

**RECORDING REQUESTED BY AND WHEN  
RECORDED MAIL TO:**

**FENNEMORE DOWLING AARON  
8080 North Palm Avenue, Third Floor  
Fresno, CA 93711-5797  
Attention: Christopher A. Brown, Esq.**

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SPACE ABOVE THIS LINE FOR RECORDER'S USE

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**AMENDED AND RESTATED DECLARATION OF  
RECIPROCAL EASEMENTS, COVENANTS AND  
RESTRICTIONS**

(Commercial Campus off Peach Ave, Clovis)

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This AMENDED AND RESTATED DECLARATION OF RECIPROCAL EASEMENTS, COVENANTS, AND RESTRICTIONS (this "Declaration") is made as of June \_\_, 2021, by 201 Pontiac LLC, a California limited liability company; 380 Ashlan LLC, a California limited liability company; BotFee LLC, a California limited liability company; Pontiac 2 LLC, a California limited liability company; Pontiac 3 & 5 LLC, a California limited liability company; Pontiac 4 LLC, a California limited liability company; and Pontiac 7 LLC, a California limited liability company (each, a "Declarant Entity" and collectively, "Declarant"). This Declaration supersedes the Declaration of Reciprocal Easements, Covenants, and Restrictions dated \_\_\_\_\_ and recorded June \_\_, 2021 in the official records of Fresno County as Document No. 2021- \_\_\_\_\_ in the County of Fresno.

**RECITALS**

A. Each Declarant Entity is the owner in fee of certain real property situated in the City of Clovis, County of Fresno, State of California, more particularly described in Exhibits "A1" – "A7" hereto (each, a "Parcel"), and collectively the Parcels make up the "Premises."

B. Declarant desires to subject the Premises to the easements, covenants, restrictions and conditions contained herein.

**DECLARATIONS**

NOW, THEREFORE, Declarant, as owner of the Premises, for itself, its successors and assigns does hereby declare as follows:

**ARTICLE 1**

**DEFINITIONS**

Terms used in this Declaration which are not otherwise defined shall have the following meaning:

**1.01 Agreed Rate.** "Agreed Rate" is the rate of interest announced from time to time by Bank of America, N.T. & S.A. or its successor, in San Francisco, California, as its prime



or reference rate for short term unsecured loans to corporate borrowers of the highest credit standing plus three percent (3%) per annum, but not to exceed an amount of interest which can be charged by law.

**1.02 Building Improvements.** “Building Improvements” means buildings and related accessory structures and improvements (such as carports, storage areas, loading ramps, delivery areas) now located or that may hereafter be located on the Premises.

**1.03 Common Area.** “Common Area” means those areas, facilities and structures on the Premises other than the Building Improvements devoted to the common use and enjoyment of the Owners, Tenants, and Permittees, including, without limitation, pedestrian walkways and patios, trash enclosures, parking areas, vehicular roadways, all landscaped areas, sidewalks, utility areas, street signs, traffic signs and signals, irrigation systems, throughways, and structures designed to provide exterior artificial light for parking areas, outside Building Improvement areas and pedestrian walkways. All portions of the Premises which are not Building Improvements constitute the Common Area.

**1.04 Common Expenses.** “Common Expenses” are expenses assessed and levied by the Manager upon the Owners and consist of the following:

(a) The actual costs of maintaining and repairing the Common Area and otherwise fulfilling the Manager’s duties as described in Sections 4.02 and 5.01;

(b) The cost of any utilities, security and services required for the Common Area in the Manager’s discretion;

(c) A commercially reasonable administrative charge for services of the Manager comparable to fees charged by commercial management companies for managing Class A suburban commercial properties in the City of Clovis, Fresno County, California commencing with nine and one half percent (9.5%) for general administration and five percent (5%) of the cost for management of construction of improvements to the Common Area. Manager, in its discretion, may waive or reduce this administrative charge for one or more Owners on any reasonable basis, including, without limitation, to avoid duplicative charges to Owners who owe Manager a management fee under a separate agreement. Provided, however, that Manager shall in no instance be required to waive or reduce the administrative fee, nor shall this provision in any way limit Manager’s rights under Section 11.05;

(d) Reasonable reserves for replacement of improvements (based on useful life of the improvements) in the Common Area and for replacement and repair of fixtures, machinery and equipment used in connection with the operation and maintenance of the Common Area;

(e) A reasonable estimated amount necessary to replace any deficit arising because of any Owner’s failure to pay any amount required under this Declaration; and

(f) The cost of any arbitration, lawsuit or enforcement proceeding initiated by the Manager under this Declaration.

**1.05 Completion or Completed.** “Completion” or “Completed” means the substantial completion of the Building Improvements, Driveways and Parking Area, and landscaping of a Lot, evidenced by “checkoff” of the related categories on the Building Card or other similar interim evidence of component completion, according to the regulations of the Building Department of the City of Clovis or other public agency having jurisdiction over the Premises.

**1.06 Condemnation.** “Condemnation” means the taking or damaging by a public or quasi-public authority of all or any part of the Premises in any proceeding in eminent domain or any transfer made under threat of eminent domain.

**1.07 Declarant.** “Declarant” is, collectively, the Declarant Entities and any Affiliated Successor or Assign to whom a Declarant Entity transfers its interest as Declarant by instrument recorded in the Official Records of Fresno County. An “Affiliated Successor or Assign” shall be an entity controlled by a Declarant Entity; by Cook Land Development Company LLC, a California limited liability company; by Jerry E. Cook; or by an entity controlled by one of the foregoing.

Any rights given to Declarant under this declaration may be exercised by the vote, approval, agreement or consent of a simple majority of the Declarant Entities which are then Owners. When a Declarant Entity is controlled by one person (as manager, managing member, or otherwise) that person shall be entitled to participate or to appoint a representative to participate in any vote, approval, agreement or consent required for Declarant to act. If a representative is appointed, the controlling person shall provide written notice of such representation to the Manager. When a Declarant Entity is controlled by more than one person (as managers, managing members, directors, or otherwise), those persons shall be entitled to participate in any vote, approval, agreement or consent required for Declarant to act only if, before the vote, approval or consent, they have all joined in designating a representative and have provided written notice of such representation to the Manager. Unless all of such persons join in timely designating a representative, there shall be no effect given to any vote cast or position taken on behalf of the applicable Declarant Entity.

**1.08 Declarant Entity.** “Declarant Entity” means any one of Pontiac 7 LLC, a California limited liability company; Pontiac 3 & 5 LLC, a California limited liability company; Pontiac 4 LLC, a California limited liability company; Pontiac 2 LLC, a California limited liability company; BotFee LLC, a California limited liability company; 201 Pontiac LLC, a California limited liability company; and 380 Ashlan LLC, a California limited liability company, or any Affiliated Successor or Assign, as defined in Section 1.07, to whom a Declarant Entity transfers its interest.

**1.09 Declaration.** “Declaration” is this instrument and any amendments to this instrument as may be executed and recorded from time to time.

**1.10 Driveways and Parking Area.** “Driveways and Parking Area” means those portions of the Common Area improved from time to time for the ingress and egress and parking or accommodation of vehicles.

**1.11 Foreclosure.** “Foreclosure” means and refers to the legal process by which the mortgage property of a borrower in default under a foreclosure is sold, and the borrower’s interest in such property is sold, pursuant to California Civil Code Section 2924a, et seq. or sale by the court pursuant to California Civil Code Section 725a, et seq. and any other applicable law, and the transfer of property by deed in lieu of foreclosure.

**1.12 Lot.** “Lot” means any one of the lots existing as a separate legal parcel within the Premises.

**1.13 Manager.** “Manager” means the person or entity authorized under Article 4 to exercise the rights and obligations of Manager. Initially Cook Land Development Company LLC, shall be the Manager.

**1.14 Mortgage.** “Mortgage” means and refers to any recorded mortgage or deed of trust made in good faith and for value on a parcel.

