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CONDOMINIUM DECLARATION

FOR

BISHOP ARTS TENTH STREET CONDOMINIUMS

Made and Established on April 26, 2018

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CONDOMINIUM DECLARATION

FOR

BISHOP ARTS TENTH STREET CONDOMINIUMS

This Condominium Declaration for Bishop Arts Tenth Street Condominiums is made and established on April 26, 2018, by Declarant;

RECITALS:

A. Declarant is the fee simple owner of the Property.

B. Declarant desires to create a Condominium pursuant to the provisions of the Act.

C. Declarant intends hereby to establish a plan for the individual ownership of estates in real property consisting of the Units and the appurtenant undivided interests in the Common Elements.

NOW, THEREFORE, Declarant does hereby submit the Property to the provisions of the Act and the Condominium established hereby and does hereby publish and declare that the following terms, provisions, covenants, conditions, easements, restrictions, reservations, uses, limitations and obligations are hereby established and shall be deemed to run with the Property and shall be a burden and benefit to Declarant, the Architectural Reviewer, the Association, the Owners, and their respective heirs, legal representatives, successors and assigns:

ARTICLE I

Definitions

Section 1.1 Terms Defined. As used in this Declaration, the following terms shall have the meanings set forth below:

"Access Easement." An easement as more particularly described in Section 3.8(a) of this Declaration.

"Acquired Property." As defined in Section 13.2 of this Declaration.

"Act." The Uniform Condominium Act, Texas Property Code, Chapter 82, Section 82.001 et seq., as amended from time to time.

"Additional Assessments." Assessments established by the Association to cover Charges owed to the Association by one or more Owners or by one Owner to another Owner, pursuant to the Governing Documents.

"Affiliate." Any Person who controls, is controlled by, or is under common control with another Person.

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"Affiliate of Declarant." "Affiliate of a Declarant" as defined in Section 82.003(a)(1) of the Act.

"Allocated Interests." The undivided interests of each Owner in the Common Elements allocated to each Unit as reflected by the percentage ownership on Exhibit "C" attached to this Declaration, as may be reallocated in accordance with the Reallocation Percentages, as required from time to time, pursuant to the provisions of this Declaration.

"Architectural Reviewer." A person(s) or entity as described in Section 5.1, and having the rights and duties as described in Article V hereunder.

"Assessments." The Monthly Assessments, Special Assessments and Additional Assessments, owing to the Association by an Owner or levied against a Unit by the Association.

"Association." Bishop Arts Tenth Street Condominium Association, Inc., a Texas nonprofit corporation organized under the Act and the TBOC and created for the purposes and possessing the rights, powers, authority and obligations set forth in the Governing Documents.

"Board of Directors" or "Board." The board of directors of the Association named in the Certificate of Formation and their successors as duly elected and qualified from time to time.

"Budget." A budget prepared by the Association that includes the anticipated Common Expenses, Parking Expenses and any Additional Assessments for the ensuing fiscal year.

"Building(s)." Any building or two or more buildings (as the content may require) located on the Property in which portions of the Units are located, as shown on the Map, which may include, without limitation, Building One (as hereinafter defined), Building Two (as hereinafter defined), Building Three (as hereinafter defined), Building Four (as hereinafter defined), Building Five (as hereinafter defined), Building Six (as hereinafter defined), Building Seven (as hereinafter defined), and Building Eight (as hereinafter defined).

"Bylaws." The bylaws of the Association, adopted by the Board of Directors, as amended from time to time.

"Certificate of Formation." The Certificate of Formation of the Association filed with the Secretary of State of Texas, as amended from time to time.

"CGL." The broadest available form of commercial general liability insurance (utilizing the then prevailing ISO form or an equivalent form approved by the Board of Directors and reasonably acceptable to Declarant's Mortgagee).

"Charges." Any costs, expenses, dues, interest, fees, late fees, fines, collection costs, attorneys' fees and any other sums arising under the Governing Documents owing

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"Construction Dispute." Any claim, grievance or other dispute involving Declarant or any Affiliate of Declarant, including any construction company which is an Affiliate of Declarant, and arising out of or relating to the construction or design of the Property, including the interpretation or enforcement of any warranty.

"County." Dallas County, Texas.

"Damaged Unit." One or more Units damaged or destroyed by fire or other casualty.

"Declarant." SKZ Development, LLC, a Texas limited liability company, whose address for notice is c/o 1512 Crescent Drive, Suite 112, Carrollton, Texas 75006, and any successor or assignee of Declarant evidenced by a written instrument filed for record in the Condominium Records assigning the rights, powers, authority and obligations of Declarant hereunder.

"Declarant Control Period." The period that commences on the date of this Declaration and expires upon the earlier to occur of: (i) the date in which Declarant no longer owns a lot for the purpose of sale, or (ii) December 31, 2093, during which period Declarant may appoint and remove, in its sole discretion, officers and directors to the Board of the Association; provided that no later than the date which is not later than the 120th day after conveyance of fifty percent (50%) of the Units that may be created hereunder to Owners other than Declarant, not less than one-third (1/3) of the directors serving on the Board must be elected by non-Declarant Owners. The Declarant Control Period: (a) is for a number of years; and (b) may be terminated by Declarant at any time.

"Declarant's Mortgagee." Any Person that is the holder of any bona fide indebtedness which is the result of an arm's length negotiation, that is secured by a first lien or encumbrance upon any portion of the Condominium owned by Declarant.

"Declaration." This Condominium Declaration for Bishop Arts Tenth Street Condominiums, and all amendments hereto, which shall be recorded in the Condominium Records.

"Design Guidelines." Any procedural or substantive rules or guidelines that may be adopted by the Architectural Reviewer, from time to time, regarding the planning and construction of Improvements, including, without limitation, Buildings, Units and Common Elements, and the use of Land.

"Designee." A Person acting at the request of another Person, including contractors, subcontractors, employees, agents, representatives and licensees.

"Development Rights." A right or combination of rights to: (i) add additional real property, Buildings or Units to the Condominium; (ii) create Units, Common Elements, or Limited Common Elements within the Condominium; (iii) sub-divide Units or convert Units into Common Elements or convert the Common Elements into Units; or (iv) withdraw or add real property from or to the Condominium.

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"Dispute." Any claim, grievance or other dispute, other than a Construction Dispute, arising out of or relating to: (i) the interpretation, application or enforcement of the Governing Documents; (ii) any conflict or dispute arising between or among two or more Owners or an Owner and Declarant or the Architectural Reviewer; (iii) the proper party to bear a maintenance cost or expense or a capital expenditure or the proper amount of the expense, fee or Assessment to be charged or collected; (iv) the rights, obligations and duties of any Owner, Declarant or the Architectural Reviewer under the Governing Documents; (v) the authority of the Association, the Architectural Reviewer or Declarant under any Legal Requirement or under the Governing Documents to: (a) require any Owner to take any action or not to take any action involving such Owner's Unit or (b) alter, subtract from or add to the Common Elements or the Condominium; or (vi) the failure of the Association, in accordance with Legal Requirements and the Governing Documents to: (w) properly conduct elections, (x) give adequate notice of meetings or actions, (y) properly conduct meetings, or (z) allow inspection of books or records. The following shall not be considered "Disputes" unless all parties shall otherwise agree to submit the matter to the dispute resolution provisions of Article XI of this Declaration: (i) any suit by the Association to obtain a temporary restraining order and such ancillary relief as the court may deem necessary to maintain the status quo and preserve the Association's ability to enforce the provisions of the Governing Documents; (ii) any suit between Owners that does not include Declarant or the Association if such suit asserts a dispute that would constitute a cause of action independent of any of the Governing Documents; (iii) any disagreement that primarily involves title to any Unit or the Common Elements; or (iv) any suit in which the applicable statute of limitations would expire within 180 days of the giving of notice as provided in Article XI of this Declaration unless the Persons against whom the Dispute is made agree to toll the statute of limitations for a period of time necessary to comply with Article XI of this Declaration.

"Easements." Collectively, those Easements described in Section 3.8 and Section 3.9 of this Declaration.

"General Common Elements." All portions of the Common Elements that are not Limited Common Elements, including those more particularly described in Section 2.2(b) of this Declaration.

"Governing Documents." Individually and collectively, the Act, Certificate of Formation, Bylaws, Design Guidelines, Regulations and this Declaration.

"Governmental Authority." Any and all applicable courts, boards, agencies, commissions, offices or authorities of any nature whatsoever for any governmental entity (federal, state, county, district, municipal, city or otherwise) whether now or hereafter in existence.

"Governmental Impositions." All real estate and personal property taxes, assessments, standby fees, excises and levies, and any interest, costs or penalties with respect thereto, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever, which at any time prior to or after the execution

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hereof, may be assessed, levied or imposed upon the Condominium or any Unit therein by any Governmental Authority.

"Improvements." The Building and its infrastructure, and the pavement, fencing, landscaping, facilities, Systems and man-made objects of every type, existing or in the future placed on the Land, including all cable television, cellular phone, internet and other utility or communication installations or equipment.

"Insurance Proceeds." Any and all proceeds that an Owner or the Association is entitled to receive from an insurance company as a result of a casualty loss, including such proceeds in connection with a casualty loss to a Unit, the Common Elements or to improvements within an Easement area established pursuant to this Declaration.

"Insurance Trustee." The Association acting in the capacity of a trustee in accordance with the provisions of Section 7.5 of this Declaration to negotiate losses under any property insurance policies required to be obtained by the Association in this Declaration.

"Land." That certain real property located in the County and more particularly described in Exhibit "A" attached to this Declaration, together with all and singular the rights and appurtenances pertaining thereto, including any additional real property that becomes part of the Property, but excluding, to the extent appurtenant, the Easements.

"Legal Requirements." Any requirements applicable to the Property contained in matters of record and any and all then-current judicial decisions, statutes, rulings, rules, regulations, permits, certificates or ordinances of any Governmental Authority in any way applicable to any Owner's use and enjoyment of the Condominium, any Unit or the Property, including zoning ordinances, subdivision and building codes, flood disaster laws and applicable architectural barrier, health and environmental laws and regulations.

"Limited Common Elements." Those portions of the Common Elements that are allocated by this Declaration and the Map for the exclusive use of less than all of the Units, including those more particularly described in Section 2.2 of this Declaration.

"Maintenance Standard." Good repair in an attractive and clean condition, including the operation, upkeep, repair and restoration, ordinary wear and tear excepted, to the extent necessary to maintain the Condominium or Unit, as applicable, in a condition reasonably suitable for its intended purpose.

"Manager." Any professional manager or management company with whom the Association contracts for the day-to-day management of either or both of the Property or the administration of the Association and the Condominium.

"Map." The plats and plans on Exhibit "B" attached to this Declaration and made a part of this Declaration, including a survey plat of the Land and dimensional drawings that horizontally and vertically identify and describe the Units and the Common Elements.

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"Monthly Assessment." Assessments established and collected by the Association pursuant to Article VIII of this Declaration for payment of the Common Expenses and Parking Expenses when due.

"Mortgagee." Any Person, including Declarant's Mortgagee, that is the holder, insurer or guarantor of any bona fide indebtedness which is the result of an arm's length negotiation, that is secured by a first lien or encumbrance upon a Unit and which has provided the Association with written notice of its name, address and a description of the Unit encumbered thereby.

"Owner." Any Person (including Declarant) owning fee title to a Unit, but excluding any Person having an interest in a Unit solely as security for an obligation.

"Parcel." The Property or any building site designated by Plat or otherwise as a separate building site within the Property.

"Parking Agreement." Any Parking Agreement between the Association and the Owner of a Unit with respect to any Parking Spaces that are General Common Elements, which among other things, gives such Owner access to and the exclusive right to use certain Parking Spaces that are part of the General Common Elements.

"Parking Expenses." Costs and expenses directly related to the Parking Spaces or for which the Association is primarily responsible, subject to its right to allocate such expenses to other Owners pursuant to this Declaration, including those relating to: (i) maintenance and repair of the Parking Spaces; (ii) casualty, public liability and other insurance coverages required or permitted to be maintained by the Association; (iii) Governmental Impositions levied and assessed on the Parking Spaces; (iv) utilities relating to the Parking Spaces; and (v) such other costs and expenses as may be reasonably related to the proper maintenance, care, operation and management of the Parking Spaces, including the accounting for such expenses.

"Parking Spaces." Collectively, all parking spaces within the Condominium, which are General Common Elements as designated on the Plat; provided, however, in no event shall any parking spaces within an enclosed garage of any Unit be considered Parking Spaces for purposes of this Declaration.

"Parking Space Easement." An easement for use of Parking Spaces, as more particularly described in Section 3.8(c) of this Declaration.

"Past Due Rate." The maximum lawful rate of interest under Texas law or, if no maximum lawful rate exists, the rate of 18% per annum.

"Person." Any individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, joint venture, estate, trust, unincorporated association, any other legal entity, including any Governmental Authority and any fiduciary acting in such capacity on behalf of any of the foregoing.

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"Priority Lien Indebtedness." Any bona fide indebtedness, which is the result of an arm's-length negotiation, that is secured by a first lien or encumbrance upon the Property and/or a Unit.

"Property." The Land and the Improvements.

"Real Property Records." The records of the office of the county clerk of the County where instruments concerning real property are recorded.

"Reallocation Percentage." The percentage ownership of the undivided interest of each Owner in the Common Elements as set forth on a Supplemental Declaration (if applicable), determined by dividing (i) the square footage of a Unit by (ii) the combined total square footage of all Units, which measurement of the square feet within each Unit shall be done in the same manner as the measurement used to establish the initial Allocated Interests set forth on Exhibit "C" attached to this Declaration.

"Regulations." The rules and regulations of the Association initially adopted by the Board of Directors and as amended from time to time, relating to the appearance, use and occupancy of the Property, including the exterior appearance, use and occupancy of the Units, and certain construction on the Property.

"Rents." Any and all rental or other income received by an Owner in connection with the leasing of such Owner's Unit or the granting or licensing of a right to use all or any portion of such Unit.

"Roof Easement." An easement as more particularly described in Section 3.8(d) of this Declaration.

"Roof Easement Area." The area shown and designated as the Roof Easement Area on the Map, if any.

"Signage." Any signage, lettering, decorations, banners, advertising or marketing media, awnings, canopies, window covering, or any other form of expression on the Skin or in the interior of the Improvements if the same is visible from the exterior of the Improvements.

"Signage Rights." The right to affix Signage to the Skin, as described in Section 3.4 of this Declaration.

"Skin." The exterior surface of the Improvements or the portions thereof, as applicable, including the roof, but specifically excluding the garage doors and other exterior doors and windows.

"Skin Easement." An easement as more particularly described in Section 3.8(e) of this Declaration.

"Special Assessments." Assessments established and collected from time to time by the Association pursuant to Section 8.1(c) of this Declaration, when due.

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"Special Declarant Rights." Rights set forth in Section 82.003(a)(22) of the Act hereby reserved for the benefit of Declarant, including, without limitation the rights to: (i) complete the Improvements shown on the Map; (ii) exercise any Development Right; (iii) make the Condominium a part of a larger condominium or planned community; (iv) maintain the sales and management and leasing offices and models described in Section 3.7(c) of this Declaration and use signs advertising the Units or the Condominium; (v) use any Easement for the purpose of making improvements within the Condominium, on the Property; (vi) appoint and remove any officer or director on the Board of the Association during the Declarant Control Period.

"Structure." All foundations, footings, columns, flat slabs, sheer walls, girders, support beams, post tension cables or rods and including any and all other structural components that support, uphold or are a part of the Building or other Improvement.

"Supplemental Declaration." An instrument executed by Declarant and recorded in the Condominium Records for the purpose of (i) modifying the Allocated Interests, (ii) adding to the Condominium, (iii) withdrawing any portion of the Condominium from the effect of this Declaration or (iv) any other action as provided in the Governing Documents.

"Support Easement." An easement as more particularly described in Section 3.8(f) of this Declaration.

"Systems." All fixtures, utilities, equipment, pipes, lines, wires, computer cables, conduits, circuits, junction boxes, hangers, pull boxes, terminal points, electronic devices, air compressors, air handlers, chillers and other systems used in the production, heating, cooling and/or transmission of air, water, gas, electricity, communications, waste water, sewage, audio and video signals, and other utility services including the main switch gear conduits, plumbing chases and mechanical shafts on the Property.

"Systems Easement." An easement as more particularly described in Section 3.8(g) of this Declaration.

"Taking." The taking or threat of taking of all or a portion of the Property for any public or quasi-public use, by eminent domain proceedings or otherwise, by a Governmental Authority or by an action in the nature of eminent domain (whether permanent or temporary) or the sale or other transfer of the Property in lieu thereof.

"Tenant." Any Person having the right to occupy a Unit or a portion of a Unit pursuant to a lease or other occupancy agreement granted by an Owner, or pursuant to a sublease, to the extent allowed by the Governing Documents.

"TBOC." The Texas Business Organizations Code, as amended from time to time.

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"Unit." A physical portion of the Condominium that is designated for separate ownership or occupancy (the boundaries of which are depicted on the Map), which, to the extent applicable, is contained within the perimeter walls, floor, ceiling, windows and doors of a Unit depicted on the Map and more particularly described in Section 2.2(a) of this Declaration, and includes: (i) all the Systems that exclusively serve such Unit; (ii) garage doors, entry doors, and windows (including, without limitation, plate glass windows); and (iii) the finish materials, floor covering, wall covering, fixtures and appliances contained in the Unit but excludes (x) any portion of the Structure and (y) any Systems that serve more than one Unit, all as subject to and further described in Section 82.052 of the Act.

"Utility Easement." An easement as more particularly described in Section 3.8(h) of this Declaration.

"Working Capital Contribution." An amount equal to Three Hundred and Fifty And No/100 Dollars ($350.00) to be contributed to the Association by each Owner, not including Declarant as provided in Section 8.11 of this Declaration. Declarant during the Declarant Control Period or, thereafter, the Board, may increase the Working Capital Contribution by an additional amount equal to fifty percent (50%) of the Working Capital Contribution then required without consent or joinder of any Member or Owner.

ARTICLE II

General Provisions

Section 2.1 Creation of Units; Map.

(a) The Units. The Property is hereby divided into fee simple estates composed of eight legal Phases, with three (3) Units in each Phase, being twenty-four (24) separately designated Units in the aggregate, and each such Unit's undivided interest in and to the Common Elements. Each Unit, together with such Unit's undivided interests in the Common Elements is for all purposes a separate parcel of and estate in real property. The separate parcels of and estates in real property designated hereby shall be created on the date of filing of this Declaration in the Condominium Records and shall continue until this Declaration is revoked or terminated in the manner provided in this Declaration. During the Development Period, Declarant, by its Development Rights, has reserved the right to create a maximum of one hundred thirty-five (135) Units on the Property and additional property added to the Condominium by adding Units to a particular Phase or by adding additional Phases of Units. To add Units to the Regime, Declarant during the Development Period may, from time to time, file an amendment to this Declaration creating such additional Units in a Phase or additional Phases of Units. To add additional Units to the Regime established by this Declaration, Declarant shall prepare, execute, and record an amendment to this Declaration and the Map which amendment will: (i) assign an identifying number to each new Unit and Phase (if applicable); (ii) reallocate the Allocated Interests among all Units then existing within the Condominium; (iii) describe Limited Common Elements; if any, assigned or designated to each new Unit; and (iv) with respect to new Units, include the information required by

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Section 82.055 and Section 82.059(b) of the Act. To add additional property to the Condominium, Declarant will record a declaration of annexation in the Official Public Records of Dallas County, Texas, which will include a description of the additional real property. The declaration of annexation may also include a description of the Units added to the Condominium if the Declarant elects to create Units upon recordation of the declaration of annexation OR Declarant may elect to create additional Units or Common Elements on the additional property subsequent to the recordation of the declaration of annexation. No assurance is given as to the dispersion of new Units, total number of new Units, or size of such Units.

(b) The Map. The Map sets forth the following: (i) a general description and diagrammatic plan of the Condominium; (ii) the location and dimension of all real property subject to the Development Rights; (iii) all major Improvements, including each Unit, showing its location within the Building and floor(s); (iv) the location of Parking Spaces within the Condominium designated as Limited Common Elements for use by certain Owners; and (v) such other information as is desirable or required pursuant to the Act, including a certification as to compliance with the Act. The measurements set forth on the Map as to each Unit are approximate values taken from the plans and specifications for the Property and may not be precisely accurate as to any Unit due to variances in construction and interior floor plans. NEITHER DECLARANT NOR ANY OWNER SHALL BE LIABLE TO ANY OTHER OWNER AS A RESULT OF ANY DISCREPANCIES IN ACTUAL UNIT MEASUREMENTS FROM THOSE SET FORTH ON THE MAP OR IN ANY CONDOMINIUM PURCHASE CONTRACT TO WHICH DECLARANT OR ANY OWNER IS OR WAS A PARTY, AND EACH OWNER, BY ACCEPTING A DEED TO A UNIT, WAIVES ANY SUCH CLAIM OR CAUSE OF ACTION. Upon completion of the construction of the Improvements, Declarant (without the joinder of any other Owner) shall file an amendment to this Declaration, amending the Map to reflect the actual measurements for each Unit and any other changes, and amending Exhibit "C" attached to this Declaration to reflect the Allocated Interests based upon completion of construction.

Section 2.2 Description of Units and Common Elements. Subject to the reservations and Easements created by Declarant in this Declaration, the Units shall consist of the following and any logical extension thereby as determined in Declarant's reasonable judgment:

(a) Units: As depicted on the Map, the Units shall consist of: twenty-four (24) residential townhome units, which include a garage and entry on the first floor, and additional residential areas within second and and third floors of each Unit, the boundaries of which are described and depicted on the Map.

(b) General Common Elements. As depicted on the Map, the General Common Elements shall include all the Common Elements that are not Limited Common Elements.

