

WHEN RECORDED, RETURN TO:

PERKINS COIE LLP
2901 N. Central Ave.
Suite 2000
Phoenix, Arizona 85012
Attention: Jennifer Understahl

**DECLARATION OF EASEMENTS,
COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS (the “**Declaration**”) is made and entered into this ___ day of _____, 20__, by GLOBE LAND INVESTORS, LLC, a Delaware limited liability company (“**Declarant**”).

RECITALS

A. Declarant, Globe Corporation, an Illinois corporation (“**Globe**”), and the City of Goodyear, Arizona, an Arizona municipal corporation (the “**City**”) are parties to that certain Development Agreement (the “**Development Agreement**”) dated as of August 19, 2019 and recorded on August 23, 2019 as Instrument No. 2019-0652583 in the Official Records of the Maricopa County, Arizona Recorder.

B. Declarant is the owner of that certain real property situated in the City of Goodyear, Maricopa County, Arizona, more particularly described on **Exhibit A** attached hereto and incorporated herein by this reference (the “**Property**”), located on the Northwest corner of McDowell Road and 150th Drive and generally shown on the conceptual site plan attached hereto as **Exhibit B**, as may be amended from time by Declarant (the “**Site Plan**”).

C. Pursuant to the Development Agreement, Declarant has agreed to convey to the City that portion of the Property described on **Exhibit C** attached hereto (the “**City Parcel**”).

D. Pursuant to **Section 14.26** of the Development Agreement, the City and Declarant have agreed to enter into a recorded reciprocal easement agreement (the “**REA**”) to govern the rights of the parties with respect to the Property and to address matters such as joint use rights; access, utility, temporary construction and other easements; maintenance of landscaping and other matters.

E. In order to accomplish the purposes of the REA as set forth in the Development Agreement, Declarant and the City desire to execute and cause to be recorded this Declaration to create certain easements and establish certain covenants, conditions and restrictions on and for the mutual benefit of the Parcels within the Property and the present and future Owners thereof, on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, Declarant declares as follows:

AGREEMENTS

1. **Definitions.** For purposes hereof:

1.1 The term “**Adjacent Parcel**” shall have the meaning set forth in **Section 2.6** of this Declaration.

1.2 The term “**Alteration**” shall have the meaning set forth in **Section 4.5** of this Declaration.

1.3 The term “**Annual Assessment**” shall mean the assessments levied against each Parcel and its Owner pursuant to **Section 8** below.

1.4 The term “**Approved Preliminary Plans**” shall have the meaning set forth in **Section 4.4** of this Declaration.

1.5 The term “**Areas of Declarant Responsibility**” shall mean those areas designated as such on **Exhibit D** attached hereto, as amended by Declarant from time to time; provided that any amendment to **Exhibit D** other than a minor amendment shall be consistent with this Declaration, as amended from time to time. In addition, after a Parcel containing hardscape designated on **Exhibit D** as an Area of Declarant Responsibility is conveyed or ground leased to a third party not affiliated with Globe (each, a “**Third-Party Owner**”), the Owner or ground-lessee of such Parcel shall maintain such hardscape at its sole cost in accordance with this Declaration whether or not **Exhibit D** is amended to reflect same. Further, Declarant has the right, at its option, to require any Third-Party Owner(s) to maintain any landscaping areas located on such Owner’s Parcel at such Owner’s sole cost in accordance with this Declaration and in accordance with such additional requirements, restrictions and standards as Declarant may promulgate, in its sole discretion; provided, however, that the City shall not be considered a Third-Party Owner for purposes of this Section 1.5.

1.6 The term “**Assessments**” shall mean Annual Assessments, Special Assessments and any other amounts assessed by Declarant pursuant to the terms of this Declaration.

1.7 The term “**Assessment Lien**” shall mean the lien created and imposed by **Section 8.6.2** below.

1.8 The term “**Assessment Period**” shall mean the calendar year, except that the first Assessment Period shall commence on the date of recordation hereof and end on December 31 of that year.

1.9 The term “**Building**” shall mean a building or other structure intended for occupancy or parking and constructed from time to time on a Parcel.

1.10 The term “**Building Envelope**” shall mean the area of a Parcel within which Buildings are permitted to be constructed, which Building Envelopes shall be determined and designated by Declarant; provided, however, the City shall designate the Building Envelope on the City Parcel.

1.11 The term “**Center Rules**” shall mean such reasonable rules and regulations governing the Property as may be adopted and amended by Declarant from time to time, which Center Rules will not be inconsistent with the terms of this Declaration and shall apply uniformly to all Parcels/Owners, except that such Center Rules shall not apply to the City Parcel, so long as the City Parcel is owned or leased by the City.

1.12 The term “**City**” shall have the meaning set forth in Recital A of this Declaration.

1.13 The term “**City Parcel**” shall have the meaning set forth in Recital C of this Declaration and is shown on the Site Plan.

1.14 The term “**City Park**” shall mean the park operated by the City located on the City Parcel.

1.15 The term “**City Storm Water Easement**” shall have the meaning set forth in **Section 2.2.2** of this Declaration.

1.16 The term “**Common Expenses**” shall mean all reasonable costs and expenses of every nature and kind paid or incurred by Property Manager or Declarant in operating, managing, insuring, equipping, lighting, repairing, decorating, replacing, and maintaining the Areas of Declarant Responsibility and other areas of the Project that Declarant is specifically responsible for maintaining pursuant to the terms of this Declaration. Such costs and expenses, include, but are not limited to, (a) sweeping, repairing and resurfacing any hardscape while same constitute Areas of Declarant Responsibility; (b) maintaining and repairing landscaping and irrigation systems serving such landscaping; (c) maintaining, repairing and replacing Project Signage and screen walls; (d) water service, electricity and other utility costs incurred with respect to Areas of Declarant Responsibility; (e) insurance premiums for insurance in connection with Areas of Declarant Responsibility; (f) reasonable management fees to be charged by Property Manager employed by Declarant with respect to the Project not to exceed the greater of three percent (3%) of the total amount of Common Expenses or One Thousand Dollars (\$1,000.00) per month; (g) fees for licenses and permits related to Areas of Declarant Responsibility; (h) supplies, tools, equipment (including the expense of any equipment rental or installment equipment purchase or equipment financing agreements) and materials used in the operation, repair and maintenance of the Areas of Declarant Responsibility and other areas of the Project that Declarant is responsible for maintaining; and (i) reasonable attorneys’ and accountants’ fees related to the duties and obligations of Property Manager and/or Declarant hereunder. Common Expenses shall also include any other costs and expenses which this Declaration provides are to be treated as Common Expenses. Declarant may hire a Property Manager to perform all or any portion of the maintenance and operation of Areas of Declarant Responsibility.

1.17 The term “**Constant Dollars**” means the present value of the dollars to which such phrase refers. An adjustment shall occur on January 1 of the sixth (6th) calendar year following the date of this Declaration, and thereafter at five (5) year intervals. Constant Dollars shall be determined by multiplying the dollar amount to be adjusted by a fraction, the numerator of which is the Current Index Number and the denominator of which is the Base Index Number. The “**Base Index Number**” shall be the level of the Index for the month during which this Agreement is dated; the “**Current Index Number**” shall be the level of the Index for the month during which this

Agreement is dated of the year preceding the adjustment year; the “Index” shall be the Consumer Price Index for all urban consumers, Phoenix-Mesa-Scottsdale, published by the United States Department of Commerce (base year 2001 = 100), or any successor index thereto as hereinafter provided. If publication of the Index is discontinued, or if the basis of calculating the Index is materially changed, then Declarant shall substitute for the Index comparable statistics as computed by an agency of the United States Government or, if none, by a substantial and responsible periodical or publication of recognized authority most closely approximating the result which would have been achieved by the Index.

1.18 The term “Declarant” shall mean GLOBE LAND INVESTORS, LLC, a Delaware limited liability company, while it owns any portion of the Project, and, thereafter, the then current holder of the Declarant’s rights under this Declaration pursuant to a Recorded instrument reflecting the assignment of such rights and powers in accordance with Section 12.13 while such holder owns any Parcel. In the event no holder of Record of the Declarant’s rights owns any Parcel, the City, at its option, may choose to become the Declarant; provided that if the City does not choose to become the Declarant, the Declarant’s rights shall be exercised by, and the Declarant’s obligations shall be performed by, the Owner(s) of more than fifty percent (50%) of the Land Area within the Project (“Simple Majority”). Any Person holding the Declarant’s rights shall also be responsible for all liabilities, obligations, responsibilities and duties of the Declarant hereunder.

1.19 The term “Declaration” shall have the meaning set forth in the preamble of this Declaration.

1.20 The term “Defaulted Taxes” shall have the meaning set forth in Section 7 of this Declaration.

1.21 The term “Design Guidelines” shall mean design and development guidelines and standards for the development and construction of Improvements in the Project, promulgated from time to time by Declarant. Upon reasonable advance request, a copy of the Design Guidelines and an approved color and material palette, as they may be amended from time to time in Declarant’s discretion, are available for inspection in the offices of Declarant. In approving plans under Article 4 below, Declarant reserves the right to impose design standards and requirements in addition to or that vary from those set forth in the Design Guidelines. Notwithstanding anything contained herein to the contrary, the Design Guidelines shall not apply to the City Parcel.

1.22 The term “Developed Parcel” shall have the meaning set forth in Section 2.6 of this Declaration.

1.23 The term “Development Agreement” shall have the meaning set forth in Recital A of this Declaration.

1.24 The term “Exclusive Use” shall have the meaning set forth in Section 5.2 of this Declaration.

1.25 The term “Final Plans” shall have the meaning set forth in Section 4.4 of this Declaration.

1.26 The term “**First Class Condition**” shall mean a manner consistent with first-class developments in metropolitan Phoenix, Arizona.

1.27 The term “**Garage Parcel**” shall mean the Parcel designated as such on the Site Plan.

1.28 The term “**Globe**” shall have the meaning set forth in the preamble of this Declaration.

1.29 The term “**Governmental Authorities**” shall mean any federal, state, county, city or local governmental or quasi-governmental authority, entity or body (or any departmental agency thereof) exercising jurisdiction over a particular subject matter.

1.30 The term “**Governmental Requirements**” shall mean all applicable laws, statutes, ordinances, codes, rules, regulations, orders and applicable published judicial decisions or decrees, as presently existing and hereafter amended, of any Governmental Authorities.

1.31 The term “**Improvement**” shall mean any physical structure or facility constructed, placed or installed on the Property, including but not limited to any Building, fence, wall, sign or other structure, any paved roads, driveways, drive aisles, walkways, sidewalks and parking areas and any trees, plants, shrubs and other landscaping of every type and kind.

1.32 The term “**Land Area**” shall mean the total gross square footage of a Parcel or the Property, as applicable, net of any publicly dedicated roadways or easements.

1.33 The term “**Non-defaulting Owners**” shall have the meaning set forth in **Section 8.2.2** of this Declaration.

1.34 The term “**Owner**” or “**Owners**” shall mean Declarant and any and all successor owner or owners of fee simple title (or beneficial title) to all or any portion of the Property, whether by sale, assignment, inheritance, operation of law, trustee’s sale, foreclosure, or otherwise. The term “Owner” or “Owners” shall not, however, include the holder of any monetary lien or monetary encumbrance on such real property unless and until such holder acquires fee simple title to such real property. In addition, in the event of a lease of an entire Parcel to a single Person, Declarant may, by recording a supplement to this Declaration, designate the lessee of such Parcel as the Owner of such Parcel for the purposes of this Declaration, in which event the lessee so designated shall have the rights, privileges and benefits and shall perform the duties and obligations of the Owner of such Parcel.

1.35 The term “**Parcel**” or “**Parcels**” shall mean each separately identified parcel of real property constituting a part of the Property. The Parcels are generally depicted on the Site Plan and shall be finally depicted on the Plat (as defined below). No Owner other than Declarant shall have the right to subdivide any Parcel without the prior approval of Declarant, which may be withheld by Declarant in its sole and absolute discretion.

1.36 The term “**Parking Agreement**” shall mean that certain Parking Rights Agreement among Declarant, Globe and the City now or hereafter Recorded with respect to certain portions of the Project.

1.37 The term “**Permittee**” shall mean the tenant(s) or lawful occupant(s) of a Parcel, and the respective employees, agents, customers, invitees, and licensees of (i) the Owner of such Parcel, and/or (ii) such tenant(s) or lawful occupant(s).