**1.15 Mortgagee.** “Mortgagee” means a beneficiary or a holder of a deed of trust or a mortgagee under a Mortgage.

**1.16 Owner.** “Owner” means the owner of record, whether consisting of one or more persons, of a fee simple title to any real property within the Premises. “Owner” does not include a person who holds an interest merely as security for the performance of an obligation. When more than one person is an Owner of a Lot, those persons shall all be considered as the Owner with respect to the obligations imposed by this Declaration, but they shall be entitled pursuant to Article 9 to participate in any vote, approval, or consent required by Owners under this Declaration only if, before the vote, approval or consent, they have all joined in designating a representative and have provided written notice of such representation to the Manager. Unless all of such persons join in timely designating a representative, there shall be no effect given to any vote cast on their behalf. If a Lot has been further subdivided into a condominium, stock cooperative or other common interest subdivision, the owners’ association or other governing body of such development, if any, shall be the Owner for purposes of this Declaration. Declarant or Owners of at least seventy percent (70%) of the total interior building square footage on the Premises may amend this Declaration to add adjacent legal parcels to this Declaration, except that as long as any original Declarant Entity owns a Lot, only Declarant shall be permitted to amend this Declaration.

**1.17 Permittee.** “Permittee” is any person other than Owners and Tenants who is invited to be and remain in the Premises, and includes, without limitation, agents, employees, customers, and business invitees of Owners and Tenants.

**1.18 Premises.** “Premises” means all that certain land and easements appurtenant identified in the opening paragraph and described more fully in Exhibits “A1” to “A5” attached hereto.

**1.19 Pro Rata Share.** “Pro Rata Share” means an Owner’s proportionate share of Common Expenses for their Lot based on the ratio of their respective interior floor areas square footage of their building to the total square footage of interior floor area of buildings on the Premises. For example, if the total square footage of an interior floor area is 100,000 sq. ft. for the

Premises, and a particular building has 10,000 sq. ft. of interior floor area, the Owner of such Lot would be responsible for ten percent (10%) of the Common Expenses for an applicable period. With respect to any Lot on which there is no building that has a certificate of occupancy or similar city approval, such Owner's building size shall be considered to be 10,000 sq. ft. of interior floor area. Such non-occupied site's 10,000 square feet of floor area shall be used in determining the total square footage of all interior floor areas of buildings on the Premises.

**120 Tenant.** "Tenant" means any person who is legally entitled to the use and enjoyment of all or any portion of the Building Improvements under a lease, sublease, tenancy agreement, concession agreement, or similar entitlement.

**121 Trustee.** "Trustee" means any bank or corporate trustee or trust having a net worth in excess of \$100 million which is designated by the Manager to act on behalf of the Owners to collect, hold, invest, and disburse any insurance proceeds or Condemnation awards, as provided in Article 8 of this Declaration.

## ARTICLE 2

### SUBMISSION

**201 Declarant Intent.** Declarant is the Owner of the Premises and may further develop and improve the Premises for various uses. The Premises shall be held, conveyed, hypothecated, encumbered, sold, leased, used, and improved subject to the limitations, covenants, conditions, restrictions, easements, liens, charges, assessments, and equitable servitudes set forth in this Declaration, all of which are in furtherance of Declarant's plan for development of the Premises. All of the limitations, covenants, conditions, restrictions, easements, liens, charges, assessments, and equitable servitudes set forth in this Declaration shall run with, be binding upon and inure to the benefit of the Premises and each part of the Premises and shall be binding upon and inure to the benefit of each and every person, including Declarant, having or acquiring any right, title or interest in all or any portion of the Premises and their successors and assigns.

**202 Provisions Run with Land.** The provisions of this Declaration are intended to run with the land. When any interest in real property in the Premises is conveyed, the interest shall be burdened by the provisions of this Declaration for the benefit of the remaining portions of the Premises, and the interest conveyed shall be entitled to the benefit of this Declaration.

**203 Incorporation of Declaration into Deeds.** Any deed or other instrument by which all or any portion of the Premises is conveyed, whether by fee, easement, leasehold interest or otherwise, shall be subject to the provisions of this Declaration, and any instrument of conveyance shall be deemed to incorporate the provisions of this Declaration, whether or not such instrument makes reference to this Declaration.

## ARTICLE 3

### COMMON AREA EASEMENTS

**301 Easement.** Declarant hereby expressly grants and establishes for itself, each Owner, the Manager, and their successors and assigns, for the benefit of each Lot, the following easement:

(a) The nonexclusive right, privilege, and easement appurtenant for the purpose of enabling the Manager and the Manager's agents to accomplish all tasks necessary or convenient for the completion of the Manager's duties, including but not limited to those described in ARTICLE 4 and Section 5.01.

**302 Changes, Modifications, and Alterations to Lots.** All exterior changes, modifications, expansions, and alterations (i.e., all changes that are not within the interior of a Building Improvement) are subject to the approval of the Manager as set forth in Section 5.04. Subject to the reasonable approval of the Manager and a majority of Owners owning over fifty percent (50%) of the total interior floor area square footage in the buildings on the Premises, each Owner shall have the right, from time to time, to make any external changes, modifications, expansions, or alterations in such Owner's Lot, including any portion of the Premises which is subject to the easements herein granted. All such exterior changes, modifications and alterations shall be subject to the following: (1) any such change, modification, or alteration is made with all reasonable efforts taken to keep any inconvenience, annoyance, or disturbance resulting therefrom to the minimum reasonably required by such work and (2) that such changes, alterations, and modifications comply with all applicable laws and regulations. Subject to the provisions of this Section 3.02, no Owner shall conduct, or permit any of its Tenants to conduct, activities on such Owner's Lot which shall constitute a nuisance that is actionable at law or in equity, or make improvements or changes that are not consistent with the Premises colors and design scheme or which otherwise detract from the Premises' uniform look. For clarity, nothing herein limits an Owner's right to make changes to the interior of its Building Improvements, and no Owner is required to seek approval of Declarant or the other Owners prior to making such interior changes.

## ARTICLE 4

### COMMON AREA MAINTENANCE

**401 Manager.** The Manager shall be the person charged with the duty and authority of operating and maintaining the Common Area in accordance with the provisions of this Declaration. The first Manager shall be Cook Land Development Company LLC, a California limited liability company (the "Initial Manager"); provided, however, that Cook Land Development Company LLC shall have the right to delegate its duties as Manager to a third party who shall act as Declarant's agent.

**402 Manager's Duties.** The Manager shall at all times keep and maintain the Common Area in as good condition and good state of repair as is consistent with other Class A suburban commercial properties in the City of Clovis, Fresno County, California. The Manager's duties shall include, without limitation, the following:

- (a) Maintain the ground surfaces in a reasonably smooth and evenly covered condition with the type of surfacing material originally installed on such, or such substitute as will in all respects be equal to it in quality, appearance and durability;
- (b) Resurface, mark, and repair Driveways and Parking Areas, service areas and walkways;
- (c) Install and maintain any signage necessary or convenient for use of the Common Area, including, at an Owner's expense, such signage as shall be necessary or convenient to regulate the use of Exclusive Use Common Area;
- (d) Remove all papers, debris, filth, and refuse and wash or thoroughly sweep the Common Area to the extent reasonably necessary to keep it in a clean and orderly condition;
- (e) Place, keep in repair, and replace any necessary directional signs, markers, and lines;
- (f) Operate, keep in repair, and replace, when necessary, such artificial exterior lighting facilities as shall be reasonably required;
- (g) Maintain and replant landscaping and repair automatic sprinkler systems and water lines;
- (h) Maintain and repair storm drains and other utility installations within the Common Area to the extent maintenance and repair is not conducted by a public utility or governmental entity or by another entity under contract, covenant, or agreement;
- (i) Enforce Section 5.02 to ensure that the exteriors of all Building Improvements are maintained in a first-class manner and that each Building Improvement's appearance harmonizes with the others.
- (j) Adopt, publish and enforce any rules and regulations governing the Common Area and any facilities or activities located thereon as the Manager in the good faith exercise of reasonable discretion determines is advisable to carry out the purpose of this Declaration;
- (k) Commence, defend, participate in, and settle any legal action pertaining to the operation, maintenance and management of the Common Area as the Manager in the good faith exercise of reasonable discretion determines is advisable to carry out the purpose of this Declaration;
- (l) Determine and notify Owners of the amount of the Common Expenses to be assessed against them as provided in Article 6 and enforce the collection of Common Expenses by Foreclosure of the lien created under this Declaration or by other appropriate legal action;
- (m) Issue, upon an Owner's request, a certificate setting forth whether or not payment of Common Expenses by any Owner is current;



(n) Establish, maintain, and expend reserve funds for replacements relating to Common Area;

(o) Contract for goods and services required for management, security, maintenance, repair, improvement and replacement of Common Area, as necessary in the Manager's discretion;

(p) Employ persons/businesses and incur expenses for legal, accounting, engineering, and other professional services;

(q) Employ persons to assist in the operation and management of the Common Area; and

(r) Take such other actions as the Manager, in the good faith exercise of reasonable discretion, determines is necessary and proper to ensure the operation and maintenance of the Common Area and the enforcement of this Declaration.