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(c) Limited Common Elements. As depicted on the Map, the Limited Common Elements shall include a covered front porch area for each Unit, the boundaries of which are described and/or depicted on the Map.

(d) Descriptions Subject to Map. The descriptions of the Units and the Common Elements set forth in this Section 2.2 represent the general intention of Declarant; provided, however, if a discrepancy exists between the above descriptions and the Map, the Map shall control.

Section 2.3 Allocation of Interests in Common Elements. The initial Allocated Interests (being the percentage ownership in the Common Elements allocated to each Unit) have been determined by dividing the square footage of each Unit by the square feet of all Units and are shown opposite the Unit in Exhibit "C" attached to this Declaration. If Declarant elects to add or remove Units to the Condominium subsequent to the date hereof, the Allocated Interests of each Owner shall be recalculated in accordance with the Reallocation Percentages pursuant to the provisions of a Supplemental Declaration; provided, however, that such Allocated Interests, as determined by the Reallocation Percentages shall not be effective until the date such Units are added to or removed from the Condominium pursuant to a Supplemental Declaration.

Section 2.4 Inseparability of Units; No Partition. Each Unit shall be inseparable, and shall be acquired, owned, conveyed, transferred, leased and encumbered only as an entirety, except for the provisions of Section 3.3 and Section 3.8 of this Declaration. In no event shall a Unit be subject to physical partition, and no Owner shall bring or be entitled to maintain an action for the partition or division of a Unit or the Common Elements. Any purported conveyance, judicial sale or other voluntary or involuntary transfer of an undivided interest in the Common Elements without the Unit to which such Common Elements are allocated is void *ab initio*.

Section 2.5 Permissible Relationships; Description.

(a) Ownership of Units. A Unit may be acquired and held by more than one Person in any form of ownership recognized by the Legal Requirements.

(b) Description of Units. Any contract or other instrument relating to the acquisition, ownership, conveyance, transfer, lease or encumbrance of a Unit shall legally describe such Unit as follows: "Unit [#___] of Bishop Arts Tenth Street Condominiums, located in Dallas County, Texas," with further reference to the recording data for this Declaration (including the Map and any amendments to this Declaration in the Condominium Records). Every such description shall be good and sufficient for all purposes to acquire, own, convey, transfer, lease, encumber or otherwise deal with such Unit, and any such description shall be construed to include all incidents of ownership relating to a Unit.

Section 2.6 Mortgage of Unit. An Owner shall be entitled from time to time to mortgage or encumber a Unit by creating a lien or liens covering a Unit under the provisions of a mortgage or deed of trust, but any lien created thereby shall be subject to the terms and provisions of this Declaration, and any mortgagee or other lienholder which acquires a Unit

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through judicial foreclosure, public sale or any other means shall be subject to the terms and provisions of this Declaration. An Owner that mortgages its Unit shall notify the Association, giving the name and address of said Owner's Mortgagee, and the Association shall maintain such information.

ARTICLE III

Uses, Reservations and Restrictions

Section 3.1 **Permitted Uses**. All uses of the Units shall be subject to and in accordance with the Governing Documents and all applicable Legal Requirements. Except as otherwise provided in the Governing Documents, the Units shall only be used for residential and ancillary purposes permitted under any ordinances, rules or regulations promulgated by any applicable Governmental Authority and to which the Condominium is subject.

Section 3.2 **Prohibited Uses**. No Unit shall be used for any uses prohibited by the Architectural Reviewer. Approval by the Architectural Reviewer of a use with respect to a particular Unit shall not constitute or compel approval by the Architectural Reviewer of the same or a similar use elsewhere within the Condominium.

Section 3.3 **Leases.** The Units (or portions thereof) may be leased. Each lease of a Unit shall be subject to those leasing restrictions set forth by the Association from time to time, or the Regulations promulgated by the Board, as applicable.

Section 3.4 **Signage Rights**. No Owner shall have the right to erect Signage on the Skin of such Owner's Unit unless and until such Owner has obtained approval of the Architectural Reviewer (which may be withheld in the Architectural Reviewer's sole and absolute discretion) and provided that such Signage must be in compliance with the Legal Requirements. Any Signage shall be further subject to such restrictions and requirements as set forth in the Regulations. Each Owner shall be responsible, at its sole expense, for (A) obtaining and maintaining all necessary permits and approvals required under all applicable Legal Requirements with respect to the erection and maintenance of its Signage (if any), (B) keeping and maintaining, or causing to be kept and maintained, its Signage in good condition and repair and (C) keeping or causing to be kept all lighting and other equipment in connection with its Signage (if any) in good working order and condition. The Architectural Reviewer, or the Association at the direction of the Architectural Reviewer, may remove any such Signage, as necessary, in connection with any of its maintenance and repair or other obligations under this Declaration or may require the Unit Owner to do so. The Owner of the Unit utilizing the Signage Rights shall be responsible for the cost of repairing Common Elements or Units if such repairs are necessitated by use or misuse of their Signage Rights. The Architectural Reviewer does not insure equipment or improvements installed pursuant to the Signage Rights and is not liable to any Owner or any other Person for any loss or damage from any cause to the equipment or improvements installed pursuant to the Signage Rights. **THE OWNERS SHALL INDEMNIFY THE ARCHITECTURAL REVIEWER, THE ASSOCIATION, THEIR OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND MEMBERS, INDIVIDUALLY AND COLLECTIVELY, AGAINST LOSSES DUE TO ANY AND ALL CLAIMS FOR**

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DAMAGES OR LAWSUITS, BY ANYONE, ARISING FROM THE USE OR MISUSE OF THEIR RESPECTIVE SIGNAGE RIGHTS.

Section 3.5 Parking.

(a) Parking Spaces. Parking Spaces designated as General Common Elements shall be for the non-exclusive use of the Units and for any guests, invitees and employees of the Owners as well as the general public. Use of the Parking Spaces shall be subject to the procedures and regulations set forth in the Regulations (which will be enforced by the Association).

(b) Unit. Each Unit shall have access to a garage as part of such Unit sufficient to park at least two (2) automobiles. The right of a Unit Owner by a Parking Agreement or otherwise of any Parking Spaces shall be subject to the procedures and regulations set forth in the Regulations (which shall be enforced by the Association) and shall be used exclusively for automobile parking purposes and those uses appurtenant to parking purposes by the Unit Owner, its Tenants and their guests, invitees and employees. Neither the Association nor any other Owner may restrict or prohibit a Unit Owner from parking within the garage area that is part of such Owner's Unit.

Section 3.6 Compliance with the Governing Documents. Each Owner, by accepting a deed conveying title to a Unit, and any Tenant by execution of a lease or by occupancy or a Unit shall automatically be deemed to have agreed to strictly comply with the provisions of the Governing Documents and all the Legal Requirements. A failure or refusal of an Owner or a Tenant to so comply with any such provisions, after written notice, shall constitute a Dispute (to the extent so included within the definition of "Dispute" set forth in Section 1.1 of this Declaration) that shall be resolved in accordance with Article XI of this Declaration. In addition, an Owner's voting rights in the Association may by written notice be suspended by the Association during the period of such noncompliance.

Section 3.7 Rights of Declarant. In accordance with, and only if permitted by, the Act, Declarant reserves the following rights:

(a) the Development Rights and the Special Declarant Rights, at all times while Declarant or any Affiliate of Declarant owns any Unit or any other real property interest in the Condominium, including an easement interest, except as otherwise expressly provided herein;

(b) the right (but not the obligation), by a Supplemental Declaration, to supplement or modify any Unit by adding additional facilities or deleting facilities, to designate additional portions of the Condominium as part of any Unit, or to combine Units; provided, however, Declarant may not add or delete facilities from any Unit or combine Units, unless Declarant or an Affiliate of Declarant is the owner of such Unit or Units. No such addition or deletion to any such Unit or combination of Units shall affect the interest in the Common Elements, the share of Common Expenses or the voting rights appurtenant to the Units. Any Units which are combined shall be treated for all such purposes as separate Units. Declarant may separate any Units it has combined, at its sole

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expense, into separate and distinct Units as originally set forth in the survey and the Map. Nothing in this Declaration, however, shall obligate Declarant to add to the Condominium or otherwise take any of the actions to which Declarant is entitled pursuant to this Section 3.7(b);

(c) the right to maintain a model unit and a sales, leasing and/or management office within any Unit or on the Common Elements in connection with the sale, leasing and/or management of Units, in such location as determined by Declarant. Declarant shall have the right to relocate such model unit and/or office from time to time. Declarant shall have the right to authorize placement, upon the Common Elements, of signs designating any such model unit and/or sales, leasing and/or management office and advertising the sale or leasing of the Units. Such signs may be placed in such locations and shall be of such size and character as Declarant may determine;

(d) the right, without the vote or consent of the Architectural Reviewer, the Association or any other Owner, to: (i) make alterations, additions or improvements in, to and upon any Units owned by Declarant or its Affiliates, whether structural or non-structural; (ii) change the floor plan and layout of any Unit owned by Declarant or its Affiliates. However, in no event shall any such alteration, improvement or change interfere with any structural support of any Unit or the Common Elements or the provision of utility service to any Unit or the Common Elements. All work done in accordance with the provisions of this Section 3.7(d) shall be done in compliance with the Governing Documents and all applicable Legal Requirements; and

(e) For as long as Declarant or its Designees remain liable under any warranty, whether statutory, express or implied, for any act or omission of Declarant or its Designees in the development, construction, sale and marketing of any portion of the Condominium, the right for itself and its Designees, in Declarant's sole discretion and from time to time, to enter the Common Elements and the Units for the purpose of making necessary inspections, tests, repairs, improvements or replacements required for Declarant or its Designees to fulfill any of its warranty obligations, provided that no such entry into a Unit shall unreasonably interfere with the use of such Unit by its Owner. Failure of the Association or any Owner to provide such access may result in the appropriate warranty being nullified and of no further force or effect. Nothing in this Section 3.7(e) shall be deemed or construed as Declarant making or offering any warranty, all of which are disclaimed.

In addition to all other rights granted or reserved to Declarant in the Governing Documents, in order that the development of the Condominium may be undertaken and established as a fully operating residential development, Declarant shall have the following rights, and the Owners, the Architectural Reviewer, and the Association, shall refrain from interfering with Declarant's activities in such regard: (i) Declarant and its Designees shall have the right to conduct any activity or operations on or in connection with the Condominium that Declarant determines to be necessary or advisable in connection with the completion of the development of the Condominium, including the right to alter its construction plans and designs as Declarant deems advisable in the course of development or enlargement of any Improvements;; (ii) Declarant and its Designees shall have the right to erect, construct and

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maintain on any of the Property owned by Declarant or its Affiliates, such structures as may be reasonably necessary for the conduct of its or their business of completing said development and establishing the Condominium as a community and disposing of the same by sale, lease or otherwise; (iii) Declarant and its Designees shall have the right to conduct on the Property its business of developing, subdividing, grading and constructing Improvements in the Condominium and of disposing of the Units thereon by sale, lease or otherwise; (iv) Declarant shall have the right to determine in its sole discretion the nature of and the types of Improvements to be constructed as part of the Condominium; (v) Declarant shall have the right to file any amendments or any Supplemental Declarations to this Declaration; (vi) Declarant and its Designees shall have the right to modify, change, re-configure, remove and otherwise alter any Improvements located on the Common Elements, except as prohibited or limited elsewhere by the Governing Documents; and (vii) Declarant and its Designees shall have the right to enter upon the Property and operate thereon such vehicles and equipment as shall be necessary in the sole discretion of Declarant or its Designees for such purposes. In general, Declarant shall be exempt from all restrictions set forth in this Declaration to the extent such restrictions interfere in any manner with Declarant's plans for construction, development, use, sale, lease or other disposition of all or any portion of the Property.

Development Rights may be exercised as to different portions of the Property at different times. Declarant provides no assurance whether any Development Right will be exercised, the portions of the Property as to which Development Rights may be exercised or as to the order of exercise of any Development Rights. The exercise of any Development Right in any portion of the Property does not obligate Declarant to exercise that Development Right in any other portion of the Property.

Section 3.8 Easements. Each Owner accepts a deed conveying title to a Unit subject to the Easements granted and reserved, as applicable, in this Section 3.8, which the Easements (and all related rights and obligations related to such Easements arising on or after the date of any transfer) shall run with the Condominium.

(a) Access Easement. Declarant hereby grants and reserves a perpetual, assignable and non-exclusive Access Easement over, on and across each Unit as may reasonably be necessary for its own benefit and for the benefit of each Unit, the Architectural Reviewer and the Association, as applicable, for: (i) the maintenance, repair or replacement of any of the Common Elements thereon or accessible therefrom; (ii) the use of a Unit by its Owner, provided no other reasonable means of access exists; (iii) the exercise by Declarant of the Special Declarant Rights or the performance of any obligations of Declarant under the Governing Documents; (iv) the making of emergency repairs therein necessary to prevent damage to the Common Elements or to any Unit; (v) the evacuation of all or any part of the Property in the event of an emergency and (vi) such other reasonable purposes as are deemed by the Architectural Reviewer or the Association to be necessary for the performance of their as described in the Governing Documents.

The Association, the Manager, and each Owner may enter a Unit to the extent reasonably necessary in case of an emergency originating in or threatening the Unit or any other Unit whether or not the Owner or Tenant of such Unit is present at the time. The Person

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making such entry shall take reasonable precautions to protect such premises and any inventory, fixtures and other personal property contained therein from damage and theft. This right of entry may be exercised by any Manager, the Owners, the Association and their directors, officers, agents and employees, and by all police officers, firefighters and other emergency personnel in the performance of their respective duties. Also, the Association may enter a Unit to perform installations, alterations or repairs to the mechanical, electrical or utility services which, if not performed, would affect the use of other Units or the Common Elements; provided that, if possible, requests for any entry shall be made in advance and at a time convenient to the Owner or manager of the affected Unit and further subject to the foregoing limitations. In case of an emergency, the right of entry is immediate and if an Owner refuses to provide entry, such Owner is liable for the cost of repairs to the Unit or the Common Elements caused by the Association's, any Manager's, or another Owner's chosen method of access under such circumstances.

(b) Common Elements Easement. Declarant hereby grants and reserves a perpetual, assignable and non-exclusive Common Elements Easement over, on and across the Common Elements for its own benefit and for the benefit of each Unit (which is an intended beneficiary of such Common Element), the Architectural Reviewer and the Association for ingress and egress from each Unit and for the use of the Common Elements. The Common Elements Easement shall be maintained by the Association in accordance with the Maintenance Standard and Section 6.2 of this Declaration.

(c) Parking Space Easement. Declarant hereby grants and reserves a perpetual, assignable, and non-exclusive Parking Space Easement over, on and across the Parking Spaces within the General Common Elements, if any, for its own benefit and for the benefit of the Units for use of the Parking Spaces within the General Common Elements (if any) solely for the parking of vehicles in accordance with the Regulations. The Parking Spaces shall be maintained by the Association as part of the Common Elements of the Condominium in accordance the Maintenance Standard in Section 6.1 of this Declaration. The Parking Space Easement granted herein shall be subject to exclusive rights of an Owner of a Unit to use of Parking Spaces designated by the Map to be a Limited Common Element for such Unit and/or any Parking Space Agreements entered into by the Association pursuant hereto.

(d) Roof Easement. Declarant hereby grants a perpetual and non-exclusive Roof Easement over, on and across the Roof Easement Area for the benefit of each Unit, for the placement, use and maintenance of satellite and telecommunications equipment serving such Unit. The portions of the Roof Easement Area used by an Owner shall be maintained by such Owner and the remaining portions of the Roof Easement Area shall be maintained by the Association in accordance with the Maintenance Standard and Section 6.1 and Section 6.2 of this Declaration.

(e) Skin Easement. All areas of the Skin shall be maintained by the Association as part of the Common Elements in accordance with the Maintenance Standard and Section 6.1 of this Declaration, and Declarant grants a perpetual and non-

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exclusive Skin Easement over, on and across the Skin of each Building to the Association.

(f) Support Easement. Declarant hereby grants and reserves a perpetual, assignable and non-exclusive Support Easement over, on and across the Structure for its own benefit and the benefit of each Unit for support of all portions of the Improvements. The Structure shall be maintained by the Association in accordance with the Maintenance Standard and Section 6.2 of this Declaration.

(g) Systems Easement. Declarant hereby grants and reserves a perpetual, assignable and non-exclusive Systems Easement over, on and across the Systems for its own benefit and for the benefit of each Owner and the Association for the use of and the connection to any portion of the Systems intended for such Owner's or the Association's use, except for any portion of the Systems that are intended to exclusively service a Unit. The Systems which serve more than one Unit shall be maintained by the Association in accordance with the Maintenance Standard and Section 6.2 of this Declaration.

(h) Utility Easement. Declarant hereby grants and reserves a perpetual, assignable and non-exclusive Utility Easement over, on and across the Common Elements: (i) for its own benefit, the benefit of the Association and the benefit of utility companies supplying utility service to the Condominium for supplying utility service to any part of the Condominium and (ii) for its own benefit for the right to grant additional Utility Easements. Declarant may record an easement agreement or easement relocation agreement in the Condominium Records, specifically locating or relocating any Utility Easement subsequent to the recordation of this Declaration, and each Owner, by acceptance of the deed to a Unit, hereby grants Declarant an irrevocable power of attorney, coupled with an interest, with full power and authority to locate or relocate any Utility Easement.

(i) Miscellaneous. None of the Easements granted or reserved in this Section 3.8 shall be used in a manner which materially adversely effect the structural integrity of the Improvements. Except as specifically provided in this Section 3.8, notwithstanding the assignability of the Easements, no Easement may be assigned to any Person that is not the Owner or Tenant of the Unit that is benefited by the respective Easement nor shall any Owner that is benefited by an Easement grant a sub-easement or a license to any area covered by any Easement. Use and availability of any facilities or areas covered by the Easements are subject to the Regulations.

Section 3.9 Encroachments. If, as a result of the original construction, reconstruction, repair, shifting, settlement or other circumstance, any portion of the Common Elements encroaches upon a Unit, a perpetual easement over, on and across such Unit for such encroachment and for the maintenance of the same is hereby granted and conveyed to the Association by each Owner at the time each Unit is conveyed to the Owner. If as a result of the original construction, reconstruction, repair, shifting, settlement or other circumstance any portion of a Unit encroaches upon the Common Elements, or upon any adjoining Unit, an irrevocable and perpetual easement for such encroachment and for the maintenance of the same over, on and across such Unit, or such portion of the Common Elements, as applicable, is hereby

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granted to the Owner of such Unit. Such encroachments and easements shall not be considered or determined to be encumbrances either upon a Unit or upon the Common Elements.

ARTICLE IV

Matters Regarding the Association

Section 4.1 General. The Association has been incorporated as a nonprofit corporation under the TBOC. In addition to the powers conferred on the Association under the TBOC, the Association may take all actions authorized by the Governing Documents. Any and all actions taken by the Association pursuant to the Governing Documents are binding on all Owners. This Declaration is not intended to place any limitations or restrictions on the power of the Association or the Board of Directors except as set forth in this Declaration or the Governing Documents.

Section 4.2 Allocation of Votes in the Association. Each Owner will automatically be a member of the Association. Unless a different allocation of votes is required by the Act or elsewhere in this Declaration each Owner shall be entitled to one vote per Unit owned by it. The votes allocated to the Declarant for Lots owned by the Declarant shall weigh five (5) times that of other Lot Owners during the Declarant Control Period.

Section 4.3 Suspended Voting Rights. All voting rights of an Owner may be suspended during any period that such Owner is delinquent in the payment of any Assessment duly established pursuant to this Declaration or is otherwise in default under the terms of the Governing Documents.

Section 4.4 Right of Action by Owners and the Association; Release. The Owners, acting collectively or individually, shall have the right to maintain actions against the Association for its willful failure to comply with the provisions of the Act, this Declaration or the Bylaws or its willful failure to perform its duties and responsibilities hereunder; provided, however, except as otherwise provided by the Governing Documents, no other action shall be brought against the Association or its Affiliates, parents, subsidiaries, officers, directors, agents, employees, predecessors, successors, contractors, consultants, insurers, sureties, by the Owners. The Association shall not have the power to institute, defend, intervene in, settle or compromise litigation or administrative proceedings in the name of any Unit Owner. Subject to the Association's obligations under this Declaration, except as otherwise provided by the Governing Documents, each Owner hereby releases, acquits and forever discharges the Association, and its Affiliates, parents, members, subsidiaries, officers, directors, agents, employees, predecessors, successors, contractors, consultants, insurers, sureties and assigns and agrees to hold such Persons harmless of and from any and all claims, damages, liabilities, costs and/or expenses (including reasonable attorneys' fees) relating to the construction of, repair or restoration of, or the sale to the Owners of the Units or the Common Elements. This release shall release and forever discharge the Association and its Affiliates, parents, members, subsidiaries, officers, directors, agents, employees, predecessors, successors, contractors, consultants, insurers, sureties and assigns, from all claims and causes of action, whether statutory or under the common law, known or unknown, now accrued, or that arise in the future.

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Section 4.5 **Limitation of Liability of Officers, Directors, Employees and Agents of the Association.** No officer, director, employee or agent of the Association shall be liable to any Owner of any Unit or any Tenant, for any claims, actions, demands, costs, expenses (including attorneys' fees), damages or liability, of any kind or nature, except as otherwise expressly set forth in the Governing Documents and such officers, directors, employees and agents shall be indemnified in accordance with the provisions of the Governing Documents.

