

GRANTOR: MERCILL PARTNERS LLC  
 GRANTEE: THE PUBLIC  
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 By Kellie Dickerson Deputy Clerk

**Declaration of Condominium  
 for  
 Mercill Avenue Condominiums**

This DECLARATION OF CONDOMINIUM for Mercill Avenue Condominiums is made this 22<sup>nd</sup> day of March, 2023, by Mercill Partners LLC, a Wyoming limited liability company (the "Declarant").

**PART ONE: INTRODUCTION TO THE COMMUNITY**

Mercill Partners LLC is the developer of The Mercill Avenue Condominiums Addition to the Town of Jackson and has established this Declaration to provide a governance structure and a flexible system of standards and procedures for the overall development, administration, maintenance, and preservation of the community as a master planned residential and commercial condominium community.

**ARTICLE I – CREATION OF THE COMMUNITY**

- 1.1 **Purpose and Intent.** The Declarant, as the owner of the real property known as The Mercill Avenue Condominiums Addition to the Town of Jackson, Wyoming, according to Plat # 1450 recorded in the Office of the Teton County Clerk on March 28<sup>th</sup>, 2023 (the "Property") intends by the recording of this Declaration to create a condominium project and provide for ownership of real property under the Act. This Declaration provides for the overall development, administration, maintenance and preservation of the Property now or hereafter comprising The Mercill Avenue Condominiums Addition to the Town of Jackson as a condominium community (the "Project").
- 1.2 **Binding Effect.** The Property shall be owned, conveyed, and used subject to all provisions of this Declaration, which shall run with the title to such property. This Declaration shall be binding upon all Persons having any right, title or interest in any portion of the Property, their heirs, successors, successors-in-title, and assigns.
- 1.3 **Governing Documents.** The Governing Documents create a general plan of development for the Property and may be amended and supplemented as set forth herein. In the event of a conflict between or among the Governing Documents, this Declaration shall control. Nothing in this Section shall preclude any Supplemental Declaration or other recorded covenants applicable to any portion of the Property from containing additional restrictions or provisions that are more restrictive than the provisions of this Declaration. The Declarant may, but shall not be required to, enforce any such covenants, restrictions, or other instruments. All provisions of the Governing Documents shall apply to all Owners as well as their respective family members, tenants, guests, and invitees.

**ARTICLE II—DEFINITIONS**

- 2.1 **Association.** The Mercill Condominium Owners Association, a Wyoming nonprofit corporation, its successors or assigns.

2.2 **Base Assessment.** Assessments levied on all Units subject to assessment under Article VI to fund Common Expenses.

2.3 **Board of Directors or Board.** The body responsible to the membership of the Association for operations of the Association. For the purposes of clarity, the Declarant shall exercise all rights and responsibilities of the Board until the Declarant Termination defined below.

2.4 **Building.** The structures constructed or located on the Property and consisting of the Units and Common Elements.

2.5 **Commercial Unit.** Those Units designated as Units 101, 102, 103, and 104, each of which will be occupied and used by Unit Owners and Occupants for office, commercial, institutional and retail purposes only or such other uses permitted by applicable zoning ordinances and not otherwise prohibited by this Declaration.

2.6 **Common Elements.** The "Common Elements" shall include "General Common Elements" and the "Limited Common Elements", or a portion thereof, as the context requires. Each Owner shall own an undivided interest in the Common Elements as a tenant in common with all the other Owners in the proportions provided in **Exhibit "A"** attached hereto and incorporated herein, and, except as otherwise limited in this Declaration, shall have the right to use the Common Elements in accordance with this Declaration for all purposes incident to the use and occupancy of his or her Unit, which right shall be appurtenant to the Unit.

2.7 **Common Expenses.** The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Units including any reasonable reserve, as the Board may find necessary and appropriate.

2.8 **Declarant.** Mercill Partners LLC, or any successor or assign who takes title to any portion of the Property for the purpose of development and/or sale and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant. The Declarant shall have the power to exercise all rights set forth in this Declaration until Declarant Termination.

2.9 **Declarant Termination.** All of the Declarant's rights granted under this Declaration shall remain in full force and effect until all Units are sold by Declarant to Owners (other than Declarant). At the Declarant Termination, all powers, rights and responsibilities of the Declarant set forth in the Governing Documents shall be automatically terminated, relinquished, assigned and shall vest in the Association as set forth herein. The Board or Declarant is authorized to file an affidavit of the facts surrounding the Declarant Termination. Prior to the Declarant Termination, any reference herein to the Board or Association shall be deemed to be a reference to the Declarant as the Declarant shall exercise all such rights, unless delegated by a written instrument to the Board or Association as the case may be.

2.10 **Deed Restricted Units.** "Deed Restricted Unit" means any Residential Unit that has been made available for residential purposes only to qualified buyers as determined by the Jackson/Teton County Affordable Housing Department ("Housing Department") as a condition of the approval of the final development plan for the Mercill Avenue Condominiums. Each of the Residential Units are Deed Restricted Units.

2.11 **General Common Elements.** The entire Property excepting all Units and the Limited Common Elements, as designated on the Plat or provided herein. Without limiting the generality of the foregoing, the General Common Elements shall include (i) all drives, the land, and the lobbies; and (ii) all pipes, ducts, flues, chutes, conduits, wires, and other utility installations, including water, sewer, and stormwater services within the Property to (but not at) the outlets of a Unit, excluding therefrom any public infrastructure located within the Property, Limited Common Elements-Residential and Limited Common Elements-Commercial. For the avoidance of doubt, any equipment, pipes, ducts, flues, chutes, conduits, wires and other utility installations within the boundaries of Unit that serve other Unit(s) shall also be considered General Common Elements or Limited Common Elements, as the case may be. General Common Elements may be referred to herein and, on the Plat, as "General Common Element" or "GCE".

2.12 **Governing Documents.** A collective term referring to this Declaration, and any amendments or supplements thereto, the Bylaws, the Articles of Incorporation for the Association, the Design Guidelines, Community-Wide Standards, and the Rules and Regulations, as they may be amended.

2.13 **Limited Common Elements.** Those portions of the Common Elements as defined herein and described by Wyoming Statute § 34-20-103 for the exclusive use of one or more but fewer than all of the Units. Further, Limited Common Elements includes any items specifically shown as such on the Plat. Limited Common Elements may be referred to herein and/or on the Plat as "Limited Common Elements" or "LCE".

2.14 **Limited Common Elements—Commercial.** "Limited Common Elements – Commercial" means those Limited Common Elements for the exclusive use of Commercial Units, including all equipment, pipes, ducts, flues, chutes, conduits, wires and other utility installations or outlets, including HVAC systems, to the extent they serve only Commercial Units. Limited Common Elements – Commercial may also be referred to herein and/or on the Plat as "Limited Common Element – Commercial," "LCE-Commercial," or "LCE-C."

2.15 **Limited Common Elements—Residential.** "Limited Common Elements—Residential" means those Limited Common Elements for the exclusive use of all Residential Units including, but not limited to: (i) all internal corridors on the second and third floors of the Building, the Courtyard on the second floor of the Building, and Flex Space on the second floor of the Building; and (ii) all equipment, pipes, ducts, flues, chutes, conduits, wires and other utility installations or outlets, to the extent they serve only Residential Units. Limited Common Elements – Residential may also be referred to herein and on the Plat as "Limited Common Element – Residential," "LCE-Residential," or "LCE-R."