**403 Cost-Sharing Arrangements.** The Manager shall be authorized to enter into cost-sharing arrangements with owners of land located outside of the Premises, provided that the Premises is benefited by such arrangements. In such case, the Manager shall include the cost incurred as a Common Expense.

**404 Succession of Manager.** Any person serving as Manager (other than an agent of the Initial Manager, named in Section 1.13, who shall serve until the agency is revoked by the Initial Manager or until the Initial Manager is not Manager), including the Initial Manager, shall serve until:

(a) Written notice of resignation by the Manager is delivered to the Owners, which notice shall specify an effective date of resignation which shall not be earlier than sixty (60) days after the date of giving such notice. In the case of resignation by a Manager, the resigning Manager shall have the right to appoint, at the time of giving the notice of resignation or within ten (10) days thereafter, an Owner to serve as Manager and the Owner appointed shall serve as Manager;

(b) The Manager ceases to function due to death, incapacity, dissolution, termination or Bankruptcy. "Bankruptcy" includes the commencement of any proceedings of any kind by or against the Manager under any provision of the Federal Bankruptcy Act or under any other insolvency, bankruptcy or reorganization act;

(c) The managers or managing members of the Declarant Entities which are Owners at the time approve by a majority vote to replace the Manager, so long as any Declarant Entity is also an Owner;

(d) Failure of all Declarant Entities to own any portion of the Premises, whereupon the other Owners at the time the final Declarant Entity's ownership ceases shall select a new Manager;

(e) The Manager is removed by vote of the Owners pursuant to Section 405 ; or

(f) The Manager fails, neglects or refuses to perform the Manager's obligations hereunder, commits wrongful or illegal acts in the course of the Manager's duties, or commits fraud, embezzlement or any other offense involving dishonesty.

#### **4.05 Action by Owners.**

(a) While any Declarant Entity is also an Owner, only Declarant shall have the right to appoint the Manager. Without limiting the foregoing, while any Declarant Entity is also an Owner, Declarant shall have the right to select a new Manager upon the occurrence of any of the events set forth in subparagraph (b), (c) or (f) of Section 4.04. For clarity, this subparagraph (a) of this Section 4.05 takes precedence over subparagraphs (b), (c), (d), and (e) of this Section.

(b) Upon occurrence of any of the events set forth in subparagraph (b), (d) or (f) of Section 4.04, any Owner shall have the right to call a meeting of Owners for the purposes of selecting a new Manager. The meeting shall be called by delivery of written notice to Owners not later than forty-five (45) days after occurrence of the event requiring selection of a new Manager and the meeting shall be held not earlier than ten (10) days nor more than thirty (30) days after written notice calling the meeting is delivered to the Owners. The notice shall state the date, time, and place of the meeting. The meeting shall be held in a location within the Premises or, if that is not practical, within the County of Fresno.

(c) If an Owner has been appointed as Manager by the resigning Manager pursuant to Section 4.04(a), the Owner appointed may be disapproved by the other Owners. If the appointed Owner is disapproved, the Owners shall seek to elect a Manager. Any meeting with respect to the foregoing shall be called and held in accordance with Section 4.05(b).

(d) Except as to the first Manager or while the any Declarant Entity is also an Owner, but with respect to Section 4.04(e), the Owners may vote to remove the Manager by a majority vote.

(e) If the Owners cannot agree on a Manager, they shall seek appointment by the Presiding Judge of the Fresno Superior Court.

**4.06 Release of Former Manager.** Upon completion of the assignment or transfer of the duties of Manager, such person ceasing to serve as Manager shall be released from all further obligations and liabilities as Manager, except those liabilities, if any, arising out of acts or omissions occurring before the date of assignment or transfer.

## ARTICLE 5

### RESPONSIBILITY FOR BUILDING IMPROVEMENTS AND COMMON AREA; ARCHITECTURAL CONTROL

**501 Maintenance by Manager.** The Manager shall be responsible for maintaining the Completed portions of the Common Area on a Lot. The Manager's responsibility under this Section 5.01 shall continue notwithstanding the destruction or damage of all or any Building Improvements on a Lot.

**502 Responsibility for Building Improvements.** Each Owner shall be responsible at all times for maintaining at the Owner's expense the Building Improvements located on such Owner's Lot in compliance with all applicable laws and in good order, condition, and repair; subject, however, to the provisions of this Declaration relating to damage and Condemnation (Article 8). If the Owner does not keep trash in a neat and orderly manner, Manager may have the same cleaned up and the cost of the same assessed against such Lot Owner as a Common Area Expense. Further, nighttime lighting of the parking lot and buildings shall be a Common Area Expense, as opposed to an individual Lot Owner expense. The nighttime lighting system shall be controlled by a common meter that may, in the Manager's discretion, be placed on a single building or Lot.

If an Owner fails to maintain the exterior of the Building Improvements located on such Owner's Lot in a first-class manner, the Manager may provide notice to the Owner specifying the unsatisfactory maintenance and demanding cure. If the Owner fails to cure within 45 days of receiving notice from the Manager, the Manager may maintain the exterior of the Building Improvements on the Owner's Lot and charge the Owner for the expenses thereof. Such maintenance charges shall be governed by Sections 6.05 through 6.08, including, without limitation, the requirements for timely payment and the remedies available for non-payment.

**503 Control Over Common Areas.** Although title to any portion of the Common Area located within a Lot shall be held by the respective Owner of such Lot, other than as set forth in Section 3.01 above, the exclusive control over the activities occurring on the Common Area, and the operations, maintenance, repair, and replacement of the Common Area, shall be vested in the Manager in accordance with the ordinary and reasonable standards customarily imposed and maintained by owners of Class A suburban commercial properties in Fresno County, California. All costs and expenses of operating and maintaining the Common Area shall be allocated among the various Owners as provided in Article 6, except that the Manager may levy special assessments against a particular Lot Owner, who Manager, in its discretion, determines is creating additional expense related to the Common Area over and above what is caused by most of the other Lot Owners. No Owner shall impede or otherwise interfere with the Manager in the exercise of its duties to operate, maintain, repair, and replace the Common Area.

**504 Architectural Control.** The Manager shall have the right and obligation to approve or disapprove the design, engineering and construction of any and all improvements made by an Owner to the common areas and to the exteriors and the accessibility features of any Building Improvements on its Lot. Prior to any such improvement, an Owner shall submit the plans and specifications therefor, in a form reasonably acceptable to Manager, for Manager's approval. The Manager shall respond to complete submissions within thirty (30) days and, in the

case of disapproval, shall specify the reasons therefor. If the Manager does not respond, the plans and specifications shall be deemed approved in the form submitted to the Manager. The Manager is approving the plans and specification with respect to aesthetics, development consistency, and operation only, and is not liable in any manner for any design or construction defect. The Manager shall have the right to collect from an Owner the reasonable costs for review of plans for improvements, including architectural, engineering and legal fees, and shall have the right to a set of as-built plans after Completion of any improvements.

**5.05 Prevailing Wage.** All maintenance and any improvements to be performed, either directly or under any agreements with any contractors and/or suppliers (including their respective sub-contractors at any tier) or otherwise, with respect to the Premises (collectively, the “Work”) that is a “public work” for the purposes of Chapter 1 (commencing with § 1720) of Part 7 of Division 2 of the California Labor Code (collectively, “Chapter 1 of the Labor Code”), (i) Manager shall comply with, and cause all such contractors and/or suppliers (including their respective sub-contractors at any tier) to comply with, all applicable provisions of Chapter 1 of the Labor Code with respect to the Work, and (ii) prior to causing any Work to be performed under any agreements with any contractors and/or suppliers, or otherwise, Manager shall incorporate all of the provisions of this Section 5.05 into such agreements.

Manager shall promptly provide a copy to Owners and County of any correspondence, notices, and/or orders, in any written form, and/or any documents initiating legal action (collectively, “DIR Administrative or Legal Action”) by or on behalf of the Director of the Department of Industrial Relations of the State of California, including any representative thereof (collectively, the “DIR”) to or against Manager, and Manager’s written responses, in any written form, thereto, that relate to any Work, or any portion thereof, provided however, Manager’s provision of such copy of any DIR Administrative or Legal Action, and/or Manager’s responses thereto, or failure to provide same or to timely provide same, shall not impose any obligation upon Owners with respect to Manager’s obligations under this Section 5.05.