ARTICLE V

ARCHITECTURAL REVIEWER

Section 5.1 **Architectural Reviewer**. The "**Architectural Reviewer**" (herein so called) shall be the person(s) or entity designated or appointed pursuant to the terms hereunder to review and approve of any and all plans and specifications for Improvements to be constructed or installed within the Condominium. For as long as Declarant owns at least one Unit in the Condominium (unless Declarant previously relinquishes its rights to the Board), Declarant or its Designee shall perform all of the rights, duties and obligations of the Architectural Reviewer hereunder. From and after the expiration or termination of the Declarant's rights as Architectural Reviewer hereunder, the Board or an architectural control committee established by the Board (the "**Committee**") shall perform all of the rights, duties and obligations of the Architectural Reviewer hereunder. The Architectural Reviewer shall function as the representative of the Association. The Architectural Reviewer shall exist and act for the purposes herein set forth as well as for all other purposes consistent with the creation and preservation of a first-class residential condominium development. Any one or more of the person(s) acting as the Architectural Reviewer may be removed as Architectural Reviewer hereunder, with or without cause, by the Declarant so long as Declarant owns any Unit (or earlier relinquishes its rights under this Section 5.1 to the Board) and thereafter by the Board of Directors.

A majority of the Committee or Board comprising the Architectural Reviewer may designate a member to act for it. No person acting as Architectural Reviewer shall be entitled to any compensation for services performed hereunder nor be liable for claims, causes, causes of action or damages (except where occasioned by gross negligence or willful misconduct) arising out of services performed pursuant to this Declaration.

Section 5.2 **Architectural Approval**.

(a) Design Guidelines. The Architectural Reviewer may, from time to time at its election, publish and promulgate design guidelines (the "**Design Guidelines**"), which shall supplement this Declaration and shall be deemed incorporated herein by reference. The Architectural Reviewer shall have the right from time to time to amend the Design Guidelines, provided such guidelines, as amended, shall be in keeping with the overall quality, general architectural style and design of the Condominium. The Architectural Reviewer shall have the authority to make final decisions in interpreting the general intent, effect and purpose of those matters for which it is responsible in accordance with this Declaration. The Architectural Reviewer shall endeavor to promulgate the Design Guidelines in such a manner that only materials complying with all applicable laws and regulations are specified therein, but each Owner of a Unit (and not the Architectural

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Reviewer) is responsible for complying with such laws and regulations on his respective Unit. If the Architectural Reviewer should be advised that materials specified by the Design Guidelines do not comply with applicable laws or regulations, the Architectural Reviewer shall use reasonable efforts to inquire into the nature of the non-compliance and to make appropriate revisions of the Design Guidelines.

(b) Required Approval. No Building or other Improvements, including, without limitation, any structure, paving, pools, fencing, hot tubs or improvement of any nature, shall be erected, placed or altered on any portion of the Condominium until the site plan showing the location of such building, structure, driveway, paving or improvement, construction plans and specifications thereof and landscaping and grading plans therefor have been submitted to and approved in writing by the Architectural Reviewer ("**Architectural Approval**") as to: (i) location with respect to Unit boundaries and Common Elements, setback lines and finished grades with respect to existing topography, (ii) conformity and harmony of external design, color, and texture with existing structures and existing landscaping, (iii) quality of materials, adequacy of site dimensions, and proper facing of main elevation with respect to nearby streets; (iv) conformity with the applicable Legal Requirements; and (v) the other standards set forth within this Declaration or the Design Guidelines. The Architectural Reviewer is authorized to request the submission of samples of proposed construction materials or colors or proposed exterior surfaces.

(c) Procedure. Final plans and specifications shall be submitted in duplicate to the Architectural Reviewer by the Owner for approval or disapproval. If such plans and specifications meet the approval of the Architectural Reviewer, one complete set of plans and specifications will be retained by the Architectural Reviewer and the other complete set of plans will be marked "Approved" and returned to the Owner. If such plans and specifications do not meet the approval of the Architectural Reviewer, one set of such plans and specifications shall be returned marked "Disapproved," accompanied by a reasonable statement of the reasons for such disapproval. Any modification or change to the approved set of plans and specifications or to construction or reconstruction pursuant thereto which materially affects items (i) through (v) of the preceding Section 5.2(b) must again be submitted to the Architectural Reviewer, for its review and approval. The Architectural Reviewer's approval or disapproval as required herein shall be in writing. If the Architectural Reviewer fails to approve or disapprove such plans and specifications within thirty (30) days after they have been submitted to it, then Architectural Reviewer disapproval shall be presumed.

(d) Architectural Reviewer Discretion. The Architectural Reviewer is authorized and empowered to consider and review any and all aspects of Building construction, construction of other improvements and location, quality and quantity of landscaping within the Condominium, and may disapprove aspects thereof which may, in the discretion of the Architectural Reviewer, adversely affect the living enjoyment or intended use of one or more Owner(s) of its/their Units or the value of the Property. As an example, and not by way of limitation, the Architectural Reviewer may impose limits upon the location of window areas of one Building or Unit that would overlook the enclosed patio area of an adjacent Building or Unit. Also, the Architectural Reviewer is

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permitted to consider technological advance in design and materials and such comparable or alternative techniques, methods or materials may or may not be permitted, in accordance with the reasonable opinion of the Architectural Reviewer. The action of the Architectural Reviewer with respect to any matter submitted to it shall be final and binding upon the Owner submitting such matter, subject to the provisions of Article XI hereof.

(e) Initial Improvements. Declarant shall not be required to obtain Architectural Reviewer approval of the initial Improvements.

Section 5.3 Variances. Upon submission of a written request for same, the Architectural Reviewer may, from time to time, in its sole discretion, permit Owners to construct, erect, or install improvements which are in variance from the Design Guidelines or covenants or restrictions provided in this Declaration or the Design Guidelines then in effect. In any such case, variances shall be in basic conformity with and shall blend effectively with the overall quality, general architectural style and design of the community. No member of the Board or the Committee, and no person or entity acting as Architectural Reviewer hereunder shall be liable to any Owner for any claims, cause of action, or damages arising out of the grant of, or the refusal to grant, any variance to an Owner. Each request for a variance submitted hereunder shall be reviewed separately and apart from other such requests and the granting of a variance to any Owner shall not constitute a waiver of the Architectural Reviewer's right to strictly enforce this Declaration against any other Owner.

Section 5.4 Nonconforming and Unapproved Improvements. The Board of Directors may require any Owner to restore such Owner's Unit and related Improvements to the condition existing prior to the construction thereof (including, without limitation, the demolition and removal of any unapproved improvement) if such improvements were commenced or constructed in violation of this Declaration, including the Design Guidelines. In addition, the Board of Directors may, in its sole discretion, cause the Association to carry out such restoration, demolition and removal if the Owner fails to do so. The Board of Directors may levy the amount of the cost of such restoration, demolition and removal as a special assessment against the Unit upon which such improvements were commenced or constructed (without the necessity of Member approval) and shall have all the rights and remedies to enforce collection thereof provided by law and by this Declaration. Buildings or other improvements initially constructed in accordance with this Declaration and having received any necessary approval of the Architectural Reviewer in connection with their initial construction, may be repaired, maintained and restored in accordance with the standards in force at the time of their initial construction, notwithstanding any subsequent amendment or revision of this Declaration or the Design Guidelines, subject to any restrictions or requirements of the City or other Legal Requirements. If such Units or related Building and Improvements are totally destroyed or totally replaced, the new Building and Units or other new improvements must conform to this Declaration and the Design Guidelines in force at the time of their construction, subject to any restrictions or requirements of the City or other Legal Requirements.

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Section 5.5 **No Liability**. Neither Declarant, the Association, the Architectural Reviewer, the Committee, the Board of Directors, nor the officers, directors, members, employees or agents of any of them, shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any Owner by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications and every Owner agrees that he will not bring any action or suit against Declarant, the Association, the Architectural Reviewer, the Committee, the Board of Directors, or the officers, directors, members, employees or agents of any of them, to recover any such damages and hereby releases, remises, and quitclaims all claims, demands and causes of action arising out of or in connection with any actual or alleged mistake of judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given. Approval of plans and specifications by the Architectural Reviewer is not approval thereof for engineering or structural design or adequacy of materials. By approving such plans and specifications neither the Architectural Reviewer, the Committee or the members thereof, the Declarant, the Association nor the Board of Directors assumes liability or responsibility for safety or adequacy of design, compliance with this Declaration, or for any defect to any structure constructed from such plans and specifications.

ARTICLE VI

Maintenance, Alterations, Taxes and Utilities

Section 6.1 **Maintenance**.

(a) Maintenance of Units. All maintenance, repairs and replacements of, in or to any Unit, ordinary or extraordinary, foreseen or unforeseen, including maintenance, repair and replacement of all Systems which are part of such Unit, shall be performed by the Owner of such Unit in accordance with the Maintenance Standard.

(b) Maintenance of Common Elements. Except as otherwise provided in the Regulations, all the Common Elements shall be maintained by the Association in accordance with the Maintenance Standard, the cost and expense of which shall constitute a Common Expense and shall be payable as may be set forth herein. The Association shall establish and maintain an adequate reserve fund for such purposes, to be funded by Monthly Assessments and Working Capital Contributions rather than by a Special Assessment; provided, however, that the Association may require Special Assessments for such purposes, in accordance with Section 8.1(c) of this Declaration. Nothing in this Declaration shall be deemed or construed as relieving any Owner from liability or responsibility for damage to the Common Elements caused by the negligence or misconduct of an Owner or an Owner's occupants or invitees. To the extent that any of the foregoing items are a part of the Parking Spaces, the costs of maintenance with respect to such Parking Spaces shall be allocated to the Owners in accordance with Section 8.2 and Section 8.3 of this Declaration.

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(c) Maintenance of Easements. All maintenance, repairs and replacements of, in or to any Easement area, ordinary or extraordinary, foreseen or unforeseen, including maintenance, repair and replacement of all Systems which are part of such Easement area, shall be performed by the Owner of such Unit, or Limited Common Element appurtenant thereto, in which the Easement area is located and in accordance with the Maintenance Standard. If the Easement area is located in a General Common Element, then all maintenance, repairs and replacements of, in or to any Easement area, ordinary or extraordinary, foreseen or unforeseen, including maintenance, repair and replacement of all Systems which are part of such Easement area, shall be performed by the Association and be a Common Expense.

(d) Limitation of Liability. The Association shall not be liable: (i) for injury or damage to any person or property caused by the elements or by the Owner or occupant of any Unit, or any other Person, or resulting from any utility, rain, snow or ice which may leak or flow from or over any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder; (ii) to any Owner or occupants of any Unit for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements or (iii) to any Owner or occupants of any Unit for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Section 6.1.

Section 6.2 Failure of Owner to Maintain Unit or Easements. If the Association or any Owner fails or neglects to maintain, repair or clean its Unit or the area covered by the Easements as required by Section 6.1 and Section 3.8, respectively, of this Declaration, or any Limited Common Element appurtenant thereto, required to be maintained by such Owner pursuant to this Declaration or any Regulations, and such failure or neglect continues for ten (10) days after such Owner's receipt of written notice of such neglect or failure from the Association (or an Owner, if the obligation is required to be performed by the Association) or immediately in the case of neglect causing immediate damage or harm to persons or property, then the Association (or an Owner, if the obligation is required to be performed by the Association) acting on its own behalf may, but shall not be obligated to, enter the Unit, upon the area covered by the Easement or the Limited Common Element, as applicable, and take appropriate steps to perform, or cause to be performed, the maintenance, repair, cleaning and replacement in the manner as required by this Declaration; provided, however, that if the Association declines to perform such maintenance on behalf of the defaulting Owner, any other Owner shall have the right to enter such Unit or upon the area subject to such Easement and perform or cause to be performed the maintenance required by this Declaration. The defaulting Owner or the Association, as the case may be, shall, upon demand, reimburse the Association or the Owner making such repairs or maintenance, as applicable, for all costs and expenses incurred in exercise of its rights in this Declaration.

Section 6.3 Disputes. Any Dispute arising among the Owners as to the proper person to bear a maintenance cost or expense shall be resolved in accordance with Article XI of this Declaration.

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Section 6.4 **Additions, Alterations or Improvements by Owner.** Subject to the provisions of the Governing Documents, no Owner (other than Declarant) shall: (a) make any addition, alteration or improvement in such Unit, to the extent visible from any other Unit, the Common Elements or the exterior of the Building, whether structural or non-structural; (b) make any addition, alteration or improvement to any Common Element; (c) change the floor plan and layout of such Unit or (d) make any material changes to the configuration or size of any Unit, create apertures in or otherwise remove or alter any partition wall separating such Unit from any adjoining Unit or relocate the boundaries of such Unit and any adjoining Unit without the approval of the Architectural Reviewer, which approval may be withheld in the sole and absolute judgment of the Architectural Reviewer. However, in no event shall any such alteration, improvement, or change interfere with the structural support of any Unit, the Common Elements or any System serving another Unit. All work done in accordance with this Section 6.4 shall be done in compliance with the plans approved by the Architectural Reviewer, all Legal Requirements and the Governing Documents. **THE OWNER, MAKING OR CAUSING TO BE MADE SUCH ADDITIONS, ALTERATIONS OR IMPROVEMENTS, AGREES, AND SHALL BE DEEMED TO HAVE AGREED, FOR SUCH OWNER, TO HOLD THE ARCHITECTURAL REVIEWER, ITS OFFICERS AND DIRECTORS, DECLARANT AND ALL OTHER OWNERS HARMLESS FROM AND TO INDEMNIFY THEM FOR ANY LIABILITY OR DAMAGE TO THE PROPERTY RESULTING FROM SUCH ADDITIONS, ALTERATIONS OR IMPROVEMENTS. ANY OTHER OWNER SUBMITTING PLANS HEREUNDER, BY DISSEMINATION OF THE SAME, AND ANY OWNER, BY ACQUIRING TITLE TO THE SAME, AGREES NOT TO SEEK DAMAGES FROM THE ARCHITECTURAL REVIEWER, ITS OFFICERS AND DIRECTORS, ARISING OUT OF ARCHITECTURAL REVIEWER'S REVIEW OF ANY PLANS HEREUNDER. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE ARCHITECTURAL REVIEWER, ITS OFFICERS AND DIRECTORS, SHALL NOT BE RESPONSIBLE FOR REVIEWING, NOR SHALL ITS OR THEIR REVIEW OF ANY PLANS BE DEEMED APPROVAL OF, ANY PLANS FROM THE STANDPOINT OF THE STRUCTURAL SAFETY, SOUNDNESS, WORKMANSHIP, MATERIALS, USEFULNESS, CONFORMITY WITH BUILDING OR OTHER CODES OR INDUSTRY STANDARDS OR COMPLIANCE WITH THE GOVERNING DOCUMENTS AND ALL LEGAL REQUIREMENTS. FURTHER, EACH OWNER AGREES TO INDEMNIFY AND HOLD ARCHITECTURAL REVIEWER AND ITS RESPECTIVE OFFICERS AND EMPLOYEES HARMLESS FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, DAMAGES, EXPENSES OR LIABILITIES WHATSOEVER**, ARISING AS A RESULT OF THE REVIEW OF ANY PLANS HEREUNDER.

Section 6.5 **Mechanic's Liens; Indemnification.** No labor or services performed or materials furnished and incorporated in a Unit or any Common Element shall be the basis for the filing of a lien against any Unit of any Owner not expressly consenting to or requesting the same, or against the Common Elements. EACH OWNER (TO THE EXTENT ARISING THROUGH SUCH OWNER) SHALL INDEMNIFY AND HOLD HARMLESS EACH OF THE OTHER OWNERS AND THE ASSOCIATION FROM AND AGAINST ALL LIABILITIES AND OBLIGATIONS ARISING FROM THE CLAIM OF ANY MECHANIC'S LIEN AGAINST THE UNIT OF SUCH OWNER, THE UNIT OF SUCH OTHER OWNERS AND/OR THE

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COMMON ELEMENTS. All contracts for labor, services and/or materials with respect to any of the Units shall be in compliance with the provisions hereof.

Section 6.6 Taxes.

(a) Payment of Governmental Impositions. Each Owner shall be responsible for and shall pay when due all Governmental Impositions lawfully levied or assessed against such Unit, except to the extent such Governmental Impositions are being actively and diligently contested in good faith by appropriate legal proceedings, and if requested by the Association, have been bonded or reserved in an amount and manner satisfactory to the Association. Any Governmental Impositions lawfully levied or assessed with respect to the Property not separately assessed to the Owners, shall constitute a Common Expense and shall be payable by the Association when due.

(b) Notice to Taxing Authorities. Declarant shall give written notice to the appropriate taxing authorities of the creation of the Condominium established pursuant to this Declaration. Each Owner shall promptly request and diligently pursue from the applicable taxing authority separate tax parcel status and a separate tax identification number for its Unit. EACH OWNER HEREBY BY ACCEPTANCE OF A DEED TO ITS UNIT SHALL BE DEEMED TO HAVE AGREED, FOR SUCH OWNER, TO HOLD THE DECLARANT, ASSOCIATION, AND ALL OTHER OWNERS HARMLESS FROM ANY LIABILITY RESULTING FROM AN IMPROPER ALLOCATION OF TAX BURDEN BY THE LOCAL TAXING AUTHORITY.

(c) Units Not Separately Assessed. If any Governmental Impositions with respect to the Property are not separately assessed to the Owners of a Unit, each Owner shall pay its respective allocated portion of such Governmental Impositions, which allocations shall be determined in the manner set forth in this Declaration when requested by the Association (but in no event prior to 20 days or later than ten days before the date of delinquency, without any additional notice or grace period) to permit the Association to make full payment of such Governmental Impositions prior to the date on which such Governmental Impositions would become delinquent; provided that the Association shall not require any Owner to make any payment to the Association for Governmental Impositions to the extent such amounts have already been deposited by such Owner in accordance with any escrow arrangement.

(d) Failure to Pay Governmental Impositions. The Association or any Mortgagee may pay the portion of Governmental Impositions that any Owner has failed to pay when due, and the Association or such Mortgagee shall have a lien against such Unit to secure repayment thereof, that may be enforced by any means available at law or in equity, including non-judicial foreclosure sale of such Unit in accordance with Texas Property Code Section 51.002 (as now written or hereafter amended); provided, however, no such lien for delinquent Governmental Impositions shall be valid until a notice of such lien is duly recorded in the Real Property Records of the County, notwithstanding any applicable statute, law (including case law), equitable doctrine, ordinance or regulation that permits any such lien to attach absent such recordation in the Real Property Records. Each Owner, by its acquisition of such Unit, grants a power of sale in connection with

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such lien in favor of the Association or any Mortgagee that makes payment of the Governmental Impositions on behalf of a defaulting Owner. Any lien pursuant to this Section 6.6(d) shall have the same priority as a lien by the Association for Assessments; provided that any such lien for delinquent Governmental Impositions shall be subordinate to the lien of any Priority Lien Indebtedness encumbering such Unit, provided that such Priority Lien Indebtedness was recorded prior to the date such lien for Governmental Impositions was duly recorded (notwithstanding any applicable statute, law (including case law), equitable doctrine, ordinance or regulation that permits any such lien to attach absent such recordation in the Real Property Records).

(e) This Section 6.6 shall terminate and be of no further force or effect whatsoever, upon the later of the date upon which (i) each Unit shall be separately assessed and billed as a separate tax parcel by the tax assessor and (ii) all the Governmental Impositions due and owing prior to all Units being separately assessed and billed as a separate tax parcel by the tax assessor have been paid in full to the appropriate taxing authority; provided, however, that the release of liability in Section 6.6(b) of this Declaration shall survive the termination of this Section 6.6 and remain in effect for the duration of this Condominium's existence.

Section 6.7 Utilities. Each Owner shall be responsible for and shall pay all charges for gas, electricity, water and other utilities relating to such services used or consumed at or with respect to the occupancy of the Unit, to the extent such charges are separately metered by the respective utility companies. Any utility charges not so separately metered, and charges relating to such services used in connection with the use and maintenance of the Common Elements, shall constitute a Common Expense and be payable by the Association.

ARTICLE VII

Insurance

Section 7.1 Requirements. All insurance coverage required to be obtained pursuant to this Article VII or purchased at the election of an Owner or the Association shall:

(a) be in such form, approved by the Association and issued by responsible insurance companies licensed to do business in the State of Texas and shall be rated by Best's Insurance Guide (or any successor publication of comparable standing) as "A-,VI" or better;

(b) not be brought into contribution with insurance purchased by the other Owners or the Association, as applicable; and

(c) provide that insurance trust agreements shall be recognized.

Section 7.2 Insurance by the Association. Commencing upon the first conveyance of any Unit to an Owner other than Declarant, the Association shall obtain and maintain (a) insurance coverage required pursuant to the Act and such other insurance coverage as set forth in the Bylaws and (b) at the expense of the Owner incurring such Priority Lien Indebtedness, such other insurance (or additional coverage) as such Owner's Mortgagee shall

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require. The Association shall carry such other or additional insurance in such amounts and against such risks as the Association shall reasonably deem necessary with respect to the Common Elements or operation of the Association. In addition, each insurance policy maintained by the Association shall provide that: (i) each Owner is named as an insured under such policies with respect to liability arising out of the Owner's ownership of an undivided interest in the Common Elements or membership in the Association; (ii) no action or omission by any Owner, unless validly exercised on behalf of the Association, will void the policy or be a condition to recovery under the policy and (iii) such policy is primary insurance if at the time of a loss under the policy any Owner has other insurance covering the same property covered by the policy. Unless indicated otherwise, the premiums for all insurance coverages maintained by the Association pursuant to this Section 7.2 shall constitute a Common Expense and shall be payable by the Association.

Section 7.3 Insurance on Unit. The Unit Owner shall provide and maintain, at its sole cost and expense, CGL, property insurance, worker's compensation insurance and other insurance, in such limits and upon such terms as described in the Bylaws, and, subject to the other terms of this Article VII, such other or additional insurance in such amounts and against such risks as the Unit Owner shall reasonably deem necessary with respect to the improvements, facilities and contents within their Unit.

Section 7.4 Other Units. Commencing upon the conveyance of any other Unit to an Owner, such Owner shall obtain and maintain, at its sole cost and expense, insurance coverage as required in the Bylaws. Such Owners shall, subject to the other terms of this Article VII, carry such other or additional insurance in such amounts and against such risks as such Owners shall reasonably deem necessary with respect to the Improvements, facilities and contents within such Unit, at their sole cost and expense.