2.16 **Limited Common Elements—Parking.** Those Limited Common Elements for the exclusive use of a Unit for parking as designated herein and/or on the Plat and/or in one or more separately recorded instruments. Limited Common Elements-Parking may also be referred to herein and on the Plat as "Limited Common Element—Parking", "LCE-Parking", or "LCE-P".

2.17 **Limited Common Elements—Deck.** Those Limited Common Elements for the exclusive use of a Residential Unit for a deck as designated herein and/or as designated on the Plat and/or in one or more separately recorded instruments. Limited Common Elements-Deck may also be referred to herein and on the Plat as "Limited Common Elements-Deck", "LCE-Deck", or "LCE-D".

2.18 **Limited Common Elements—Storage.** Those Limited Common Elements for the exclusive use of a Unit or Association for storage as designated herein and/or on the Plat and/or in one or more separately recorded instruments. Limited Common Elements-Storage may also be referred to herein and on the Plat as "Limited Common Element—Storage", "LCE-Storage", or "LCE-S". The following items are prohibited from being stored within a Limited Common Elements-Storage: paint, highly flammable materials, food products, and any item that attracts vermin or produces an odor.

2.19 **Limited Common Expense.** A Common Expense that does not benefit all Units, such as those expenses incurred with respect to the Limited Common Elements.

2.20 **Member.** A Person subject to membership in the Association.

2.21 **Mortgage.** A mortgage, deed to secure debt, or any other form of security instrument affecting title to any Unit or all or any portion of the Property. "Mortgagee" shall refer to a beneficiary of a deed of trust or holder of a Mortgage.

2.22 **Occupant.** Any person or entity in possession of a Unit, including Unit Owners, lessees, guests, agents, employees and invitees of such person or entity.

2.23 **Owner.** One or more Persons or an entity who owns a Unit. The definition of "Owner" specifically excludes any party holding an interest merely as security for the performance of an obligation.

2.24 **Person.** A natural person, corporation, partnership, trustee, or any other legal entity.

2.25 **Plat or Condominium Plat.** Plat # 1450 recorded on March 28<sup>th</sup>, 2023 in the Office of the Teton County, Wyoming Clerk, consisting of a plat of the Property, showing a survey and legal description thereof, the location of the Building with respect to the boundaries of the Property, together with diagrammatic floor plans of the Building showing the boundaries of each Unit within the Building, including horizontal and vertical locations and dimensions of all boundaries of each Unit, Unit numbers identifying the Units and the General Common Elements and Limited Common Elements, together with such information as may be included therein in the discretion of the Declarant.

2.26 **Rules and Regulations.** The rules and regulations adopted by the Board pursuant to this Declaration.

2.27 **Residential Unit.** Residential Unit means Units 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313 and 314, each of which shall be occupied and used by Owners for residential and residential rental purposes only, or such other uses permitted by applicable zoning ordinances and not otherwise prohibited herein.

2.28 **Special Assessment.** Assessments levied in accordance with Paragraph 6.5.

2.29 **Unit or Condominium Unit.** Those certain individual air spaces as designated and delineated on the Plat. Each Unit shall consist of that part of a Building as bounded by the interior surfaces of the perimeter walls, floors, ceilings, windows and window frames, doors and door frames, and trim, as shown and numbered on the Condominium Plat. The Unit shall include all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of its finished surfaces. All other portions of the walls, floors or ceilings (including common walls to separate

Units) shall be a part of the Common Elements. In addition, each Unit shall include the following: (a) all spaces, nonbearing interior partitions, windows, exterior doors, door frames and all other fixtures and improvements within the boundaries of the Unit; (b) all outlets, lines and ducts of utility service lines, including but not limited to power, light, gas, hot and cold water, heating and waste disposal, within the boundaries of the Unit which exclusively serve the Unit; and (c) all heating, hot water and air conditioning apparatus exclusively serving the Unit. The interior surfaces of a perimeter window or door means such surfaces at the points at which they are located when such windows or doors are closed; the physical perimeter windows and doors themselves are part of the Common Elements as herein defined. For the avoidance of doubt, any equipment, pipes, ducts, flues, chutes, conduits, wires and other utility installations within the boundaries of Unit that serve other Unit(s) is not part of a "Unit" and shall be considered General Common Elements or Limited Common Elements, as the case may be.

### **Article III— Use and Conduct; Property Rights**

3.1 **Framework for Regulation.** The Governing Documents establish, as part of the general plan of development for the Property, a framework of affirmative and negative covenants, easements and restrictions that govern the Property. However, within that framework, the Board and the Members must have the ability to respond to unforeseen problems and changes in circumstances, conditions, needs, desires, trends, and technology that inevitably will affect the Project, its Owners and Occupants.

3.2 **Owners' Acknowledgment and Notice to Purchaser.** All Owners are given notice that use of their Unit may be limited by Rules and Regulations as they may be amended, expanded, and otherwise modified hereunder. Each Owner, by acceptance of a deed for their Unit, acknowledges that the use and enjoyment and marketability of his or her Unit can be affected by this Declaration and the other Governing Documents and that the Governing Documents may change from time to time. All purchasers are on notice that changes may have been adopted by the Association that are not recorded in the Public Records. Copies of the current Rules and Regulations or any other Governing Documents may be obtained from the Association, or if no Association has yet been formed, from the Declarant.

Furthermore, each Deed Restricted Unit is subject to Special Restrictions recorded against the Deed Restricted Unit, which, among other things, restricts the occupancy and use of each Deed Restricted Unit.

3.3 **Estate of Owner.** The Property is hereby divided into Units, each consisting of a separate interest in a Unit and an undivided interest in common in the Common Elements appurtenant to each Unit. Each such Unit shall have a percentage of ownership interest in the Common Elements for purposes of taxes, assessments and other charges under Wyoming Statute § 34-20-104(a) as set forth in **Exhibit A**. Such undivided interests in the Common Elements are appurtenant to the respective Units.

3.4 **Property and Units.** Each Owner shall be entitled to use, access and enjoy the Common Elements appurtenant to its Unit, and shall have the right to use any Limited Common Elements appurtenant to its specific Unit, as designated on the Plat and/or herein, or elsewhere in the Governing Documents.

3.5 **Use of Property and Units; General Common Elements Maintenance.**

(a) Each Owner shall have the right to paint, tile, carpet, or otherwise maintain, repair, replace and decorate the interior of their Unit. All modifications to the structure of a Unit, LCE-Decks and any other modification that would change or alter the physical structure of a Unit or the Building shall require the prior approval of the Board (or Declarant prior to Declarant Termination) as provided in Section 7.1. All structural modifications to a Unit shall be prepared and approved by an architect or

engineer licensed in the State of Wyoming. Any exterior displays or decorations on a Building or a Unit, with the exception of signs which are addressed separately herein, must be approved in writing by the Declarant. This Section shall not apply to the Declarant.

(b) Each Owner shall have a right to ingress and egress over, upon and across the General Common Elements necessary for access to its Unit and to the Limited Common Elements designated for use in connection with its Unit and shall have the right to the horizontal and lateral support of its Unit, and such rights shall be appurtenant to and pass with the title to each Unit. The rights granted in this section to the Owner shall also extend to an Owner's tenants, licensees, guests and invitees.