Manager acknowledges that the DIR provides the following internet resource: <https://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. Owners do not make any representation, or provide any guidance, to Manager as to (i) the nature, type, or scope of the Work, or any portion thereof, to be performed by Manager, either directly or under any agreements with any contractors and/or suppliers (including their respective sub-contractors at any tier), that constitutes a “public work,” or (ii) the sufficiency of the DIR’s internet resource, above, for purposes of compliance with this Section 5.05.

## ARTICLE 6

### COMMON AREA EXPENSES

**601 Payment of Common Expenses.** The Common Area shall be maintained in common by the Owners, and each Owner shall be responsible for its respective Pro Rata Share of Common Expenses, as provided in Sections 1.04 and 1.19 of this Declaration. Each Owner shall pay to the Manager its respective Pro Rata Share of each of the Common Expenses and any special assessments under Section 5.03 in accordance with the provisions of this Article 6.

**602 Payment of Real Property Taxes and Assessments.** Each Owner shall pay, before delinquency, any real estate taxes, assessments and other charges (collectively the "Taxes") which may be levied, assessed, or charged against such Owner's Lot, including, but not limited to, Taxes affecting the Common Area lying within the Lot.

**603 Commencement and Collection of Assessments.** Monthly assessment of Common Expenses shall commence as to each Lot from the date of recordation of this Declaration, with the monthly assessment prorated for any portion of a month. Owners shall be billed monthly by the Manager for their Pro Rata Share of Common Expenses, or less frequently if the Manager, in its discretion, so determines, as provided in Sections 1.04 and 1.19 of this Declaration. The Manager may estimate the amount of Common Expenses due from each Owner in advance of the Common Expenses being actually incurred and invoice each Owner based on the estimate. In such case, the Manager shall submit to each Owner within one hundred twenty (120) days from the end of the fiscal year as adopted by the Manager for accounting purposes (or as soon thereafter as practical): (i) a statement of the actual amount of Common Expenses for such year showing each Owner's share and (ii) a statement of the amount of Common Expenses paid by each Owner during such year. If payments made by an Owner during the prior fiscal year exceed the amount shown to be due, the Manager in its discretion shall either credit the Owner the amount due against future Common Expenses, or pay to the Owner the amount due. If the payments made by an Owner during the prior fiscal year are less than the amount shown to be due, the Owner, within thirty (30) days after notice has been given by the Manager of the balance due, shall remit to the Manager such amount. The Manager shall distribute to each Owner a pro forma operating statement for each fiscal year not less than forty-five (45) days before the beginning of the applicable fiscal year.

**604 Right of Owners to Inspect Books.** At any time during the term of this Declaration any Owner, upon prior written notice and during reasonable business hours, may inspect the books and records of the Manager pertaining to Common Expenses, and any Owner may cause an audit to be performed of the books and records, at the Owner's sole expense; provided, however that the Owner shall be reimbursed by the Manager from funds raised for Common Expenses for the expense of any audit so conducted which reveals that the amount of

Common Expenses paid by such Owner exceed by greater than five percent (5%) the amount of Common Expenses determined to be due as a result of such audit; provided further, that the books and records of the Manager shall not be required to be audited more frequently than once during a calendar year, unless an audit previously conducted pursuant to this section has shown that an Owner has been overcharged Common Expenses. In that case, the books and records of the Manager may be audited semi-annually. Any payments or reimbursements determined to be due as a result of the audit shall be made within thirty (30) days after completion of the audit. No Owner shall delay, reduce or set off the payment of any assessment due pending an audit or because of any amount or credit that may be due such Owner as a result of the audit.

**6.05 Payments.** Except as otherwise specifically provided in this Declaration, any assessment or other amount due from an Owner to the Manager or due to a Curing Owner (under Section 6.08) shall be paid within forty-five (45) days after the Manager has given notice that such amount is due, or such other later date specified in the notice. If any payment due from an Owner to the Manager is not paid within such period, the Manager may impose a reasonable late charge, not to exceed five percent (5%) of the delinquent amount, in order to compensate the Manager for administrative time and expense required to pursue collection of such amount. Such late charge by the Manager represents a fair and reasonable estimate of the additional costs the Manager will incur by reason of late payment by an Owner. Any payment due under this Declaration shall bear interest at the Agreed Rate from date of delinquency until paid.

**6.06 Liens.** Any assessment levied under this Declaration and any other amount due under this Declaration, together with interest, administrative charges, and late charges, whether or not in default, shall become a lien against the Lot upon recordation in the Official Records of the County of Fresno a notice of lien containing the following information:

- (a) The name of the Owner;
- (b) A description of the property which is subject to the lien;
- (c) A statement of the amount due, including interest and late charges, as of the statement date; and
- (d) If the amount secured by the lien represents an amount due to the Manager, the name of the Manager, or if the lien represents an amount paid by a Curing Owner (under Section 6.08), the name of the Curing Owner.

When recorded, the lien shall secure the amount due from the Owner and shall be prior and superior to any subsequent right, title, interest, lien, or claim which may attach to the Premises, but such lien shall be subordinate to the lien of any Mortgagee recorded prior to the date of recordation of such lien, and, in the event of the sale of any Lot pursuant to Foreclosure, the Mortgagee or other purchaser acquiring title to the same as a result of Foreclosure shall not be liable for any assessments chargeable to such Lot pursuant to this Declaration, which assessments became due prior to the date of Foreclosure or acquisition of title.

If the amount secured by the lien is in default and the Owner has received written notice of default and demand for payment, then in addition to any other remedy available under the law, the lien may be foreclosed by the Manager or by any Curing Owner (under Section 6.08)

by action brought in any court of competent jurisdiction or by exercise of power of sale in accordance with California Civil Code Sections 2924, 2924b and 2924c. In any action to enforce the lien, the prevailing party shall be entitled to recover court costs and reasonable attorneys' fees.

**6.07 Obligations to Pay Expenses.** Any amount due, including interest, administrative charges, and late charges, from an Owner to the Manager or to a Curing Owner (under Section 6.08) shall be the personal obligation of each Owner at the time the charge is levied. If more than one person holds an ownership interest in any Lot, the personal obligation to pay the charges shall be both joint and several. No Owner may exempt itself from payment of Common Expenses or any other amount due by waiver of the use or nonuse of the Common Area or abandonment of property, except as provided in Sections 1.04 and 1.19 of this Declaration.

**6.08 Owner's Right to Cure.** If an Owner defaults in its obligation to pay its share of Common Expenses, taxes, or any other amounts due under this Declaration, any other Owner (the "Curing Owner") may pay the amount due from the defaulting Owner and thereby cure the default and be entitled to recover from the defaulting Owner the amount paid together with any late charge and interest at the Agreed Rate. In that case, the Curing Owner shall have all of the rights of the Manager to collect the amount due including, but not limited to, the filing of a notice of lien and Foreclosure of the lien. In any action to recover the amount due, the Curing Owner shall be entitled to recover costs and reasonable attorneys' fees.

## ARTICLE 7

### INDEMNITY

#### 7.01 Indemnity.

(a) Each Owner shall indemnify, defend and hold each other Owner and the Manager (including a Manager who is an Owner) harmless from and against any and all claims, actions, damages, losses, liabilities, and expenses (including costs and reasonable attorneys' fees incurred in the defense of any claim) arising from the indemnifying Owner's use of its property or from the conduct of its business or from any activity, work or things done, permitted or suffered by the indemnifying Owner, or by the Tenants or Permittees of the indemnifying Owner, in or about the Premises. This provision shall not permit any person to be indemnified for claims, damages, liabilities, and expenses arising from the negligence or wrongful act of that person.

(b) To the extent not covered by insurance if maintained by the Manager, each Owner shall indemnify, defend and hold harmless the Manager from and against that Owner's Pro Rata Share of any and all claims, actions, damages, losses, liabilities and expenses (including costs and reasonable attorneys' fees incurred in the defense of any claim) arising from any act or omission of the Manager if the Manager is acting within the scope of its authority in the good faith belief that such act or omission is in the best interests of the Owners.

## ARTICLE 8

### DESTRUCTION OR CONDEMNATION

**8.01 Repair in Event of Casualty.** In the event of damage or destruction by fire or other casualty of all or any part of the Common Area improvements, the Owner or Owners in

fee of that part of the Common Area damaged or destroyed shall promptly repair same to a comparable or better condition than which existed immediately prior to the casualty.