Section 7.5 Association as Insurance Trustee for the Owners. By acceptance of a deed to a Unit, each Owner shall be deemed to have irrevocably appointed the Association as the Insurance Trustee. All property insurance policies required to be obtained by the Association as described in this Article VII shall be issued in the name of the Association as Insurance Trustee for the Condominium. Loss payable provisions shall be in favor of the Insurance Trustee as a trustee for the Association, each Owner and each such Owner's Mortgagee. The Insurance Trustee shall not be liable for the payment of premiums, nor the renewal or sufficiency of policies, except those policies required to be purchased and maintained by the Association pursuant to this Article VII and the Bylaws. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes stated in this Article VII and in Article IX of this Declaration, and for the benefit of each Owner, including Declarant, and such Owner's Mortgagee, if any.

Section 7.6 Other.

(a) Neither the Association, Declarant nor any Owner shall be liable for failure to obtain any insurance coverage required by this Declaration or for any loss or damage resulting from such failure, if such failure is because such insurance coverage is not reasonably available.

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(b) Neither the Association nor any Owner shall obtain any policy of insurance where: (i) under the terms of the carrier's charter, bylaws or policy, contributions or assessments may be made against the Owner or Mortgagee or become a lien against the Condominium; (ii) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders or members or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent the Association, Owners or Mortgagees from collecting the Insurance Proceeds.

(c) The insurance purchased by the Association and the other Owners pursuant to this Article VII shall not cover claims against any other Owner or its Designees due to accidents occurring within that other Unit, or casualty, theft or loss to the contents of that other Unit.

(d) Each Owner, their Tenants and their respective Designees waive any claim they might have against the other Owners, their Tenants and their respective Designees, the members of the Board of Directors, any Manager or the Association, and the members of the Board of Directors, any Manager or the Association waive any claim they might have against an Owner, their Tenants and their respective Designees, for (i) any damage to or theft, destruction, loss or loss of use of any property or (ii) any damage due to personal or bodily injury, to the extent the same is insured against under any insurance policy of the types described in the Bylaws that covers the Property, such Owner's, Tenant's, or the Association's fixtures, personal property, improvements, or business, or is required to be insured against under the terms of the Bylaws, **REGARDLESS OF WHETHER THE NEGLIGENCE OF THE OTHER OWNER, ITS TENANTS, OR THEIR RESPECTIVE DESIGNEES, ANY MEMBER OF THE BOARD OF DIRECTORS, ANY MANAGER OR THE ASSOCIATION (AS APPLICABLE) CAUSED SUCH (X) DAMAGE TO OR THEFT, DESTRUCTION, LOSS OR LOSS OF USE OF, ANY PROPERTY OR INCONVENIENCE OR (Y) DAMAGE TO THE PERSON OR PERSONS DESCRIBED HEREIN**. Each Owner shall cause its respective insurance carrier to endorse all applicable policies waiving each such carrier's rights of recovery under subrogation or otherwise against the other Owners, their Tenants and their respective Designees, the members of the Board of Directors, any Manager and the Association and the members of the Board of Directors, any Manager and the Association shall cause their respective insurance carrier to endorse all applicable policies waiving the carrier's rights of recovery under subrogation or otherwise against the Owners, their Tenants and their respective Designees.

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ARTICLE VIII

Assessments

Section 8.1 Monthly and Special Assessments by the Association. The Association shall possess the right, power, authority and obligation to establish a regular Monthly Assessment for payment of the Common Expenses and such Special Assessments as provided for in this Declaration. In addition, the Association shall have the right, power, authority and obligation to establish Monthly Assessments, Special Assessments and Additional Assessments,

as described in Section 6.1(c) and Section 8.1 of this Declaration. Initially, all Assessments shall be allocated and charged proportionately to each of the Units based on the total number of Units located within the Property; provided, however, the Board may elect to otherwise equitably allocate Assessments in any manner permitted under applicable law.

(a) **Common Expenses.** The Association shall possess the right, power, authority and obligation to establish a regular Monthly Assessment sufficient in the judgment of the Association to pay all Common Expenses when due and to maintain an adequate reserve fund for such purposes. **The Monthly Assessment has been initially set at ONE HUNDRED TWENTY FIVE AND NO/100 DOLLARS ($125.00) per Unit per month for the calendar year of 2018 and becomes effective with the recordation of this Declaration. Such Monthly Assessment shall be payable by the Owners on the first day of each calendar month and shall be applied to the payment of Common Expenses for which the Association is responsible, including maintenance, repair and care of the Common Elements.**

(b) **Budget for Common Expenses.** Prior to the commencement of each fiscal year of the Association, the Association shall prepare and deliver to each of the Owners a Budget. Such Budget shall be in sufficient detail so as to inform each Owner of the nature and extent of the Common Expenses anticipated to be incurred in the upcoming fiscal year, shall include Additional Assessments set forth on budgets prepared therefor by other Owners and received by the Association, and shall be accompanied by a statement setting forth each Owner's monthly share thereof and the date as of which such Monthly Assessment commences to be payable. No further communication shall be necessary to establish the amount of each Owner's obligation regarding the Monthly Assessment payable hereunder, and the failure of the Association to timely deliver such Budget shall not excuse or relieve an Owner from the payment of the Monthly Assessments contemplated hereby, in which case, each Owner shall continue to pay to the Association an amount equal to such Owner's Monthly Assessment as established pursuant to the most recent Budget delivered to the Owners. Any Budget prepared and delivered to the Owners as contemplated in this Article VIII may be amended as and to the extent reasonably necessary, and the amount of an Owner's Monthly Assessment changed to correspond therewith. During the Declarant Control Period no veto of Budget or amounts allocated to the budget may be exercised by any Owner.

(c) **Special Assessments by Association.** In addition to the Monthly Assessments contemplated by Section 8.1(a) and Section 8.1(b) of this Declaration, the Association shall possess the right, power, authority and obligation to establish Special Assessments from time to time as may be necessary or appropriate in the judgment of the Association to pay non-recurring Common Expenses relating to the proper maintenance, care, alteration, improvement, replacement, operation and management of the Condominium and the administration of the Association.

Section 8.2 Parking Space Assessments.

(a) Parking Costs Expenses. The Association shall establish a regular Monthly Assessment sufficient to pay the Parking Expenses. Such Monthly Assessments

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so established shall be payable by the Owners entitled to occupy or use Parking Spaces (subject to reallocation as provided in Section 8.2(a) of this Declaration) on the first day of each calendar month to the Association for application to the payment of Parking Expenses. No Owner entitled under this Declaration to occupy or use all or any portion of the Parking Spaces may waive or otherwise escape liability for Additional Assessments through the Parking Expenses by non-use, whether voluntary or involuntary, of the Parking Spaces or abandonment of the right to use the same. Should any Owner be entitled to the exclusive right to occupy or use any portion of the Parking Spaces as part of Limited Common Elements for such Unit or by a Parking Agreement, such Owner shall be responsible for payment of 100% of the Parking Expenses directly related to such Parking Spaces.

(b) Special Assessments for Parking Spaces. The Association may establish Special Assessments as may be necessary in the reasonable judgment of the Board of the Association for the payment of repair and restoration costs of the Parking Spaces following a casualty that exceed the amount of collectible Insurance Proceeds received by the Association therefor. If the Association elects to levy such a Special Assessment, all the Owners entitled to occupy or use any portion of the Parking Spaces shall pay a Special Assessment determined by dividing the total number of the Parking Spaces by the number of Parking Spaces assigned for exclusive use to a Owner, multiplied by the total cost to repair the damage, which shall be collected by the Association.

Section 8.3 Additional Assessments. The Association shall possess the right, power, authority and obligation to establish an Additional Assessment sufficient in the Owner's reasonable judgment to pay Charges due to an Owner or the Association for the ensuing year. Additional Assessments so established shall be payable by the applicable Owners on the first day of each calendar month to the Association, which will in turn deliver the same to the Owner which incurred such Charges. Prior to the commencement of each fiscal year of the Association, each Owner shall prepare and deliver to the Association a budget setting forth the anticipated Charges it will incur for the ensuing year. Such budget shall be incorporated into the Budget and shall be in sufficient detail so as to inform each applicable Owner of the nature and extent of the Charges anticipated to be incurred and shall be accompanied by a statement setting forth each applicable Owner's monthly share thereof and the date of commencement of payment of such Additional Assessments. No further communication shall be necessary to establish the amount of an Owner's obligation regarding the Additional Assessments payable hereunder, and the failure of any Owner to timely deliver such budget to the Association or the failure of the Association to timely deliver the Budget to an Owner shall in no event excuse or relieve an Owner from the payment of the Additional Assessments contemplated hereby, in which case, an Owner shall pay to the Association an amount equal to such Owner's Additional Assessments as established pursuant to the most recent Budget delivered to such Owner. In addition to the Additional Assessments established in this Section 8.3, each Owner shall possess the right, power and authority to cause the Association to establish an Assessment, from time to time, for one-time or non-recurring Additional Assessments due to such Owner from another Owner.

Section 8.4 Obligation to Pay Assessments. Each Owner shall be personally obligated to pay the Owner's share of all Assessments duly established pursuant to this Declaration to the Association. Unpaid Assessments due as of the date of the conveyance or

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transfer of a Unit shall not constitute a personal obligation of the new Owner (other than the new Owner's pro rata share of any reallocation thereof); however, the former Owner shall continue to be personally liable for such unpaid Assessment. No Owner shall be entitled to exemption from liability for the Owner's obligation to pay such Assessments by waiver of the use and enjoyment of the Common Elements or the facilities as to which any Additional Assessments relate, or the Parking Spaces, as applicable, by an abandonment of the Unit or by any other action or otherwise. Any Assessment not paid within five days of the date due shall bear interest at the Past Due Rate, and shall be recoverable by the Association, together with interest as aforesaid and all costs and expenses of collection, including reasonable attorneys' fees, by suit in a court of competent jurisdiction sitting in the County. It shall be the responsibility of the Association to collect any such delinquent Assessment, the existence of which shall be made known by written notice delivered to the defaulting Owner and, where requested, the Owner's Mortgagee.

Section 8.5 Lien to Secure Payment of Assessments. Declarant hereby reserves and assigns to the Association a lien, pursuant to the provisions of the Act, against each Unit, the Rents, if any, payable to any Owner and the Insurance Proceeds to which an Owner may be entitled to secure the payment of all Assessments, which lien shall be and constitute a lien and encumbrance, in favor of the Association, upon such Unit, the Rents, and any Insurance Proceeds. The liens established in this Declaration shall be prior and superior to all other liens and encumbrances subsequently created upon such Unit, Rents and Insurance Proceeds, regardless of how created, evidenced or perfected, other than the lien securing the payment of Priority Lien Indebtedness (provided such lien was recorded prior to the date on which the Assessment became delinquent), the liens for Governmental Impositions and any rights of any manager under a management agreement in relation to the Condominium. The liens and encumbrances created in this Declaration may be enforced by any means available at law or in equity, including a non-judicial foreclosure sale of the Unit of a defaulting Owner; such sale to be conducted in the manner set forth in Texas Property Code Section 51.002 (as now written or as hereafter amended). Each Owner, by acquisition of such Unit, grants to the Association a power of sale in connection with the Association's liens. By written resolution, the Association may appoint, from time to time, an officer, agent, trustee or attorney of the Association to exercise the power of sale on behalf of the Association. The Association may bid for and purchase the Unit, as a Common Expense, at any such foreclosure sale. Payment of proceeds resulting from such foreclosure sale to be applied toward outstanding Assessments shall be in the following order of priority: first, Assessments owing to the Association including all costs, expenses and attorneys' fees relating to the foreclosure; second, Assessments owing the Association for Parking Spaces; and third, Assessments owing to the Owners levying Additional Assessments. The foreclosure of a lien encumbering a Unit in order to satisfy the Priority Lien Indebtedness will extinguish the subordinate lien for any Assessments which became payable prior to the date of such foreclosure sale, provided that in no event shall a defaulting Owner be relieved from liability incurred for past Assessments.

Section 8.6 Commencement of Obligation to Pay Assessments. Each Owner, other than Declarant, shall be obligated to commence payment of all Assessments against such Unit on the date the Unit is conveyed to the Owner. If such date is other than the first day of a month, then such Owner shall be obligated to pay only a pro rata share of the Assessment against such Unit based on the number of days during such month that the Owner will hold title to the Unit. Prior to the commencement of the obligation to pay the initial Monthly Assessment, Declarant

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shall pay all the Common Expenses of the Condominium (excluding portions thereof allocable to reserves and less Assessments payable by the other Owners); provided, however, nothing contained in this Declaration shall prevent Declarant from collecting from the purchaser of a Unit at closing any expenses, such as Governmental Impositions or insurance premiums, to the extent that Declarant prepaid such expenses on behalf of the Unit being purchased.

Section 8.7 Notice of Default. If an Owner defaults in the Owner's monetary obligations to the Association, the Association may notify other lienholders of the default and the Association's intent to foreclose its lien. The Association shall notify any holder of a recorded lien or duly perfected mechanic's lien against a Unit which has given the Association a written request for notification of the Owner's monetary default or the Association's intent to foreclose its lien.

Section 8.8 Alternative Actions. Nothing contained in this Declaration shall prohibit the Association from taking a deed in lieu of foreclosure or from filing suit to recover a money judgment for sums that may be secured by the lien.

Section 8.9 Statement of Expenses and Access to Records. Upon request, the Association shall promptly provide any Owner, contract purchaser or Mortgagee with a written statement of all unpaid Assessments due with respect to such Unit. The Association may impose a reasonable charge for the preparation of such statement to the extent permitted by the Act. The Association shall make available during normal business hours for inspection, upon request by the Owners, Mortgagees, Tenants, prospective purchasers and any of their authorized agents, current copies of the books, records and financial statements of the Association (including, if such is prepared, the most recent annual audited financial statement available). Any Owner or Mortgagee may have an audited statement of the Association prepared at its own expense.

Section 8.10 Subordination of Lien for Assessments. The lien for the payment of Assessments shall be subordinate to the lien of any mortgage or deed of trust that secures Priority Lien Indebtedness that was recorded prior to the date any such Assessment becomes delinquent under the provisions of this Declaration.

Section 8.11 Working Capital Contributions.

Each Owner, other than Declarant, shall, at the time such Owner purchases a Unit from Declarant, contribute a Working Capital Contribution to the Association equal to **FIVE HUNDRED AND NO/100 DOLLARS ($500.00)**. Such amount shall be a contribution of working capital to the Association and shall not be considered as an advance payment of any Assessments. **Two Hundred and No/100 Dollars ($200.00)** of each Working Capital Contribution shall be set aside in a general, unrestricted reserve herein referred to "Working Capital Maintenance Fund." During the Declarant Control Period funds deposited to the "Working Capital Maintenance Fund" may be used for any purpose and on any occasion for and on behalf of the Association. After the Declarant Control Period the Board may by Resolution restrict the then current Working Capital Maintenance Fund to exclusive uses or purposes or may establish additional Working Capital or Reserve Fund accounts which may be restricted for exclusive uses or purposes as the Board deems appropriate. The remaining Working Capital Contribution funds

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shall be deposited to the Association's Operating Account and may be used for any purpose so long as said uses are on behalf of any obligation of the Association. Declarant during the Declarant Control Period or, thereafter, the Board, may increase the Working Capital Contribution by an additional amount equal to fifty percent (50%) of the Working Capital Contribution then required without consent or joinder of any Member or Owner and may change the allocation percentage with regard to the amount to be set aside in the "Working Capital Maintenance Fund."

(a) Any purchaser of a Unit from an Owner other than Declarant shall contribute an amount to the Association equal to the Working Capital Contribution at the time of purchase. Such amount shall be a contribution of working capital to the Association and shall not be considered as an advance payment of any Assessments. Working Capital may be used by the Association for any expense or obligation of the Association.

Section 8.12 Resale Certificates. An Owner intending to sell his residence will notify the Association or its Managing Agent, if applicable, and will request a Resale Certificate (herein so called) from the Association. The Association or Manager shall provide to each Owner in connection with a conveyance of its Units a Condominium Resale Certificate and/or Condominium Information Statement, as required under the Act; provided, however, that the Association or its managing agent may and probably will charge a fee in connection with preparation of the Resale Certificate to cover its administrative costs or otherwise, which fee must be paid upon the earlier of (i) delivery of the Resale Certificate to an Owner, or (ii) the Owner's closing of the sale or transfer of his/her residence. **Declarant is exempt from any and all Resale Certificate fees**. The Condominium Resale Certificate shall include (without limitation) (1) the Association's current operating budget and balance sheet; and (2) a disclosure of all fees payable to the Association or its Manager that are associated with the transfer of ownership of a Unit, including a description of each fee, to whom the fee is paid, and the amount of the fee.

ARTICLE IX

Loss and Obsolescence

Section 9.1 Loss or Damage. The following provisions shall govern if the Common Elements or any part thereof, are damaged or destroyed by fire or other casualty: (a) prompt written notice of any substantial damage or destruction shall be given (i) by the affected Owner or Owners to the Association, and (ii) by the Association to all of the Mortgagees; (b) the Association shall promptly proceed with the full restoration and repair of such damage or destruction unless (i) the Condominium is terminated; (ii) repair or replacement would be illegal under any Legal Requirement: or (iii) the Owners holding at least 80% of the votes in the Association, including each Owner of a Unit to which a Limited Common Element that will not be rebuilt or repaired is assigned, vote not to rebuild; (c) the amount by which such restoration and repair costs exceed collectible Insurance Proceeds shall be and constitute a Special Assessment payable by the Owners within 60 days of the date notice of such Special Assessment

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is delivered by the Association, in accordance with Section 8.1(c) and Section 8.2(b), respectively, of this Declaration; (d)any excess Insurance Proceeds remaining after such restoration and repair, or any insurance or sales proceeds available absent such restoration and repair, shall be received and held in trust by the Insurance Trustee in separate accounts for each Owner, as their interests may appear (with any proceeds attributable to Limited Common Elements allocated among the Owners of the Units to which such Limited Common Elements were assigned in this Declaration and any other proceeds allocated in accordance with the Allocated Interests of the Owners), and distributed as follows: (i) first, to the payment of any Governmental Impositions in favor of any assessing entity having authority with respect to the Common Elements or such Unit; (ii) second, to the payment of the balance of the Priority Lien Indebtedness of such Owner; (iii) third, to the payment of any delinquent Assessment with respect to such Unit and (iv) the balance, if any, to each Owner entitled thereto; provided, however, that if the Parking Spaces are damaged Common Elements, the amount by which such restoration and repair costs exceed collectible Insurance Proceeds shall be and constitute a Special Assessment payable by the Owners entitled to use the Parking Spaces within 30 days after the date notice of such Special Assessment is delivered by the Association, in accordance with the sharing allocations and other provisions described in Section 8.2(b) of this Declaration.

Section 9.2 Damaged Units. The following provisions shall govern in relation to a Damaged Unit: (a) prompt written notice of any substantial damage or destruction shall be given by the Owner of the Damaged Unit to the Association and the Mortgagee of the Damaged Unit; (b) the Owner of the Damaged Unit shall promptly proceed with the full restoration and repair of such damage or destruction unless: (i) the Condominium is terminated; (ii) repair or replacement would be illegal under any Legal Requirement or (iii) the Owners holding at least 80% of the votes in the Association, including the Owner of the Damaged Unit, vote not to rebuild and (c) except as otherwise provided in Section 9.6 of this Declaration, the Owner of each Damaged Unit shall pay all costs of such restoration, repair and replacement or rebuilding in excess of the net proceeds of the collectible Insurance Proceeds.

Section 9.3 Obsolescence of Common Elements. If the Owners holding not less than 100% of the Allocated Interests shall vote, at a meeting of the Association duly called for purposes of considering same, that the Common Elements, or any part thereof, (or any Systems which serve only, or are a part of, individual Units), are obsolete, the Association shall promptly proceed with the necessary replacements and improvements thereto pursuant to a budget established for such purpose, and the cost thereof shall be and constitute a Special Assessment payable by all the Owners within 30 days of the date notice of such Special Assessment is delivered to them by the Association.

Section 9.4 Obsolescence of the Property. If the Owners holding not less than 80% of the votes in the Association, at a meeting of the Association duly called for purposes of considering same, determine that the Property is obsolete, the Association, after first obtaining the written consent of 51% of the Mortgagees, shall promptly proceed with the sale thereof in its entirety. Any proceeds from such sale shall be received, held and applied for and on account of the Owners as provided in the Act.

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Section 9.5 **The Association as Attorney-in-Fact.** Each Owner, by acceptance of a deed to a Unit, hereby irrevocably makes, constitutes and appoints the Association, and each and every one of its successors in interest hereunder, as the Owner's true and lawful attorney-in-fact, for and in the Owner's name, place and stead, upon the damage or destruction of the Property, or any part thereof, or upon any determination by the Owners made pursuant to this Article IX, to take any and all actions, and to execute and deliver any and all instruments, as the Association may, in its sole and absolute discretion, deem necessary or advisable to effect the intents and purposes of this Article IX, hereby giving and granting unto the Association full power and authority to do and perform all and every act whatsoever requisite or necessary to be done in and about the premises as fully, to all intents and purposes, as an Owner might or could do, hereby ratifying and confirming whatsoever the Association may do by virtue hereof. The Association is hereby authorized, in the name and on behalf of all the Owners, to do and perform all actions necessary or appropriate to effect the intent and purposes of this Article IX as aforesaid, including the power and authority to make and settle claims under any insurance policies maintained by the Association, contract for and with respect to restoration and repair work, contract for and with respect to replacements and improvements to the Common Elements (to the extent authorized as contemplated by Section 9.3 of this Declaration), to contract for and with respect to a sale of the Property (to the extent contemplated by Section 9.4 of this Declaration) and to execute and deliver all instruments necessary or incidental to any such actions.