3.6 **Declarant's Power over the General Common Elements.** Prior to Declarant Termination, the Declarant shall have the following rights with regard to the General Common Elements :

- (a) the right to promulgate rules and regulations regarding use of the General Common Elements, including the right to impose penalties for the violation of such rules and regulations but no rule shall contravene this Declaration;
- (b) the right to grant easements within the General Common Elements;
- (c) the right to ingress and egress over, upon and across the General Common Elements, the right to store materials thereon and to make such other use thereof as may be reasonably necessary incident to complete development of the Project; and
- (d) the right to maintain, repair, replace and make changes to the General Common Elements for the benefit of the Owners.

3.7 **Unsignatiness; Refuse.** Owners must keep their Units and those Limited Common Elements which are designated for their use in a good, clean, safe and sanitary condition. Owners shall promptly notify the Declarant or Association of any need for maintenance, repair or replacement of the Common Elements, or any portion thereof. Refuse, garbage and trash shall be kept at all times in a covered container, and any such container shall be kept within an enclosed structure appropriately screened from view.

3.8 **Parking; Guest Parking; Storage.**

(a) Each Residential Unit is hereby assigned a parking space and storage unit as provided in Exhibit B, each of which shall be a Limited Common Element (LCE-Parking and LCE-Storage) appurtenant to the Unit indicated. Each Commercial Unit is hereby assigned a storage unit as provided in Exhibit B, which storage unit shall be a Limited Common Element (LCE-Storage) appurtenant to the Unit indicated. Exhibit B may be modified by a majority vote of the Board (or by Declarant prior to Declarant Termination) so long as such modifications do not materially adversely affect the rights of other Owners, and any such modifications shall be recorded in the Teton County Clerk records. The 14 parking spaces labeled "GCE" on the Plat may be utilized by all Units, including for guest parking, subject to any rules adopted by the Board or conditions of use included on Exhibit B. All vehicles utilizing parking spaces on the Property must fit within the designated parking space and not extend beyond its boundaries. The Board may establish rules for the use of the parking spaces.

(b) No boats, trailers, buses, campers, snowmobiles, ATVs, or inoperable or abandoned vehicles ("Prohibited Vehicles") shall be parked or stored in or upon the LCE-Parking or parking spaces designated as "GCE" for more than 72 hours. If the Board determines that an Owner or Occupant has violated this section, the Board shall deliver notice to the vehicle owner (if such owner can reasonably be ascertained) or place notice in a conspicuous place on the vehicle (if the owner cannot be ascertained),

and if the offending vehicle or piece of equipment is not removed within 48 hours, the Board shall have the right to cause the vehicle to be removed or stored, at the sole expense of the Owner of the vehicle or the Owner of the Unit if it is determined the Owner allowed such vehicle to remain in the parking space, all without liability on the part of the Board. An "abandoned or inoperable vehicle" shall mean any motorized vehicle that does not display a current valid motor vehicle license and registration tag or that does not have an operable propulsion system within the vehicle.

3.9 **Signs.** No signs whatsoever, including, but without limitation, commercial, political and similar, visible from neighboring Units, shall be erected or maintained upon any portion of the Building (including LCE-Decks), except: (1) Standardized unit number signs may be installed by Declarant outside the entrance of each Unit; (2) one "For Sale" sign of reasonable proportions; and (3) one commercial sign for each Commercial Unit that meets the standards of the Town of Jackson Land Development Regulations, as amended, and that are permitted pursuant to a valid permit from the Town of Jackson.

The Board or its designee shall have the right to enter a Unit and remove any sign in violation of this Section and such action shall not be deemed a trespass. The Board shall not be responsible for any damage done to a Unit, the Building, or the sign in removing the non-conforming sign, and all costs of removing and caring for the non-conforming sign as incurred by the Board shall be assessed against the applicable Unit owner. This Section shall not apply to Declarant.

3.10 **Nuisance.** No noxious or offensive activity shall be carried on upon the Property or in or upon any Unit, nor shall anything be done or placed thereon which may be or become a nuisance, or cause unreasonable embarrassment, disturbance or annoyance to other Owners or Occupants in their enjoyment of their Unit, or in their enjoyment of the General Common Elements. Without limiting the foregoing, no horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of the Property and Units, shall be placed or used upon any Unit.

3.11 **Firearms; Fireworks.** No discharge of firearms shall be permitted on any portion of the Property. No discharge of firecrackers and other fireworks shall be permitted on any portion of the Property; provided, however, the Board shall have no obligation to take action to prevent or stop such discharge.

3.12 **Storage of Firewood; Exterior Fires.** The cutting and storage of firewood and flammable materials by an Owner is prohibited on the Property. Exterior fires are prohibited on the Property, including charcoal grills, outdoor chimneys (or chimeneas), wood or similar cooking smokers, or fire pits. The burning of trash, organic matter or miscellaneous debris shall be prohibited on the Property. Propane-powered grills are allowed but must be kept under a grill cover when not in use.

3.13 **Restrictions Regarding Exteriors.** No changes, modifications or improvements may be made to the exterior of any Unit without the approval of the Board. The following items are prohibited from being attached, stored or erected in any manner by an Owner on the Common Elements: trash containers, decorative flags, banners, placards, pictures, screens, outside clothing lines or other outside clothes drying or airing facilities, string lighting, or any similar items. Bicycles or any other recreational devices (including kayaks, ski equipment or playground equipment) must be stored within a Unit or LCE-Storage. For each violation of this Section, the Association may assess a penalty of \$100.00 per violation in addition to the other remedies set forth in this Declaration after notice and a reasonable opportunity to cure.

3.14 **Satellite Dishes.** Unless approved in writing by the Declarant or Association, no exterior radio, television, microwave or other antenna or antenna dish or signal capture and distribution device shall be permitted outside any Unit, on the exterior of the Building and/or within the LCE-Deck. Declarant or the

Association may install one or more exterior radio, television, microwave or other antenna or antenna dish or signal capture and distribution device for the Building.

3.15 **Outdoor Lighting.** No additional outdoor lighting fixtures shall be allowed without Board approval and even then, shall not cause a nuisance to any adjacent Units. All interior lights shall be designed to avoid emission of glare or unreasonable brightness from any window, door, or other opening in the Building.

3.16 **Taxes.** All taxes, assessments, and other charges of the State of Wyoming, any political subdivision, special improvement district, or any other taxing or assessing authority, shall be assessed against, and collected on each Unit separately, not on the Property as a whole, and each Unit shall be carried on the tax records as a separate and distinct parcel.

3.17 **Mortgage.** Each Owner shall have the right to mortgage or otherwise encumber his Unit, however, no Owner shall attempt to or shall have the right to mortgage or otherwise encumber the Common Elements or any part thereof except the undivided interest appurtenant to its Unit. Any mortgage or other encumbrance of a Unit shall be subordinate to this Declaration, and in the event of foreclosure, the provisions of this Declaration shall be binding upon any Owner whose title is derived through the foreclosure, whether it be by private power of sale, judicial foreclosure or otherwise.

3.18 **Subdivision and Inseparability.** No Unit may be subdivided or partitioned into two or more Units. All rights appurtenant to Unit ownership are inseparable and pass with title to each Unit.

3.19 **No Partition.** The Common Elements are owned in common by all the Owners and no Owner may bring any action for partition thereof.

3.20 **Easement for Repair, Maintenance and Emergencies.** Some portions of the Common Elements are or may be located within the Units or may be conveniently accessible only through the Units. Declarant and the Association shall have the irrevocable right to access each Unit from time to time during reasonable hours and with prior notice to the Owner or Occupant, as may be necessary for the maintenance, repair, or replacement of any portion of the Common Elements located therein or accessible therefrom. The Declarant and Association also has the irrevocable right to access each Unit to make emergency repairs necessary to prevent damage to the Common Elements or to any Unit. The Association shall have a master key to all Units for access in accordance with the rights granted in this Section.

