregoing, applicable subcontractors and material suppliers designated by Declarant may attend mediation sessions and may be made parties to the mediation. Confidential information disclosed to a mediator by the parties or by witnesses in the course of the mediation shall be confidential. There shall be no stenographic record of the mediation process.

(v) Expenses. The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including the fees and costs charged by the mediator and the expenses of any witnesses or the cost of any proof or expert advice produced at the direct request of the mediator, shall be borne equally by the parties unless they agree otherwise. Each party to the mediation shall bear its own attorneys' fees and costs in connection with such mediation.

12.18.5 Arbitration. Should mediation pursuant to Subsection 12.18.4 above not be successful in resolving any Dispute, such claim or dispute shall be resolved by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association as modified or as otherwise provided in this Subsection 12.18.5. The parties shall cooperate in good faith to attempt to cause all necessary and appropriate parties to be included in the arbitration proceeding. Subcontractors, material suppliers and other parties whose participation is reasonably necessary to afford complete relief in arbitration or who are involved in common questions of law or fact shall be included as parties in the arbitration. Subject to the limitations imposed in this Subsection 12.18.5, the arbitrator shall have the authority to try all issues, whether of fact or law.

(i) Place. The proceedings shall be heard in the county in which the Condominium is located.

(ii) Arbitrator. A single arbitrator shall be selected in accordance with the rules of the American Arbitration Association from panels maintained by the Association with experience in relevant real estate matters or construction. The arbitrator shall not have any relationship to the parties or interest in the Condominium. The parties to the Dispute shall meet to select the arbitrator within ten (10) days after service of the demand for arbitration on all respondents named therein.

(iii) Commencement and Timing of Proceeding. The arbitrator shall promptly commence the proceeding at the earliest convenient date in light of all of the facts and circumstances and shall conduct the proceeding without undue delay.

(iv) Pre-hearing Conferences. The arbitrator may require one or more pre-hearing conferences.

(v) Discovery. The parties shall be entitled only to limited discovery, consisting of the exchange between the parties of only the following matters: (i) witness lists; (ii) expert witness designations; (iii) expert witness reports; (iv) exhibits; (v) reports of testing or inspections of the property subject to the Dispute, including destructive or invasive testing; and (vi) hearing briefs. The parties shall also be entitled to conduct further tests and inspections as provided in Subsection 12.18.2 above. Any other discovery shall be permitted by the arbitrator upon a showing of good cause or based on the mutual agreement of the parties. The arbitrator shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge.

(vi) Motions. The arbitrator shall have the power to hear and dispose of motions, including motions to dismiss, motions for judgment on the pleadings and summary judgment motions, in the same manner as a trial court judge, except the arbitrator shall also have the power to adjudicate summarily issues of fact or law including the availability of remedies, whether or not the issue adjudicated could dispose of an entire cause of action or defense.

(vii) Arbitration Award. The arbitrator's award may be enforced as provided for in the Utah Uniform Arbitration Act, Utah Code Ann. §§ 78B-11-101 through 78B-11-131 (2019), or such similar law governing enforcement of awards in a trial court as is applicable in the jurisdiction in which the arbitration is held, or as applicable, pursuant to the Federal Arbitration Act (Title 9 of the United States Code).

12.18.6 WAIVERS

NOTICE: BY ACCEPTANCE OF A DEED OR BY ACQUIRING ANY OWNERSHIP INTEREST IN ANY PORTION OF THE CONDOMINIUM, EACH PERSON, FOR HIMSELF, HIS HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS, TRANSFEREES AND ASSIGNS, AGREES TO HAVE ANY DISPUTE RESOLVED ACCORDING TO THE PROVISIONS OF THIS SECTION 12.18 AND WAIVES THE RIGHT TO PURSUE ANY DISPUTE IN ANY MANNER OTHER THAN AS PROVIDED IN THIS SECTION 12.18. THE ASSOCIATION, EACH UNIT OWNER, AND DECLARANT ACKNOWLEDGE THAT BY AGREEING TO RESOLVE ALL DISPUTES AS PROVIDED IN THIS SECTION 12.18, THEY ARE GIVING UP THEIR RESPECTIVE RIGHTS TO HAVE SUCH DISPUTES TRIED BEFORE A JURY. THE ASSOCIATION, EACH UNIT OWNER AND DECLARANT FURTHER WAIVE THEIR RESPECTIVE RIGHTS TO AN AWARD OF PUNITIVE AND CONSEQUENTIAL DAMAGES RELATING TO A DISPUTE. BY ACCEPTANCE OF A DEED OR BY ACQUIRING ANY OWNERSHIP INTEREST IN ANY