Section 9.6 **Matters Relating to Restoration and Repairs.** Any restoration and repair work undertaken by the Association or an Owner pursuant to this Article IX shall be performed in a good and workmanlike manner in order to restore the Improvements to a condition similar to that existing prior to such damage or destruction; provided, however, that in no event shall the Association be responsible for restoring, repairing or replacing any improvements to a Unit made by an Owner, or the contents located in such Unit. All such restoration and repair work, whether done by the Association or an Owner, shall be affected in a manner so as to observe all vertical and horizontal Unit boundaries existing prior to such damage or destruction. If an Owner or the Owners decide to rebuild or repair any Unit in excess of its full replacement cost, such Owner or Owners shall be responsible for any such costs exceeding the full replacement value of such Unit; provided, however, that if the Owners holding not less than 67% of the Allocated Interests shall vote to incur such expenses, such additional expenses, to the extent they exceed the replacement value of such Unit, shall constitute a Special Assessment.

ARTICLE X

Condemnation

Section 10.1 **General Provisions.** If all or any part of the Property is subject to a Taking, the Association and each Owner affected thereby shall be entitled to participate in proceedings incident thereto at their respective expense. The Association shall give such notice as it receives of such proceeding to all the Owners and to all the Mortgagees which have requested such notice; provided, however, that the failure of the Association to give such notice shall not prejudice the right of any Mortgagee to participate in such proceedings. The expense of participation in such proceedings by the Association shall be a Common Expense. The Association is specifically authorized to obtain and pay for such assistance from attorneys,

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appraisers, architects, engineers, expert witnesses and other persons as the Association in its discretion deems necessary or advisable to aid or advise it in matters relating to such proceedings. Any restoration or repair of the Property following a partial Taking shall be performed in accordance with the provisions of this Declaration and shall follow, as nearly as possible, the original plans and specifications for the Property, unless otherwise approved by all the Mortgagees.

Section 10.2 Taking of All or Substantially All of One Unit. If a Unit (or a substantial part thereof such that the remnant may not practically or lawfully be used for any purpose permitted by this Declaration) is subject to a Taking, the Owner and any Mortgagee of such Owner shall be entitled to the award for such Taking, including the award for the value of such Owner's interest in the Common Elements, whether or not such Common Element interest is acquired, and, after payment thereof, such Owner and any Mortgagee of such Owner shall be divested of all interest in the Property. In such event, the condemned Unit's entire Allocated Interest shall be automatically reallocated to the remaining Units in proportion to the respective Allocated Interests of those Units before the Taking, unless the decree relating to the Taking provides otherwise. A remnant of a Unit remaining after part of a Unit is the subject of a Taking described in this Section 10.2 shall be a Common Element. If any repair or rebuilding of the remaining portions of the Property is required as a result of such Taking, the remaining Owners shall determine by the affirmative vote or written consent of the remaining Owners holding not less than 80% of the votes in the Association either to rebuild or repair the Property or to take such other action as such remaining Owners may deem appropriate. If no repair or rebuilding shall be required, or if none be undertaken, the remaining portion of the Property shall be resurveyed, if necessary, and this Declaration shall be amended to reflect such Taking. This Declaration shall in all circumstances be amended to reflect the re-allocated Allocated Interests following the Taking.

Section 10.3 Partial Taking of a Unit. If only a portion of a Unit is subject to a Taking, such that the remaining portion of such Unit can practically and lawfully be used for any purpose permitted by this Declaration, the Owner shall be entitled to the award for such Taking, including the award for the value of such Owner's interest in the Common Elements, whether or not such Common Element interest is acquired, and the Allocated Interest of the Unit subject to such Taking shall be reduced and the Allocated Interests of the other Units shall be increased in accordance with the Reallocation Percentage. The Owner of such Unit, at its sole cost and expense, shall promptly repair, restore and rebuild the remaining portions of such Unit as nearly as possible to the condition which existed prior to such Taking.

Section 10.4 Taking of Common Elements. If an action is brought to effect a Taking of all or any portion of the Common Elements together with or apart from any Unit, the Board of Directors, in addition to the general powers set out herein, shall have the sole authority to determine whether to defend or resist any such proceeding, to make any settlement with respect thereto, or to convey such property to the condemning authority in lieu of such condemnation proceeding unless the action involves a material portion of the Common Elements in which case the agreement of all the Owners shall be required. With respect to any such Taking of the Common Elements only, all damages and awards shall be determined for such Taking as a whole and not for any Owner's interest therein. After the damages or awards for a Taking of the Common Elements are determined, such damages or awards shall be held by the Association,

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acting as trustee for each Owner, and their Mortgagees, as their interests shall appear, and any amounts not used for repair or restoration of the remaining Common Elements shall be divided among the Owners in proportion to each Owner's Allocated Interest before the Taking, except that such portion of any such award attributable to the condemnation of a Limited Common Element shall be divided among the Owners of the Units served by such Limited Common Elements, as such Owners' interests existed in the Limited Common Elements condemned. The Owners shall determine by the affirmative vote or written consent of the Owners holding not less than 80% of the votes in the Association either to rebuild or repair the remaining Common Elements or to take such other action as the Owners may deem appropriate. If it is determined that such Common Elements should be replaced or restored by obtaining other land or building additional structures, this Declaration and the Map attached hereto shall be duly amended by instrument executed by the Board of Directors on behalf of the Owners and recorded in the Condominium Records. If all or any portion of the Parking Spaces is/are Taken, the amount of the Parking Expenses allocated to any Owner who is no longer capable of occupying or using the Parking Spaces that are part of the Limited Common Elements for such Owner's Unit arising solely as a result of such Taking, shall be automatically reallocated to the remaining Units in proportion to their share of the Parking Expenses as described in Section 8.2(a) of this Declaration.

Section 10.5 Taking of Several Units. If an eminent domain proceeding results in the Taking of all or part of multiple Units, then the damage and awards for such Taking shall be determined and paid for each Unit as described in Section 10.2 and Section 10.3 of this Declaration, and the following shall apply: (a) the Association shall determine which of the Units damaged by such Taking may be practically and lawfully used for any purpose permitted by this Declaration, taking into account the nature of the Property and the reduced size of each Unit so damaged; (b) if the remaining Owners shall determine by the affirmative vote or written consent of the remaining Owners holding not less than 80% of the votes in the Association, with the written consent of 51% of the Mortgagees, that it is not reasonably practicable to operate the undamaged Units and the damaged Units which can be practically and lawfully used for any purpose permitted by this Declaration as a residential condominium project in the manner provided in this Declaration, then the Property shall be deemed to be regrouped and merged into a single estate owned jointly in undivided interests by all the remaining Owners, as tenants-in-common, in the percentage of the Allocated Interest of each Owner (after reallocation in accordance with the procedures described in Section 10.2 and Section 10.3 of this Declaration) and (c) if the Condominium is not so terminated, then the damages and awards made with respect to each Unit which can be practically and lawfully used for any purpose permitted by this Declaration shall be applied to repair and reconstruct such Unit as provided in Section 10.3 of this Declaration. If the cost of such work exceeds the amount of the award, the additional funds required shall be assessed pro rata against the Owners of those Units which are being repaired or reconstructed. With respect to those Units which may not be practically or lawfully used for any purpose permitted by this Declaration, after payment of the award, such Owner and any Mortgagee of such Owner shall be divested of all interest in the Property and the condemned Unit's entire Allocated Interest shall be automatically reallocated to the remaining Units in

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proportion to the respective Allocated Interests of those Units before the Taking, unless the decree relating to the Taking provides otherwise. A remnant of a Unit remaining after part of a Unit is the subject of a Taking, if the remnant of such Unit cannot be practically or lawfully used for any purposed permitted by this Declaration, shall be a Common Element. If any repair or rebuilding of the remaining portions of the Property (other than Units which can be practically and lawfully used for any purposed permitted by this Declaration) is required as a result of such Taking, the remaining Owners shall determine by the affirmative vote or written consent of the remaining Owners holding not less than 80% of the votes in the Association either to rebuild or repair the Property or to take such other action as such remaining Owners may deem appropriate. If no repair or rebuilding shall be required, or if none be undertaken, the remaining portion of the Property shall be resurveyed, if necessary, and this Declaration shall be amended to reflect such Taking. This Declaration shall in all circumstances be amended to reflect the re-allocated Allocated Interests following the Taking.

Section 10.6 Complete Taking of Property. If all of the Property is the subject of a Taking, all damages and awards shall be held by the Association, acting as trustee, for the accounts of all the Owners and their Mortgagees, as their interests shall appear, and shall be paid to or for the accounts of the Owners in proportion to their Allocated Interests and this Condominium shall terminate upon such payment.

Section 10.7 Payment of Awards and Damages. Any damages or awards provided in this Article X to be paid to or for the account of any Owner by the Association, acting as trustee, shall be applied first to the payment of any Governmental Impositions past due and unpaid with respect to that Unit; second, to any Priority Lien Indebtedness on that Unit; third, to the payment of any Assessments charged to or made against the Unit and unpaid; and finally to the Owner.

ARTICLE XI

Resolution of Disputes and Construction Disputes

Section 11.1 Mediation. All Disputes, except those relating to equitable remedies, which are not resolved within 15 days after same have arisen (unless such greater time is provided elsewhere in the Governing Documents) shall be submitted for, or determined by, non-binding mediation. Mediation of any Dispute shall be initiated by any Owner making a written demand therefor to the other Owner or Owners involved in such Dispute and the Association; provided, however, if the Association is a party to any such Dispute the Association shall have the right to elect not to be governed by the provisions of this Article XI by giving to the Owner or Owners, within ten days after the Association's receipt from such Owner or Owners of a demand for mediation of a Dispute, written notice of the Association's election not to be governed by the provisions of this Article XI and to instead exercise the Association's remedies at law or in equity. With respect to such mediation, the parties shall, within ten days after delivery of such written notice to the Association, agree upon a mediator who is: (i) a reputable person actively engaged in the commercial real estate industry for a continuous period of not less

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than ten years and (ii) not an Affiliate of, or has had material business dealings with any Owner or any member of the Association. If the parties are unable to agree upon a mediator, a mediator having the qualifications set forth above shall be appointed by the American Arbitration Association office in Lewisville, Texas. Such mediation shall occur within 30 days after the mediator has been agreed upon or appointed and shall occur at a mutually acceptable location in Lewisville, Texas. The costs of such mediation services shall be shared equally (but each party shall bear the cost of their own travel and attorneys' fees); provided, however, that if the Dispute is not resolved pursuant to such mediation, the provisions of Section 11.2 of this Declaration shall govern the payment of attorneys' fees and costs and expenses of mediation and arbitration under this Article XI.

Section 11.2 Final Offer Arbitration. If the parties are unable to resolve any Dispute at mediation the parties shall submit their Dispute to binding arbitration, no later than 30 calendar days after the parties have reached an impasse at mediation. The parties agree to select a single impartial arbitrator from a list taken from the American Arbitration Association of commercial arbitrators, and if they cannot agree on an arbitrator, each party shall select a person and those two so selected shall then select the single impartial arbitrator who shall thereafter serve as arbitrator with respect to the Dispute. The issues in dispute shall be submitted as "baseball" or final-offer arbitration, whereby each party shall submit what it deems to be its most reasonable position to the arbitrator and the arbitrator shall select one of those two positions. The arbitrator shall have no discretion to select or award a position other than to select one of those submitted by the parties. To the extent rules governing arbitration are deemed necessary by the arbitrator (or by agreement of the parties), the current Rules for Commercial Mediation and Arbitration promulgated by the American Arbitration Association shall apply. The decision of the arbitrator shall be rendered no later than ten days from the initiation of the arbitration procedure. The parties may resort to any court of competent jurisdiction for enforcement of, or any other action relating to, the arbitrator's award. The party or parties whose position is not selected or awarded shall be responsible for all attorneys' fees, costs and expenses (incurred in connection with the mediation and arbitration of a Dispute under this Article XI) of the party whose position is selected or awarded for the arbitration of the Dispute under this Article XI.

Section 11.3 Construction Disputes.

(a) Mediation Required Prior to Arbitration. Any Construction Dispute not resolved within fifteen days after same has arisen shall be submitted for, or determined by, non-binding mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by any party. Mediation of any Construction Dispute shall be initiated by any party making a written demand therefor to all other parties involved in such Construction Dispute. Any mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the time the Construction Dispute arises. With respect to such mediation, the parties shall, within 15 days after demand is filed agree upon a mediator who is: (i) a reputable person actively engaged in the construction industry or a lawyer experienced in the practice of construction law for a continuous period of not less than ten years and (ii) not an Affiliate of, or has had material business dealings with any Owner, any member of the Association, or any other party, including Declarant or an Affiliate of Declarant, involved

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in the mediation. If the parties are unable to agree upon a mediator, a mediator having the qualifications set forth above shall be appointed by the American Arbitration Association office in Lewisville, Texas. Such mediation shall occur within 30 days after the mediator has been agreed upon or appointed and shall occur at a mutually acceptable location in Lewisville, Texas. The costs of such mediation services shall be shared equally (but each party shall bear the cost of their own travel and attorneys' fees); provided, however, that if the Construction Dispute is not resolved pursuant to such mediation, the provisions of Section 11.3(d) of this Declaration shall govern the payment of attorneys' fees and costs and expenses of mediation, arbitration or litigation under this Article XI.

Notwithstanding the forgoing or anything to the contrary contained in this Declaration, an Owner and/or the Association must satisfy the requirements under the Act (including, without limitation under Section 82.119 of the Act) prior to initiating any mediation or arbitration procedures hereunder with respect to Construction Disputes involving Declaration or an Affiliate of Declarant. Such requirements shall include, without limitation, (1) obtaining an inspection and written report from a licensed professional engineer of the applicable Building(s) and/or Unit(s) that are the subject of such Dispute and meets the requirements for such report as set forth in the Act; and (2) obtaining approval from Owners holding at least fifty percent (50%) of the total votes in the Association at a meeting called in accordance with the this Declaration and the Bylaws. In addition, before conducting the inspection, the Association must notify all parties who may be subject to the Construction Dispute of the date and time of the inspection and allow such parties to attend the inspection, and before scheduling the meeting of the Owners to vote on pursuing claims regarding such Construction Dispute, the Association must provide copies of the engineer's report to each party who may be subject to the Construction Dispute and allow each such party at least 90 days to inspect and correct any condition identified in the engineer's report. At least 30 days before conducting the meeting of the Owners, the Association must also provide written notice of the meeting to all Owners, and the notice must include a description of the Construction Dispute, a copy of the engineer's report, and other information pertaining to the cost of repair of the applicable Unit and/or Building(s) that are the subject of the Construction Dispute and the attorneys fees to be incurred in prosecuting the Construction Dispute, and shall include other information as required under the Act.

(b) Arbitration or Litigation. Any Construction Dispute not resolved by mediation as described in Section 11.3(a) of this Declaration shall be resolved by arbitration (as permitted under Section 82.120 of the Act) or litigation, which determination shall be made by Declarant, in Declarant's sole and absolute discretion. If a litigation proceeding has been brought against the Declarant, any election for arbitration shall be made by the Declarant filing a motion to compel arbitration in the litigation proceeding. If an arbitration proceeding has been brought against the Declarant, any election for litigation shall be made by the Declarant giving written notice of such election to the parties involved in the Construction Dispute and the arbitration proceeding, in which case all further action in the arbitration proceeding shall cease and the party bringing such action shall be obligated to commence the appropriate litigation proceeding. Declarant shall make such election no later than 30 days after (i) the parties

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have reached an impasse at mediation and (ii) citation has been served on Declarant in a litigation proceeding or written notice has been delivered to Declarant initiating the arbitration proceeding. If the Declarant elects for such Construction Dispute to be resolved by litigation, the parties hereby agree that the judge shall be the fact finder in any such litigation. EACH OWNER, BY ACCEPTANCE OF A DEED TO ITS UNIT, ON BEHALF OF ITSELF, ITS TENANTS, THE ASSOCIATION AND ALL PARTIES CLAIMING BY, THROUGH OR UNDER IT, IRREVOCABLY AND UNCONDITIONALLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY CONSTRUCTION DISPUTE.

(c) Arbitration. If Declarant elects that a Construction Dispute be resolved by arbitration such arbitration shall be governed by the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect, unless the parties mutually agree otherwise. With respect to the arbitration, the parties shall, within 15 days after receipt of Declarant's notice of arbitration referenced in Section 11.3(b) of this Declaration or within 15 days after entry of an order compelling arbitration, agree upon an arbitrator. If the parties cannot agree upon an arbitrator, a demand for arbitration shall be filed in writing with the American Arbitration Association at the office in the County where the Property is located with copies to all parties.

Arbitration shall be conducted with a single arbitrator unless the claim, demand, or amount in controversy exceeds $750,000, in which case a panel of three arbitrators shall be used. If the amount in controversy exceeds $750,000 and the parties cannot mutually agree upon three panel members, the parties shall be required to obtain a list of proposed neutral parties through the American Arbitration Association office in the locality where the Property is located. The parties shall then proceed with the selection of panel members in accordance with the American Arbitration Association Construction Industry Arbitration Rules. Any arbitrator(s) utilized, whether appointed or agreed, must be (i) reputable person(s) actively engaged in the construction industry or as a lawyer experienced in the practice of construction law for a continuous period of not less than ten years and (ii) not be an Affiliate of, or have or had material business dealings with any Owner, any member of the Association, or any other party, including Declarant or an Affiliate of Declarant, involved in the arbitration. The arbitrator shall establish reasonable procedures and requirements for the production of relevant documents and require the exchange of information concerning witnesses to be called. The parties shall be entitled to discover all documents and information reasonably necessary for a full understanding of any legitimate issue raised in the arbitration and the parties may use all methods of discovery available under the Texas Rules of Civil Procedure and shall be governed thereby. There shall be a prehearing meeting between the parties at which the arbitrator shall make and set schedules for discovery and hearings consistent with their powers as set forth herein. The Texas Rules of Evidence shall be applied by the arbitrator but liberally construed to allow for the admission of admissible evidence that is helpful in resolving the controversy. Rulings on the admission of evidence made by the arbitrator at the hearing shall be final and not subject to any appeal. At the time of the award, the arbitrator shall prepare and provide to the parties findings of fact and conclusions of law supporting the award.

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(d) General. In no event shall a Construction Dispute be initiated after the date when institution of legal or equitable proceedings based on such Construction Dispute would be barred by the applicable statute of limitations. All demands and all answering statements thereto which include any monetary claim, counterclaim or cross-claim must state the monetary amount being sought. If the monetary amount is unliquidated or has not been fully determined, the demand or answering statement seeking such recovery shall state, in good faith, the minimum amount of such monetary claim, exclusive of interest and attorneys' fees. In any litigation or arbitration of a Construction Dispute, the Court or the arbitrator(s), as applicable, shall determine the prevailing party and award to such prevailing party, in addition to any other relief to which such party is entitled to recover, its reasonable attorneys' fees, expert witness fees, costs, and other reasonable expenses incurred in connection with the mediation, arbitration, and/or litigation of such Construction Dispute.

(e) Consolidation. A Construction Dispute may be consolidated with similar proceedings and resolved pursuant to the dispute resolution procedures contained in this Article XI to include participation of the contractors, design professionals or any other person or entity if such proceedings involves common issues of law or fact. Consent to consolidate proceedings involving an additional person or entity shall not constitute consent to resolve any claim, dispute or other matter in question other than the Construction Dispute or with a Person not named or described therein. It is expressly understood and agreed that Declarant shall have the right, but not the obligation, to join in any such dispute resolution proceedings any other party whose work or services on or in connection with the Property may be at issue or whose claims(s) involve the design or construction of the Property.

Section 11.4 General. With respect to any Dispute or Construction Dispute it is agreed that the dispute resolution provisions of this Article XI shall be the sole remedy of the parties involved in such Dispute or Construction Dispute. Notwithstanding any other provisions of this Declaration, the foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by the parties shall be specifically enforceable under prevailing arbitration law in any court having jurisdiction thereof. The foregoing agreement to arbitrate shall not constitute any agreement or consent to arbitration of any dispute, claim, controversy or matter that does not constitute a Dispute or Construction Dispute, as applicable. The foregoing agreement to arbitrate any Dispute or Construction Dispute shall not constitute any agreement or consent to arbitration with any Person not named or described in this Declaration; provided that any arbitration proceeding initiated under the terms of Section 11.2 of this Declaration may, at the request of any party, be joined or consolidated with other arbitration proceedings involving additional parties if the Dispute or Construction Dispute, as applicable, and the subject of such other proceedings arise out of common or interrelated factual occurrences. Any award of the arbitrator shall be final and binding upon the parties involved in the Dispute or Construction Dispute and such Mortgagees and non-appealable judgment thereon may be entered by any court having jurisdiction.

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ARTICLE XII

Miscellaneous

Section 12.1 Revocation or Termination of Declaration. Except as provided in Section 10.6 of this Declaration, this Declaration may be revoked or the Condominium established hereby may be terminated only by an instrument in writing, duly approved, executed and acknowledged by those Owners holding not less than 80% of the votes in the Association, with the written consent of 51% of the Mortgagees. Any such instrument of revocation or termination shall be duly filed of record in the County. If the Property is to be sold upon termination, the agreement effecting such termination shall also set forth the terms of such sale and comply with the provisions of the Act.