3.21 **Domestic Animals.** No more than 2 cats, dogs or other domestic animals which are normally kept and maintained indoors may be kept in a Unit without the approval of the Declarant. If any pets are caught or identified chasing or harassing wildlife or people, or causing a nuisance, the Declarant shall have the authority to penalize the owner of such animal not more than \$100.00 for a first offense, and \$200.00 for a second offense. The Declarant has the authority to impound the animal after a third offense and ban that animal from the Property, and the owner of such impounded animal shall be solely responsible for all impoundment costs and waives all recourse against Declarant.

3.22 **Mineral Rights.** The Association shall hold all mineral rights, if any, for the Property.



#### **Article IV - Membership and Voting Rights**

4.1 **Function of the Association.** The Association shall be the entity responsible for management, maintenance, operation and control of the homeowner's association created herein. The Association also shall be the primary entity responsible for enforcement of the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and the laws of the State of Wyoming.

4.2 **Membership.** Every Owner of a Unit, by virtue of their purchase of a Unit or the acceptance of a deed, therefore, shall be a Member of the Association. Membership shall be appurtenant to, and may not be separated from, Unit ownership. The respective voting percentages allocated to each Unit are set forth in **Exhibit A**. When more than one person or entity holds an interest in a Unit, all such persons or entities shall be Members; however, the vote for such a Unit shall be exercised collectively as those Members determine among themselves. In no event shall more than one vote be cast with respect to any Unit. The membership rights of an Owner that is not a natural person may be exercised by any officer, director, partner, or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association except where such privileges may be restricted by the Rules and Regulations.

4.3 **Voting.** The Association shall have one class of membership. The total number of votes that may be cast by all members of the Association equals the total number of Units and each Owner shall be entitled to vote according to the percentages shown on **Exhibit A** attached hereto. All votes of the Members shall take place at an annual or special meeting of the Members or via written ballot. A Member may vote by proxy so long as notice of such proxy designation has been received by the Association. Voting rights as to each Unit shall vest upon transfer of a deed of conveyance of a Unit to an Owner.

4.4. **Notice of Meetings.** All Members shall be sent notice of meetings (except emergency meetings) at least 10 days in advance of the meeting.

4.5 **Quorum; Member Action.** Unless otherwise set forth herein, all Member action taken under this Declaration shall be taken in the following manner: a quorum of the Members shall be present at a meeting of the Members and/or in the case of a ballot vote, a quorum of the Members shall have timely submitted a completed ballot. A quorum of the Members means the presence of (or submission of ballots by) Members holding at least 60% of the voting rights in the Association. If the required quorum is not present at a meeting, another meeting may be called and the required quorum at the subsequent meeting shall be reduced to Members holding at least 30% of the voting rights in the Association (there shall be no reduced quorum requirement for ballot initiatives). If a quorum is obtained, the Members may take action by a vote of the Members holding a majority of the voting percentages in the quorum.

4.6 **Suspension of the Right to Vote.** If any Owner or Occupant violates any of the provisions of this Declaration, the Bylaws or the Rules and Regulations of the Association, the rights and privileges of such Owner, including but not limited to the right to vote, may be suspended by the Board after notice and opportunity to be heard at a meeting of the Board.

## **Article V-Association Management**

5.1 **Board of Directors.** The affairs of the Association shall be managed by a Board of Directors. The Board shall be comprised of 3 Owners. Prior to Declarant Termination, Declarant shall control 2 of the 3 Director seats on the Board including the power of appointment. After the Declarant Termination, the Board Members shall serve for staggered 3-year terms.

(a) The Members shall have the right to elect the Directors at any annual meeting of the Association subject to the Declarant's powers of appointment.

(b) A Director who sells his Unit shall be automatically removed from the Board. In such a case, the Members shall have the right to elect a replacement Director at a special meeting of the Association.

(c) Board Members may be removed by the affirmative vote of 60% of the Members. A Board Member may not participate in such vote and the voting percentages shall be adjusted to account for the suspension of such vote.

5.2 **Power of the Board.** The Board shall have the powers enumerated in this Declaration, the Bylaws, and those otherwise provided to boards of directors for nonprofit corporations by the laws of the State of Wyoming.

5.3 **Responsibilities of the Board.** The Board shall maintain and operate the Common Elements for the benefit of the Owners and administer all aspects of the business of the Association. The Board may hire or otherwise engage a management company to manage its affairs or any part thereof, as it deems advisable for the operation of the Property.

## **Article VI--Assessments**

6.1 **Budget.** At least 30 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses and reserves for the coming year, including any contributions to be made to a reserve fund. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount to be generated through the levy of Base Assessments, Special Assessments and Individual Assessments. Assessments may include expenses related to costs of management; taxes until the Units are separately assessed; premiums for all insurance which the Association is required or permitted to maintain pursuant hereto; landscaping and care of grounds; common lighting and heating; water charges; trash collection; sewer service charges, repairs and maintenance; wages for Association employees; legal and accounting fees; any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus and/or sinking funds; and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under or by reason of this Declaration.

Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time the Association may retroactively assess any shortfalls in collections.

6.2 **Creation of the Lien and Personal Obligation of Assessments.** Each Owner, by acceptance of a deed, whether or not it shall be stated in such deed, is deemed party to this Declaration and agrees to pay to the Association: (1) Base Assessments, (2) Special Assessments for capital improvements, and (3) Individual Assessments for damages caused by an Owner or Occupant (collectively "Assessments"). All Assessments together with interest, costs, and reasonable attorneys' fees as set forth below ("Costs"), shall be a charge and a continuing lien upon the Unit assessed to the extent permitted by law. Assessments and Costs shall also be the personal obligation of the Owner. The personal obligation for delinquent Assessments and Costs shall not pass to successors in title unless expressly assumed in writing by the successor; however, the Assessment and Costs amounts shall attach to the Unit regardless of whether or not a lien is filed with the County Clerk.

6.3 **Purpose of Assessments.** The Assessments shall be used exclusively to promote the health, safety, and welfare of the residents in the Property and for the improvement and maintenance of the Common Elements.

6.4 **Base Assessment.** The Base Assessment shall be based upon advanced estimates of the costs and expenses arising out of or in connection with the Association's (i) administration and management of the Property, (ii) repair, maintenance and operation of the Common Elements, (iii) premiums for insurance policies required or permitted to be maintained under this Declaration, (iv) legal and accounting fees, (v) creation and maintenance of a reserve fund for periodic maintenance, repair and replacement of the Common Elements, and (vi) activities authorized by the Board. Base Assessments shall be allocated amongst the Owners in accordance with the Assessment Percentage as set forth in **Exhibit A**.