1.38 The term “**Person**” shall mean any individual, general partnership, limited partnership, firm, association, corporation, limited liability company, trust or any other form of business or government entity.

1.39 The term “**Plat**” shall have the meaning set forth in **Section 2.2.2** of this Declaration.

1.40 The term “**Preliminary Plans**” shall have the meaning set forth in **Section 4.3** of this Declaration.

1.41 The term “**Project**” shall mean the Property and all Improvements thereto from time to time.

1.42 The term “**Project Documents**” shall mean this Declaration (and any amendments and supplements thereto), the Design Guidelines, the Center Rules, the Site Plan and the Plat, each as may be amended from time to time.

1.43 The term “**Project Signage**” shall mean (a) monument signs listing the Project name (as it may change from time to time) and/or individual businesses operating in the Project (as such names may change from time to time) and (b) such other signage located within the Project that is beneficial to the Project as a whole, including without limitation directional signage, but specifically excluding (x) any signage attached to Buildings and (y) any street signs such as street identification signs, stop signs, pedestrian crossing signs, restricted parking signs, etc., all as more specifically set forth in the Signage Plan.

1.44 The term “**Property**” shall have the meaning set forth in Recital B of this Declaration.

1.45 The term “**Property Manager**” shall mean a third-party property management company employed by Declarant to perform all or any portion of the maintenance and operation of the Areas of Declarant Responsibility. At any time that there is no Property Manager, all references in this Declaration to “Property Manager” shall be deemed to refer to Declarant and Declarant shall have all rights and obligations of the Property Manager set forth in this Declaration. The initial Property Manager is Globe Management Company. The Property Manager can be changed from time to time by a recorded amendment to this Declaration executed solely by the then-current Declarant without the consent of any other Owner.

1.46 The term “**REA**” shall have the meaning set forth in Recital D of this Declaration.

1.47 The term “**Recording**” shall mean placing an instrument of public record in the office of the County Recorder of Maricopa County, Arizona and the term “**Recorded**” shall mean having been so placed of public record.

1.48 The term "**ROW Landscaping**" shall have the meaning set forth in **Section 3.9** of this Declaration.

1.49 The term "**Signage Plan**" shall have the meaning set forth in **Section 2.4** of this Declaration.

1.50 The term "**Site Plan**" shall have the meaning set forth in Recital B to this Declaration.

1.51 The term "**Special Assessment**" shall have the meaning set forth in **Section 8.4** of this Declaration.

1.52 The term "**Super-Majority**" shall mean the Owners of more than eighty percent (80%) of the Land Area within the Project.

1.53 The term "**Surface Parking Areas**" shall mean the paved surface parking areas now or hereafter located on each Parcel other than the City Parcel.

1.54 The term "**Taxes**" means all real property taxes, possessory interest taxes, governmental property lease excise taxes, personal property taxes and excise taxes assessed against the buildings and improvements within the Parcels, assessments (whether arising from any improvement or special taxing district, or otherwise; provided, however, all such assessments shall be converted to installments payable over the longest period available), excises, levies, license and permit fees, and all other charges of whatsoever kind and nature and whether any of the foregoing be general or special, ordinary or extraordinary, foreseen or unforeseen, which at any time during the term of this Declaration may be imposed upon the Parcels and/or the buildings and improvements thereon.

1.55 The term "**Temporary Construction Easement**" shall have the meaning set forth in **Section 2.6** of this Declaration.

2. **Easements.**

2.1 **Easement for Ingress and Egress.**

2.1.1 Declarant hereby creates, grants to and establishes in favor of all Owners (including Declarant) and their respective Permittees, in common with others entitled to use the same, a perpetual, non-exclusive easement for the passage of vehicles over and across the driveways and drive aisles depicted on the Site Plan, or otherwise provided within the Project from time to time, and for the passage of pedestrians over and across the sidewalks and walkways depicted on the Site Plan, or otherwise provided within the Project from time to time, subject, however, to the right of Owners to restrict the use of same as provided hereinafter. Anything herein to the contrary notwithstanding, an Owner shall have the right to permanently or semi-permanently prevent other Owners and their Permittees from using, and may close off, certain portions of the driveways, drive aisles, sidewalks, walkways and parking areas located on Parcels owned by such Owner in order to accommodate particular parking and access needs with respect to the Owner's Parcel. In addition, the foregoing easement rights shall be subject to the following

restrictions as well as the other applicable provisions contained in this Declaration: (a) Declarant shall have the right to close-off any portion of the Project for such reasonable period of time as may be necessary, (i) in the judgment of Declarant or its counsel, to prevent the acquisition of prescriptive rights by anyone, and (ii) for repairs and maintenance; provided, however, that Declarant shall attempt to avoid unreasonable interference with the passage of vehicles and pedestrians in performing any maintenance and repairs; and (b) Declarant may at any time and from time to time exclude and restrain any Person who is not a Permittee from using any driveways, drive aisles, sidewalks and walkways and restrain or prevent any activity by any Person which is prohibited by this Declaration. The foregoing shall not give any Owner or its Permittees an easement or right to park in parking spaces located on the Parcel of another Owner.

2.2 Easement for Storm Drainage.

2.2.1 Declarant hereby creates, grants to and establishes in favor of all Owners (including Declarant) the perpetual right and easement upon, under, over, across and through all pipes, lines, conduits, retention and detention areas and other drainage facilities related to storm water drainage, discharge, detention and retention (the "**Storm Drainage Facilities**") now or hereafter located on any Parcel, for the purpose of discharging surface water runoff in accordance with a storm drainage plan filed with the City from time to time.

2.2.2 The Final Plat of Goodyear Civic Square Parcel "A" at Estrella Falls (the "**Plat**"), provides for the dedication of a thirty (30) foot wide drainage easement over, across and under those portions of the Property designated as Lot 1 and Lot 3 on the Plat (the "**City Storm Water Easement**"). Declarant hereby creates, grants to and establishes in favor of the City a perpetual easement in, on, over, under, across and through the City Storm Water Easement for purposes of construction, installation, use, maintenance, repair, replacement and operation of that portion of the Storm Drainage Facilities located therein, together with a perpetual easement for pedestrian and vehicular ingress and egress to and from the City Storm Water Easement. A portion of the Storm Drainage Facilities shall be located within City Storm Water Easement, including, without limitation, the storm water pipe and treatment facilities required to outlet the Project's storm water into Bullard Wash.

2.3 Encroachment Easement. Declarant hereby declares and establishes for the benefit of and as an appurtenance to each Parcel, for the use and benefit of such Parcel, its Owner and Permittees, an easement for footings, screen walls, retaining walls, curbing and light pole bases or standards or other Improvements, other than Buildings, which may encroach by no more than one foot (1') into or upon an Area of Declarant Responsibility or another Owner's Parcel.

2.4 Signs; Signage Easement and Project Entry Features. Declarant reserves to itself the right and an easement across all Parcels to place and maintain entry features (including landscaping) and Project Signage in locations determined by Declarant; provided that all Project Signage to be placed on the City Parcel while owned or leased by the City shall be subject to the City's reasonable consent. Such easement shall include the right to extend utilities over the Parcels to service such entry features and/or Project Signage. Locations of initial Project Signage are set forth on the Site Plan; provided that the location of any such easement on the City Parcel shall be subject to the City's reasonable consent. No Owner or Permittee shall construct or install any exterior or otherwise visible signage within the Project without the prior written approval of

Declarant and in compliance with the comprehensive sign plan submitted to the City by Declarant and approved by the City (the “**Signage Plan**”) and such Owner or Permittee shall obtain any necessary permits. So long as Declarant owns any Parcel, Declarant shall have the sole right to determine (i) which businesses at the Project shall have the licensed right to place sign panels on multi-user monument signs constructed at the Project, (ii) the location of permitted sign panels, and (iii) the conditions of such licensed sign rights. Notwithstanding the foregoing, (a) Declarant shall not have approval or consent rights with respect to signage placed by the City on Parcels owned by the City provided that such signage shall comply with the Signage Plan and (b) the City shall have the right to place "City of Goodyear" signage at (i) the entrance to the Project located at McDowell Road and Civic Square Drive and (ii) the entrance to the Project located at Monte Vista Road and Civic Square Drive, as more specifically detailed in the Signage Plan.

2.5 **Maintenance and Enforcement Easement.** Declarant and any other Person authorized by Declarant including, but not limited to, Property Manager, are hereby granted an easement and right of access over, under, upon, across and through any and all portions of all Parcels (excluding the Buildings) for the exercise and discharge of the maintenance, repair, replacement and other obligations and responsibilities and the exercise of rights under this Declaration including, but not limited to, the right and an easement to control the amount of water used in the landscape areas which Declarant maintains and to access the irrigation facilities to exercise such control. In exercising any such right, Declarant and such other authorized Person(s) will use good faith efforts to avoid causing a disturbance or nuisance on any Parcel and unreasonably interfering with, obstructing or delaying the conduct and operation of the business of any Owner or its Permittees.

2.6 **Temporary Construction Easements.** For the purpose of constructing improvements on a Parcel (a “**Developed Parcel**”), Declarant and its affiliates and their respective agents, employees and contractors, and any Owner of a Parcel performing construction on its Parcel and its employees, agents and contractors (each, a “**Constructing Party**”), are hereby granted a temporary non-exclusive easement (the “**Temporary Construction Easement**”) to use up to ten (10) feet of the surface of immediately adjacent Parcels (“**Adjacent Parcel**”) as may be reasonably necessary to construct improvements on the Developed Parcel. The Temporary Construction Easement shall terminate automatically as to an Adjacent Parcel immediately upon the completion of construction activities on the Developed Parcel. Anything herein to the contrary notwithstanding any portion of an Adjacent Parcel upon which any Improvement is already located shall not be subject to the Temporary Construction Easement, and each Constructing Party shall use reasonable care to avoid damage to any landscaping. Each Constructing Party, at its sole cost, shall promptly restore the Adjacent Property to its condition prior to its exercise of the Temporary Construction Easement.

2.7 **Grant of Self-Help Easement.** Declarant shall have an easement to enter upon a Parcel pursuant to the provisions of **Section 10.2** hereof for the purpose of performing any obligation which the Owner of such Parcel is required to perform hereunder but fails or refuses, in whole or in part, to perform within the applicable time period provided in said **Section 10.2**.

2.8 **Reasonable Use of Easements.** The easements established and granted herein shall be used and enjoyed by each grantee in such a manner as not to unreasonably interfere with, obstruct or delay the conduct and operations of the business of any other Owner or its Permittees

at any time conducted on its Parcel, including, without limitation, public access to and from said business, and the receipt or delivery of merchandise in connection therewith.

2.9 No Implied Easements. Nothing contained in this Declaration shall be deemed to create any implied easements not otherwise expressly provided for herein. In this regard, no reciprocal easements for vehicular parking between the Parcels are granted herein. Each Parcel, when improved, must contain a sufficient number of parking spaces to satisfy minimum code requirements for the use to be made of such Parcel, subject to the right of Globe to allocate parking among Parcels it owns.

2.10 Additional Easements; Change in Easements. In the event additional utility, access or other easements or changes to existing easements are necessary or appropriate in connection with the development, maintenance or operation of the Project or are required by the City or any utility company, Declarant has the right to amend this Declaration to establish or modify easements without the consent of any other Owner except that the consent of the City must be obtained to establish or modify any easements located within the City Parcel.

2.11 Right to Develop. Subject to the express requirements of this Declaration (including, but not limited to, **Article 4**), applicable law, ordinances, regulations, codes and rules, and all Recorded instruments affecting any Parcel(s) including, without limitation, the Development Agreement and the Parking Agreement, each Parcel may be developed and improved without limitation and without the consent of any other Owner.

2.12 Indemnification. Each Owner (other than Declarant) having rights with respect to an easement granted hereunder shall, to the extent permitted by law, indemnify, defend and hold the Owner whose Parcel is subject to the easement harmless for, from and against all claims, liabilities, and expenses (including reasonable attorneys' fees) relating to accidents, injuries, loss, or damage of or to any person or property arising from or in any manner relating to the use by the indemnifying Owner or its Permittees of any easement or exercise of any remedy granted hereunder except as may result from the negligence or intentional misconduct of the Owner whose Parcel is subject to the easement or its Permittees.

3. **Maintenance.**

3.1 Areas of Declarant Responsibility.

3.1.1 Property Manager or Declarant shall manage, maintain, repair and replace all Areas of Declarant Responsibility, and all Improvements located thereon in First Class Condition. Subject to the City's right to exercise its police power, no Owner or other Person shall obstruct or interfere with Property Manager or Declarant in the performance of Property Manager's or Declarant's management or maintenance of the Areas of Declarant Responsibility.