Section 12.2 Amendment to Declaration. During the Declarant Control Period, the Declarant may unilaterally amend this Declaration without the joinder or vote of the Board, the Association, the other Owners, or any other party if such amendment is deemed necessary or desirable, in the Declarant's sole judgment for any purpose. This Declaration may otherwise be amended at a meeting of the Owners at which the amendment is approved by those Owners holding not less than 67% of the votes in the Association, with the written consent of not less than 51% of the Mortgagees. Such amendment shall be evidenced by a written instrument executed and acknowledged by an officer of the Association on behalf of the consenting Owners and by the consenting Mortgagees and filed of record in the County. Any such amendment so effected shall be binding upon all of the Owners; provided, however, that except as permitted or required by the Act, no such amendment shall: (a) cause the alteration or destruction of all or part of any Unit unless such amendment has been consented to by the Owner and the Mortgagee of the Unit which is to be altered or destroyed; (b) create or increase any Special Declarant Rights; (c) except as expressly permitted herein by Declarant, increase the number of Units; (d) change the boundaries of a Unit or (e) change the use restrictions on a Unit unless, such amendment pursuant to (a), (b) or (c) of this Section above has been consented to by 100% of the Allocated Interests. No such amendment shall become effective unless approved by Declarant if Declarant still owns one or more Units and the amendment would, in Declarant's reasonable determination: (i) increase or otherwise modify Declarant's obligations; (ii) reduce or modify any Special Declarant Rights or (iii) materially inhibit or delay Declarant's ability to complete the Improvements or to convey any portion of the Property owned by Declarant.

Section 12.3 Partial Invalidity. If any provision of the Governing Documents shall be determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall in no way impair or affect the validity or enforceability of the remainder of the Governing Documents.

Section 12.4 Conflicts. If any of the provisions of the Governing Documents shall be in conflict with the provisions of the Act or the TBOC, the provisions of such statutes shall control. If a conflict exists between the provisions of the Governing Documents, such documents shall control in the following order:

(a) Design Guidelines (if any);
(b) this Declaration;

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(c) the Certificate of Formation;
(d) the Bylaws; and
(e) the Regulations.

Section 12.5 Captions and Exhibits. Captions used in the various articles and sections of this Declaration are for convenience only, and they are not intended to modify or affect the meaning of any of the substantive provisions hereof. All exhibits are incorporated in and made a part of this Declaration.

Section 12.6 Usury. It is expressly stipulated and agreed to be the intent of Declarant that at all times the terms of this Declaration, the Bylaws and the Regulations shall comply strictly with the applicable Texas law governing the maximum rate or amount of interest payable under any provision of this Declaration, the Bylaws, or the Regulations. If the applicable law is ever judicially interpreted so as to render usurious any amount contracted for, charged, taken, reserved or received pursuant to this Declaration, the Bylaws, the Regulations or any other communication or writing by or between Declarant, the Association and the Owners related to the matters set forth in this Declaration, the Bylaws, or the Regulations, then it is the express intent of Declarant that all amounts charged in excess of the maximum rate allowed by Texas law shall be automatically canceled, *ab initio*, and all amounts in excess of the maximum rate allowed by Texas law theretofore collected shall be refunded, and the provisions of this Declaration, the Bylaws, or the Regulations shall immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law. The Owners hereby agree that as a condition precedent to any claim seeking usury penalties against Declarant, the Association or any billing Owner, any Person will provide written notice to Declarant, the Association or any billing Owner, advising Declarant, the Association or any billing Owner in reasonable detail of the nature and amount of the violation, and Declarant, the Association or any billing Owner shall have 60 days after receipt of such notice in which to correct such usury violation, if any, by either refunding such excess interest to a Person or crediting such excess interest against the obligation then owing by such Person to Declarant, the Association or any billing Owner.

Section 12.7 Use of Number and Gender. Whenever used in this Declaration, and unless the context shall otherwise provide, the singular number shall include the plural, the plural number shall include the singular and the use of any gender shall include all genders.

Section 12.8 Governing Law. THIS DECLARATION AND THE BYLAWS, CERTIFICATE OF FORMATION, AND REGULATIONS SHALL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS. VENUE FOR ANY ACTION BROUGHT IN CONNECTION WITH THE CONDOMINIUM SHALL BE IN DALLAS COUNTY, TEXAS.

Section 12.9 Notice. All notices or other communications required or permitted to be given pursuant to this Declaration shall be in writing and shall be considered as properly given if

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(i) mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, (ii) by delivering same in person to the intended addressee, (iii) by delivery to an independent third party commercial delivery service for same day or next day delivery and providing for evidence of receipt at the office of the intended addressee or (iv) by facsimile to the addressee with confirmation of delivery. Notice so mailed shall be effective upon its deposit with the United States Postal Service or any successor thereto; notice sent by such a commercial delivery service shall be effective upon delivery to such commercial delivery service; notice given by personal delivery shall be effective only if and when received by the addressee; and notice given by other means shall be effective only if and when received at the office or designated place or machine of the intended addressee. For purposes of notice, the addresses of Declarant and the Association shall be as set forth below, the address of each Owner shall be the address of the Unit and the address of each Mortgagee shall be the address provided to the Association; provided, however, that any party shall have the right to change its address for notice hereunder to any other location within the continental United States by the giving of 30 days notice to the Association in the manner set forth herein:

Declarant: SZK Development, LLC
2911 Turtle Creek Blvd., Suite 300
Dallas, Texas 75219-6243

Association: Bishop Arts Tenth Street Condominium Association, Inc.
c/o Essex Association Management, L.P.
1512 Crescent Drive, Ste. 112
Carrollton, Texas 75006

Section 12.10 Estoppel Certificates. Each Owner, from time to time but no more often than twice each calendar year, shall have the right to require the Association (as to all items listed below) and the other Owners (as to items (c), (d), (e) and (f) listed below) to deliver to the requesting Owner a written statement addressed to the requesting Owner and its Mortgagee or purchaser of its Unit, as applicable, without payment of any fee or cost certifying: (a) this Declaration is unmodified and in full force and effect (or if modified that this Declaration as so modified is in full force and effect); (b) this Declaration attached to the certificate is a true and correct copy of this Declaration and all amendments hereto; (c) the date through which all Assessments have been paid by the Owner requested to provide the certificate and by the Owner requesting such certificate; (d) to the knowledge of the certifying party, neither the certifying party nor the requesting party is in default of any of its obligations under this Declaration (or if the certifying party knows the certifying party or requesting party to be in default, specifying the defaults and the remaining cure period, if any); (e) the certifying party holds no existing liens against the requesting party's Unit and (f) such other matters as are reasonably requested by the requesting Owner. The Managing Agent reserves the right to charge a fee for the issuance of an Estoppel under any other circumstance or for any reason other than those set forth in this Section.

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ARTICLE XIII

Mortgagee Protection Provisions

Section 13.1 Notice Provisions. All Mortgagees shall be entitled to receive the following notices in writing from the Association or any Owner exercising rights affecting that Mortgagee's borrower's rights under this Declaration or affecting the Mortgagee's rights, as the case may be, which notice shall be sent promptly following the occurrence of the applicable event:

(a) notice of any proposed action which requires the consent of Mortgagees, which notice shall be given not less than 30 days prior to the desired effective date of such action;

(b) notice of default by the Owner (the beneficial interest in which Unit is held by that Mortgagee) in the performance of such Owner's obligations, delinquency in the payment of Assessments owed by such Owner or Governmental Impositions which remains uncured for a period of 60 days after notice thereof;

(c) notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond required to be maintained hereunder by the Association or by any Owner;

(d) notice of any damage or destruction to or Taking of any portion of the Condominium that affects either a material portion of the Property or a Unit, the beneficial interest in which is held by that Mortgagee, which notice shall be given promptly upon the Association's obtaining knowledge of such damage or destruction;

(e) 60 days notice prior to the Association instituting any foreclosure action on any Unit;

(f) 30 days notice prior to the effective date of (a) any proposed material amendment to this Declaration or the Map; (b) any termination of an agreement for professional management of the Property following any decision of the Owners to assume self-management of the Property and (c) any proposed termination of the Condominium;

(g) notice of any action by the Association to file a suit against the Declarant (which shall be subject to the provisions of Article XI regarding resolution of Disputes); and

(h) notice of any delinquencies in the collection of Assessments due hereunder in an aggregate amount equal or greater than an amount equal to twenty percent (20%) of the Association's then approved Budget.

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Section 13.2 Cure Rights. Any Mortgagee shall have the right, but not the obligation, at any time prior to the termination of this Declaration, and without payment of any penalty, to do any act or thing required of such Mortgagee's borrower hereunder; and to do any act or thing which may be necessary or proper to be done in the performance and observance of the agreements, covenants and conditions of such Owner hereof. All payments so made and all things so done and performed by any Mortgagee shall be effective to prevent a default under this Declaration as the same would have been if made, done and performed by Declarant or any Owner instead of by said Mortgagee. Any event of default under this Declaration which in the nature thereof cannot be remedied by Mortgagee shall be deemed to be remedied if: within 30 days after receiving written notice from the non-defaulting party setting forth the nature of such event of default, or prior thereto the Mortgagee shall have: (a) acquired the property owned by the defaulting party (the "**Acquired Property**") or commenced foreclosure or other appropriate proceedings in the nature thereof, and shall thereafter diligently prosecutes any such proceedings, (b) fully cured any default in the payment of any monetary obligations owed the non-defaulting party hereunder within such 30 day period and shall thereafter continue to perform faithfully all such non-monetary obligations which do not require possession of the Acquired Property and (c) after gaining possession of the Acquired Property following a foreclosure or deed in lieu thereof, the Mortgagee performs all future obligations of the defaulting party hereunder as and when the same are due. Upon acquisition of any Units or portion of the Property owned by the Declarant by a Mortgagee of Declarant holding any Priority Lien Indebtedness by foreclosure proceedings or deed in lieu of foreclosure, such Mortgagee may, at its sole election and discretion, assume the rights of "Declarant" under the Declaration by filing a written instrument in the County public records indicating its assumption of the rights of Declarant hereunder with respect to such Units and/or Property acquired by such Mortgagee of Declarant, as applicable.

Section 13.3 No Invalidity of Mortgage Lien. No violation of this Declaration by, or enforcement of this Declaration against, any party shall affect, impair, defeat or render invalid the lien of any mortgage that secures any Priority Lien Indebtedness.

Section 13.4 Mortgagee Requirements. The Association agrees to cooperate reasonably with any requesting party in regard to the satisfaction of requests or requirements by a Mortgagee; provided, however, such cooperation shall be at the sole cost and expense of the requesting party, and provided, further, that no party shall be deemed obligated to accede to any request or requirement that materially and adversely affects its rights under this Declaration.

Section 13.5 Unpaid Assessments. Each Person holding a mortgage secured by any Priority Lien Indebtedness encumbering any Unit, which Person obtains title to such Unit pursuant to judicial foreclosure, or the powers provided in such mortgage, or a deed in lieu of foreclosure, shall take title to such Unit free and clear of any claims for unpaid Assessments against such Unit which accrued prior to the time such Person acquires title to such Unit, except as otherwise set forth in Article VIII of this Declaration.

Section 13.6 Books and Records. All Mortgagees, upon written request, shall have the right to (a) examine the books and records of the Association, including current copies of this Declaration, the Bylaws and the Regulations and financial statements, during normal business hours; (b) receive written notice of all meetings of the Owners and (c) designate in writing a representative to attend all such meetings.

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Section 13.7 Priority of Rights. No provision of this Declaration shall be construed or applied to give any Owner priority over any rights of any Mortgagee in the case proceeds or awards are not applied to restoration but are distributed to the Owners in the case of a casualty loss, or Taking of, a Unit and/or the Common Elements.

Section 13.8 Required Percentage. Any required percentage of Mortgagees in this Declaration shall mean and refer to such percentage of the face amount of the indebtedness held by such Mortgagees and not the number of such Mortgagees.

[The remainder of this page is intentionally left blank.]

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IN WITNESS WHEREOF, Declarant has duly executed this Declaration on the day and year first above written.

DECLARANT:

SZK DEVELOPMENT, LLC,
a Texas limited liability company

By: RMDurham

Name: Robert M. Durham

Title: Manager

STATE OF TEXAS §
§
COUNTY OF Dallas §

BEFORE ME, the undersigned authority, on this day personally appeared Robert Miles Durham of SZK Development, LLC, a Texas limited liability company, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same for the purposes and consideration therein expressed, and as the act and deed of said entity, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 3 day of May, 2018.

Notary Public in and for the State of Texas

My Commission Expires: 12.12.20

List of Exhibits:

Exhibit "A" - Legal Description of the Land
Exhibit "B" – Map
Exhibit "C" - Allocation of Ownership Interests

BRADLEY YORK WINTERS
Notary Public
STATE OF TEXAS
ID#130928438
My Comm. Exp. Dec. 12, 2020

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CONSENT AND SUBORDINATION OF LIENHOLDER

The undersigned, being the beneficiary under that certain Construction Deed of Trust, Security Agreement – Financing Statement dated July 27, 2017, executed by SZK Development LLC, a Texas limited liability company (the "**Borrower**") and recorded on July 28, 2017, under Document No. 201700211743, in the Official Public Records of Dallas County, Texas, together with any modifications, supplements, restatements or amendments thereto, hereby consents to the Condominium Declaration of for Bishop Arts Tenth Street Condominiums (the "**Declaration**") to be applicable to the Land, in accordance with the terms thereof, and furthermore subordinates its lien rights and interests in and to the Land to the terms, provisions, covenants, conditions and restrictions under the Declaration so that foreclosure of its lien will not extinguish the terms, provisions, covenants, conditions and restrictions under the Declaration.

TEXAS BRAND BANK

By: _____
William E. Lowe, President

STATE OF TEXAS §
§
COUNTY OF Dallas §

BEFORE ME, the undersigned authority, on this day personally appeared William E. Lowe, President of Texas Brand Bank, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same for the purposes and consideration therein expressed, and as the act and deed of said entity and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 23rd day of April, 2018.

_____
Notary Public in and for the State of Texas

My Commission Expires: 12/20/20

TINA SCOTT
Notary Public
STATE OF TEXAS
Notary ID# 129231945
My Comm. Exp. Dec. 20, 2020

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EXHIBIT "A"

Property Description

Unofficial Copy

427 West 10th Street Residences

Exhibit 'A'

LAND - LEGAL DESCRIPTION

Description

Being all of Lot 2A, Block 36/3156, Tenth Street Residences, an addition to the City of Dallas, Dallas County, Texas.

Certification

I hereby certify that we have verified the location of foundation forms for Lot 2A, Block 36/3156, Tenth Street Residences and have found them to be correctly located within acceptable positional tolerance for foundation forms.

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EXHIBIT "B"

Map

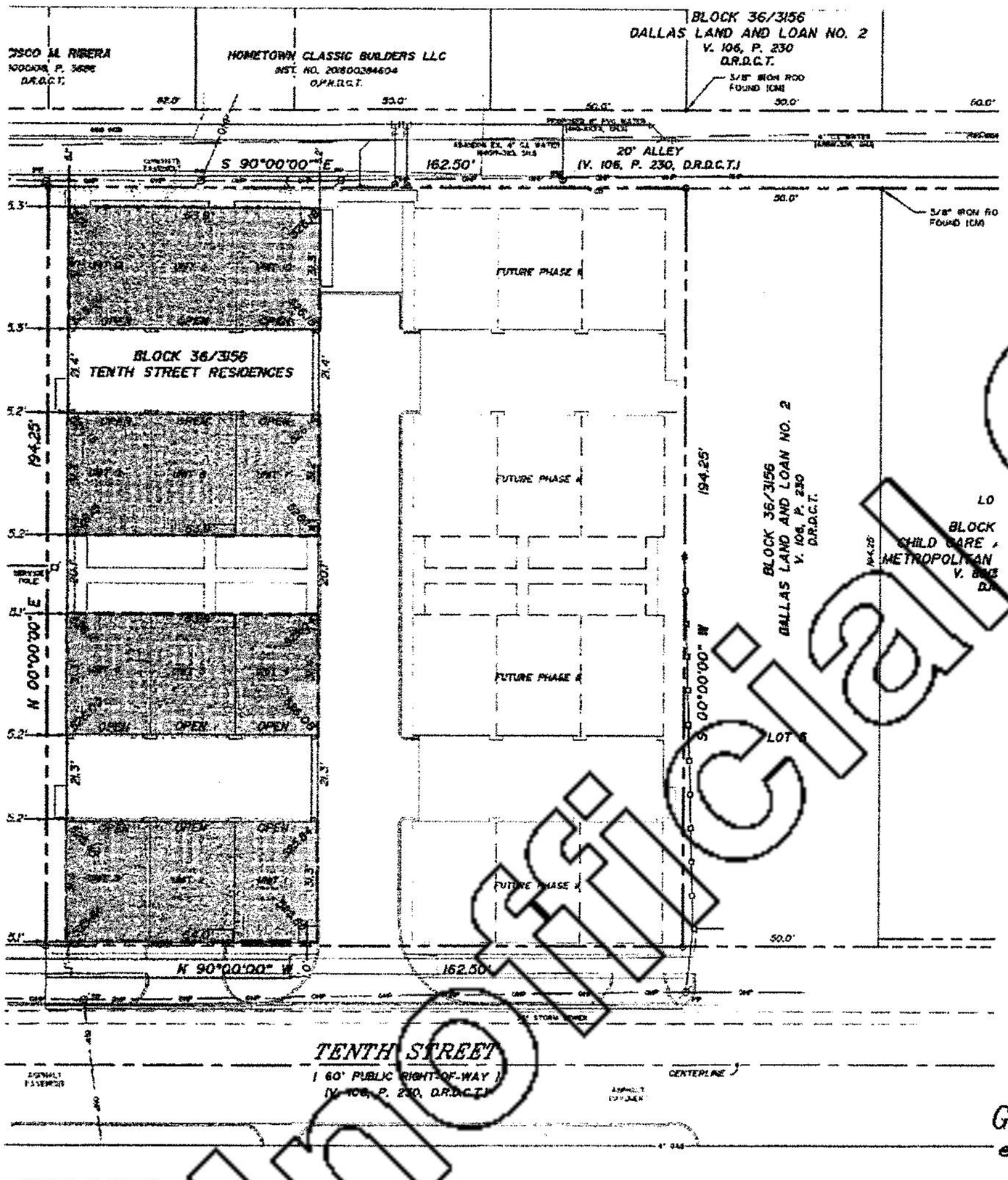
[see attached.]

Unofficial Copy

427 West 10th Street Residences

Exhibit 'A'

LAND - SURVEYOR CERTIFICATION



Description

Being all of Lot 2A, Block 36/3156, Tenth Street Residences, an addition to the City of Dallas, Dallas County, Texas.

Certification

I hereby certify that we have verified the location of foundation forms for Lot 2A, Block 36/3156, Tenth Street Residences and have found them to be correctly located within acceptable positional tolerance for foundation forms.

Robert W. Schneeberg, TX. RPLS NO. 4804
Gonzalez & Schneeberg, Engineers & Surveyors, Inc.
TX Surveying Firm Reg. No. 100752-00
2100 Lakeside Boulevard, Suite 200
Richardson, Texas 75082
Phone 972.516.8855 Fax 972.516.8900
GSES No.: 6625-17-10-11
Date: November 14, 2017

30 0 30
Scale in Feet

FORM SURVEY
FOR
427 W. TENTH STREET
LOT 2A, BLOCK 36/3156
TENTH STREET RESIDENCES
CITY OF DALLAS, DALLAS COUNTY, TEXAS

Gonzalez & Schneeberg engineers • surveyors 2100 Lakeside Boulevard, Suite 200 Richardson, Texas 75082 (972) 516-8855 Fax:(972) 516-8901

SCALE: NTS

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DATE: 4/11/18

BushArchitects
1800 VALLEY VIEW LN. STE. 300
FARMERS BRANCH, TEXAS 75234
PHONE: 972-333-9455
EMAIL: ralphbush@hotmail.com

427 West 10th Street Residences

Exhibit 'A'

LAND - LEGAL DESCRIPTION

Description

Being all of Lot 2A, Block 36/3156, Tenth Street Residences, an addition to the City of Dallas, Dallas County, Texas.

Certification

I hereby certify that we have verified the location of foundation forms for Lot 2A, Block 36/3156, Tenth Street Residences and have found them to be correctly located within acceptable positional tolerance for foundation forms.

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BushArchitects

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FARMERS BRANCH, TEXAS 75234
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EMAIL: ralphbush@hotmail.com

427 West 10th Street Residences

Exhibit 'B'

Notes

1. All hallways, elevators, stairs and landings which are not located in a unit, are general common elements.

2. All Balconies are part of the unit to which attached.

3. The Unit plans show interior wall to interior wall measurements. The actual unit dimensions, which extend into the wall and floor cavities as described in the declaration, and summarized here:

   For units on Levels 2 and 3, the lower boundary is the underside of the sub-flooring.

   Each unit's upper boundary in the exterior surface of the sheetrock comprising the unit's perimeter ceilings.

   On party-walls, walls between two units, on half of the wall cavity is within the unit's dimensions. The unit's lateral boundaries are the planes defined by the midpoints of the party wall

   On all other perimeter walls, the unit's lateral boundaries are the planes defined by the outside-facing surfaces of the sheetrock on the perimeter walls of the living area and by the inside-facing surfaces of the doors and windows in the perimeter cavities, door and windows are not part of the Unit.