Notwithstanding the foregoing, the expenses of the General Common Elements and the Project shall be charged to the Owners as follows:

- (a) **Commercial Units.** All construction, maintenance, repair, replacement and furnishing of the Limited Common Elements-Commercial and all common utilities and services rendered to the Commercial Units and to Limited Common Elements pertaining to such Commercial Units to the extent the same can be reasonably allocated to the Commercial Units, shall be apportioned to each Commercial Unit in proportion to the interest of the particular Commercial Unit in the LCE-C as set forth in **Exhibit A**.
- (b) **Residential Units.** All construction, maintenance, repair, replacement and furnishing of the Limited Common Elements-Residential and all common utilities and services rendered to the Residential Units and to Limited Common Elements pertaining to such Residential Units to the extent the same can be reasonably allocated to the Residential Units, shall be apportioned to each Residential Unit in proportion to the interest of the particular Residential Unit in the LCE-R as set forth in **Exhibit A**.
- (c) **All Units.** All general/administrative expenses, including management fees, supplies and office services and legal and accounting expenses and all common expenses other than those referred to in paragraphs (a) and (b) above or not otherwise provided for, including the costs of maintaining the General Common Elements and all common utilities and services which cannot be reasonably allocated to either Residential Units or Commercial Units, shall be apportioned to the Owner of each Unit in proportion to the interest of the particular Unit in the General Common Elements as set forth in **Exhibit A**.

If any Owner or Owners require the Association to incur any expense in excess of the average cost of such expense for Commercial Units, Residential Units or all Units, as applicable, then any such expense in excess of the average cost shall be allocated to such Owner or Owners and the average cost shall be apportioned as provided herein. For example, if the Owner of a Commercial Unit utilizes it for a purpose requiring higher uses of water and sewer, then that Owner would be required to pay any cost in excess of the average cost of water and sewer for all Commercial Units.

The Board may revise the budget and adjust the Base Assessment from time to time during the year. However, any increase in the amount of the Base Assessment shall be limited to a 20% increase from the previous year.

6.5 **Special Assessments.** The Board may levy Special Assessments to defray, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement within the Common Elements, provided that such Special Assessment shall be approved by Owners holding at least 30% of the voting power in the Association. If the Special Assessments concern only Residential Units, the 30% threshold applies only to Owners of Residential Units. If Special Assessments concern only Commercial Units, the 30% threshold applies only to Commercial Units. Special Assessments may be amortized for up to a twelve-year period, provided that the capital improvement work commences within one year of the initial vote approving the Special Assessments. Upon the sale or transfer of any Unit, that Unit's pro-rata share of the outstanding balance of a Special Assessment shall be paid in full at closing or transfer.

6.6 **Individual Assessments.** The Board may levy Individual Assessments against one or more specific Owners for expenses related to that Owner or those Owners' Units. Individual Assessments may also be levied to remedy any violation of this Declaration, subject to prior notice and at least a 30-day opportunity to cure.

6.7 **Other Assessments.** The Board may levy Assessments against one or more Unit Owners for costs associated with the repair, maintenance, and replacement of the Limited Common Elements attributable to those Owners.

6.8. **Capital Reserve Account.** The Board shall prepare and review at least once every 5 years a reserve budget for the Common Elements and other assets of the Association. The budget shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board may include in the Common Expense budget, as appropriate, a capital contribution to fund reserves in an amount sufficient to meet the projected need with respect to both amount and timing by annual contributions over the budget period.

6.9 **Rate of Assessment.** Base and Special Assessments will be allocated among the Owners in accordance with their Unit's Assessment percentage as set forth in **Exhibit A**. Assessments may be collected on a monthly, quarterly, or annual basis.

6.10 **Establishment of Assessment Due Dates; Estoppel Certificate.** No Assessment shall be due until at least 30 days after approval. Notice of the Assessments shall be sent to every Owner. The due dates shall be established by the Board. The Association shall, upon demand, and for a nominal charge, furnish

an estoppel certificate signed by an officer of the Association setting forth whether the Assessments on a specified Unit have been paid.

6.11 **Effect of Nonpayment of Assessments; Remedies of the Association.** Any Assessment or fine not paid within 30 days after the due date shall bear interest from the due date at the rate of 18% per annum. Additionally, if an Owner fails to pay an Assessment within 60 days after it is due, the Board shall send timely written notice of such delinquency to the delinquent Owner and the Owner's Mortgagee and guarantor of the Owner's mortgage, if any, at the address provided in available public records, and, in its sole discretion, may choose to sue an Owner to recover the amount owed or may foreclose a lien against the Unit to recover the amount owed. The Board's failure or delay in sending the delinquency notice described in this section shall in no way act as a waiver to the Board's available remedies, nor shall it waive, extend or modify an Owner's obligation to pay required Assessments. Moreover, in sending this delinquency notice, the Board is entitled to rely on public information in the Teton County, Wyoming Clerk's records to determine the appropriate mortgagee and guarantor, and contact information for the same. No Owner may waive or otherwise escape liability for Assessments by non-use of the Common Elements or abandonment of his/her Unit.

6.12 **Subordination of the Lien to Mortgages.** Liens of Assessment and Costs are subordinate to the lien of any mortgage recorded prior to the lien. The sale or transfer of any Unit shall not affect the assessment lien unless it is extinguished in foreclosure.

6.13 **Foreclosure.** In the event of foreclosure by a mortgagee of a mortgage recorded prior to an Association held lien, the purchaser at a foreclosure sale shall be liable for Assessments accrued from the date of the foreclosure sale.

#### **Article VII—Improvements; Maintenance Responsibilities**

7.1 **General Restrictions on Improvements to Units; Enforcement.** In no event may the Owner of a Unit alter, change, modify, improve, or add to any structural element of the Unit, the Project, the Building or any Common Element, or make any modifications to the portions of the Unit visible from outside, without the express written approval of the Declarant (prior to Declarant Termination) or Board. The Declarant or Board, as the case may be, may deny Owner's request, approve the request, or approve the request with conditions. Any structural modifications requested by an Owner shall be prepared by an architect or engineer licensed in the State of Wyoming. The Declarant or Board, as the case may be, shall have 30 days from the date all materials are submitted, including those materials requested by the Board or Declarant for its review, to approve, deny or approve an Owner's request with conditions. If the Board or Declarant fails to act within 30 days, the Owner's request is deemed denied and the Owner will be required to resubmit its request to the Declarant or Board. The Declarant or Board may adopt rules, regulations and/or applications for the review process described herein, which rules, regulations and applications shall be made available to all Owners by the Board upon request. The Board or Declarant may also adopt reasonable fees for its review of any applications submitted by Owners, and may contract with outside professionals, including without limitation engineers or architects, to assist in reviewing Owner requests. Any expenses incurred by the Board in contracting with an outside professional to review an Owner's request shall be paid for by the Owner making the request.

Any structure, improvement, or landscaping placed or made in violation of this Section shall be deemed to be nonconforming. Upon written request from the Declarant (prior to Declarant Termination)

or the Board, Owners shall, at their own cost and expense, remove such structure or improvement and restore the property to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Declarant, the Association, or either of their designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with interest at the maximum rate then allowed by law, may be assessed against the Owner of the Unit at which the violation was present, and collected as an Individual Assessment. The Association and the Declarant shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Section.

## **7.2 Association's Maintenance Responsibility.**

(a) The Association shall provide maintenance of the Common Elements, including but not limited to exterior maintenance, interior maintenance, repair and replacement for the Building and maintenance of all landscaping, walks, and other exterior or interior improvements on the Property which are not part of a Unit. The Association shall also be responsible for the repair, maintenance and replacement of all Common Elements, except as otherwise specifically provided herein. The Association shall undertake snow removal from the parking and travel surfaces. However, if it is determined by the Board that an Owner, through its act or omission damaged an element for which the Association would normally be responsible, that Owner shall be assessed for the cost of repair, maintenance and replacement arising from their act or omission through an Individual Assessment. The Declarant and the Association shall have all easements and rights, including rights of ingress and egress, necessary to carry out its responsibilities hereunder.