**8.02 Insurance Trustee If Required by a Mortgagee.** In any case where damage to any part of the Common Area exceeds One Hundred Thousand Dollars (\$100,000.00) (subject to adjustment under Section 11.09), if so required by a Mortgagee of any portion of the Premises, the proceeds of insurance, if any, allocable to the damaged Common Area shall be paid to a Trustee designated by the Manager. The Trustee shall hold and disburse the proceeds to pay expenses of repair in accordance with contracts awarded for such purposes. The Trustee shall have authority to make reasonable investments of insurance proceeds pending application of the funds for repair, to require the bonding of contractors and to establish procedures and safeguards for disbursement of funds as work of repair is carried out. The Trustee shall be entitled to reasonable compensation and reimbursement for reasonable expenses incurred in carrying out its duties. If the insurance proceeds are not sufficient to meet the expenses and fees of the Trustee, then the amount of the fee shall be paid by the Manager and assessed by the Manager to the Owners of the Common Area affected by the damage. The levy of the assessment shall be in the same proportion that the square footage of each Owner's Common Area in the portion of the Premises affected by the damage bears to the square footage of all Common Area in the portion of the Premises affected by the damage. The Manager shall perform all such obligations if a Trustee is not required by any Mortgagee of a portion of the Premises.

**8.03 Expanded Meaning of Damage and Repair.** As used in this Article 8 and without limiting the common meaning of the terms, "damage" shall include partial or complete destruction of property and "repair" shall include demolition (for the purposes of repair), rebuilding, and restoration.

**8.04 Total Condemnation.** In the event of Condemnation of all of the Premises, this Declaration shall terminate on the date of taking of the Premises, and the condemnation award shall be distributed among the Owners in amounts proportionate to their interests; provided, however, the Manager shall be entitled to receive from the award payment its reasonable expenses incurred in representing the Owners in the Condemnation. The Condemnation shall not excuse any Owner from paying the amount of any assessment due for any period preceding the date of taking of the Premises by Condemnation.

**8.05 Partial Condemnation.** Subject to Section 8.06, if a portion of the Premises is taken by Condemnation, the Owners of any Building Improvements and Common Area affected by the Condemnation shall restore the same as completely as possible. The cost of restoring the Building Improvements and affected Common Area shall be borne by the individual Owners of the Lots within which the Condemnation has occurred. After restoration of the Common Area and payment of reasonable expenses of the Trustee (if applicable), the Owners of the Common Area affected shall be entitled to receive any portion of the award in excess of the amount necessary to restore the Common Area and pay the Trustee. If the award made for restoration of any Common Area is insufficient to restore the Common Area, the additional sum needed shall be borne by the Owner of that Common Area.

**8.06 Trustee.** In any case where the Condemnation award exceeds One Hundred Thousand Dollars (\$100,000.00) (subject to adjustment under Section 11.09), if required by a Mortgagee of any portion of the Premises, the award shall be paid to a Trustee designated by the



Manager. The Trustee shall hold and disburse the award to pay expenses of restoration in accordance with contracts awarded for such purposes. The Trustee shall have authority to make reasonable investments of the award pending application of the funds for restoration, to require the bonding of contractors and to establish procedures and safeguards for disbursement of funds as work of restoration is carried out. The Trustee shall be entitled to reasonable compensation and reimbursement for reasonable expenses incurred in carrying out its duties. If the award is not sufficient to meet the expenses and fees of the Trustee, then the amount of the fee shall be paid by the Manager and charged to the owners by the Manager in the same manner as set forth in Section 8.02 where insurance proceeds are not sufficient to meet the expenses of the Trustee. Otherwise, if a Trustee is not required by any Mortgagee of a portion of the Premises, the Manager shall fulfill all such responsibilities.

## ARTICLE 9

### VOTING

**9.01 Voting Rights.** In voting on any matter coming before them, each Owner's voting rights shall be determined by the interior floor area square footage of the Owner's commercial building on that Owner's Lot multiplied by one percent (1%). The number of votes that a particular Lot Owner would have would then be the product of such multiplication. With respect to undeveloped lots, such Lot Owner shall have no votes until the lot has been developed with a building, which shall be established when such building Owner has received a certificate of occupancy or other similar authorization from the City of Clovis for occupancy. Any fractional amounts shall be rounded to the nearest whole number. For example, if a building on a Lot has 7,313 square feet of interior floor area, such Owner would have seventy-three (73) votes. The determination of the Manager with respect to the number of votes and interior floor area square footage of each respective building shall be conclusive. Voting rights shall not vest with respect to any Lot until the first day of the first month following the initial levy of the regular monthly assessment against their Lot by the Manager.

**9.02 Meetings.** Any Owner may call a meeting to discuss matters of mutual concern to all Owners upon ten (10) calendar days' advance written notice, provided that no more than four (4) such meetings may be called during any year and meetings shall not be held more often than quarterly, except as additional meetings may be called by Declarant. The Owners may consider and vote on policies, rules and implementation of particular purposes at such meetings and may decide such issues as come before such meetings by majority rule; provided, however, that no decision in derogation of the rights of any Owner under this Declaration shall be of any force, validity or effect without an appropriate amendment to this Declaration having been signed by the requisite percentage of all Owners and recorded in the Official Records of Fresno County, in accordance with Section 11.08 of this Declaration.

**9.03 Allocation of Voting by Manager.** No subdivision or combining of any existing Lot or Lots shall increase or diminish the number of votes assigned to such Lot or Lots, but the Manager shall have the right to distribute in fractional shares the voting rights of the Lot or Lots affected among the Owners.

**9.04 Approvals.** Approvals required by a majority vote or some other percentage vote of Owners under the Declaration shall refer to the total of votes cast, based on the

votes allocated to each Owner as set forth in Sections 9.01 and 9.02, and unless otherwise provided in this Declaration, any vote taken shall require a majority or specified percentage of all votes of Owners rather than a majority or specified percentage of those present and voting. Unless otherwise provided in this Declaration, there shall be no quorum requirement for meetings of Owners.

**9.05 Proxies.** Voting by Owners may be by a duly authorized representative of the Owner present and voting at the meeting or by any Owner holding the written proxy of another Owner. Proxies shall not be irrevocable and shall immediately terminate if the person giving the proxy is present to cast his vote. All holders of proxies shall report their proxies to the Manager or other authorized person presiding at the meeting before the proxy is voted for any matter coming before the meeting.

## ARTICLE 10

### PROTECTION OF MORTGAGES

**1001 Limitation of Enforcement Against Mortgages.** No violation of this Declaration by an Owner or enforcement of this Declaration against an Owner shall affect, impair, defeat or render invalid the lien of any Mortgage against the Owner's Lot, but this Declaration, including all of the covenants, conditions, restrictions, easements and charges contained herein, shall be enforceable against any Owner whose title is acquired by Foreclosure, trustee's sale, voluntary conveyance, or otherwise, except as provided in Section 6.06.

**1002 Notice by Owner.** An Owner who mortgages its Lot shall notify the Manager in writing of the name and address of its Mortgagees, provided that an Owner's failure to so notify the Manager shall not affect the rights of a Mortgagee.

**1003 Cure Rights.** Mortgagees may jointly or singly pay any assessment which is in default and take any action reasonably necessary to cure any other default of their mortgagors hereunder with the same effect as such cure by the mortgagor itself.

**1004 Miscellaneous Rights of Mortgagee.** Each Mortgagee whose name and address have been furnished to the Manager, whether by an Owner or by such Mortgagee, shall have the right to: (a) receive written notice of all meetings of the Owners upon written request to the Manager; (b) be present at any meetings of the Owners and participate therein; (c) furnish information to the Manager concerning the status of any such Mortgage; (d) receive copies of any or all of any statements sent to the Owners by or on behalf of the Manager at the same time and in the same manner as the Owners, upon written request therefor to the Manager; (e) receive written notice upon written request to the Manager of (1) any condemnation loss or any casualty loss which affects the Lot encumbered by such Mortgagee's Mortgage or the Common Area or (ii) any default in performance of obligations under this Declaration or any rules or regulations applicable to the Common Area, or the delinquency in the payment of assessments or charges owed, by an Owner of a Lot subject to such Mortgagee's Mortgage; and (f) participate in negotiations regarding the value and extent of any loss affecting a Lot in connection with any casualty or Condemnation affecting such Lot.