4. GCE = General Common Element

5. LCE = Limited Common Element

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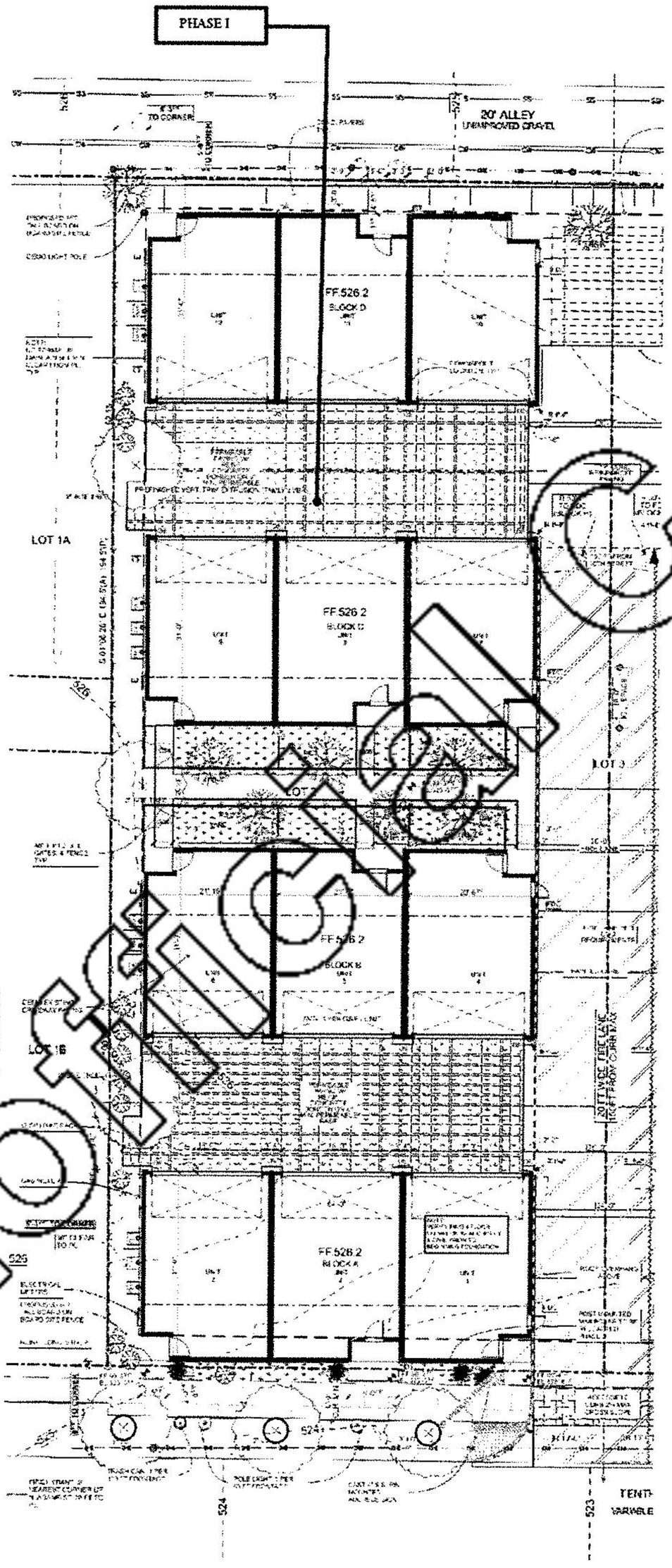
BushArchitects

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EMAIL: ralphbush@hotmail.com

427 West 10th Street Residences

Exhibit 'B'

LAND - SITE PLAN



SCALE: 1" = 400'-0"

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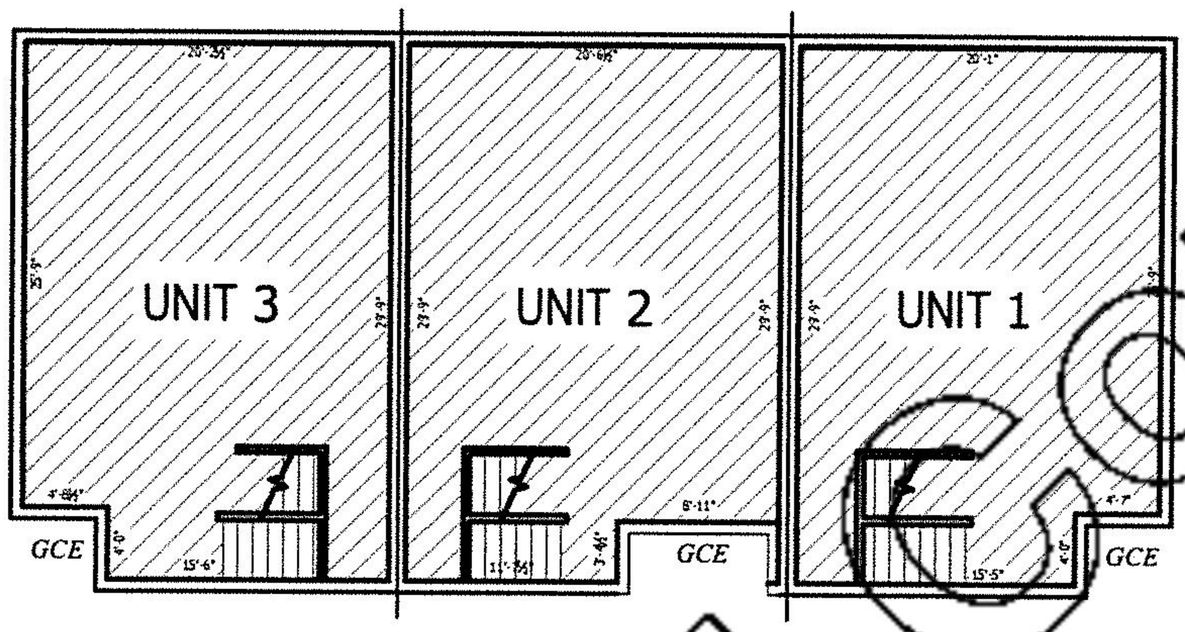
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427 West 10th Street Residences

Exhibit 'B'

PHASE ONE - LOT 2A
BLOCK A - FIRST FLOOR
427 W. 10th Street



FLOOR PLAN - GROUND LEVEL

Elevations on this level are between 526.20' and 535.87' based upon a finished floor elevation of 526.20' at ground level.

N

GCE GENERAL COMMON ELEMENT

UNIT

LCE LIMITED COMMON ELEMENT

SCALE: 1/16" = 1'-0"

Unofficial Copy

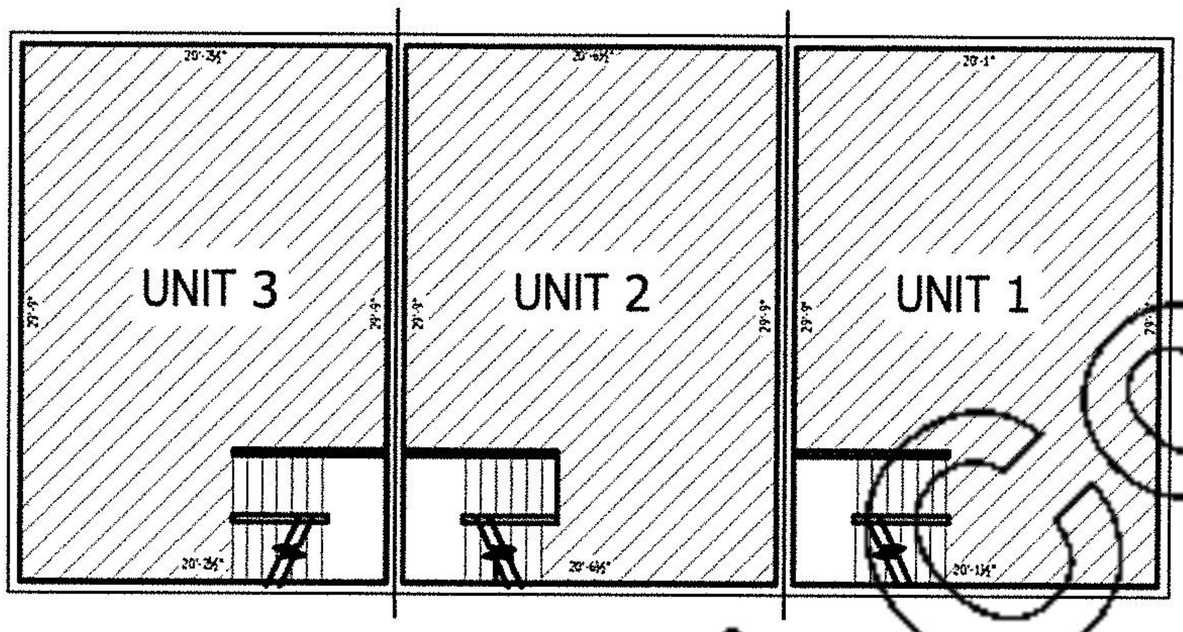
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427 West 10th Street Residences

Exhibit 'B'

PHASE ONE - LOT 2A
BLOCK A - SECOND FLOOR
427 W. 10th Street



FLOOR PLAN - SECOND LEVEL

Elevations on this level are between 535.87' and 547.54' based upon a finished floor elevation of 526.20' at ground level.

GCE *GENERAL COMMON ELEMENT*

UNIT

LCE *LIMITED COMMON ELEMENT*

N

SCALE: 1/16" = 1'-0"

Unofficial Copy

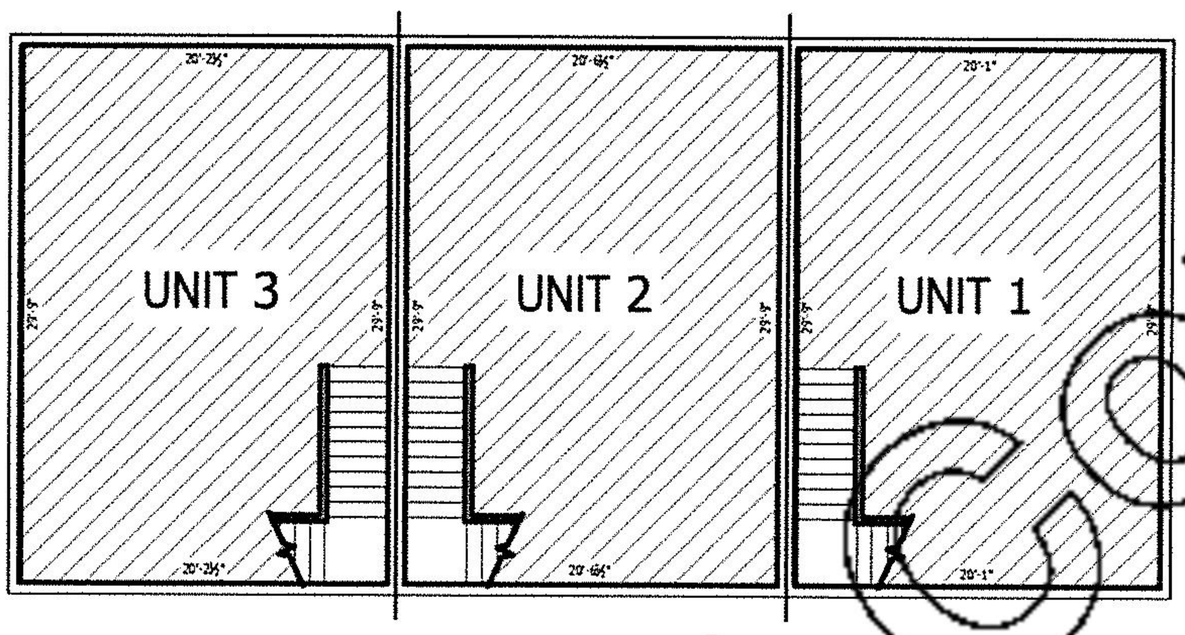
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EMAIL: ralphbush@hotmail.com

427 West 10th Street Residences

Exhibit 'B'

PHASE ONE - LOT 2A
BLOCK A - THIRD FLOOR
427 W. 10th Street



FLOOR PLAN - THIRD LEVEL

Elevations on this level are between 547.54' and 556.54' based upon a finished floor elevation of 526.20' at ground level.

GCE *GENERAL COMMON ELEMENT*

UNIT

LCE *LIMITED COMMON ELEMENT*

SCALE: 1/16" = 1'-0"

Unofficial Copy

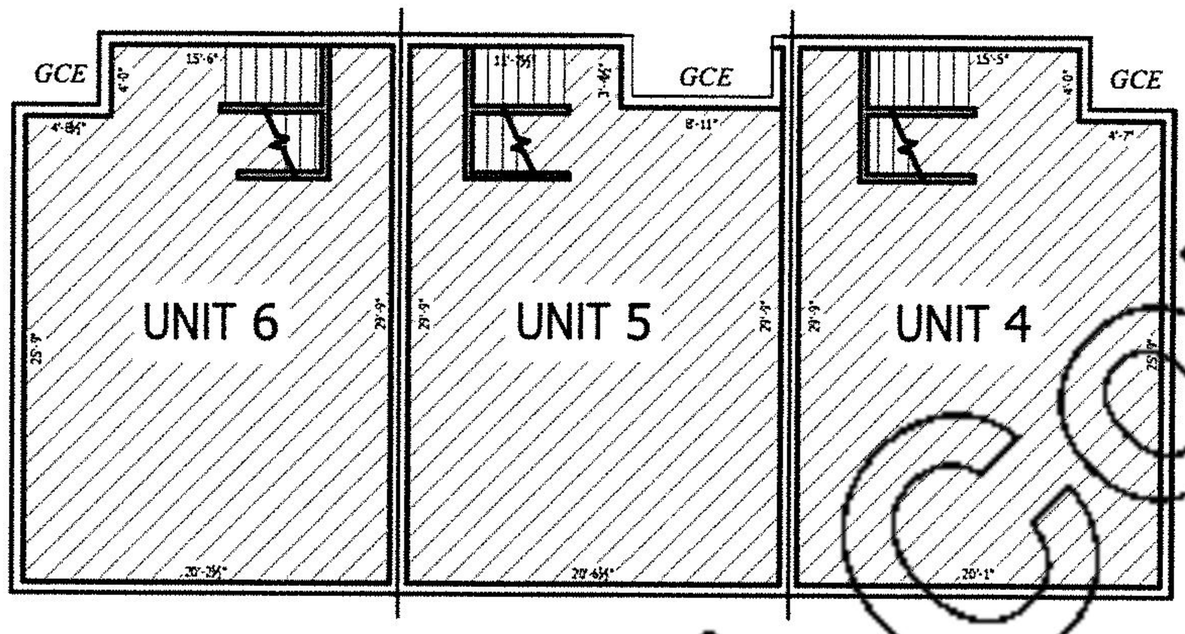
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427 West 10th Street Residences

Exhibit 'B'

PHASE ONE - LOT 2A
BLOCK B - FIRST FLOOR
427 W. 10th Street



Unofficial Copy

FLOOR PLAN - GROUND LEVEL

Elevations on this level are between 526.20' and 535.87' based upon a finished floor elevation of 526.20' at ground level.

N

GCE *GENERAL COMMON ELEMENT*

UNIT

LCE *LIMITED COMMON ELEMENT*

SCALE: 1/16" = 1'-0"

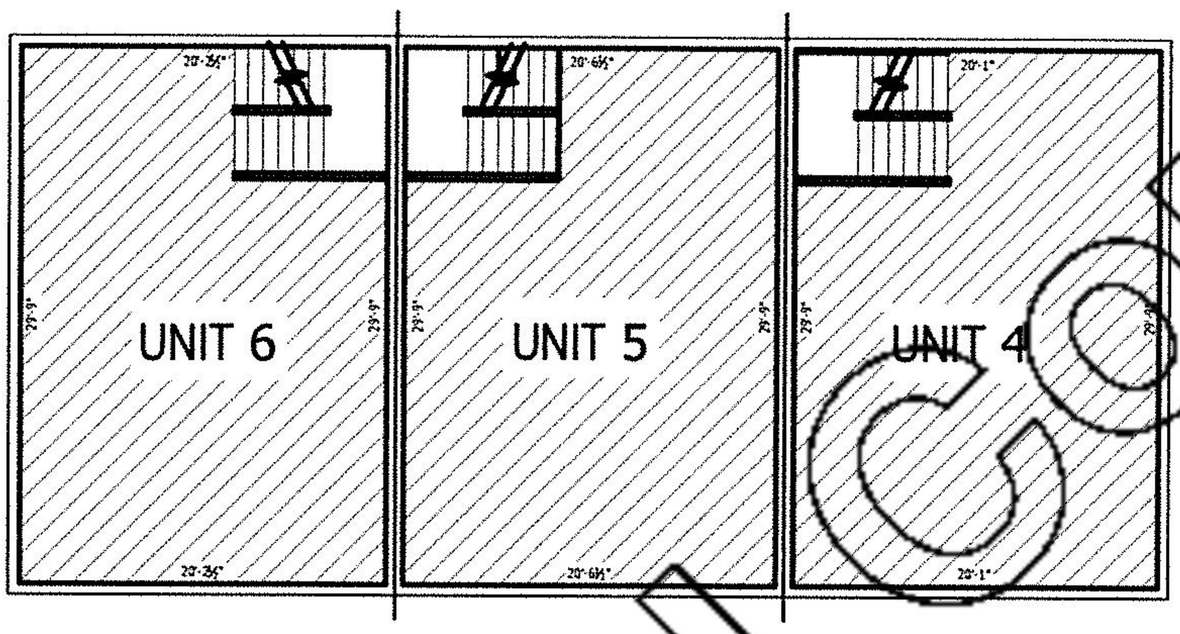
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427 West 10th Street Residences

Exhibit 'B'

PHASE ONE - LOT 2A
BLOCK B - SECOND FLOOR
427 W. 10th Street



FLOOR PLAN - SECOND LEVEL

Elevations on this level are between 535.87' and 547.54' based upon a finished floor elevation of 526.20' at ground level.

GCE *GENERAL COMMON ELEMENT*

UNIT

LCE *LIMITED COMMON ELEMENT*

SCALE: 1/16" = 1'-0"

Unofficial Copy

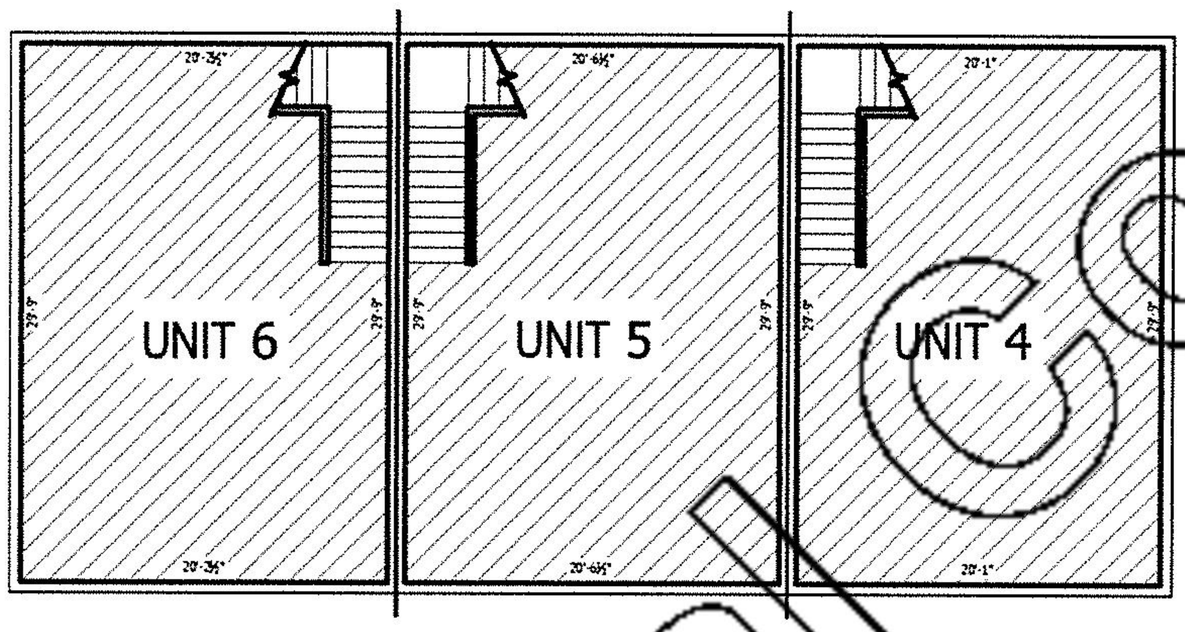
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EMAIL: ralphbush@hotmail.com

427 West 10th Street Residences

Exhibit 'B'

PHASE ONE - LOT 2A
BLOCK B - THIRD FLOOR
427 W. 10th Street



FLOOR PLAN - THIRD LEVEL

Elevations on this level are between 547.54' and 556.54' based upon a finished floor elevation of 526.20' at ground level.

GCE *GENERAL COMMON ELEMENT*

UNIT

LCE *LIMITED COMMON ELEMENT*

N

SCALE: 1/16" = 1'-0"

Unofficial Copy

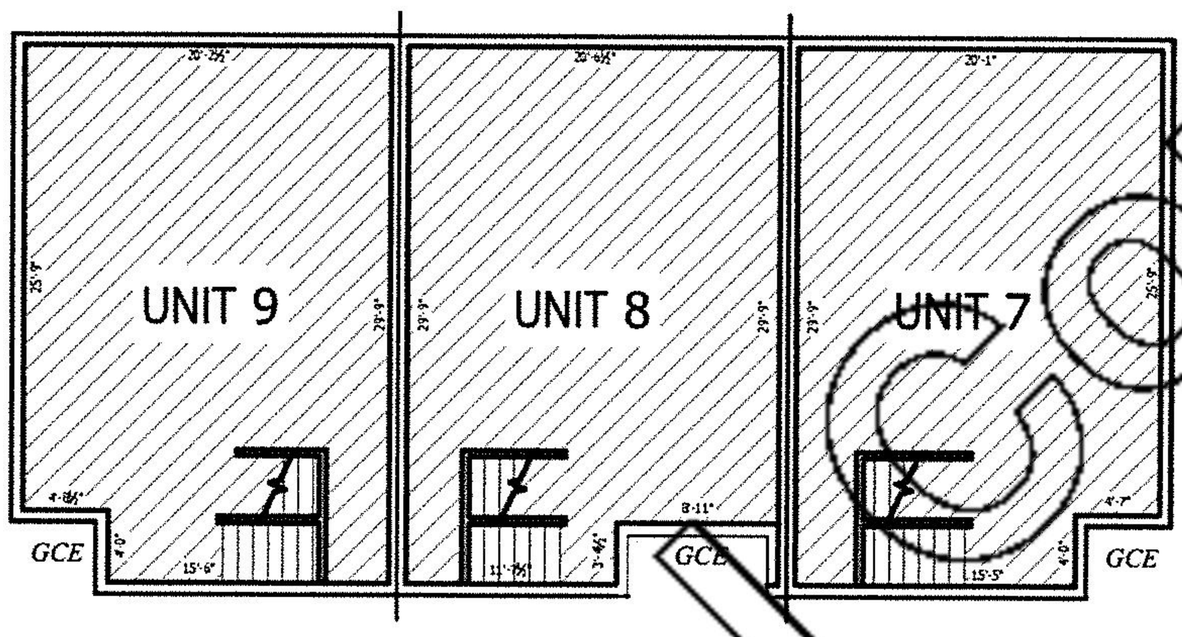
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PHONE: 972-333-9455
EMAIL: ralphbush@hotmail.com

427 West 10th Street Residences

Exhibit 'B'

PHASE ONE - LOT 2A
BLOCK C - FIRST FLOOR
427 W. 10th Street



FLOOR PLAN - GROUND LEVEL

Elevations on this level are between 526.20' and 535.87' based upon a finished floor elevation of 526.20' at ground level.