(b) The Association shall maintain, repair and replace all utility services or other types of elements and easements that are utilized in common, such as, but not limited to, sewer, stormwater or water lines, up to the connection point at the boundary of each Unit, unless otherwise explicitly provided herein, excluding therefrom any public infrastructure or utilities. The Association shall be responsible for maintaining the sand/oil separator within the Property.

(c) The Association, acting through its Board, shall be obligated to maintain landscaping on the Property.

(d) The costs associated with the maintenance, repair and replacement of those items that the Association is obligated to maintain, repair and replace in the Common Elements shall be a Common Expense or a Limited Common Expense, as the case may be; provided, if the Board reasonably determines that the expenses associated with the maintenance, repair or replacement is necessitated by the act, negligence or willful misconduct of one or more Owners or their guests or Occupants, then the Board may assess the full amount of such maintenance, repair or replacement against such Owner(s) and their Units as a Specific Assessment or Individual Assessment.

(e) No Owner may repair or maintain the Common Elements without the express written permission of the Board.

**7.3 Owner Responsibility.** Each Owner shall maintain, repair, and replace, at such Owner's expense, all portions of the Owner's Unit, including internal installations such as appliances, heating, plumbing, electrical and air conditions fixture, and any other utility service facilities located within the boundaries

of their Unit, so long as that utility serves only their Unit. The forgoing obligations include, without limitation, the responsibility for all breakage, damage, malfunctions and ordinary wear and tear of such appliances and fixtures. In the event a utility is within a Unit but serves more than one Unit, the Association shall be responsible for its repair and maintenance and such costs shall be assessed against the Units benefiting from such utility, unless the damage was caused by the negligence or willful misconduct of an Owner or Owners and in such case, those Owners shall be responsible for the costs of repair or replacement. Each Owner shall be responsible for the removal of all snow, leaves and debris from the LCE-Deck appurtenant to such Owner's Unit. If any Owner fails to maintain, repair and/or replace the items that it is obligated to maintain, repair and replace, the Declarant and/or the Association shall be authorized, after providing fifteen (15) days' notice to the Owner, to enter upon the Unit or the Limited Common Element to cure such failure and to assess all costs incurred against the Unit and the Owner thereof as an Individual Assessment. If an Owner's failure to repair or maintain an item or area for which it is responsible causes damage to any other Unit, the Common Elements, Building or Property, the Owner shall also be responsible all costs associated with repairing the damage.

### **Article VIII—Insurance; Substantial Loss; Condemnation**

8.1 **Required Coverages.** The Association shall obtain and at all times maintain in full force and effect the following insurance policies provided by companies authorized to do business in Wyoming. Such insurance shall be covered in a form or forms naming the Association as the insured as trustee for the Owners and which policy or policies shall provide a standard loss payable clause providing for payment of insurance proceeds to the Association as trustee for the Owners and for the respective first mortgages with such proceeds to be used in accordance with this Declaration. Any Owner may request a copy of such policy.

- (a) **Property Casualty Insurance.** A policy covering damage or destruction of the Property and Building. Such insurance shall be in accordance with the coverage customarily maintained by other condominium properties similar in construction, design and use, shall include fire and extended coverage, and shall be in an amount equal to 100% of the replacement cost of the Property and Buildings, exclusive of land, foundation and other items normally excluded from coverage.
- (b) **General Liability Insurance.** A policy of broad form comprehensive general liability insurance in such amounts deemed appropriate by the Board.
- (c) **Additional Coverage.** Such other policies of insurance that the Board deems appropriate from time to time.

All policies shall provide for a waiver of subrogation by the insurer as to claims against the Association, the Board, employees and agents and against each Owner then their employees, agents and guests and shall provide that the insurance policy shall not be brought into contribution with insurance maintained by any Owner or mortgagee. The Association shall timely notify Owners of any lapse, cancellation or material modification of any insurance policy maintained by the Association for the Property. Each Owner whose Unit is encumbered by a mortgage shall timely provide a copy of this notice to its mortgagee and any guarantor of the mortgage encumbering its Unit.

The Association shall receive the proceeds of any casualty insurance maintained under this article. The Association shall apportion the proceeds to the portion of the Building which have been damaged and shall determine the amount of the proceeds attributable to damage to the Common Elements. The

Association shall timely provide notice of any casualty loss against the Property to each Owner. Each Owner whose Unit is encumbered by a mortgage shall timely provide a copy of this notice to its mortgagee and any guarantor of the mortgage encumbering its Unit.

8.2 **Owner's Individual Insurance.** Each Owner shall obtain and maintain at all time during their ownership of a Unit, casualty insurance coverage for such Owner's Unit in an amount not less than 100% of the cost to replace the Unit, to the extent not covered by the Association's insurance. The premium and deductible costs associated with such Owner's individual insurance shall be paid by the Owner. All insurance policies on an Owner's Unit shall waive the insurance company's right of subrogation against the Association, the other Owners, and the Occupants. Each Owner shall provide the Board with a declarations page of such insurance policy upon demand.

8.3 **Actions Affecting Cost and Coverage.** No Owner or Occupant shall permit anything to be done or kept in such Owner or Occupant's Unit or in the Common Elements that would result in an increase of the cost or the cancellation of insurance on any Unit or any part of the Property or Building.

8.4 **Restoring Damaged Improvements.** In the event of damage to or destruction of property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the Property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes applicable to the building codes.

Damaged improvements on the Property shall be repaired or reconstructed unless the Board, using reasonable judgment and in reliance upon professional estimates and advice, determines either that i) such full repair and/or restoration is physically impossible, ii) more than 60% of the Property has been damaged or destroyed, or iii) available insurance proceeds are less than eighty percent (80%) of the cost of such repair and/or restoration, and at least 80% of the Owners of damaged or destroyed Units and at least 51% of said Owners' mortgagees decide, within 60 days after the determinations set forth in i), ii) or iii) above have been made, not to repair or reconstruct. Mortgagee approval of reconstruction or repair shall be deemed granted if a mortgagee fails to respond to any written proposal for reconstruction or repair within 60 days of receipt so long as timely written notice of the amendment proposal is provided to mortgagee as described in Section 9.12 (Notice to Mortgagees).

If a decision is made not to restore the damaged improvements, then the insurance proceeds shall be paid to the Owners (first to Mortgagees and other lien holders in the order of priority of their mortgages and other liens and the balance remaining to each respective Owner) as their interests are outlined in **Exhibit A** and the insurance proceeds available. All mortgages, liens and other charges against the Units shall be paid out of the insurance proceeds before any proceeds are released to an Owner(s). Each Owner and each Mortgagee shall be bound by the apportionment of damage and of the insurance proceeds made by the Association under this article.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of its Members or the Owners of Units, as appropriate, and placed in a capital improvements account.



If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 8.1.

8.5 **Condemnation.** In the event of a condemnation (partial or whole) by any governmental entity, the condemnation award shall be apportioned in the same manner as an insurance award. The Association shall timely provide notice of any condemnation proceeding against any part of the Property to each Owner. If an Owner's Unit is encumbered by a mortgage, the Association shall timely provide a copy of the condemnation proceeding notice to its mortgagee and any guarantor of the mortgage encumbering its Unit.

8.6 **Termination.** Notwithstanding any other provisions herein and except as provided by statute, in case of condemnation, unless at least 80% of the Owners of the Units have given their prior written approval and unless the additional approval of mortgagees who represent at least 51% of the votes of the Units that are subject to mortgages of record at such time have given their prior written approval, the Association may not, by act or omission, seek to abandon or terminate the Project.