3.1.2 Damage or destruction of the Areas of Declarant Responsibility shall be promptly repaired, restored and rebuilt by the Declarant, subject to the provisions of **Section 3.7** below and subject to the right of Declarant to obtain reimbursement from all Owners for their pro rata share of the cost of such repair, restoration or rebuilding in accordance with the terms of this Declaration.

3.2 Parcels. Each Owner shall keep and maintain, at its sole cost and expense, all Improvements including, but not limited to, any Buildings, structures and landscape (other than any that is an Area of Declarant Responsibility) and hardscape improvements, located from time to time on its Parcel in First Class Condition. Any maintenance requirements set forth in the Parking Agreement shall apply to the affected Parcels. In addition, each Owner covenants to regularly monitor its Buildings and Improvements, if any, located on its Parcel in order to determine the presence of graffiti and each Owner shall promptly, and in any event not later than five (5) days after written notice from Declarant, remove any graffiti from its Buildings and Improvements. If an Owner fails to remove graffiti from its Buildings and Improvements within such five (5) day period, then Declarant may remove such graffiti (and has the right and a temporary easement to do so) at the expense and for the account of such Owner and such Owner shall reimburse Declarant for any costs and expenses so incurred, together with a fifteen percent (15%) administration fee, within thirty (30) days after written demand for payment, which demand shall be accompanied by invoices and other appropriate evidence of the costs incurred. In the event of any damage or destruction of Building(s) or other Improvements on a Parcel, the Owner of such Parcel shall with reasonable diligence, and at its sole cost, either: (a) repair, restore and rebuild the same to its condition existing prior to such damage or destruction, subject to the provisions hereof, or with such changes, alterations or additions as are not inconsistent with this Declaration or as are required by law; or (b) tear down and remove all portions of such damaged or destroyed Building(s) and related Improvements (as applicable), including the debris resulting therefrom, and restore the area affected by such casualty to a level and clean condition, with all sidewalks, driveways and parking areas fully repaired and repaved.

3.3 Utilities; Storm Drainage Facilities.

3.3.1 Each Owner shall at all times during the term hereof maintain or cause to be maintained, in good and working order, condition and repair, at its sole expense, all utility lines, conduits and other facilities located within its Parcel, subject to Section 3.3.3 below.

3.3.2 The Storm Drainage Facilities shall be initially constructed in accordance with drainage plans and specifications approved by City. The ongoing maintenance of the Storm Drainage Facilities is required to preserve the integrity and purpose of the Storm Drainage Facilities. Failure to provide periodic maintenance can prevent the Storm Drainage Facilities from performing to their intended design purpose and can result in reduced performance. Periodic inspections and maintenance are required to have the Storm Drainage Facilities provide the level of protection for which they were designed. Each Owner shall be responsible for the operation and maintenance of that portion of the Storm Drainage Facilities located within its Parcel, subject, to the provisions of Section 3.3.3 below. Each Owner shall insure that the portion of the Storm Drainage Facilities located on such Owner's Parcel is maintained in accordance with the storm drainage maintenance requirements attached as Exhibit E hereto in operable condition and repair at all times consistent with federal, state and local requirements, including the requirements in the City of Goodyear Engineering Design Standards and Policies Manual. In no event shall any Owner alter or permit to be altered any Storm Drainage Facilities located on its Parcel if such alteration would (a) materially interfere with the use and operation of the Storm Drainage Facilities as a whole, (b) materially increase the flow of surface water onto a Parcel(s), or (c) not be in compliance with applicable Governmental Requirements or the applicable drainage plan.

3.3.3 The City shall maintain in good and working order, condition and repair, all Storm Drainage Facilities located within the rights-of-way and all Storm Drainage Facilities located within the City Parcel and/or within the City Storm Water Easement. If the City provides Declarant with invoices or other evidence reasonably detailing the costs of maintenance and repair of any Storm Drainage Facilities located in the City Storm Water Easement, such costs shall be included by Declarant in the calculation of Common Expenses pursuant to Article 8 below.

3.4 Unimproved Parcel. The Owner of an unimproved Parcel shall maintain its Parcel free of litter, debris and weeds and shall comply with all applicable dust control requirements of the City and other applicable governmental agencies.

3.5 Lighting of Parcels. Each Owner shall maintain all lighting facilities located on its Building and/or Parcel at its sole cost and expense and shall illuminate same in accordance with the Center Rules; provided that the City shall maintain, at its sole cost, those streetlights that are located within or adjacent to the rights-of-way. The City shall have the right to hang banners on the streetlights in the same manner as the City does with respect to streetlights in the public right-of-way in other parts of the City.

3.6 Dedications. Declarant may dedicate portions of the Parcels owned by it to a governmental authority for public right-of-way or other purposes without the consent of any other Owner, including, but not limited to, by means of the Plat.

3.7 Assessment of Certain Costs of Maintenance and Repair. Notwithstanding anything to the contrary in this Declaration, if the need for maintenance, repair or replacement of the Areas of Declarant Responsibility is caused through the willful or negligent act of any Owner, its Permittees, or their respective invitees, agents or employees, the cost of such maintenance, repair or replacement shall be paid by such Owner to Property Manager upon demand, and payment of such amounts shall be secured in accordance with the terms of **Section 8.6** below.

3.8 Limitation on Security/Traffic/Parking Enforcement Responsibility. Declarant shall not be responsible for providing (i) security protection for the Project, (ii) traffic direction within the Project, or (iii) enforcement of any restricted/reserved parking at the Project, and each Owner and Permittee shall hold Declarant harmless in connection therewith.

3.9 Rights-of-Way. The City shall maintain, at its sole expense, all rights-of-way and Improvements located therein including, but not limited to, utility lines, conduits and facilities; provided that Declarant shall maintain the landscape areas in the rights-of-way designated on **Exhibit D** as Areas of Declarant Responsibility (the "**ROW Landscaping**"). The City and Declarant hereby acknowledge and agree that Declarant shall have the right to enter upon those rights-of-way within which the ROW Landscaping is located for the purpose of performing such maintenance. Declarant shall obtain all permits as may be required by the City for undertaking such maintenance of the ROW Landscaping. Declarant agrees to indemnify and hold harmless the City, its officers, elected officials, employees and agents for all claims arising or alleged to arise from or in connection with the ROW Landscaping, including the failure to maintain the ROW Landscaping, except to the extent due to the acts or omissions of the City or its officers, elected officials, employees or agents. Declarant shall be responsible for taking action to remedy any unsafe condition in connection with the ROW Landscaping within three (3) business days after

being notified of such unsafe condition by the City. Notwithstanding the foregoing, the City shall be entitled to remedy any unsafe condition resulting from the ROW Landscaping within the right-of-way if the City Engineer or his/her designee determines in the exercise of his/her reasonable discretion that the safety of the public requires that the unsafe condition be remediated within a shorter time than the three (3) business day period referenced in the immediately preceding sentence. The City shall also be entitled to remedy any unsafe condition relating to the ROW Landscaping resulting from the failure of Declarant to remedy the unsafe condition within three (3) business days of being notified of such unsafe condition by the City. In the event the City exercises its right to remedy unsafe conditions relating to the ROW Landscaping as provided herein, Declarant shall reimburse the City for the costs incurred in so doing. Any and all costs incurred by Declarant pursuant to this Section 3.9 shall be treated as Common Expenses.

3.10 Trash Facilities. Each Owner shall maintain its own dumpsters and trash cans in a neat, clean and orderly manner and in accordance with applicable laws, rules and regulations, and shall contract for its own trash pick-up service.

3.11 Parking Spaces; Parking Garages. Subject to the terms of the Parking Agreement as to the City Parcel and the Garage Parcel, each Owner of a Parcel has the exclusive right to assign, allocate and/or restrict the parking spaces located on its Parcel, whether in Surface Parking Areas or within parking garages/structures.

4. Development Controls.

4.1 Building Envelopes. Buildings may only be constructed or placed upon the respective Parcels within Building Envelopes. All construction on any Parcel must conform with this Declaration and all applicable building codes and governmental requirements. All Improvements now or in the future constructed on a Parcel, shall be of First Class Condition, quality construction, in conformity with sound architectural and engineering standards.

4.2 Review and Approval of Plans. In order to achieve and maintain a harmonious and uniform quality of development for all Parcels within the Project, in advance of construction on a Parcel, Declarant reserves the right to review and approve: (a) all construction and development plans with respect to any Parcel; and (b) project elevations of each Parcel. Notwithstanding anything in this Declaration to the contrary, the provisions of this Section 4.2 shall not be applicable to the City Parcel while owned or leased by the City

4.3 Submission of Preliminary Plans. Prior to construction or placement or installation of or repair, modification or replacement of any Building or other Improvement on a Parcel, including, without limitation, exterior alterations or additions to existing Improvements, or reconstruction following casualty, or installation of landscaping, the Owner thereof shall submit to Declarant for approval, prior to or concurrently with a similar submission to the City, preliminary plans for all proposed Improvements to such Owner's Parcel, including, without limitation, two (2) full sets of the following: site plan (including, without limitation, an indication of Building footprint, parking, exterior lighting, grading and drainage plan, Building elevations (including, without limitation, a color and material sample board and a colored rendering of all sides of all Buildings), landscape plan, signage plan and other proposed plans (collectively, "Preliminary Plans"). If expressly required by Declarant, submission of Preliminary Plans, to be

complete, must also be accompanied by a \$1,000.00 architectural review and processing fee to defray the costs of architectural review (which processing fee may, in Declarant's sole discretion, be increased from time to time). All Preliminary Plans for Buildings and other Improvements upon the Parcels must at a minimum conform to the requirements of this Declaration and the Design Guidelines, but Declarant expressly reserves the right to impose design standards and requirements that are in addition to or that vary from those set forth in the Design Guidelines. All Buildings and other Improvements constructed upon the Parcels must be of first-quality construction and be architecturally designed so that the exterior of Buildings (including, without limitation, color, materials, texture and signage) and other Improvements will be architecturally compatible and harmonious with all other Buildings and Improvements constructed or to be constructed in the Project, as determined by Declarant in its reasonable discretion. Notwithstanding anything in this Declaration to the contrary; the provisions of this **Section 4.3** shall not be applicable to the City Parcel while owned or leased by the City.

4.4 **Approval/Final Plans.** If, within thirty (30) days following Declarant's actual receipt from an Owner of a submission of Preliminary Plans satisfying the requirements of **Section 4.3** above, Declarant does not approve the Preliminary Plans, the submitting Owner must give written notice to Declarant advising Declarant that Declarant's failure to respond within an additional ten (10) days after Declarant's receipt of such notice will result in the Preliminary Plans being deemed disapproved by Declarant. If Declarant does not approve the Preliminary Plans within such additional ten (10) day period, the Preliminary Plans will be deemed disapproved. If and at such time as any Preliminary Plans are approved by Declarant (the "**Approved Preliminary Plans**"), two (2) sets of final working drawings, plans and specifications (the "**Final Plans**") must be completed and submitted to Declarant prior to commencement of construction and must conform to the Approved Preliminary Plans. Such Final Plans are subject to Declarant's review and approval on the same basis as is set forth above in this **Section 4.4** with respect to the Preliminary Plans. The Final Plans as approved in writing by Declarant are herein referred to as the "**Approved Final Plans**." In no event does Declarant's approval of any Owner's drawings, plans, specifications, calculations or work constitute an implication, representation or certification of any kind by Declarant that said items are in compliance with all applicable law, and Declarant is not liable for any defect in any structure constructed in accordance therewith, whether or not in accordance with the Approved Final Plans. The Owner assumes all risk and responsibility with respect to the plans and other drawings and specifications submitted to Declarant and agrees to indemnify, defend and hold harmless Declarant for, from and against any and all losses, claims, damages, obligations or liabilities (including attorneys' fees and costs) arising therefrom or related thereto. Notwithstanding anything in this Declaration to the contrary; the provisions of this **Section 4.4** shall not be applicable to the City Parcel while owned or leased by the City.