**1005 Copies of Manager's Documents.** The Manager shall make available to Mortgagees, and to holders, insurers or guarantors of any Mortgage, as well as all Owners, including Long-Term Tenants, current copies of the Declaration, rules and regulations applicable to the Common Area and the books, records and financial statements of the Manager. "Available" means available for inspection and copying, upon request, during normal business hours or under other reasonable circumstances. "Long-Term Tenant" means a Tenant which has entered into a lease with the Owner of a Lot, with a lease term longer than fifteen (15) years, where the Tenant has made substantial improvements in the Building ("Long-Term Tenant"). The Manager may impose a fee for providing the foregoing which may not exceed the reasonable cost to prepare and reproduce the requested documents.

## ARTICLE 11

### MISCELLANEOUS

**1101 Remedy.** If there is a violation or threatened violation by any person of any of the terms, restrictions, covenants and conditions of this Declaration, any Declarant Entity, the Manager (if other than a Declarant Entity) or any other Owner shall have the right to bring an action to enjoin such violation or threatened violation, to recover damages or to proceed in any other manner authorized by law. In any such proceeding, the prevailing party shall be entitled to recover from the losing party costs and reasonable attorneys' fees as shall be set by the court. If unauthorized use is being made of any part of the Common Area, the Manager or any of the Owners may also restrain or terminate such unauthorized use by appropriate proceedings after written notice to the Owner of such Lot and failure to abate such use.

**1102 Force Majeure.** The time within which Declarant, Manager, or any Owner of one or more Lots shall be required to perform any act or acts under this Declaration shall be extended to the extent that the performance of such act or acts shall be delayed unavoidably by acts of God, pandemic, epidemic, fire, windstorm, flood, explosion, collapse of structures, riots, war, labor disputes, delays or restrictions by governmental bodies, inability to obtain or use necessary materials, or any cause beyond the reasonable control of such Owner. The foregoing in no manner excuses the timely payments of any Common Expense or any other fee or expense to be paid by an Owner under this Declaration.

**1103 Invalidity.** Invalidation of any provision of this Declaration by judgment or court order shall not affect any other provision of this Declaration, and the remaining provisions shall remain in full force and effect.

**1104 No Partnership or Joint Venture.** Nothing contained in this Declaration shall be construed to make the respective Owners partners or joint venturers or to render any of said Owners liable for the debts or obligations of the other, except as in this Declaration expressly provided.

**1105 Waivers.** No delay or omission by an Owner, Manager, or Declarant to exercise any right or power accruing upon any noncompliance or failure of performance by any Owner, Manager or Declarant under the provisions of this Declaration shall impair any such right or power or be construed to be a waiver thereof. A waiver by any Owner, Manager, or Declarant of any of the covenants, conditions or agreements hereof to be performed by another Owner shall

not be construed to be a Waiver of any subsequent breach thereof or of any other covenant, condition or agreement herein contained.

**11.06 Applicable Law; Severability.** This Declaration shall be governed by and construed in accordance with the laws of the State of California. If any provisions of this Declaration or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Declaration shall be valid and enforceable to the fullest extent permitted by law. Venue of any action to enforce or interpret this Declaration shall be in Fresno County, California.

**11.07 Notices.** Every notice, demand or other document or instrument required or permitted to be served hereunder shall be in writing and shall be deemed to have been duly served upon the earlier of delivery or deposit in the U.S. Mail, certified or registered, postage prepaid, return receipt requested, addressed to the Declarant Entities at the address set forth below and to any other Owner at the address for mailing as such other Owner may specify in a notice to the Manager, and if no such notice has been given, to such Owner at its address for the mailing of tax notices as shown in the most recent assessor's rolls. Any Owner may change its address for notices by ten (10) days' prior notice thereof to the Manager.

**11.08 Amendments.** This Declaration may be amended or terminated only by an instrument of amendment (a) executed by Owners owning at least seventy percent (70%) of the total building square footage on the Premises; and (b) recorded in the office of the Recorder of the County of Fresno; provided, however, that any such amendment which materially and adversely affects the rights of any Mortgagee shall only be valid if consented to in writing by such Mortgagee. In addition, Owners owning at least seventy percent (70%) of the total building square footage on the Premises or Declarant may amend this Declaration to include cross-access and parking with respect to adjacent non-Owner Lots on terms agreeable to such approving party or parties. Notwithstanding this Section 11.08, as long as any original Declarant Entity owns a Lot, only Declarant shall have authority to amend and may amend this Declaration and record the amendment in the office of the Recorder of the County of Fresno.

**11.09 Consumer Price Index Adjustments.** The dollar values described in Sections 1.21, 8.02, and 8.06 may be adjusted by the Manager from time to time, but not more than once annually, in proportion with changes from the month of the recordation of this Declaration in the United States Department of Labor Bureau of Labor Statistics' Consumer Price Index, All Urban Consumers, All Items (1982-1984 equals 100), or the successor of such Index. In no event shall the dollar values be less than those specified in this Declaration. However, and notwithstanding the foregoing, Manager may increase such dollar values to bring up to real market costs.

**11.10 Arbitration of Certain Disputes.** Any dispute, controversy or disagreement arising under this Declaration shall be settled by arbitration conducted by a single, neutral arbitrator selected by the parties, or failing this joint action, each shall separately select an arbitrator and, within thirty (30) days after their selection, the two arbitrators shall jointly designate a third arbitrator. The arbitration shall be conducted in conformity with and subject to provisions of the California Code of Civil Procedure (beginning with Code of Civil Procedure Section 1280) or, in the event these provisions cease to exist, any other provisions of California law governing generally the conduct of arbitrations. The decision of the arbitrator if only one, or the decision of

a majority of the arbitrators if three, shall be conclusive and binding upon the Manager and the Owner and shall be enforceable through procedures adopted under the laws of the State of California for the enforcement of arbitration awards. The cost of the arbitration shall be borne equally by the parties. Each party shall pay its own legal fees and costs. The provisions of this Section 11.10 in no manner affect any rights provided herein for Foreclosure, or for injunctive or specific performance remedies while waiting for completion of arbitration.

**11.11 Breach Will Not Permit Termination.** No breach of this Declaration will entitle any Owner to cancel, rescind or otherwise terminate this Declaration, but this limitation shall not affect, in any manner, any other rights or remedies which the Owners or Manager may have by reason of any breach of this Declaration.

**11.12 Article Headings.** The article headings herein are for convenience and reference only and in no way define or limit the scope or content of this Declaration or in any way affect its provisions.

*[Signatures follow on next page]*

IN WITNESS WHEREOF, each Declarant Entity has set its hand and seal the day and year first above written.

PONTIAC 7 LLC

PONTIAC 3 & 5 LLC

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By: Jerry Einar Cook  
Its: Manager

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By: Jerry Einar Cook  
Its: Manager

PONTIAC 4 LLC  
By: Cook Family Limited Partnership  
Its: Manager

201 PONTIAC LLC  
By: Cook Family Limited Partnership  
Its: Manager

---

By: Jerry Einar Cook  
Its: General Partner

---

By: Jerry Einar Cook  
Its: President

PONTIAC 2 LLC

BOTFEE LLC

---

By: Jerry Einar Cook  
Its: Manager

---

By: Jerry Einar Cook  
Its: Sole Member

380 ASHLAN LLC

Address for Notices:  
2780 N. Miami Ave, Suite 101  
Fresno, CA 93727

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By: Jerry Einar Cook  
Its: Manager

**EXHIBIT "A1"**

**PARCEL LEGAL DESCRIPTION –  
OWNED BY DECLARANT ENTITY 380 ASHLAN LLC**

The Land referred to herein below is situated in the City of Clovis, County of Fresno, State of California, and is described as follows:

BEING PORTIONS OF PARCELS 10 AND 11 AS SAID PARCELS ARE SHOWN ON PARCEL MAP NO. 90-5 FILED FOR RECORD AUGUST 16, 1991 IN BOOK 51, PAGES 94 AND 95 OF MAPS, FRESNO COUNTY RECORDS, AND A PORTION OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE DEED TO COSTCO WHOLESALE CORPORATION RECORDED JULY 17, 1998 AS INSTRUMENT NUMBER 98098917, OFFICIAL RECORDS OF FRESNO COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF SAID PARCEL 10;

THENCE ALONG THE GENERAL EASTERLY LINE OF SAID PARCEL 10, THE FOLLOWING THREE COURSES:

- 1) SOUTH 0° 13' 57" WEST, 374.67 FEET;
- 2) NORTH 89° 46' 03" EAST, 11.50 FEET; AND
- 3) SOUTH 0° 13' 57" EAST, 85.00 FEET TO THE SOUTHEASTERLY CORNER OF SAID PARCEL 10;

THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 10, SOUTH 89° 46' 03" WEST, 13.00 FEET;

THENCE LEAVING SAID SOUTHERLY LINE, SOUTH 0° 13' 57" EAST, 53.50 FEET;

THENCE SOUTH 89° 46' 03" WEST, 153.83 FEET;

THENCE SOUTH 0° 13' 57" EAST, 5.00 FEET;

THENCE SOUTH 89° 46' 03" WEST, 154.63 FEET;

THENCE NORTH 0° 13' 57" WEST, 58.50 FEET TO THE AFOREMENTIONED SOUTHERLY LINE OF SAID PARCEL 10;

THENCE ALONG SAID SOUTHERLY LINE, NORTH 89° 46' 03" EAST, 13.63 FEET;

THENCE LEAVING SAID SOUTHERLY LINE, NORTH 0° 13' 57" WEST, 50.00 FEET TO

AN ANGLE POINT IN THE GENERAL WESTERLY LINE OF SAID PARCEL 10;

THENCE ALONG SAID GENERAL WESTERLY LINE, THE FOLLOWING SEVEN COURSES:

- 1) NORTH 0° 13' 57" WEST, 23.30 FEET;
- 2) NORTH 89° 46' 03" EAST, 0.33 FEET;
- 3) NORTH 0° 13' 57" WEST, 168.20 FEET;
- 4) SOUTH 89° 46' 03" WEST, 0.33 FEET;
- 5) NORTH 0° 13' 57" WEST, 129.67 FEET;
- 6) SOUTH 89° 46' 03" WEST, 14.50 FEET; AND
- 7) NORTH 0° 13' 57" WEST, 67.00 FEET TO THE NORTHWESTERLY CORNER OF SAID PARCEL 10; THENCE

ALONG THE GENERAL NORTHERLY LINE OF SAID PARCEL 10, THE FOLLOWING THREE COURSES;

- 1) NORTH 89° 46' 03" EAST, 56.00 FEET;
- 2) SOUTH 0° 13' 57" EAST, 14.50 FEET; AND
- 3) NORTH 89° 48' 03" EAST, 102.83 FEET;

THENCE LEAVING SAID LINE, NORTH 0° 13' 57" WEST, 36.00 FEET TO A LINE WHICH BEARS SOUTH 89° 48' 03" WEST FROM THE POINT OF BEGINNING;

THENCE NORTH 89° 48' 03" EAST, 153.00 FEET TO THE POINT OF BEGINNING.

THE LEGAL IS MADE PURSUANT TO THAT CERTAIN LOT LINE ADJUSTMENT; PARCEL MAP EXEMPT NO. PME 98-10 AS DISCLOSED BY THAT QUITCLAIM DEED RECORDED DECEMBER 18, 1998 OF OFFICIAL RECORDS AS INSTRUMENT NO. 98182962 OF OFFICIAL RECORDS.

APN: 493-170-33

Common Address: 380 W. Ashlan Avenue, Clovis, California 93612



**EXHIBIT "A2"**

**PARCEL LEGAL DESCRIPTION –  
OWNED BY DECLARANT ENTITY BOTFEE LLC**

PARCEL A OF LOT LINE ADJUSTMENT PME2015-04, RECORDED MAY 26, 2015 AS INSTRUMENT NO. 2015-0064124 OF OFFICIAL RECORDS DESCRIBED AS FOLLOWS:

That portion of Parcel A of Grant Deed recorded March 28, 2003 as Document No. 2003-0070637, Official Records of Fresno County in the City of Clovis, County of Fresno, State of California, described as follows:

BEGINNING at the Northwest corner of said Parcel A; thence North 89°49'36" East, along the North line of said Parcel A, a distance of 762.64 feet; thence South 00°04'10" West, a distance of 267.50 feet; thence South 18°14'07" West, a distance of 68.50 feet to a point on the Southerly line of said Parcel A, said point being the beginning of a 1465.43 foot radius non-tangent curve, concave to the South, a radial to said beginning bears North 18°14'07" East; thence Westerly and Northerly along the Southerly and West lines of said Parcel A, the following courses: Westerly, along said curve, through a central angle of 18°24'32", an arc distance of 470.84 feet; thence tangent to said curve, South 89°49'35" West, a distance of 253.30 feet to the beginning of a 24.50 foot radius tangent curve, concave to the Northeast; thence Northwesterly, along said curve, through a central angle of 90°10'25", an arc distance of 38.56 feet; thence tangent to said curve, North 00°00'00" West, a distance of 232.93 feet to the POINT OF BEGINNING.

RESERVING THEREFROM an easement for private utility purposes, described as follows:

COMMENCING at the Northwest corner of said Parcel A; thence North 89°49'36" East, along the North line of said Parcel A, a distance of 762.64 feet; thence South 00°04'10" West, a distance of 13.48 feet to the TRUE POINT OF BEGINNING; Thence South 00°04'10" West, a distance of 15.00 feet; thence South 88°39'50" West, a distance of 182.32 feet; thence South 21°03'10" East, a distance of 304.28 feet to a point on the Southerly line of said Parcel A, said point being the beginning of a 1465.43 foot radius non-tangent curve, concave to the South, a radial to said beginning bears North 16°08'17" East; thence Westerly, along the Southerly line of said Parcel A, along said curve, through a central angle of 00°43'57", an arc distance of 18.73 feet; thence non-tangent to said curve, North 21°03'10" West, a distance of 314.36 feet; thence North 88°39'50" East, a distance of 204.00 feet to the TRUE POINT OF BEGINNING.

TOGETHER WITH an easement for private irrigation purposes, described as follows:

COMMENCING at the Northwest corner of said Parcel A; thence North 89°49'36" East, along the North line of said Parcel A, a distance of 762.64 feet; thence South 00°04'10" West, a distance of 52.48 feet to the TRUE POINT OF BEGINNING; Thence North 89°46'50" East, a distance of 239.70 feet; thence South 00°08'10" West, a distance of 367.36 feet to a point on the South line of said Parcel A, said point being the beginning of a 769.46 foot radius non-tangent curve, concave to the North, a radial to said beginning bears South 16°06'02" West; thence Westerly, along the South line of said Parcel A, along said curve, through a central angle of 01°09'54", an arc distance of 15.65 feet; thence non-tangent to said curve, North 00°08'10" East, a distance of 347.81 feet; thence South 89°46'50" West, a distance of 224.68 feet; thence North 00°04'10" East, a distance of 15.00 feet to the TRUE POINT OF BEGINNING.

Excepting therefrom all mineral deposits in, on and under the above described property as defined in Section 6407 of the Public Resources Code together with the right to prospect for, mine and remove such deposit, as conveyed to the State of California by deed recorded April 3, 1979 in Book 7254, Page 49 as Document No. 38447 of Official Records.

APN: The Real Property is a portion of APN 493-070-57S  
Common Address: 333 W. Pontiac Way, Clovis, California 93612

**EXHIBIT "A3"**

**PARCEL LEGAL DESCRIPTION –  
OWNED BY DECLARANT ENTITY PONTIAC 2 LLC**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF CLOVIS, IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

Parcel B of Lot Line Adjustment No. 2014-5 recorded July 3, 2014, Instrument No. 2014-0074103, Official Records, described as follows:

That portion of the South half of the Northwest quarter of Section 20, Township 13 South, Range 21 East, Mount Diablo Base and Meridian, according to the Official Plat thereof, in the City of Clovis, County of Fresno, State of California, described as follows:

Commencing at the West quarter corner of said Section 20, thence North 00° 02' 46" West along the West line of said Northwest quarter, a distance of 665.08 feet; thence North 89° 50' 20" East, parallel with and 665.08 feet North of the South line of said Northwest quarter, a distance of 50.11 feet to a point on the East right-of-way line of Peach Avenue, said point being the true point of beginning:

Thence, continuing, North 89° 50' 20" East, parallel with and 665.08 feet North of the South line of said Northwest quarter, a distance of 360.57 feet; thence South 54° 48' 42" East, a distance of 85.89 feet to a point being 615.39 feet North of the South line of said Northwest quarter; thence North 89° 50' 20" East parallel with and 615.39 feet North of the South line of said Northwest quarter, a distance of 32.40 feet to a point being 134.27 feet West of the West right-of-way line of said Caesar Avenue; thence North 00° 02' 46" West, parallel with and 134.27 feet West of the West right-of-way line of said Caesar Avenue, a distance of 29.60 feet to a point being 644.99 feet North of the South line of said Northwest quarter; thence North 89° 50' 20" East, parallel with and 644.99 feet North of the South line of said Northwest quarter, a distance of 134.27 feet to a point on the West right-of-way line of Caesar Avenue; thence South 00° 02' 46" East, along the West right-of-way line of said Caesar Avenue, a distance of 588.04 feet to the beginning of a 24.50 foot radius tangent curve, concave Northwesterly; thence Southwesterly, along said curve, through a central angle of 89° 53' 06", an arc distance of 38.44 feet to a point on the North right-of-way line of Dakota Avenue, said North right-of-way being 32.50 feet North of the South line of said Northwest quarter; thence South 89° 50' 20" West, tangent to said curve, along the North right-of-way line of said Dakota Avenue, parallel with and 32.50 feet North of the South line of said Northwest quarter, a distance of 387.05 feet; thence North 00° 02' 46" West, continuing along the North right-of-way line of said Dakota Avenue, a distance of 19.38 feet to the beginning of a 1013.00 foot radius non-tangent curve, concave Northerly, a radial to said beginning bears South 08° 10' 06" East; thence continuing along the North right-of-way line of said Dakota Avenue, Westerly, along said curve, through a central angle of 08° 00' 26", an arc distance of 141.57 feet to a point being 42.00 feet North of the South line of said Northwest quarter; thence South 89° 50' 20" West, continuing along the North

right-of-way line of said Dakota Avenue, parallel with and 42.00 feet North of the South line of said Northwest quarter, a distance of 16.91 feet; thence North 45° 06' 13" West, a distance of 16.95 feet to a point on the East right-of-way line of said Peach Avenue; thence North 00° 02' 46" West, along the East right-of-way line of said Peach Avenue, a distance of 345.87 feet; thence North 03° 28' 33" West, continuing along the East right-of-way line of said Peach Avenue, a distance of 265.66 feet to the true point of beginning.

EXCEPTING THEREFROM all mineral deposits in, on and under the above described property defined in Section 6407 of the Public Resources Code, together with the right to prospect for, mine and remove such deposits, and to occupy and use so much of the surface of the land as may be necessary therefore, as conveyed to the State of California by deed recorded April 3, 1979, in Book 7254, Page 49, as Document No. 38447, Official Records.

PARCEL TWO:

RECIPROCAL, NON-EXCLUSIVE EASEMENTS FOR PARKING, ACCESS, INGRESS, EGRESS, AND DRAINAGE IN, TO, OVER AND ACROSS THE COMMON AREA, AS SET FORTH IN THAT CERTAIN CONSTRUCTION, OPERATION AND RECIPROCAL EASEMENT AGREEMENT RECORDED NOVEMBER 7, 1990 AS DOCUMENT NO. 90-137389, OFFICIAL RECORDS.

PARCEL THREE:

RECIPROCAL ACCESS EASEMENT FOR VEHICULAR ACCESS AND PARKING AND FOR PEDESTRIAN ACCESS, AS SET FORTH IN THAT CERTAIN RECIPROCAL EASEMENT AGREEMENT RECORDED JANUARY 7, 1994 AS DOCUMENT NO. 94 - 003439, OFFICIAL RECORDS.

PARCEL FOUR:

NON-EXCLUSIVE EASEMENTS FOR CROSS-DRAINAGE, CROSS-EGRESS, AND IRRIGATION LINE, AS SET FORTH IN THAT CERTAIN CROSS-DRAINAGE, SHARED EXIT EASEMENT, IRRIGATION LINE EASEMENT AND MAINTENANCE AGREEMENT RECORDED SEPTEMBER 11, 2014 AS DOCUMENT NO. 2014-0100755, OFFICIAL RECORDS.

APN: 493-070-70S

Common Address: 3500 Never Forget Lane, Clovis, California 93612

**EXHIBIT "A4"**

**PARCEL LEGAL DESCRIPTION –  
OWNED BY DECLARANT ENTITY PONTIAC 3 & 5 LLC**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF CLOVIS, IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

PARCEL 1 OF PARCEL MAP 2019-03, IN THE CITY OF CLOVIS, COUNTY OF FRESNO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 75, PAGE 56 AND 57 OF PARCEL MAPS, FRESNO COUNTY RECORDS.

EXCEPTING THEREFROM ALL MINERAL DEPOSITS IN, ON AND UNDER THE ABOVE DESCRIBED PROPERTY, AS DEFINED IN SECTION 6407 OF THE PUBLIC RESOURCES CODE, TOGETHER WITH THE RIGHT TO PROSPECT FOR, MINE AND REMOVE SUCH DEPOSITS, AND TO OCCUPY AND USE SO MUCH OF THE SURFACE OF THE LAND AS MAY BE NECESSARY THEREFOR, AS CONVEYED TO THE STATE OF CALIFORNIA, BY DEED RECORDED APRIL 3, 1979 IN BOOK 7254 OF OFFICIAL RECORDS AT PAGE 049, FRESNO COUNTY RECORDS, DOCUMENT NO. 38447.

APN: 493-070-87s

Common Address: 250 W. Pontiac Way, Clovis, California 93612

**EXHIBIT "A5"**

**PARCEL LEGAL DESCRIPTION –  
OWNED BY DECLARANT ENTITY PONTIAC 7 LLC**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF CLOVIS, IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1 OF PARCEL MAP NO. 2019-01, IN THE CITY OF CLOVIS, COUNTY OF FRESNO, STATE OF CALIFORNIA, RECORDED IN BOOK 75, PAGES 41 THROUGH 42 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM, ALL MINERAL DEPOSITS IN, ON AND UNDER THE ABOVE DESCRIBED PROPERTY, AS DEFINED IN SECTION 6407 OF THE PUBLIC RESOURCES CODE. TOGETHER WITH, THE RIGHT TO PROSPECT FOR, MINE AND REMOVE SUCH DEPOSITS, AND TO OCCUPY AND USE SO MUCH OF THE SURFACE OF THE LAND AS MAY BE NECESSARY THEREFORE, AS CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED APRIL 3, 1979 IN BOOK 7254, PAGE 49 OF OFFICIAL RECORDS AS DOCUMENT NO. 38447, FRESNO COUNTY RECORDS.

ALSO EXCEPTING THEREFROM, THE OWNERSHIP IN FEE OF ALL MINERALS, INCLUDING ALL OIL, GAS OR OTHER HYDROCARBON, IN OR UNDER THE ABOVE, THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 20, TOGETHER WITH, THE EXCLUSIVE RIGHT TO ENTER UPON SAID LAND TO MINE, EXPLORE, DRILL FOR, EXTRACT AND PRODUCE ANY AND ALL OF SAID MINERALS BY ALL REASONABLE MEANS CONSISTENT WITH THE HEALTH UTILIZATION OF SAID LAND AS RESERVED BY THE UNITED STATES OF AMERICA, IN DEED RECORDED MARCH 31, 1955 IN BOOK 3583, PAGE 1 OF OFFICIAL RECORDS.

APNs: 493-070-058s & 85s

Common Address: 205 W. Pontiac Way, Clovis, California 93612

**EXHIBIT "A6"**

**PARCEL LEGAL DESCRIPTION –  
OWNED BY DECLARANT ENTITY PONTIAC 4 LLC**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF CLOVIS, IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1 OF PARCEL MAP 2019-03, IN THE CITY OF CLOVIS, COUNTY OF FRESNO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 75, PAGE 56 AND 57 OF PARCEL MAPS, FRESNO COUNTY RECORDS.

APN: 493-070-88s

Common Address: 200 W. Pontiac Way, Clovis, California 93612

**EXHIBIT "A7"**

**PARCEL LEGAL DESCRIPTION –  
OWNED BY DECLARANT ENTITY 201 PONTIAC LLC**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF CLOVIS, IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 2 OF PARCEL MAP NO. 2019-01, RECORDED IN BOOK 75, PAGES 41 THROUGH 42 OF PARCEL MAPS, FRESNO COUNTY RECORDS.

APN: 493-070-86s

Common Address: 201 W. Pontiac Way, Clovis, California 93612

**ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California                    )  
County of \_\_\_\_\_                )

On \_\_\_\_\_ before me, \_\_\_\_\_  
(here insert name and title of the officer)

personally appeared \_\_\_\_\_

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)