#### **Article IX – General Provisions**

9.1 **Bylaws.** The Board shall have the right to adopt Bylaws to govern affairs of the Association as a corporation. Nothing in the Bylaws may contravene the terms of this Declaration.

9.2 **Rules and Regulations.** The Board may adopt Rules and Regulations governing the use of the Property. The Rules and Regulations may also provide for the imposition of fines for violations of the Governing Instruments but may not contravene the terms of this Declaration.

9.3 **Violations, Enforcement and Costs.** The Board or any Owner may take judicial action against any Owner to enforce compliance with this Declaration, the Bylaws and any promulgated Rules and Regulations or to obtain damages for noncompliance therewith. The prevailing party in such action shall be entitled to recover its incurred costs, including reasonable attorneys' fees.

9.4 **Indemnification.** Members of the Board of Directors shall have no individual liability. The Association shall indemnify the officers and Board of Directors of the Association, their agents, successors and assigns, from all claims, suits, action, or damages arising from any personal injury, loss of life and/or damage to property sustained on or about the Property or arising out of the enforcement of this Declaration. The indemnification is valid only if the officer or director in question acted in good faith and did not violate their mandated duties.

9.5 **Notification of Transfer of Ownership.** Within five business days of the transfer of title of any Unit, the transferring Owner shall notify the Board in writing. The Notice shall provide (i) the name of the transferee and transferor, (ii) the Unit transferred, (iii) the transferee's contact information, and (iv) the date of the transfer.

9.6 **Joint and Several Liability.** In the case of joint ownership of a Unit, each of the Owners shall be jointly and severally liable for the obligations imposed by this Declaration.

9.7 **Approvals and Variances.** The Board is authorized to grant variances from the terms of this Declaration in cases of special circumstances or practical difficulties not the fault of an Owner, or unnecessary hardship not caused by an Owner; provided, however, that no such variance shall have a material adverse effect on any other Units and any such variance shall be in accordance with the purposes and intent of this Declaration and all such variances shall be the smallest deviation from the provisions of this Declaration to achieve the desired effect sought by the variance. The granting of one variance does not obligate the Board to grant a subsequent variance.

9.8 **Severability.** Invalidation of any portion of this Declaration by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

9.9 **Headings.** Article and Section headings contained herein are for informational purposes only and shall not control or affect the meaning or construction of any of the provisions hereof.

9.10 **Amendment.** This Declaration may be amended unilaterally and at any time by Declarant prior to Declarant Termination. After Declarant Termination, this Declaration may be amended by an instrument signed and acknowledged by Owners representing not less than 75% of the voting percentage in the Association, unless a lower threshold is explicitly provided herein. If any amendment will have a material adverse impact on the interests of mortgagees who hold mortgages on any Unit(s) within the Property, such amendment must also be approved by at least 51% of the mortgagees who hold mortgages on impacted Unit(s) within the Property. Mortgagee approval shall be deemed granted if a mortgagee fails to respond to any written proposal for an amendment within 60 days of receipt if notice of the amendment proposal is provided to mortgagee as described in Section 9.12 (Notice to Mortgagees). Any amendment to this Declaration must be recorded with the Teton County, Wyoming Clerk.

9.11 **Governing Law.** This Declaration shall be governed by and construed in accordance with the laws of the State of Wyoming. Venue for any lawsuit brought under this Declaration shall lie exclusively in the 9<sup>th</sup> Judicial District, Teton County, Wyoming.

9.12. **Notice to Mortgagees.** For any notice required to be provided to a mortgagee or guarantor of a mortgage on any Unit, notice shall be deemed sufficient if timely sent by certified or registered mail, with a return receipt requested at the address provided in a recorded mortgage instrument, or at any other address provided to the Association or an Owner in writing by mortgagee or guarantor for notice purposes.

9.13. **Rights of Mortgagees and Guarantors.** Within at least 30 days of the Association obtaining actual knowledge of the following, the Association shall send written notification to all Mortgagees and guarantors of a mortgage of record of the following events:

- (a) Any condemnation or casualty loss that affects a material portion of the Property or the Unit secured by the mortgage;
- (b) Any 60-day delinquency in the payment of assessments or charges owed by the Owner of a Unit on which such Mortgagee or guarantor of a mortgage holds a mortgage;
- (c) A lapse, cancellation or material modification of any insurance policy maintained by the Association; and
- (d) Any proposed action that requires the consent of a specified percentage of Mortgagees.

### Article X-Declarant Reserved Rights

10.1 The following rights are hereby reserved for the benefit of Declarant until Declarant Termination: (i) to complete the improvements indicated on the Plat and the design and construction documents for the Property; (ii) to have an easement for access over, under and through the Common Elements, and to use and grant easements through the Common Elements to Declarant, any Owner, neighboring properties, utility companies, or others persons; (iii) to delay the filing of the Articles for the Association, creation of Bylaws and Rules and Regulations, or to delay the commencement of Association meetings or to delay implementation of Association assessments as may be required herein or in the Bylaws; (iv) to alter, amend, expand, retract, eliminate, vacate or otherwise change the Common Elements, or any portion thereof, as necessary to enhance the value or purpose of the Property or to exercise Declarant's reserved rights hereunder, including without limitation the right to eliminate walls, roofs, overhangs, conduit, pipes and the like deemed to be Common Elements; (v) to vacate and replat the Plat, or portions thereof, from time to time, to conform the same to the actual location of any of the constructed improvements and to establish, vacate and relocate utility easements, access easements, and on-site parking areas, and as necessary to exercise Declarant's reserved rights to change the Common Elements or to annex additional property; (vi) to renovate, redesign, reassign, combine or make any changes to the Common Elements of the Property so long as any such changes do not diminish the overall square footage of all of the Common Elements by more than fifteen percent (15%); (vii) to annex additional property and Units to the Condominium Plat, whether such property is owned by the Declarant or not, and to impose additional easements and covenants on such additional property; (viii) to amend the percentage of ownership in the common elements and voting percentages of the Owners consistent with such annexation of additional property and Units to the Condominium, so long as such percentage of ownership is equitable; (ix) to grant in connection with such annexation temporary construction easements as necessary to accommodate construction of or on any annexed or neighboring property and to grant in connection with such annexation permanent easements as necessary for the orderly annexation of the property, including without limitation easements for utility lines and data transmission; and (x) to submit the Condominium to a master association and to merge or consolidate like-kind associations.

For purposes of annexing additional property into the condominium regime established by this Declaration and for purposes of making changes to the Common Elements for the benefit of some or all of the Owners, all of the Owners hereby, and by acceptance of deed for a Unit hereafter, irrevocably appoint the Declarant their attorney-in-fact for purposes of amending the percentages of ownership in the Common Elements, amending or supplementing the Declaration and all other Governing Documents, and vacating the Plat or portions thereof and filing additional Plat maps applicable to the Property. Such appointment of Declarant as the attorney-in-fact of each Owner shall remain effective and valid until Declarant Termination and each Owner, by acceptance of a deed for such Owner's Unit shall be deemed to consent to and ratify such appointment and as necessary to appoint Declarant as such Owner's attorney-in-fact.

IN WITNESS WHEREOF, the undersigned Declarant has executed this instrument as of the date first above written.