4.5 **No Alterations.** Once Declarant has reviewed and approved the Approved Final Plans for the construction of Buildings and other Improvements on a Parcel, such Buildings and Improvements must be constructed in accordance therewith, and any further modification thereof requires the prior written approval of Declarant; provided, however, the provisions of the immediately preceding sentence do not require the submission to Declarant for approval of "minor modifications" to the Approved Final Plans. For the purposes of this **Section 4.5**, "**minor modifications**" are modifications that (i) do not affect the exterior appearance of the Buildings and other improvements on a Parcel, (ii) do not result in an increase or decrease in construction cost of more than Twenty-Five Thousand Dollars (\$25,000.00), (iii) do not result in the Approved Final

Plans, as modified, no longer being in substantial conformance with the Final Plans as originally approved by Declarant, and (iv) do not result in the Approved Final Plans, as modified, no longer being in conformance with the Design Guidelines. Once constructed, any alteration, addition, repainting, remodeling or reconstruction to or of any existing Building or other Improvement that involves any change in the exterior appearance thereof, or any material alteration affecting any Area of Declarant Responsibility including, but not limited to, alteration of the layout of driveways or parking spaces (any of the foregoing, an “**Alteration**”), requires the prior written consent of Declarant. Notwithstanding anything in this Declaration to the contrary; the provisions of this **Section 4.5** shall not be applicable to the City Parcel while owned or leased by the City.

4.6 **Party Walls.** No party walls are permitted in the Project unless approved in writing by Declarant in its sole and absolute discretion.

4.7 **City Review.** Compliance with the requirements of this **Article 4** is in addition to, not in lieu of, compliance with the requirements of the City, including, without limitation, any site plan or design review process of the City, which is the responsibility of each Owner. In the event of conflict between the requirements of the City and the requirements of this Agreement, the more restrictive requirements are controlling.

4.8 **Development Agreement; Parking Agreement.** Anything herein to the contrary notwithstanding, all construction at the Project shall comply with the provisions of the Development Agreement and the Parking Agreement, to the extent applicable.

5. **Use Restrictions.**

5.1 **Project Restrictions.** No portion of the Project may be used for any unlawful purposes, all portions of the Project shall be in conformance with all restrictions imposed by all applicable governmental laws, ordinances, codes, and regulations, and no use or operation shall be made, conducted or permitted on or with respect to all or any portion of the Project which is illegal. Further no use or operation may be made, conducted or permitted on or with respect to any Parcel or any part thereof which is obnoxious to or not reasonably appropriate in connection with the development or operation of a first-class commercial mixed use center. In addition to the foregoing, the Project shall not be used for: (a) an adult bookstore, adult theater, adult amusement facility or similar shop selling or displaying sexually explicit or pornographic materials (but this shall not prohibit the incidental sale of mainstream men’s or women’s magazines such as Playboy, Playgirl and/or Penthouse in a tasteful manner by a permitted convenience store, drug store, or a full line bookstore); (b) a pawn shop; (c) a flea market or second hand store (provided, however, such restriction does not apply to an upscale consignment or resale store); (d) a massage parlor (provided, however, such restriction does not apply to massage services by a doctor, chiropractor, registered nurse or massage services offered by a licensed massage therapist in a day spa, health club, hair salon or first class massage establishment); (e) a junk yard; (f) an automobile sales, leasing or storage facility or car rental business (provided, however, such restriction does not apply to a self-storage facility and does not apply to concept stores such as a Tesla showroom or Carvana Fulfillment Center); (g) a cemetery, mortuary or funeral parlor; (h) a so-called “head shop;” (i) a video, pinball or other type game room, arcade or amusement arcade (provided, however, such restriction does not apply to: (1) up to five (5) video, pinball or other entertainment devices incidental to an otherwise permitted use, or (2) a dining and entertainment destination facility such as a Main

Event, Dave & Busters, or Top Golf); (j) a business with the primary use as an off-track betting parlor; (k) a recycling facility (except to the extent required by governmental authorities having jurisdiction); (l) boat sales, leasing or storage facility (provided, however, such restriction does not apply to a self-storage facility); (m) any primary use as a warehousing, assembling, manufacturing, waste processing or other industrial uses (provided, however, such restriction does not apply to a self-storage facility); (n) trailer courts; (o) labor camps; (p) drilling for and/or the removal of oil, gas, or other hydrocarbon substances or any mineral or mineral products; (q) commercial excavation of construction materials; (r) storage of products or materials outside of an enclosed building or visual barrier as specified in **Section 5.3.1** below; (s) dumping, disposal, incineration or reduction of garbage, sewage, offal, dead animals or refuse; (t) refining of petroleum or of any of its products, or distilling, smelting, mining operation, agricultural, animal raising or boarding (provided, however, such restriction does not apply to consumer pet shops or animal hospitals); (u) manufacture, storage, distribution or sale of explosives; (v) carnivals; (w) billiards parlor or pool hall (provided, however, such restriction does not apply to a dining and entertainment destination facility such as a Main Event, Dave & Busters, or Top Golf); (x) a discotheque or dance hall (provided, however, such restriction does not apply to a dance studio); and (y) a dry-cleaning facility with on premises dry cleaning plant; provided that the uses in subparagraphs (f), (i), (t), (w) or (x) may be permitted upon the prior written approval of Declarant in its discretion taking into consideration the impact of same on the Project. The Project shall not be used in any manner so as to create or constitute a nuisance, and the Owner of each Parcel in the Project shall not permit the accumulation on the Project of unsightly trash or debris. Construction activities conducted in accordance with the terms of this Declaration and community type events, including, but not limited to, concerts, art shows and other cultural activities, community celebrations, farmers' markets, festivals, parades, car shows and other similar community type events, conducted upon the City Park shall not be considered a nuisance or otherwise prohibited by this Declaration so long as they do not unreasonably interfere with the use, occupancy, enjoyment or access to of the remainder of the Project for the purposes intended. The City shall give reasonable advance notice to Declarant of all concerts, art shows and other cultural activities to be conducted upon the City Park for which a special event permit would be required.

5.2 Restrictions Caused By Exclusives. Globe, while it owns any portion of the Project, may grant exclusive uses (each, an “**Exclusive Use**”) to the extent it deems reasonably appropriate; provided that such Exclusive Uses shall not be effective with respect to the City Parcel while owned or leased by the City.

5.3 Additional Restrictions.

5.3.1 Storage of Materials. Unless specifically approved in writing by Declarant, no materials, supplies or equipment shall be stored in any area on a Parcel (other than in connection with the construction of Improvements) except inside a closed building or behind a solid visual barrier which is constructed of materials which are compatible with all building structures constructed on the Parcel, and acceptable to the Declarant, and which screens such areas so that the stored items are not visible to a person six (6) feet tall standing on any part of the neighboring parcel or public streets or private streets at an elevation no greater than the elevation of the base of the items being viewed. All roof-mounted mechanical equipment, solar heat collectors, utility installations, duct work, or any other devices, which project vertically more than one (1) foot above the roof or roof parapet, are prohibited unless screened by a solid visual barrier which is detailed

consistent with the Building or painted consistent with the color scheme of the Building, as approved in writing by Declarant.

5.3.2 Outside Sales and Displays. Unless specifically approved in writing by Declarant, no portion of a Parcel located outside a Building (except areas immediately adjacent to the Building, so long as such use does not unreasonably interfere with the free movement of vehicular or pedestrian traffic over such areas), shall be used for the sale or display of merchandise; provided, however, that the seasonal sale of merchandise by Owners or Permittees shall be permitted from limited areas of the Surface Parking Areas located on such Owner's Parcel subject to the following restrictions: (a) all booths, stands, displays and other structures erected in connection with seasonal sales shall be promptly removed by such Owner or Permittee upon termination of the seasonal sale activity; (b) the Surface Parking Areas shall be promptly returned to their condition existing immediately prior to the seasonal sale activity at the sole cost and expense of such Owner or Permittee; (c) such sales shall not unreasonably interfere with the free movement of vehicular traffic, with access to or from all or any part of the Parcels and any public right of way or with drainage; (d) any required permit from the City has been obtained; and (e) the location of such area and the hours of such sales are subject to the prior approval of Declarant, such approval to be in the Declarant's sole discretion. Notwithstanding anything to the contrary in this Declaration, the provisions of this Section 5.3.2 shall not be applicable to prohibit events such as farmers' markets, craft festivals and similar community events where products are offered for sale within the City Park while the City Park is owned or leased by the City

5.3.3 Street Parking. Parking shall be prohibited on all public streets within or adjacent to the Project and anywhere within the Project except in designated parking spaces, subject to any restrictions set forth herein or established by Declarant.

5.3.4 Prohibited Uses. No Owner or Permittee shall (i) store merchandise outside of any Building; (ii) solicit business or display merchandise outside of any Building except as permitted by **Section 5.3.2**; or (iii) distribute any handbills or advertising matter outside of any Building or on automobiles parked in the Surface Parking Areas; provided, however, that the foregoing shall not be construed to prohibit the display on the City Parcel of artwork and similar items..

5.3.5 Environmental Restrictions. Each Owner agrees that such Owner's Parcel and any and all facilities located or operations conducted on such Parcel will not be used to generate, manufacture, refine, transport, treat, store, handle, dispose of, transfer, produce or process hazardous, toxic or regulated substances or solid wastes of any kind, except in compliance with all applicable law. Each Owner agrees to the extent permitted by law, to indemnify, defend, and hold harmless Declarant and each and every other Owner for, from and against any and all actions, causes of action, claims, liabilities, damages, costs, expenses and losses of any nature whatsoever (including reasonable attorneys' fees), arising from a breach by the indemnifying Owner of this covenant.

5.3.6 Signs. Any sign, lettering, picture, notice, banner or advertisement installed on or in any Building or otherwise on a Parcel and visible from the exterior of any Building, shall be subject to the prior written approval of Declarant and shall, if applicable, comply with the Signage Plan. In the event of a violation of this restriction, Declarant may remove the applicable

sign, lettering, picture, notice, banner or advertisement without any liability, and may charge the expense incurred by such removal to the Person who installed same and/or the Owner on whose Parcel or in whose Building same was installed. Notwithstanding the foregoing, Declarant shall not have approval or consent rights with respect to any sign, lettering, picture, notice, banner or advertisement placed by the City on Parcels owned by the City provided that such signage shall, if applicable, comply with the Signage Plan

5.3.7 Awnings. No awning or other projection shall be attached to the outside walls of any Building without the prior written approval of Declarant.

5.3.8. Obstruction of Walkways. No Owner shall, and no Owner shall allow its employees, agents, customers, invitees or guests to, obstruct sidewalks, walkways or entrances in or about the Property.

5.3.9. Excessive Noise/Odors. Subject to the provisions of Section 5.1 relating to activities conducted by or with the permission of the City upon the City Park, no Owner shall, and no Owner shall allow its employees, agents, customers, invitees or guests to, make excessive noise, cause disturbances or vibrations or use or operate any electrical or mechanical devices that emit excessive sound or other waves or disturbances, and no Owner shall, and no Owner shall allow its employees, agents, customers, invitees or guests to, create obnoxious odors (including cigarette, cigar and pipe smoke), any of which may be offensive to the other Owners and occupants of the Property, or that would interfere with the operation of any device, equipment, radio, television broadcasting or reception from or within the Property or elsewhere.

5.3.10. Animals. No dog or other animal, shall be allowed in any Building or elsewhere on the Property except for (i) animals required to be permitted by the Americans with Disabilities Act for purposes of assisting persons with disabilities ("Service Animals"), or (ii) domestic pets which may be allowed in Buildings designated for residential use but only in compliance with any applicable rules, regulations and restrictions; provided, however, that dogs shall be allowed in the City Park and the City may permit a petting zoo on the City Park in connection with festivals permitted by the City thereon. Animals shall at all times be under the control of the person bringing the animal into the Building or onto the Property. All persons bringing permitted animals into a Building or onto the Property are solely responsible for supervising the animal, for cleaning up after the animal, and for repairing any damage to the Building or other Improvements caused by the animal. Service Animals are subject to state and local licensing and registration requirements that are applicable to animals in general. Animals that pose a threat to safety may be excluded from the Building and the Property in compliance with any applicable law.

5.3.11. Soliciting. Canvassing, soliciting, handing out fliers and peddling anywhere in or around the Property is prohibited and all Owners and tenants of the Property other than the City shall cooperate to prevent the same; provided, however, that the provisions of this Section 5.3.11 shall not apply to the City Parcel, so long as owned or leased by the City, or to the public rights of way located within the Project.

5.3.12. Smoking. Smoking shall be permitted only in compliance with the City of Goodyear City Code and other applicable rules and regulations.