PORTION OF THE CONDOMINIUM, EACH UNIT OWNER HAS VOLUNTARILY ACKNOWLEDGED THAT HE IS GIVING UP ANY RIGHTS HE MAY POSSESS TO PUNITIVE AND CONSEQUENTIAL DAMAGES OR THE RIGHT TO A TRIAL BEFORE A JURY RELATING TO A DISPUTE.

12.18.7 Statutes of Limitation. Nothing in this Section 12.18 shall be considered to toll, stay, reduce or extend any applicable statute of limitations.

12.19 Required Consent of Unit Owners for Legal Action.

Any action or claim instituted by the Association (which action or claim shall be subject to the terms of Section 12.18) against any one or more of the Declarant Parties, relating to or arising out of the Condominium, including the Declaration or any other Condominium Documents, the use or condition of the Condominium or the design or construction of or any condition on or affecting the Condominium, including construction defects, surveys, soils conditions, grading, specifications, installation of Improvements (including Units) or disputes which allege negligence or other tortious conduct, fraud, misrepresentation, breach of contract or breach of implied or express warranties as to the condition of the Condominium or any Improvements, shall have first been approved in writing by all Unit Owners.

12.19.1 Notice of Unit Owners.

(i) Prior to obtaining the consent of the Unit Owners in accordance with Section 12.19, the Association must provide written notice to all Unit Owners which notice shall (at a minimum) include (1) a description of the nature of any action or claim (the “**Claim**”), (2) a description of the attempts of Declarant to correct such Claim and the opportunities provided to Declarant to correct such Claim, (3) a certification from an engineer licensed in the State of Utah that such Claim is valid along with a description of the scope of work necessary to cure such Claim and a resume of such engineer, (4) the estimated cost to repair such Claim, (5) the name and professional background of the attorney proposed to be retained by the Association to pursue the Claim against Declarant and a description of the relationship between such attorney and member(s) of the Management Committee (if any), (6) a description of the fee arrangement between such attorney and the Association, (7) the estimated attorneys’ fees and expert fees and costs necessary to pursue the Claim against Declarant and the source of the funds which will be used to pay such fees and expenses, (8) the estimated time necessary to conclude the action against Declarant, and (9) an affirmative statement from the Management Committee that the action is in the best interest of the Association and its Members.

(ii) In the event the Association recovers any funds from Declarant (or any other person or entity) to repair a Claim, any excess funds remaining after repair of such Claim shall be paid into the Association’s reserve fund.

12.19.2 Notification to Prospective Purchasers. In the event that the Association commences any action or claim, all Unit Owners must notify prospective purchasers of such action or claim and must provide such prospective purchasers with a copy of the notice received from the Association in accordance with Subsection 12.19.1.

12.20 Proximity to Airport.

Each Unit Owner, by accepting a deed to a Unit, or by otherwise acquiring title to a Unit, acknowledges (for such Unit Owner and its tenants, invitees, employees, licensees, successors and assigns) that: (a) the Condominium is in close proximity to the Heber Valley Airport (KHCR): Russ McDonald Field (“**Airport**”); (b) as of the date hereof, the Airport is operated as a general aviation