GCE *GENERAL COMMON ELEMENT*

UNIT

LCE *LIMITED COMMON ELEMENT*

N

SCALE: 1/16" = 1'-0"

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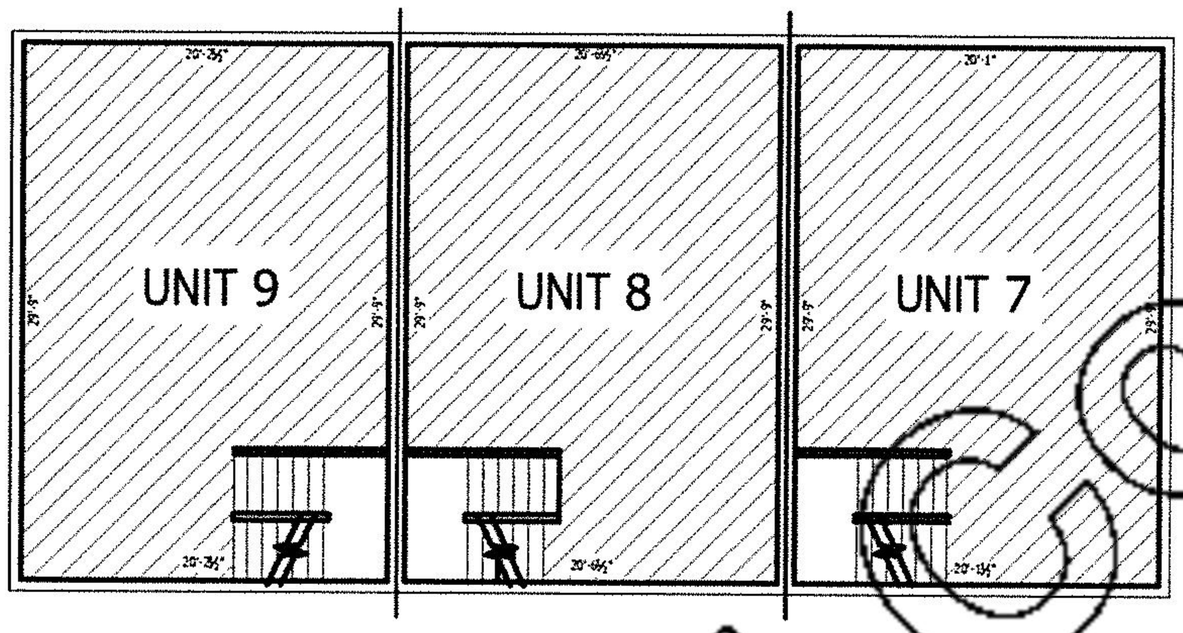
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427 West 10th Street Residences

Exhibit 'B'

PHASE ONE - LOT 2A
BLOCK C - SECOND FLOOR
427 W. 10th Street



FLOOR PLAN - SECOND LEVEL

Elevations on this level are between 535.87' and 547.54' based upon a finished floor elevation of 526.20' at ground level.

GCE *GENERAL COMMON ELEMENT*

UNIT

LCE *LIMITED COMMON ELEMENT*

N

SCALE: 1/16" = 1'-0"

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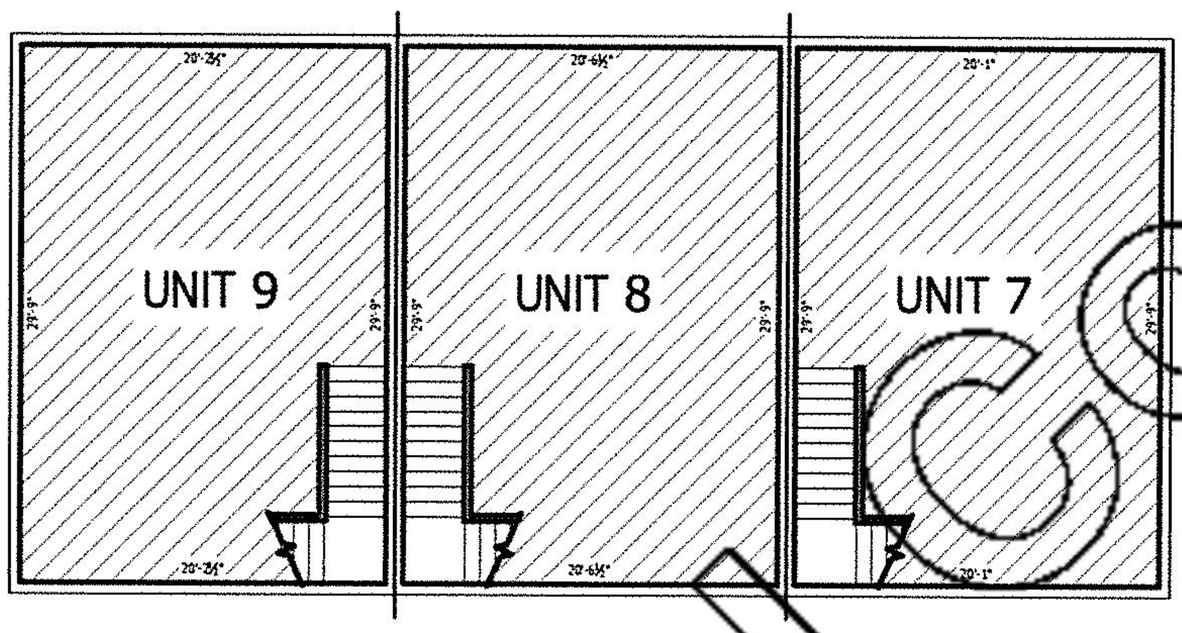
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EMAIL: ralphbush@hotmail.com

427 West 10th Street Residences

Exhibit 'B'

PHASE ONE - LOT 2A
BLOCK C - THIRD FLOOR
427 W. 10th Street



FLOOR PLAN - THIRD LEVEL

Elevations on this level are between 547.54' and 556.54' based upon a finished floor elevation of 526.20' at ground level.

N

GCE *GENERAL COMMON ELEMENT*

UNIT

LCE *LIMITED COMMON ELEMENT*

SCALE: 1/16" = 1'-0"

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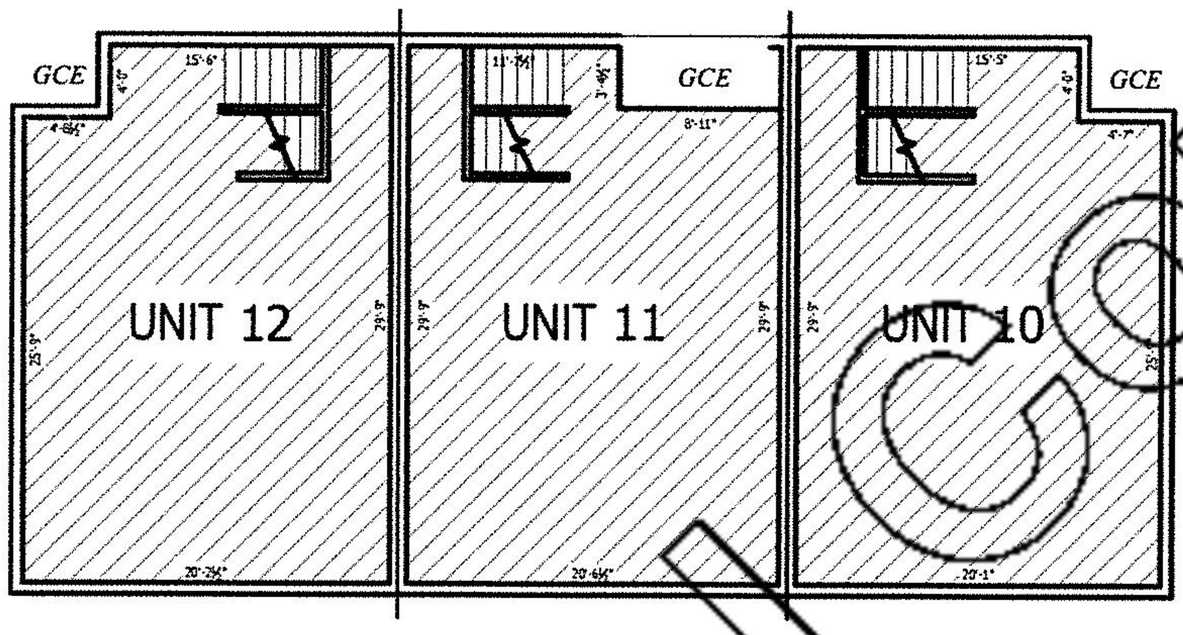
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FARMERS BRANCH, TEXAS 75234
PHONE: 972-333-9455
EMAIL: ralphbush@hotmail.com

427 West 10th Street Residences

Exhibit 'B'

PHASE ONE - LOT 2A
BLOCK D - FIRST FLOOR
427 W. 10th Street



FLOOR PLAN - GROUND LEVEL

Elevations on this level are between 526.20' and 535.87' based upon a finished floor elevation of 526.20' at ground level.

GCE GENERAL COMMON ELEMENT

UNIT

LCE LIMITED COMMON ELEMENT

SCALE: 1/16" = 1'-0"

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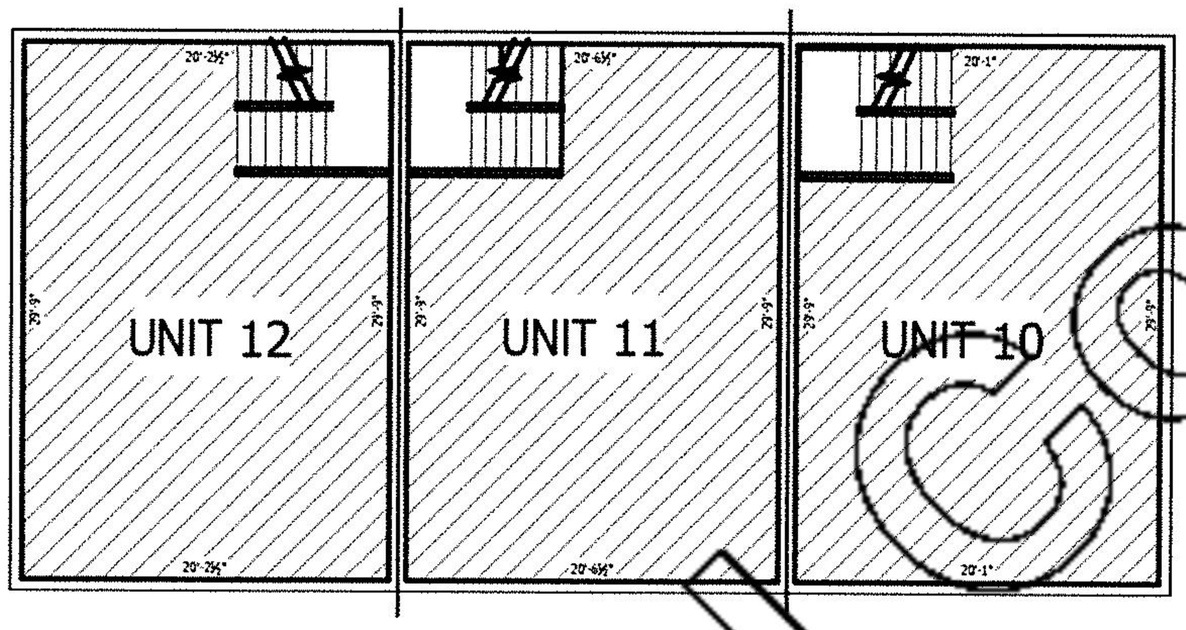
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EMAIL: ralphbush@hotmail.com

427 West 10th Street Residences

Exhibit 'B'

PHASE ONE - LOT 2A
BLOCK D - SECOND FLOOR
427 W. 10th Street



FLOOR PLAN - SECOND LEVEL

Elevations on this level are between 535.82' and 547.54' based upon a finished floor elevation of 526.20' at ground level.

N

GCE *GENERAL COMMON ELEMENT*

UNIT

LCE *LIMITED COMMON ELEMENT*

SCALE: 1/16" = 1'-0"

Unofficial Copy

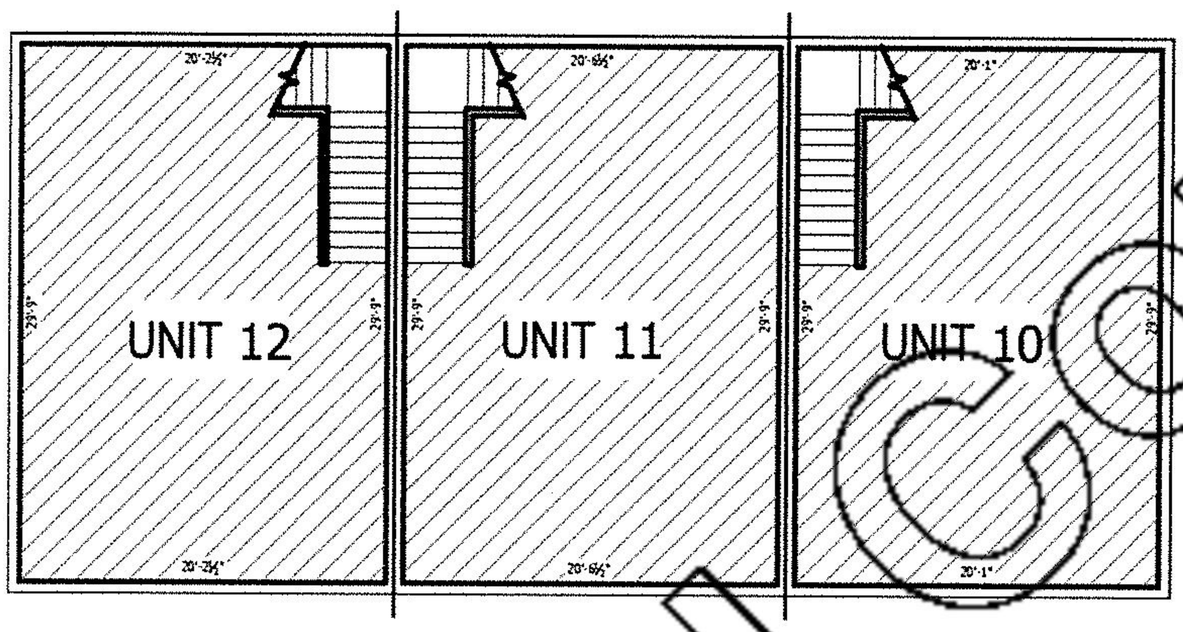
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FARMERS BRANCH, TEXAS 75234
PHONE: 972-333-9455
EMAIL: ralphbush@hotmail.com

427 West 10th Street Residences

Exhibit 'B'

PHASE ONE - LOT 2A
BLOCK D - THIRD FLOOR
427 W. 10th Street



FLOOR PLAN - THIRD LEVEL

Elevations on this level are between 547.54' and 556.54' based upon a finished floor elevation of 526.20' at ground level.

N

GCE *GENERAL COMMON ELEMENT*

UNIT

LCE *LIMITED COMMON ELEMENT*

SCALE: 1/16" = 1'-0"

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427 West 10th Street Residences

Exhibit 'C'

Allocation of Ownership Interests

LOT 2A: 427 W 10th Street				
PHASE	BLOCK	UNIT NUMBER	SQUARE FEET OF UNIT	PERCENTAGE OWNERSHIP
1	A	1	2025	8.33%
1	A	2	2025	8.33%
1	A	3	2025	8.33%
LOT 2A: 427 W 10th Street				
PHASE	BLOCK	UNIT NUMBER	SQUARE FEET OF UNIT	PERCENTAGE OWNERSHIP
1	B	4	2025	8.33%
1	B	5	2025	8.33%
1	B	6	2025	8.33%
LOT 2A: 427 W 10th Street				
PHASE	BLOCK	UNIT NUMBER	SQUARE FEET OF UNIT	PERCENTAGE OWNERSHIP
1	C	7	2025	8.33%
1	C	8	2025	8.33%
1	C	9	2025	8.33%
LOT 2A: 427 W 10th Street				
PHASE	BLOCK	UNIT NUMBER	SQUARE FEET OF UNIT	PERCENTAGE OWNERSHIP
1	D	10	2025	8.33%
1	D	11	2025	8.33%
1	D	12	2025	8.33%

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427 West 10th Street Residences

Exhibit 'C'

Monthly Assessment $2,500.00

LOT 2A: 427 W 10th Street				
PHASE	BLOCK	UNIT NUMBER	SQUARE FEET OF UNIT	MONTHLY ASSESSMENT
1	A	1	2025	$200.00
1	A	2	2025	$200.00
1	A	3	2025	$200.00
LOT 2A: 427 W 10th Street				
PHASE	BLOCK	UNIT NUMBER	SQUARE FEET OF UNIT	$200.00
1	B	4	2025	$200.00
1	B	5	2025	$200.00
1	B	6	2025	$200.00
LOT 2A: 427 W 10th Street				
PHASE	BLOCK	UNIT NUMBER	SQUARE FEET OF UNIT	$200.00
1	C	7	2025	$200.00
1	C	8	2025	$200.00
1	C	9	2025	$200.00
LOT 2A: 427 W 10th Street				
PHASE	BLOCK	UNIT NUMBER	SQUARE FEET OF UNIT	$200.00
1	D	10	2025	$200.00
1	D	11	2025	$200.00
1	D	12	2025	$200.00

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EXHIBIT "C"

Allocation of Ownership Interests and Monthly Assessments

[see attached]

Unofficial Copy

427 West 10th Street Residences

Exhibit 'C'

Allocation of Ownership Interests

LOT 2A: 427 W 10th Street				
PHASE	BLOCK	UNIT NUMBER	SQUARE FEET OF UNIT	PERCENTAGE OWNERSHIP
1	A	1	2025	8.33%
1	A	2	2025	8.33%
1	A	3	2025	8.33%

LOT 2A: 427 W 10th Street				
PHASE	BLOCK	UNIT NUMBER	SQUARE FEET OF UNIT	PERCENTAGE OWNERSHIP
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1	B	5	2025	8.33%
1	B	6	2025	8.33%

LOT 2A: 427 W 10th Street				
PHASE	BLOCK	UNIT NUMBER	SQUARE FEET OF UNIT	PERCENTAGE OWNERSHIP
1	C	7	2025	8.33%
1	C	8	2025	8.33%
1	C	9	2025	8.33%

LOT 2A: 427 W 10th Street				
PHASE	BLOCK	UNIT NUMBER	SQUARE FEET OF UNIT	PERCENTAGE OWNERSHIP
1	D	10	2025	8.33%
1	D	11	2025	8.33%
1	D	12	2025	8.33%

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427 West 10th Street Residences

Exhibit 'C'

Monthly Assessment $2,500.00

LOT 2A: 427 W 10th Street				
PHASE	BLOCK	UNIT NUMBER	SQUARE FEET OF UNIT	MONTHLY ASSESSMENT
1	A	1	2025	$200.00
1	A	2	2025	$200.00
1	A	3	2025	$200.00
LOT 2A: 427 W 10th Street				
PHASE	BLOCK	UNIT NUMBER	SQUARE FEET OF UNIT	$200.00
1	B	4	2025	$200.00
1	B	5	2025	$200.00
1	B	6	2025	$200.00
LOT 2A: 427 W 10th Street				
PHASE	BLOCK	UNIT NUMBER	SQUARE FEET OF UNIT	$200.00
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1	C	9	2025	$200.00
LOT 2A: 427 W 10th Street				
PHASE	BLOCK	UNIT NUMBER	SQUARE FEET OF UNIT	$200.00
1	D	10	2025	$200.00
1	D	11	2025	$200.00
1	D	12	2025	$200.00

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EXHIBIT D

BISHOP ARTS TENTH STREET CONDOMINIUMS
COMMUNITY MANUAL

SKZ Development, L.L.C., a Texas limited liability company, as the Declarant under the ***Declaration of Covenants, Conditions and Restrictions for Bishop Arts Tenth Street Condominium Association, Inc.*** recorded or to be recorded in the Official Public Records of Dallas County, Texas, certifies that the foregoing Community Manual was adopted for the benefit of Bishop Arts Tenth Street Condominiums, a Texas non-profit corporation, as part of the initial project documentation for Bishop Arts Tenth Street Condominiums. This Community Manual becomes effective when recorded.

IN WITNESS WHEREOF, the undersigned has executed this Community Manual on the 26th day of April, 2018.

DECLARANT:
SKZ Development, L.L.C.,
a Texas limited liability company

By: _____

Printed Name: Robert M. DUNHAM

Title: MANAGER

THE STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me this 10 day of May, 2018 by Robert M. DUNHAM of SKZ Development, L.L.C., a Texas limited liability company, on behalf of said limited liability company.

BRADLEY YORK WINTERS
Notary Public
STATE OF TEXAS
ID#130928488
My Comm. Exp. Dec. 12, 2020

Notary Public Signature

Unofficial Copy