5.4 Center Rules. All Owners shall comply with the Center Rules, as amended by Declarant from time to time.

6. **Indemnification; Insurance.**

6.1 Indemnification.

6.1.1 Each Owner agrees, to the extent permitted by law, to indemnify, defend and hold harmless Declarant including, without limitation, Declarant's agents, employees, directors, officers, partners, members, managers and contractors and each of their affiliates for, from and against any and all claims and all costs, expenses and liabilities (including reasonable attorneys' fees and costs) incurred in connection with all claims, including any action or proceeding brought thereon, arising from or as a result of any accident, injury, death, loss or damage whatsoever to any Person, or to the property of any Person, proximately caused by the acts or omissions of such Owner or its Permittees and occurring on such Owner's Parcel, except to the extent caused by the gross negligence or intentional misconduct in whole or in part of an indemnified party.

6.1.2 Each Owner having rights with respect to an easement granted hereunder agrees, to the extent permitted by law, to indemnify, defend and hold harmless Declarant, including, without limitation, Declarant's agents, employees, directors, officers, partners, members, managers and contractors and each of their affiliates for, from and against any and all claims and all costs, expenses and liabilities (including reasonable attorneys' fees and costs) incurred in connection with all claims, including any action or proceeding brought thereon, arising from or as a result of any accident, injury, death, loss or damage whatsoever to any Person, or to the property of any Person, caused by the acts or omissions of such Owner or its Permittees in the use of any such easement granted hereunder, except to the extent caused by the gross negligence or intentional misconduct in whole or in part of an indemnified party.

6.1.3 Neither the originally named Declarant nor its agents, employees, directors, officers, partners or contractors are liable to any Owner or such Owner's Permittees for any mistakes or errors in judgment or for any other act or omission under this Agreement if the same is not fraudulent, grossly negligent or in bad faith, and each Owner expressly waives, releases, discharges and relinquishes any and all claims, demands, liabilities, costs and expenses (including reasonable attorneys' fees and costs) against the originally named Declarant or its agents, employees, directors, officers, partners and contractors on account thereof.

6.2 Insurance by Owners. Each Owner (and Permittee of such Owner responsible for carrying insurance) agrees to provide and maintain one or more policies of commercial general liability insurance insuring against claims for bodily injury, personal injury, death or property damage (including contractual liability arising under the indemnities contained herein), occurring on or about such Owner's Parcel and the easement areas which are subject to use and enjoyment by such Owner and its Permittees hereunder, with combined single limit coverage of not less than Two Million Dollars (\$2,000,000.00), or such higher amounts of coverage as Declarant may from

time to time designate (but without obligation to do so) based on insurance coverage carried by reasonable and prudent owners of like property in the State of Arizona. Each policy of commercial general liability insurance procured and maintained by an Owner or its Permittees must be primary and not contributing with any policy or policies of insurance maintained by Declarant or any other Owner or its Permittees, and must name Declarant and any Person designated in writing by Declarant (using ISO Endorsement CG 2026, or its equivalent) as additional insureds. Any insurance required under this Agreement may be brought within the coverage of so-called blanket or master policies of insurance, provided that such blanket or master policies contain a so-called “per location aggregate” endorsement (or equivalent) preventing the coverages required by this Agreement from being reduced or diminished by reason of the use of such policies. All insurance must be issued by insurance companies authorized to do business in the State of Arizona having a rating in the then most current edition of Best’s Key Rating Guide of A:X or better, must be written on an occurrence basis and must include coverage for contractual liability and broad form property damage. Notwithstanding anything contained herein to the contrary, the City may provide all required insurance coverage hereunder through membership in the Arizona Municipal Risk Retention Pool so long as the foregoing limits of liability are maintained.

6.3 Self-Insurance. Any Owner (or Permittee of such Owner responsible for carrying insurance) having a tangible net worth, calculated in accordance with generally accepted accounting principles, consistently applied, in excess of Three Hundred Million Constant Dollars (\$300,000,000.00) and net current assets in excess of Seventy-Five Million Constant Dollars (\$75,000,000.00) may self-insure. By self-insuring, an Owner (or Permittee of such Owner responsible for carrying insurance) is deemed to have agreed to make payment in the event of loss at such times, in such amounts, and to such person(s) as would an insurance company authorized to do business in the State of Arizona having a rating in the then most current edition of Best’s Key Rating Guide of A:X or better, it being the intention in permitting self-insurance hereunder that such self-insurance be equivalent to the third-party insurance coverage otherwise required under this **Section 6**. In no event, however, may the scope of any self-insurance be deemed to be greater than the scope of the third-party insurance coverage otherwise required under this **Section 6**. The election by an Owner (or Permittee of such Owner responsible for carrying insurance) to self-insure does not reduce or diminish the indemnification to which such Owner (or Permittee of such Owner responsible for carrying insurance) would otherwise be entitled under this Agreement.

6.4 Evidence of Insurance. Upon reasonable request by Declarant, an Owner agrees to furnish to the requesting party certificates of insurance and, with respect to the additional insured obligations referenced in this Article, a copy of ISO Endorsement CG 2026 (or its equivalent), and other reasonable evidence indicating that insurance meeting the requirements hereof has been obtained and is in full force and effect. In the case of self-insurance, reasonable evidence substantiating a tangible net worth, calculated in accordance with generally accepted accounting principles, consistently applied, in excess of Three Hundred Million Constant Dollars (\$300,000,000.00) and net current assets in excess of Seventy Five Million Constant Dollars (\$75,000,000.00) must be provided (e.g., audited financial statements prepared by a reputable national accounting firm in accordance with generally accepted accounting principles, consistently applied, but if such Owner or Permittee is publicly traded on a national securities exchange, substantiation of net worth need not be made, as such information is a matter of public record).

6.5 Mutual Waiver. The Owner of each Parcel, for itself, and, to the extent legally permissible, on behalf of its Permittees and insurance carriers, hereby waives the right of recovery against Declarant and Property Manager for: (a) any loss or damage to the property of the waiving Owner located in the Project, (b) any loss or damage to the Buildings or other Improvements in the Project or the contents thereof, and (c) any other direct or indirect loss or damage caused by fire or other risks, which loss or damage is or would be covered by a policy of causes of loss-special form property insurance. Each Owner agrees to obtain for the benefit of Declarant a waiver of any right of subrogation which the insurance carrier(s) of the waiving Owner may acquire against Declarant of any such loss covered by such property insurance.

6.6 Insurance Maintained by Declarant. Declarant shall have the right to obtain and maintain general public liability insurance and casualty insurance for the Areas of Declarant Responsibility in such amounts and with such coverage and under such terms and conditions as the Declarant deems appropriate. Unless otherwise agreed to by Declarant, such insurance shall be secondary to the insurance to be carried by the Owners or their Permittees under this **Section 6.**

7. **Taxes.** Each Owner shall pay or cause to be paid, prior to delinquency, all Taxes levied or made by any governmental body or agency with respect to its Parcel and all Improvements thereon. Copies of paid receipts for such taxes (or other evidence of payment satisfactory to Declarant) shall be delivered to Declarant within thirty (30) days of written demand. If any Owner shall fail to comply with its covenant as set forth in this **Section 7,** Declarant may (but shall have no obligation to) pay such taxes and penalties and interest thereon (collectively, the “**Defaulted Taxes**”), and Declarant shall be entitled to prompt reimbursement from the defaulting Owner for the sums so expended, with interest thereon at the interest rate as set forth in **Section 10.5.** If Declarant pays any Defaulted Taxes, Declarant shall be entitled to record a lien against the Parcel owned by the defaulting Owner for the amount of the Defaulted Taxes, together with interest, lien fees, and reasonable attorneys' fees. All such amounts owing may be enforced in any manner allowed by law including, but not limited to: (a) bringing an action at law against the Owner who failed to pay the Defaulted Taxes (and such action may be brought without waiving any lien provided for above); or (b) bringing an action to foreclose the lien provided for above against the Parcel for which Defaulted Taxes were paid, in the manner provided by law for the foreclosure of a realty mortgage.

8. Covenant for Assessments and Creation of Lien.

8.1 Creation of Lien; Personal Obligations for Assessments. Each Owner by becoming the Owner of a Parcel, is deemed to covenant and agree to pay Assessments to Declarant in accordance with this Declaration. All Assessments shall be established and collected as provided in this Declaration. The Assessments, together with interest, late charges and all costs, including but not limited to, reasonable attorneys' fees, incurred by Declarant collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall be a charge on the Parcel and shall be a continuing lien upon the Parcel against which each such Assessment is made, subject to the terms of **Section 8.6.5** below. Each Assessment, together with interest and all costs, including but not limited to reasonable attorneys' fees, incurred by Declarant in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall also be the personal obligation of the Person who was the Owner of the Parcel at the time when the Assessment became due. The

personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner unless expressly assumed by them.

8.2 Purpose of Assessments. The Assessments levied by Declarant shall be used exclusively for the purpose of discharging Declarant's and Property Manager's duties, obligations and responsibilities under this Declaration, as amended from time to time, including for Common Expenses.

8.3 Annual Assessments.

8.3.1 Amount of Annual Assessment. In order to provide funds for Declarant to pay all Common Expenses and to perform its duties and obligations under the Project Documents, Declarant, for each Assessment Period, shall assess against each Parcel an Annual Assessment. The amount of the Annual Assessment may include a reserve for capital improvements and replacements, in such amounts as shall be determined by Declarant to be reasonably adequate, taking into account the number and nature of replaceable property within the Areas of Declarant Responsibility, the expected life of each such item, and each item's expected repair or replacement cost. Declarant shall cause a copy of the budget and a statement of the amount of the Annual Assessments for the calendar year in question to be made available to each Owner. Declarant, in its sole discretion from time to time, may change the Assessment Period, upon reasonable notice to the other Owners.

8.3.2 Notice; Adjustment. Declarant shall give notice of the Annual Assessment to each Owner at least sixty (60) days prior to the beginning of each Assessment Period together with the proposed budget (except advance notice of the first Annual Assessment shall not be required), but the failure to timely give any such notice shall not affect the validity of the Annual Assessment nor relieve any Owner from its obligation to pay the Annual Assessment. If Declarant determines during any Assessment Period that the funds budgeted for that Assessment Period are, or will, become inadequate to meet all Common Expenses for any reason including, without limitation, nonpayment of Assessment by Owners, Declarant may increase the Annual Assessment for that Assessment Period and the revised Annual Assessment shall commence on the date designated by Declarant. If an Annual Assessment is increased due to non-payment of Assessment by an Owner, and all or any portion of such non-paid Assessment is collected from the defaulting Owner (or its successors) after having been paid by the other Owners (the "**Non-defaulting Owners**") pursuant to this **Section 8.2.2**, the amount of the non-paid Assessment subsequently collected from the defaulting Owner (or its successors) shall be credited to reduce the amount of the Annual Assessment for the Parcels of the Non-defaulting Owners in the succeeding year.

8.4 Rate of Assessment. The amount of the Annual Assessment shall be based upon a proposed budget. The total projected Common Expenses for the Assessment Period for which the Annual Assessment is being levied shall be assessed against each Owner and its respective Parcel (other than the Garage Parcel and any Future Garage Parcel (as defined below)) pro rata based on the gross square footage of Land Area of such Owner's Parcel as it bears to the total gross square footage of Land Area of all of the Parcels excluding the Land Area of the Garage Parcel and any Future Garage Parcel. "**Future Garage Parcel**" shall mean any Parcel on which a parking structure is constructed or contemplated to be constructed pursuant to a site plan approved by the City, the operation and maintenance of which is governed by the Parking Agreement or another

agreement of similar scope. Notwithstanding anything contained in this Declaration to the contrary, for a period of three (3) years, commencing on the date that the first certificate of occupancy is issued for any improvements constructed on the City Parcel, the Annual Assessment shall be assessed against, and paid by, the City and Declarant on a 50/50 basis; provided that if a Parcel is conveyed or ground leased to a third party not affiliated with Globe prior to the end of said three (3) year period, such third party's share of the Annual Assessment shall be determined by using the formula set forth above and the City and Declarant shall pay the remainder of the Annual Assessment on a 50/50 basis. Upon the expiration of said three (3) year period, the Annual Assessment shall be assessed against, and paid by, the Owners as provided above in this Section 8.4.

8.5 Special Assessments. Declarant may levy against each Parcel a special assessment for the purpose of defraying, in whole or in part, expenses which include, but are not limited to, litigation, arbitration or other dispute resolution costs, or the cost of any construction, reconstruction, major repair or replacement of an Improvement upon or within the Areas of Declarant Responsibility, such as repairing or replacing the monument signs, or re-landscaping the landscape areas ("**Special Assessment**"); provided however, that no Special Assessment shall be levied for capital expenditures unless such expenditures have been approved in writing by both a Super-Majority and the City. Any such Special Assessment shall be allocated to the Parcels as set forth above. If, after levying a Special Assessment, Declarant recovers all or any portion of the expense included in the Special Assessment from the Person responsible for such expense (or their insurer), Declarant will credit all Owners their respective pro rata share of any such recovery against the amounts next coming due from such Owners under this Declaration.