Mercill Partners LLC, a Wyoming limited liability company

By: \_\_\_\_\_

Name: Tyler Davis

Title: Manager

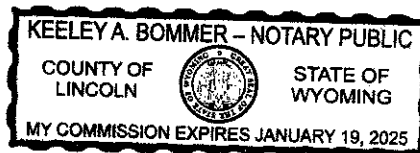
STATE OF Wyoming )

COUNTY OF Teton ) ss

On this 22nd day of March, 2023, before me, the undersigned Notary Public, personally appeared Tyler Davis for Mercill Partners LLC, a Wyoming limited liability company, and known to me, or proven by satisfactory evidence, to be the Manager of the company that executed the foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of the company, by authority of Statute, its articles of organization or its operating agreement, for the uses and purposes therein mentioned, and on oath stated that such person is authorized to execute said instrument on behalf of the limited liability company.

WITNESS my hand and official seal.

Keeley A. Bommer  
Notary Public  
My commission expires: 1/19/2025



# Exhibit A

Unit Number	Ownership % of Common Elements	sq ft	Unit Number	Ownership % of Limited Common Element-Residential	sq ft	Unit Number	Ownership % of Limited Common Element-Commercial	sq ft
Residential			Residential			Commercial		
209	1.83%	502	209	2.44%	502	101	16.80%	1149
210	1.83%	502	210	2.44%	502	102	32.99%	2257
211	1.84%	503	211	2.45%	503	103	25.61%	1752
212	1.82%	498	212	2.42%	498	104	24.60%	1683
207	1.85%	507	207	2.47%	507			
206	1.83%	501	206	2.44%	501	Total	100.00%	6841
303	1.80%	492	303	2.39%	492			
307	1.83%	501	307	2.44%	501			
205	1.82%	498	205	2.42%	498			
306	1.82%	498	306	2.42%	498			
302	1.80%	493	302	2.40%	493			
304	1.79%	491	304	2.39%	491			
213	2.30%	630	213	3.06%	630			
214	2.47%	678	214	3.30%	678			
308	2.63%	721	308	3.51%	721			
208	2.62%	718	208	3.49%	718			
201	2.69%	737	201	3.58%	737			
314	2.69%	737	314	3.58%	737			
216	2.69%	736	216	3.58%	736			
312	2.87%	787	312	3.83%	787			
310	2.84%	778	310	3.78%	778			
311	2.85%	781	311	3.80%	781			
309	2.89%	792	309	3.85%	792			
203	2.92%	799	203	3.89%	799			
202	3.03%	831	202	4.04%	831			
204	3.06%	838	204	4.08%	838			
305	3.19%	875	305	4.26%	875			
301	3.42%	937	301	4.56%	937			
215	3.70%	1014	215	4.93%	1014			
313	4.33%	1187	313	5.77%	1187			
Commercial								
101	4.19%	1149						
102	8.24%	2257						
103	6.39%	1752						
104	6.14%	1683						
Total	100.00%	27403	Total	100.00%	20562			

**Exhibit B**  
**Parking and Storage Space Assignments**  
**[attached]**

### Parking Exhibit

**FIRST FLOOR**

**BASEMENT FLOOR**

NOTE:  
Parking spaces marked with \* shall not be used for residential parking between 8:00am-6:00pm Monday through Friday.

1. *Journal of the American Medical Association*, 1997; 277: 1033-1038.

BASEMENT FLOOR

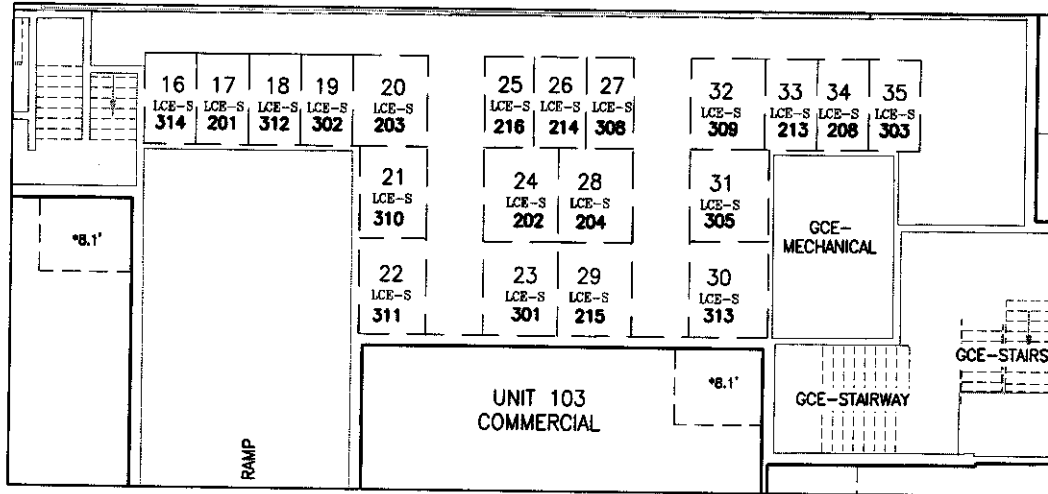
NOTE:

Parking spaces marked with \* shall not be used for residential parking between 8:00am-6:00pm Monday through Friday.

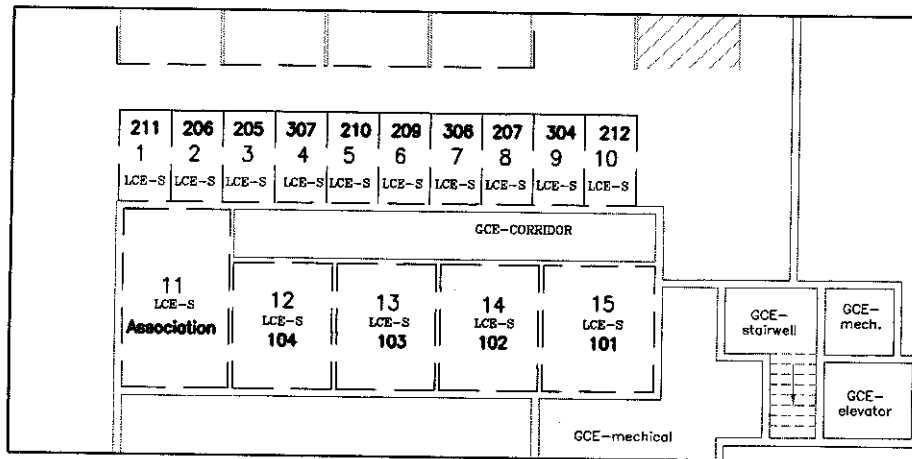
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DRAWING NO	DRAWING TITLE	DATE	2/24/2003
EXHIBIT 6	MERCILL AVE. CONDOMINIUMS	ENGINEERED	
SHEET NO	PARKING EXHIBIT	DRAWN	SK
22-336		CHECKED	
		APPROVED	

## Storage Spaces



**FIRST FLOOR**



**BASEMENT FLOOR**

DRAWING NO	DRAWING TITLE	<div style="font-size: 2em; font-weight: bold; margin: 0;">NELSON</div> <div style="font-size: 1.5em; font-weight: bold; margin: 0;">ENGINEERING</div> <div style="font-size: 0.8em; margin: 0;">P.O. BOX 1599, JACKSON WYOMING (307) 733-2087</div>	DATE	3/20/23
EXHIBIT 4	MERCILL AVE. CONDOMINIUMS		ENGINEERED	
JOB NO	STORAGE EXHIBIT		DRAWN	SK
22-336	EXHIBIT		CHECKED	
			APPROVED	LR