reliever/commercial service airport used generally for single engine and twin engine airplanes, corporate jets, helicopters and scheduled service turbo prop and jet aircraft; (c) aircraft taking off from and landing at the Airport may fly over the Condominium and adjacent properties at altitudes which will vary with meteorological conditions, aircraft type, aircraft performance and pilot proficiency; (d) takeoffs and landings may occur at any hour of the day or night; (e) the Airport may be expanded or the nature of its operations may change at any time; (f) flights over the Condominium or adjacent properties by aircraft taking off from or landing at the Airport may generate significant noise, the volume, pitch, amount and frequency of occurrence of which will vary depending on a number of factors, including the altitudes at which the aircraft fly, wind direction and other meteorological conditions and aircraft number and type, and may be affected by future changes in Airport size, usage and configuration (which may include expansion of the Airport); (g) as of the date hereof, management of the Airport has policies in place intended to help limit or control aircraft noise and its impact on owners and occupants of properties in the vicinity of the Airport, but those policies may change over time and, in addition, other aspects of such policies (including those intended to promote safety) may be given preference over policies relating to limiting noise; and (h) such Unit Owner (for such Unit Owner and such Unit Owner's tenants, invitees, employees, licensees, successors and assigns) hereby accepts and assumes any and all risks, burdens and inconvenience caused by or associated with the Airport and its operations (including noise caused by or associated with aircraft flying over the Condominium and adjacent properties), and agrees not to assert or make any claim against the Declarant Parties or the Association, or any director, officer, employee, agent, representative or contractor of any of them, related thereto.

12.21 Effect of Declaration.

Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration, or as to the compliance of any of these provisions with public laws, ordinances and regulations applicable thereto.

12.22 No Representations or Warranties.

No representations or warranties of any kind, express or implied, have been given or made by Declarant or its agents, consultants or employees in connection with the Condominium, or any portion thereof, its physical condition, zoning, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, costs of maintenance, taxes or regulation thereof, except as specifically and expressly set forth in this Declaration.

12.23 Right to Configure Project.

To the extent permitted by law, the Declarant shall have the right, at any time, to change the design, size and configuration, or make any other changes as it deems appropriate, of the Condominium. There is no guarantee that the Condominium will be developed as originally planned.

[SIGNATURE PAGE FOLLOWS]

HEBER CITY BUSINESS PARK, LLC,
a Utah limited liability company

By: *Ryan Dowdle*
Name: Ryan Dowdle
Its: Authorized Manager

STATE OF UTAH)
County of Wasatch) ss.

The foregoing instrument was acknowledged before me this 9th day of October, 2023, by Ryan Dowdle, the Authorized Manager of Heber City Business Park, LLC, a Utah limited liability company, on behalf of the limited liability company.

Trina N Cooke
Notary Public

My commission expires: 8/21/2026



BOUNDARY DESCRIPTION

ALL OF LOT 1A, HEBER CITY STORAGE SUBDIVISION AMENDED, AS RECORDED WITH THE WASATCH COUNTY RECORDER, SAID PARCEL BEING DESCRIBED MORE PARTICULARLY AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1A, SAID POINT BEING SOUTH 0°06'01" EAST ALONG THE SECTION LINE 798.66 FEET AND NORTH 89°22'52" WEST 240.24 FEET ALONG THE NORTH LINE OF SAID HEBER CITY STORAGE SUBDIVISION AMENDED AND ITS EASTERLY EXTENSION FROM THE EAST QUARTER CORNER OF SECTION 7, TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE BASE & MERIDIAN, AND RUNNING THENCE ALONG THE PERIMETER THE FOLLOWING EIGHT COURSES : 1) SOUTH 00°37'08" WEST 42.61 FEET, 2) SOUTH 89°22'52" EAST 3.89 FEET, 3) SOUTH 00°37'08" WEST 128.08 FEET, 4) SOUTH 89°22'52" EAST 54.05 FEET, 5) SOUTH 00°37'08" WEST 47.50 FEET, 6) NORTH 89°22'52" WEST 250.59 FEET, 7) NORTH 00°06'01" WEST 218.21 FEET, 8) SOUTH 89°22'52" EAST 195.39 FEET TO THE POINT OF BEGINNING.

CONTAINS: 45,583 SQUARE FEET OR 1.046 ACRES (1 LOT)