8.6 Collection of Assessments. Assessments shall be collected in advance by Declarant on a monthly, quarterly, semiannual or annual basis, as selected by Declarant. Declarant will reasonably estimate the amount of each Owner's Assessment next due and collect and impound in advance from each Owner the amount thereof, or collect in arrears from each Owner the actual amount of such Owner's Assessment, as shown in a statement to be sent by Declarant to each Owner. Each Owner agrees to pay to Declarant the amount shown to be due on such statement within thirty (30) days following such Owner's receipt thereof. If estimated impounds are collected, Declarant will endeavor, within ninety (90) days following the close of each calendar year, to provide each Owner with a statement setting forth a reconciliation of such Owner's impound account. If such reconciliation statement discloses that the amount collected in any Owner's impound account is insufficient to satisfy such Owner's Assessment under this **Article 8** for the previous year, such Owner agrees to pay to Declarant such deficiency within thirty (30) days following such Owner's receipt of the reconciliation statement. Any excess in an Owner's impound account that is not necessary, in Declarant's judgment, for reasonable and customary reserves, will be returned to such Owner or applied against next succeeding impounds hereunder, at the option of Declarant. Declarant shall have the right to adopt rules and regulations which, among other things, set forth procedures for the purpose of making Assessments and for the billing and collection of the Assessments; provided that the procedures are not inconsistent with this Declaration. The failure of Declarant to send a bill to an Owner shall not relieve any Owner of its liability for any Assessment or charge under this Declaration.

8.7 Effect of Nonpayment of Assessments; Remedies of Declarant.

8.7.1 Interest on Late Payments. Any Assessment, or any installment of an Assessment, not paid within fifteen (15) days after the Assessment, or the installment of the Assessment, first became due shall bear interest from the due date at the rate set forth in **Section 10.5.**

8.7.2 Assessment Liens. Subject to the terms of **Section 8.6.5** below, Declarant shall have a lien (the “**Assessment Lien**”) on each Parcel for: (a) all due and unpaid Assessments levied against the Parcel; (b) all interest, lien fees, late charges and other fees and charges assessed against the Parcel or payable by the Owner of the Parcel; (c) all fines levied against the Owner of the Parcel; (d) all reasonable attorneys' fees, court costs, title report fees, costs and fees charged by any collection agency either to Declarant or to an Owner and any other fees or costs incurred by Declarant in attempting to collect Assessments or other amounts due to Declarant by the Owner of a Parcel; (e) any amounts payable to Declarant pursuant to **Section 3.7** above; and (f) any other reasonable amounts payable to Declarant pursuant to the Project Documents. The Recording of this Declaration constitutes record notice and perfection of the Assessment Lien. Declarant may, at its option, Record a notice of lien setting forth the name of the delinquent Owner as shown in the records of Declarant, the legal description or street address of the Parcel against which the notice of lien is Recorded, the amount claimed to be past due as of the date of the Recording of the notice of lien, including interest, lien Recording fees and reasonable attorneys' fees. Before Recording any notice of lien against a Parcel, Declarant shall make a written demand to the delinquent Owner for payment of the delinquent Assessments, together with interest, late charges and reasonable attorneys' fees, if any. The demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand, but any number of defaults may be included within the single demand. If the delinquency is not paid within fifteen (15) days after delivery of the demand, Declarant may proceed with Recording a notice of lien against the Parcel.

8.7.3 Priority of Assessment Lien. The Assessment Lien shall have priority over all liens or claims except for: (a) liens and encumbrances Recorded before the Recordation of this Declaration; (b) tax liens for real property taxes; and (c) assessments in favor of any municipal or other governmental body or as otherwise provided from time to time under applicable law.

8.7.4 Release of Assessment Lien. Declarant shall not be obligated to release the Assessment Lien until all delinquent Assessments, interest, lien fees, fines, reasonable attorneys' fees, court costs, title report fees, collection costs and all other sums payable to Declarant by the Owner of the Parcel have been paid in full.

8.7.5 Remedies. Declarant shall have the right, at its option, to enforce collection of any delinquent Assessments together with interest, lien fees, reasonable attorneys' fees and any other sums due to Declarant in any manner allowed by law including, but not limited to: (a) bringing an action at law against the Owner personally obligated to pay the delinquent Assessments, and such action may be brought without waiving the Assessment Lien securing the delinquent Assessments; or (b) bringing an action to foreclose the Assessment Lien against the Parcel in the manner provided by law for the foreclosure of a realty mortgage. Declarant shall

have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Parcels purchased at such sale.

8.8 Evidence of Payment of Assessments. Within ten (10) days after receipt of a written notice of a pending sale of a Parcel that includes the name and address of the purchaser, Declarant shall endeavor to mail or deliver, or cause an appropriate Person to mail or deliver, a dated statement setting forth the amount of all Assessments and whether or not all Assessments, interest and other fees and charges have been paid with respect to any specified Parcel as of the date of such statement, or if all Assessments have not been paid, the amount of such Assessments, interest, fees and charges due and payable as of such date, together with such other information as is required by law. Declarant has the right to charge an administrative fee in the amount of \$100 for providing any such statement.

8.9 Audit Rights. Each Owner shall have the right to audit Declarant's books as to a determination of actual Common Expenses incurred and allocated for any calendar year, which audit shall be conducted at any reasonable time upon at least thirty (30) days' notice to Declarant (but no more frequently than once in any calendar year and not for any calendar year that is more than two (2) years prior to the date such audit is requested). Any such audit shall be conducted at the requesting Owner's expense; at Declarant's office during normal business hours; and by an auditor who does not conduct the audit on a contingency basis and who must agree to keep the audit results confidential. A copy of such audit shall be delivered to Declarant immediately upon completion. If Declarant's accountants dispute the conclusion of the audit, written notice of protest shall be delivered to the Owner who conducted the audit within thirty (30) days of Declarant's receipt of the written audit results. If the Owner's auditors and Declarant's accountants cannot reach agreement as to the audit results within fifteen (15) days following Declarant's protest of the audit results, Owner's auditors and Declarant's accountants shall select an independent third party certified public accountant (whose fees will be equally shared by Owner and Declarant subject to the provisions of subpart (ii) below) to review the audit results and Declarant's objections thereto, and such third party certified public accountant's decision shall be binding. In the event that such final audit results disclose an overstatement of Common Expenses or mis-allocation thereof among the Owners, Declarant shall (i) refund such overage and make adjustment for any misallocation to the respective Owner(s) within thirty (30) days; and (ii) if such audit discloses an overstatement of five percent (5%) or more of Common Expenses for the applicable accounting period, Declarant shall pay the cost of such audit and no part of such cost shall be passed on to the Owners as a Common Expense.

9. No Rights in Public. Nothing contained herein shall be construed as creating any rights in the general public or as dedicating for public use any portion of the Parcels.

10. Remedies.

10.1 All Available Remedies. In the event of a breach by any Owner or its Permittees of any of the terms or provisions hereof, Declarant shall be entitled forthwith to full and adequate relief by injunction and/or all such other available legal and equitable remedies from the consequences of such breach, including payment of any amounts due and/or specific performance. The failure of Declarant to take enforcement action with respect to a violation of this Declaration shall not constitute or be deemed a waiver of the right of Declarant to enforce this Declaration in the future.

If any lawsuit is filed by Declarant or a non-defaulting Owner to enforce the provisions of this Declaration or which in any other manner arises out of this Declaration, the prevailing party in such action shall be entitled to recover from the other party all attorney fees incurred by the prevailing party in the action.

10.2 Self-Help. In addition to all other remedies available at law or in equity, upon the failure of a defaulting Owner to cure a breach of this Declaration by such Owner or its Permittees within thirty (30) days following written notice of same, Declarant shall have the right (but no obligation) to cure such breach on behalf of such defaulting Owner (and easements necessary to cure such breach) and be reimbursed by such defaulting Owner upon demand for the costs thereof together with a fifteen percent (15%) administrative fee and interest as provided in **Section 10.5**. Notwithstanding the foregoing, if the nature of the breach of this Declaration presents an immediate risk of damage to property, injury to persons, interruption of utility service or loss, obstruction or blockage of access, the prior notice requirement of this Section shall not apply, and Declarant shall be authorized to take immediate steps to minimize or eliminate such risk, and be reimbursed for the costs thereof. In such event, notice of such action shall be given to the defaulting Owner as soon as reasonably practicable under the circumstances.

10.3 Remedies Cumulative. The remedies specified herein shall be cumulative and in addition to all other remedies permitted at law or in equity.

10.4 No Termination for Breach. Notwithstanding anything to the contrary herein contained, no breach hereunder shall entitle any Owner to cancel, rescind, or otherwise terminate this Declaration, nor shall it defeat or render invalid the lien of any mortgage or deed of trust upon all or any portion of the Parcels made in good faith for value, but the easements, rights and obligations contained herein shall be binding upon and effective against any Owner thereof whose title thereto is acquired by foreclosure, trustee's sale, or otherwise.

10.5 Interest. At any time an Owner shall not pay any sum payable under this Declaration to Declarant or Property Manager within ten (10) days of the due date, such delinquent Owner shall pay interest on such amount from the due date to and including the date such payment is received by the Person entitled thereto at the lesser of: (a) the highest rate permitted by law, or (b) eight percent (8%) plus the rate of interest from time to time published as the "prime rate" in the Wall Street Journal, or if the Wall Street Journal ceases publication of the "prime rate", a comparable rate of interest published by another financial periodical with national distribution as reasonably designated by Declarant.

10.6 Mortgagee Protection. Breach of any of the covenants or restrictions contained in this Declaration shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to any Parcel or any part of a Parcel, but all of the foregoing provisions, restrictions and covenants shall be binding upon and effective against any Owner whose title to a Parcel (or a portion of a Parcel) is acquired by foreclosure, trustee sale, deed in lieu of foreclosure or otherwise.

10.7 Lease Protection. Breach of any of the covenants or restrictions contained in this Declaration shall not defeat or render invalid any lease executed by an Owner in good faith and

for value as to all or any portion of a Parcel, but all of the foregoing provisions, restrictions and covenants shall be binding upon and effective against the tenant or lessee under any such lease.

11. **Term.** The covenants, conditions, restrictions and easements contained in this Declaration shall be effective commencing on the date this Declaration is Recorded, and shall remain in full force and effect for a period of ninety nine (99) years from and after said date of Recording, unless this Declaration is modified, amended, cancelled or terminated in accordance with **Section 12.3** below.

12. **Miscellaneous.**

12.1 **Notices.** Any notice to be given hereunder shall be given in writing and delivered in person, or by reputable nationwide overnight courier (e.g., Federal Express), or forwarded by certified or registered mail, postage prepaid, return receipt requested, or by electronic mail (provided a copy of such notice is also given by one of the other foregoing methods) at the address for Declarant and Property Manager set forth below, as may be amended from time to time by a recorded amendment to this Declaration made by the then-current Declarant:

Declarant: GLOBE LAND INVESTORS, LLC
6730 North Scottsdale Road, Suite 250
Scottsdale, Arizona 85253
Attn: Mike Olsen
molsen@globecor.com

with a copy to
Property Manager: Globe Management Company
Attention: Dawn Still
Director of Property Management
6730 North Scottsdale Road, Suite 250
Scottsdale, Arizona 85253
dstill@globecor.com

The address for notices to any Owner shall be the address on file with Declarant or, if none, the address of any Building on such Owner's Parcel. Any notice shall be deemed effective on the date on which such notice is delivered, if notice is given by personal delivery or overnight courier, or if notice is sent through the United States mail, on the date of actual delivery as shown on the addressee's receipt or upon the expiration of three (3) days following the date of mailing, whichever first occurs, or if by electronic mail, on the date received by the addressee.

12.2 **Attorneys' Fees.** In the event of any legal action or proceeding for the enforcement of any right or obligation herein contained, the prevailing party shall be entitled to recover from the unsuccessful party its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

12.3 **Amendment.**

12.3.1 So long as Globe owns any interest in the Project, Globe shall have the right, without the consent of any other Owner, to amend or modify any provision of this Declaration and to record any supplement to this Declaration, except that any amendment or modification to any

Exclusive Use granted in a Recorded instrument shall require the approval of the Owner benefiting from the Exclusive Use, and further provided that a termination of this Declaration shall require the written consent of a Super-Majority of Owners of the Project. Any such modification, amendment or termination of this Declaration shall be evidenced by a Recorded document that has been fully executed and acknowledged by Declarant and/or all such Owners, as applicable. Notwithstanding the foregoing, any termination of this Declaration or any change, modification and/or amendment to this Declaration resulting in any of the following shall require the advance written approval of the City while it is the Owner or a Permittee of the City Parcel: (i) a violation of the applicable zoning ordinance affecting the Project or any applicable stipulation or resolution of record affecting the City Parcel; (ii) obstruction of the passage of vehicles and pedestrians pursuant to the easement rights set forth in Section 2.1.1 above, subject to the right of Owners to temporarily, semi-permanently or permanently restrict such access rights as provided in Section 2.1.1 above; (iii) the obstruction of or a change in the exit(s) and entrance(s) of the Project; (iv) material interference with the installations which may be erected in the Project in accordance with the Site Plan; (v) modification of the restrictions set forth in Section 5.1 above; (vi) modification of the items that are included within the definition of Common Expenses; or (vii) modification of the Areas of Declarant Responsibility.

12.3.2 Once Globe no longer owns any interest in the Project, this Declaration may thereafter be amended, modified or terminated by a Super-Majority of Owners.

12.4 Consents. Whenever in this Declaration the consent or approval of an Owner or Declarant is required, unless otherwise expressly provided herein, such consent or approval shall not be unreasonably withheld or delayed. Any request for consent or approval shall: (a) be in writing; (b) specify the section hereof which requires that such notice be given or that such consent or approval be obtained; and (c) be accompanied by such background data as is reasonably necessary to make an informed decision thereon.

12.5 No Waiver. No waiver of any default of any obligation by any party hereto shall be implied from any omission by the other party to take any action with respect to such default.

12.6 No Agency. Nothing in this Declaration shall be deemed or construed by either party or by any third person to create the relationship of principal and agent or of limited or general partners or of joint venturers or of any other association between the parties.

12.7 Covenants to Run with Land. It is intended that each of the easements, covenants, conditions, restrictions, rights and obligations set forth herein shall run with the land and create equitable servitudes in favor of the real property benefited thereby, shall bind every person having any fee, leasehold or other interest therein and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives. However, no easement, covenant, condition, restriction or other right or benefit accruing hereunder in favor of any Parcel shall be assignable, transferable or otherwise delegable to or for the benefit of neighboring real property that is not a Parcel hereunder.

12.8 Grantee's Acceptance. The grantee of any Parcel or any portion thereof, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof (within the meaning of A.R.S. Section 33-741(2)), whether from an original party or from a

subsequent Owner of such Parcel, shall accept such deed or contract upon and subject to each and all of the easements, covenants, conditions, restrictions and obligations contained herein, whether or not reference to this Declaration is made in such deed or contract for purchase. By such acceptance, any such grantee shall for himself and his successors, assigns, heirs, and personal representatives, covenant, consent, and agree to and with all other Owners, to keep, observe, comply with, and perform the obligations and agreements set forth herein with respect to the property while such grantee is an Owner of any portion of the Project.

12.9 Severability. Each provision of this Declaration and the application thereof to the Parcels are hereby declared to be independent of and severable from the remainder of this Declaration. If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Declaration. In the event the validity or enforceability of any provision of this Declaration is held to be dependent upon the existence of a specific legal description, the parties agree to promptly cause such legal description to be prepared.

12.10 Time of Essence. Time is of the essence of this Declaration.

12.11 Entire Agreement; Integration. This Declaration contains the complete understanding and agreement of the parties hereto with respect to all matters referred to herein, and all prior representations, negotiations, and understandings are superseded hereby. The provisions of Section 14.26 of the Development Agreement have been integrated into this Declaration and the provisions of said Section 14.26 shall be deemed superseded in full and replaced by this Declaration.

12.12 Governing Law and Jurisdiction. The laws of the State of Arizona shall govern the interpretation, validity, performance, and enforcement of this Declaration. All Owners irrevocably consent to jurisdiction and venue in Maricopa County, Arizona and agree not to attempt to remove or transfer any action properly commenced in Maricopa County, Arizona.

12.13 Assignment of Declarant's Rights. By Recorded instrument, Declarant may assign all of its right, title and interest as "Declarant" to any Owner, provided that such assignment is signed by both assignor and assignee. No conveyance by Declarant of any Parcel shall result in an assignment of Declarant's right, title or interest as "Declarant" in the absence of an express assignment. No Person may be the Declarant unless such Person is an Owner of a Parcel (or, in the case of Globe, any portion of the Project). If at any time the Declarant named in the most recent Recorded instrument no longer owns a Parcel (or, in the case of Globe, any portion of the Project), the Declarant's rights shall be exercised, and the obligations of Declarant shall be performed, with the consent of a Simple Majority of Owners.

12.14 Declarant Change in Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Declaration.

12.15 Declarant's Disclaimer of Representations. Anything to the contrary in this Declaration notwithstanding, and except as otherwise may be expressly set forth on a Recorded map or plat or other Recorded instrument or agreement, Declarant makes no warranties or

representations whatsoever that the plans presently envisioned for the complete development of the Parcels can or will be carried out or that any land now owned or hereafter acquired by Declarant is or will be committed to or developed for a particular plan or any use or that if such land is once used for a particular use, such use will continue in effect.

12.16 Limitation on Liability. Anything herein to the contrary notwithstanding, each Owner, by accepting any interest in any portion of the Project, acknowledges and agrees that Declarant and its affiliates, agents, employees, partners, officers, directors and members shall have no personal liability arising out of or relating to this Declaration except, in the case of Declarant, to the extent of its interest in the Property and, in the event of a judgment, no execution or other action shall be sought or brought thereon against any other assets or be a lien upon such other assets of the judgment debtor. Notwithstanding the foregoing, any Person who intentionally misappropriates funds in connection with the Project shall not be subject to the foregoing limitation on liability.

12.17 No Merger. The ownership of the entirety of the Parcels by the same Person shall not effect a termination of this Declaration. In addition, the ownership of the fee interest and the leasehold estate in and to an entire parcel by the same Person shall not affect a termination of this Declaration.

12.18 No Third-Party Beneficiary. No rights, privileges or immunities set forth in this Declaration shall inure to the benefit of any Permittee of any Owner of any Parcel, nor shall any Permittee of any such Owner be deemed to be a third party beneficiary of any provisions contained in this Declaration, except as otherwise specifically provided in any lease by and between a Permittee and an Owner.

12.19 Further Assurances. Each Owner of a Parcel shall execute and deliver such further documents and instruments and take such further action as may be reasonably requested by another Owner and as is consistent with the provisions of this Declaration in order to accomplish the purpose and intent of this Declaration.

12.20 Prescriptive Easements/Adverse Possession. No title, easement or use pertaining to the Project or any portion thereof may be established by prescription or adverse possession, the statute of limitations for such purposes being expressly hereby waived.

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

GLOBE LAND INVESTORS, LLC, a Delaware limited liability company

By: Globe Corporation, an Illinois corporation, its: Managing Member

By: _____

Its: _____

STATE OF ARIZONA)
) §§
County of Maricopa)

The foregoing Declaration of Easements, Covenants, Conditions and Restrictions was acknowledged before me on _____, 20__, by _____, the _____ of Globe Corporation, an Illinois corporation, the Managing Member of GLOBE LAND INVESTORS, LLC, a Delaware limited liability company, on behalf of the limited liability company.

Notary Public

My Commission Expires:

ACKNOWLEDGED AND AGREED TO:

CITY OF GOODYEAR, ARIZONA,
an Arizona municipal corporation

By: _____

Its: _____

STATE OF ARIZONA)
) §§
County of Maricopa)

The foregoing Declaration of Easements, Covenants, Conditions and Restrictions was acknowledged before me on _____, 20__, by _____, the _____ of the City of Goodyear, an Arizona municipal corporation, on behalf of the corporation.

Notary Public

My Commission Expires:

EXHIBIT A

PROPERTY LEGAL DESCRIPTION

A PORTION OF SECTION 32, TOWNSHIP 2 NORTH, RANGE 1 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT A 3" CITY OF GOODYEAR BRASS CAP STAMPED "RLS 27238 2000" MARKING THE SOUTH QUARTER CORNER OF SAID SECTION 32, FROM WHICH A 3" CITY OF GOODYEAR BRASS CAP, WITH NO STAMPING, MARKING THE SOUTHWEST CORNER OF SAID SECTION 32, BEARS NORTH 89°28'16" WEST A DISTANCE OF 2619.64 FEET, AND FROM WHICH A 3" CITY OF GOODYEAR BRASS CAP IN HANDHOLE, MARKING THE SOUTHEAST CORNER OF SAID SECTION 32, BEARS SOUTH 89°28'03" EAST (BASIS OF BEARINGS), A DISTANCE OF 2619.43 FEET;

THENCE SOUTH 89°28'03" EAST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 32, A DISTANCE OF 370.14 FEET TO A 3" CITY OF GOODYEAR BRASS CAP FLUSH STAMPED RLS 27239 MARKING THE INTERSECTION OF THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 32 AND THE CENTERLINE OF NORTH 150TH DRIVE ACCORDING TO THE MAP OF DEDICATION FOR MCDOWELL ROAD COMMERCIAL CORRIDOR IMPROVEMENT DISTRICT INFRASTRUCTURE, RECORDED IN BOOK 956 OF MAPS, PAGE 21, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE NORTH 00°32'01" EAST ALONG THE CENTERLINE OF SAID NORTH 150TH DRIVE, A DISTANCE OF 829.64 FEET TO A BRASS CAP FLUSH MARKING THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 1200.00 FEET;

THENCE NORTHWESTERLY, ALONG SAID CENTERLINE AND THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 26°39'09", A DISTANCE OF 558.21 FEET;

THENCE NORTH 26°07'02" WEST CONTINUING ALONG SAID CENTERLINE, A DISTANCE OF 89.87 FEET;

THENCE LEAVING SAID CENTERLINE, SOUTH 63°52'58" WEST, A DISTANCE OF 293.42 FEET TO THE POINT OF BEGINNING;

THENCE SOUTH 67°03'47" WEST, A DISTANCE OF 375.00 FEET;

THENCE NORTH 22°56'13" WEST, A DISTANCE OF 179.45 FEET;

THENCE SOUTH 67°03'47" WEST, A DISTANCE OF 313.31 FEET;

THENCE SOUTH 39°25'25" WEST, A DISTANCE OF 64.37 FEET TO THE NORTHEASTERLY LINE OF THE BULLARD WASH, ACCORDING TO THE MAP OF DEDICATION FOR MCDOWELL ROAD COMMERCIAL CORRIDOR IMPROVEMENT DISTRICT BULLARD WASH, RECORDED IN BOOK 955 OF MAPS, PAGE 42, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE SOUTH 50°34'35" EAST, A DISTANCE OF 113.22 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY, FROM WHICH THE CENTER OF SAID CURVE BEARS SOUTH 39°24'57" WEST, A DISTANCE OF 1500.00 FEET;

THENCE SOUTHEASTERLY, ALONG THE NORTHEASTERLY LINE OF SAID BULLARD WASH AND THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 20°55'34", A DISTANCE OF 547.84 FEET;

THENCE LEAVING SAID NORTHEASTERLY LINE, NORTH 67°03'47" EAST, A DISTANCE OF 156.85 FEET;

THENCE NORTH 22°56'13" WEST, A DISTANCE OF 179.20 FEET;

THENCE NORTH 67°03'47" EAST, A DISTANCE OF 375.00 FEET;

EXHIBIT B

SITE PLAN

Exhibit on file in the offices of Declarant and the City Clerk

EXHIBIT C

CITY PARCEL

A PORTION OF SECTION 32, TOWNSHIP 2 NORTH, RANGE 1 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT A 3" CITY OF GOODYEAR BRASS CAP STAMPED RLS 27238 2000 MARKING THE SOUTH QUARTER CORNER OF SAID SECTION 32, FROM WHICH A 3" CITY OF GOODYEAR BRASS CAP, WITH NO STAMPING, MARKING THE SOUTHWEST CORNER OF SAID SECTION 32, BEARS N89°28'16"W A DISTANCE OF 2619.64 FEET, AND FROM WHICH A 3" CITY OF GOODYEAR BRASS CAP IN HANDHOLE, MARKING THE SOUTHEAST CORNER OF SAID SECTION 32, BEARS S89°28'03"E (BASIS OF BEARINGS), A DISTANCE OF 2619.43 FEET;

THENCE S89°28'03"E ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 32, A DISTANCE OF 370.14 FEET TO A 3" CITY OF GOODYEAR BRASS CAP FLUSH STAMPED RLS 27239 MARKING THE INTERSECTION OF THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 32 AND THE CENTERLINE OF N 150TH DRIVE ACCORDING TO THE MAP OF DEDICATION FOR MCDOWELL ROAD COMMERCIAL CORRIDOR IMPROVEMENT DISTRICT INFRASTRUCTURE, BOOK 956, PAGE 21, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE N00°32'01"E ALONG THE CENTERLINE OF SAID NORTH 150TH DRIVE, A DISTANCE OF 829.64 FEET TO A BRASS CAP FLUSH MARKING THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 1200.00 FEET;

THENCE NORTHWESTERLY, ALONG SAID CENTERLINE AND THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 26°39'09", A DISTANCE OF 558.21 FEET;

THENCE N26°07'02"W CONTINUING ALONG SAID CENTERLINE, A DISTANCE OF 93.51 FEET;

THENCE LEAVING SAID CENTERLINE, S63°52'58"W A DISTANCE OF 298.76 FEET TO THE POINT OF BEGINNING;

THENCE S67°03'47"W, A DISTANCE OF 367.27 FEET;

THENCE N22°56'13"W, A DISTANCE OF 176.10 FEET;

THENCE S67°03'47"W, A DISTANCE OF 315.50 FEET;

THENCE S39°25'25"W A DISTANCE OF 64.37 FEET TO THE NORTHEASTERLY LINE OF THE BULLARD WASH, ACCORDING TO THE MAP OF DEDICATION FOR MCDOWELL ROAD COMMERCIAL CORRIDOR IMPROVEMENT DISTRICT BULLARD WASH, RECORDED IN BOOK 955, PAGE 42, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE S50°34'35"E A DISTANCE OF 113.22 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY, FROM WHICH THE CENTER OF SAID CURVE BEARS S39°24'57"W, A DISTANCE OF 1500.00 FEET;

(CONTINUED ON PAGE 2)

PROJECT NO: 019-0925	EXHIBIT A LEGAL DESCRIPTION GOODYEAR PARCEL	 7250 North 16th Street Suite 210 Phoenix, AZ 85020-5282 TEL 602.748.1000 FAX 602.748.1001	EXHIBIT
DRAWN BY: GPT			1 - 3
DATE: 07/30/2019			

(CONTINUED FROM PAGE 1)

THENCE SOUTHEASTERLY, ALONG THE NORTHEASTERLY LINE OF SAID BULLARD WASH
AND THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 20°55'34", A
DISTANCE OF 547.84 FEET;
THENCE LEAVING SAID NORTHEASTERLY LINE, N67°03'47"E, A DISTANCE OF 159.04
FEET;
THENCE N22°56'13"W, A DISTANCE OF 182.54 FEET;
THENCE N67°03'47"E, A DISTANCE OF 367.27 FEET;
THENCE N22°56'13"W, A DISTANCE OF 292.00 FEET TO THE POINT OF BEGINNING.

SUBJECT TO: EXISTING RIGHTS OF WAY AND EASEMENTS.
SAID PARCEL CONTAINS 267,841 SQUARE FEET OR 6.149 ACRES, MORE OR LESS.



PROJECT NO: 019-0925	EXHIBIT A LEGAL DESCRIPTION GOODYEAR PARCEL		7250 North 16th Street Suite 210 Phoenix, AZ 85020-5282 TEL 602.748.1000 FAX 602.748.1001	EXHIBIT
DRAWN BY: GPT				2 - 3
DATE: 07/30/2019				

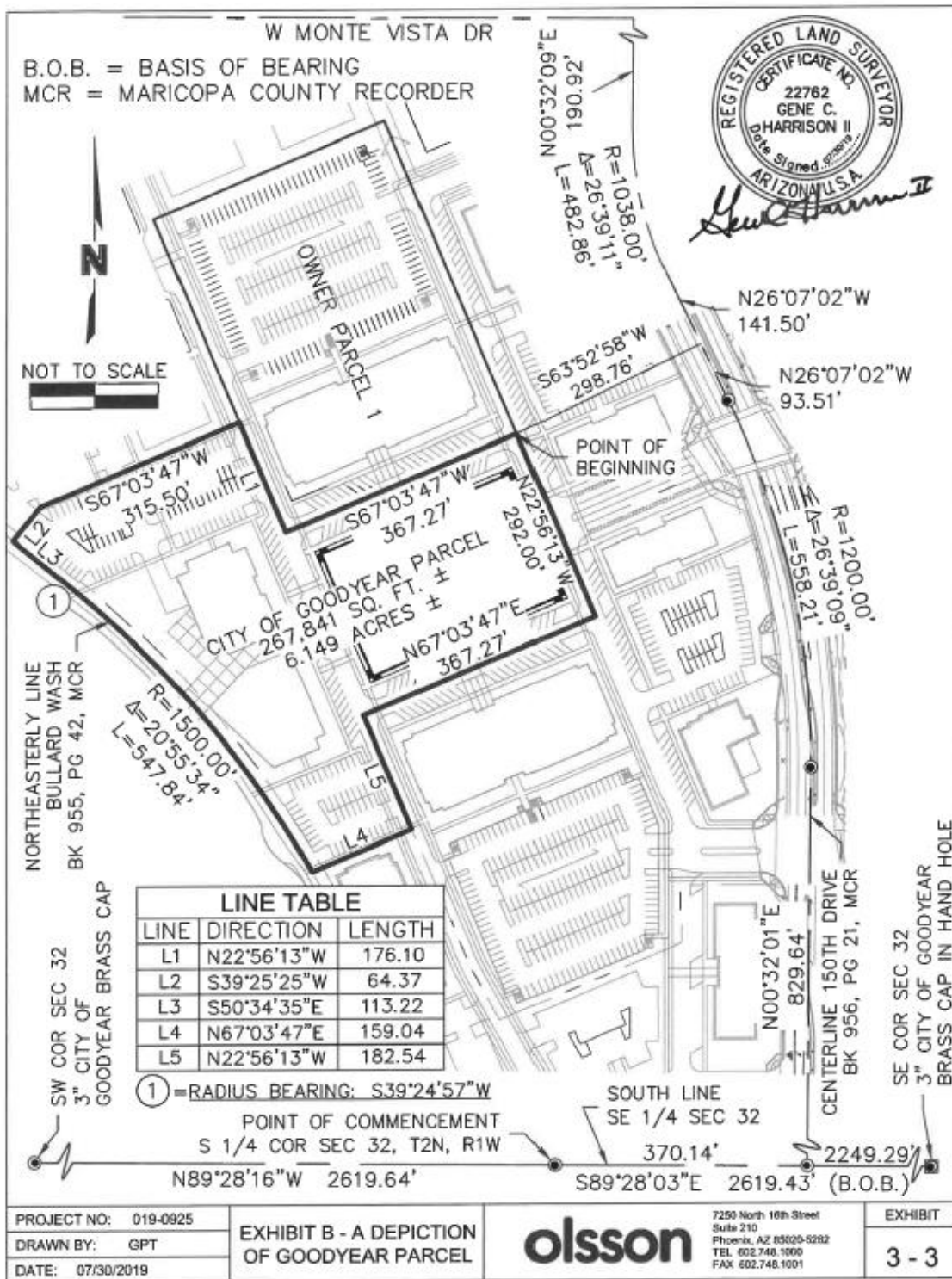


EXHIBIT D

AREAS OF DECLARANT RESPONSIBILITY

Exhibit on file in the offices of Declarant and the City Clerk

EXHIBIT E

Storm Drainage Maintenance and Inspection Requirements

Owner shall ensure that the Storm Water Facilities are maintained in operable condition and repair at all times consistent with federal, state, and local requirements, including the requirements in the City of Goodyear Engineering Design Standards and Policies Manual.

Owner shall maintain the Storm Water Facilities installed and/or constructed on its Parcel in operable condition in accordance with the drainage plans approved by the City, which Storm Water Facilities may include, but are not limited to:

1. Storm drain manholes, pipes, and inlets
2. Concrete weirs, including any discharge points
3. Drywells, including absorbent or filtering media, seals, piping, settling chambers and interceptors. In general debris and sediment shall be removed from the settling chamber and disposed of when the settling chamber becomes at least 33% filled.

The Storm Water Facilities shall be inspected to ensure that the Storm Water Facilities are operating consistent with federal, state, and local requirements including the requirements in the City of Goodyear Engineering Design Standards and Policies Manual for storm water quality and for the disposal/discharge of storm water from the Storm Water Facilities. The inspections shall be conducted and documented by an inspector retained by the Owner who possesses the skills and qualifications to make the required determinations. Inspections of the Storm Water Facilities shall be performed as follows:

1. Annually; and
2. Within 5 days after any storm event that generates more than 0.5 inches of storm water in a 24 hour period according to the Flood Control District rain gauge nearest to the Property, and;
3. When the Owner has actual notice or has reason to believe that the Storm Water Facilities' drainage system is not performing in compliance with federal, state, and local requirements, including the requirements in the City of Goodyear Engineering Design Standards and Policies Manual; and
4. When the Owner has actual notice materials other than storm water or urban runoff have entered the Storm Water Facilities' drainage system and a reasonable person would believe that such materials can cause the Storm Water Facilities to fail to perform in compliance with federal, state, and local requirements, including the requirements in the City of Goodyear Engineering Design Standards and Policies Manual; and
5. Within fourteen (14) days following the completion of repairs and/or clean-up discovered during an earlier inspection.

The Storm Water Facilities, including any of the improvements identified above, shall be cleaned and/or repaired within fourteen (14) days following an inspection in which it is determined that the Storm Water Facilities are not operating consistently with federal,

state, and local requirements including the requirements in the City of Goodyear Engineering Design Standards and Policies Manual for storm water quality and for the disposal/discharge of storm water from the Storm Water Facilities.

Owner will require its inspector complete an inspection form in the form required by the City of Goodyear. The inspection form shall also be used to record repairs, maintenance, and other actions taken to correct deficiencies required hereunder. The inspection form shall be signed by an officer of the Owner (or of its members, managers or partners) or the management company representative authorized by Owner. The inspection form shall be provided to the City by or on behalf of the Owner within 10 days of performing an inspection and shall be maintained by the Owner for not less than three years after the date of the inspection. The inspection forms shall be emailed to the City of Goodyear Public Works Department at gypworks@goodyearaz.gov (or such other e-mail address designated by the City from time to time by written notice to Owner).

If storm water disposal methods in use as part of the Storm Water Facilities are found by the inspector to be insufficient to dispose retained storm water within a 36-hour period following the end of a rain event and/or the Storm Water Facilities fail to operate as designed creating erosion, then the Owner shall engage a Professional Engineer registered in the state of Arizona who shall submit a corrective action plan to the City of Goodyear Public Works Storm Water Program Supervisor for review and approval. The submitted information shall demonstrate measures that will be implemented intended to correct such deficiencies in the Storm Water Facilities. The plan shall conform to the requirements of the current edition of the City's Engineering Design Standards and Policies Manual. Owner's contractor shall obtain all required permits if the corrective action requires new construction as reasonably determined by the City.

In the event that maintenance of the Storm Water Facilities is required under this Agreement, the City may, at its reasonable discretion, provide Owner with written notice that such maintenance is required. Owner shall have 30 days from its receipt of the written notice to commence such maintenance and 60 days from its receipt of the written notice to complete such maintenance, unless such maintenance cannot reasonably be commenced within such 30-day period or completed within such 60-day period, in which case the Owner shall have such additional time as is reasonable to commence or complete, as applicable, the same. If the maintenance is not started or completed in the time prescribed and such failure continues for an additional 10 business days after written notice of same to the Owner, the City on behalf of Owner reserves the right to enter the Property, perform such maintenance and invoice Owner the cost for such work, the payment of which is due to the City upon demand. Nothing contained herein prevents the City from pursuing penalties for violations of applicable codes and regulations resulting from Owner's failure to ensure the Storm Water Facilities are operating consistent with federal, state, and local requirements including the requirements in the City of Goodyear Engineering Design Standards and Policies Manual for storm water quality and for the disposal/discharge of storm water from the Storm Water Facilities in addition to or in lieu of the foregoing.